



OUR CITY | YOUR BUSINESS
THOUGHT LEADERSHIP SERIES II

GREAT CITIES DO NOT HAPPEN BY CHANCE

Now is the time to make planning and land
use fit for purpose



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Sydney Business Chamber

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FOREWORD

The twin crises of pandemic and economic shut down is a stress test for every aspect of our City and society. How our institutions, economic structures, cultural and social norms react, and recover will reveal a lot about our resolve and resilience.

This dual health and economic crisis is prompting and producing many policy reforms, across government portfolios. Ideas which were previously considered unthinkable or unattainable are now being put into practice. Furthermore, policy reforms which would ordinarily have taken years to implement are being delivered overnight. It is a time of real time action and experimentation as governments, industries, companies and households, pivot and adapt to our new and ever-changing circumstances. It is a time that will be remembered for many reasons including the significant shifts and speed in which public policy has moved.



The Sydney Business Chamber, together with our members, has a long history of shaping our City through policy reforms that enhance prosperity, productivity, and quality of life. Over recent months we have continued to participate in consultation forums, made submissions, and worked on a range of taskforces covering a width and breadth of our economy.

Giving considered and focused input is critical as we respond to change, but we know we need to be ahead of the curve and provide leadership. We cannot wait until the next crisis to make critical changes to the way our City is governed and operates, to make progress and ensure there are enduring changes that improve the lives and livelihoods of all citizens of our City.

We know we can make Sydney a better place and in recent months we have demonstrated that we can quickly make real, meaningful, and enduring policy changes that make a difference. To lead the way we have commissioned a series of thought leadership policy papers. The first, *Nightshift, Moving Sydney to a 24-Hour City*, provided Government and industry with a roadmap for reviving our city's nighttime economy. This Paper dives headlong into the 'planning wars' which have plagued Sydney for the past two decades.

Sydney's planning and land use systems have hamstrung our City for too long. While our population has surged, become more diverse and shifted in lifestyle expectations, the planning and land use framework has remained rooted in the ideals of yesteryear. Notwithstanding the pandemic, our city is a significant contributor to our nation's GDP and is the crucible of our economic productivity and creativity. How we support and manage this economy and growing population is the task of our land use and planning system. A system that must be improved.

This Paper offers clear recommendations on how this can be achieved. We have eschewed the usual industry response and not called for root and branch reform. We do not have time for that. Instead we have focused on where we can deliver quick wins by focusing on the key town centres across our metropolis. These are the precincts where most of the economic, cultural, and social life of the city happens and where reform can deliver the biggest benefits.

In recommending these targeted reforms we are also calling for collaboration, across governments, industry, and the community. Now is not the time for shouting slogans it's time to work more collaboratively, to agree on some common goals and work towards them. The twin crises of pandemic and shut down have shown we have much more work to do if Sydney is to remain our nation's global city. NSW has slipped from being the top ranked state in economic growth, we no longer hold that title and need to regain it.

Our demonstrated success in containing the pandemic whilst also supporting our fellow citizens and businesses cope with the economic downturn, can be repeated in how we plan for and build a better urban environment, an even more vibrant economy, and a more resilient society.

Let us not wait for the next crisis to drive change and implement planning reforms. Now is the time to make planning and land use fit for purpose. Because great cities do not happen by chance.



Katherine O'Regan
Executive Director
Sydney Business Chamber



INTRODUCTION ■

While the Covid pandemic is an unwelcome impost on our social and economic lives, it does present an important opportunity for NSW to rethink and reset certain policies, practices and procedures which regulate our daily life.

The economic and health challenges brought on by COVID create an important moment in time to reflect on our current policy tools and ask if they are still fit for purpose, need to be reprioritized, or require reshaping to meet the needs and aspirations of a thriving, competitive global City.

The Sydney Business Chamber, together with our members, is committed to driving a strong and sustainable future for Greater Sydney. To do this we need to ensure, post pandemic, that our economy and society not only bounces back, but bounces forward.

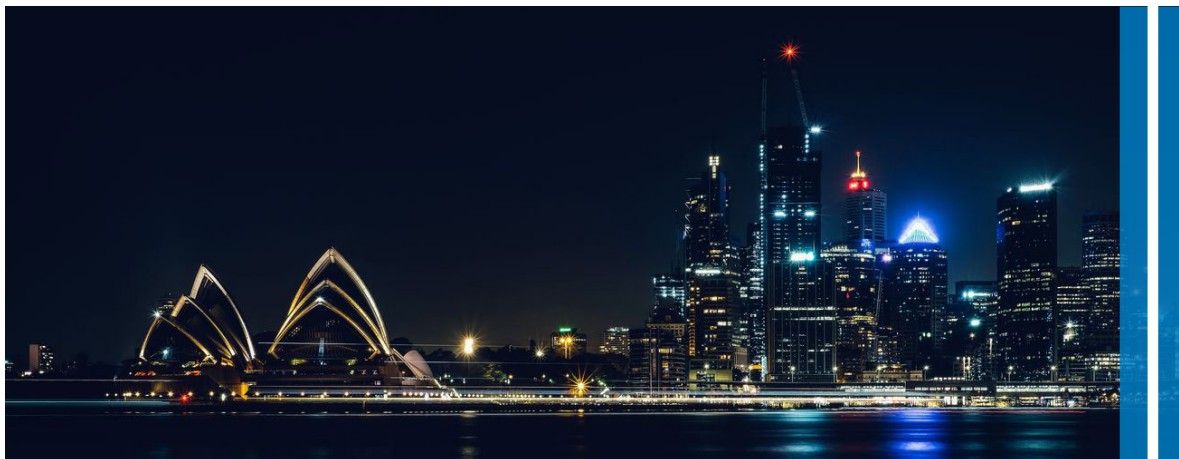
We have therefore taken the opportunity of the COVID crisis to review not only what and how we do things, but how we could do them better. This Paper is the second in our thought leadership series that interrogates policies to inspire and initiate growth, innovation, and prosperity.

The first Paper addressed how our nighttime economy can be switched on and outlined key moves to enable growth, streamline regulation and have smart policy reforms to ensure that Sydney becomes a 24-hour global city. This Paper, dives into what is probably the most difficult and vexed policy debates of recent years - the reform of our land use and planning regime.

As Sydney's peak business body, the Sydney Business Chamber has long had a commitment to how our City is planned, regulated, and taxed. Cities, and Sydney in particular, are the engine rooms of Australia's economic and social well-being. NSW contributes twenty-five per cent of our nation's GDP and is home to most of the major headquarters for leading domestic and international companies. What happens in Sydney really matters - when Sydney thrives, so does the nation.

By shining the spotlight on planning reform, we know we are not alone. Just before the pandemic the Premier and Planning Minister outlined some key objectives the State Government wanted to achieve through changes in the State planning regime and specified four key areas for action:

- ➔ Cut red tape, increase transparency, reduce assessment timeframes, and make e-planning mandatory for metro councils.
- ➔ Supercharge new hubs across NSW to ensure people can live in communities close to their work.
- ➔ Fix the uncertainty of developer contributions to boost investment; and
- ➔ Preserve our heritage, create beautiful new public places, and promote good design.



These actions set a sensible framework that we have used to answer critical questions and balance inherent tensions including - how to 'supercharge' new development, while at same time preserve our heritage; how to cut red tape while also promoting good design and; how to create beautiful public places while delivering a better model for developer contributions.

Starting from first principles this Paper begins with the foundations of a good planning system, then takes a practical approach to apply these across priority precincts, not only as a means to 'supercharge' them, but to demonstrate how and where a streamlined planning and land use process can be effectively and efficiently applied to deliver outcomes for the community.

In taking this approach, we have identified areas where we will get the highest economic and social benefits from reforming and set out how these can be integrated with more targeted and purposeful developer contributions and infrastructure charge regime.

Lastly, but by no means least, this Paper outlines how by achieving the first three of the Premier's objectives, achieving the fourth objective of preserving and enhancing heritage, public places, and good design, becomes simpler.



OUTPUTS NOT INPUTS - SMART TAPE NOT RED TAPE ■

In no other dimension of Australian society is there greater regulation and control over our lives than in land use and planning. The NSW Environmental Planning and Assessment Act 1979 not only tells you where you can live and work, it also tells you what time you are allowed to work, in what industries and where. It outlines how your house or apartment should be orientated, the building materials you should use and even the colour options you must paint your home. More than any other area of Government, the planning and land use system in NSW reaches into the personal lives of everyone along with the operations of companies and businesses.

In many cases these regulations are reasonable and understandable. We do not want to endanger people's lives by letting them live in areas which are seriously affected by flood, fire or under the flightpath of low flying planes, so prohibiting residential dwellings in these areas has merit. Similarly, we do not want heavy industry to operate all night, ruining the amenity of neighbouring residential areas, so separating land uses such as residential and heavy industry makes sense as does restricting operating times. We also do not want people to live in substandard or poorly designed housing, so some oversight and management over design ensures a quality of life that Australians expect and deserve.

While some regulation is warranted, over the years additions, amendments and adjustments have created a complex web of rules, controls and by-laws which unnecessarily intrude into our lives, stifle businesses, and erode our city's productivity. Every new issue or land use conflict that emerges seems to prompt a regulatory response from the different tiers of government. A new State Environment Planning Policy (SEPP), an extra clause in a Development Control Plan (DCP), another prohibition clause in the prescribed Zone. While these 'tweaks' to the system may have merit in a specific location or at a moment in time, they tend to have been applied State or Council wide, whether they are appropriate in each suburb or not.

Furthermore, once in place these regulations are rarely removed, even when the issue they were trying to fix has been resolved, no longer exists or requirements have changed. As a result, our planning and land use controls have become ever more complex, confusing, and incongruous. Like a virulent creeper vine, planning regulation has grown inexorably until government comes along periodically with a machete and trims it back, only to then regenerate and renew its entangling growth.

The pandemic has recently prompted Government to bring out the machete again and in the space of a few weeks they have started slashing some of the regulations strangling our society and economy. Major developments and planning proposals are being fast tracked and some bureaucratic hurdles removed. The Productivity Commission has been tasked to undertake a root and branch review of land use and development charges. Restrictions on the operation hours of key industries like construction and some retail outlets like chemists, are being suspended.

The Sydney Business Chamber overwhelmingly supports these moves, but also asks - why did it take a pandemic and economic disaster to reduce development timelines, enable better use of public space or allow businesses to operate outside 8am – 6pm? Why couldn't a chemist open its doors whenever it wanted in the first place?

Much of the problem with our planning system stems from its focus on 'inputs' - zoning, height limits, floor space ratios and so on - and less on the outputs. It pays only tacit attention to what matters most to the user, community, or City as a whole. It does little to ensure a new development is well designed, is the right development in the right place. Whether it adds or detracts from a neighbourhood or whether it will lead to conflicts with other land uses and activities.

The problem with focusing on just the inputs, is that the outputs – new development and land uses – have become subservient. A development may comply with the planning controls in terms of use, height, and bulk, but can still be unsympathetic to its surrounds, dominate and diminish a neighbouring property, or be out of step with the form and function of the rest of the street and suburb.

This inputs-based planning system not only lends itself to produce poor urban outcomes but due to the nature of its structure, perpetuates this possibility by prompting the planner to recalibrate and refine the inputs further to comply. All too often Development Control Plans expand to anticipate and direct future developments, zoning restrictions are tightened further to prevent a repeat of 'mistakes', or government intervenes with a new SEPP or Ministerial directive mandating further controls or compliances.

The result, planning and land use regulations have proliferated, and we are now confronted with a system that is complicated, contradictory, and constricting. New developments or land use changes have become more expensive and time consuming.

Individuals and businesses thus need to engage a plethora of expensive professionals; planners, consultants, experts, and lawyers, to help them to not only navigate the archaic system but to enable the proponent to mechanically tick off on each input requirement. The assessment of this complexity by a Council or Department takes longer and longer as there are more reports to read and boxes to tick or cross. In trying to stop poor development outcomes in many cases we stop any development at all. Where proponents battle the system with an army of experts, the community is left alienated by the complexity and stranded by the rules and jargon of the planning system. It is no wonder that community members see the system as an 'insiders club' and that community trust in the planning system in NSW is at an all-time low. It need not be like this.

HISTORY SHOULD TEACH US NOT LIMIT US | Pandemic regulations survive

Following the Bubonic Plague Pandemic of 1900, Sydney's civic leaders decided we needed to work harder to prevent overcrowding in our inner city suburbs, then seen as little more than unsanitary slums. Neighbourhoods like Millers Point and the Rocks were compulsorily acquired and plans were drawn up to demolish others such as Redfern, Darlinghurst and Erskineville. To prevent the development of new slums across the city, new planning rules were introduced to specifically prevent small, attached houses from being built. Local Councils were required to ensure all new houses had side setbacks from neighbouring buildings and new suburbs were mandated to have minimum lot sizes, so as to ensure there was enough space for a garden.

Almost overnight, the iconic Sydney terrace became a relic of the past and freestanding houses become the norm. New 'garden suburbs' were mapped and planned and were marketed as being salubrious, literally Latin for 'clean air'.

Most experts now believe that these slum clearances did little to prevent the spread of disease and pandemics and instead recognise the importance of good sanitation and sewerage. Yet our city is left with the legacy of these regulations and rules to this day. While it has been over a century since the bubonic plague, every Local Environment Plan in Sydney, with one exception, still has restrictive 'minimum lot sizes' to discourage building small dwellings.

Minimum lot size requirements are a blunt 'input instrument' that has little, if any, planning merit and should be done away with. From an output perspective, minimum lot sizes promote urban sprawl and create car dependent neighbourhoods. They stifle innovation and good design, make housing more expensive to build and service, and are for the most part environmentally unsustainable.

Further, this outdated control is a prohibition against which there is no appeal facilitating the proliferation of large multi-story homes with little distinguishing character across the metropolis.

These dated regulations highlight the critical need to regularly review our rules and regulations covering land use and development and test whether they are still fit for purpose. Medical science stopped the bubonic plague over a century ago, it is time we updated our Local Environmental Plans to reflect this.

RE-ORIENTATE, RE-CALIBRATE – RETURNING TO FIRST PRINCIPLES ■

To ensure we have great cities, towns and neighbourhoods not only do we need to redirect our focus to the outputs of development and urban change, but we must re-orientate and re-calibrate the planning and land use system. We must go back to first principles.

The primary goal of the planning framework is to regulate industry, commerce, and community, but only to the extent necessary to minimise land use conflicts and anti-social outcomes. The clearly stated aim is to balance the sometimes competing social, economic, and environmental considerations of our society.

A good planning system should therefore enable the best for our society, it should support commercial activities, and ensure markets can operate in as free a manner as possible. It should restrict activities and constrain land uses only where there is a clear public or environmental reason to do so.

Using these principles necessitates a realignment of land use and development controls away from a heavily regulated ‘red tape’ focus on inputs and shift to an outcomes-based, performance system. In doing so, this does not mean an abolition of zonings or allowing a ‘free for all’ by developers, far from it.

There must be rules and in many cases prohibitions, but importantly we also need incentives to drive investment and development towards preferred social, economic, and environmental outcomes. Fortunately, we have a working model to achieve this.



THE PARADOX OF SIMPLICITY AND COMPLEXITY ■

Perhaps the most complex precinct in NSW is Sydney's CBD. Every day, hundreds of thousands of workers jostle alongside tens of thousands of tourists and residents as they go about their daily lives. In an area just a few square kilometres wide, a million transactions and interactions are taking place every hour of every day. In these 2.8 square kilometres people live, work, shop, and entertained by a breathtaking number of companies operating across a diverse range of industries.

Making sure this complex web of interactions functions, and functions well, is the task of our planning and land use regulatory system. However, a surprising irony is that despite this complexity the planning controls for the CBD are the most liberal and simplest of any precinct in NSW.

Take zoning for example, most of the CBD is covered with a special Zone, B8 Metropolitan Centre. Permissible within the zone is every imaginable land use or activity, with the only prohibited use being "Pond based aquaculture". You are literally permitted to do or build almost anything, as long you get approval. Hotels, restaurants, nightclubs, schools, theatres, skyscrapers, and residential apartments are allowed. Everything.

Furthermore, the level of development permitted in this zoning is extremely permissive. The floor space ratios for each block of land are mostly generous. The height limit for most buildings are only limited by the need to protect aircraft landing at Sydney Airport and to prevent undue overshadowing of key places like Hyde Park and Martin Place.

Importantly, having a very liberal zoning control and generous heights and density allowances has not led to a developer free for all. In fact, freeing up planners, experts and developers from punitive input controls allows them to focus on the things that really matter - the outputs.

Urban leaders, land owners and the community need a planning system that enables them to know, address and pro-actively manage key issues, including whether a new development has architectural excellence, fits its local context and does not adversely impinge on the immediate surrounds or overwhelm its precinct. Whether it activates the streetscape through good urban design and/or facilitates new business or activity appropriate for that building or place is not measured accurately.

A prescriptive approach to land use and zoning controls by its very nature is reactive, it tells rather than asks the proponent what can be done, and it sets up a tension between the stakeholders.

Alternatively, an outcome, or performance based, approach to planning provides for incentives and opportunities to ensure social, environmental, and economic outcomes aligned with what matters most at that place and time. If the City is short of hotels to support our growing visitor economy, there can be incentives such as floor space bonuses, air rights or concessions. Trading the floor space above heritage buildings can bring back important, but derelict buildings, into active use. There are still regulations and controls, but for every stick, the system provides a carrot.

While no system is perfect, evidence suggests that the result has mostly been a great success. The timeframes for assessing new developments or planning proposals in Sydney CBD are some of the shortest in NSW and the quality of the built environment is high. As a result, Sydney CBD has attracted significant investment in new development over the last few years, creating thousands of jobs and helped cement Sydney as the business and tourism capital of Australia.

There is no reason why this approach cannot be effectively applied across the Sydney metropolitan area especially in local town centers. In doing so we can either address this one local government area at a time, or the State Government could drive this outcome with the planning framework incorporated into a State Environment Planning Policy.

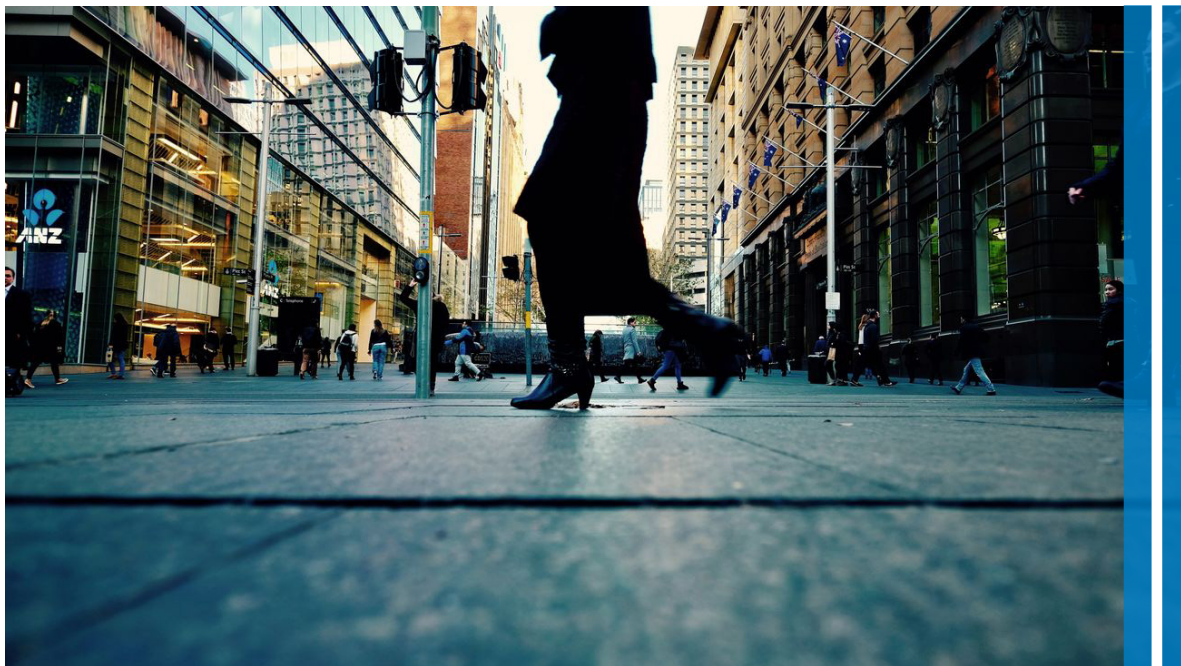
STARTING PLACE - PRECINCTS AND TOWN CENTRES ■

An outcomes focused planning system is less reliant on hard rules and prescriptions, strips away red tape and, using performance standards, incentives and penalties directs investments towards a preferred planning outcome. Importantly, this brings with it a much simpler system and one that can be more easily understood and navigated by community members and the lay person. This approach, together with the implementation of the State Government's e-planning platform, has the real potential to increase the transparency and accessibility of the planning system for the benefit of our citizens.

To undertake a wholesale realignment of the planning system, while not without considerable merit, would require a substantial rewrite of the planning Act. As recent history has unfortunately demonstrated, root and branch planning reforms bring significant challenges and often tend to inflame the tensions and tribalism of the 'planning wars'. Such a process would also take considerable time - the last attempt took years and actually went nowhere - something our current economic circumstances can ill afford.

Alternatively, reform can be targeted at the low hanging fruit and be applied to specific precincts - places that offer the greatest returns with least disruption - and there are no better places to start than Sydney's numerous town centres. These are the places which are likely to give us a greater social and economic return while not unduly disrupting or disturbing the existing residential neighbourhoods.

Further, by taking a targeted, precinct based approach, cutting red tape and liberalising our land use regulations, will directly enable and facilitate the second of the Premier's four objectives: *"Supercharging new hubs across NSW to ensure people can live in communities close to their work".*



A HIGH PRICE TO PAY | Zoning tax and the strangling of supply

As a society we pay a high price for having a cumbersome and inflexible planning and land use system. Housing in most of Sydney is unaffordable for the average Sydneysider. Whether as renters or purchasers, we pay more than most cities for the basic need of shelter. Despite successive government policies and interventions to reverse this situation, things have been mostly getting worse. The dream of home ownership will soon be a reality for only a minority of our citizens.

It is not only housing which is expensive in Sydney. Manufacturers and logistics companies pay a 'Sydney premium' in rent for industrial land and commercial businesses pay much higher rents for office accommodation than their interstate counterparts. ¹ These costs are a drag on our urban productivity.

In a forthcoming Paper, Keaton Jenner and Peter Tulip of the Reserve Bank of Australia find that excessive planning restrictions on both height and density of new developments, particularly apartments, is driving up costs. ² Former Governor of the Reserve Bank, Glenn Stevens takes it further in his report to the Premier on Housing Affordability. He cites "regulation, zoning, and approvals process and so on are making the supply side less then flexible..." ³

This 'supply side' inflexibility refers to the inability of our housing system to respond to increased demand in a timely and cost-effective way. This limited ability of the market to continue to supply community housing demand means prices for everything from land, homes or apartments and offices are all more expensive than they should be.

Unscrambling this egg will take time and effort, but by focusing on activating key hubs across Sydney with a more flexible, performance-based planning system, we can start to unpick these economic and social problems and build a better, fairer Sydney.

¹ Research and Forecast Report Colliers International, Second Half 2018

² Jenner and Tulip (forthcoming)

³ <https://www.nsw.gov.au/projects/a-fair-go-for-first-home-buyers/housing-affordability-report-to-premier>

SUPERCARGING HUBS ■

Sydney's economy is overwhelmingly dominated by service industries. We are the education, finance, technology, and health capital of Australia. While we also have a large manufacturing and construction sector, the vast majority of our citizens work in service industries. Agglomeration has meant these industries have tended to cluster together to access a particular workforce and market or to take advantage of the 'spillover' of ideas and innovations that proximity brings. This clustering is increasingly taking place in our major town centres and CBD's and it is the main driver of new job creation in our economy. In the decade following the global financial crisis, 50 per cent of all jobs in Australia were created within just two kilometres of the CBDs of Sydney and Melbourne.⁴ Unfortunately, most people don't live close to the CBD, so if we are going to end the long commutes and congestion strangling our City and denigrating our citizens' lives, we need to support the process of agglomeration in more centres and precincts right across the width and breadth of the metropolis. We need to support it in places like Chatswood, Hornsby, Penrith, Liverpool, and Hurstville. We need to supercharge these and many other hubs so we can provide jobs closer to where people live. To do this we need to reform the way these hubs and precincts are planned, regulated, and supported.

The COVID crisis has accentuated the importance of local hubs and neighbourhood communities. We are now spending more leisure time closer to home, often working from home and this shift is likely to be retained to a degree even when social distancing restrictions are further eased. This places greater demand on local hubs to provide services, systems, and supply to support productivity. Creation of local work hubs, broadening of capability and function of civic infrastructures such as libraries and other council managed spaces, making better use of public and private space to facilitate work related outcomes are, and will continue to be, critical to our economic recovery and sustainability.

Whether a hub in the CBD like Pyrmont or a local hub in Hornsby, a performance-based outcomes focused planning system will better signal and stimulate investment and innovation. In seeking this we are not alone. Councils like Liverpool, Parramatta, Sydney City, among others, have all proposed to liberalise the planning controls for their main town centres. In most cases they have sought to adopt a precinct wide application of a more flexible, mixed-use zone. This zone permits both employment and residential uses so you can live and work in the same precinct. The height limits proposed for these centres have also been lifted, as has the permissible density. Importantly many of these Councils have incorporated incentives to drive development towards better social outcomes like design excellence, and civic improvements, as well as to support economic clustering, employment and agglomeration.

While these efforts assist the limitations of the mixed-use zone, making it more of a 'manual work around' rather than a real and permanent solution. Where there is no careful strategic control with a focus on inputs as opposed to outputs, the mixed-use zone will often be overwhelmed by the most valuable land use to the exclusion of other industries or activities.

Across Sydney the highest and best use of land is residential. As a result, in precincts such as Bondi Junction, where there is widespread application of a mixed-use zone there is now a high level of conversion of office buildings into residential apartments with only the ground floor reserved for employment in retail or offices. This is bringing people to live in the precinct but also results in a reduction in the number of available jobs in this critical local hub as industries are displaced. This outcome directly opposes the primary objective of agglomeration. The result could well be that Bondi Junction becomes a high density residential neighbourhood and loses its role as a critical services centre and employment hub.

⁴ Grattan Institute Productivity and Geography 12 December 2016

In many circumstances the best way to supercharge precincts is to adopt the planning model which applies to the Sydney CBD. The very flexible B8 Metropolitan Centre zoning and performance-based incentives in the City's plans would go a long way to stimulating productive investment in many of our big town centres.

However, planning reform alone will not deliver the Premier's objective of 'supercharging hubs'. To be successful in providing jobs closer to where people live and supporting productivity closer to home, these places also need significant investment in infrastructure and public amenities. If we are going to attract and service companies and individuals to these centres they need to be accessible with good connectivity and provide a diversity of transport options so people can get to them and around within them. They need a good public realm with active streets and open spaces. Finally, they need those important civic infrastructures and services like libraries and public service centres to be integrated, high performing and accessible for much longer hours.

We recognise these essential place making ingredients are expensive and can place additional demand on already strained State and Local Government budgets. Funding these priorities must be addressed and the way forward can support the third key objective the Premier set out: *Fixing the uncertainty of developer contributions to boost investment.*



FUNDING THE FUTURE ■

How we currently fund civic infrastructure in NSW fails in most respects and the Premier's directive for its reform is commendable and an opportunity that must be grabbed with both hands. Again, let's not wait now for the next crisis to jolt the machinery of government into action on infrastructure and other developments. From an economist's point of view, the tax system is inefficient and distorting of economic activity. From a performance view, it is slow, cumbersome, and ineffective in providing the great places and infrastructure our city urgently needs. From an administrative point of view, it is unwieldy and breathtakingly complex. Most importantly, from the community's viewpoint, the system is not delivering what they want or need. And finally, it is impacting on housing affordability and undermining urban productivity.

When undertaking a new development in NSW, the proponent - whether a developer, business or just mum and dad - are all faced with a welter of taxes, levies, and charges from different tiers of government. There are local council levies (S7.11, VPA's and the like) to fund things like footpaths, roads, and open space improvements as well as contributions to support council run services, like childcare and libraries. There are often also State Infrastructure Charges (SICs) to fund upgrades to regional open space, transport and sometimes schools and health services. Taken in their entirety these taxes add significantly to the cost of new housing and commercial space. A cost which, naturally, is passed on to the homeowner or tenant in higher prices or when these costs cannot be passed on, the development is simply unviable and does not proceed. As any economists will tell you, the net result of taxing the production of new property is you have less new property produced.

Exacerbating the drag on the economy and the community, these taxes provide public benefits only very slowly and often in places and in a format where they are not especially needed. Because it can take years for enough funds to accrue before a Council can deliver a new library, park or plaza, the public benefits pledged by a developer can take a long time to be realised. Moreover, because there must be a nexus between the new public infrastructure and the new development, Councils are obliged to put precious community resources into areas proximate to the new buildings. This may not always be where communities most needs or wants a new library or park. In fact, this approach perpetuates an inequity whereby the development is more likely to be in a higher yield area, so the new infrastructure is likewise delivered in that area, leaving out other areas of lower yield, but often higher need, wanting.

Lastly, the way we currently tax property is inefficient and very unreliable. During a development boom, Government and Councils' revenues bloom, but when the boom busts, as we are experiencing right now, the balance sheet is strained. This means when government investment is needed most, it is least able to fund it.

The perversities of our State property tax system does not end with the construction and sale of new properties. As a system founded on transaction taxes (Stamp Duty), existing properties face a heavy price whenever they change hands. Again, economics dictates that where you make a transaction more expensive through a tax, you get fewer transactions. The consequences on the property market are profound, not least the impact on residential property which results in many people remain living in homes not suited to their needs, whether empty nesters finding it too expensive to downsize or growing families unable to afford to upsize.

REGARDING HENRY

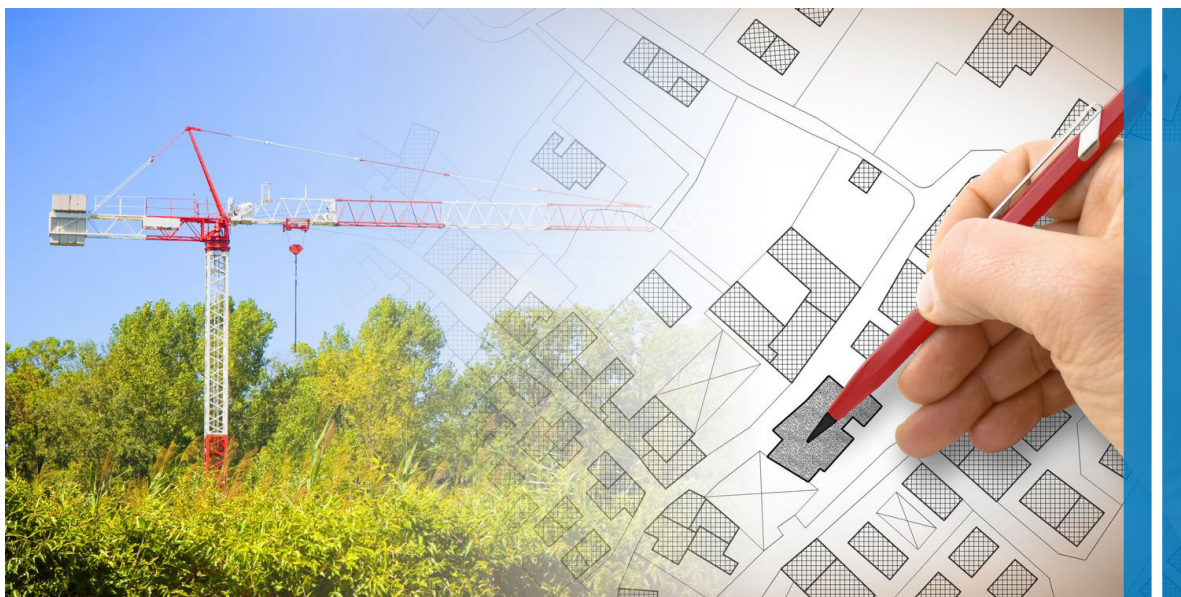
Governments at all levels have been trying to unscramble this plethora of taxes and levies for decades and this is not the first time a Premier, Treasurer and Planning Minister have called for reform. The risk is however, that we get more tweaks and amendments which in the past has almost always added to the complexity of the system or distorted it in newer and stranger ways.

This is the time to revert to first principles and address the core issues through fundamental changes.

One of the most informative pieces of public policy in this area is the 2008 Henry Tax Review. This comprehensive appraisal of how we pay for the things our society want took to task taxes on production, like development levies, and transaction taxes like stamp duty. A key recommendation was as far as is practicable, to replace these transactions-based taxes with a broad-based land tax.

The Review saw a broad-based land tax as a pragmatic way of raising revenue for a public purpose. Land taxes are very efficient in that they are easy to levy, impossible to avoid and, importantly, they do not distort markets or change behavior. Replacing developer charges and stamp duty (taxes on the production of property) with a land tax (a tax on the 'consumption' of property) has the potential to raise sufficient funds to invest and build more resilient neighbourhoods and to supercharge 'hubs'.

We recognise that this is easier said than done and that the consequences must be carefully considered. We do need a fair, efficient, and equitable taxation system if we are to fund public planning outcomes. Our current tax system needs change for the long term.



RATE PEGGING – A FALSE ECONOMY ■

For nearly half a century, local councils in NSW have had the amount of revenue they can raise through rates capped by the State government. The result is that ratepayers in NSW now pay some 20-30 per cent less in local rates than their interstate counterparts. For some this may seem a good outcome, but on closer examination it falls short and is a false economy.

While NSW residents may pay lower rates, it means they get less from their Council in the form of much needed local services and infrastructure. Our local parks have less amenity, fewer trees, and aging playground and sporting equipment. Our footpaths and local streets are not as well maintained, and our libraries and other civic services are stretched. We might have a few extra dollars in our pocket, but they come at the expense of our local neighbourhood and the amenity and vibrancy of our town centres. Having a poor local council is not in anyone's interest.

In contrast to some State taxes, the Henry Tax Review highlighted that taxes such as council rates are particularly effective and efficient. In considering their purpose and process it considered them to be impossible to avoid, did not distort economic activity and cheap to collect. This suggests that capping such an effective and efficient tax is economically shortsighted.

Capping rates also often means that areas experiencing the most population and economic growth have the least capacity to provide supporting infrastructure and services. Modeling undertaken by Sydney City shows that the net result of the Green Square urban renewal project (which will increase the precincts population from a few hundred to over 60,000) will result in just \$5 million in extra rates because of the cap. Council needs to service this extra population local services, but for just \$83 extra per person.

The false economy of capping rates is further evidenced where Councils look to other means to make up funding short falls with inefficient taxes like developer levies. While removing the 'cap' altogether may be politically too hard, consideration should be given to at least varying the rate to reflect significant regional variations in growth. The State Government's recent commitment to do just this is valuable, however the Productivity Commission's review of developer charges needs to ensure our Councils have enough resources to provide the services and infrastructure our city needs.



BUILDING A BETTER HOUSING INDUSTRY | Taking out the risks

The way we build new housing in Australia also needs rethinking. Employing nearly 1.2 million Australians and contributing 9 per cent of GDP, this industry is critical to the economic and social fabric of the nation.⁵ It is also an industry that is burdened with taxes and challenged to provide the housing we need, when we need it and at an affordable price point. Prone to cycles of boom and bust in recent years, Governments both Federal and State, together with the Reserve Bank and financial regulators have intervened to address 'market failure' and to protect our banks from being too exposed to the systemic risk of a construction and housing industry collapse.

Yet part of the reason our housing industry is so volatile stems from our planning system. The slowness in getting development approvals for residential flat buildings often means supply cannot quickly change to reflect changes in demand. This mismatch causes significant volatility, but also impacts on affordability.

There is also a systemic problem in the way our housing industry is structured and how new housing is owned. Almost all housing in NSW is built by developers and targeted at a homeowner or an investor seeking a property to rent. New apartment construction cannot start until there are enough pre-commitments, usually a 10 per cent deposit, from enough purchasers to cover the cost of construction. In boom times getting these pre-commitments is not usually a problem but as soon as there is any economic uncertainty, the industry grinds to a halt.

Similarly, with greenfield housing, developers carefully manage the release of new housing stock to ensure they do not flood the local market and reduce prices. This rationing process reduces the risk to the developer, but it also seriously impacts affordability.

Governments try to minimise the volatility through several mechanisms but the most common is to stimulate demand (and construction) through tax concessions for investors and grants to new purchasers. The problem with these mechanisms is that in good times they tend to simply increase the price of housing and in a downturn, when sentiments sour, does little to stimulate demand.

There are alternatives. One option would be for government to buy new housing stock itself. Our AAA credit rated governments can currently secure long-term capital at historically low rates of just one percent or less. Our Government could pre-purchase property off the plan on the proviso that the developer immediately starts construction and generates new jobs. Once built, these new dwellings become public assets. The Government can then sell them in better times or rent them to provide a long-term return to taxpayers and rebuild public coffers. Some could also be put to providing more key worker and affordable housing, sadly something our current housing market fails to provide.

Government can smooth out the boom bust cycle of construction without subsidising people who probably do not need it. By employing a build to rent model Government can provide new housing stock to the 40 percent of our citizens who cannot currently afford a mortgage. More importantly, by Government can ensure that we have a more balanced and resilient housing market. One which has the capacity to provide us all with a home.

⁵ <https://nationalindustryinsights.aisc.net.au/industries/construction>

PRESERVE OUR HERITAGE, CREATE BEAUTIFUL NEW PUBLIC PLACES, AND PROMOTE GOOD DESIGN ■

If an outcome-based planning system is used to super charge hubs and precincts backed by more effective funding mechanisms, then the final objective set by the Premier in relation to heritage, place and good design, becomes much easier.

A performance-based planning system is well placed to support local heritage and preserve places of cultural importance. Incentives can be built into a more flexible planning system such as the heritage trading scheme which operates in the Sydney CBD. This scheme was instrumental in saving important cultural landmarks like the heritage listed, Capitol and State Theatres. The current Heritage Act, which lists some buildings as local or State significance is still important, but it is a blunt tool and can have unforeseen consequences. Listing a building as a heritage item can often devalue a property, sometimes to the point where it becomes economic unviable. The building or structure then sits empty and unused, deteriorating or worse.

In seeking to apply a performance-based planning system to the ‘hubs’ the Premier wants to ‘supercharge’, could allow the City’s heritage floorspace scheme to be expanded to cover other town centres, many of which have their equivalent of a State or Capitol Theatre, that have been empty and idle for years. Like the Roxy in Parramatta, the Victoria in Newcastle, the Regent in Wollongong, and the Minerva in Kings Cross.

Similarly, where issues associated with developer and land use charges, our civic institutions will be better placed to “*create beautiful new public places*”. Much of Sydney’s public realm does not meet the expectations and aspirations of a global city.

Most of our great places and neighbourhoods are legacies of previous generations and even some new places could be designed or built to a higher quality and some still lack critical but often simple infrastructure – park benches and play-exercise equipment, good footpaths, lighting and street trees. Creating beautiful public places takes careful consideration and investment which in turn requires well-resourced local authorities. More importantly a reliable and flexible funding system will attract and allow investment in the places which need it most and not just those areas proximate to the latest development.

Quality matters and these reforms allow us to drive outcomes that are better focused on promoting ‘*better urban design*’. How a building or place is experienced by the passerby or neighbour is just as important as the experience of the person who lives or work in them. Input controls like zoning and height limits do not always lead to making great places or ‘*better urban design*’. In contrast, good urban design is a clear and critical metric of an output, or performance based, planning system.



GREAT CITIES DON'T HAPPEN BY CHANCE ■

Now is the time to enhance and embrace a revised planning policy and planning framework across New South Wales to secure the future of Sydney and hence, the nation.

The Sydney Business Chamber and our members are intimately involved in the social, cultural, and economic life of the city and what happens here matters to them. We know we are not alone in wanting to address and create a strong future for our City. Over five million Sydneysiders need the City to work for them too. Indeed, as our nation's principle engine of economic growth and employment, as the crucible of our national creativity, what happens in Sydney matters to all Australians.

Sydney remains one of the most livable cities in the world. It is inclusive, welcoming, and its multicultural population is a success unrivaled by any other society. It is also without doubt the most beautiful metropolis in the world. But for all this, we can never be complacent.

The afterglow of the Olympics has well faded. We let our nightlife and nighttime economy close and with it much of our City's vibrancy. We have relied on our finance and education industries and allowed other industries, like manufacturing, to decline. We cannot afford to rest our laurels.

While in recent years many of our civic leaders have tried to arrest this complacency, it has taken a pandemic to expose our city's planning shortcomings. It has taken a deep recession to galvanise governments into action and to begin a robust review of our city shaping tool kit and hold it up against the harsh reality of our current circumstances.

This Paper seeks to respond to the challenge set by our Premier to review our planning and land use regulations and to see if they are still fit for purpose. In doing so we have developed key moves, many which are by no means new or novel, but are worth considering by our civic leaders and community alike. But we are also interested in the ideas of others and we are keen for our citizens, institutions, and government to engage in a dialogue about how Sydney can be improved.

Because we know that great cities don't happen by chance. They happen when all of us – citizens, industry, and government - work together towards a common goal. When we deploy our collective resources to making great spaces and great places. When we include all our citizens in our deliberations and ensure that our combined efforts are directed to an inclusive, prosperous, and sustainable city.



KEY MOVES ■

1 Cut red tape, increase transparency, reduce assessment timeframes, and make e-planning mandatory for metro councils.

- ➔ Move to a more flexible, performance based, planning system focused on the key outcomes like urban design, amenity, and public benefits.
- ➔ Apply the more flexible B8 zoning in targeted major town centres.
- ➔ Reconsider and remove prescriptive 'input' controls in LEP's, SEPP's and DCP's.
- ➔ Establish a regular review of planning instruments, including the Standard LEP template, to ensure regulations are contemporary and remove unnecessary or outdated red tape.

2 Supercharge new hubs across NSW to ensure people can live in communities close to their work.

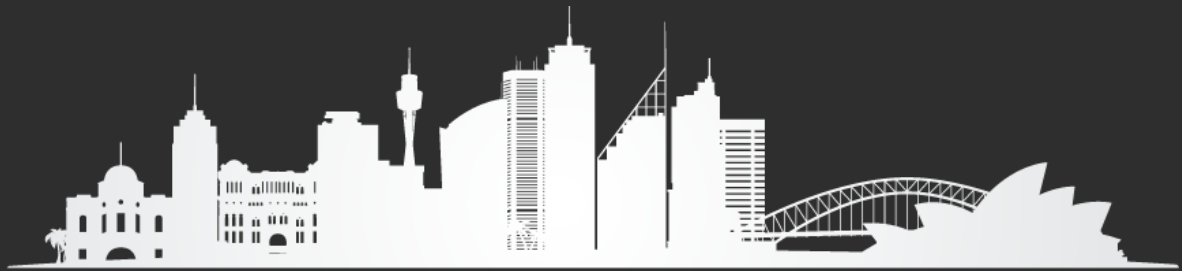
- ➔ Implement a more flexible planning and land-use regime in the main town centres across the Sydney metropolitan area, including consideration of wider application of the B8 Metropolitan Centre zoning.
- ➔ Where a mixed-use zone is applied in town centres, ensure that one land use (such as residential) does not predominate to the exclusion of other land uses.
- ➔ Support and invest in these town centres with strategic infrastructure and investment in place making.

3 Fix the uncertainty of developer contributions to boost investment; and

- ➔ Commence the transition to move charges away from the 'production' of new property (levies and charges) towards the 'consumption' of a property.
- ➔ Reconsider transaction taxes (stamp duty) and development levies and replace them with a broad-based land tax.
- ➔ Reconsider punitive restrictions on Council finances, including allowing greater variation to rate increase to reflect the needs of population and economic growth.

4 Preserve our heritage, create beautiful new public places, and promote good design.

- ➔ Broadening heritage protections include market-based mechanisms for restoring historic and culturally important buildings.
- ➔ Review and develop more flexible planning controls focused on 'outputs' which encourage better urban design and place making.



GREAT CITIES DO NOT HAPPEN BY CHANCE