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NSW Department of Planning, Industry and Environment
Parramatta NSW 2150

UDIA Submission on the Proposed Special Infrastructure Contribution for Western Sydney Aerotropolis

The Urban Development Institute of Australia, NSW (UDIA) is the leading industry body representing the interests of the urban development sector and has over 500 member companies in NSW. UDIA NSW advocates for the creation of Liveable, Affordable, and Connected Smart Cities.

UDIA is pleased to provide a submission to the NSW Department of Planning, Industry and Environment (DPIE) on the Draft Western Sydney Aerotropolis Special Infrastructure Contribution (SIC). The SIC is critical to provide a funding mechanism for key state-based infrastructure to support the Aerotropolis.

UDIA supports the metropolitan planning vision for Sydney to create 30-minute cities that provide jobs close to where people live. This is especially relevant to the Aerotropolis which will become the primary centre in the Western Parkland City that will accommodate mostly employment generating uses with open space but with limited residential uses.

To support the opening of the Nancy Bird Western Sydney International Airport (WSIA) and Aerotropolis, it is critical that key infrastructure is provided to maximise its economic benefits and achieve the planning vision. UDIA supports the process to levy developers via a SIC contributions to provide infrastructure in connection with the creation of the Western Sydney Aerotropolis, which is a new economic hub centred on the WSIA.

Whilst this is the preferred funding scheme to part-fund infrastructure at the Aerotropolis, UDIA contends that there are several major issues that must addressed before the SIC is finalised and implemented.

1. The proposed cost of Green Infrastructure

UDIA recognises that the Draft Aerotropolis SIC has a strong environmental emphasis with approximately 40% of the total SIC Cost ($950 million) going towards “Green Infrastructure” to support the development of the Blue Green Grid at the Aerotropolis and achieve the broader planning vision for the Western Parkland City.

This cost in the Draft Aerotropolis SIC for biodiversity and conservation is 40% of the total SIC cost, significantly higher than the Growth Area SIC which has “Biodiversity and Recreation” at only 12.7% (100% Attributable Cost). It is unreasonable to expect a developer to contribute close to 60% of the total given infrastructure cost for open space, especially for a precinct with a predicted low residential component. Noting that a full apportionment is required for *Thompsons Creek - Regional Open Space* at over $350 million. Further the apportionment is significantly higher for open space, compared to other categories including Emergency (36%), Education (33%) and Roads and Transport (16%).

UDIA questions the nexus between an employment area and the demand for open space and recreation facilities, noting that most of the open space will focus on the protection of South Creek / Wianamatta corridor and its tributaries. UDIA raised this issue with Penrith City Council as part of our submission on the Mamre Road precinct and there is not a strong nexus or land use planning justification for open space for an employment generating precinct.

A revision to the funding commitment for open space and biodiversity is required which primarily focuses on biodiversity. A review of open space for the Aerotropolis should then occur that better matches the predicted low open space demand from a predominantly worker-based population. Once this is determined, remaining local open space can then be identified and delivered by local councils over time if the resident population increases. Integration with the local contributions plans is critical here.

An alternative option would be for Government to show greater commitment to the Blue Green Grid and inject funding over and above current DPIE open space programs which are small-scale and mostly focus on local open space. These programs do not have the ability to develop regional environmental corridors of this scale and manage these areas going forward. The possible expansion of the Sydney Region Development fund may also provide a viable funding stream to support the Blue Green Grid.

UDIA considers that due to the amount of open space planned for the precinct, an appropriate management body will be required that maximises the enjoyment of these areas for recreation and achieve better environmental outcomes. It is unlikely to be a council who do not have the resources to take-on such major open space. UDIA recommends that a similar governance arrangement to the Western Sydney Parkland Trust should be applied to get the expertise to acquire and negotiate land to achieve viable open space and environmental outcomes.

Recommendation 1. DPIE to review the contribution to open space with a view to match the apportionment of cost to the primary purpose of the Aerotropolis to generate employment.

Recommendation 2. Review the proposed open space provision and funding required in the various contributions plans and what is proposed in the Precinct Plans, with a view to determine the right amount of open space based on land use planning grounds to achieve the Blue Green Grid.

Recommendation 3. DPIE to investigate new funding programs that inject money upfront to achieve the Blue Green Grid through early land acquisition, design and delivery of green infrastructure projects nominated in the SIC.

Recommendation 4. Investigate future governance arrangements for the proposed Blue Green Grid and consider a similar approach to what is occurring at the Western Sydney Parklands.

2. Development Costs in the Aerotropolis

To achieve the planning vision for the Aerotropolis and attract viable employment generating uses, upfront costs need to be minimised and a review of the State and local charges is required. A review of the total infrastructure cost should also occur which includes $9.3 Billion in State infrastructure and a further $2.5 Billion for local infrastructure identified in the Aerotropolis local contributions plans.

UDIA is concerned about SIC and levy charging system for the Aerotropolis Precinct which includes the SIC NDA charge ($200,000 - $500,0000) for the various land use zones and the Section 7.12 levy of 6.5% for the Aerotropolis, Agribusiness, Badgerys Creek and Northern Gateway precincts.

Whilst the NDA approach to SIC funding is supported, UDIA is concerned that State and local charges needed to part-fund infrastructure for the Precinct need to be more competitive compared to other industrial precincts both in Western Sydney and elsewhere in Australia.

Sydney's industrial market is Australia's most expensive. Recent outer Western Sydney industrial rents near the Aerotropolis exceed $140/m^2$. Comparatively Melbourne already is more competitive, with industrial rents averaging $93/m^2$ (CBRE Q4 2020) and new logistics warehouses near Melbourne airport are a further 5-10% lower than the average.

The 6.5% SIC charge is significantly above what should be allowed in any Section 7.12 local contributions plan, to date which average around 3%.

Research undertaken by UDIA has identified that based on a per net developable hectare (NDA), Queensland contribution charges for similar greenfield industrial precincts average $135,000 and $185,000 in Victoria. Other research obtained presents a picture that essentially a return on costs and internal rate of return will be 6-8% lower if the 6.5% rate and/or the $698,000 NDA rate is applied, will not be feasible for projects. Further there is also potential 8% increase in return on costs will again impact on project financial feasibility.

The combined State and local costs have the potential to stimy development and preclude achievement of the planning vision for the Aerotropolis. A wholistic approach to charges and levies will ensure a balance between infrastructure contributions and the cost to deliver proposed development.

Recommendation 5. DPIE to further assess the proposed contribution rates for the Precinct (State and local charges) with a view to provide a more market competitive rate that better matches with the infrastructure investment required.

3. Double up of SIC items in the Aerotropolis SIC and Growth Centres SIC

The $11.8 Billion State and local infrastructure cost for the Aerotropolis is concerning. From a review of the various precinct plans etc. there may be an opportunity to rationalise the infrastructure input, reduce the double-up of key infrastructure items and decrease costs and charges overall.

From the review of the Draft Aerotropolis SIC and Growth Centres SIC there appears to be a double-up with *Fifteenth Avenue Upgrade including Footpaths and Cycleways* which is listed in the Draft SIC but also in the Growth Centres SIC 2011.

There also appears to be a further double-up with water quality and quantity, open space, and riparian corridors and roads in the Aerotropolis local contribution plan. The infrastructure costs also seem quite high in the Agribusiness zone which seeks funding for a park and community facilities.

The Growth Centres SIC also allows Government to use developer contributions to acquire open space outside of the Growth Centre, which may include the Blue Green Grid

UDIA supports a review of the total infrastructure input, to achieve infrastructure efficiencies through a combined reduction of the infrastructure input to achieve overall savings on infrastructure costs.

Recommendation 6. DPIE to review the Aerotropolis SIC and Growth Centres SIC to address potential "double-up" of listed SIC items.
Recommendation 7. DPIE in conjunction with Penrith City and Liverpool City Councils to review total required infrastructure input with view to lessen costs and reduce charges.

4. Applicable SIC Area

UDIA is concerned that the proposed Aerotropolis Special Contributions Area (SCA) now includes the Rossmore precinct, which is within the South West Growth Centre (SWGC) and is governed by the Growth Centres SIC.

There is no clear planning justification as to why this has occurred. Rossmore is a long-term delivery residential release precinct, with a potential for 9000 dwellings, that was originally planned to support the SWGC and the nearby Leppington Town Centre. In any case, UDIA supports this precinct as a residential area to service both the SWGC and Aerotropolis.

Despite attempts to communicate this issue, DPIE needs to be mindful of the potential confusion of having an area with two applicable SICs. There were repeated mistakes made by the relevant councils in the application of the SIC charge for development in the North West and South West Growth Sectors and this situation could easily occur again.

Recommendation 8. DPIE to determine why Rossmore, which is a planned SWGC residential precinct, is proposed to be included in the Aerotropolis Precinct SCA.

5. The Role of the Commonwealth and the Airport Site

Airport uses on the WSIA site

The WSIA is located on Commonwealth owned land and is not subject to a SIC charge. This essentially optimises the attraction of certain airport uses that otherwise would locate in the adjoining Aerotropolis precincts. This does not present an equitable outcome for industry and some developers may get around the SIC charge by seeking to locate on the WSIA site. UDIA contends that all development, other than core airport uses, should be subject to the SIC charge.

Return on investment for the Commonwealth

UDIA contends that the SIC is a State based funding scheme to primarily support state infrastructure. A SIC is not prepared to provide a "return on investment" to the Commonwealth for their investment in the proposed Western Sydney Airport line.

The term "ultra vires" may apply here as State and Commonwealth governments are separate entities under the Commonwealth of Australia Constitution Act, with their own taxation jurisdictions. Essentially a defined government entity can only obtain taxes within their area of jurisdiction (Refer to *Clause 114. States may not raise forces. Taxation of property of Commonwealth or State*).

There is no mention of the term "Commonwealth" in the SIC objectives and the Aerotropolis SIC is the first time this approach has been taken with any SIC determination in NSW.

The combined financial motivations covering the WSIA site along with the SICs objectives present favourable returns for the Commonwealth, which are beyond the statutory limits of the SIC.

Recommendation 9. DPIE to review the function the SIC to confirm whether it can legally provide a return of investment to the Commonwealth under Australian law.

Recommendation 10. The SIC to be applied to all employment generating uses in the Aerotropolis including land owned by the Commonwealth.

6. Transitional arrangement and discounts

The *Draft Western Sydney Aerotropolis SIC Fact sheet – November 2020* allows for a discount to be applied to the SIC contribution for the first two years before the full rate is adopted from the third year. An additional stimulus of deferring payment of the SIC charge until the occupation certificate, which runs up until September 2022 is also presented.

UDIA is supportive of these measures which should be retained for the suggested duration to stimulate the Aerotropolis and achieve the planning vision.

Recommendation 12. DPIE to continue to apply the COVID-19 stimulus discounts for the duration to further encourage development at the Aerotropolis.

7. A review into Developer Contributions and Property Tax and Land Tax

UDIA would like to advise that DPIE should be mindful of current reviews occurring into developer contributions, property tax and land tax when determining the process to finalise and implement the Draft Aerotropolis SIC.

These reviews provide an opportunity to reform the tax and contributions system and the Draft Aerotropolis SIC should allow a process to incorporate the key recommendations from each review.

Recommendation 13. DPIE to integrate the key recommendations into the reviews into the land and property tax and contributions system as part of a future amendment to the Aerotropolis SIC to further promote development in this precinct.

8. The use of SICs as a funding mechanism

For over 10 years, a SIC has been used to fund state infrastructure in the North West and South West Growth Sectors. Since 2011 the Growth Sectors SIC has generated about $150 million in funding for state infrastructure such as regional roads and land for schools, open space, and education facilities.

A major constraint with a SIC funding program is that it takes an inordinate amount of time to generate enough funds for an infrastructure project. Under a SIC Program, a delivery agency must proceed through a business case process and then seek approval for funding following a final prioritisation process. It can take up to 10 years to deliver a four lane subarterial road, which includes 3 years in the business case phase alone, plus land acquisition (2 years) and delivery (3 years).

There has been no major infrastructure delivered in the Growth Sectors using entirely SIC funds. Other funding sources have been relied upon to deliver projects, which includes capital funding from agencies and direct funding from NSW Treasury. The only major success of the Growth Sectors SIC has been the amount of infrastructure delivered using planning agreements and the amount of land protected for environmental conservation.

The failings of the Growth Centres SIC need to be addressed to give industry confidence that the accumulation of funding over a long duration will support the timely delivery of infrastructure at the Aerotropolis precinct as a major employment generating area. With a low amount of residential land from which to generate funds, it will be difficult to fund infrastructure in the short term. The small contribution from developers (25%) for state-based infrastructure in the Aerotropolis, compared to the total funding needed further compounds this issue. Forward funding of regional and state infrastructure must occur to provide the critical infrastructure to achieve the planning vision for the Aerotropolis.

Further difficulties can also occur if identified SIC infrastructure items are not listed on State agency capital plans to provide top-up funding for a project. Cross agency coordination is critical to provide industry confidence, particularly in terms of aligned infrastructure delivery.

Another major challenge with using a SIC to fund infrastructure is that the itemised infrastructure is overly prescriptive and strongly tied to an interwoven growth structure for a nominated SCA.

Based on certain criteria, DPIE should be able to amend the SIC without the Ministers approval. This could be in response to changes in development patterns and infrastructure servicing requirements which can sometimes result in itemised infrastructure being de-prioritised or in some cases abandoned. This could reduce a potential outcome that developers are contributing funds for infrastructure projects that may never be built.

Whilst the development industry supports certainty, it is recognised that change in development and growth can occur. The SIC should be agile enough to allow infrastructure items to be removed or added without an arduous amendment process. This will ensue the SIC remains viable and a key part of the achieving the planning vision for the Aerotropolis.

UDIA suggests the following options improve the overall function of the SIC and the funding and delivery of key infrastructure:

- Avoid going through four-year business cases assurance processes for infrastructure projects categorised as low risk and low profile (Tier 4) which is costly, resource intensive and extremely time consuming;
- Reduce project nomination timeframes to give confidence to delivery agencies to engage in the SIC funding program;
- Allow for grouping of infrastructure items under one Strategic Business Case (SBC) to prevent multiple business case reports and additional time / cost to Government;
- Allow land acquisition to commence once the SIC is determined and the Precinct Plans and Development Control Plans are approved which adds considerable weight to the need for that infrastructure. This will provide significant cost savings to all infrastructure projects in the Aerotropolis;
- Allow for DPIE to amend the SIC without the Ministers approval.

Recommendation 14. DPIE to assess the options presented above to improve the viability of the SIC and its objective to fund and support infrastructure in the Aerotropolis Precinct.

9. Conclusion

The development of the Western Sydney International Airport and Aerotropolis provide a once in a lifetime opportunity to support the long-term development as a major employment area, with plentiful open space and key human services and facilities.

To achieve this, the proposed Aerotropolis SIC needs fundamental changes to provide a fairer system that not only attracts key industries but allows for the part-funding of key infrastructure.

Expecting developer contributions to deliver open space for an employment precinct is unreasonable and over and above any nexus from the recreational demands arising from future workers. Government needs to finally support this to achieve the broader planning vision. A long term management view should also be considered to achieve environmental, cultural and recreational outcomes.

A review of proposed SIC charges combined with local contributions plans for the Aerotropolis Precinct provides an opportunity to reduce costs, decrease any double-ups and achieve potential rationalisation of the infrastructure input. This should lessen overall developer charges and achieve the SIC objective in a shorter timeframe.

The challenges of applying a SIC should not be underestimated, as evidenced by the failings of the Growth Centres SIC. DPIE needs to provide a more flexible policy that can respond to changing development patterns to provide the right infrastructure at the right time in the right location.

DPIE also needs to review the motivation of the SIC to provide a return of investment for the Commonwealth which is questionable from a legal viewpoint. The SIC should also apply to the Commonwealth to reduce the competitive environment which this development site holds.

To address our concerns, UDIA request that DPIE responds to the recommendations presented in our submission.

UDIA requests a meeting with DPIE to further present our concerns on the Draft Aerotropolis SIC. Please contact Mr Kit Hale on 02 9262 1214 or khale@udiansw.com.au to arrange a meeting to discuss any further matters related to the Draft Aerotropolis SIC.

Yours sincerely,

Steve Mann
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UDIA NSW