INFRASTRUCTURE
CONTRIBUTIONS REVIEW

**For the NSW Productivity Commission**
September 2020

# ENGAGEMENT OUTCOMES REPORT

## Purpose of this document

To support the NSW Productivity Commission's review of infrastructure contributions, Astrolabe Group was engaged to assist and manage the stakeholder consultation process.

In preparing this report of engagement outcomes, Astrolabe has made every effort to ensure the information included is reliable and accurate. Astrolabe is unable to accept responsibility or liability for the use of this report by third parties.

## About Astrolabe Group

Astrolabe Group are the recognised experts in urban growth and change management with a uniquely empathetic approach to client and community.

We work with local councils, state and federal government, universities, industry, not for profits and peak associations to build clarity and consensus across diverse stakeholders.

ASTROLABE GROUP

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# INTRODUCTION

The NSW Productivity Commission is undertaking a review of the infrastructure contributions system in NSW.

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This ***Engagement Outcomes Report*** presents key findings from a series of roundtables and interviews throughout August and September with representatives of the infrastructure contributions ecosystem. These events were facilitated to test and refine potential reform options under consideration by the Productivity Commission.

The *Review of Infrastructure Contributions in NSW Issues Paper,* which was prepared to stimulate discussion on how growth infrastructure is currently funded in NSW, was used as the basis for the engagement sessions.

## Stakeholders

Stakeholders invited to participate included organisations and representative bodies who are actively engaged in the infrastructure planning, delivery and/or advocacy involving the use of infrastructure contributions, including:

- Peak industry bodies
- Local government representatives
- Professional groups
- Regional representative bodies
- Housing representative bodies
- State corporations and regulators

The engagement provided participants with the forum to identify their pain points and opportunities in reforming the system, underpinned by the four principles outlined in the Productivity Commission's terms of reference for the review.

A full list of participants is available in Appendix A.

## Engagement process

Participants were invited to attend a series of three virtual roundtables held throughout August. Government observers at each roundtable included at various times the NSW Productivity Commissioner and Treasury NSW.

The roundtable themes covered

- **A 'principles-based system':** unpacking the principles, exploring the need for trade-offs and the relative importance of each of the principles
- **Land requirements for public infrastructure:** exploration of the current process for obtaining land for public infrastructure, key pain points and opportunities for change in the system
- **State infrastructure planning catchments and beneficiaries:** exploration of catchment and infrastructure categories, and the matter of value uplift resulting from infrastructure investment

Additional follow-up interviews with stakeholder participants were undertaken and their views are reflected in this report. Interviews were only determined necessary when a participant was unable to provide their contribution through the roundtable process as a mechanism to ensure they had an opportunity to provide input.

## How engagement insights will be used

The outcomes of this process will be used to inform and refine the design of a shortlist of reform options. This report will also inform the Final Report for consideration by the NSW Minister for Planning and Public Spaces (Figure 1).


**Figure 1:**
Infrastructure contributions review timeline

## Overview – what we heard

| CONVERGENCE | DIVERGENCE |
|---|---|
| • One size does not fit all geographical areas (for example greenfield, fragmented infill, non-fragmented infill, mining, regional and aerotropolis)<br>• Cost-reflective system for local contributions - contributions should reflect the reasonable cost of providing necessary infrastructure for new development, balanced with equity to prevent 'pricing populations out of using the infrastructure'<br>• The system should be simple and easy to understand, but not at the expense of equity and efficiency<br>• Outcomes should be predictable but not at the expense of equity<br>• All stakeholders should know what their obligations will be at the time an investment decision is made<br>• Transparency is a critical component to promote a healthy system and public trust<br>• Call for agreed provisions and standards for land requirements, with clear guidance on reasonable costs for embellishment or improvement that may be needed as part of developing a long-term contributions plan<br>• Existing public lands could be better incorporated into the 'planning and identification of land' phase, in particular crown lands<br>• There is a disconnect in time between when money is collected and when infrastructure is needed<br>• Local government participants expressed a wariness about councils being asked to collect funds on behalf of the state. Whilst funding and grants are welcome, one-off and uncoordinated release of funds from the State Government make it difficult to plan for land acquisition and embellishment, there is a lack of certainty in this approach | • There was a broad interpretation of the principle of equity, some suggested the need to consider spatial and intergenerational equity within the system<br>• Who should pay for affordable housing – the role of value uplift to assist in funding affordable housing<br>• Voluntary Planning Agreements (VPAs) are highly used and perceived as a good mechanism for locking in land requirements and valuations. However, they also introduce uncertainty into the process There was a suggestion that they should be supported by clear practice notes from the state government and clear policies from councils on how they use them<br>• Land escalation was a highlighted concern for metropolitan areas, it seemed to be less relevant in regional areas<br>• Some suggested early acquisition would best manage land escalation risk and lead to better outcomes, while others were less focused on early acquisition, instead stressing that borrowing for early acquisition is not the panacea as councils still need to pay it back |

| CONVERGENCE | DIVERGENCE |
|---|---|
| • Better planning will lead to better delivery. This includes transparency for the delivery pipeline, strategic procurement, timing and risk management. There is a risk that the state government has such a deep pipeline of infrastructure projects that competition for scarce labour and resources may put upward pressure on prices, above what was expected at the time the plan was developed, leading to plan funding issues<br>• State charges need to have the same rigor and transparency as local charging frameworks<br>• Concern over multiple levies without clear coordination between state and local government<br>• Digital tools could help reduce the need for sub-optimal trade-offs between principles however, any solution must have regard to digital enablement (council and implementor systems) and digital inclusion (community access) | • There were differing views on whether school infrastructure should be included in a charge or supported by the broader tax base<br>• Diverse views on the role of public finance to contribute to the cost of infrastructure when there are beneficiaries outside of the development area |

# A PRINCIPLES-BASED SYSTEM

## The foundation of an infrastructure contributions scheme

The focus of this roundtable theme was to unpack the principles, explore the need for trade-offs and the relative importance of each of the principles.

The NSW Productivity Commission's Terms of Reference states that the Commission should *"make recommendations for reform aimed at delivering a principle-based system that delivers the infrastructure required to accompany growth."*[1] The high level principles under consideration for a reformed contributions system include efficiency, equity, certainty and simplicity (Figure 2).

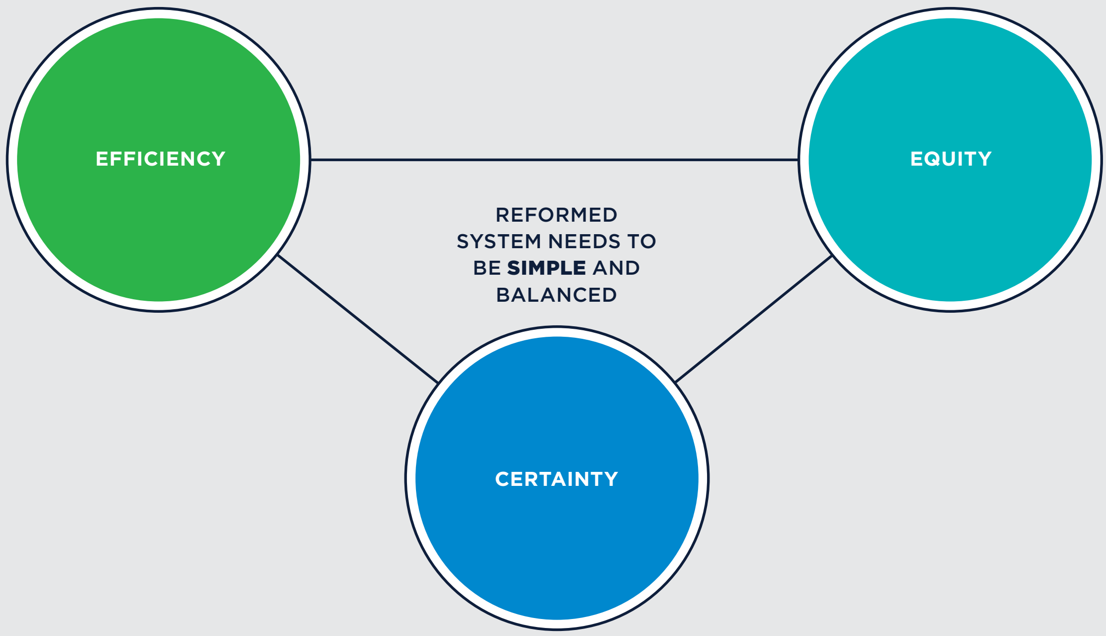


**Figure 2:**
Principles for Infrastructure Contributions Scheme, adapted from Review of Infrastructure Contributions in NSW Issues Paper

The issues paper concedes these principles do not necessarily sit easily with each other. Finding the right balance between these principles poses a key challenge in reforming the infrastructure contributions system.

1. NSW Productivity Commission, 2020, Review of Infrastructure Contributions: Terms of Reference

**EFFICIENCY: Infrastructure costs should create a price signal to direct development to occur in areas where it is most viable – allocating resources to their best use[2].**

There was a broad appetite for a cost reflective system for local contributions, whereby contributions reflect the reasonable cost of providing necessary infrastructure for new development. The case for this was couched in terms of the importance of economic efficiency and sending appropriate price signals to the market. However, participants cautioned the need for a balance with equity to prevent '*pricing populations out of using the infrastructure*'. There were concerns raised that the principle of efficiency focuses on price signal rather than broader considerations, such as social, economic and environmental.

There was a view that a lack of sufficient integration between infrastructure and land use planning has made it difficult to have sufficient information to improve the efficiency of the system.

There was a view that the system should accommodate the unique circumstances of place, distinguishing between metropolitan, regional and rural contexts.

> An equitable system will see all those that benefit from economic growth all across greater Sydney contributing to the infrastructure that facilitates economic growth. New home buyers should make a contribution – as should developers – as should the original owners of land in greenfield locations. The key is to come up with a contributions regime/ tax system that balances this.
>
> PARTICIPANT COMMENT

**EQUITY: Service delivery and cost apportionment should be treated consistently across service types, locations, and levels of government. Costs should not be borne by parties that are neither an impactor or a beneficiary.[3]**

Although the Infrastructure Contributions Review issues paper was specific about the definitions of the principles, participants indicated broad and varying interpretations of the principles. This was most pertinent with the principle of equity, where participants indicated the need to consider spatial and intergenerational equity.

There was a view that development needs to be in line with government strategy and accommodating population growth, a favoured outcome to support economic growth – implying there is a broader public benefit to development.

There was a view that an equitable system appreciates the role and impact of different development across NSW. Given the relative size of the task, there is a tendency to frame the discussion using a Western Sydney greenfield development context. Consideration should also be given to development such as infill metropolitan growth, regional growth, major projects such as mines, shopping centres and other employment generating developments.

There were also discussions on levels of service and existing infrastructure backlogs.

2. NSW Productivity Commission, 2020, Review of Infrastructure Contributions in New South Wales: Issues Paper, July 2020
3. Ibid 2

**SIMPLICITY: The contributions system should be easy to understand and compliance costs should be kept to a minimum.**[4]

Broad agreement existed that the system should be simple and easy to understand but not at the expense of equity and efficiency.

**CERTAINTY: Infrastructure contributions should be applied in a manner that is predictable.**[5]

There was broad agreement that outcomes should be predictable but not at the expense of equity.

There was agreement that all stakeholders should know what their obligations will be at the time an investment decision is made.

**ADDITIONAL PRINCIPLES**

**Transparency** and **effectiveness** were raised by stakeholders as additional principles that should be considered. There was broad agreement that transparency is a critical component to promote a healthy system and public trust and this should underpin the entire approach.

> ...integrated planning of enabling infrastructure needs to come at the same time as rezoning or with clear parameters on a process to resolve it quickly and with a cost range. The pathway is a government and industry conversation about the gaps and opportunities.

PARTICIPANT COMMENT

4. Ibid 2
5. Ibid 2

# LAND REQUIREMENTS FOR PUBLIC INFRASTRUCTURE

Land requirements for public infrastructure roundtables were designed to unpack and explore the process for obtaining land for public infrastructure. The issues paper highlights land acquisition costs are an issue across infrastructure types, jurisdictions and contribution mechanisms.

Participants were invited to identify their pain points[6] regarding the current system for the acquisition of land for public infrastructure. Broadly, there are four key stages stakeholders transition through when they undertake land acquisition for public infrastructure (figure 3).


**Figure 3:**
Four stages of land acquisition for public infrastructure

6. Pains points are where stakeholders have trouble, complexity, or constraints within the existing system.

## Stage 1: Planning and land identification

Participants determined that the approach should have regard to different land markets and place typologies, including:

- metropolitan
- metropolitan fringe
- regional centre
- regional

The Greater Sydney Commission's *Place-Based Infrastructure Compact* was referenced several times by participants as a promising practice. Participants highlighted a desire for state and local government coordination at a precinct scale for infrastructure and land use.

> VPAs are definitely attractive in terms of flexibility, particularly where a proposal is outside of sequence or the rules – but it introduces uncertainty around the process and outcomes.
>
> PARTICIPANT COMMENT

Participants suggested the list of works and requirements for infrastructure should vary across the regions based on their specific needs. For example, a swimming pool in Blacktown serves a role in addressing urban heat island impacts, however this is possibly not as relevant in the Eastern City. Hence the need for the consideration of place-based characteristics and population thresholds.

There were also issues raised around capacity and capability of the sector, and the ability to scale to meet the growth planned for NSW. There is a need to ensure plans are updated more frequently to better reflect changes in plans and assumptions. For example, integrated land use and planning needs to be developed and regularly tested.

There was a mention of the opportunity for "in system" and "support of system" thinking, with "support of system" thinking offering benefits by improving human resources, policy guidelines and templates.[7] Support of system thinking would focus on resources to enable the system to function more efficiently and should have regard to the sector's capacity and capability. There was a broad call for agreed provisions and standards for land, with clear guidance on embellishments or improvement that may be needed as part of costing a long-term contributions plan. There was a view that stakeholders, including decision makers risk having different interpretations of settings within the system, enhancing complexity, and reducing certainty - this risk can be managed by better system support and clearer guidance.

It was uncovered during the roundtables that there is a high degree of use of Planning Agreements (also referred to as VPAs). They are perceived as a good mechanism for locking in land requirements and valuations. They provide flexibility to meet the needs of different places and viewed as the best way to manage risk, particularly for single developer commitments. However, they introduce uncertainty into the process. The perception from some participants is that while Planning Agreements are a great tool in the right place, they should be supported by clear practice notes from the state government, and clear policies from councils on how they use them.

7. "In system" are the activities and relationship between those activities that influence how the infrastructure contributions system is managed and interpreted. "Support of system" are supports such as policy guidelines and templates which help enhance and facilitate improvements in the infrastructure contribution system.

There was a broad agreement that early acquisition would best manage land escalation risk and lead to better outcomes. There should be incentives in the system to promote early acquisition, innovation and land consolidation. One participant suggested announcing rezoning with infrastructure charges so that it gets incorporated into land values.

An urban development monitor (UDM) was suggested as an approach that would help inform what land is needed - including how much, when, and where. The UDM would include a set of agreed assumptions on development forecasts allowing infrastructure programming to be completed earlier and coordinated across state and local government.

The monitor could include a year on year plan for development aggregated into a ten-year forecast. The UDM could harness emerging NSW Government tools such as the ePlanning platform and the NSW Spatial Digital Twin to develop and share a 3D city model and identifying enabling infrastructure. The UDM would catalogue the infrastructure needed to support growth, promoting a stronger alignment between infrastructure and landuse planning, and earlier advice to industry on contribution rates.

While the risk of land escalation was highlighted as a concern for metropolitan areas it appeared to be not as relevant in regional areas. This appeared to be managed by participants through VPAs in regional areas.

There was a broad agreement that existing public lands could be better incorporated into this phase in particular crown lands.

> “The biggest risk otherwise associated with relying on infrastructure contributions is that incremental infill occurs slowly or not at all, leading to delays and patchy delivery of social and community infrastructure.”
>
> **PARTICIPANT COMMENT**

## Stage 2: Funding and finance

The timing of collection of infrastructure contributions was raised as an issue not so much in the context of the development assessment process but rather the disconnect between when money is collected and when infrastructure is needed.

The system should have incentives built into it to promote borrowing for early acquisition. Currently, there is a reluctance by local councils to borrow resulting in delayed purchasing of land until funds have been collected or land is dedicated. Some participants stressed that borrowing is not the panacea, with councils still needing to repay loan funds.

There is a desire to reduce the prevalence of ad-hoc grants and have a whole of place integrated funding model. Participants highlighted that different contribution arrangements negotiated through Planning Agreements can create uncertainty and risk for projects.

> Funds are rarely available up front for infrastructure or open space acquisition – via contributions – and very rarely from state or local government budgets.

PARTICIPANT COMMENT

> Councils are reluctant to borrow which means they will often not purchase land until they have collected the funds to do so or land is dedicated.

PARTICIPANT COMMENT

## Stage 3: Transactions

There is a need to narrow the gap of interpretation of existing standards, rules and schedules to promote certainty and consistency when valuing and transacting on land. Participants identified that any increase in land valuations between the time a plan is established and/or updated and the time a transaction takes place creates a funding shortfall in the plan. The response to these funding shortfalls is either the removal of an item from a plan or the need for Council to subsidise a plan with ratepayer income.

Participants raised concerns that there are challenges for local government in acquiring land and the costs involved with compulsory acquisition. Participants suggested the NSW Government could take on a more active role in supporting local government acquire land sooner and for lower costs, it was suggested that this could be through an expanded role for the Office of Strategic Lands.

There were issues raised around the application of the compulsory acquisition process, and the administrative and cost burden it imposes on Councils. One local government sector participant suggested compulsory acquisition is a last resort option.

It was felt that with capacity issues the current approach is complex and administratively onerous. Councils are wary of being asked to collect funds on behalf of the state.

There is a specific issue around valuations for flood prone land in the context of an owner saying that they can find engineering solutions to make it developable and thus worth more. It was suggested that Department of Planning, Industry and Environment should offer clear guidance on how this land should be valued to increase certainty.

> The other concern for Councils about delayed contribution payments is the experience of some Councils that the payments are not paid, and OC [occupancy certificate] is issued by a private certifier, with confirmation these funds have been paid to Council.

**PARTICIPANT COMMENT**

> Government authorities need to act reasonably and provide every opportunity for negotiated property transactions where land is needed for essential public infrastructure. The balance between timely delivery of essential infrastructure projects (including clear timeline for project planning) and ensuring private landowners are given every reasonable opportunity to negotiate property acquisition terms is difficult.

**PARTICIPANT COMMENT**

## Stage 4: Infrastructure project development

There was broad agreement that better planning will lead to better delivery, this includes transparency for the delivery pipeline, strategic procurement, timing and risk management. There is a risk that the state government has such a deep pipeline of infrastructure projects that competition for scarce labour and resources may put upward pressure on prices, above what was expected at the time the plan was developed, leading to plan funding issues.

There was a view that contributions from property developers made during the project delivery phase is a relatively expensive form of capital for industry and an inefficient charge. It was suggested that it would be preferable for a perpetual, broad based land tax to replace development fees and charges. This new charge could be levied on new developments, collected and paid by the banking sector similar to what happens in the US.

Work would be required to set the tax; it would need to be decoupled from the current closed system approach and be identified as a revenue source to be used with other revenue sources for the provision of infrastructure. It would make sense to support this with a removal of rate pegging and introducing safeguards around hypothecation and the timely expenditure of funds to support community infrastructure being provided at the right place at the right time. Works in kind would need to be maintained as well as debt funding for the provision of early works.

## Other issues raised

The current system is not a closed system. There are rules that allow for the raising of revenue and rules that govern expenditure, these merit further exploration.

There are risks in misaligning revenue to expenditure and these risks are borne by the rate payer and the resident of the new development – not so much the developer.

The developer's risk is principally linked to a development cycle of conducting the development activity with a reasonable rate of return. Commercial and retail development use different feasibility models and starting points than residential. Commercial development starting point is generally an improvement on an existing site.

> …land requirements (location and quantity of land needed) changes as more infrastructure project design detail is understood. Investment in understanding specific site constraints (contamination etc) cannot occur until more project design certainty is known. These are a few of the considerations that make it difficult when estimating what embellishment or improvement may be needed as part of costing a long-term contributions plan.
>
> PARTICIPANT COMMENT

# STATE INFRASTRUCTURE PLANNING CATCHMENTS AND BENEFICIARIES

State infrastructure planning catchments and beneficiaries roundtables sought to understand the catchment and categories, and the matter of value uplift resulting from infrastructure investment. The key focus of this roundtable theme was to elicit feedback on the equity in state infrastructure contributions as they relate to the application of special infrastructure contributions (SICs) and land value uplift.

Figure 4 was used as a discussion tool to explore the concept of catchments and categories of infrastructure that could be considered within the infrastructure contributions regime.

## Catchments and categories

There are many ways to determine a geography, as raised by participants:

- community interest
- future needs
- administrative boundaries
- topography (for example, stormwater catchments)

It is important to have a consistent and coordinated approach supported by detailed regional and/or sub-regional infrastructure planning.

**Figure 4:**
Catchments and beneficiaries discussion tool (not to scale)

> If we are talking about simplicity as being the overarching design principle of the new contributions system, then we have to pursue a single infrastructure funding and delivery plan for a growth area, with the contribution rates in one place, as well as the roles of various funding mechanisms (such as grants, budget allocations, etc). We cannot continue to have misaligned state and local contribution plans.

PARTICIPANT COMMENT

> We had 70+ charging regions. Developers had to read multiple plans to understand what charge would apply where.

PARTICIPANT COMMENT

There was strong agreement that state charges need to have the same rigor and transparency as local charging frameworks.

Regional infrastructure planning, and project prioritisation need improvement. There is a perception that not enough work is currently done to work out charges this includes the need to update plans and assumptions regularly. Participants indicated concern over multiple levies without clear coordination between state and local government.

There were differing views on whether school infrastructure should be included in a charge or funded by a broader tax base.

Different assets have different catchments/ beneficiary groups, which can become complex if you choose to pursue a tight nexus.

Acknowledging that there is a "false precision" with state and regional charges and that roads present an issue as they often service other areas outside of the development.

Similarly, there was a view that state charges should not recover all the costs of infrastructure and that there is a role for the budget to contribute as there are beneficiaries outside of the development area. There is also a need to review planning assumptions regularly to understand the scope and function of assets that have beneficiaries outside of the development area.

Thought should be given to social and affordable housing and emergency services (including State Emergency Service) in these infrastructure plans.

The contribution should recover part of the infrastructure noted in the regional infrastructure plans. These plans should also note **what, why, when** and have regard to beneficiaries outside of development areas.

> … Local Government can acquire land for sports fields etc. but can't build amenities blocks on it, surely it's about flexibility in achieving outcomes.

**PARTICIPANT COMMENT**

> Certainty in terms of program for new school infrastructure investment is the key. Understanding the catchment served by new school investment is an important consideration… More discussion [is needed] regarding what percentage of cost is apportioned to development contributions and what percentage is apportioned to government (broader taxpayer).

**PARTICIPANT COMMENT**

## Value uplift

The issues paper sought to explore the sharing land value uplift and potential value capture mechanisms[8]. When this issue was explored with participants, there was broad acknowledgement that there are examples of windfall gains based on changes in use or public infrastructure investment.

Participants shared the view that a value capture system is important for improving fairness, particularly where significant uplift in land value has occurred. However, the difficulty lies in selecting the fairest model, ensuring the windfall gain is real and that the value uplift contribution is collected at the same time the benefit materialises to the landowner.

Some participants suggested there is merit in seeking to recover some of the windfall gain from land value uplift, and that this should be at the point of the rezoning. For major transport projects there is scope for the project to acquire additional land around stations and capture the benefit directly.

Participants also questioned whether there was scope around the ability of value uplift to assist in funding affordable housing. One participant flagged issues with funding affordable housing, especially in greenfield areas. They suggested the possibility of a '*follow on*' contribution or interim uses so land can have a later use such as housing in Oran Park.

There was also acknowledgement that mechanisms to capture value if considered should be outside of the contributions system through betterment levies or other taxes. This was flagged as a second horizon intervention that could be linked to the federal/ state fiscal review including stamp duty.

8. Issue 4.1: Sharing land value-uplift.

# CONSIDERATION OF THE USE OF DIGITAL TOOLS

Participants were asked to consider the applicability of digital tools to address current pain points and to improve the infrastructure contributions system. They were first asked to consider this in the context of the proposed principles, and again in the context of digital tools for the collection of infrastructure contributions.

## Enabling digital

Digital tools could help reduce the need for sub-optimal trade-offs between the principles and could accommodate complex calculations in the 'back-end' while offering a simple and certain front end.

Participants suggested a digital tool such as a platform whereby a user can hover over a zoning map, with the system providing information on the infrastructure costs and fees. There was agreement that this could improve consumer choice and decision making if they can see place by place and quickly work out fees and charges.

However, any digital solution must have regard to **digital enablement** (council and implementer systems) and **digital inclusion** (community access), ensuring an equitable distribution of access. Further, any digital solution must acknowledge Council legacy systems with the need to address interoperability and scalability of any such solution.

There is an opportunity to use digital tools not only for understanding charges but also streamlining transactions and reporting. Participants agreed there is scope for digital transformation and automation to streamline the transaction process.

There was general support for a digital solution on an opt-in basis initially through piloting of such a solution with more '*digitally mature*' Councils.

> I think we could be so bold to say that digital platforms can create significant savings to infrastructure costs and integration.
>
> PARTICIPANT COMMENT

> Digital access to information...would be useful. However digital communication for consultation etc. is another issue and equity of access is an issue here.
>
> PARTICIPANT COMMENT

# APPENDIX A

## Stakeholder participants:

| | |
|---|---|
| Urban Taskforce Australia | Committee for Sydney |
| Planning Institute Australia | NSW Mining |
| IPART | Landcom |
| Better Planning Network | NSW Business |
| Western Sydney Planning Partnership | Local Government NSW |
| UDIA | Sydney Water |
| Housing Industry Association | Port Macquarie-Hastings Council |
| Shopping Centre Council of Australia | Property Council of Australia |
| NSW Council of Social Service | Shelter NSW |
| Land and Housing Corporation NSW | Community Housing Industry Australia |
| Georges River Council | Western Sydney Leadership Dialogue |
| Western Sydney Business Chamber | Illawarra Shoalhaven Joint Organisation of Councils |
| Local Government Professionals Australia, NSW | Hunter Water |
| Western Sydney Regional Organisation of Councils | Hunter Joint Organisation of Councils |