

UDIA NSW President's Taskforce on Infrastructure Contributions Reform

Policy Issue Paper

Development Servicing Plans (DSP)

Preamble

The Urban Development Institute of Australia (UDIA) NSW initiated a President's Taskforce on Infrastructure Contributions Reform to lead the industry response to the 29 recommendations contained in the *Review of Infrastructure Contributions in New South Wales* by NSW Productivity Commissioner Peter Achterstraat AM.

This taskforce drew in cross sectional expertise from the membership, comprising developers, consultants and Local Government, with experts who were focused on infrastructure planning & development delivery. The Taskforce developed Working Groups, modelled in line with those of Department of Planning, Industry & Environment (DPIE) to advise on the technical aspects of the proposed reform.

Introduction

UDIA opposes the reintroduction of DSP charges in the Sydney Water and Hunter Water service areas. The current Sydney Water Corporation (SWC) model, and the related model at Hunter Water, whereby the cost of delivering lead infrastructure is borne by the customers of the water authority through their bills, enabling new customer connections and increased income for that water authority, should have been maintained.

UDIA acknowledges there is a significant shortfall in enabling water and sewer infrastructure and support measures to fast-track funding facilitating the delivery of more serviced land to market for development.

Given the reintroduction of DSP charges, it is essential that this leads to the timelier delivery of water infrastructure to facilitate development. This working paper contains recommendations to help ensure this occurs.

Background

The Sydney Water Act 1994 (the Sydney Water Act) allows the Sydney Water Corporation (Sydney Water) to levy charges on developments that will make use of the services it provides. These developer charges are a means by which Sydney Water can recover the cost of providing infrastructure to service urban development.

Currently, the only developer charges to be paid are for recycled water. These only apply to the Development Servicing Plans (DSP) for Rouse Hill Recycled Water System and the Hoxton Park Recycled Water System. All other DSPs were removed in 2009.

In previous DSPs, Sydney Water levied non-residential developer charges based on the area of the development. In 2008, Sydney Water changed this approach to offer developers the option of having developer charges calculated based on projected flows for non-residential development. Developers can opt to independently fund infrastructure to accelerate planning and construction and can apply to the NSW Government to bring forward release of precincts for development.

Hunter Water Corporation (HWC) similarly does not currently levy developer charges under DSPs and in 2018 adopted their Funding of Growth Policy which acts in the same way as the Sydney Water out-of-sequence policy. With this policy and the annual growth plan that supports it, HWC has been the most efficient

productive agency in the region enabling development. The annual growth plan and the valuable data that it contains has formed the backbone of the Hunter Urban Development Program chaired by the NSW Hunter & Central Coast Development Corporation.

Challenges to Implementation

Focused on Charges, Not Infrastructure Planning

UDIA believes that one of the aims of the Infrastructure Contributions Review was to bring certainty of investment to deliver more houses for a growing population.

Hunter Water provides a cautionary note. Whilst DSPs were in place, Hunter Water did not have an adequate works program, and infrastructure was not delivered in a timely way to priority housing release areas. Developers had to pay headworks and DSP charges even if headworks or lead in works were already available.

Sydney Water's capital program is funded from general rates with the cost base being its regulated asset base (RAB). Any capital funded from DSPs is removed from the RAB, and therefore DSPs do not provide any additional revenue for water utilities. Given the significant costs of administration of DSPs for no net funding benefit, it is difficult to see how the re-introduction of DSPs will lead to the timelier delivery of water infrastructure.

Catchment Based and Growth Service Planning

In a DSP, all non-residential development is charged on a flow's basis only. Sydney Water Catchment (SWC) and Growth Servicing Plans directly interact with the charge meaning charges and their location are interdependent. Charges can vary significantly per catchment that fall within the same development area which reduces investment certainty and distorts market costs.

Out of sequence development can forward fund infrastructure (taking development risk) and obtain refunding of costs from SWC as development proceeds.

Brownfield and greenfield development costing and rezoning potential is difficult to capture in a single charge as network capacity upgrades can be across two different catchments or across two different development sites.

Nexus of Infrastructure Delivery and Program

Given the problems with previous DSP regimes at both Sydney Water and Hunter Water, any reintroduction needs to avoid the mistakes of the past. Previous issues included opaque processes for service planning and capital works and when they were provided it was too late in the process creating investment uncertainty.

Investment decisions have been made based on the existing charges regime. The new charge could impact on the viability of development and impact housing supply.

Rezoning and Delivery of Enabling Infrastructure

UDIA acknowledges there is a significant shortfall in enabling water infrastructure and supports measures to fast-track funding if it releases more land for development. This is equally applicable to greenfield and brownfield rezoning/development proposals. HWC's Funding of Growth Policy has gone a long way toward bridging this infrastructure gap. UDIA is concerned that the reintroduction of DSPs and their possible impact on the Funding of Growth Policy could have a negative impact on the gains that have been made since the policy's introduction.

State and local policies highlight the importance for growth to occur in sequence with an established and funded infrastructure delivery plan. Closely aligning land use and infrastructure planning at the earliest stages of the planning process best enables infrastructure to be delivered efficiently by relevant government and private sector processes. This is supported subject to the governance needed to deliver a commitment toward utility funding keeping at pace or in front of market needs and avoiding shortfalls/delays in provisioning.

Contributing to the issue is the limited funding mechanisms under the existing NSW planning system which impact the timely delivery of infrastructure and consequently affect planned rezoning's.

Solutions and Recommendations

Solutions to the challenges of implementation need to address the following key issues as it relates to charges being levied on developers:

Reintroduction of DSPs

Recommendation: Water agencies should provide details on the problems of the previous DSP regimes and how they will avoid them being re-introduced.

Recommendation: DPIE should ensure that Infrastructure Contributions Reform increases the funding available for enabling water infrastructure so that more can be delivered in a timely manner.

Water agencies need to learn the lessons from previous DSP regimes. This includes providing a clear and transparent process of service planning as well as a program of capital works. These should be provided as early as possible, ideally during the exhibition of documents for any proposed rezoning to provide development and investment certainty.

Additional Costs

Recommendation: DPIE to ensure that additional costs are either offset by savings elsewhere, existing rights are grandfathered, or charges are phased in to minimise negative consequences.

Without offsetting measures, the increase in costs from DSPs risk reducing development viability and therefore housing supply. The total costs of development need to be considered to understand the impact that the reintroduction of DSPs will have on viability to deliver development ready projects. This analysis needs to include the totality of the impact on costs of the contribution reform, the speeding up of infrastructure delivery and the costs of the red tape in the planning system, including new proposed costs such as those being considered in the Design and Place SEPP EIE.

Commercial Agreements and Reimbursement Models

Recommendation: NSW Government continues to allow planning and commercial agreements and reimbursement models as part of any reform.

The reform needs to consider a removal or reduction of the DSP in combination with other cost sharing models.

Recommendation: Reform to continue to allow successful approaches to providing timely provision of water infrastructure such as the Hunter Water Funding for Growth policy.

Commercial agreements as a mechanism must remain in place to allow the delivery of lead in infrastructure and network upgrades required for new and rezoned developments. Existing agreements must have offsetting ability and flexible planning agreements to ensure transparency and opportunity for innovative design

solutions. Recent examples where this has worked well include Sydney Science Park and Wilton. Other Sydney Water led innovations include decentralised water recycling hubs and wastewater reuse facilities.

Other mechanisms such as the Precinct Acceleration Protocol are vital to allow flexibility to both development and infrastructure staging alike.

Reimbursement and Phasing of Charges

Recommendation: Government to develop a Works in Kind mechanism that enables a developer to undertake water infrastructure lead in or headworks and have either the DSP charges offset, or the costs reimbursed by the water authority.

Developers who wish to fund upfront development should be allowed to and have any DSP charges offset or reimbursement from Sydney Water made. This would be like a Works in Kind agreement where upfront works are offset from later charges. This allows a developer to forward fund the necessary network upgrades or lead in infrastructure.

The Water Industry Competition Act 2006 (NSW) (WICA)

Recommendation: Any reform should make the option of a WICA license remain as viable as it is today.

Currently, it is not clear if a development or rezoning chooses development servicing via a WICA license what happens to the DSPs. A WICA license must remain as a clear option to harness innovation and investment potential of the private sector in the water and wastewater industries and therefore, the DSPs either need to not be charged, reduced or the funds channelled to the provider.

Conclusion

The re-introduction of DSPs has the potential to be a significant retrograde step in the timely delivery of water infrastructure and housing supply. It is critical that the NSW Government and Water Agencies create a framework that enables the timely delivery of water infrastructure without negatively impacting on housing supply.