WESTERN SYDNEY PLANNING PARTNERSHIP

Stage 2- Scoping Paper Implementation

Western Sydney Land Acqusition & Dedication

February 2023

Acknowledgement of Country

The Western Sydney Planning Partnership acknowledges more than 60,000 years of continuous Aboriginal connection to the land that makes up NSW.

We acknowledge and pay our respects to the traditional custodians of Country within Western Sydney. As part of the world's oldest living culture, the traditional Aboriginal owners and custodians share a unique bond to the Country – a bond forged through thousands of years of travelling across lands and waterways for ceremony, religion, trading, and seasonal migration.

We acknowledge that Western Sydney is home to the highest number of Aboriginal people of any region in Australia and that the primary Aboriginal custodians with obligations for Country and connection to the place for many generations including the Dharug/Darug, Dharawal/Tharawal, Gundungurra/Gandangara, and Darkinjung people.

Western Sydney Planning Partnership partner organisations:

Blacktown City Council, Blue Mountains City Council, Camden Council, Campbelltown City Council, City Of Liverpool, Fairfield City Council, Hawkesbury City Council, Penrith City Council, Wollondilly Shire Council, NSW Department of Planning and Environment, Greater Cities Commission, Transport for New South Wales, and Sydney Water.

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Summary

Based on the findings of the GLN and Atlas report, it was found that the following interventions have the potential to deliver the greatest impact:

1.1. Addressing revenue-side problems to ensure that income from contributions plans is better matched to the actual costs of acquisition of land by local councils, particularly in fragmented precincts. The key initiatives to achieve this is the utilisation of Net Present Value calculation of rates in contributions plans, and the development of a market reflective index for inclusion in contribution plans.

1.2. Addressing cost-side problems to ensure that land is acquired in a cost-effective manner to reduce the impact on the funding gap for local councils and to minimise the impact on overall contribution rates for development. The key initiatives to achieve this include establishment between the state and local councils of an early land acquisition program to acquire (and seek dedication) land for high priority enabling infrastructure, as well as proposing that land dedicated will be at indexed CP value (including land value indexation in CPs), where landowners are seeking to dedicate land voluntarily.

1.3. Financing of early land acquisition is a key element in the recommendations and is an area that would be facilitated by financial assistance being provided by the state government (due to the scale of land acquisition required), while also supporting the financially sustainable use of internal and external borrowing by councils to fund early land acquisition as part of an overall financing approach.

1.0 Background

In December 2022, the Western Sydney Planning Partnership (WSPP) Project Control Group (PCG) endorsed the *Western Sydney Local Land Acquisition & Dedication Study* prepared by GLN and Atlas.

A key finding of the study is that local councils are often unable to meet the full cost of acquiring the land needed for the local infrastructure that is required to support new development. Acquiring land for identified infrastructure is an ongoing challenge and financial risk to the WSPP councils. This is due to:

- **Insufficient revenue collected through contribution plans** driven by the rate-setting approach in contributions plans which does not account for the mismatch between when funds are collected and when funds are spent, and the indexing method used in contribution plans (usually CPI) which does not keep pace with the increase in land value.

- **High cost of acquiring privately owned land** due to acceleration of costs during the development period, additional costs incurred when land is acquired by compulsory means, and unanticipated cost escalation is property markets that are not aligned with index method (i.e., CPI and rather than a land-index).

In response to these issues, the *Western Sydney Local Land Acquisition & Dedication Study* identifies a number of recommendations and policy options that seek to address the funding gap and improve processes for land acquisition and dedication.

2.0 Purpose

The purpose of this scoping report is to identify joint projects and opportunities to work collaboratively to facilitate implementation of the report recommendations that will provide the greatest assistance and benefit to councils.
The potential joint projects prioritise the development of tools and improved processes for contributions planning (that can be easily implemented by local councils) and broader initiatives such as the design of an early land acquisition program which require all-of-Government collaboration.

Joint projects have been identified that will assist local councils in implementation and allow further work with DPE and the NSW Government in facilitating an early land acquisition program.

The joint projects focus on the key recommendations that have been identified as having the greatest potential to significantly reduce or potentially eliminate funding gaps and financial risks associated with managing land acquisition in contributions plans.

Implementing these recommendations as joint projects will provide the greatest benefit to councils and will support councils with additional resourcing and technical expertise.

Stage 2 of the project aims to focus on joint implementation activities to be undertaken throughout 2023 with a detailed project plan and project charter to be prepared for endorsement in February 2023.

3.0 Potential joint projects

The following four projects have been identified as potential joint projects that will support councils with improved tools and guidance and the development an early acquisition and land dedication policy that will support improved land dedication and acquisition processes.

3.1. Develop a Net Present Value (NPV) calculation methodology for inclusion in contributions plans

A key finding from the report is that using an NPV approach to rate setting with a market-responsive land index has the potential to significantly reduce contributions plans funding shortfalls.

The report identified that the land acquisition funding gap can be significantly (if not entirely) reduced using a net present value (NPV) approach to setting contribution rates.

The inclusion of the NPV rate setting method in contributions plans is considered to provide significant benefit to councils in reducing the funding gap in contributions plans.

The report recognises that the use of the NPV method has not been taken up by councils (only one council uses this approach), with a key limitation being a lack of technical or economic expertise within councils.

The development of a NPV methodology calculator for use by council contributions planners would assist in removing this barrier and facilitate greater uptake of the NPV rate setting method across the WSPP councils –a key initiative that has been identified as having the most significant impact in reducing the funding gap in contribution plans.

Scope:

- Establish an implementation group including relevant financial management expertise by local councils to source expertise and to develop simple financial management tools that will assist local council staff in incorporating NPV rate setting methodology into contributions plans and monitoring and maintaining this approach.

- Work with DPE to develop support and guidance tools and templates to assist councils with the adoption of the NPV rate setting approach in contributions plans.

- Engage economic consultants to develop a simple NPV calculator for use by local councils in contributions planning.

3.2. Design and implement a land value index and supporting provisions for contributions planning

Land dedication is typically based on 'market value' of land that is to be dedicated. However, many of the contributions plans in Western Sydney index contributions at a far lower rate (e.g., CPI), resulting in an increasing funding gap as land values increase.

This is due to the cost of land in contributions plan not being indexed to the market, resulting in an unfunded gap.

The report recommended that indexing of rates in contributions plans should be revised to better reflect changes in land prices in the area where land acquisition is to take place (such as market-reflective index).

There are multiple ways to develop a market-reflective index; however, the report noted that a market-reflective index can be challenging to develop which is al barrier for local councils to incorporate into contributions plans.

The report confirmed that the use of a land value index would further assist contributions keep pace with the cost of land as it more accurately reflects land acquisition price movements than indexes currently used in contributions plans. This approach would also reduce the need for regular and costly valuations to be undertaken to determine the value of land in a contributions plan.

Scope:

- **Develop and seek agreement for a land value index** that can be incorporated into contribution plans:
  - Undertake research and prepare evidence base to support real costs for acquisition (under the Just Terms Acquisition Act) being identified for consideration in contribution plans.
  - Investigate the establishment of joint procurement of a regionally applicable published index that can be utilised by councils.
  - Work with relevant state agencies to identify processes to streamline the adoption of a market reflective index in contribution plans.
- **Prepare a draft policy paper** that sets out that the value of land to be dedicated is to reflect the indexed plan value, and not market value. This policy could be adopted by councils if they support this approach.
- **Prepare standard provisions for inclusion in contributions plans** that outline that land to be dedicated will be credited or compensated based on the indexed value of the land included in the contributions plan (not market value):
  - Develop a standard provision for councils to include in contributions plans to specify that indexed CP value (using a market-reflective index) will be paid or credited to developers dedicating land at the time of development (noting this provision is already in the Camden Council contributions plan)
  - Establish joint-drafting and/or legal review process with DPE for clause for inclusion in contributions plans related to land dedication value to be paid.

3.3. Develop an early land dedication and acquisition policy

Land acquisition for new infrastructure is a significant and ever-increasing cost for councils.

Land values rise sharply in the period just prior to and after a rezoning in high growth areas, while land is generally purchased when required, which could be over a 10–20-year period. Fragmented land also makes orderly acquisition of land challenging and more expensive as land value increase over time.

The report by GLN and Atlas found that an early acquisition program has a higher borrowing cost yet results in a lower cost overall (and lower contributions). Importantly, the report showed that early acquisition and reduced timeframes for acquisition would have significant impact in reducing the cost of land.

Early land acquisition (immediately after rezoning) has the following advantages:

- Avoiding cost of land acquisition when land is no longer 'englobo' land but more valuable development land.
- Securing land early enables priority growth infrastructure, particularly in areas with highly fragmented land ownership, to be delivered early.
- An early land acquisition program will lead to modest reductions in overall quantum of developer contributions over time.

Modelling undertaken by Atlas and GLN shows a 30% cost reduction based on an early acquisition program combined with a NPV rate setting method and market-based index in a fragmented precinct.

Scope:

- Establish a joint implementation group focused on co-designing with state and local government the framework and detailed policy basis for an early acquisition program.

- Prepare a draft land acquisition and dedication policy position paper to support the development of an early land acquisition program. The policy is to establishes targets, criteria (including funding options) and associated actions and programs for early land acquisition in growth areas, including the prioritisation of enabling infrastructure.

- Work with the state government to investigate opportunities for financing assistance and funding initiatives that would facilitate early land acquisition in Western Sydney.

- Engage with the Community Commissioner in the development of the land acquisition policy and develop a regional standard approach for use by local councils.

- Engage consultants to undertake detailed analysis of the costs associated with land acquisition as an evidence base (including holding and maintenance costs) that would be part of informing council decision-making as part of early land acquisition program business cases as well as IPART consideration of contribution rates.

3.4. Develop a best practice land acquisition guideline for local councils

Councils are responsible for providing a range of local infrastructure and services which often requires acquisition of privately owned land to provide the required infrastructure.

The report prepared by Atlas and GLN found that capacity to carry out efficient and effective processes for the acquisition of land vary across the WSPP councils and there is a need for increased skills and guidance in local councils to support the scale of acquisition task.

Tasks:

- Develop a best practice guideline that can be utilised by council acquisition staff to assist council, landowners and the community in understanding the land acquisition process.

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- The guideline should provide clear guidance on the land acquisition process, including when and how councils may acquire land, and the type of acquisition processes that may be undertaken (voluntary vs compulsory acquisition).

- The guideline should be prepared in consultation with the Community Commissioner & CPA

4.0 Recommendations and Implementation

Many of the recommendations in the report can be led by local councils or State government; however, the report recognises the need for greater State government involvement and a joint approach to implement a number of recommendations.

The table at Attachment A includes the recommendations from the *Western Sydney Local Land Acquisition & Dedication Study,* and recommended implementation approach.

The table categorises the recommendations as **State-led, Council-led, or joint projects**.

The **joint projects** are proposed to be undertaken as joint activities between the WSPP councils and led by the PPO. The identified joint projects are considered in further detail in Section 5 below.

Council-led projects may be undertaken and implemented by any individual council as considered appropriate their local area.

State-led projects are those projects that require State government leadership in policy, legislative reform, financing initiatives, or the involvement of multiple state agencies. The report identified specific recommendations for the State government to lead or facilitate implementation, including in the adoption of an early land acquisition package for Western Sydney.

The State-led and Council-led projects are not considered further in this paper and will be the responsibility for local councils and State government agencies to implement, noting that the WSPP will continue to work closely with State government to progress key recommendations relating to the development of an early land dedication and acquisition program.

Attachment A - Recommendations and implementation strategy

Recommendation	Implementation
Improvements to contributions plans	
Recommendation 1: Improve the content of, and the process for preparing and making of, local infrastructure contributions plans through implementing the following:	
Utilising a Net Present Value calculation methodology to calculate the land acquisition contribution rates in plans that contain significant land acquisition costs.	Joint project
Design and implement a market-reflective index that more accurately reflects land acquisition price movements than indexes currently used in contributions plans.	Joint project
Including provisions in plans that clearly state that owner of infrastructure land to be dedicated as part of development projects will be credited or	Joint project

compensated an amount that mirrors the indexed value of the land included in the contributions plan's works schedule.	
Ensuring the plan includes avoiding or minimising potential 'severance and other non-market value' costs that may arise in any future acquisition of land through the compulsory process under the Just Terms Act	Council-led
Avoiding unnecessary delays in issuing development consents through the use provisional contribution rates	Council -led
Adopt a Council policy position that requires land dedication as part of development to be ascribed indexed CP value.	Joint project
Recommendation 2: A land valuation professional (such as a registered valuer) be involved in the preparation of draft master plans, structure plans and rezoning layout plans for new development areas. The purpose of their involvement would be to recommend adjustments to infrastructure land requirements so as to avoid or minimise potential severance and non-market value costs arising from any future compulsory acquisition.	Council-led
Recommendation 3: Reduce delays in the issuing of development consents after land has been rezoned caused by the separate contributions plan preparation process. This can be done by conditions of consent containing infrastructure contributions amounts that reflect the rates included in an interim or 'provisional' contributions plan. This change will allow early works associated with the subdivision of land that have no relationship to the quantum of infrastructure contributions to proceed earlier.	Council-led
Recommendation 4: Pilot Recommendations 1-3 immediately for the Aerotropolis Precincts in Liverpool and Penrith LGAs and develop with council-specific advice on how their individual contributions plans can be updated.	Council-led
Recommendation 5: To assist councils in the preparation of more robust, fit-for-purpose contributions plans, DPE should: (a) Negotiate with IPART a streamlined plan review process so that uncapped contribution plans for essential works can be approved at or around the timing for rezoning of land, or to assist in the transition from a 'provisional' contributions plan to 'final' contributions plan as outlined in Recommendation 3. (b) Participate with councils in developing an agreed methodology for constructing and maintaining a market-reflective land value index to insert in contributions plans and seek adoption of this market index in CPs. (c) Review historical Just Terms Act acquisition transactions to justify to IPART the inclusion of a greater allowance of Just Terms compensation items in the cost of land that is included in CPs. (d) Prepare infrastructure contributions practice notes that provide guidance to councils on: i. how they can implement an NPV approach to s7.11 rates-setting as well as prepare a simple model that can be used for NPV calculation by councils in CP preparation, and ii. on how to use pool contribution funds for financing early infrastructure land acquisition without compromising financial sustainability.	State-led (DPE)

Recommendation 6: DPE to investigate opportunities for processes for rezoning to be 'switched-on' only after suitable arrangements for meeting the cost of infrastructure land have been agreed between the proponent and with the council.	State-led (DPE)
Early land acquisition program	
Recommendation 7: State government to adopt a package of measures that harmonise and improve land acquisition processes and that actively support councils in implementing an early acquisition program. The package should be developed in partnership with the WSPP and include the following elements: (a) State government coordination of acquisition program that aligns opportunities for priority State-led acquisition to also where possible deliver acquisition of land for local infrastructure set out in CPs (i.e., for areas including the Aerotropolis precincts, state-led precinct planning areas etc) (b) Establish a Memorandum of Understanding between local and State government for how financing and transfer of State-led acquisition processes that acquire local infrastructure land would occur (for example MoU set up with Office of Strategic Lands) (c) Establish a fast-track program for compulsory acquisitions under Just Terms Act with the Valuer-General and Office of Local Government that identifies with local councils in priority growth areas the pipeline of expected acquisitions to deliver local contributions plans and ensures that all agencies have allocation of resourcing to fast track these processes. (d) Investigate the establishment of a panel at a regional level for Western Sydney to provide consistent expert advice to local councils on land valuations to inform acquisition processes.	State -led (DPE, OSL)
Recommendation 8: State government to pursue the following improvements for councils to utilise external borrowing and funding for land acquisition in partnership with the WSPP: (a) Establish T-Corp low-cost lending facility to support land acquisition for local infrastructure, including updating guidelines to allow councils to use low-cost loans to permit purchase of whole parcels of land that contain CP infrastructure land and allows future CP income as security for loans, if required. (b) Office of Local Government to adjust the minimum debt service ratio (DSR) for high growth councils to a positive percentage (i.e., 5%) rather than zero to facilitate greater borrowing capacity to allow for early land acquisition. (c) Establish a grant funding scheme that would support local councils to fund hardship acquisitions in the first 2-3 years following rezoning and also to assist in joint funding of high priority early land acquisition where council's capacity for pooling of CP income and use of low-cost loans is not sufficient. In these cases, grant funding could be provided for the acquisition with future repayment based on CP income being received over the life of the plan (i.e., a revolving fund).	State-led (DPE, OLG)

Recommendation 9: There is the opportunity to strengthen the governance and delivery phase (after the contributions plan has been approved and is collecting money) by council Chief Financial Officers leading the responsibility for implementation of infrastructure funding plans as part of the integrated planning and reporting framework.	Council -led
Recommendation 10: Councils with moderate to high contributions plan land acquisition obligations to prepare a Land Acquisition and Dedication Policy addressing matters including: (a) the council's planned early acquisition program (b) the criteria for prioritising acquisition lands (which could include ownership patterns and extent of lot fragmentation) (c) funding sources to be used for acquiring land, including the council's strategy for pooling of contributions funds, and utilising internal or external borrowings to finance early land acquisitions. (d) a framework for decisions on external debt funding, including managing financial risk related to CP income, and how debt will be serviced. (e) interim uses and income-generation options for acquired land until it is needed for infrastructure purposes. (f) where there is the opportunity for commercial property portfolio funding to be made available for part land acquisition (where complementary to core infrastructure lands requirements), and then how this land will be managed for a commercial return.	Joint project
Recommendation 11: WSPP councils review their borrowing policies (or introduce new policies) with a view to: (a) Allowing loans which facilitate early land acquisition for growth site where other funds are insufficient, so long as debt service benchmarks are not breached. (b) ensuring that debt service indicators are adhered to and reported on (both the Debt Service Ratio and Debt Service Cover Ratio).	Council - led
Skills and capacity in councils	
Recommendation 12: Develop a best practice acquisition policy and delivery model for local councils to deliver land acquisition programs, including training and capacity development for liaison and compulsory acquisition. This should involve consultation with the Community Commissioner in development and include MoU for State led acquisition of land which also includes part local government infrastructure lands.	Joint project
Recommendation 13: Develop a regional approach to improving land acquisition capacity that will assist councils during their transition to new approaches, while also providing a regional approach for councils to utilise at-scale instead of developing individual local approaches. WSPP should seek funding assistance form DPE for a transformation change management plan and to develop a number of joint projects to assist councils adopt the recommendations of this report.	Joint project

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