

Local Government
Association of NSW



Shires Association of NSW

SUBMISSION

TO THE

PRODUCTIVITY COMMISSION
INQUIRY INTO
FIRST HOME OWNERSHIP

October 2003

Introduction

This submission has been prepared in response to the Productivity Commissions' Inquiry to evaluate the affordability and availability of housing for first home buyers.

The Associations commend establishment of the Inquiry and recognise the importance of the issues raised.

This submission focuses only a NSW Local Government perspective. We note that the terms of reference focus mostly on seeking information and that a further report will be prepared by the Commission for detailed analysis.

This submission focuses on particular issues and statements addressed in the Commission's accompanying Issues Paper, and the general terms of reference in so far as they apply to local government.

Our comments are principally directed towards the section of the issues paper headed "Planning, land use policies, and building controls" and "infrastructure charges". The comments address the terms of reference of the Inquiry through the questions raised in those two parts of the paper.

In addition we have some additional but brief comment on other related issues which are raised in the paper and the terms of reference.

Role of the Local Government Association and Shires Association of NSW

The Local Government Association of NSW represents councils across NSW, including all councils in the metropolitan area of Sydney, regional and rural councils, and some county councils. All 13 Regional Aboriginal Land Councils are members of the Local Government Association. Through its member councils the Association represents 5.5m people. Through its member councils the Shires Association represents .75m people.

The Local Government Association and the Shires Association (LGA&SA) work together through a joint venture agreement which is on a 70%/30% basis respectively.

The LGA&SA employ a Secretariat of about 50 people who implement the Associations' policies.

The First Home Owners' Scheme

The Associations support continuation of the first home owners' scheme. While the issues paper does not canvass the basic issue of the scheme itself, in our view it has been highly beneficial to a broad cross-section of the Australian community. It has been the mechanism for many people to enter the housing market who would otherwise not have been able to do so. Retention of the scheme is an important issue for the Associations.

Planning, land use policies and building controls

This section of the paper discusses land release policy, possible constraints on local government through the land release process, and flexibility of policies to encourage higher density. The important issues of local planning scheme costs and third-party appeal mechanisms are also raised.

Land Release policy

Land release on a broad scale is generally in the control of the State Government. The Department of Infrastructure, Planning and Natural Resources (DIPNR) manages this issue in NSW. While the Associations do not have a particular policy position on this topic, we believe that it is important for consultation to take place prior to new releases, between all the parties with a statutory interest in development. On this basis, decisions can be made early about broad-scale planning which will hopefully mean costs can be contained for eventual purchasers.

In the Sydney basin there is an underlying lack of greenfield sites suitable for future release. The former Planning NSW (now DIPNR) has released a number of studies in recent years which indicate that even with optimum release of development sites, the demand will continue to outstrip supply.

Population growth has been a major contributor to rising housing prices. According to the 2001 Census the Australian population was 19.3 million. One third of all Australians - 6.5 million lived in NSW and just over one fifth of that figure 4.1 million lived in Sydney.

Sydney's population has been growing faster than the rest of NSW and Australia since the early 1990's. Sydney's population growth is about 1.4% per annum. This means that Sydney has to find housing for around 60,000 additional people per year. This is the equivalent of adding of a city the size of Wagga Wagga to Sydney each year or a Canberra every 5 years.

Migration is significant issue in this context. The Associations were invited to participate in a joint working party with the Commonwealth and State Governments to develop incentives for migrant settlement in regional areas. The Associations' support was based on our policy commitment to the principles of Whole of State Development. These principles recognise the need to curb the excesses of growth in the Greater Sydney Area and the need to promote population and economic growth in many regional areas of the state. Many councils in regional NSW have requested assistance to attract migrants to their areas to address skills shortages and to develop new opportunities.

This fact raises other questions, such as the need for a workable population policy, which are outside the scope of this inquiry but are in fact material to the underlying upwards cost pressures on any housing sites.

A further policy need is an appropriate over-arching regional development focus which will encourage private enterprise to set up in regional areas, thus encouraging employment growth and ultimately creating demand for new residents outside of the Sydney Basin. Such a policy, which has been long-supported by the Associations, would help reduce pressure on scarce resources, over-stretched public transport, and increasing environmental degradation, by increasing population density in regional areas where excellent infrastructure and available new-release land often already exists.

We do not wish to argue the state government case in response to the assertion in the issues paper that "industry representatives claim that a reason for surging land prices is an artificial shortage of land for development." In our view in Sydney at least, the problem is balancing release of green-field sites with proper environmental controls and infrastructure availability, as well as the overall shortage of future sites suitable for release.

Zoning and Re-zoning of land

Local government has responsibility for the zoning and rezoning of land under Part 3 of the Environmental Planning and Assessment Act (EP&A Act).

Situations where councils rezone land for residential usage from another land usage are relevant to the inquiry. Many of these, especially large re-zonings, often require State Government finalisation and approval. An on-going concern of Local Government is the time taken by the State Government to approve the re-zonings. Such delays create upwards demand on existing sites potentially leading to higher prices for both existing and new-release areas.

This is particularly the case in Sydney where there are a number of very large re-zoned brown-field sites. An example is former industrial land along the Parramatta River in the City of Canada Bay. Some brown-field sites have required extensive environmental remediation prior to release. Environmental remediation inevitably leads to higher release cost but is essential for future safe development of such land.

In these instances, it is not local authorities which contribute to delays and higher cost pressures.

Urban consolidation

The state government has introduced a policy of urban consolidation which has undergone a number of revisions but which is not popular with the community at large. The policy has been forced on local government and has seen widespread change to the look and fabric of local communities in a relatively short time.

Urban consolidation requires that councils require higher density development on lands around transport nodes and shopping centres. While this might make sense in planning terms, it has led to unwanted increases in traffic and an apparent decline in the quality of life for residents for instance, in the Miranda Town Centre in Sutherland Shire.

Whether or not this policy has contained or reduced the cost of housing for first home buyers is not proven.

Urban consolidation may squeeze more people into an available space; the consequences of this in terms of heavy road traffic, added pressure on public transport which is already inadequate, and in outlying areas the mismatch between population numbers and available employment, have however not been properly analysed.

Urban consolidation has been one of the fundamental planning issues of recent years because at the heart of it is the basic question of who should be responsible for the look and overall amenity of a local area. In the Associations' view, this is absolutely the role of the elected council. It is the councillors who live in the community and who represent the viewpoints of their constituents. In the planning process it is the elected councillors who should have responsibility for all parts of the development process.

Councils have to think about the long-term amenity of their areas and not be driven by the same short-term objectives which are held by the development industry.

Cost of local planning schemes and third party appeal mechanisms

The Associations argue that local plans do not lead to unnecessary costs. These plans have been devised by the council as elected representatives of the community in full and detailed consultation with the community. They provide a necessary safeguard for the community. Planning controls rightly take into account a myriad of issues, not just cost. Issues can be as diverse as aesthetics, site constraints, fire regulations, environmental matters and so on.

Local Government is often the target of criticism from various development and housing industry bodies regarding efficiency and transparency issues in relation to the approval process generally. Often Local Government is blamed for adding costs to the development process.

The Associations support further improvement of approvals processes through streamlining and rationalization. We believe that approval practices should facilitate accountable, transparent and consistent decision-making based on the legitimate interests of all stakeholders in the approval process.

We agree with the statement in the issues paper in relation to the cost of planning schemes, to the effect that “planning...controls are designed to protect a host of legitimate public and private interests by ensuring that certain conditions are met before a planning permit is granted by a council.”

The planning system in NSW is complex. Over the years there has been an increase in the amount of State Government interference in the planning system and a consequent diminution of the role of local government.

This can be demonstrated by the number of State Environmental Planning Policies (SEPPs) released by the State Government which directly impose controls over councils’ plans. Whilst many of these SEPPs and various guideline documents have positive impacts they are slowing the system generally.

As a result of state government policies councils have detailed and prescriptive processes to follow which create delays and increase costs.

Statistics are released from time to time with commentaries allotting blame to particular councils regarding the efficiency with which they carry out their application determinations. These statistics often mask the realities behind the system and the many factors that can lead to a delay. The Associations are currently carrying out a study of local councils’ development application processing to establish these facts.

The following factors are commonplace delays in the system:-

- Lack of information from applicants. The council then has to chase up the applicant for further information.
- Role of government agencies. Integrated and concurrence applications are forwarded to the agencies for comment. There are numerous documented instances of substantial delays by agencies and imposition of approval requirements which change in the course of consideration.
- Submission of non complying development. Developers push the boundaries and this can generally be factored into their development costs as there is the potential outcome of more being able to be put on the site than is stated in the plans. Developers will often factor this time into their development costs.
- Councils assist applicants. Councils always have the options of refusing applications that are incomplete outright. Generally however councils will enter into a series of negotiations with an applicant with a view to an approval. This takes time.
- The actual concept of a delay. The EP&A states that for most applications after 40 days the applicant may appeal to the Land and Environment Court. This then becomes seen as the standard time that should be taken to determine an application. There is no logic or relevance to this time and no account of issues and complexity of the application are considered.

The point we wish to make, is that unsupported assertions about delays in development approvals are simplistic. The whole process is complex and when the Associations’ analysis of the facts is complete, which will be before release of the next Commission paper, we will be in a position to comment in detail based on fully supported research which covers the whole picture.

Concerning third party appeals, the only such mechanism in NSW applies to designated development where applicants have a right of appeal to the Land and Environment Court within certain timeframes and also if it can be shown that the approval was not granted in a legally correct manner. This form of appeal is generally not applicable to the majority of residential developments and in our view is not significant at all in relation to the issues raised by the Commission.

Regulation of buildings

In this section the issues paper asks about unnecessary or inappropriate regulation of building; effects of building regulations on housing price cost; the cost of insurance and building guarantee schemes; and delays to land release caused by availability of infrastructure.

A major change to the building approval process was introduced by the NSW State Government in 1998. This permitted private certification: that is, qualified individuals rather than local government inspectors were enabled to approve that developments complied with council and state government requirements.

The aim was to reduce costs but in general the opposite has occurred. There are many documented cases of inappropriate approvals given which will lead to higher costs for individual homeowners and to councils. The Associations remain strongly opposed to private certification and have recommended returning to the system where councils themselves approved building application compliance.

Further, up to 1998 the planning system allowed for a development application to be a concept plan and for the building application to be submitted later on with all the detailed information needed. This allowed for council approval processes to get under way. Due to amendments to the EP&A Act this is now not possible.

The paper also refers to regulations covering new environmental impact requirements, among other things. Energy and water-efficiency is referred to in this context.

The Associations strongly support such environmentally sound measures. In the long run, these requirements will reduce day to day costs for building owners. For instance, building design which takes account of summer sunlight and requires structural measures reducing the resulting internal heat transfer, will mean lower air conditioning costs. Requiring measures to use 'grey' water (that is, for example water from washing machines) for garden use will lower the cost of providing piped water.

The Associations support the use of rainwater tanks which can also contribute to lower overall costs for owners by reducing the need for expensive treated piped water.

There are other examples of new building controls which particularly provide environmental and social benefits.

BASIX is a new building control which has been recently introduced by the Department of Infrastructure, Planning and Natural Resources. This is the Building Sustainability Index which is a comprehensive sustainable building tool. This assists architects, builders and developers to define and standardise better development practices in areas such as water and energy across NSW. It has been estimated that 182 billion litres of water and 8.3 million tonnes of greenhouse gas emissions over ten years will be saved.

Regulation like this may cost more up front however there needs to be a consideration of the cost to end users of the product. It is estimated that many up front costs will be recovered by home buyers upon occupation as well as the other benefits.

For a small initial investment, the returns in energy and water savings will be substantial over time.

So far as insurance is concerned, we note that there are state government requirements in relation to the level of insurance and building guarantees. These are not costs imposed by councils and we have no comment on them.

Infrastructure charges

The primary mechanism to fund the infrastructure required to service new housing developments is set out in Section 94 of the EP&A Act. Such charges are known as “section 94 contributions”.

Development application fees are the other major cost to developments charged by councils.

Section 94 Contributions

Section 94 allows councils to levy developers for contributions towards public amenities and services required as a consequence of development. This can be the provision of new facilities for a new area or may be the expansion of existing facilities where an area is growing. Since 1993 Councils have only been able to levy these contributions if they have a special plan. This plan was introduced to make the system more transparent.

Section 94 has been under regular review with another recently announced. The most recent previous review was comprehensive and carried out by the then Department of Urban Affairs and Planning with a report released in April 2000. 24 recommendations were proposed, but none suggested abolition of the councils’ ability to raise charges in this way.

Our strong support for this form of revenue raising is based on the following facts.

- Local government has very few options to raise money for urban infrastructure and community services.
- Community and statutory expectations of the standards of infrastructure and service levels have increased which adds greater pressure on councils financially.
- Section 94 embodies the important principle of requiring developers to fund the facilities and services for which their developments produce demand.
- There is no other funding source at state level which can be used by local government to fund major new infrastructure.
- The Associations generally support alternative approaches to developer contribution schemes such as developer agreements, flat levies, and the ability to raise section 94 charges on a cross-boundary basis. These approaches may reduce cost. Our fundamental point remains that in any alternative approach the same flexibility as currently exists under section 94 must continue to prevail.
- According to the Housing Industry Association (HIA), the average new house price in Sydney in 2002 was \$338,000 while the section 94 contributions to councils averaged \$22,500 a block. This represents only 6.7% of the average price. This is a modest contribution given the purpose to which it is put.
- Much of the argument put forward by the HIA in their report relates to green field sites which not necessarily attract only first home buyers. Furthermore the option is open in a free market to first home buyers to purchase existing single and multi unit dwellings which do not attract section 94 contributions. The HIA report does not adequately differentiate between home buyers and first home buyers.
- It is likely that the extent to which developer contributions are passed on to new home purchasers will depend on market conditions. They are more likely to be fully passed on in a strong market.
- Section 94 charges are not arbitrary and any plan must indicate the rationale behind the charges and provide transparency.
- The contributions collected do not go to councils’ general expenditure but are specifically earmarked for particular types of projects.
- Councils should have the right to set their own contributions rates rather than have them imposed by some arbitrary process. All council areas are different and require different types of services and infrastructure.

- The Associations would support a reduction in the complexity of section 94 which would also serve to reduce cost. This is a point which has been made in our submissions to the various section 94 reviews.

Development application fees

Development application fees in NSW are largely regulated and councils have very little control over the fee structure. A review of these fees was carried out recently by the Independent Pricing and Regulatory Tribunal and the State Government. These fees really only provide for cost recovery for many councils.

Local Government Rates

Rates are mentioned in the issues paper as a tax which contributes to the cost of home ownership. We assume that the reference to rates is to round out the discussion in the paper. Rates charged by councils in NSW now bear very little relationship to land values. Any such nexus was broken in 1977 with the introduction of rate pegging by the state government. This policy precludes any council from raising more than a percentage rates increase over the previous year. The percentage is set by the state government without consultation.

The Associations are vehemently opposed to rate pegging. The Inquiry needs to be aware that at the very least, this policy distorts local government revenue raising. It acts to the detriment of everyone in the community, not just property owners.

We have recently embarked on developing a major proposal to change the way the system works.

Regional Development Policies

The Issues Paper asks a number of questions about regional development policies, transport links between cities and regional areas and targeted growth areas.

As noted earlier, the Associations are strong advocates of regional development policy and initiatives. Our objectives are to promote growth and sustainability in regional areas, improve economic equity between regions and to alleviate the negative effects of growth concentrated in the (Sydney) Greater Metropolitan Area. This includes housing affordability in the latter.

The Associations are committed to the principles of Whole of State Development and produced a report 'A Framework for Whole of State Development' which was released at the 2000 NSW State Assembly of Local Government. The report found that the current development path of NSW was unsustainable from economic, social and environmental perspectives. Growing disparities in employment, wealth, income and educational opportunities have become evident both between and within regions in NSW, particularly in comparison with urban centres such as Sydney. The report also identified numerous constraints preventing regional centres from reaching their full economic potential, including:

- Uneven access to development and venture capital due to perceived risks associated with regional investments
- Inadequate investment in physical and social infrastructure to support regional investment
- Absence or reduced linkages with corporate networks which tend to cluster around global centres such as Sydney
- The rundown of natural capital having an affect on production potential of regional areas
- Outdated skills base of regional centres
- Fewer support services and networks for innovative or entrepreneurial activity in regional areas
- Lack of economies of scale/ critical mass which ultimately drives business and economic growth

- Government policies which have accentuated regional inequalities and divergences

These issues present an ongoing challenge to all spheres of government. Policies that influence development across all regions are vital to address the long neglected needs of many regional areas of the state.

The 'Framework for Whole of State Development' provided policy guidance to the Associations. Subsequent work by the Associations has focused on regional infrastructure, integrated transport strategy and migration and population settlement strategies in the context of Whole of State Development.

The Associations advocate public investment in infrastructure (social and economic) to promote regional development. We also advocate targeted intervention in the form of tax incentives based on the creation of new employment opportunities in regional areas (for example, Enterprise Zones).

Increased regional development would potentially help to improve overall housing affordability by reducing demand in major housing markets by providing employment opportunities in areas where housing is cheaper, land supply is plentiful and development costs are lower.

The Associations recognise that the impacts on the Sydney market are likely to be modest. Even a significant increase in the population of rural (western NSW) of 75,000 over the next 20 years would only represent a little over one year of Greater Sydney's growth, however, the relative impact on smaller capitals and other centres may be more significant.

Increased regional development would be likely to lead to increased housing prices in regional areas. However, potential increases should be tempered by plentiful land supply and lower development costs.

Local Government involvement in affordable housing

Local Government recognises the importance of affordable housing generally because it means members of a local community can live close to family and friends, be within a commutable distance to the workplace and access support services. It is recognised that due to rising house prices, people are being displaced from their local area and this may lead to problems with stable employment and requirements for other forms of government assistance.

Whilst councils are lacking funds in many cases to provide extensive assistance regarding housing there has been some good work carried out in this area.

The Associations have always encouraged partnerships with the State and Commonwealth Government as well as the private sector and community. The objects of the EP&A Act encourage councils to address the provision and maintenance of affordable housing.

Opportunities for councils to play a role in the affordable housing process include examining current and future local housing needs, identifying local opportunities for affordable housing projects, bringing together stakeholders in the housing area to identify strategies that could address local affordable housing needs and examining local planning instruments, assessing their impact on the affordability of local housing and determine whether they could be enhanced to encourage private sector involvement in developing affordable housing solutions.

There are many good examples of councils actively providing affordable housing for their communities. These include a self building affordable homeownership project which people involved collectively used their own labour and time to build their homes where labour was substituted for a cash deposit. Another example is the use of planning incentives such as offering a floor space bonus within new residential developments which aimed to offset the costs incurred by the developer as a

result of providing the affordable housing within the development. The housing stock provided in this case is for rental and is managed by a local community, non profit housing provider.

Whilst these examples are not specifically for first home buyers they do assist affordability in the overall housing market.

Conclusion

The Associations thank the Productivity Commission for the opportunity to comment on this important matter.

It is recognised that this issue is a very broad and complex one that involves all spheres of government.

Local Government would like to assist in addressing any outcomes recommended by the Commission as the review process proceeds.

We trust that the local government contextual information provided in this submission will assist in your Inquiry.