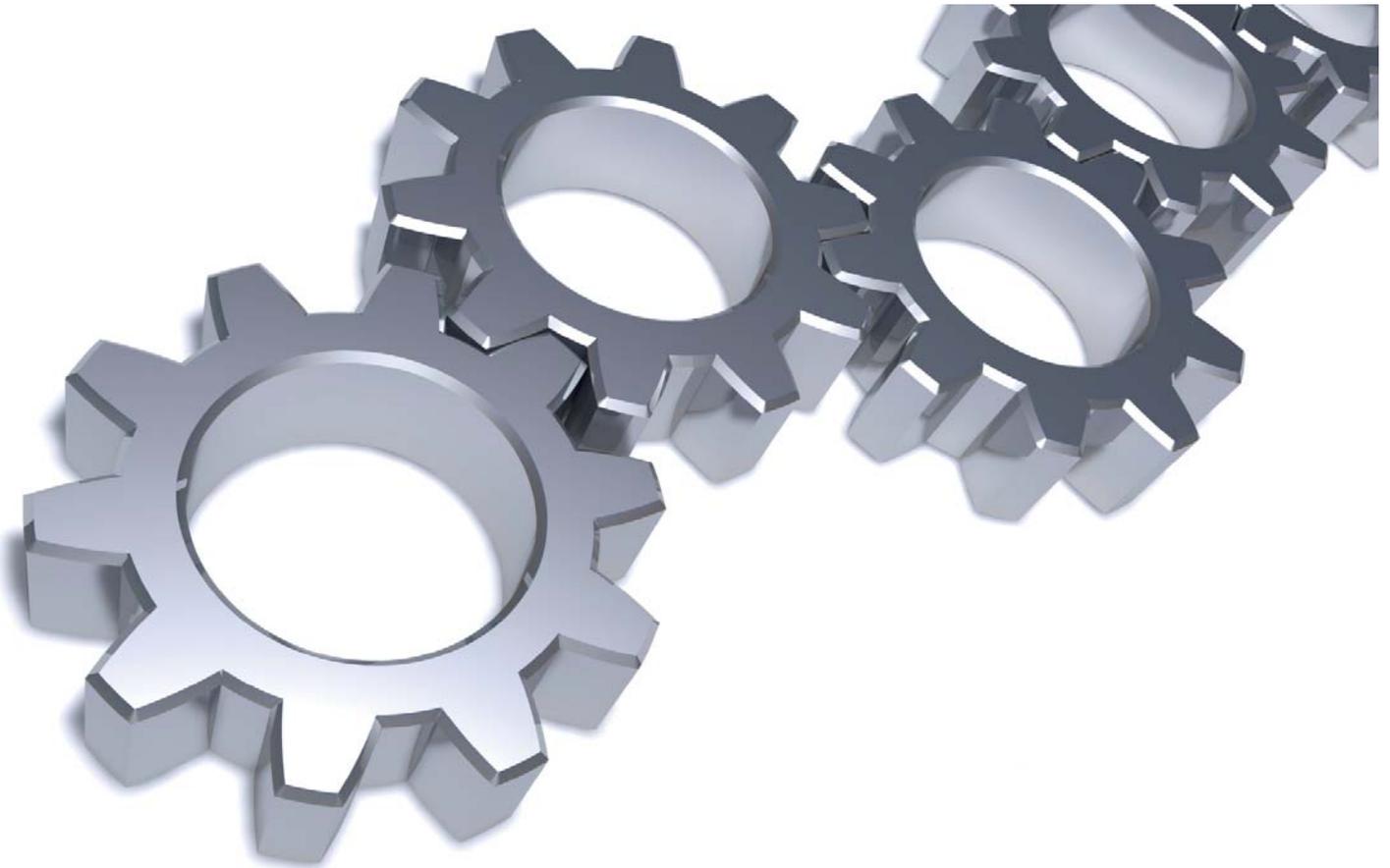


THE NEXT ACT



Celebrating
50 years



UDIA NSW RESPONSE TO THE **PLANNING WHITE PAPER**

JUNE 2013

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INTRODUCTION

To deliver more homes and jobs, improved infrastructure and more vibrant and sustainable communities, the existing NSW planning system must be overhauled. UDIA NSW believes that the White Paper provides an exceptional opportunity to deliver a new planning system for NSW that will provide certainty, transparency and engagement. The direction of the new planning system reforms, as outlined in the *A New Planning System for NSW: White Paper* is commended and demonstrates the NSW Government's commitment to revitalising the planning system so that wider economic and development goals can be achieved. The focus on future strategic planning and the provision of infrastructure, including where and when it is needed, will help create better connected and vibrant communities.

The release of the White Paper is the next step of a reform process that will take time to implement and fully unfold. UDIA NSW understands this and stands by the NSW Government's initiatives to ensure that this state has a world-class planning system that helps drive economic activity in an environmentally and socially sustainable manner.

The White Paper builds on the reforms that were highlighted in the Green Paper, many of which UDIA NSW supported. The Institute has extensively reviewed the White Paper with more than 250 of the industry's leading developers and practitioners directly involved in the preparation of this response. Additionally, UDIA NSW established four expert panels to undertake further research and provide focused feedback on four key areas including:

- Culture and community consultation,
- Planning (strategic and development assessment),
- Infrastructure contributions and
- The Planning Act Bill.

While UDIA NSW is strongly supportive of the direction of the new planning system, in this submission we have highlighted areas that require further clarification. New and alternative solutions to growth issues are detailed in the interest of ensuring greater efficiencies in the planning system and community and industry certainty. Where there is no comment, the reader can assume that the proposed reform is supported by UDIA NSW and its members.

CULTURAL CHANGE

There is little doubt that the current planning system has created an adversarial culture towards planning, development and growth. While there is an obvious need to improve the culture within the planning profession, UDIA NSW believes that it should not be the only area where change is necessary. To affect real cultural change, there first needs to be recognition that a change is required across all levels of government, professions and the community.

UDIA NSW believes that a strategically-focused system with upfront community involvement will ensure the community (including residents, business owners, government representatives, developers, etc) has greater confidence in the planning decisions that affect people's lives and the future of their communities.

The NSW Government must embark on an education campaign that clearly spells out the benefits of not only the new planning system but of growth and change. UDIA and its members stand ready to embrace a more positive culture within Government, and we also believe that the Government has already achieved significant progress in this area since coming to power. The shift in emphasis from plan-making to delivery outcomes has been recognised as an important start in the cultural change required to increase certainty and realise the economic potential of the new planning act.

UDIA NSW commends the Government for its significant allocation of funds in the recent State Budget to support the rollout of the planning reforms.

New Skills

The new planning system will require the evolution and re-skilling of many practitioners in the planning profession, as well as a move towards being facilitators of outcomes. The White Paper recognises that the planning profession will need to change the current adversarial culture.

UDIA NSW believes the work that is being carried out by the Planning Institute of Australia (PIA) is important and necessary. However, there should be a concerted effort by all industry and professional Institutes to take on cultural change. Additional to the planning profession, associate planning and development professions – such as architects and engineers – will need new skills to operate under the new system.

Local government councillors will play an important role in the delivery of strategic planning outcomes. However, to date, councillors have received little support or training in planning and the development process. UDIA NSW suggests that the NSW Government develop a range of professional development courses in areas such as planning, development and finance. This would ensure that councillors across the State have an appropriate level of understanding and competency.

Educating the Community

It is clear that the community has lost confidence in the current planning system. The White Paper goes a long way toward returning that confidence by delivering more certainty and transparency in decision making. However, for the new planning system to fully deliver on its objectives, a societal shift in how the community views its role in decision making and participation is required.

As part of UDIA NSW response to the Green Paper, we enlisted the services of Crosby-Textor to conduct focus group research. It was clear that residents were more concerned with what was happening next door to their property than in the community as a whole. This must change. The whole community must realign its efforts towards ensuring that their community provides opportunities and more vibrant and better serviced centres. Essentially, the community must lead the change to creating better environments for current and future residents.

UDIA NSW believes that State and Local Governments have a key role to play in changing the prevailing paradigm of community consultation, by ensuring that NSW does in fact accept growth and delivers housing and employment opportunities for future generations. To achieve this, the NSW Government must invest in educating the community on urban issues. This will require clear and easily understood information to be provided to the community on a regular basis. It will also require a clear explanation of the medium to long term implications for communities of the planning choices they are being asked to consider and the economic benefits of well planned growth. UDIA NSW acknowledges the Department of Planning and Infrastructure Urban Conversations events and advocates for additional and ongoing community education to deliver the benefits of the new planning act.

COMMUNITY ENGAGEMENT

UDIA NSW supports the NSW Government's general approach on better community engagement during the strategic plan making phase of the planning process. It is important to ensure that the community can be involved in setting the future direction of regions, subregions and their local areas. It is just as important that a broader cross-section of the community is engaged and involved in the plan making process. UDIA NSW contends that this will require a more concerted effort by all levels of government to reach out to the broader community.

UDIA NSW believes that with meaningful, up-front consultation, there is an opportunity to minimise the need for consultation at the development application phase, particularly for code complying developments.

The Institute understands and supports the need to consult with immediate neighbours where a part of a development does not comply with code requirements or on merit assessments.

Community Participation Charter

UDIA NSW supports the preparation of a Participation Charter to lead participation practices across the state and ensure a level of consistency. It is unfortunate that the NSW Government did not release a draft Charter to be included as part of the White Paper, particularly given scant details on how the Charter may look.

The principles that comprise the Charter are crucial to delivering meaningful community engagement across NSW. UDIA NSW believes that the current principles fall short in delivering meaningful participation. It is of particular concern that education does not feature as a principle. Part of the problem with the current consultation processes is that there is an expectation that those reading plans have an understanding of what is being presented, and of the wider context in which specific proposals sit. In many instances, this is not the case. Access to information is not the same as understanding. The community must be educated about the planning system and the necessity to balance personal aspirations with overall community good. This will require a sustained long term commitment to lifting the level of awareness of planning issues.

UDIA NSW believes that the principles of the charter must be reviewed and improved if consultation is to be meaningful.

E-Planning

The E-planning portal should be developed as a central hub of information for the community, developers and investors. At a basic level, the portal should provide access to relevant and up to date information on urban and non-urban land in the state. This is where the e-planning portal will play an important role in community engagement.

The portal should also provide a platform through which developers, investors and the community can understand the constraints of a site such as building heights, flooding and bushfire hazards. On top of this, the portal should be used as a tool to educate and guide developers, investors and the community through the planning application process and planning system in general.

When it comes to strategic planning, the portal should also provide access to relevant and up-to-date information. Using the portal as a key access point to this information would allow for better engagement of a broader section of the community. This would also allow for greater utilisation of 3D visualisation technologies, which has a potential to help illustrate what is being proposed.

Additionally, UDIA NSW contends that the E-planning portal must also be a platform where the community, developers, stakeholders and government can communicate and provide feedback on issues that arise during the planning process. This would allow for constant dialogue between all levels of society, government and business.

UDIA NSW believes that for E-planning to be an effective tool, the Department of Planning and Infrastructure will need to allocate significant funds and resources over a sustained period of time.

MAKING PLANS

The hierarchy of plans proposed by the White Paper is supported by UDIA NSW. The integration of strategic planning and infrastructure planning at the regional and sub-regional levels has been the missing link in planning and budgetary processes in NSW. Over time, this integration will lead to better-managed urban areas, where planning outcomes are integrated with infrastructure delivery, demonstrating to communities and investors that growth can be accommodated and appropriately managed.

The strategic focus, with its multiple layers of plans, will require a sustained commitment to implementation and leadership from the NSW Government. As it is intended that all these plans develop in quick succession or concurrently, the adequate allocation of funding and resources will be imperative.

Additionally, the periodic and consistent review of these plans is essential. While the White Paper and associated Bill identifies that periodic review will be set, this must be enforced. A framework where the Department of Planning and Infrastructure, Subregional Planning Boards and local government get into the routine and discipline of regularly reviewing strategic documents needs to be set.

Regional Growth Plans

UDIA strongly supports the concept of Regional Growth Plans. The fundamental emphasis on growth is supported. UDIA also believes it will be critical that the NSW Government move immediately to develop Regional Growth Plans in all appropriate regions in NSW so that the subsequent lower tier plans can be prepared in a timely manner and with strong guidance from the Government.

Subregional Delivery Plans

UDIA NSW supports the preparation of the Subregional Delivery Plans that link to the Growth Infrastructure Plans to ensure that the future growth of the subregions is matched by the delivery of infrastructure. The development industry and the wider community must also be engaged in the Growth Infrastructure Plans as part of the overall consultation process.

However, UDIA NSW is concerned about the membership of the Subregional Planning Boards. Ideally, the Boards are made up of state and local governments, private sector experts, community, and business representatives. However, the Boards outlined in the White Paper seem overly weighted with government representation, with no mention of industry, community or business involvement. This is an area which UDIA NSW suggests needs particular attention to ensure a more balanced membership.

While local government involvement is important, the effectiveness of the Subregional Planning Boards that include several councils is questioned. In the Central subregion, which includes 17 individual councils, it could potentially prove to be an unworkable melange of competing interests. Ensuring that the process is effective will depend heavily on the Chair that is appointed as well as the Minister.

Engaging on Infrastructure

Planning for growth and development must go hand in hand with planning for infrastructure provision. Research conducted by UDIA NSW in 2012 found that communities felt there was a lack of long-term planning for infrastructure. It was critical that the current capacity of existing infrastructure was examined and new or upgraded infrastructure planned for when developing new strategic plans.

Improvements to infrastructure and services such as public transport, road networks and social services including hospitals, policing units and schools were considered necessary when planning for growth.

Growth Infrastructure Plans (GIPs) will form an integral part of the Subregional Delivery Plan and inform Local Plans. They will lead the identification and prioritisation of the infrastructure to support future growth. Given their importance, UDIA NSW believes that these plans must be made public and include consultation with communities, the industry and government agencies. They must also be linked to funding and timeframes for their delivery.

UDIA NSW is aware of the work that has recently been undertaken on the pilot Growth Infrastructure Plans for urban release areas in Western Sydney. This work appears to be a significant advancement on limited previous efforts to genuinely coordinate infrastructure planning and funding to support urban development. The Government is commended for its initiative in this regard but UDIA NSW also believes that a high level of industry consultation on the Growth Infrastructure Plans will be essential to the medium to long term success.

Economic Viability

Strategic plans have historically failed to consider whether requirements, controls and zonings are economically viable. State and Local Government should always consider whether development makes an acceptable financial return given the proposed planning constraints.

Economic and commercial viability is one of the key impediments to development and needs to be thoroughly accommodated within the new planning system. There is no use having a plan that is so detached from commercial reality that nothing proceeds. This has been clearly evident over the past 6-8 years.

UDIA NSW supports the White Paper's move towards making plans more economically viable. The viability of plans, however, must be across all levels of the strategic planning hierarchy. This would ensure that the objectives of all the plans are attainable, leading to better planned and built communities.

A better understanding of the viability of development will also provide NSW Government agencies and Councils greater confidence to invest in the necessary infrastructure to support urban development.

DEVELOPMENT ASSESSMENT

UDIA NSW supports the NSW Government's move to a performance based track system for development assessment. It is clear that there is a need to streamline the current development assessment framework to make it easier for property owners to recognise the full potential of their properties and thereby provide the housing and other development the communities of NSW need.

Depoliticising Decision Making

Currently, decision making is prone to being heavily politicised and does not promote transparency or good planning outcomes. This has created uncertainty and angst for the community and industry in particular. UDIA NSW believes that robust strategic planning based on clear and readily available information, which also incorporates upfront community consultation, will help achieve better planning outcomes.

UDIA NSW contends that with independent and transparent decision making – through delegation to the PAC, JRPP or local expert panels – there can be greater confidence in the decisions being made.

The mandatory introduction of expert panels for local developments is therefore considered necessary for transparency in decision making and to remove the subjective and political decision making that currently takes place.

Strategic Compliance

The industry sees Strategic Compatibility Certificates (SCCs) as an innovative approach to transitional issues that will arise during the implementation of the new planning system. The SCCs will be central to ensuring that the strategic intent of the regional and subregional plans are implemented in the development planning and assessment process.

However, inconsistency between regional, subregional and local plans will be unavoidable because of their different time periods for review. UDIA NSW recommends that the SCC be incorporated as a permanent planning tool that can be used when necessary.

Code Assessable Development

The expansion of Code Assessable Development is supported by the development industry. Allowing a greater number of building types to be included under the Code will ensure that low risk developments are able to proceed without a full development application.

UDIA NSW believes that the consideration of land subdivision as a Code Assessable Development is an innovative approach to streamlining the release of land ready for construction. UDIA NSW supports this approach and will work together with the NSW Government in the preparation of the Code.

DELIVERING INFRASTRUCTURE

To support the future economic and population growth of the state, infrastructure must be delivered where it is needed and in a timely manner. The White Paper recognises this and puts forward reforms to the planning and funding framework, and the delivery of infrastructure.

As stated previously, UDIA NSW supports the preparation of Growth Infrastructure Plans (GIPs). Planning for infrastructure is an area where NSW has previously failed and the GIPs provide the opportunity to ensure that the necessary infrastructure is delivered in a timely manner. Given their importance, UDIA NSW believes that these plans must be made public and include consultation with communities, the industry and government agencies.

Infrastructure Funding

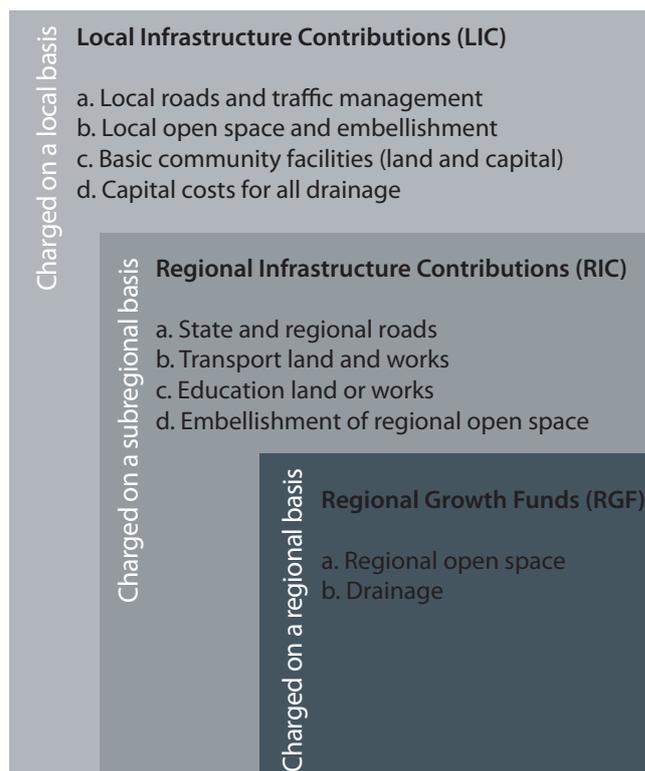
The infrastructure funding context in NSW, as it relates to urban development, has evolved significantly in the last 20 years. The dominant trend has been an increased reliance on infrastructure levies paid by the developer, which has then been passed on to the initial home buyer. Continual changes to the levy structure have had demonstrably negative impacts on housing supply and affordability, and created intergenerational and geographical inequities.

The White Paper proposes a set of reforms to the contributions framework. The reforms propose three levels of contribution, including Local Infrastructure Contributions (LIC), Regional Infrastructure Contributions (RIC) and the Regional Growth Fund (RGF). See Figure 1 for further detail.

The White Paper also identifies a biodiversity offset contribution which if applied in all geographical areas of development (not just in the Growth Centres via the SIC framework) should be of benefit to the industry.

As part of the review process, UDIA NSW established a team of the industry’s leading practitioners to analyse the proposed contributions framework.

Figure 1: Proposed Contributions System



To analyse the impact of the new system, UDIA NSW used two existing Section 94 Plans, one from a greenfield development and one from an infill location.

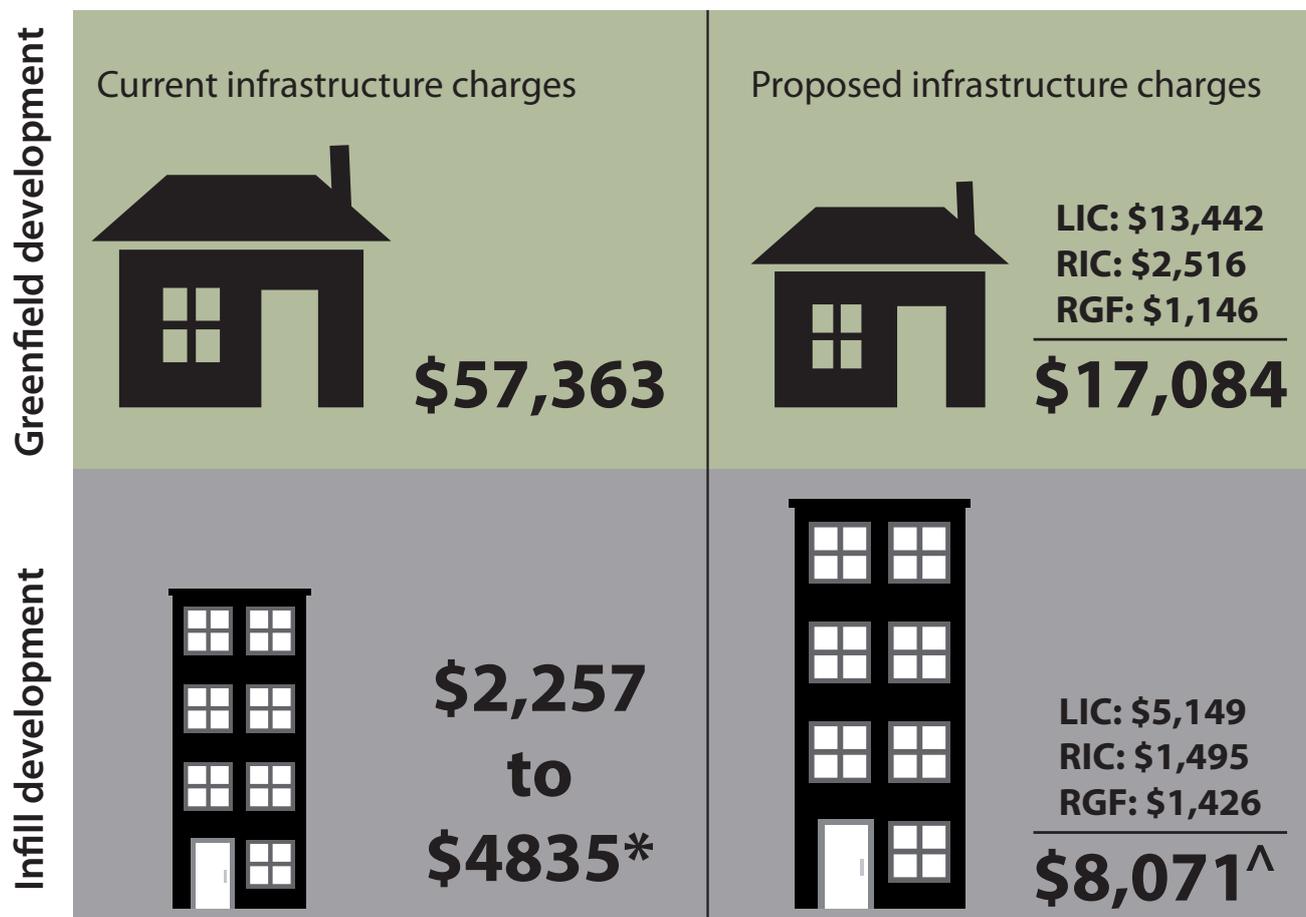
While there is no detail on how the levy will be applied, UDIA NSW set the following parameters for the purposes of modelling the proposed framework:

- The levy would be applied on a per dwelling basis
- The Section 94 Plan for each location was used to identify local dwelling forecasts
- The draft Metropolitan Strategy was used to identify subregional and regional dwelling targets
- No commercial, retail or industrial development was considered as part of the modelling
- \$800 million has to be collected from residential development each year in total. Collecting the required amount each year would require dwelling targets set for the Sydney region to be met each year.
- UDIA NSW used the classification system outlined in the White Paper to apportion each works item to a LIC, RIC or RGF (except open space and embellishment was classified similarly)
- A horizon to 2031, in line with the draft Metropolitan Strategy, was used

It is important to note that UDIA NSW believes there are some fundamental issues with the definition and classification of the scope of works to be included in each contribution stream. For instance, it is problematic to separate regional open space from embellishments between the RIC and RGF. UDIA NSW suggests that this issue will need to be resolved and would welcome the opportunity to work with the NSW Government in clarifying this issue.

The resulting impact using this information can be seen in Figure 2 below.

Figure 2: UDIA NSW modelling results



* Figures based on population and occupancy rates. Levy does not include local open space.

[^] Figure includes local open space.

The modelling has shown that there are potential benefits with the proposed framework, particularly with regard to greenfield development. The modelling shows over \$40,000 of savings based on the Section 94 Plan used.

In relation to infill development, the modelling showed that the potential figure per infill dwelling unit is \$8,071. Based on the Section 94 plan that was used, the proposed framework shows an increase of up to \$5,800 in contributions. It should be noted that in the case of infill development, current Section 94 Plan calculations are based on population increase and occupancy rates per dwelling, and dwelling unit size.

Based on the modelling that UDIA NSW has conducted, we support, in principle, the proposed reforms to the levy framework. However, UDIA NSW recommends the NSW Government release modelling it has conducted on the new levy framework, or at least engage in significant and detailed consultation with industry on this issue. UDIA NSW, the community and local government need to be assured that the proposed reforms will provide a more equitable and transparent system and allow for the timely delivery of infrastructure.

BUILDING CERTIFICATION

UDIA NSW welcomes the NSW Government's proposed reforms to building certification and regulation. The industry strongly supports the continuation of private certification, however it is recognised that improvements to the current certification framework are required. In principle, UDIA NSW supports the proposed reforms and believes they are a move towards rebuilding confidence in the industry.

Infrastructure Certification

The proposed changes to building and subdivision certification proposed under the New Planning System for NSW 2013 is welcomed by the industry. However, to ensure the efficiency of the certification framework, there are some aspects which must be looked at.

While in essence the delivery of a development can be categorised into either building or subdivision, there are many building projects which rely on the construction of significant civil engineering works. It is these works that are not adequately covered in the proposed reforms.

Currently, the development industry is experiencing difficulties in the delivery of civil works as a result of certification requirements.

As a solution, the NSW Government should consider the introduction of an Infrastructure Certifier. The position would sit alongside the role contemplated in the New Planning System of Building Certifier, and would merge with the role of Subdivision Certifier.

The role of the Infrastructure Certifier would be to:

- Issue Subdivision and Infrastructure Works Certificates associated with building developments
- Inspect the works as required by Inspection and Test Plans suited to the works being undertaken
- Issue Infrastructure Compliance Certificates (ICC) at the satisfactory completion of the infrastructure works associated with Building Works
- Issue Subdivision Certificates (SC) for works arising from approved subdivision developments

UDIA NSW contends that this would significantly improve efficiencies in the delivery of civil works and result in reducing the time delays that currently occur.

DELIVERING THE PLANNING SYSTEM

The Planning Bill

UDIA NSW commends the NSW Government on releasing the Planning Bill 2013 – Exposure Draft together with the White Paper. It is encouraging that the changes to the planning legislation appear to support some of the objectives of the reform, particularly:

- Drive economic development in NSW
- Enhance early community participation
- Incorporate infrastructure planning into the strategic planning process
- Shift the level of focus and effort from the development assessment stage to the strategic planning stage
- Develop a clear hierarchy of planning instruments
- Create a performance based system of planning

Unfortunately, much of the detail mentioned in the White Paper is to be included in the Regulations, which has not been provided. This is concerning, particularly given the Regulations will detail how the new planning system will operate. Considering the level of detail to be included in the Regulations, UDIA NSW believes that the NSW Government should consult with industry, as a key stakeholder, or place the Regulations on public exhibition for comment.

As part of the review process, UDIA NSW established a team of the industry's leading legal practitioners to analyse the Bill. A considerable amount of information was produced, including the identification of areas where the legislation could be improved. UDIA NSW is ready to work with the NSW Government and the Department of Planning and Infrastructure to ensure that the final legislation can achieve the above objectives.

Savings and Transitional measures

The transition to the new system will need to be managed carefully. It is important to ensure that development does not stall on the basis of new plans being prepared in the future. The cultural change component of introducing the new act will be particularly important amongst Councils, utilities and approval agencies in this regard.

UDIA NSW suggests that the existing system should continue to operate unhindered and unchanged until such time as the local plans and guidelines are ready for adoption. This will allow for 'business as usual', while regional, subregional and local plans are being prepared in the background. To achieve a seamless transition, the preparation of the regional, subregional and local plans will need to be on strict timeframes set by the NSW Government and policed by the Department of Planning and Infrastructure to enable a seamless transition to the new system across the State.

UDIA NSW believes that the NSW Government should consult with the industry when developing the savings and transitional measures that will be implemented. When Part 3A was repealed, which UDIA NSW supported, numerous amendments had to be made post repeal to deal with unintended consequences due to the repeal not being covered by the savings and transitional provisions.

To avoid unintended consequences and ensure a smooth transition, UDIA NSW will work with the NSW Government and Department of Planning and Infrastructure to deliver the new planning system in NSW.

CONCLUSION

UDIA NSW commends the ambition of the NSW Government to undertake a comprehensive reform of the NSW planning system. The Government has demonstrated a sustained commitment to the reform process and has committed significant financial resources to its implementation.

This reform process is a once in a generation opportunity to deliver a planning system that the NSW community deserves. The new system needs to underpin a revival of the NSW economy and deliver the housing, jobs and communities which will accommodate the growth NSW is forecast to achieve.

The positive initiatives illustrated in the White Paper and the forthcoming Planning Bill will not lead to a successful reform outcome on its own. What will also be needed is for all levels of government and agencies working cooperatively together, demonstrating an enabling culture to instigate action and change. Without this, the economic revival of NSW, led by the property industry, will unlikely occur and the reform agenda of government will be a missed opportunity.

UDIA NSW is committed to working cooperatively with the Government in finalising the planning reforms, but more importantly in rolling out the new system over the coming years. We recognise that the implementation process will be complex and will generate significant community debate at the regional and local level. UDIA NSW urges the Government to maintain its demonstrated commitment to these reforms in the coming years and we firmly believe that the new system will contribute significantly to a better future for NSW.

ABOUT UDIA NSW

The Urban Development Institute of Australia NSW (UDIA NSW) is the leading industry group representing the urban development sector in NSW.

UDIA NSW aims to secure the viability and sustainability of urban development for our members and therefore the communities that they create. We advocate for an efficient planning system that accommodates the State's growing population and stimulates economic growth. Our campaigns support the delivery of 40,000 new homes in NSW per year, to make housing more affordable, and the provision of quality, affordable infrastructure to support development.

UDIA NSW represents the leading participants in the urban development industry with more than 500 member companies including developers, financiers, consultants, property managers, planners, builders, manufacturers, and State and local government bodies. A quarter of these members are based in regional NSW.

UDIA NSW members are represented by an elected Council of 13 leading industry practitioners who are responsible for the strategic direction of the Institute. UDIA NSW also has an extensive committee and regional chapter structure that involves more than 300 of the development industry's key stakeholders in policy formulation.

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