



Kickstarting Productivity in NSW

UDIA Response

November 2019

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ABOUT THE UDIA

Established in 1963, the Urban Development Institute of Australia (UDIA) is the leading industry group representing the property development sector. Our 550 member companies include developers, engineers, consultants, local government, and utilities. Our advocacy is focussed on developing liveable, connected, and affordable cities.

EXECUTIVE SUMMARY

The Urban Development Institute of Australia – NSW (UDIA) welcomes the opportunity to make a submission into the NSW Productivity Commission's *Kickstarting Productivity Discussion Paper*. The UDIA recognises the planning system is broken. It is well documented that there is a slow and uncertain planning system in NSW.

While our preference would be for a fast and predictable planning system, we would be content with a 'fast, but unpredictable' where the decision is unpredictable but made in a very fast manner, or a 'predictable, but slow' system in the interim, where the decision is predictable but you arrive at it through a slow and collaborative process. This reflects the need for the industry to be able to make informed investment decisions.

New construction activity by our industry contributed over \$100B to the NSW economy in FY 2018/19 and created over 240,000 new jobs. This represented a contraction of 10% of direct economic output from FY2017/18 and reflects that unfortunately, many, many industry participants are now looking to invest outside of NSW, with the recurring themes that:

"NSW is too slow"

"Developer charges and levies are too high and there is no certainty as to what charges will be"

"Planning is uncertain"

There has been a number of reports into improving the Planning System since the introduction of the Environmental Planning and Assessment Act in 1979, and while we believe over the medium-term a new Act will be required to make substantial change into the planning system and wholly reform the system, we do not believe now is the right time. UDIA is concerned that recent reform efforts have not been focussed on improving efficiency in the planning system and industry requires action to commence now, if we are to deliver the housing and jobs growth needed for NSW.

The key to these actions is that there is a path toward implementation. The next iteration of the Productivity Commission's process should include a long list of ideas that have been collated, and the likely effect of these ideas. Consultation should be directed to industry on how the schemes would be implemented and the timing and prioritising proposals.

Development in NSW require investment in infrastructure, particularly roads, energy, water, and sewer, which fundamentally underpins residential and employment development. This is then supported by public open space, education and other social infrastructure as a second wave of infrastructure provision. The delivery of this infrastructure must be coordinated and clear, so that there can be maximum efficiencies and certainty in investment.

The taxation system and corresponding infrastructure contributions must be focussed on settings that helps enable growth and the fair apportionment of contributions between new residents, existing residents, and greater Sydney. UDIA believes there needs to be reform in this part of the system.

The planning system is intended to act to correct instances of market failure, by ensuring development does not unduly impact on neighbours. Unfortunately, in recent years, planning has been the cause of the failure, by not providing a timely and certain process in which to rezone land

and provide for local infrastructure requirements. This has led to poor outcomes such as a mismatch of jobs and housing, unaligned housing and infrastructure, congestion, poor quality public domain, and suppressed innovation.

There is a need to consider the risk that government is willing to accept, while industry and government sets out to deliver great places and housing which is affordable. We believe rebalancing the risk to reward innovation, will ultimately lead to better place-making, and a greater ability to deliver housing supply.

The UDIA submission makes a series of suggestions to improve pain points in the process, most of which can be implemented quickly over the next twelve months, which would provide greater certainty and enable re-investment into NSW, instead of capital moving to other states.

LIST OF RECOMMENDATIONS

The UDIA has detailed recommendations for the Commission's further consideration; however, we wish to highlight these three key measures to improve productivity across the planning system:

1. Enable External Assessment of Development Applications through either the 'Risk Smart' model or the Wyndham City Council Model
2. Introduced deemed approvals for concurrences and referrals
3. Create concurrent subdivision certificate process using a digital process, instead of the current linear process

The full list of recommendations is below:

- | | |
|--------------------|--|
| Recommendation 1: | Recap Section 7.11 Contributions to provide industry with the certainty to invest |
| Recommendation 2: | Reform infrastructure funding using the principles established in the 2013 White Paper |
| Recommendation 3: | DPIE and the NSW Government introduce code-based assessment in NSW. |
| Recommendation 4: | DPIE coordinate referral agencies through the E-Planning system |
| Recommendation 5: | Release E-Planning Data |
| Recommendation 6: | Enable Accredited Planners to Prepare Assessment Reports based on the 'Risk Smart' model |
| Recommendation 7: | Enable Industry to fund a council team under prescribed timeframes based on the Wyndham City Council Model |
| Recommendation 8: | Create a model 'deed of delegation' for councils to encourage further delegations |
| Recommendation 9: | Increase the timeframe to appeal a deemed refusal to 12 months |
| Recommendation 10: | Remove Stop the Clock Provisions |
| Recommendation 11: | DPIE Provide Guidance on Requests for Further Information |
| Recommendation 12: | DPIE issue guidance on conditions of consent |
| Recommendation 13: | Introduce deemed approvals for concurrences and referrals |
| Recommendation 14: | Implement a clearing house for referrals such as SARA in Queensland |

- Recommendation 15: Councils provide clear information on how they make referral decisions and their preferences in formats
- Recommendation 16: Implement Specific KPIs to improve determination timeframes
- Recommendation 17: Allow proponents to brief the panel within the first 30 days of lodgement for early feedback
- Recommendation 18: Provide proponents with panel questions prior to the panel meeting
- Recommendation 19: Introduce an integrated single plan per LGA
- Recommendation 20: DPIE create a template DCP with model clauses
- Recommendation 21: DPIE create Consistent Engineering Standards
- Recommendation 22: Review the Study Requirements and volume of documentation required in the Planning System
- Recommendation 23: Clarify The Status of Draft Planning Documents and Policies
- Recommendation 24: Create concurrent subdivision certificate process using a digital process, instead of the current linear process
- Recommendation 25: Simplify Employment Land Zonings
- Recommendation 26: Permit Light Industrial in a wider range of zones
- Recommendation 27: Allow renewal on Remnant Industrial Land
- Recommendation 28: Provide further contextual assessment instead of prescriptive assessment against the Apartment Design Guide
- Recommendation 29: Permit diverse housing in the R2 zone
- Recommendation 30: DPIE lead the development of guidance for co-location of open space with other uses.
- Recommendation 31: Publish the modelling assumptions behind the flooding and evacuation scenarios that are being considered when taking land use planning decisions, to allow industry expert scrutiny.
- Recommendation 32: Ensure evacuation modelling includes reasonable warning times, contra-flow and a variety of evacuation locations.
- Recommendation 33: Adhere to the planning levels in the NSW Floodplain Development Manual.
- Recommendation 34: Invest in key flood evacuation infrastructure such as the Bells Line of Road – Castlereagh Connection.
- Recommendation 35: Amend the EPA South Creek bubble licensing scheme to enable increased discharge into South Creek with appropriate conditions.
- Recommendation 36: Progress the *Risk-based Framework for Considering Waterway Health Outcomes in Strategic Land-use Planning Decisions* (June 2017) with adequate funding and timely delivery of sub-catchment assessments and criteria.
- Recommendation 37: Review Sydney Water's regulatory environment to allow increased investment in water recycling infrastructure, including wastewater distribution infrastructure that would be accessible by other water recyclers under the WICA Act.

- Recommendation 38: Review water pricing structures to ensure recycled water is feasible to produce.
- Recommendation 39: Review the discharge licensing regime to support irrigation and discharge of recycled water.
- Recommendation 40: Introduce an Urban Development Program that coordinates growth and infrastructure.
- Recommendation 41: Encourage Bonding to be used when waiting for checks creates project delays.
- Recommendation 42: Bonds should never be higher than the security necessary for required works to be finalised and returned progressively.
- Recommendation 43: Replace Stamp Duty with Land Tax
- Recommendation 44: Implement Innovative Infrastructure Financing Mechanisms such as Tax Increment Financing
- Recommendation 45: Reform Rate-Pegging so that it aligns with growth

PLANNING

There have been many studies that have highlighted the inefficiencies of the NSW planning system. Many of these point to fundamental issues within the NSW planning system, and there have been many attempts to overhaul the NSW planning legislative and regulatory system.

The planning system in NSW is inefficient, and the cost of delays in Planning has been estimated several times. In Victoria, Better Regulation Victoria estimates the cost of avoidable delays somewhere in the order of \$400 to \$600 million a year – or up to 2% of the value of the sector.

In NSW, the Centre for International Economics estimated the cost of excessive delays and documentation imposed by the current system as part of the 2013 reform process to be between \$1 billion and \$2 billion per annum, with an impact on the Gross State Product of \$3 billion and \$7 billion.

The impact of improving the planning system by just one day will result in substantial dividends to industry, government, and the NSW economy.

Our submission seeks to identify tangible steps to increase the productivity in the NSW planning system by improving certainty and speed in the planning system. There is a substantial capacity to achieve both objectives, without compromising the system's integrity.

Our submission recognises five themes:

1. Certainty – there must be a certain process with certain timeframes that can be delivered, the process should be dictated by a principle of 'no surprises'.
2. Transparency – there needs to be a transparent process that is clear, along with clear and public strategic objectives that are achievable.
3. Integration – wherever possible the planning system should be integrated with a single point of contact and single reference point, state and local government should be aligned.
4. Focus – the planning system must be designed to deliver outcomes with timeliness and alignment.
5. Collaboration – government and industry need to promote growth in a culture of collaboration, which is designed to facilitate mutually beneficial outcomes.

For convenience we have structured this section with four parts.

1. Local and Regional Infrastructure Funding
2. Statutory Planning
3. Liveability
4. Jobs

LOCAL AND REGIONAL INFRASTRUCTURE FUNDING

The EP&A Act enables a range of contributions and levies to be levied on new homes including:

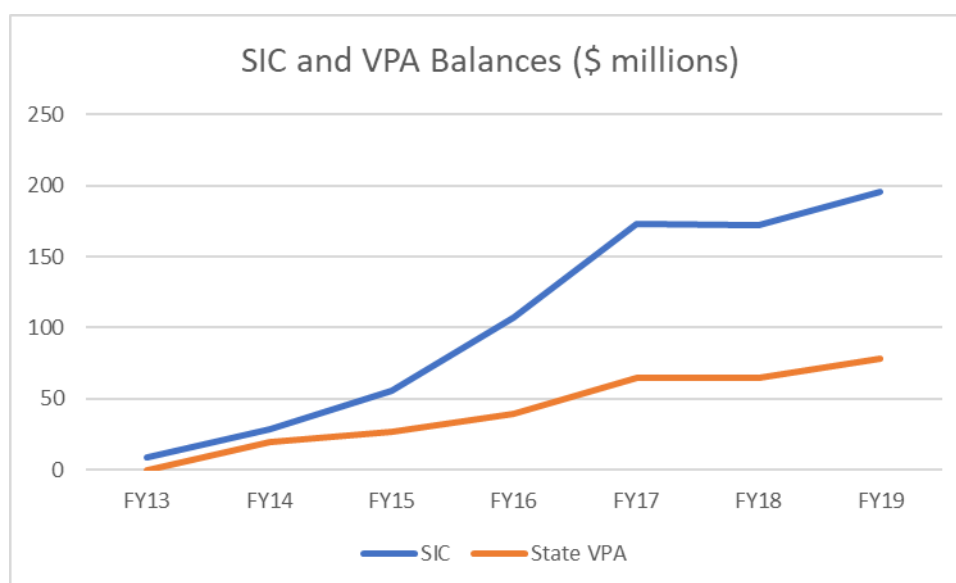
- Local infrastructure through section 7.11 contributions
- Regional infrastructure through Special Infrastructure Contributions (SIC)
- Affordable Housing Contributions
- Voluntary Planning Agreements, where developers voluntarily provide infrastructure.

There are also a range of other costs levied for a new home such as bio-certification, lodgement fees, and compliance levies.

The infrastructure funding system is broken, it is inefficient, not transparent, lacks accountability, it is unpredictable, and inequitable. It is currently impossible to price in the cost of the infrastructure contributions, which means the industry cannot deliver development, particularly housing supply.

There has been a wide body of work that has looked at the inadequacies of the current infrastructure funding system. We have attached a copy of the UDIA *Making Housing More Affordable* report as well as the PwC Report, *Infrastructure Contributions, Review of impact of infrastructure taxes and charges on the NSW Economy*, both reports highlight substantial concerns with infrastructure funding mechanisms.

Critically Infrastructure Funding has not been delivered in a timely manner, the table below shows that the balance in SIC and VPA accounts has been substantially increasing, indicating that the expenditure is not matching the income.

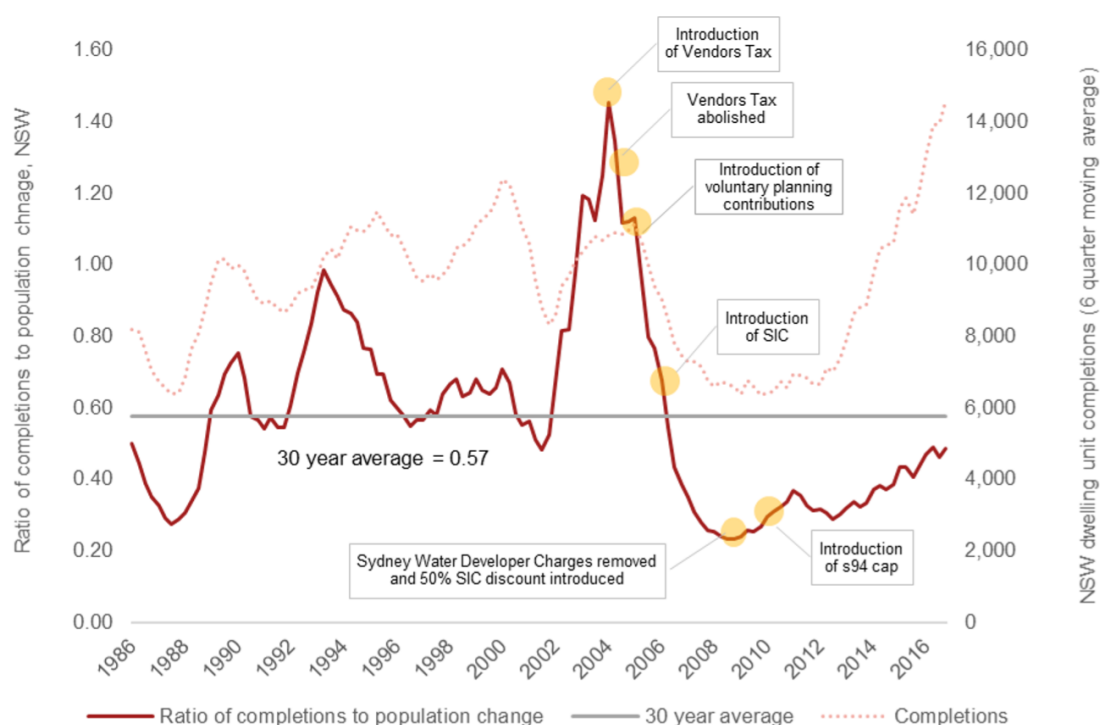


RECOMMENDATION 1: RECAP SECTION 7.11 CONTRIBUTIONS TO PROVIDE INDUSTRY WITH THE CERTAINTY TO INVEST

In June 2010 the NSW Government imposed a \$20,000 cap on section 7.11 (then known as section 94) contributions for infill development, as well as a \$30,000 cap for greenfield. These were intended to accelerate housing supply and support housing affordability. Any contributions above the cap would need to be assessed by IPART and government would fund the gap through the

Local Infrastructure Growth Scheme (LIGS). The chart below shows the impact of taxes and charges on housing supply.

Figure 5 - Ratio of dwelling completions to population change



Source: ABS 2017, 8752.0, ABS 2017, 3101.0

In June 2017, the NSW Government announced the uncapping of section 7.11 contributions. All areas that did not have plans receiving LIGS gap funding were immediately uncapped. In areas that were receiving LIGS funding contributions were uncapped overtime, with the full uncapping to occur on 1 July 2020. This means contributions will exceed \$100,000 per dwelling in some locations.

The development industry is not opposed to paying its fair share of infrastructure costs; however, the cumulative impact of new taxes, charges and levies will result in development becoming unfeasible and not going ahead.

If the changes go ahead there are two possible outcomes:

1. Developers pass on the increased costs to maintain margins, which increases the price of a new home, or
2. New homes cannot be built as the development feasibility is eroded to the point that it is uneconomic to develop.

UDIA has modelled the impact of an increase in contributions, for a standard land subdivision of approximately 150 lots, assuming constant take-up rates.

| Project Returns Impact - higher 7.11 and SIC Charges | | | | | | | |
|--|-----------|------------|-------------|---------|----------------|----------------------------|---------------------------|
| Increases in Govt Charges | RLV (\$M) | Margin (%) | Margin (\$) | IRR (%) | RLV Impact (%) | AVE Lot Price (\$) change* | AVE Lot Price (%) change* |
| Base line (\$30,000) | \$24.9 | 19.3% | \$10.1 | 20.0% | 0.0% | \$436,500 | 0.0% |
| Plus \$25,000 (\$55,000) | \$21.0 | 8.7% | \$5.0 | 10.8% | -15.5% | \$475,800 | 9.0% |
| Plus \$35,000 (\$65,000) | \$19.5 | 4.9% | \$2.9 | 7.0% | -21.7% | \$491,500 | 12.6% |
| Plus \$45,000 (\$75,000) | \$17.9 | 1.4% | \$0.9 | 3.2% | -27.9% | \$507,200 | 16.2% |
| Plus \$55,000 (\$85,000) | \$16.4 | -1.8% | -\$1.2 | -0.7% | -34.1% | \$522,900 | 19.8% |

If contributions were to increase to \$85,000 per lot, then the developer would be required to accept a margin of -1.8%, which makes it unfeasible to develop. In order to retain the margin required to develop prices would need to increase by 19.8% or wholesale land would need to reduce by 34.1%. This modelling is on the conservative side, with some plans exceeding \$100,000 per lot, which would require further price increases.

We believe it is unlikely that the wholesale land price will reduce, as if a seller is not motivated to sell at the current price, it is unlikely they will sell for a reduced price in the future. With limited land supply and few pressures to sell, a wholesale land vendor has the ability to wait until the market meets the price that they desire.

This has been coupled with a shift in the levying of the SIC, from per hectare to per dwelling charges, this provides a disincentive for density. UDIA understands the industry is responding to these changes by moving from an industry standard of 300 square metre lots to 375 square metre lots, which compromises housing supply and land-use efficiency. In a 5-hectare subdivision, this could mean up to 30 fewer dwellings will be delivered.

In the immediate term, the industry requires certainty to deliver infrastructure, as decisions are made over a 7-10-year timeframe. We recommend a cumulative cap of \$60,000 for greenfield contributions till 2024, so that it does not make development unfeasible, and supply targets can still be met. For infill areas, a cumulative cap of \$40,000 for contributions might be reasonable.

UDIA commissioned PwC to model the cost of recapping s7.11 contributions compared to uncapping contributions. Extending the capping of contributions would cost \$78 million and maintaining a realistic SIC would be \$76 million per year from 1 July 2020. UDIA has also developed a longer-term infrastructure funding solution. Providing the funding now would provide certainty to support the market over the coming years.

RECOMMENDATION 2: REFORM INFRASTRUCTURE FUNDING USING THE PRINCIPLES ESTABLISHED IN THE 2013 WHITE PAPER

UDIA believes there is further reform required to deliver an efficient infrastructure funding system. The 2013 White Paper, *A New Planning System for NSW*, highlight seven principles, which UDIA supports as the basis of an infrastructure funding system.

1. **Simple and Predictable** – the contribution system should be as easy to understand and administer as possible. Everyone should have a reasonable expectation of the future amount and timing of payment of infrastructure contribution.
2. **Transparency and accountability** – everyone should be able to track the need for infrastructure, revenue collected from contributions and expenditure on infrastructure. Responsible parties should be accountable for the timely provision of infrastructure.
3. **Beneficiary pays** – parties should only pay for infrastructure that they will benefit from. When benefits are shared between groups, the distribution of costs should reflect this.

4. **Avoidable costs** – developers should not be charged for infrastructure that is not required for new development. There must be a nexus and proportionality between development and infrastructure need.
5. **Cost reflectivity** – contributions should reflect the efficient cost of providing infrastructure. It should demonstrate that the provision of infrastructure in some areas is more expensive than others, and the developer's contribution should reflect at least some of that cost.
6. **Affordability** – the contribution system should not inhibit the supply of housing.
7. **Contestability** – the private sector should be invited to compete for delivery of works where it is likely to add value. Developers should be allowed to contribute to the cost of infrastructure through flexible means including 'works in kind' in lieu of a direct contribution payment.

The current system does not meet these principles, a step toward recapping will help ensure that some of these principles, such as affordability, simplicity and transparency, can be met. UDIA recommends establishing a regional growth fund, through a broad levy on all development applications.

There is a key need to reform infrastructure contributions under the principles of a beneficiary pays model. UDIA believes this must look at the government's contribution to enable housing supply and delivery over the medium to long term.

STATUTORY PLANNING

The NSW Planning System is inefficient and marked by inconsistency, it has been the subject of a number of reviews and commentary, which have identified inefficiencies in the planning system, some reviews include:

- Development Assessment Framework, 2005
- Federal Productivity Commission Reviews in 2011, 2017, 2019
- The NSW Planning Reform in 2011-2013

Industry has also produced a range of reports and analysis, which examined the inefficiencies in the NSW Planning System.

A key piece of work UDIA completed was to map the development assessment process for a standard site. This analysis shows it typically takes between 7-10 years from site acquisition to building the first home (attachment 1).

As previously, established there are substantial savings in the range of \$1 to \$2 billion, which could be delivered by creating efficiencies in this process.

Pressman and Wildavsky's seminal work, *Implementation*, identified that if there were 70 decision points and a 99% chance of success at each node, then the project would have less than a 50% chance of success. The Federal Productivity Commission's 2011 report noted that NSW had the highest number of referrals required and that a 'definitive schedule of all referral matters was not possible as it would require reference to over 200 local, regional and state environmental planning policies, as well as an array of non-planning legislation.' This highlights that there are too many decision nodes in NSW, which can prevent a project from proceeding, which is made clear in *Implementation*.

It also highlights a key theme that there is a substantial amount of documentation produced by various agencies, which may be aligned or in conflict, but needs to be addressed by applicants in preparing a submission and considered by councils. There are currently 103 draft policies and plans on the Planning Portal, the status of which is unclear for many, with the earliest policy on the website was exhibited in 2012.

These drafts which require consideration in development assessment, contributing to making planning system unnavigable, and does not provide the certainty, transparency, or focus necessary to deliver an efficient planning system.

Many reports point to the need for broad culture change, which the UDIA supports and would be keen to further discuss; however, in this submission The UDIA makes several recommendations to improve assessment and planning, which can be implemented in the short-term. We look forward to working with the Productivity Commission and Department of Planning, Industry, and Environment to progress culture change.

CODE BASED ASSESSMENT

RECOMMENDATION 3: DPIE AND THE NSW GOVERNMENT INTRODUCE CODE-BASED ASSESSMENT IN NSW.

The NSW Planning System still uses mainly development assessment and CDC, with limited code-based assessment. The 2013 reforms aimed to change the split to 40% CDC, 40% code assessment and 20% development assessment.

In 2012, Deloitte undertook the *Time and Cost Benchmarking Project: A new planning system for NSW*, which identified significant cost and time savings as a result from moving toward a simpler code-based assessment system. These are identified below.

| Case Study | Type of Dwelling / change under reform | Savings per application | Total annual savings (extrapolated) | Time under current system* | Time under proposed system* | Time savings per application |
|---|---|-------------------------|-------------------------------------|---------------------------------|-----------------------------|------------------------------|
| 1 | New single dwelling / from DA to CDC | \$7,145 | \$27.7m | 222 days | 91 days | 131 days |
| 1 | Alterations and additions to a house / from DA to CDC | \$1,813 | \$11.5m | 222 days | 91 days | 131 days |
| 1 | New single dwelling / from DA to code assessment | \$4,039 | \$38.3m | 222 days | 144 days | 78 days |
| 1 | Alterations and additions to a house / from DA to code assessment | \$275 | \$4.7m | 222 days | 144 days | 78 days |
| 2 | New multi dwelling / from DA to code assessment | \$113,960 | \$92.0m | 322 days | 166 days | 156 days |
| 3 | Greenfield / remains DA | \$10,309 | \$59.3m | Subject to specific development | | |
| 4 | Public Priority Infrastructure / South West Rail Link | \$677,986 | Not extrapolated | Subject to specific development | | |
| Potential annual savings (excludes PPI) | | | \$233.5m | | | |

Queensland uses a wide range of code-based assessment, which simplifies the planning approval pathway for straightforward development applications. This is a part of moving planning discussion at the strategic level to enable fast pathways for simple development.

There have been some moves by the DPIE to enable this complying development type of approach with carports and granny flats; however, this could be expanded.

E-PLANNING

RECOMMENDATION 4: DPIE COORDINATE REFERRAL AGENCIES THROUGH THE E-PLANNING SYSTEM

E-Planning is in the process of transforming the NSW Planning System, as the land development process map indicates, no single agency remains involved for the duration of the project.

E-Planning has the potential to be the necessary tool that tracks individual application progress, holds the critical supporting information, and provides the coordination mechanisms with the other agencies and service authorities throughout the development process. E-Planning has the potential to bring about much needed transparency in the planning system.

E-Planning can be used to support other agencies such as RFS and Transport for NSW, to develop workflows to improve concurrences and referrals.

RECOMMENDATION 5: RELEASE E-PLANNING DATA

E-Planning is collecting a great deal of data in the NSW Planning System, particularly approval timelines and referral agencies. Compounding the complexity issue, planning in NSW also suffers from a lack of timely data release, the last Local Development Performance Monitor released, relates to FY16. The last report on concurrences and referrals was published in c2008.

The lack of consistent and up to date data makes it challenging to build an evidence base for change, however, as all councils will be required to complete concurrence and referrals through E-Planning from the end of 2019, it provides an opportunity for a sensible open-data initiative, which allows industry and the community to review the performance of various agencies, which will support further productivity initiatives, by enabling industry to identify pain-points.

EXTERNAL ASSESSMENT PREPARATION

RECOMMENDATION 6: ENABLE ACCREDITED PLANNERS TO PREPARE ASSESSMENT REPORTS BASED ON THE 'RISK SMART' MODEL

Councils claim that there is insufficient resourcing, which contributes to delays as council officers do not have the time to conduct assessments. Resourcing constraints can be resolved by either increasing resources or looking for more productive ways of doing business.

UDIA recommends the DPIE lead the introduction of a scheme, similar to 'RiskSmart' in Logan City Council, where applications are prepared and lodged by one of Council's accredited RiskSmart consultants. The consultant assesses the application against the Logan Planning Scheme and prepares and submits the approval paperwork and supporting documentation to Council. Council reviews the application and a decision notice is issued by Council as the Assessment Manager (usually within 5 business days).

RiskSmart has been expanded to other local government areas in Queensland and used successfully. It is applied to applications for 'material change of use', which would include many of the uses that require a Development Application in Council.

This proposal would save council assessment resources from preparing an assessment report and provide applicants with certainty and faster responses through council with a 5-day turnaround.

RECOMMENDATION 7: ENABLE INDUSTRY TO FUND A COUNCIL TEAM UNDER PRESCRIBED TIMEFRAMES BASED ON THE WYNDHAM CITY COUNCIL MODEL

We consider the NSW Government can resolve the bottleneck by using its budget or entering into implementation agreements with key developers in specific precincts to fund external engineers or assessors to undertake work for council. The external engineers or assessors could be from a panel created by and vetted by the Department.

We see the key advantage being it is a user pays system with administrative system set up by the Department. It mitigates probity or competency issues with the Department ensuring successful external engineers or assessors, such as the Risk Smart scheme that is successfully operating in Queensland.

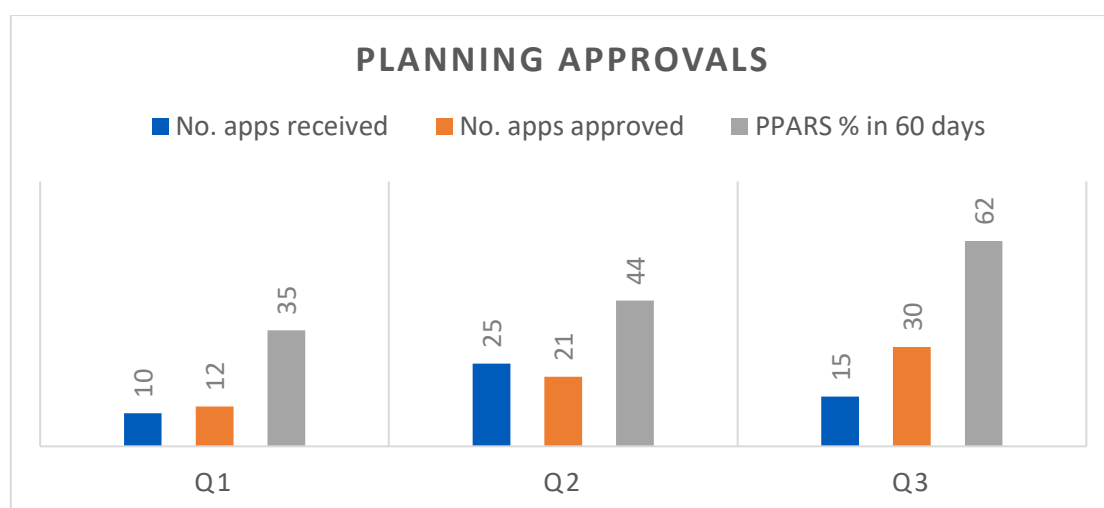
It is similar to schemes adopted by the Victorian Planning Authority which has invested \$1million in grants and staff assistance towards 17 innovative projects to improve timelines for approvals for new homes in new subdivisions such as the PSP Approvals Streamlining Program.

The Wyndham Model led to 30-60% improvements in timeframes across the board, not just priority projects.

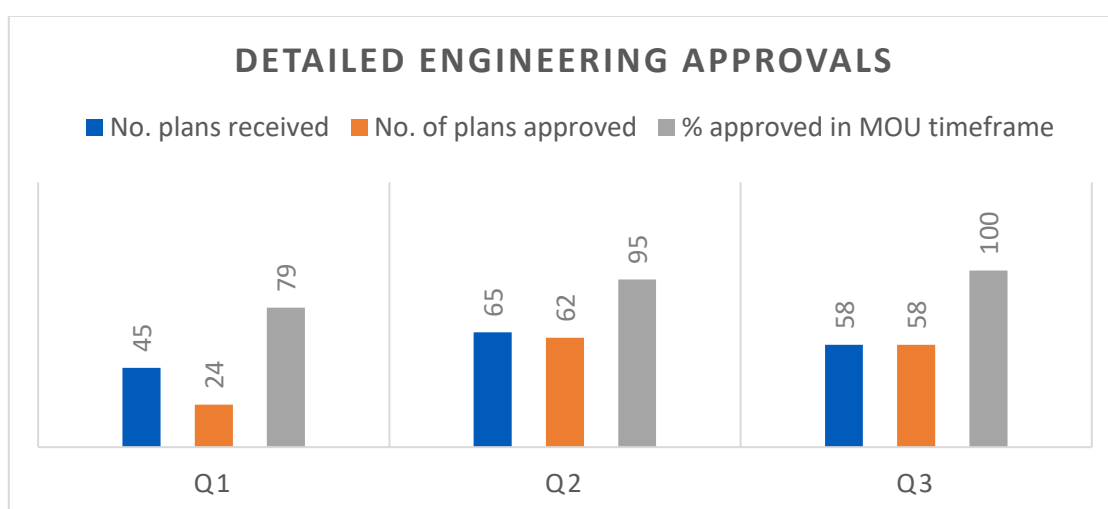
| Timeframe | Agreed Days | Actual Days |
|--|-------------|-------------|
| Average days between receipt of application and external referrals being undertaken | 5 | 8.5 |
| Average days between receipt of application and request for further information letter | 15 | 23.4 |
| Average days between receipt of further information/last referral and draft conditions | 15 | 13.6 |
| Average days between draft conditions finalised and permit issued | 5 | 5.7 |

Wyndham City Council

The charts below show the improvements in relation to planning approvals and detailed engineering approvals in the first three quarters of the year.



Wyndham City Council



Wyndham City Council

RECOMMENDATION 8: CREATE A MODEL 'DEED OF DELEGATION' FOR COUNCILS TO ENCOURAGE FURTHER DELEGATIONS

Development Applications are often held up because there are not appropriate delegation arrangements with team leaders, Planning Directors, or General Managers needing to approve straightforward variations to the planning framework.

The current status of delegation arrangements across councils could be reviewed to streamline council officer delegations and develop a model 'deed of delegation' which reflects best practice, helps councils to triage matters and reduces delays. A model deed of delegation could be developed and supported by a general guideline that defines common criteria for which matters are suitable for determination by the council's General Manager, the director of planning, other senior staff, council or council committees for determination.

This will de-risk the delegation process for council staff who may feel that certain staff members are not qualified for delegations, as well as provide greater autonomy for planners assessing development applications.

DEVELOPMENT ASSESSMENT PROCESS

RECOMMENDATION 9: INCREASE THE TIMEFRAME TO APPEAL A DEEMED REFUSAL TO 12 MONTHS

Once an application is lodged, the authority has 40 or 60 days to assess a DA until the applicant can treat it as a 'deemed refusal' and lodge an appeal to the Land and Environment Court (LEC). Applicants previously had 12 months to lodge a deemed refusal; however, this was reduced to 6 months to encourage faster assessments from councils.

Most projects led by the development industry take longer than 6 months to be assessed, the most recent LDPM data states that a DA over \$20 million is approved in an average of 278 days, or 9 months.

Once the 6-month period is reached, the applicant no longer has an appeal right to the LEC, until the council makes a determination, and the council no longer has an incentive to progress the application. Therefore, at the 5-month period, applicants tend to decide to go to court, instead of continuing to work collaboratively with council. This has resulted in substantial delays in the LEC (we understand that it takes at least 9 months to secure a hearing date), which has led to strategies where deemed refusal appeals are lodged early in the process to seek a court date.

UDIA believes that a 12-month period will provide a better incentive to work collaboratively with councils, particularly as local authorities work to reduce the time-period, it will help prevent unnecessary appeals, thereby saving applicants and councils money and resources on court processes.

RECOMMENDATION 10: REMOVE STOP THE CLOCK PROVISIONS

When a council issue requests for further information they 'stop the clock' on development assessment. This ensures that they have sufficient time prior to a deemed refusal being issued.

Recently, confusion has occurred with stop the clock provisions and there have been court cases in relation to if the 'stop' was valid, and when was the 'clock' stopped or not. We believe this is an unnecessary layer of complexity, we recommend that the 'stop the clock' provisions are not necessary and can be removed.

The applicant has an incentive to provide all the information necessary for an assessment; if they believe information is unnecessary, they can let the consent authority decide without it; however, the applicant risks an unsuccessful outcome. Therefore, an applicant is likely to comply with a request for further information.

RECOMMENDATION 11: DPIE PROVIDE GUIDANCE ON REQUESTS FOR FURTHER INFORMATION

Council's issue requests for further information, in most instances the industry wishes to provide adequate information upfront; however, this is sometimes unclear and varied between LGAs, UDIA recommends that the DPIE could support councils to help them more accurately and efficiently assess the need for RFIs by issuing a Practice Note and facilitating training opportunities for councils that illustrates the type and level of information necessary to inform common decisions.

RECOMMENDATION 12: DPIE ISSUE GUIDANCE ON CONDITIONS OF CONSENT

There are many generic and poor conditions of consent, which do not apply to the actual development that is being assessed. This means that the industry often needs to propose amendments for a development to be workable, this can often be avoided by consultation on draft conditions of consent with the applicant to ensure that they are appropriate. UDIA recommends the DPIE should issue clear principles on consents that include model conditions, provide examples of unacceptable conditions and provide clear advice to planning staff so that they:

- only apply planning conditions that arise directly from the specific issues related to the permit;
- only use conditions that are necessary and reasonable where existing provisions under planning and other legislation cannot more effectively or appropriately manage compliance; and
- clearly communicate draft conditions to applicants before a permit is granted, to ensure that there is a common understanding

This approach was implemented in the UK, where the government issued a circular that provided guidance to ensure that conditions are necessary, relevant to planning, relevant to the development, enforceable, precise, and reasonable in all other aspects.

IMPLEMENT A RANGE OF MEASURES TO IMPROVE REFERRALS

Concurrences or comments from various government agencies are required under the Infrastructure SEPP and other planning legislation. A full list would require reference to over 200 planning policies and different pieces of legislation. Our members report substantial challenges with referrals delaying approvals, because the consent authority cannot approve a development until the agency is satisfied or the consent authority will adopt an extremely conservative approach making unnecessary referrals.

We understand incidences where negotiation and redesign need to sensibly occur. However, sometimes this takes place purely at the whim of the design preference of the specific officer responsible, our membership has reported an example where an assessment officer said a plan had 'too many trees', despite the clear government focus on green space.

There is also a high level of inconsistency between agencies and the requirement for concurrence and notification differ between agencies, even similar ones like RMS and TfNSW, therefore, councils mitigate their risk by requiring concurrence even when it may not be required.

UDIA members have reported significant concerns as a result of this process, and we are currently completing an economic analysis of

UDIA recommends a range of solutions to improve referrals timelines:

1. The triggers for referral should be reviewed to enable simpler matters to be dealt with directly by a council, based on design codes issued by the referral authority.
2. Implement a central clearing house such as Queensland's SARA model
3. Introduce Deemed Approvals for concurrences and referrals.
4. Improve reporting on concurrence and referrals against a specific KPI

Councils have a formal process for receiving external referrals from state agencies, although they also go through an 'internal referral' process seeking feedback from council departments such as roads, waste management, and stormwater, the principles that are described in this section also apply to internal referrals.

RECOMMENDATION 13: INTRODUCE DEEMED APPROVALS FOR CONCURRENCES AND REFERRALS

In Queensland there is a deemed approval issued if a referral authority does not respond within 28 days. This provides an incentive for the Agency to progress a review of the proposal, because they will lose control if they do not make early initial reviews and timely decisions based on sufficient information.

RECOMMENDATION 14: IMPLEMENT A CLEARING HOUSE FOR REFERRALS SUCH AS SARA IN QUEENSLAND

Queensland's State Assessment and Referral Agency (SARA) is a Government body which is the single point of contact for some referral responses on State matters to a council considering a permit application. SARA creates a single point of contact and then coordinates with a required timeframe between two and four weeks.

This is intended to be achieved through an integrated DA in NSW; however, there lacks the buy-in to deliver a strong referrals system.

RECOMMENDATION 15: COUNCILS PROVIDE CLEAR INFORMATION ON HOW THEY MAKE REFERRAL DECISIONS AND THEIR PREFERENCES IN FORMATS

Regular reporting will help spotlight issues, and also help support applicants prepare material in a format which makes the assessment process as simple as possible, therefore we encourage referral agencies to regularly report:

- their published guidance for applicants and councils regarding application information requirements, their decision-making criteria and policies and how they apply to their referral decisions, including evidence of the consultative processes undertaken to inform this material;
- their decisions including timeframes, outputs and post-permit timeframes;
- the resourcing of the role and anticipated resourcing needs; and
- targets for a reduction in referrals required by developing standards for less complex matters.

RECOMMENDATION 16: IMPLEMENT SPECIFIC KPIS TO IMPROVE DETERMINATION TIMEFRAMES

Generally, once a KPI is established then agencies will work to meet the KPI, because they are tracked and required to report their process in their annual report. UDIA recommends a KPI to

‘support strategic plans and provide timely referrals be established’. To support this KPI agency leaders should

- giving appropriate focus and resources to the roles;
- better managing referrals through such actions as standardising and removing simple referrals and focusing resources on more complex referrals;
- consulting on and providing up-front guidance on referral decision criteria and authority requirements; and
- considering delegation of simple approvals.

PROPONENT ACCESS TO PLANNING PANELS

Proponents receive a 28-minute window to present to a panel, if a new issue arises, which the proponent is not aware of and then cannot address, then the process starts again at lodgement, costing at least 6 months in the process. This does not provide a great level of fairness and provides a high degree of uncertainty.

RECOMMENDATION 17: ALLOW PROPONENTS TO BRIEF THE PANEL WITHIN THE FIRST 30 DAYS OF LODGEMENT FOR EARLY FEEDBACK

Best practice is to consult early on with councils before lodging a DA. This is known as a Pre-DA meeting. It is not possible to have a Pre-DA meeting with the decision-makers being the panel. However, there should be an ability to brief the panel within the first 30 days of a DA being lodged to get some early, non-binding feedback from the panel rather than only on the day it is considered by the panel. The refusal rates are much higher than expected which could be caused by such an inability to get early feedback. The refusal rate for planning panels is 23% compared to the 3.6% refusal rate in the broader planning system.

The DPIE could prepare a guideline outlining a protocol of without prejudice briefings on DAs where requested by the applicant within the first 30 days of the DA being lodged.

RECOMMENDATION 18: PROVIDE PROPONENTS WITH PANEL QUESTIONS PRIOR TO THE PANEL MEETING

Of further assistance to the industry would be for panels and councils to provide a series of questions and scope of issues prior to the meeting, so that the proponent can prepare responses with the relevant stakeholders.

In many cases, the proponent has worked collaboratively with the council to resolve issues throughout the planning panel process; unfortunately surprises at the panel meeting in a 28-minute window can undermine this work and lead to the process restarting.

PLANNING DOCUMENTATION

RECOMMENDATION 19: INTRODUCE AN INTEGRATED SINGLE PLAN PER LGA

There are currently a range of different environmental planning instruments that apply in an LGA including the District Plans, LSPS, SEPPs, LEPs, and DCPs. These could be incorporated into a single document such as the Victorian Planning Schemes, which provide a consistent structure and model content for all layers of the planning scheme, and a single reference point for the industry.

To support this, the District Plans in their current form could be removed, as they currently add limited value between the Region Plan and the LSPS level.

The process of plan simplification began with the Green Paper in 2011; however, this was subsumed by the debate around Code assessment. The additional transparency of a single point of reference that incorporates all applicable elements will help provide a far simpler framework, help restore trust, and reduce complexity.

RECOMMENDATION 20: DPIE CREATE A TEMPLATE DCP WITH MODEL CLAUSES

Many Councils use DCPs which have a range of different formats, templates and terminology. This makes the planning system inconsistent and challenging to navigate, for example many councils use slightly differing definitions of 'tree' and 'set back', these make it inconsistent and confusing to navigate across LGAs.

The DCP must also explicitly recognise that while design is an important element, it is not the only consideration that planning attempts to balance, there are a range of competing interests, such as jobs, housing, and affordability.

UDIA recommends creating a standard template DCP with model clauses, consistent terms and standard provisions, which will help create consistency in format and legibility, while providing for the ability for appropriate flexibility, and clarity about where the local controls vary from the standard.

The Standard Instrument LEP has enabled consistent interpretation and improved the navigability of the planning system across LGAs, and similar benefits could be achieved with a standardised DCP.

RECOMMENDATION 21: DPIE CREATE CONSISTENT ENGINEERING STANDARDS

Councils currently have different engineering standards for the same items, even though it is unlikely the base requirements for a road would change across suburban Sydney. For example, subdivisions that cross boundaries are required to change the road widths at the boundary, even though the requirements are largely the same.

The inconsistency requires specialist knowledge. UDIA recommends that consistent standards are created across metro Sydney, this would include deemed to satisfy and performance standards.

UDIA believes the existing work that the Planning Partnership is doing in Western Sydney could be leveraged, and we have attached the UDIA NSW Submission.

RECOMMENDATION 22: REVIEW THE STUDY REQUIREMENTS AND VOLUME OF DOCUMENTATION REQUIRED IN THE PLANNING SYSTEM

There is a large volume of studies that are required to be completed when undertaking a review into the planning system. As well as a wide range of documents that require consideration at various stages of the planning process.

The sheer volume of these can be overwhelming and counter-productive, for the Waterloo State Significant Precinct the key study requirements is a 46-page document, which will require at least 20 additional studies to be completed. Many other parts of the government produce other documents, which require reference throughout the planning system, as an example the NSW Government Architect alone has almost 500 pages of policy, guidance, and advisory notes that have been issued. This is an example from a single branch of the Department of Planning and does not take into account all of the non-Planning agencies and council documents that are also

produced. For example, the Local Strategic Planning Statements have been of varying length with some reaching in excess of 200 pages. While, it is important to have clear guidance, and without commenting on the validity of the content, we note that the sheer volume of content makes it potentially impossible for participants: industry, community, and local and state government, to understand the full range of policies that are impacting on development in a particular LGA.

RECOMMENDATION 23: CLARIFY THE STATUS OF DRAFT PLANNING DOCUMENTS AND POLICIES

The challenge outlined in relation to the volume of studies is further complicated by the requirement that draft policies require consideration within the planning framework. There are currently 103 draft policies and plans on the Planning Portal that are 'under consideration' some dating from 2012.

For example, the draft North West Land Use and Infrastructure Implementation Plan was released in early 2017 and introduced density caps in the North West Priority Growth Area. The Plan is still to be finalised and is now being applied differently in different LGAs in the North West. This is an undesirable situation, as it means that in some areas the draft policy has the status as a policy for a 30-month period.

UDIA recommends that DPIE provide a regular update on the status of draft documents, and if they are still being progressed or if reforms are being implemented in an alternative manner, or if it is no longer a priority for government.

CERTIFICATION

RECOMMENDATION 24: CREATE CONCURRENT SUBDIVISION CERTIFICATE PROCESS USING A DIGITAL PROCESS, INSTEAD OF THE CURRENT LINEAR PROCESS

Currently, subdivision certificates go through a linear process, with the applicant seeking individual compliance certificates from each utility, prior to making an application to the council for a subdivision certificate.

This process is largely paper based and prone to delays, UDIA recently reviewed the impact of delays in the final stages of twelve projects in Regional NSW, which ranged in value between \$2.2 and \$20 million, the average cost of delays at this final stage across these sample projects was \$2,602 per day.

An integrated digital process would mean that the compliance certificates and subdivision certificate could be managed through a simultaneous electronic process, which can eliminate delays. With legislative change, this could also include plan registration with LRS, which could lead to further time savings.

WA has more integration in tracking and issuing subdivision certificates, as does Queensland, and an integrated, digital process could cut at least four weeks from the process.

RECOMMENDATION 25: SIMPLIFY EMPLOYMENT LAND ZONINGS

The discussion paper correctly indicates there is a wide-range of employment land zonings, which create complexity. In many cases the difference in zoning is the type of retail or commercial use that is allowed in the zone.

There is a clear capacity to truncate employment zoning, which we believe would create more utilisation of the existing employment zones. However, it will also lead to a greater risk for council planners that they cannot control the types of jobs that exist in an area. Although, what is currently occurring is there is vacant land, not due to a lack of demand but it isn't zoned to enable market take-up. Enabling the market to take opportunities will maximise the use of the land.

UDIA welcomed the simplification in industrial zoning that occurred in Melbourne, and believes a similar approach will support jobs and take-up rates in NSW.

RECOMMENDATION 26: PERMIT LIGHT INDUSTRIAL IN A WIDER RANGE OF ZONES

Light industrial is defined as industrial development that does not impact on neighbours; therefore, it is likely that it should be permitted in a broader range of zones, particularly mixed-use zones, which become increasingly employment focussed. These employments focussed mixed-use zones would then be able to be used for a wider range of uses, and enable accessible services.

This approach has been undertaken in Zurich and Monte in Rome, both of which have integrated 'light industrial' such as car servicing, residential and commercial in precincts. Some elements of this approach can also be seen in East Village.

RECOMMENDATION 27: ALLOW RENEWAL ON REMNANT INDUSTRIAL LAND

In Sydney there is remnant industrial land that is no longer used for industrial purposes, but due to the Greater Sydney Commission's 'Retain and Manage' Policy under Strategy 23.1 of the Greater Sydney Region Plan, it cannot be used for alternative uses.

The inability to include alternative uses, has effectively sterilised these precincts, which are unfeasible to rehabilitate to new industrial uses, because they can be contaminated. Without enabling appropriate urban development, parts of the city will be sterilised into perpetuity. For example, the Camellia Precinct has substantial contamination, and cannot be turned into a mixed-use precinct, which will mean it will remain in its current form, when it could have a future as a part of the Parramatta CBD, but it requires remediation at a similar quantity as Rhodes and Wentworth Point.

PROMOTING LIVEABILITY

RECOMMENDATION 28: PROVIDE FURTHER CONTEXTUAL ASSESSMENT INSTEAD OF PRESCRIPTIVE ASSESSMENT AGAINST THE APARTMENT DESIGN GUIDE

The Apartment Design Guide promotes a typology, which limits flexibility and the ability to integrate the building with the street and the broader community, as well as limiting innovation in common areas, rooftops, apartment sizes and design.

It leads to unintended consequences such as skewing studios and one-bedroom apartments to be predominately north facing.

The UDIA recommends significant amendments to the ADG to promote flexibility and innovation, particularly around apartment size, cross ventilation, and solar access. These are detailed in the UDIA ADG Review (attached). If the ADG is retained it should be used as a guide, and not a prescriptive document as it is currently.

RECOMMENDATION 29: PERMIT DIVERSE HOUSING IN THE R2 ZONE

The 'missing middle' challenge in Sydney is well-documented, with many councils not supporting diverse housing, small-lot housing, terraces or manor homes, even though they can bring about substantial improvements in amenity and affordability.

Lot size and land-use restrictions in the R2 zone limits the ability to provide diversity and renewal, and results in just two dwelling typologies predominating - residential flat buildings or detached homes. The R2 zone in many areas needs to evolve into a diverse environment with a mix of typologies, which may still retain a suburban, low-rise landscape, but will help generate greater land-use efficiency in Sydney.

The UDIA Missing Middle Study and Housing Typology Study outline a pathway to enable greater housing diversity and better land-use efficiency.

RECOMMENDATION 30: DPIE LEAD THE DEVELOPMENT OF GUIDANCE FOR CO-LOCATION OF OPEN SPACE WITH OTHER USES.

There is a significant focus on increasing the amount of land available for public space. Currently, there are limits from councils and agencies about co-locating land to be used for open space. For example, stormwater detention basements, transmission easements, or linear riparian land cannot be included as part of the allocation for open space. This shifts open space to more expensive developable land.

Co-locating open space, such as schools, basements and easements will allow more land to be used as open space. There have been recent efforts from Utility Agencies to enable co-located open space, and we point to the updated Transgrid Transmission Easement Guidelines, completed in June, which clarifies the use of easement land for open space.

If these sites do not perform open-space functions then it is much more challenging for local government to justify the ongoing maintenance of the land, which can lead to undesirable locations in communities

ENERGY, WATER, AND INFRASTRUCTURE

PROBABLE MAXIMUM FLOOD (PMF)

Development across NSW adheres to the NSW Government's Floodplain Development Manual. The Manual sets out flood planning levels, which generally restrict land uses below the 1 in 100-year Average Recurrence Interval plus freeboard (1:100 ARI). However, recent planning guidelines and draft plans released by the NSW Government suggest the Probable Maximum Flood is being considered in land use planning decisions. For example:

- Draft Development Control Plans for Marsden Park North and West Schofields (September 2018) – requires road alignments to address PMF, imposes lower dwelling densities below PMF, and imposes flood resilient building requirements below PMF. UDIA estimates the flood resilient building requirements would add approximately \$60,000 to the build cost of a new home.
- Development Assessment Guideline: An Adaptive Response to Flood Risk Management for Residential Development in the Penrith City Centre (June 2019) – restricts dwelling supply below the PMF pending additional studies and infrastructure.
- Western Sydney Aerotropolis Land Use Infrastructure and Implementation Plan (Stage 1) defines the boundaries of the South Creek precinct based on PMF.

PMF represents the maximum flood extent of a river system and is an extremely unlikely event which would be accompanied by extensive warning times and opportunities to minimise the impact on the community and risk to life. Imposing flood resilient building requirements would not improve the resilience of houses to other impacts of a similar likelihood to a PMF event, such as severe wind, and so would not guarantee the resilience of the structure.

RECOMMENDATION 31: PUBLISH THE MODELLING ASSUMPTIONS BEHIND THE FLOODING AND EVACUATION SCENARIOS THAT ARE BEING CONSIDERED WHEN TAKING LAND USE PLANNING DECISIONS, TO ALLOW INDUSTRY EXPERT SCRUTINY.

RECOMMENDATION 32: ENSURE EVACUATION MODELLING INCLUDES REASONABLE WARNING TIMES, CONTRA-FLOW AND A VARIETY OF EVACUATION LOCATIONS.

RECOMMENDATION 33: ADHERE TO THE PLANNING LEVELS IN THE NSW FLOODPLAIN DEVELOPMENT MANUAL.

RECOMMENDATION 34: INVEST IN KEY FLOOD EVACUATION INFRASTRUCTURE SUCH AS THE BELLS LINE OF ROAD – CASTLEREAGH CONNECTION.

SOUTH CREEK WATER QUALITY

In July 1996, the EPA introduced an emissions trading scheme in the South Creek area of the Hawkesbury– Nepean River. This 'bubble' licence allows the three participating sewage treatment plants to adjust their individual discharges, provided the total pollutant load limit for the scheme is not exceeded.

In the 23 years since, significant urban development plans have been made and are in the process of being implemented throughout the South Creek catchment. Despite this investment, the bubble licence levels have remained the same and acted as a significant barrier to wastewater planning and servicing within the catchment.

Sydney Water and others are effectively unable to increase discharge into South Creek. It is also restricted from advancing innovative wastewater treatment and recycling opportunities that would service growth and keep water in Western Sydney. As such, it cannot effectively plan for servicing key major growth areas, including the Western Sydney Aerotropolis.

RECOMMENDATION 35: AMEND THE EPA SOUTH CREEK BUBBLE LICENSING SCHEME TO ENABLE INCREASED DISCHARGE INTO SOUTH CREEK WITH APPROPRIATE CONDITIONS.

RECOMMENDATION 36: PROGRESS THE *RISK-BASED FRAMEWORK FOR CONSIDERING WATERWAY HEALTH OUTCOMES IN STRATEGIC LAND-USE PLANNING DECISIONS* (JUNE 2017) WITH ADEQUATE FUNDING AND TIMELY DELIVERY OF SUB-CATCHMENT ASSESSMENTS AND CRITERIA.

WATER RECYCLING IN WESTERN SYDNEY

There is limited capacity for wastewater treatment in the existing Wastewater Treatment Plants in Western Sydney. The EPA bubble licence issue described above also limits the capacity of these Plants to discharge to South Creek. Water recycling has the potential to significantly reduce the wastewater treatment and discharge load in Western Sydney. It also has the potential to address a separate issue in Western Sydney – the increasing demand for water from new open spaces and revitalised watercourses (the so-called blue-green grid in the Western City District Plan). For this infrastructure to be successfully provided, we need to keep Western Sydney's water in Western Sydney (not piped to ocean outfalls or treatment facilities in other parts of Sydney).

It seems to the UDIA that water recycling provides a solution to both of these issues. However, there are political and technical barriers to water recycling.

RECOMMENDATION 37: REVIEW SYDNEY WATER'S REGULATORY ENVIRONMENT TO ALLOW INCREASED INVESTMENT IN WATER RECYCLING INFRASTRUCTURE, INCLUDING WASTEWATER DISTRIBUTION INFRASTRUCTURE THAT WOULD BE ACCESSIBLE BY OTHER WATER RECYCLERS UNDER THE WICA ACT.

RECOMMENDATION 38: REVIEW WATER PRICING STRUCTURES TO ENSURE RECYCLED WATER IS FEASIBLE TO PRODUCE.

RECOMMENDATION 39: REVIEW THE DISCHARGE LICENSING REGIME TO SUPPORT IRRIGATION AND DISCHARGE OF RECYCLED WATER.

CREATE A PATHWAY FOR ASSET UTILISATION

Infrastructure Providers will not invest in infrastructure without a guarantee that there will be urban development. It is not always possible to demonstrate demand, and without the certainty of infrastructure investments developers do not want to make significant land acquisition investment.

There is a role for government to bridge the gap between the billpayer (the utility contribution) and the developer, by funding the 'bill-gap' for early lead-in works in prioritised areas, to ensure that necessary infrastructure is delivered, it does not impact on customer bills, and industry has the certainty to invest.

There is also an efficiency dividend, as it means investments may be 'right sized' early, instead of needing to progressively upgrade, which is what happened at the Marsden Park Industrial Precinct, where the infrastructure was poorly sized.

URBAN DEVELOPMENT PROGRAM

Until 2012, the NSW Government undertook a Metropolitan Development Program for Sydney's growth areas, which acted as the one source of truth for growth forecasting and infrastructure service planning. Relevantly, the existing Illawarra Urban Development Program (UDP) was continued and has contributed to the successful servicing of growth in that region for over twenty years. UDIA notes that the NSW Government has started a UDP for the Hunter region this year.

Since the Department of Planning ceased the Metropolitan Development Program in 2011/12, a void in strategic planning has emerged which has impacted most demonstrably on infrastructure servicing agencies. In the absence of 'one source of truth' various growth forecasts and servicing strategies are being produced with differing base data, different assumptions, differing language and differing time horizons. As a result, there are now many areas that could be supplying new housing but for one piece of missing infrastructure. These missing pieces were identified in the UDIA's 2018 Building Blocks Report (see attachment 1).

The UDIA has long advocated for the reinstatement of a UDP across Greater Sydney. The re-establishment of a UDP was a key recommendation of UDIA's *Making Housing More Affordable* report. The re-establishment of a UDP is urgently required for Sydney and would:

- Coordinate and monitor housing supply and targets in urban renewal areas, infill and new communities in land release areas
- Coordinate and prioritise the delivery of the necessary supporting infrastructure;
- Signal early identification of blockages
- Integrate social and affordable housing targets and ensure their programming; and
- Involve a transparent annual program including robust industry liaison/engagement enabling monitoring and input back into policy development and housing supply programs.

UDIA has convened a UDP Taskforce comprised of 20 senior industry and infrastructure agency representatives to help prosecute the case for the return of a UDP. We strongly believe that a comprehensive UDP requires close development sector liaison in order to validate and update annual housing supply timings and yields and accordingly there is a clear facilitation role which UDIA can perform to assist this process.

To help chart the way forward, a UDP Pilot was undertaken in conjunction with Blacktown Council with Research Partners Urbis and Mott MacDonald in 2018/19. This UDP Pilot trialled a data collation and validation process culminating with a regional development forum to ensure all stakeholders were on the same page and resulting in a robust 5-year growth outlook for this jurisdiction.

A Sydney-wide UDP has an important role to play in the prioritisation and coordination of infrastructure funding and delivery. It will identify infrastructure requirements and ensure the forward growth agenda is appropriately scheduled and is funded. It can also troubleshoot infrastructure bottlenecks, which would support the orderly delivery of housing supply.

RECOMMENDATION 40: INTRODUCE AN URBAN DEVELOPMENT PROGRAM THAT COORDINATES GROWTH AND INFRASTRUCTURE.

BONDING, SECTION 73 CERTIFICATES AND INTERIM OPERATING PROCEDURES

In many cases developers are responsible for providing infrastructure for or on behalf of utilities this may be through conditions of consent, works-in-kind agreements, or voluntary planning agreements.

RECOMMENDATION 41: ENCOURAGE BONDING TO BE USED WHEN WAITING FOR CHECKS CREATES PROJECT DELAYS.

In many cases Developers wish to be able to provide bonds for works, particularly if there are delays in certifying that the work is compliant. In those instances, our preference is for the industry to have the option to provide bonds for works to secure registration of tile, so homebuyers can begin to build their new homes.

The unexpected removal of bonding for section 73 certificates by Sydney Water in 2018 resulted in significant delays in registration, which was exacerbated by inefficient work practices, although there has been recent improvements.

RECOMMENDATION 42: BONDS SHOULD NEVER BE HIGHER THAN THE SECURITY NECESSARY FOR REQUIRED WORKS TO BE FINALISED AND RETURNED PROGRESSIVELY.

UDIA believes there can be further work to improve the bonding process, particularly looking at RMS, which requires the developer to provide an unconditional bank guarantee for works, essentially meaning the developer is paying twice to build a road for RMS, until it is done, which impacts on cashflows. UDIA believes that subject to QS hurdles, parts of the bond could be returned in stages to enable greater efficiencies. That is the bond should never be more than the security required for work to be finalised.

The process for completing works with RMS has been an area of significant delays, through the works authorisation process with limited customer resources. UDIA believes that this process needs to be reviewed more thoroughly.

TAXATION

RECOMMENDATION 43: REPLACE STAMP DUTY WITH LAND TAX

Many reviews into the taxation system have prevented a number of concerns in relation to the inefficiency of land tax including:

- It provides uneven revenue flows
- It penalises workforce mobility
- It limits the incentive to downsize

UDIA has long advocated for the replacement of stamp duty with a broad based land-tax consistent with previous findings. We urge the Commission to recommend similar changes.

We note the ACT is currently in the process of transitioning to a land tax regime.

RECOMMENDATION 44: IMPLEMENT INNOVATIVE INFRASTRUCTURE FINANCING MECHANISMS SUCH AS TAX INCREMENT FINANCING

There are ongoing challenges in funding large projects, particularly as there are limited revenue streams for project financing. Tax Increment Financing (TIF) has been used as a critical funding streams for projects in the United States including Mesa Del Sol in Albuquerque, the Red Wings Hockey Stadium in Detroit, and urban renewal in Denver, Colorado.

The NSW Government should securitise the uplift in revenue through infrastructure, both major transport and catalytic (such as water, roads, sewer, and stormwater) through a tax increment financing model.

RECOMMENDATION 45: REFORM RATE-PEGGING SO THAT IT ALIGNS WITH GROWTH

Rate pegging has become a normative part of the local government rating system in NSW. While rate pegging provides certainty for NSW residents it can harm service delivery and supporting growth in NSW.

The rate peg determines the maximum amount a council can increase its general income (rates) for a year. The rate peg allows general revenue to increase by the local government cost index minus an efficiency measure. UDIA NSW recommends modifying the rate peg to also accommodate population growth.

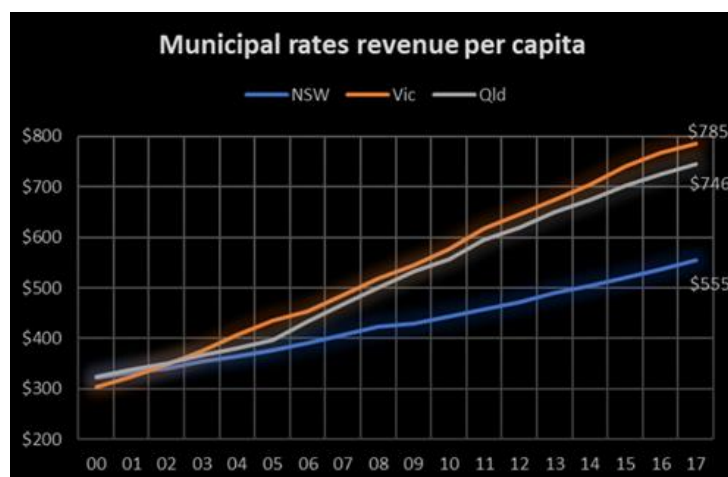
The Henry Tax Review found:

The immobility of land makes local government rates based on land value an appropriate tax base for local governments to use to fund local public goods and services. States should allow local governments a substantial degree of autonomy to set the tax rate applicable to property within their municipality.

The rate peg has had a significant impact on the financial sustainability of councils in NSW.

GLN Planning has recently undertaken a detailed analysis of the municipal rates revenue per capita for NSW, Victoria and Queensland. This research found that NSW has failed to keep up in

the growth of rate revenue per capita compared to Victoria and Queensland which do not follow the same rate peg approach as currently practiced in NSW.



This reflects the outcome of the rate pegging system, whereby additional income is not earned despite the increase in costs of servicing a growing population. Across NSW, this century an approximate \$15 billion has been foregone compared to rate growth pathways in Victoria.

In 2016 IPART conducted a Review of Local Government Rating System, p 49 of the draft report stated:

the current system undermines council incentives to pursue growth and urban renewal, because they do not receive a commensurate increase in rates revenue to service new developments.

We recommend the rate peg is expanded to include growth in residential dwellings. We consider this could be measured through the following formula:

$$Income_{year\ 2} = Income_{year\ 1} \times (1 + peg) \times (1 + percent\ increase\ in\ residential\ population)$$

This would provide local government with a sustainable increase in rate revenue, and an incentive to continue to support growth as they would be no longer be penalised for population growth.

CONCLUSION

UDIA welcomes the opportunity to make a submission into *Kickstarting Productivity in NSW*, we would be pleased to discuss any recommendation raised in the submission further, please contact Sam Stone, Manager, Policy and Government Relations on 0401 213 899 or sstone@udiansw.com.au to arrange.

UDIA has attached a range of documents referred to in the submission, as well as documents that speak directly into improving productivity in the NSW Planning System, we have attached them for your consideration.

UDIA ATTACHMENTS

1. UDIA NSW, Residential Land Development Process Map
2. UDIA NSW, Building Blocks II, 2018
3. UDIA NSW, Building Jobs for NSW, 2017
4. PwC, Infrastructure Contributions: Review of the impact of infrastructure taxes and charges on the NSW Economy
5. PwC 2
6. UDIA NSW, Submission to Productivity Commissioner, Key Industry Productivity Challenges, 2018
7. UDIA NSW, Making it Happen, Response to the Planning Green Paper, 2012
8. UDIA NSW, The Next Act, Response to the Planning White Paper, 2013
9. UDIA NSW, A review of the NSW Planning and Environment Apartment Design Guide 2015, 2017
10. Make Housing More Affordable, 2017
11. Aerotropolis Ready for Take-Off, 2019
12. UDIA NSW, Missing Middle, 2016

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