

UDIA (VIC)

**SUBMISSION TO THE VICTORIAN PLANNING SYSTEM
MINISTERIAL ADVISORY COMMITTEE**

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Introduction

The Urban Development Institute of Australia (Vic) welcomes the establishment of the Ministerial Advisory Committee to look at the planning system.

Victoria is sometimes said to have the best planning system in Australia, and is the system that most states benchmark themselves against. That said, developers look for a system that is timely, consistent and contains certainty. In a number of areas, Victoria's planning system fails all three of these criteria.

In this submission, UDIA concentrates on the top ten issues as identified by our members. Tellingly, in a survey of members, there were no respondents who agreed with the statement "overall [the planning system] works well". Meanwhile, 48 per cent of respondents considered that the system needed a complete overhaul and 52 per cent thought that the system "works well for the majority of the time but is not working well in a number of ways."

The top ten issues in the planning system identified by UDIA members in the survey are:

- Local government resourcing
- Biodiversity Issues
- Precinct Structure Planning Processes
- Permit conditions
- Contradictions between "objectives" and outcomes
- Inconsistency from local government area to local government area
- Engineering Standards
- The process of negotiating developer contributions and S173s
- Disconnect between land use planning and infrastructure provision
- Zoning laws and restrictions

This submission looks at both the problems surrounding these issues and suggests some solutions. The solutions range from some very simple process changes through to radical overhauls.

Summary of Recommendations

1. Local government resourcing

- Councils should focus more on strategic planning work.
- Implement a private certification system.
- Introduce code assessments.
- Make councils more accountable for their actions and inactions.
- Encourage those genuinely affected by development to make submissions, but discourage those who are not materially affected.
- Implement the planning scheme amendment model outlined in the recommendations of the working group established by the former Minister for Planning, the Hon Justin Madden.

2. Biodiversity

- Remove the effective veto from DSE and make their input one aspect of land use decisions made by DPCD and councils.
- Move to a genuine strategic approach rather than a site-by-site approach.
- Ensure that socio-economic aspects are taken into account when deciding whether to retain habitat in situ.

3. PSP and Growth Area Planning Reform

- Introduce a hierarchy that goes from the Growth Area Framework Plan to a Co-ordination Overlay then to a planning permit.
- Introduce a Specialist Advisory Body to resolve disputes over co-ordination plans.
- Make the GAA the responsible authority for further amendments in major and principal activity centres and refer unresolved submissions to the Specialist Advisory Board.

4. Permit Conditions

- Standardise permit conditions by introducing a “library” of permit conditions.
- Require councils to justify divergence from a standard permit condition to VCAT.
- Establish a right of review to proposed Section 173 agreements.

5. Contradictions Between Objectives and Outcomes

- Establish a clear hierarchy in the planning system that starts with state policy and delegates powers to local government.
- Ensure that when state policies are introduced they are accompanied by clear implementation guidelines.

6. Inconsistency Between Local Government Areas

- Remove the ability for there to be council-specific standards and conditions – ensure the consistent use of the VPPS by councils with variations only on the basis of very special conditions.
- Establish a default state policy on neighbourhood centres.

7. Engineering Standards – A Problem of Over-Engineering

- Establish a single standard for engineering design and construction across Victoria.
- Review the standards so that they are properly tested, appropriate, accurate and unambiguous.
- Introduce a private certification system into engineering certification by establishing a risk-based QA system.

8. Infrastructure Funding

- UDIA supports the Minister's current DCP review process.
- Over the long term, a new way of funding infrastructure early needs to be found. UDIA considers that the state government should fully investigate models for infrastructure funding such as the Tax Increment Financing model that works in the United States of America.

9. Disconnect Between Land Use Planning and Infrastructure Provision

- Prioritise infrastructure spending so that it is provided when needed.
- Ensure new primary infrastructure is available in growth areas in advance of development by identifying projects and placing a time horizon on them.
- Increase the engagement of the infrastructure authorities (such as the water companies, VicRoads, etc) in the development so that they can deploy infrastructure commensurate with development.

10. Zoning Laws and Restrictions

- Increase the use of the mixed use zone.
- Decrease reliance on prescriptive land use.

1. Local Government Resourcing

One of the major systemic issues in the planning system is the chronic under-resourcing of local government planning departments. This is particularly the case in regional areas, where (through no fault of their own) capabilities and experience are lacking. The issue for government then is how to increase resources, how to make councils more accountable for the advice they receive and how to make the system more time efficient.

UDIA considers that there is not a shortage of planners overall in the system. There are two major related issues: there are a large number of processes that councils undertake that, were council to assess the risk cost-benefit, they would not be doing; and there is a large talent pool of planners in the private sector.

Because of the workload that the present system places on them, councils are generally unable to focus properly on strategic work. Doing the work upfront and engaging with communities about changes to planning controls should increase certainty for both residents and developers. This strategic work should result in a clear vision for a particular area resulting in a decrease in disputation.

UDIA considers that the planning system needs a form of private certification. In suggesting a move to private certification, we consider that the ultimate decision-maker should still be the council, the Minister or VCAT (on appeal) and that the community remain involved as part of the permit application process. In addition, the UDIA supports the introduction of a code assess system to increase certainty and decrease the time taken to obtain a permit.

A Model for Private Certification

There are many options for private certification, but we have concentrated on the broad concepts for a private certification scheme that could be built upon. We see private certification essentially easing the burden on council for the front-end of the planning permit system. The permit applicant would have the option of using the existing planning permit application process or engaging an accredited planner to certify that the planning permit application contains all of the information reasonably required by council to progress it. If a council receives an application so certified, it would not be able to request further information. If council was of the opinion that insufficient information had been provided, it could use that as a ground for refusal. Council would then have seven days within which to provide a list to the permit applicant of the properties to be notified of the application or to be advised that no notice is required. If council does not respond within seven days, the applicant can discharge any obligation to give notice by erecting a sign on the land and placing notice in a local newspaper. The existing process would then apply to the application.

Variations to this model include allowing the consultant planner to undertake external referrals, and present a report to the council with a recommendation and a draft permit (if recommended that it be issued). Council could then be required to make a decision within thirty days, with failure to do so resulting in either a deemed consent to issue the permit (on the conditions submitted) – with a right of review allowed for objectors or objecting referral authorities – or allowing applicants to lodge an appeal against council for failure to make a decision.

To ensure rigour and integrity in this system, planning consultants should be accredited using a model similar to that in the Building Act.

Private certification would speed up the planning system, ensure that the community remains involved in the planning process, and free up councils to deal with strategic planning matters.

Code Assess

In addition to private certification, UDIA supports a system of code assessment. This would ease the burden on local government, allowing them to concentrate on higher order, higher risk areas, freeing up the time needed to undertake strategic planning.

State and local policy

State policy should be clearer and local policy should not repeat what state policy says. The role of local policy is to cover issues that are not covered at the state level, so it should be issues based. There should be no need for both a municipal strategic statement (MSS) and local policy. If there is an issue which state policy does not address, then it should either be part of the MSS or local policy, but not both. This is expanded upon below in section 5: Contradictions between Objective and Outcomes.

Accountability

A corollary of a risk-based approach is accountability. Developers face large and mounting holding costs while a council delays projects. Where it can be demonstrated that council has acted in a manner that held up a development unnecessarily, the developer should be able to pursue the council for costs. A financial penalty for holding up valid projects would encourage councils to keep their planning schemes up to date and to ensure that developments are assessed in accordance with the scheme.

Submissions to a Planning Scheme Amendment

Councils should have the right to reject a submission if it considers it to be irrelevant, although in practise, it is unlikely that many submissions would be rejected. Clear guidelines need to be provided to councils to assist them.

Submissions that support an amendment ought to have the same status as opposing submissions and ought to be given a similar opportunity to be heard before a panel.

The role of a panel should be limited to considering submissions. It should not be to undertake a general review of Council's Planning Policy Framework as part of any amendment.

However, consideration should be given to requiring mediation of an amendment before it reaches a panel. The mediator could be a panel member who would then be disqualified from being a member of the panel appointed to hear submissions.

Overall, rather than using local policy, the planning system should make better use of structure planning to create a vision for a particular area. Once that vision has been created (involving the public), implementation of that vision should be left to the council with no third party rights.

Vexatious Objections

UDIA acknowledges that those who may be genuinely affected by a development or use should have the right to lodge a submission. However, the language in Section 52 of the Planning and Environment Act currently starts with the assumption that there will be those who may be materially affected by the application and inviting them to object. UDIA considers that the language of Section 52 should be modified so that the community is told that an application for a planning permit has been made which may be of interest and inviting people to make a submission either supporting or opposing it.

UDIA considers that the scope for third party objections is too broad. Currently the system gives as much weight to an objector in an adjoining suburb or adjoining or nearby street, with no connection to the development, as it does to a neighbour of the development.

There are two reforms that would tighten up obtaining responses from those persons who are really interested in an application. The first would be to standardise the form to make it clear that a person who is opposing a development proposal must state how his or her amenity is directly affected by the proposal. In addition, there should be a nominal fee (say \$50) payable on the lodging of a Statement of Grounds at VCAT. At this point, the submitter becomes a party at VCAT must be provided with amended plans, expert witness reports and other administrative tasks that would be of burden to VCAT. We consider that this nominal fee would weed out objections by those not directly affected and offset some of the administrative costs for VCAT. This would not remove the right to object, but would make an objector weigh up whether he/she really wants to be involved at VCAT. In addition, a fee should be payable, not only by the applicant for review, but also by the council where it has failed to make a decision.

Notice of an application

The notice requirements need to be streamlined. First of all, a council should have a limited time, for example to decide whether or not notice ought to be given and the form that that notice should be given. If it fails to make a decision within that time then there should be an opportunity for the applicant to discharge the obligation to give notice by simply publishing a notice on the site and one in the local newspaper. The difficulty with an applicant having a right to give direct notice, as is the case under the present legislation, is that the council rate records provide the necessary information and councils are not obliged to provide that information.

Amending a Planning Permit

A responsible authority should have the power to amend a condition issued at the direction of the Victorian Civil and Administrative Tribunal (VCAT).

The secondary consent permit condition is extremely important but it is misunderstood by many councils. There should be some clear guidelines set out in the Planning and Environment Act as to where it is appropriate for that process to be used. VCAT has in a number of decisions set out those principles and there is no reason why they could not be given legislative effect.

There should be a process for recording secondary consent approvals. Where appropriate, this should be done by altering the condition. For example, a condition which places a restriction on patron numbers, except with the consent of the responsible authority.

The use of the word "minor" to describe an amendment should be avoided. In effect, the "minor" amendment is where the secondary consent process should be used as an expedient and efficient process of effecting an amendment to a permit.

If the secondary consent process was better understood and included as part of the legislative requirements then its use might be better implemented.

Planning Scheme Amendments

In relation to planning scheme amendments, UDIA endorses the recommendations of the working group established by the former Minister for Planning, the Hon Justin Madden. This model had the following features:

- A proponent could apply to an independent body for a review of a dispute between the proponent and the council about a request for an amendment of the processing of an amendment.
- The matters for review would be limited to:
 - A failure of the council to consider an amendment proposal, unless it is clearly inconsistent with the council Municipal Strategic Statement (MSS).
 - Failure to carry out certain steps within the prescribed times or, for matters not covered by prescribed times, reasonable times.
 - A decision by a council to refuse an amendment proposal unless it is clearly inconsistent with the council MSS.
 - A dispute between the proponent and council as to whether there is strategic support for an amendment proposal where the relevant aspect of the MSS has not been reviewed for more than four years.
 - A dispute between the proponent and council about the information to be submitted with an amendment proposal.
- The review would be limited to the issues in dispute and would not be a "merit" review.
- The proponent and the council would generally be the only parties to the review.
- The review body would consist of two members, be independent and operate as a directions committee.
- Members of the review body should not be a member of a Panel later appointed to consider submissions to the amendment (in the event that the amendment process proceeds).

- The review process should deliver verbal decisions on the day with later written confirmation where possible. Where necessary the review body should be empowered to defer its decision for a period not exceeding 15 working days.
- The proponent should meet the costs of the review body. The parties should meet their own costs.
- In the event that council does not act on the directions of the review body within an appropriate time, the proponent may request the Minister process the amendment and the Minister may appoint any person to assist in processing the amendment.
- Councils may support the preparation of an amendment for an application which is not consistent with the MSS. In such cases the MSS should be changed to reflect the change of policy following approval of the amendment.
- There should be provision for a council to reject vexatious submissions where there are no other submissions, but it is recognised that councils will be reluctant to make judgements on the motivation behind any submission. Another option may be to allow “vexatious” submissions to be assessed by the proposed review body to enable independent and expedient assessment.
- An initial response to an amendment request from a council should not be treated as a commitment beyond enabling the process to continue. A timely response that is non committal (in the same way as a ministerial authorisation is not a commitment beyond enabling the process to continue) is preferable in terms of timeliness.

Abandonment

A council should not have the power to be able to abandon a planning scheme amendment after a panel recommendation.

RECOMMENDATIONS

- Councils should focus more on strategic planning work.
- Implement a private certification system.
- Introduce code assessments.
- Make councils more accountable for their actions and inactions.
- Encourage those genuinely affected by development to make submissions, but discourage those who are not materially affected.
- Implement the planning scheme amendment model outlined in the recommendations of the working group established by the former Minister for Planning, the Hon Justin Madden.

2. Biodiversity

UDIA members have many ongoing problems with the biodiversity regime. One of the obvious problems is the shared and overlapping jurisdiction of state and federal governments. The other issue is that biodiversity decisions are often made without reference to land use planning issues nor necessarily what is the best overall environmental outcome for the state.

UDIA supports the Strategic Impact Assessment Report and considers that all biodiversity should be dealt with at the strategic level. However, the current prescriptions result in a site-by-site process occurring on top of the strategic process. We understand that this was not how the process was envisaged at the outset.

The UDIA position should not be misunderstood; we strongly believe planning for nature conservation is as important as planning for schools, hospitals, highways, houses, offices, factories, ports, railways and agriculture. Planners can and should plan for nature conservation areas, on advice from ecologists in an integrated, engaging and consistent manner.

The UDIA considers that the Net Gain Framework is a land use planning instrument and planning policy, and therefore decisions around whether native vegetation should be retained, offset or can be removed should be an issue for planners rather than an environmental agency.

UDIA recommends that the policy development and policy application functions should rest with the Department of Planning and Community Development (DPCD), where decisions are made, taking into account technical ecological advice from DSE.

One of the major problems in the current biodiversity regime is in finding offsets. If the offset is not within the same local government area, developers are required to enter into Section 173 agreements with councils in the area where the offset is coming from and another one with the council where the offset is being made to. Councils who are third parties (that is, the LGA where the offset is going to) are often loathe to enter into an agreement, despite it being in the same bioregion. It is therefore imperative that a state offset system be put in place that is streamlined, creates a proper offset market, and enables developers to avail themselves of offset opportunities across whole bioregions.

We consider that degraded land adjoining land in the appropriate bioregion should be able to be used as offset land. Allowing degraded land to be used as offset land will create a relatively well supplied market and will over time lead to a genuine net gain. Indeed, if this policy is applied strategically, it should lead to expanded habitat and creation of wildlife corridors and general land rehabilitation.

UDIA considers that the preservation of small patches of remnant vegetation in developments does nothing to improve biodiversity. There are some examples among UDIA members where small patches of native vegetation have had to be fenced off in order to satisfy DSE, but which is in the middle of a large development where all other native vegetation has either been offset and/or removed. We consider that it is very inefficient and unsustainable to preserve small patches of

remnant native vegetation in most urban settings. We consider that for small remnant patches, there should be a presumption that native vegetation will be removed and offset.

UDIA recommends that the underlying principles of the Net Gain policy need to be reviewed and should shift to protecting and managing those things that are obviously important and warrant being part of the Victorian 'Conservation Estate'. Cities occupy around 1% of Australia. The priority of any compact sustainable modern city is to accommodate people and provide places to live, work and recreate. Applying an indiscriminate native vegetation policy objective of "cover" across the "entire landscape" does not reflect how land use priorities should play out. However flawed the policy principles might be UDIA remains very disappointed that no attention or serious assessment has been made by DSE to ascertain the real environmental benefits and costs to the government, industry and community.

Outline of a New System

The UDIA supports a new system with the following broad principles:

- In relation to all land that is zoned for urban development, the land owner should have the option of either clearing native vegetation and offsetting, or alternatively retaining it on site.
- Only in exceptional circumstances should native vegetation be required to be retained on site and in such cases the land should be acquired and managed by either the Commonwealth or state.
- A flora survey should only be required, and only for the purpose of identifying the offset requirements.
- There should be no requirement for a fauna survey because it should be assumed that the native vegetation to be cleared contains, or might contain, fauna.
- Once the flora survey has identified the offset requirements, that survey is time stamped, although it might be reasonable to provide a finite time on its currency, say 5 years.
- There should be a uniform offset levy that applies to the habitat value of the land to be cleared. This offset levy might vary between EVCs, depending on their status.

If there are endangered species on a site in numbers that require the retention of native vegetation then that is an exceptional circumstance where the land should be acquired by the Crown.

Alternatively it could be part of a DCP item where the cost of acquiring that specific parcel of land is spread throughout the PSP area (or in other words, a conservation area should be treated in the same way as regional open space is treated and be equalised across the PSP area). However, UDIA strongly supports a model in which the Crown acquire this land.

On the issue of fauna, UDIA considers that the prescriptions do not take into account the socio-economic impact of retaining habitat in situ. There needs to be well-articulated guidelines that seek a net community benefit, which have regard to biodiversity outcomes among both the social and economic outcomes of development. For instance, had a net community benefit test been used for the Truganina South PSP, it is unlikely that the community would have effectively been split in two by a biodiversity corridor protecting a few moths, where absent these moths, the vegetation could have been removed and offset.

RECOMMENDATIONS

- Remove the effective veto from DSE and make their input one aspect of land use decisions made by DPCD and councils.
- Move to a genuine strategic approach rather than a site-by-site approach.
- Ensure that socio-economic aspects are taken into account when deciding whether to retain habitat in situ.

3. PSP and Growth Area Planning Reform

Precinct structure plans are expensive to prepare and maintain, complex, inflexible and bring forward too much detail too early in the development process. They take a long time to prepare and their approval is often the outcome of a cumbersome and protracted process. Development Contributions Plans are burdened with the same issues as PSPs.

Outline of a New System

The UDIA supports a system based on the following broad principles:

- The Minister would approve Growth Area Framework Plans (GAFPs), following a consultative process.
 - The new GAFPs would show the same level of detail as the 2006 documents, with the addition of designated community hubs (nodes of schools, sports reserves and community facilities).
 - Land designated residential by the GAFP would be rezoned Residential 1 upfront. Outside of community hubs, planning permits would be approved for development under a two party process.
 - Responsible authorities will have regard to the GAFP in permit assessment.
- A Co-ordination Overlay would be applied to land identified for community hubs, neighbourhood activity centres and highly fragmented residential land.
 - The overlay will require preparation of a plan by the Growth Areas Authority which would be adopted following a consultative process.
 - Once the plan is prepared, planning permits will be able to be issued provided they are generally in accordance and under a two party process.
- A Specialist Advisory Body (SAB) would be established by the Minister to resolve disputes over Co-ordination Plans in lieu of VCAT.
- Land designated in the GAFP for major and principal activity centres, mixed use employment and employment would be the subject of further planning investigations and a subsequent conventional rezoning process.
 - The GAA would be the planning authority for these amendments and would refer unresolved submissions to the SAB which will prepare a report on submissions prior to Ministerial consideration.
- The P&E Act would be amended to facilitate the establishment of a standard development contributions by the Minister for each growth area.
 - The GAA would invite submissions which could be heard by the SAB , which would provide a report and recommendations to the Minister on the charge.

- The charge would be reviewed periodically at defined time intervals.
- Councils would be responsible for administering works in kind under their approval.
 - Disputes over the terms of works in kind approvals should be heard by the SAB in lieu of VCAT.

RECOMMENDATIONS

- Introduce a hierarchy that goes from the Growth Area Framework Plan to a Co-ordination Overlay then to a planning permit.
- Introduce a Specialist Advisory Body to resolve disputes over co-ordination plans.
- Make the GAA the responsible authority for further amendments in major and principal activity centres and refer unresolved submissions to the Specialist Advisory Board.

4. Permit Conditions

UDIA supports the GAA's move to standardise model permit conditions. We consider that councils should be required to use only those permit conditions that are in a "library" and should be required to justify to VCAT if they diverge from the standard permit condition. UDIA would support some cost penalty for councils if their divergent permit condition was not upheld by VCAT.

One concern among UDIA members is that often the conclusion of the PSP process is just the beginning of the permit condition process. Sometimes councils look to relitigate PSP items in the permit condition process, and in seeking Section 173 agreements. Financial contributions in Section 173 agreements can be tantamount to blackmail and can be used by councils as a very blunt instrument; developers often roll over as it is cheaper to pay the money to the council with the ability to begin works than it is to fight (costs build up due to holding costs, lost market opportunity and legal fees). One member had an ongoing issue with a council where, after the PSP had been gazetted, they continued to hold the development up because they did not agree with the alignment of a road. The permit was held up during long negotiations despite the PSP having resolved the issue long before.

There should be a right to review a council's terms of any proposed Section 173 agreement. Additionally, there should be a right to review a council's failure or refusal to amend a Section 173 agreement or to remove it from land.

RECOMMENDATIONS

- Standardise permit conditions by introducing a "library" of permit conditions.
- Require councils to justify divergence from a standard permit condition to VCAT.
- Establish a right of review in respect of any existing or proposed Section 173 agreement.

5. Contradictions between Objective and Outcomes

State objectives in the planning system can, in their implementation by local government and referral authorities, lead to perverse outcomes. There needs to be a clear hierarchy in the planning system that starts with state policy at the top and delegates powers to local government. However, state policies must be specific and have very clear implementation guidelines and rules. Otherwise each council and referral authority will second-guess what they thought the state was trying to achieve, which may not be correct, and in the extreme may lead to the opposite outcome to what the state had envisaged. In any case, it is likely that, in the absence of clear implementation guidelines, that there will be a large discrepancy from council to council.

The previous government introduced a lot of objective-based policy, but failed to follow them up with clear implementation guidelines. One example is on sea level rise. Each council and catchment management authority interpreted the policy in a very different way. In East Gippsland, some LGAs introduced blanket height minimums and some CMAs made rules that essentially made some parcels of land unsaleable, despite the fact that if they were in another CMA there would have been a different way of interpreting the policy.

Above all, it is important that the primacy of state policies be strengthened, that they are not too broad and general, and that they are not open to interpretation from time-to-time and from council-to-council.

RECOMMENDATIONS

- Establish a clear hierarchy in the planning system that starts with state policy and delegates powers to local government.
- Ensure that when state policies are introduced they are accompanied by clear implementation guidelines.

6. Inconsistency Between Local Government Areas

While *Melbourne 2030* envisaged less reliance on greenfields development in preference to urban consolidation, this has not happened.

When the state issues a policy such as *Melbourne 2030*, it should apply equally across all local government areas. However, some councils have viewed their obligation to implement *Melbourne 2030* differently. Often, opponents of development have used the “neighbourhood character” clause in the VPPs to prevent development in many areas, despite them being labelled areas where “significant change is envisaged”.

It is important that there is predictability in the system. Standards and conditions should not change from local government area to local government area. The VPPS should be used by all councils consistently and any variation must be justified on distinguishing factors (eg heritage).

In the absence of a specific vision for a particular neighbourhood centre by a council, there should be a default position in state policy, for example, that the level of change anticipated in such precincts in terms of height at least, is of the order of 4-6 storeys. Absent any direction from state policy such as this, councils are currently able to put up for approval amendments for a neighbourhood activity centre which introduces height controls of 9 metres. With a default system in place, this sort of amendment can be rejected for authorisation as it would be inconsistent with state policy and the onus should be on the council to convince the minister that authorisation should be given on the basis that there are special characteristics about a particular neighbourhood centre which entitles it to be treated differently to the default position.

RECOMMENDATIONS

- Remove the ability for there to be council-specific standards and conditions – ensure the consistent use of the VPPS by councils with variations only on the basis of very special conditions.
- Establish a default state policy on neighbourhood centres.

7. Engineering Standards – A Problem of Over-Engineering

In general, the UDIA (Vic) is supportive of the concept of one standard for engineering design and construction being used across Victoria. However, there is a danger that when engineering standards are standardised, they are being lifted to the “highest common denominator” without an assessment of the costs and benefits of this approach. UDIA supports a rigorous industry-wide review to ensure that the standards are properly tested, appropriate, accurate and unambiguous.

We consider that engineering standards should only cover those areas where the identified risk is so great that it needs to be specified. Elsewhere, we consider that a large amount of time, effort and money could be saved (by both councils and developers) by engaging in a full Quality Assurance (QA) process and allowing developers and their consultants to privately certify functional layout plans and engineering plans. UDIA considers that there should be a greater focus on QA rather than council

approval processes. There should be a focus on a process that allows a job that has been designed and checked to not be held up in council being checked again by under-resourced staff. A QA process by which private certification of works could be managed should be established. This would free up council resources, which, as the draft recommendations of the Victorian Competition and Efficiency Commission said in their draft report on local government regulation, could be better spent at the strategic level. It would also be likely to bring land to market more quickly and more cheaply.

The UDIA considers that engineering design manuals are too prescriptive, which results in a loss of innovation in developments. Once a prescriptive standard is written down and accepted, developers often have difficulty in convincing council officers that an innovative approach will achieve the same or better outcome than that envisaged by the standard.

On the issue of road standards, we consider that road composition should be fit for purpose, and not over-engineered for no real community benefit.

A major example of where councils have gone their own way on standards is in the area of public street lighting. There has been much discussion between industry and councils around street lighting, with different councils levying different amounts for decorative lights or banning them outright. We have suggested that there should be a suite of three to six standard light poles that all councils can agree on (and stock in their works sites). Each of the poles should be capable of using environmentally friendly light fittings.

RECOMMENDATIONS

- Establish a single standard for engineering design and construction across Victoria.
- Review the standards so that they are properly tested, appropriate, accurate and unambiguous.
- Introduce a private certification system into engineering certification by establishing a risk-based QA system.

8. Infrastructure Funding

Developer Contributions

Developer Contribution Plans (DCPs) are a major cause of delays in the planning system. UDIA supports the Minister's current DCP review process.

UDIA generally supports the Growth Area Authority's model on developer contributions reform. We consider that there should be three components: roads/transport (which would be variable depending on the nature of the development area), land, and a fixed component based on a basket of items. The DCP should continue to have a nexus with the development.

We consider that councils should not be able to demand further contributions above and beyond the DCP through Section 173 agreements.

Alternative Methods of Financing Infrastructure: Infrastructure Bonds and Tax Increment Financing

Too much burden is placed on new home buyers by state and local government. A large proportion of the price of a house and land package, or of a new apartment, is levies to state and local government and utilities and authorities. This is putting housing out of the reach of first home buyers, making it harder to build more homes, and forcing the price of existing homes and rents up. There are alternative ways to fund worthy infrastructure investments sooner. Those investments that increase the productive capacity of the economy, including reducing congestion and pollution, and that stack up over a sufficient long-run cost-benefit analysis should be built for the benefit of the citizens of today and tomorrow.

The easiest answer is for state governments and the Commonwealth to use what really are strong balance sheets to borrow money to invest in infrastructure that will expand our productive capacity for the future. But this on-balance sheet borrowing may be a little too hard for governments to defend against oppositions insistent that they take on no debt.

Alternatively, in addition to its current role in identifying, prioritising and advising government on infrastructure projects, Infrastructure Australia could be given responsibility for issuing Infrastructure Bonds. These could be issued for a local area or for a project, and raise money to ensure that projects are built in a timely way.

There may be another viable way to debt-finance infrastructure projects that have a well-defined catchment: tax increment financing (TIF). Used in 49 states in the USA, TIF takes advantage of the property value uplift that occurs when new infrastructure that acts as a catalyst for urban renewal is built. TIF uses the future gains in taxes to finance current improvements.

Essentially TIF works by defining a “TIF district”, issuing bonds for the infrastructure projects in the area, then using the increased tax revenue (the “tax increment”) that comes about as property prices go up as a result of, say, a rail extension or new station being built, to pay the bond back over time. The difference between the tax that is collected and the lower tax that would have been collected without the infrastructure is used to pay the bond that is issued to pay for the infrastructure.

As an alternative infrastructure funding method, TIF would lessen the need for governments to rely on new home buyers to fund infrastructure, would bring about big infrastructure projects in local areas sooner and would lock governments into their commitments. The Commonwealth would need to change the tax laws to make TIF viable in Australia.

RECOMMENDATIONS

- UDIA supports the Minister’s current DCP review process.
- Over the long term, a new way of funding infrastructure early needs to be found. UDIA considers that the state government should fully investigate models for infrastructure funding such as the Tax Increment Financing model that works in the United States of America.

9. Disconnect Between Land Use Planning And Infrastructure Provision

Most people are looking to live somewhere where they have an acceptable level of amenity: access to comfortable, affordable housing, access to work, access to recreation and leisure activities, and access to shops.

Appropriate infrastructure will drive demand for areas identified for growth. People want to be connected and have public transport and transport corridors.

For growth to be sustainable, people need jobs, transport, infrastructure and a mix of housing. These fundamentals are the same for regional or urban development.

State governments are responsible for ensuring that infrastructure investment keeps pace with local needs. This suggests that there is a need for state governments, and the Commonwealth government, to find ways to ensure that our infrastructure deficit is rectified and not allowed to fall behind again. There is a major need for governments to focus on infrastructure investment in order to keep pace with population growth. In Victoria, however, as was said in the previous section, the burden is placed on new home buyers, with rising and unsustainable levies, which decrease housing affordability, used as a method of funding infrastructure that is needed by, and used by, the whole community.

The development industry is in a key position to assist the Government to develop and deliver a blue-print to help achieve viable infrastructure.

Critical issues for consideration include:

- prioritising infrastructure spending, but with a view that infrastructure be built in advance, supporting objectives for growth and development of Melbourne as well as the regional cities and towns.
- ensuring new primary infrastructure is available in growth areas in advance of development. Local, state and Commonwealth governments should identify projects and place a time horizon on them. Investors in new estates and home buyers within those estates would then have a clear understanding of when and what infrastructure would be coming to their neighbourhood. Infrastructure Australia should have criteria for funding that are measurable and provide the impetus once the funding is approved.
- an increase in intensity of land use in established areas will require governments to upgrade existing infrastructure. Sewer systems and transport systems within the inner cities are beginning to age significantly. The potential burden higher intensity land use may have on existing infrastructure including public transport, roads and the water systems, can pose a significant constraint to appropriate development and regeneration projects being undertaken, and can underpin opposition to necessary development approvals being obtained.

The fundamental issue in all of the above considerations is the timely development of policy and significantly the timely delivery of infrastructure.

Presently and in the past, policy has been slow to reflect what is actually happening on “the ground”. Equally, the delivery of infrastructure has often come at a stage when residents have already been introduced into new areas resulting in inadequate infrastructure, particularly transport infrastructure. This problem needs to be addressed by appropriate forward planning and forward funding of infrastructure so that people do not have to experience the inconvenience and delays in the delivery of infrastructure that they require in order to sustain a reasonable standard of living.

The infrastructure authorities, such as the water companies and VicRoads, need to be more engaged in the development process. In the area of water, the current Essential Services Commission (ESC) determination is difficult to work with and lacks logic (UDIA is engaged separately with the ESC on the 2013 determination). Better co-ordination of all aspects of public infrastructure would ensure that it is on the ground at a time commensurate with development, or before development begins.

VicRoads has told UDIA in the past that they still have ‘growth area’ projects on their books in Templestowe – a backlog totalling more than \$30 billion. While this may be true, responsibility also needs to be taken for this backlog, and a better way of managing the growing needs of a growing population needs to be found.

RECOMMENDATIONS

- Prioritise infrastructure spending with a view that infrastructure be built in advance.
- Ensure new primary infrastructure is available in growth areas in advance of development by identifying projects and placing a time horizon on them.
- Increase the engagement of the infrastructure authorities (such as the water companies, VicRoads, etc) in the development so that they can deploy infrastructure commensurate with development.

10. Zoning Laws and Restrictions

While there are a number of zoning tools available to councils, it appears that in general there is a focus on prescription. UDIA considers that while there is consistency in zoning, there is inconsistency in its application.

In general, councils are very reluctant to use the mixed use zone. Using the mixed use zone more widely could transform moribund areas into vibrant community hubs, centred more around people and urban form rather than around the specific activities and buildings.

RECOMMENDATIONS

- Increase the use of the mixed use zone.
- Decrease reliance on prescriptive land use.

The UDIA (Vic)

The Urban Development Institute of Australia (Victoria) is an independent association of over 350 organisations directly involved in the production, financing and marketing of all facets of property development. UDIA (Vic) operates as a private company limited by guarantee and was incorporated in 1975. It operates a full time secretariat and the affairs of the Institute are administered by a Board of Directors elected annually by Members of the Institute. Many local governments are members of UDIA.

In addition the UDIA is:

- A forum for discussion of industry problems and objectives
- An active political lobbyist for industry causes and goals
- An active collator and disseminator of information and data relating to urban development
- A monitor of Government and Public Authority activities which affect urban development and the viability of the industry.