Committee for Sydney

Review of Infrastructure Contributions in NSW

August 2020

About the Committee for Sydney

The Committee for Sydney is an independent think tank and champion for the whole of Sydney, providing thought leadership beyond the electoral cycle. We bring people together to solve the problems of today and tomorrow.

With over 150 member organisations, we work on behalf of Sydney, not the interest of any industry or sector. Our goal is to build on our already strong history of shining a light on critical issues shaping our city and developing a suite of actions for a better future.

Executive Summary

The Committee commends the approach the NSW Government has taken with this inquiry, broadening out the inquiry to take consideration of all ways in which infrastructure is funded, while starting from a set of reasonable principles.

We suggest three principles to guide thinking about contributions reform:

A. The primary task of public consent authorities is to achieve good development.

B. All landowners should contribute funding to community needs, not just those that construct new buildings.

C. Taxes on development companies should be designed to minimize unintended consequences, just as with any other business tax.

We then make three policy recommendations that flow from those principles.

1. Introduce a Broad-based land tax, per the recommendation of the FFRR, that is introduced on all properties that transact after a certain date.

2. Remove the Rate Peg barrier, allowing local governments to set their own year-on-year rate increases.

3. Make the contributions system predictable via a transparent, rules-based system so that developers can factor it in when purchasing land.

First principle: the primary task of public consent authorities is to achieve good development.

The primary thing that developers should be asked to do is build good developments – good buildings or, for larger scale projects, districts.

Good developments don't just work for the people who live or work in them. They also make the surrounding community better. They are good neighbours and they add amenity for the public. In 2020, they also deliver high environmental performance in the form of outcomes like energy efficiency and low rates of driving.

There will be conflict from time to time between what's optimum for a development from a market perspective and what's optimum for the public good. For example, an office development in the CBD might command higher rents if it can offer on-site parking. But the CBD cannot function well if lots of people drive into it for work, so the public interest is to have buildings without parking. In the negotiation between public consent authorities and developers, the thing to prioritise is making sure each development builds an enduring positive contribution to the city itself.

The public sector should define the fundamental urban form-determining parameters for large scale development – block sizes, urban design character at the ground plane, location and design of public spaces, routes for cycleways, width of footpaths and streets, etc. Precinct-scale developers should work within an urban design framework that will make the new precinct function as a walkable urban neighbourhood.

The public sector should define where it wants development to go and only allow development to go there. Generally, this means concentrating development within walking distance of train stations, so that people are not forced into congestion.

In other words, we advocate for a very strong role for Government in developing, not just "letting developers do what they want." However, we believe that achieving good development is more important than extracting the maximum financial contribution from development if a choice has to be made. There are many other ways to fund public needs but only development creates the physical future city form.

Second principle: all landowners should contribute funding to community needs, not just those that construct new buildings.

All people who live in Sydney benefit from the things that make our community better — parks, public transport, and everything else. We should not look to fees on new development to be a primary funding source for things the community needs.

We should have a tax system adequate to fund everything we need to have a high quality of life. We note the recent release of the Federal Financial Relations Review (FFRR) which makes recommendations more broadly on tax reform.

New buildings will create places for people to live or work; those residents and companies will pay taxes like everyone else.

It's true that public investments sometimes create windfall profits for landowners. The classic example is building a new rail line to a location; the new accessibility of the rail line makes the land worth a lot more. But landowners also benefit from the basic fact of the community being nice. A high quality of life, with great public amenities, is what makes people willing to pay a lot of money to live in a place like Sydney.

Most of the "unearned" value to landowners that happens as a result of public investment goes to homeowners, whose houses get ever more expensive simply as a result of being in Sydney.

If there is a tax policy goal of “value capture” of some of that increase in property values, it should include all landowners, not only landowners who construct new buildings.

Contributions on development end up discouraging the thing we want more of — development in the right locations — while privatising benefits derived for existing residents from new infrastructure.

The best form of value capture is a broad-based land tax. As land values go up, the revenues from the tax go up in a predictable, comprehensive, and consistent way. It incentivises the efficient use of land and does not create negative incentives.

If the annual land tax is high enough, over time the public will recoup more funding for community needs than it would via up-front developer contributions.

Recommendation: the NSW Government should introduce a broad-based land tax on all properties that transact after a certain date.

Another simple and powerful way to have all landowners contribute to the betterment of the community is to remove the rate peg on local government. The rate peg prevents a level of governments from funding their own infrastructure and forces councils to try to extract money out of new construction – so it does not align the incentives around good city building.

Recommendation: that the NSW Government removes the Rate Peg barrier, allowing local government to set their own year on year rate increase.

We are aware that people don’t like to pay taxes. The design of the tax collection system can make it a lot less onerous, by avoiding the problem of presenting people with a large bill each year.

Recommendation: make it easy to collect and save funds for land taxes and local rates by having banks that hold mortgages collect funds each month for land taxes and council rates.

Third principle: Taxes on development companies should be designed to minimized unintended side-effects, just as they would with any other business tax.

All businesses are taxed, and real estate developers can be taxed too. But the design of the tax on development should be done in a straightforward, transparent, simple way.

Contributions are another cost of doing business. Government, in setting these costs, should be sure to understand the likely impact of them on the viability of specific types of investments.

The cost of contributions should be predictable. Ideally, it will be known in advance at the time a developer purchases land. If it is, then developers can factor this in to the prices they bid for the land.

When the Government-imposed costs are known in advance, if the costs get too high the developer will not able to acquire land. We say that the land value has been driven "negative," but that really means is that the landowners believe they can make more money in whatever the land is currently being used for – a store or a parking lot, say – than they can make by selling to a developer. Badly designed contributions policy can make development that is in the public interest infeasible by making it impossible to transact land.

The risk of good development being prevented can be addressed in two ways: setting the Government-imposed costs low enough that they don't impede good development; and making those costs predictable far in advance so that they can come out of the land price.

The worst system from the perspective of transparency and predictability is to have project by project negotiations over contributions. The rules and rates should be known in advance by all parties and should apply equally to everyone.

Recommendation: Make the contributions system predictable via a transparent, rules-based system so that developers can factor it in when purchasing land.

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Thank you for the opportunity to comment in such an important topic.

Should you require further information, please reach out to Eamon Waterford, Deputy CEO and Director of Policy on eamon@sydney.org.au or 0431 534 790.