

28 November 2019

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Dear Commissioner,

### **'KICKSTARTING THE PRODUCTIVITY CONVERSATION'**

Planning Institute of Australia (PIA) is the body representing the planning profession, with approximately 5300 members nationally. Our mission is to champion the role of planning in shaping our future in ways that boost productivity, sustain our environment and create great places to live.

PIA greatly appreciates the opportunity to contribute to the *productivity conversation* through feedback on the discussion paper and future input into the green and white paper process. We have focussed our comments on the role of planning in achieving a more productive places and communities in urban and regional NSW. In summary, our key messages are:

- **Planning adds value and addresses market failure.** A key role of planning is to ensure that the regulatory context is as positive and as light touch as possible to achieve the outcomes sought.
- **Integrated, place-based planning maximises the return on investment from infrastructure expenditure.** Place-based infrastructure compacts are supported.
- **Infrastructure funding requires holistic reform** to ensure communities are provided with an acceptable standard of baseline infrastructure. Public and private sources of funding must be balanced and the distortion created by rate pegging addressed.
- **Planning systems have a role in shaping urban structure to maximise productivity.** This includes: zoning to support accessible employment clusters and prevent market failures leading to displaced urban services; and policies such as the Apartment Design Guide which provide environmental and social benefits to the community.
- **Regional green space should be funded as a public good.**
- **Skilled labour supply in the planning industry is constrained.** There are too few experienced professional planners in state and local government to simultaneously resource the business as usual and reform outcomes required.
- **There are opportunities readily available to streamline the planning system.** These include:
  - simplifying the type and number of development applications
  - streamlining the state agency referral process

- making local contributions plans easier to update and reducing the need for planning agreements
- Improving conditions of consent to make them relevant and enforceable
- introducing common engineering standards across councils to simplify approval processes
- expanding the use of E-planning to monitor progress of development applications and rezonings.

PIA is available to offer further input at any opportunity, and we look forward to contributing to the development of the Green Paper. Please do not hesitate to contact me on [REDACTED]

[REDACTED]  
[REDACTED].

Yours sincerely

[REDACTED]

Planning Institute of Australia

**‘KICKSTARTING THE PRODUCTIVITY CONVERSATION’**

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*PIA has selectively commented on the following sections of the Discussion Paper based on the potential to improve the role of planning in achieving more productive places and communities in urban and regional NSW. Where relevant to planning we have highlighted and addressed the question prompts from the Discussion Paper.*

**2.1 The NSW story in an Australian and global context**

PIA’s call for a National Settlement Strategy (‘The Tipping Point’) sets out the logic why planning and infrastructure investment needs to work at a national, state and local scale to achieve an integrated spatial planning approach with clear lines of sight and accountability.

PIA argues that the Commonwealth and the States cannot afford to be blind to the spatial implications of national factors such as population growth and migration, tax and monetary policy and infrastructure investment. Increasingly, the liveability and productivity of our cities and regions rely on how effectively all tiers of Government address growth challenges in the places where they occur. Ultimately, population growth would be seen as a strategic outcome – rather than an isolated issue.

### **6.1-6.3 The role of infrastructure in productivity growth and Maximising value from our investments**

- *How can infrastructure investment governance and transparency be further strengthened?*

PIA looks to the Productivity Review to recommend governance reform to build a 'place and community outcomes-based approach. This means planning for infrastructure associated with 'growth' holistically and collaboratively to achieve an adopted outcome for a community and place.

Achieving a stronger place-based approach to sequencing infrastructure and growth offers a basis for identifying and grouping the suites of infrastructure and service decisions needed to achieve an integrated strategic plan. The productivity advantages of investment in an integrated package of works would be greater than dispersed ad hoc investment. The more efficient roll out of infrastructure in support of Sydney's Growth Centres and the resultant improved living conditions they support is evidence of this.

PIA especially supports the NSW Government's contribution and collaboration in working to achieve place outcomes through the preparation of the Western Sydney City Deal and the Greater Parramatta Olympic Park Place-based Infrastructure Compact (GPOP PIC). PIA sees this sort of compact as an outstanding example of the way forward – and urge the Productivity Review to examine governance reforms to enable these compacts to be more readily prepared and implemented through the TAM planning and budget process.

- *How can infrastructure investment governance and transparency be further strengthened?*

The obstacles to better infrastructure investment governance and transparency need to be recognised to improve the existing situation. One obstacle is the setting up of special government business corporations such as delivery authorities to build projects. As a result, 'commercial in confidence' provisions are used to prevent justifiable public knowledge about project status being released. Infrastructure delivery authorities need to be directly accountable to the relevant minister like standard government agencies, with standard provisions for release of information.

Projects need to incorporate opportunities for genuine public input at an early stage, with public opportunity to influence project parameters and selection of preferred alternatives. Business cases need to be properly funded so consultants can include better evaluation of social and environmental costs and benefits. Business cases and EISs need to be completed and properly evaluated before there is commitment to proceed. Gateway evaluations need to be completed according to accepted existing protocol and not be avoided, as happened with some Gateway steps in the WestConnex project.

- *What types of targeted service improvements and demand management solutions could be considered to maximise value from our infrastructure?*

The most important demand management initiative is congestion pricing of traffic in central Sydney. Other global cities such as London and Singapore have introduced this measure, and it is being planned in New York. Revenue from such pricing can be used to improve public transport for those who need to travel to central Sydney but who might be unable to afford a congestion charge. Increasing the tax on central Sydney parking spaces would also reduce demand and hence reduce congestion.

There is also scope for levying water and sewerage bills based entirely on demand, instead of a combination of consumption and property-based levy. This would reduce developer costs and hence improve housing affordability and produce a stronger price signal for water consumption that would reduce demand, and hence the need for amplified headworks.

Research indicates that frequency of rail service has a critical impact on demand: there is an opportunity with Metro driverless trains to use the existing rolling stock in shorter groupings to produce more frequent services and hence better satisfy demand with no extra labour costs.

- *How can we improve strategic land use planning and coordination with major infrastructure delivery?*

Notwithstanding the recent pilot place-based infrastructure compact, major infrastructure agencies remain relatively independent in their proposals for major projects, and do not often assess new proposals in conjunction with strategic planning agencies. Although the GSC Chair is involved in the Infrastructure Planning Committee of Cabinet, their ability to achieve place-based outcomes that impact on major line agencies investment plans appears limited given the power imbalance.

This issue is compounded by existing narrow professional evaluation skill sets within infrastructure agencies, the nature of tied funding and emerging unsolicited private sector proposals that allow proposals to be agreed on that are outside existing strategic plans because such plans are intermittent and thus usually outdated in terms of emerging opportunities.

To address this situation there needs to be consideration of more formal arrangement for early joint consideration of proposals and agreed outcomes sought between infrastructure and strategic planning agencies. There also needs to be more frequent updating of strategic plans, and a more relational approach to strategic planning that emphasises broad goals and preferred scenarios that allow emerging infrastructure proposals to not just be in harmony with strategic objectives – but actively implement the outcomes sought.

Reform to infrastructure planning governance that establishes incentives for infrastructure agencies to collaborate to achieve place outcomes in line with strategic plans would be a valuable line of inquiry for the Productivity Commission.

### ***7.1-7.3 The role of taxation in productivity growth – property taxes***

The funding of infrastructure investment to deliver a planned outcome is essential to achieve anticipated productivity improvements in the development or renewal of a precinct. The mix of sources of infrastructure funding (eg among users, land holders and the broader community via taxation) is important not just for equity – but also to ensure that there is a clear price signal on where and how development should occur most efficiently and effectively.

An equitable and efficient infrastructure funding regime must balance contributions between those who directly benefit from infrastructure and broader taxpayers. Users and other beneficiaries will need to take a greater share of the funding burden, releasing taxpayer dollars to meet the wider needs of a growing and ageing population. In this search for infrastructure dollars, charges on development especially where additional value is created (and captured) is a key part of a broader ‘beneficiary pays’ framework. In the absence of a predictable means of capturing the value of

infrastructure investment and rezoning decisions the ‘unearned’ uplift accrues to the private land holder.

PIA has consistently advocated for comprehensive reform of infrastructure funding for ‘growth’ infrastructure and we favour an integrated place outcomes funding model. This approach would see State and local infrastructure contributions and infrastructure schedules in the one plan for a growth area. The recent Greater Parramatta Olympic Park Place-based Infrastructure Compact (PIC) is an important example. PIA supports value sharing playing an important role and would encourage the consideration of a broad-based regional property levy in addition to an development contributions regime.

PIA’s submission to the NSW Legislative Assembly Inquiry on housing supply ([link](#)) highlighted the impact on Commonwealth and State tax settings on the behaviour of housing markets and the consequent impact on productivity. PIA emphasised demand factors play a critical role. Taxation settings (potentially including Negative Gearing / CGT / means test exemptions for family home) make investing in dwellings an attractive option as an investment asset class – not just as a market for shelter.

Historically low interest rates have also been a significant cause of Australian capital city dwelling price growth. Together with the tax structure, the low interest rates have increased the demand for dwellings by increasing the number of investors in the market as well as the price that purchasers are willing to pay. This, in turn, places upward pressures on prices for owner occupier purchasers. Increased and more diverse housing supply is important to meet population needs – but will not solve the affordability pressures in Sydney while housing demand factors are strongly fuelled by tax advantages and low interest rates.

### **7.8 Enabling Councils to deliver better services**

- *Should performance monitoring and benchmarking be adopted for local governments in New South Wales?*

Performance monitoring and benchmarking in NSW has occurred to varying degrees over many years. PIA supports the concept of benchmarking, however, would caution that benchmarking report/data needs to be understood and interrogated to get value from any program used.

Direct comparisons drawn from the use of raw data can be counter-productive. There is always a danger in taking benchmarking data at face value and forming an opinion. In a sector such as local government, there are likely to be many variables that contribute to the result achieved by one council relative to its neighbours/peers, not the least of which is availability of resources, geographical issues and/or the adopted level of service. There needs to be a firm understanding that raw benchmarking data on its own is not necessarily of high value. The value comes from prompting the end user to interrogate the results and understand the underlying factors. Sometimes what appears to be a more costly service compared to peers/neighbours, may well be entirely appropriate and acceptable once the relative inputs are understood.

Many NSW councils currently participate in the PwC Australasian Local Government Performance Excellence Program, voluntarily and via annual subscription. PIA supports the use of a voluntary performance excellence program such as this.

- *Would regular community satisfaction surveys make councils more responsive to their residents?*

Regular (at least biennial) community satisfaction surveys are highly important tools in ensuring that services offered by local councils are responsive to community needs. Most, if not all, councils have been running these surveys over the last 10 to 15 years. The survey results provide an indicator for the prioritisation and annual budget setting process, amongst other influencers. To be meaningful, these surveys need to be statistically valid and run independently. Such surveys should, however, only be considered as one part of the dynamic of working out what customers want. Councils also need to be able to practice their civic leadership role.

- *How could councils improve their funding arrangements to provide greater flexibility in meeting their residents' service demands?*

Local government across Australia currently generates less than 4% of tax raised by all levels of government, yet it is responsible for some 80% of public assets nationally. This is a funding issue which requires all levels of government to take a fresh look at the levels of responsibility that should exist at each level of government and thereafter the most appropriate funding regime to support this.

The NSW State Government currently dictates local councils' revenue yields through Rate Pegging legislation. The reality is that there are never enough financial resources available to enable the delivery of everything the council and its community expects or desires. Cost shifting by transfer of activities previously undertaken by the State to local councils (such as recent changes to the administration of NSW Crown land) has exacerbated this matter.

Consideration should be given to removing NSW Government imposed restrictions on revenue generation, primarily from rate pegging, but also from regulation of fees which councils can charge for their regulatory functions. In most cases, fees do not reflect the cost of delivery and do not have CPI increases applied.

### ***8.1-8.2 The role of planning in productivity growth – and 'problem' definition: planning***

Urban planning creates value by facilitating productive and sustainable development outcomes. Planning is critical to providing clarity and confidence for investments by markets so that they are able to deliver orderly and well-designed and development - accompanied by improvement in the liveability of a district (see Attachment A).

Growth in employment and the productive output of service industries is becoming more dominant and more focussed in major cities. Agglomeration economies appear to be driving productivity growth while also influencing negative externalities such as congestion as well as placing pressure on land resources for housing, employment and public amenity. [Rawnesly](#) (SGS 2019), observes the link between effective job density and the strength of agglomeration economies in Sydney and Melbourne. The work highlights the importance not only of locating homes near jobs but also the strengthening of connectivity among employment and housing concentrations.

A key role of planning in cities is to enable housing capacity to be available which is accessible to jobs (by proximity or strong connections) and in an environment that offers high amenity. In doing so, planning has a role in preventing inequitable (and ultimately unproductive) alienation of communities.

### **8.3 Unlocking the potential of employment zones**

- *How could the NSW zoning system be simplified and improved to encourage business innovation and competition?*
- *What other policies should the NSW Government consider to ensure the planning system supports job creation and responds to consumer preferences?*

There are substantial opportunities to improve and simplify planning decision making systems. The Discussion Paper incorrectly assumes that a reduction of zones, more flexibility and a wider range of uses permitted within fewer zones will result in productivity improvements. In a classical market this may be the case, however the introduction of housing into an area with an employment focus causes irreversible change to its land economics. In a market where housing is highly valued it rapidly dominates over other employment uses. The nature of housing tenure reinforces the permanence of this change. In effect, a 'mixed use' zone becomes a housing zones unless there is deliberate planning intervention.

The reduced attractiveness of Chatswood CBD as a business address since the introduction of apartments into the former commercial core is typical of this phenomenon.

Planning curates the concentration of jobs, economic activity and housing in ways that are mutually beneficial. The zoning tool is as much about clustering growth in accessible locations as well as separating uses. Planners are actively planning for those types of housing and economic or employment opportunities that do operate well together – but this requires strong local understanding. While certain light industrial uses are suited to co-locating with other uses such as residential, others aren't.

In the 2018 paper, *A Metropolis that Works* ([link](#)), the Greater Sydney Commission acknowledges that there are types of industrial uses that support the functioning of a city but may require larger floorplates, use chemicals, make noise, generate freight or have significant potential to grow. They cannot be relegated to the urban fringe, yet do not suit mixed use development. The role of strategic planning is to interrogate whether the loss of one type of land use (industrial precincts or commercial core) to provide for another (residential, retail and other mixed use developments) represents a net community benefit.

Providing jobs for emerging and future industries will require the development of commercial and industrial spaces that are adaptable and flexible to change (both predicted and unpredictable), including by ensuring good access to active and passive transport. Over the past century, technology and social change, as well as the nature of jobs and work, have changed in ways that no one 100 years ago could have predicted. Likewise, society today cannot possibly know what industries and services will provide jobs in the next 100 years, or what our social expectations about how we work will be.



The planning system can only support what will be needed by fostering a built environment that is robust to change. This will provide the environment in which industry (as opposed to individual industries) can grow and change and respond to changing consumer preferences. Planning needs to move away from the idea that mixed use development is flexible planning. Mixed use development fosters only those typologies that are highest and best use. There needs to be a shift towards commercial and residential development, including car parking and services, that are adaptable and flexible. Such measures include ensuring generous height clearances and internal spaces, flexible and adjustable floorplates and layouts, multi-use and accessible open spaces, and flexible and sustainable building systems.

#### **8.4-8.5 Building dwellings that better manage our preferences – and providing greater housing choice to balance labour mobility with tenure security**

- *What steps could the NSW Government take to improve residential development regulations to support an adequate supply of affordable housing?*
- *How could the NSW Government ensure regulations around zoning, building codes and design guidelines are flexible and aligned with demand and preferences?*
- *Should the NSW Government level the playing field in the housing sector to support a more stable source of housing supply? If so, how?*
- *What is the most efficient mix of planning, regulatory and tax settings to deliver outcomes that get the balance right between tenure security and housing mobility?*

PIA urges the Productivity Commission to build upon its understanding that *"the core purpose of building regulation is to address the information asymmetry between developers, builders, and prospective purchasers and residents of new dwellings"* and that regulation and guidance *"that are not clearly targeted at any market failure can impose significant economic costs through unnecessarily restricting the sorts of developments that may be built"*.

PIA is concerned that the Apartment Design Guide (ADG) is being identified as such, The ADG addresses market failure and that the value it adds is not sufficiently recognised, while the claims regarding the costs it imposes are not independently verified.

The provision of appropriate, affordable, safe, secure, sustainable and well located housing is a critical issue both now and into the future. Access to safe and secure housing is a basic human right and planning plays an important role in facilitating the provision of housing that meets these requirements.

Housing standards, like standards for health, vehicular safety and education, need to be understood in the wider context as a critical human need which, if poorly met, can create increased costs for the wider community. Article 25 of the Universal Declaration of Human Rights adopted by the United Nations in 1948 states *"Everyone has the right to a standard of living adequate for the health and well-being of himself and his family, including .... housing"*.

We do not argue that food standards should be relaxed for those people who may not be able to afford the regulated minimum standard. Similarly, we should not argue that housing standards should be reduced for those who may not be able to afford the regulated minimum standard. Just as everyone needs to eat, everybody needs a home and it is critical that this home will not have an adverse impact on the physical and mental health of our community. Any society with a high

percentage of poor-quality housing is likely to have increased health costs, reduced educational achievements and reduced productivity.

The Discussion paper identifies minimum apartment sizes as *“unnecessarily restricting”* the market. PIA notes that minimum apartment size, combined with other controls such as floor space ratio and building height, influences the number of units of a specific size that can be built on a site. However, we do not agree that minimum apartment sizes *“result in larger development control envelopes than may otherwise be the case, impacting community amenity”* as apartment sizes are typically unrelated to the size of the maximum building envelope.

Apartment size has long been a contentious issue in NSW. Local governments, particularly in areas with limited access to transport, jobs and amenity, have wished to mandate larger minimum apartment sizes while developers, have argued for smaller minimum sizes. The Residential Flat Design Code, which was superseded by the ADG in 2015, had larger minimum dwelling sizes (two bedroom unit examples had sizes that ranged from 80-90sqm) but the minimum apartment size was reduced in the ADG (minimum 2 bedroom unit is now 70sqm). As it should be possible to quantify the impact on housing affordability in NSW that was created by reducing minimum apartment sizes in 2015 a review should be undertaken before minimum apartment sizes are reduced once again.

The cost savings of smaller apartment sizes provided by the Urban Taskforce, a group representing property developer interests, should also be independently verified. Other types of cost savings should also be encouraged. For example, it is bathrooms, not living areas and bedrooms, that are the most expensive part to build.

Another key issue around apartment size not raised in the report is the need for variety in apartment sizes to meet the diversity of community needs. Families need larger apartments, apartments with shared occupancy may work better with two bathrooms and those working from home may need a dedicated office space.

One option could be for the Commission to recommend replacing the minimum apartment size with a minimum average apartment size for the entire block, with an allowance for individual apartments to be up to 5sqm larger or smaller than the average. This would avoid the current situation where all units of one type, regardless of orientation or design, are the same size and would provide greater flexibility for the design. It would also encourage an increased variety of apartment sizes to meet the demands of different household incomes, sizes and needs.

PIA also accepts that some areas of the city are more accessible, with access to a large number of jobs within a 30 minute journey time. In these specific areas there may be value in allowing smaller units if they are designed with functional and well organised layouts that deliver a high standard of residential amenity. A more detailed design review process could be required for these smaller apartments and they may also require bespoke, space saving furniture. It is recommended that further analysis of both the appropriate location and the design of smaller dwellings be explored with the planning and architectural professions before any changes are made to the ADG.

Planners understand that as the city grows there is a need to transition away from private vehicular trips. Significant savings can be made if buildings do not require individual basement carparks and support lower carparking rates in areas that have good active and public transport access to jobs, services and amenities. We would also recommend the exploration of innovative policies that reduce

car ownership and car usage such as decoupling car parking spaces from dwellings, car sharing, and shared parking schemes. The present carparking requirement regime is not sufficiently linked to prevailing accessibility and as a result promotes avoidable car use and congestion.

PIA supports the 'build for sale for profit' segment of the housing market and acknowledges they play an important role in providing housing choices for a large proportion of the community. We do not consider that decreasing the quality or incentivising 'build for sale for profit' housing will be able to address the growing need for affordable housing. PIA calls on the Commission to acknowledge that tackling housing affordability is much more than just a supply issue and an approach which only addresses increased supply is not the solution.

State Government has a critical role to play in improving access to housing for all. PIA supports the Government's efforts to develop an end to end housing strategy. In addition, councils must develop local housing needs assessments and set affordable housing targets at a grassroots level.

PIA strongly recommends encouraging and incentivising alternative methods of funding and managing 'build to rent' and 'not for profit' housing to address the need in the community for affordable housing. Options include co-housing, shared equity housing, built to rent, and will involve housing providers and innovative and alternative funding. Every sector should be encouraged to play a role with government subsidies and incentives to create a multiplier effect. We support the implementation of innovative planning policies that encourage affordable housing, including making government land available to 'not for profits' at reduced rates and allowing local governments to use their land to provide affordable housing options. PIA supports strengthening rental tenure security to balance the market power of renters as a growing proportion of the market.

PIA encourages the Government to set appropriate affordable housing targets on all Government land development projects and consider targets for private development projects that are clear.

PIA also advocates the delivery of the social infrastructure necessary to support affordable, accessible and appropriate housing for vulnerable members of the community, including low income families, people with special needs and the indigenous community.

### ***8.6 Making the most of public and green space***

- *Are there other innovative ways of providing new public space, particularly on underutilised land?*
- *What other opportunities are there to improve the use of transport corridors in high density areas?*

Public and green space at a district and regional scale is a 'public good' and should be funded as such. PIA urge reconsideration of the role of the Sydney Region Development Fund (SRDF) for this purpose. SRDF is a small percentage surcharge on all rates.

Roads corridors represent a large proportion of available public space, often over 30% in intensely developed areas. As access to public and green space becomes more limited relative to population, there is an incentive to use road space more effectively and fairly. The planning philosophy of 'movement and place' aims to treat some streets as places where transport is not the dominant objective.

## **8.7 Moving toward more efficient and equitable developer contributions**

- *What principles could be applied to the developer contributions system to ensure transparent, consistent and efficient outcomes?*
- *How might developer contributions be improved to support growth in new areas and service growing community needs?*

### **Transparency and certainty issues**

Timing and sequencing of rezoning, utility provision and the delivery of key economic and social infrastructure must be incorporated in an integrated growth plan to achieve the timely supply of the range of housing stock needed to meet the desired land use outcomes.

Contributions obligations need to be made known as a package at the very time growth area structure plans are released for comment. Local, state infrastructure and also any affordable housing contribution imposts need to be known up front to be effective. At least indicative levels of State and local contributions and any value sharing arrangements must be made public at the same time as structure plans for a growth area are publicly released. The charges should be predictable for land purchasers so that the full fair share of any value uplift created by subsequent rezonings is returned to the new community through infrastructure upgrades.

Greater certainty for infrastructure and network planning is provided where agencies can anticipate development patterns. Out of sequence development could be allowed subject to an appropriate and larger amount being paid to address costs arising from the departure from the least cost pattern of development.

PIA urges the commission to promote reform that improves the transparency and predictability of the amount of all development contributions payable and send a market signal for the desired form and location of development.

### **Local Government capacity to deliver 'growth' infrastructure**

Sequencing and timely infrastructure delivery is not just about sufficient funding, but also about organisational structure and staff resources. There is a disconnect between the capacity and responsibility to deliver infrastructure, particularly at a local level. Many councils are not equipped to deliver on their responsibilities, with Councils unable to spend the money on growth infrastructure quick enough. For example, for the period 2015-18, despite spending a total of \$1.6 billion on growth infrastructure, the total funds held by Sydney Councils in developer contributions accounts increased from around \$1 billion to \$1.9 billion over the same period.

Caps on council rates and de facto caps (IPART Process) on contributions obscure price signals in the market - while distorting the use of a narrow range of other available funding mechanisms. In a broader sense, this distortion favours fringe development over infill development. If the true cost of infrastructure were passed on to developers, then they would be forced to pay a lower price for land to landowners.

New release areas also have to pay a Special Infrastructure Contribution (SIC). The cost of the SIC is subsidised in the north west and south west Growth Areas by the NSW Government, with developers only having to pay 50% of the cost of state level enabling infrastructure. The cost of the SIC in

Western Sydney is now 30% lower than when introduced in 2011. A price signal on where to develop is being obscured.

Developers should be actively encouraged to deliver infrastructure on behalf of councils through speedy processing of works in kind agreements, full crediting of values under the relevant contributions plan and cash reimbursement of works values in excess of the section 7.11/7.12 obligation.

PIA has observed the high resourcing costs for councils in keeping their development contributions plans up to date and responsive to new planning proposals. Frequently councils are relying on one off Voluntary Planning Agreements with developers to fund necessary infrastructure to meet future demands. These agreements are even more resource intensive to negotiate and are highly inefficient in comparison to the application of an effective contributions plan. They are however often the only option when a contributions plan is not fit for purpose in relation to a new planning proposal.

In general, PIA has noted declining community support and acceptance of higher housing densities partly because of the lack of firm Government commitments to upgrade the infrastructure to support the demands created by the extra populations. What the community sees happening is land values increase due to rezoning but little return in terms of infrastructure investment. This is particularly acute in inner and middle ring Sydney where extra land for open space facilities is needed, but the land acquisition cost is prohibitively expensive. This has an impact on city performance and productivity when the political environment for locating more housing near jobs becomes difficult due to residents seeing no infrastructure or amenity improvements alongside densification.

### *Value sharing*

Value sharing is the act of collecting a portion of the benefits from public infrastructure investments that flow to the value of land. Value that is captured or shared by governments should be used to pay for a portion of the corresponding infrastructure investment. There should be comprehensive infrastructure funding and delivery plans for identified growth or renewal areas. The plan should be underpinned by a funding mix, with the respective roles /shares to be provided by contributions, value sharing/betterment, special rates, grants, other taxes and charges.

A comprehensive approach would see State and local infrastructure contributions and infrastructure schedules in the one plan for a growth or renewal area. Value sharing should play an important role and PIA would not exclude the opportunity for a broad based regional property levy.

### *Planning principles for infrastructure funding*

The Commission's discussion paper suggests a principles-based infrastructure contributions system, characterised by 'development-dependent infrastructure' funded by local and State infrastructure contributions based on an attributable share of efficient cost of delivery, and 'population-dependent infrastructure' funded by other sources, potentially some combination of user charges, local government rates, and Consolidated Fund and Restart NSW.

In PIA's view this approach of differentiating between infrastructure types does little to address the multiple problems in the funding and delivery of growth-related infrastructure in NSW, namely:

- Infrastructure delivery is uncertain
- Developer contributions are uncertain

- There is minimal transparency and accountability
- The current system is multi-layered, fragmented, opaque, complex & unstable

Arbitrary groupings of infrastructure do not solve the problem of how to provide them in a timely and financially sustainable way. It is PIA's position that, at its core, infrastructure funding mechanisms for an area must strike a balance between:

- consistent, certain and reasonable infrastructure contributions obligations for developers on the one hand; and
- certainty that the new communities will be provided with an acceptable standard of baseline infrastructure.

PIA suggests that there are 4 bedrock principles or building blocks for genuine reform of the infrastructure funding and delivery system. These are shown in the following diagram:

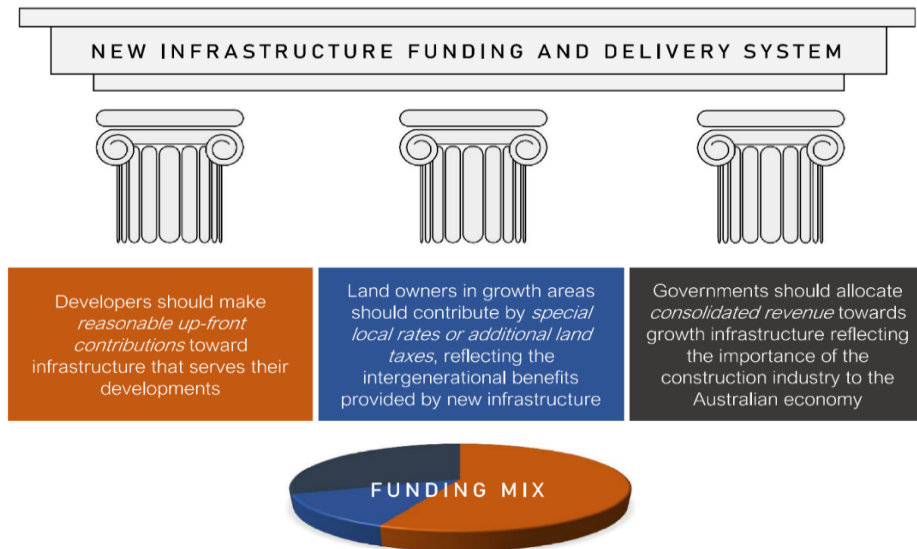


A range of actions could be implemented in the short term (within 1 year) to act on these bedrock principles. For example:

- Continue State Budget programs that accelerate provision of lead-in infrastructure that unlocks development areas
- Speed up infrastructure delivery by requiring councils to pool their contributions funds and achieve rolling 3-year spending benchmarks.
- Have more infrastructure delivered by developers as works in kind
- End the uncertainty around 'satisfactory arrangements' contribution requirements in LEPs
- Review the role of special infrastructure contributions with a view to moving towards standard charging
- Pilot an electronic State and local contributions management system project including a contributions calculator for 3 city and 3 regional councils, in collaboration with the Department of Customer Service.
- Develop a comprehensive policy on the appropriate use of 'value sharing' schemes

- Raise the bar in accountability by establishing guidelines for councils on the use of repealed plan funds, enabling web access to downloadable contributions registers and reports on infrastructure delivered

More lasting reform (i.e. actions to be implemented over a 3+ year period) could be underpinned by a new growth infrastructure funding and delivery system based on 3 pillars shown in the following diagram:



### *Actions supporting the new system*

General:

- Comprehensive infrastructure delivery plans that contain all State and local infrastructure requirements and contributions in one document that is adopted at the time land is rezoned or upzoned.
- These plans will also contain delivery responsibilities and priorities, and an adopted funding mix reflecting the weightings of the 3 pillars – the weightings reflecting economic circumstances and government policy at the time.
- Empower a single agency within government to resolve disagreements between agencies about infrastructure priorities so that coherent funding plans can be recommended to Cabinet.

Ideas for implementing Pillar 1:



- A schedule of standard contributions to permanently shift the focus from time-consuming and piecemeal determination of charges for each development area to the infrastructure delivery program and its funding mix. This will be a leap forward in creating investor certainty and free up councils to focus on delivering infrastructure sooner.
- Redefine IPART's role away from time-consuming forensic analysis of individual contributions plans to setting the standard contributions schedule.
- Developers can settle any cash contribution obligation at any office of Service NSW.

Ideas for implementing Pillar 2:

- Remove rate pegging constraints for councils that achieve financial accountability benchmarks
- Develop a streamlined process for councils to implement special rates on benefitting landowners in rezoned or upzoned areas.

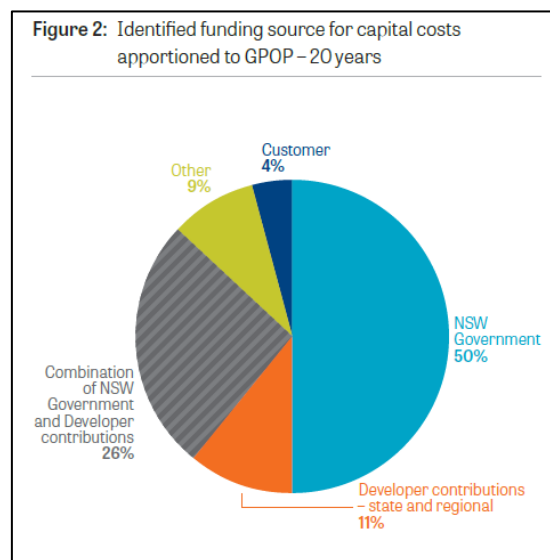
Ideas for implementing Pillar 3:

- Consider imposing a metro-wide levy on rates notices, land tax notices and/or DAs to comprise part of the funding mix.

***Primacy of establishing an agreed funding mix early on***

Agreement on a 'funding mix' must underpin lasting reform. Establishing a fair contribution is but one part of that exercise.

The GSC's attempt at this through the GOPP Place Infrastructure Compact (PIC) pilot provides a model of how to approach the task (see pie chart below).



Source: GSC, *A City Supported by Infrastructure*, p8

The funding mix approach deals with infrastructure funding and delivery holistically. In the GOPP example, it is clear that developer contributions will play an important yet relatively minor role in funding the c\$20-\$30 billion in infrastructure needed for that place.



Much effort is currently applied to determining a fair and reasonable contribution rates for developers when arguably the biggest challenge is aligning the machinery and budgets of State Government to deliver the lion-share of the infrastructure over several electoral cycles.

The PIC is the first genuine attempt to:

- develop a comprehensive infrastructure funding and delivery plan for a place where significant change is expected
- bring together delivery agencies to commit to a prioritised schedule of infrastructure items.

### ***8.8 Minimising red tape and complexity***

The NSW Planning system has become too complex making the planning less efficient and more frustrating for many planners and other associated in the development and environmental sector.

Planners look to use incentives and a wide spectrum of regulatory means with as a light a touch as practical. Planners don't assume that a regulatory approach based on prohibition has merit. In fact, planners look to design positive decision-making pathways that most efficiently and effectively deliver the outcomes sought – and which respond to the prevailing culture.

The notion of 'red tape' and by extension 'regulatory failure' - only emerge when the regulatory tools don't meet the standards above. PIA urges the Commission to be accurate in their definition and communication - and not refer to all planning regulation as 'red tape'. This perpetuates the fiction of a negative role of planning and government's role co-producing the cities we need.

- *What steps could the NSW Government take to improve efficiency in planning system administration and ensure economic and community benefits?*

A number of planning reforms over the last 30 years have impacted the culture and complexity of the practice of planning in NSW. In general, where there is culture of low trust among the participants of the planning system then more prescriptive regulation often emerges as a result. Some of the key changes in NSW planning which have increased complexity include:

- **Consideration of 'spot rezonings' becoming the norm** rather than the exception to rezonings through strategic and orderly review and updating of Local Environmental Plans. A succession of reforms to the gateway process and the means of review of planning proposals have made this a complex and resource intensive process.
- **Joining of Development Applications and Building Applications** as one process means that now a consent authority is needing documentation up front not only to justify whether a development is suitable and could be approved – but also whether the detailed nature of the building would meet the relevant standards and codes.
- **Certification discretion**, in a low trust environment, Councils feel obliged to ask for substantial detail up front to manage the risk that the proposed development is acceptable - and not rely on the subsequent (mostly private) certification process and the wide discretion that is available to them.

- **Resource intensive and complex voluntary planning agreements** – the difficulty for councils in resourcing and maintaining comprehensive and up-to-date development contributions plans – and their inability to fund (along with other sources) sufficient infrastructure – has increased reliance on costly, complex and even more resource intensive VPAs.
- **Referrals to state agencies** – more complex projects mean many councils are referring project and application to state agencies. State agencies have minimal resources and thus early consultation is not a focus and taking more time to undertake assessment. The result is that many concurrence applications are held up, or the option to request the Secretary to intervene.

PIA sees a role for the Productivity Review to review the underlying causes and culture of low trust that has led to reliance on complex and resource intensive means to achieve planning outcomes.

In addition, there is a shortage of planners in DPIE and across the planning industry. There are too few professional planners available to resource the outcomes required and this acts as a brake on productivity. PIA continues to support university training and professional development to expand and deepen the labour pool and recommends State and National Government explore planners as a skilled migrant category.

#### *Case Example: Burwood Council v Ralan*

In this [case](#) (*Burwood Council v Ralan Burwood Pty Ltd (No 3)* [2014] NSWCA 404), a building in Burwood was constructed with windows and façade markedly different from what was approved. A certifier allowed the changes in design using the discretion available under the Act. This case was typical of the experience of many councils who increasingly distrusted the outcomes of the certification process. A common response by councils to this predicament has been to require more design detail up front in the plans that form part of the approval – leaving less discretion for the certifier. A side effect of this approach is yet more detail required up front from applicants.

Efficient process should be considered to improve the planning system, for example:

- **Reintroducing DA and BA system** so detailed information/plans can occur post consent
- **Simplifying the type and number of development applications**
- **Re-considering the building certification and construction certification process**
- **Simplifying the referral process to state agencies** for example by creating weekly joint development assessment panels with agencies to obtain comments or input in a timely manner. Alternatively, if there is no submission within the 40 day period then concurrence is assumed, especially for smaller applications
- **Simplifying local contributions plans** and reduce need for voluntary planning agreements
- **Improving conditions of consent** and making them relevant and enforceable
- **Supporting common engineering standards** across councils to simplify approval processes
- **E-planning** systems being expanded to monitor progress of all development applications and rezonings

## 9. Forward looking regulation that supports competition and innovation

- *What new tools can we harness to enable an adaptive, iterative and outcomes-based approach to managing risk and balancing different user outcomes?*

Rapidly changing economic, social, environmental approaches that are demanded by new knowledge, such as climate change, technologies, energy mixes, economic relationships and the like require new modes of operation. Such modes of operation are needed to respond at multi-scalar levels to include and respect national, state and local perspectives. Big-data analytics help provide an evidence-base to support policy development for planning that identify locations for growth and development, but also indicate areas for protection of key assets (natural and economic), as well as areas affected by catastrophic risk, e.g. bushfire, floods, cyclones, sea-level rise). The responses need to be planned using a broad range of expertise that is reviewed and revisited regularly, especially as knowledge and information is rapidly changing. Overarching visions need to be constantly and regularly reviewed to ensure they remain current and accurate. These cycles are becoming increasingly shorter (2-3 years).

Current modes of policy development involve 'top down' modes of consultation and delivery. These traditional modes of policy development are outdated and have been replaced by an increasingly 'bottom up' approach. Business increasingly recognises that in order to be agile and responsive to changing needs and opportunities, while mitigating risk in a future, engagement needs to occur with all people in the development of policy prior to the finalisation and adoption of such policy. Such an approach engenders greater trust, ownership, acceptance and understanding by all concerned. The initial achievement of 'bottom up' policy development is no more time consuming than current processes – it does require a paradigm shift, especially from key gatekeepers of the current modes of policy development. Due to the engendered benefits described above, policy reviews become more efficient and effective as the participants (government, business, industry, community) develop their understanding of different motivations, roles, functions and standpoints). The outcome is a highly adaptive and responsive outcome, that is fit-for-purpose to address the needs of all concerned. It does not require all to agree with the outcome, but it does require a shared understanding of the process and how the outcome though respect for the clarity, transparency and opportunity afforded to all.

Non-traditional forms of knowledge also need to inform outcomes. It is increasingly understood that Indigenous land management at the landscape scale has been acquired over millennia. Such knowledge can assist in development of strategies for land use and management. Indigenous knowledge is particularly valuable in assisting risk management in hazardous locations and with environmental management generally. Similarly, local knowledge from residents and land users, such as farmers, is also being revealed important to land use allocation and development.

- *Is there scope for greater uptake of these tools in New South Wales?*

Evidence indicates that New South Wales policy does utilise 'big data' in planning and implementation of certain aspects of policy and development, such as economic and infrastructure activities, and transport planning. Recently, with the occurrence of the unprecedented, unseasonal bushfire activity, analytics has assisted in modelling and prediction of fire behaviour. This use of data needs to be extended. Data sets should be made more readily available to industry and academic experts to assist government in the modelling critical questions about relationships between human activity, e.g. population change a, regional development, health; resource security, e.g. water, food; environmental

management and economic activity. This requires recognition of the ability to share in the beneficial outcomes this would bring to all,

Policy development in New South Wales largely continues to utilise outdated modes of policy development and consultation. The traditional approach is not fit-for-purpose in addressing future issues in a rapidly changing world. Land use planning is a clear example of this. The increased complexity, additional layers of approval, lack of transparency and community frustration with outcomes has led to a decreasing trust in government and declining engagement in the planning process. The adoption of the cutting-edge approach to engagement if done effectively and managed well is a means to providing an effective means to benefit everyone in the immediate and long-term.