

31 July 2012

Mr Ian Reynolds
Deputy Director-General, Strategies and Land Release
NSW Department of Planning and Infrastructure
GPO BOX 39
SYDNEY NSW 2001

E-mail: community@planning.nsw.gov.au

Dear Mr Reynolds,

Re: Exhibitions of Box Hill and Box Hill Industrial draft Precinct Planning Package

The Urban Taskforce represents Australia's most prominent property developers and equity financiers. We provide a forum for people involved in development and the planning of the urban environment to engage in constructive dialogue with government and the community.

The Urban Taskforce has reviewed the re-exhibited *Box Hill and Box Hill Industrial draft Precinct Planning Package* and provides the following comments for your consideration.

When the draft Precinct Planning Package was originally placed on exhibition our issues of concern related primarily to the:

- urgent need to reduce development levies;
- deferral of the special infrastructure contribution increases;
- impact of fractured ownership on lot production;
- overly prescriptive nature of development control plans; and,
- use of the NSW Housing Code rather than a different set of standards.

Having reviewed the re-exhibited material, other than the confirmation that special infrastructure contributions (SIC) will not be increased, our concerns remain largely the same.

Government has yet to release the results of its promised review of SIC and we remain concerned with the impact of fractured ownership on lot production. Furthermore, I note that there has been little recognisable change in the development control plan or greater reliance placed on the NSW Housing Code to reduce duplication. Reference should be made to our previous submission dated 14 November 2011 for further detail of our concerns. Notwithstanding the above, our further comments are provided for your consideration.

1. Need for improved consultation

We understand that the precinct planning package has been re-exhibited due to concerns raised during the original exhibition period. It is therefore, disappointing that the re-exhibited material does not include a summary of submissions made and responses from the Department. How is the community to have faith in the consultation process if there is no acknowledgement of submissions received and discussion of how submissions have been considered? This omission is particularly concerning at this critical time for the NSW Government. That is, the release of the NSW Planning System Green Paper places much emphasis on community consultation and input at the early planning stage. We think this to be an excellent approach to planning and development control. However, media reports significant community and local government concerns with this approach. Critics argue that consultation at the early planning stage is poor and is of little interest to the community. It is for this reason that all efforts must be made to improve community engagement and perception of consultation at the strategic stages of the planning process.

We acknowledge that the Department of Planning and Infrastructure issued a media release that listed a very general outline of changes made in response to community concerns, however, this does not provide sufficient detail of the changes made.

We suggest that the Department adopt a procedure that would acknowledge all submissions made and then at least a summary of the submissions and a Departmental response then be exhibited along with the precinct planning package. Where a submission has influenced a change in the draft plan, special attention needs to be drawn to that change so that the community is able to see how their contribution has made a difference to the planning process.

2. The proposed “section 94” development levies must not exceed the cap of \$30,000 per dwelling or per residential lot

The exhibited material does not include a section 94 contributions plan. It is assumed that this plan is either being prepared or will soon be prepared and exhibited. It could be that funding of infrastructure will be reliant upon voluntary planning agreements or a combination of section 94 and VPAs. Whichever is the case, state and local governments must be mindful of the impact of developer contributions on project feasibility, and hence the ability for the private sector to deliver housing.

There remains a chronic shortage of land for urban development, particularly in the Sydney region. The Urban Taskforce is of the view that the problem of housing affordability in Australia is a function of strong demand and limited supply - a view that has been widely supported by others, including the NSW and Commonwealth Governments.

Fortunately, government has realised that significant initiatives are required to minimise the cost of land and increase its supply. In this regard, the placement of a cap on development levies remains at \$30,000 for greenfield development. We argue that even with the introduction of the \$30,000 per dwelling or per residential lot cap on section 94 levies in greenfield areas, when added to the other costs associated with bringing land to market including:

- existing government taxes and charges;
- the high acquisition cost of undeveloped land; and
- the numerous other development costs,

the cost of producing lots, may still be higher than the market value.

We are also mindful of the pressure being exerted by local government to lift the cap on section 94 levies. Media reports a meeting with Mayors of Blacktown and Hills Shire Council with the Minister for Planning arguing for more funds for the provision of infrastructure and services in the growth areas¹. While we have no objection to the allocation of more funds to local government, we emphasise the need to hold the Government's commitment to a \$30,000 cap per lot or dwelling.

I am sure that you are aware of the recent IPART reviews of Section 94 plans in the Blacktown and Hills Shire. IPART was able to identify areas where savings could be found. However, more critical to this issue are the statements made by IPART's Acting Chairman, Mr James Cox. When considering who actually benefits from new infrastructure funded by a small group of developers, IPART found that the benefit can extend outside of the local area. In some cases expenditure benefits all residents of Sydney, not just those in the areas where the works are located. In these cases, Mr Cox states that “it's reasonable that all residents of Sydney should contribute towards meeting this cost” and “further consideration of options for financing infrastructure in growth areas is therefore warranted”²

IPART makes further insightful commentary on development levies and the inequity within the current system in their submission to the NSW Planning System Review. IPART state that

[t]he large number of policy changes may have reduced investment certainty. Further, the rationale for the current allocation of costs between these parties is not clearly articulated. The system is

¹ New suburbs need \$1 billion - Hills and Blacktown councils 25 Jul 12, Blacktown Advocate. [on line <http://blacktown-advocate.wherelive.com.au/news/story/new-suburbs-need-1-billion-hills-and-blacktown-councils/>]

² Media release by IPART NSW. IPART Reviews Highlight the cost of providing Infrastructure in Western Sydney. Thursday, 27 October 2011.

fragmented, resulting in inequities in the allocation of the costs of development depending on the location and the ultimate owner of the infrastructure.³

With respect to who should pay for infrastructure IPART says that:

[t]he overarching principle could be one of beneficiary pays. We note that for some of the infrastructure eg, where a broader environmental benefit is generated, the whole of Sydney would benefit, not just the new residents in the release area. For this infrastructure it may be reasonable that someone other than the developers (and ultimately, purchasers of housing in new development areas) pay some of the costs.⁴

IPART's findings in the areas of section 94 and their submission to the Planning System Review must be carefully examined when considering means of funding infrastructure.

Significant new investment in greenfield housing will not occur until developers see a permanent, robust policy of minimal development levies, backed up by solid government infrastructure commitments.

We strongly argue for an element of market reality when determining development charges, particularly when preparing a contributions plan. We are of the belief that this approach has not been previously adopted when preparing contributions plans for other precincts.

Furthermore, section 94 funds should only be directed towards the provision of essential infrastructure. The Urban Taskforce has also been concerned with the absence of meaningful project specification/information provided in the draft contributions plan or planning reports prepared for other precincts. What we have been previously provided with in exhibition documentation has been little more than "wish lists" with dollars assigned.

No development levy should be imposed without detailed project justification.

We urge the Government and council to carefully consider these matters when preparing a Section 94 contributions plan for the Box Hill precinct.

The government has declared its desire to reduce the costs of bringing land to market and this is encouraging. However, this does not mean that the developer of land should be required to pay Section 94 contributions, the SIC levy and to then, at their own cost, fund the upgrade and continued maintenance of other community and environmental infrastructure located on their land. For instance, where there are large tracts of riparian corridor currently in private ownership, the upgrade and continued maintenance of such lands should be funded by developer contributions and/or included in council's works programme. Where there may be a need to provide roads that will benefit the entire precinct the funding of such roads should not be the responsibility of the developer. As the entire community will benefit, funding should be sourced from a larger pool of funds.

It would be highly inappropriate for a single or small group of developers to be required to direct funds in addition to Section 94 and SIC to the provision of infrastructure that will clearly be to the benefit of the broader community.

3. Flexible zoning and wider use permissibility

A review of the draft land use table shows that a restrictive approach to zoning and land use permissibility has been adopted. There is little opportunity for flexibility and innovation to respond to changes in market demand.

The Productivity Commission investigation into planning, zoning and development assessment was concerned with the overly prescriptive definitions used within zoning tables in many planning systems. The Productivity Commission supported a more flexible approach to zoning that responded to the continually changing market place and accommodates new industries.

Unfortunately, the manner in which zoning and prohibitions are being applied within the Box Hill Precinct severely limits the ability for new and innovative formats or land uses to locate in many areas. Having very specific permissibility tables and long lists of prohibitions, mean that new and innovative land use, even if meeting zone objectives, may require a rezoning prior to being considered.

³ IPART Submission on Issues Paper: NSW Planning System Review. Local Government — Submission. February 2012. p.10

⁴ Ibid. p. 11

This is particularly the case in the proposed B2 Local Centre, B6 Enterprise Corridor and B7 Business Park Zones. These zones should be viewed as zones for opportunity, innovation and job creation which should not include a long list of prohibited uses. Rather, zones should contain clear objectives and a list of permitted uses.

No-one has a crystal ball. No-one, including the government and its planners, is blessed with perfect information. There is always potential for innovative development proposals to arise that fall outside the parameters of a given planning document. Innovative and non-standard development should not be prohibited merely because it wasn't envisaged at the time a plan is prepared. It is for this reason that zoning needs to favour a mix of land uses to enable changes in the marketplace to be accommodated.

Adopting this approach to zoning enable unanticipated, yet beneficial and innovative land uses to locate in a zone without the need to seek a rezoning of the land. The NSW Planning System Green Paper makes reference to a new enterprise zone. While we understand that this new zone has yet to be legally defined, the suggestion within the Green Paper should be applauded and the policy direction taken in the Green Paper, considered in the precinct planning.

Furthermore, the manner that retail development is being restricted does not reflect contemporary planning philosophy. We now understand that restrictive planning controls have reduced competition, particularly in the retail sector, leading to escalating cost of goods and services. The Victorian Government recognises the need to correct this problem and has announced changes to their zoning controls to enhance supermarket competition. The Victorian Government agrees that restrictive planning controls on where small and medium format grocers can locate should be removed. Supermarkets and independent grocers of up to 2,000sqm will now be able to develop new businesses across a wider range of locations including business and industrial zones. The Victorian Minister for Planning is committed to the removal of old planning restrictions to support strong retail competition. The Hon. Matthew Guy, Minister for Planning has been quoted as saying that "[f]or too long, supermarkets have been constrained on where and how they can operate throughout Victoria. These restrictions have hindered competition, short-changed consumers and prevented new businesses from challenging the major chains".⁵ The NSW Government is urged to adopt such approach to zoning and plan making.

These comments are offered to encourage constructive dialogue between Government and the development industry and we ask that you accept these comments as our contribution to the planning process.

We are always able to provide a development industry perspective on planning policy and we would welcome the opportunity to meet and discuss these issues in more detail. Should you have any further enquires in relation to this submission please feel free to contact me on telephone number 9238 3927.

Yours sincerely
Urban Taskforce Australia



Chris Johnson
Chief Executive Officer

⁵ Supermarket competition enhanced by planning zone reform Sunday, 22 July 2012 [<http://www.premier.vic.gov.au/media-centre/media-releases/4470-supermarket-competition-enhanced-by-planning-zone-reform.html>]