Via email: ProductivityFeedback@treasury.nsw.gov.au

[redacted]

5 June 2020

Mr Peter Achterstraat
Productivity Commission
NSW Treasury
GPO Box 5469
SYDNEY NSW 2001

Dear Mr Achterstraat

INFRASTRUCTURE CONTRIBUTIONS REVIEW
'NO COST TO GOVERNMENT'

I understand that you are currently preparing a Discussion Paper that will canvas issues associated with the NSW system for funding urban growth.

Walker requests that the 'No Cost to Government' be included in the Discussion Paper. In summary, where developers or land owners initiate sites, projects or Growth Areas, the Government requires infrastructure to be 100% funded from development. However, the Government subsidises the provision of infrastructure in other similar sites, projects or Growth Areas.

We believe that this policy does not contribute to better planning, social or economic outcomes, and is inequitable, as similar projects and housing markets have their infrastructure funded in different ways.

I have attached a brief discussion paper on this issue, and would welcome an opportunity to discuss further with you at any time.

Yours faithfully

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‘NO COST TO GOVERNMENT’
04 JUNE 2020

1.0 HISTORY

Over the past decade, both Labor and Liberal governments have made ‘no cost to government’ a condition of progressing planning for some new urban areas. The government will contribute toward supporting regional infrastructure where it initiates a land release, however, if a developer asks the government to release their land, the ‘no cost to government’ policy applies.

This policy emerged over time as government addressed a number of planning issues and community perceptions that developers had too much influence on government planning decisions. It also met NSW Treasury’s goal of minimising the cost to government associated with Sydney’s growth.

In the 1990s it was unwritten government planning policy to prohibit large new land releases in order to foster ‘urban consolidation’ and prevent ‘sprawl’. Sprawl was demonized as unplanned, and planners were concerned that new suburbs lacked crucial infrastructure, which often lagged behind new housing.

This was probably a legitimate concern. Residents of western Sydney had much poorer access to infrastructure, services and centres than their neighbours in more established eastern Sydney areas. For example, in the 1980s Campbelltown was growing at a very rapid rate by today’s standards and regional infrastructure was slow to arrive. Old Windsor Road in north west Sydney is often used as an example of ‘what not to do’. It was a rural standard road that became increasingly congested as new urban areas were delivered, but the government took years to up-grade it.

In the early 2000s the government had to re-consider the ‘no land release’ policy as they faced the simultaneous pressure from increasing demand for new housing, and land owners and developers seeking land release and rezonings.

Minister Knowles and his state planners faced a conundrum. Sydney needed new land releases, but they couldn’t allow ‘sprawl’ or undermine ‘consolidation’.

The conundrum was resolved in two ways. Firstly, planning for the North West and South West Growth Centres commenced in the early 2000s, and they were formally gazetted in 2006.

The Growth Centres were a ‘new’ approach to land release that would avoid ‘sprawl’ by coordinating infrastructure and housing delivery to create high quality, denser, ‘compact’ new suburbs that would resemble older suburbs, rather than western Sydney’s traditional low density neighbourhoods.

The government committed to funding 15% of the required regional infrastructure to support new urban areas within the Growth Centre, with developers funding the other 75%. This policy is still applied in 2020.

This 'new' approach involved a lot of planning, and the government implemented a 'sequence' to control where and when Precincts within the Growth Centres were rezoned, however it was never made public.

Secondly, the government simultaneously prevented releasing and rezoning any land in metropolitan Sydney that was outside the Growth Centres. For example, urban suitable land in South Macarthur was rejected, even though land owners and developers were prepared to plan and deliver the housing south west Sydney needed:

- In 2005 the Metropolitan Strategy explicitly prohibited any land releases in South Macarthur until 2036 as there was adequate land in the South West Growth Centre; and
- In 2009 the Labor Planning Minister officially announced that there would be no land releases in South Macarthur until all the land in the South West Growth Centre had been developed.
- In 2011 the Liberal Planning Minister invited developers to nominate potential 'Housing Supply Opportunities'. In 2013 nominated sites located outside of the urban footprint and the Growth Centres were rejected.

However, while the government was preventing land releases outside the South West Growth Centre, their rezoning sequence within the Centre prioritised Precincts that were impossible to develop as they were fragmented into thousands of really expensive rural residential lots. Even though they were rezoned up to 7 years ago, some of these Precincts are still struggling to deliver housing in 2020, and have only small scattered projects.

As a result, the supply of new housing in south west Sydney slowed and there was a lack of competition. First home buyers could not afford even a modest block on the fringe of Camden or Campbelltown. Only Oran Park and Turner Road Precincts were delivering housing within the Growth Centre, and other Camden land releases were nearly exhausted.

This presented the government with its next conundrum. There were still concerns about potential 'sprawl', but the 'anti-sprawl' approach of well planned new areas with coordinated infrastructure within Growth Centres was not delivering enough housing lots.

The government had to rezone land that developers could and would actually subdivide for housing.

Around this time 'voluntary' Planning Agreements (VPA) were formalised and introduced into the *Environmental Planning and Assessment Act.* In 2006 Medallist and Minister Sartor signed a proto-type that committed funding for state infrastructure in exchange for the Colebee rezoning. Earlier, Elderslie and Narellan had been rezoned with LEP Clauses that required developer contributions to regional road upgrades.

The government could legitimately leverage its power to release and rezone land to extract contributions from developers for regional infrastructure through the transparent VPA mechanism.

The concept of 'Special Infrastructure Contributions Plans' emerged simultaneously with Growth Centre Planning. Like local Section 7.11 plans, in theory, the Department would identify the infrastructure needed to support growth within a defined area, project the yield and calculate a SIC per lot, dwelling, hectare or square metre.

SIC plans mitigated perceptions of 'sprawl' as they ensured requirements for supporting infrastructure were set out, and developers would fund infrastructure through contributions or VPAs.

In order to generate the needed supply of new housing land, the government opened the possibility of rezonings outside of the Growth Centres, or within a Growth Centre but before the government 'sequence'. However, it leveraged its planning powers to require those projects to fund 100% of the required infrastructure, compared to 75% where the government had initiated planning. The mechanisms of SIC and/or VPAs were used to implement the 'no cost to government' approach.

'No cost to government' became a pre-condition of any developer initiated land release. In 2006 the Labor government made 'no cost to government' a pre-condition of 'accelerating' the rezoning of Growth Centre Precincts, where that rezoning had been requested by a developer or land owner.

In 2011 when the Liberal government called for developers to put forward 'Housing Supply Opportunities' in response to low levels of housing supply growth, 'no cost to government' was a pre-condition for consideration.

> *The purpose [..] is to identify sites in appropriate locations that can contribute to increased dwelling production in the short term at no additional cost to Government.*

In 2015 the Department's Secretary advised the Wilton Junction Land Owner Group that it should consider revising its infrastructure offer so it:

> *….fully satisfies the current 'no additional cost' to Government policy position for out of sequence development proposals.*

In 2018 'no cost to government' was a pre-condition for planning and finalising the Greater Macarthur Growth Area.

1.0 ISSUES

1. 'No cost to government' assumes that the 'sequencing', timing and location of land release areas set out in government strategic plans is optimal, and developer initiated locations are sub optimal.

   However, all land release areas can deliver new house lots equally successfully and efficiently if they are strategically located and planning is well managed. Further, there are many contemporary examples of government led rezoning failing to produce new housing land.

   The NSW and agency budgets may not allowed for funding infrastructure to serve developer initiated rezonings, particularly if they've already been included in Sydney's strategic plans on the basis of 'no cost to government'.

   However, budgets are constantly reviewed, and can incorporate infrastructure to serve new areas, and potential re-direct funding from other areas. They operate in long term cycles, and priorities change over those cycles.

For example, the Greater Macarthur Growth Area has progressed on the basis that there be ‘no cost to government’.

When the government commenced applying the ‘no cost to government’ policy in 2006 the south west Sydney region was not a big agenda item at any level of government, and the Greater Macarthur Growth Area did not officially exist.

But in 2020 south west Sydney’s planning context has completed changed. The emerging ‘Western Parkland City’ is a fundamental component of Sydney’s metropolitan planning. Nancy Bird Walton Airport is finally being constructed, the Federal government has committed to a Western City Deal, and the ‘Aerotropolis’ will be a regional level mixed used centre, integrated into metropolitan Sydney by new major road and train corridors.

The NSW and agency budgets should reflect this significant change in government attitude to south western Sydney. It is no longer appropriate for government to say, “Go ahead with Greater Macarthur if you want, but we don’t want to be part of it”.

They should be saying “Greater Macarthur is a crucial part of our Western City vision and we’re going to contribute to its delivery”.

2. It is not equitable to burden some land releases areas with a higher proportion of infrastructure costs than other, similar land releases. It is particularly unfair when the burdened land release area is in a submarket that is less able to bear the additional financial costs than the favoured land release area, and both have equal planning merit.

   For example, the 2018 exhibited *Proposed SIC: North West Growth Centre* is $15,426 per dwelling, and the government’s policy is:

   > *….maintaining the existing 50% discount of the total cost of infrastructure identified by the State government.* (pages 9 & 11)

   This compares with the 2018 exhibited *Proposed SIC: Greater Macarthur* of $39,710 to $43,985 per dwelling in land release areas, and a government policy that proposes the SIC:

   > *….support growth [….] at no additional cost to government.* (pages 3 & 4)

   This is inequitable, as it disadvantages the south west Sydney housing market, which is actually less able to bear the additional costs than the north west Sydney housing market.

3. It is unreasonable for the government to leverage its planning powers to extract higher contributions from some developers. This approach is not based on achieving good planning outcomes, and gives the government an incentive to avoid planning for Sydney’s growth. If they sit back developers will do all the planning, and then contribute 100% of the funding. For example, it took over two years for the Greater Macarthur Growth Area boundary to be gazetted after its exhibition.

4. It will potentially deter developers from progressing sites that are perfectly capable of supplying well located housing but have not been identified in government strategic plans. Some developers are prepared to devote resources and time to planning new areas that may not have been identified by government.

Others are willing to pay more for project sites that are already released and rezoned. Both approaches are legitimate and should not be subjected to different contribution regimes. Penalising one type of developer could reduce competition, and the range of geographic locations and project types available in the market.

5. If the objective is to deliver well serviced new residential areas, then the list of planning assessment criteria should include identification of sites where developers are prepared to develop, and those sites should be treated equally. This is not 'undue influence', but planning for actual delivery, and it doesn't mean that other planning matters will not be considered. It does mean that Councils and infrastructure agencies will be able to plan for infrastructure knowing that the public investment will be supported by private investment.

6. What does 'no cost to government' mean? Is it financial cost? Economic cost? If it's economic then there are other factors that can be considered. For example, the economy of south west Sydney will receive a needed boost from progressing its land release areas, and this should be considered when calculating 'no cost to government'.

   The economic benefits associated with construction, new population, the use of strategically located, but sub-standard agricultural land, and business growth will be significant and important in this 'poorer' part of metropolitan Sydney.

7. Does 'no cost to government' mean additional infrastructure projects in that area will never be included in the NSW or agency budgets, even years after the project has commenced? When does the new urban area reach the status of a government initiated urban area? Will public investment be withheld on an ongoing basis.

8. If the government reversed the 'no cost to government' policy, where will the money come from to fund the government's contribution,? Financial and economic appraisals should look at stamp duty, construction activity, GST, broader economic benefits etc, and compare these against areas where the government does subsidise infrastructure, particularly those subsidised and rezoned areas that are not delivering housing land.

9. There is a perception that huge, unearned windfalls follow from the release and rezoning of land, and the community deserves a cut, 'Value Capture'. However, the concept of 'value' is difficult to define, let alone quantify. Rural zoned land is often purchased at high prices because of its strategic location close to infrastructure and existing urban areas. In other words the market recognises urban potential, even if the planners don't. Developers invest large amounts of time and resources undertaking the risky rezoning process.

   Therefore, the 'windfall' may not as large as the government might estimate, and has been eroded by the extensive time and money committed toward planning for high quality residential areas.

   Finally, the concept of windfall gain and value capture erroneously assumes that large developer profits are the only outcome of new urban areas. This is clearly not the case, as good quality new housing estates benefit the community by achieving planning, economic, environmental and social objectives.

10. The government argues that developers knew 'no cost to government' was/is a pre-condition of rezoning and therefore have, or will, factor it into their feasibilities when deciding to proceed.

    However, 'you knew' is neither a valid planning nor economic argument, and does not address the quality of the eventual urban outcomes.

    It is also counterproductive in an environment where it is a planning, economic and social objective to supply housing land and put downward pressure on house prices.

11. There is a perception that there is a large volume potential housing land 'in the planning and delivery pipeline', and Sydney does not need any land proposed by developers and landowners.

    This is not necessarily the case with land constrained by fragmentation and a range of other issues. On behalf of Walker, Atlas Urban Economics recently reviewed every Western Parkland City site in the pipeline, and found many were not capable of delivering the projected yield, within the timeframe anticipated by strategic plans.

12. It will be politically difficult to abandon such a long term policy, however, as the country is in recession, it is time to consider all options.