

# UDIA NSW Discussion Paper on Land Release Policy

## 1. Key Principles

A Land Release Policy should facilitate levels of production necessary to at least meet underlying demand in a way where infrastructure is able to be funded in a coordinated, structured and timely manner with the ultimate goal being the delivery of commercially sustainable communities at affordable prices.

A simplified and more transparent process of land release is required to assist in providing investment certainty and thereby encourage increased production levels. The current approach where there are multiple paths leads to confusion and ad hoc decisions, and undermines infrastructure planning, funding and delivery and ultimately investment certainty.

The fundamental point is that the policy should not just be about what land is considered developable, but also about a robust and regularly monitored and updated infrastructure planning process, so that land can move from the Zoned category to the Zoned and Serviced category (and the to “delivery underway”) in a predictable and timely manner.

It is this transition which underpins increased production levels. Land which does not make this transition in a timely manner undermines investment certainty and becomes an unproductive component of the MDP, potentially also clouding the issue when new land release proposals are being considered for addition to the MDP.

More transparency is also required about land release sequencing. The current approach sees decisions about precinct release obscured from the industry and the broader community. This hampers medium and long term planning for landowners, both big and small, and also encourages uninformed speculation.

Lead times for moving from “released for precinct planning” to delivering lots can easily be 3 – 5 years, even with shorter rezoning timeframes being achieved in recent years. This leads to a risk being that land supply can be unintentionally constrained due to lack of transparency about the overall sequencing. It is recognised that the Government may not be able to commit to specific dates for unreleased precincts (given that actual “on the ground” supply is unpredictable), but a more transparent sequencing of releases and specification of threshold levels of development in currently released land before subsequent releases are made is required. Importantly, the sequencing needs to take into account the lead times involved and the need to maintain production levels.

## **2. The Metropolitan Development Program (MDP)**

UDIA NSW supports a central role for the MDP in both the land release process and the infrastructure planning process. A centrally managed and credible MDP is essential for investment certainty for Government, developers and infrastructure providers.

The MDP will have an even more significant role in the new planning system. The MDP needs to be tied in closely with Regional Growth Plans and ultimately Sub-Regional Delivery Plans and Local Plans to ensure strategic consistency.

Ideally, the majority of additions to the MDP are picked up during the regional planning process and its five yearly review process. This is important because the aim should be to minimise the number of single site additions outside of the five yearly review process because they can be disruptive to the infrastructure funding and planning processes. A well-structured MDP is critical to getting the infrastructure agencies and utilities to plan their investment in a coordinated manner and then commit to the sustained and transparent implementation of those investment plans.

UDIA believes that there is also merit in the MDP having both a five and ten year focus. The five year program of sequenced releases is the basis of detailed infrastructure planning and lot production monitoring and would be integrated with the Regional Growth Plans, Sub-Regional Delivery Plan and the Local Plans. The ten year program would enable longer term strategic planning directions to be reflected in the MDP, and would provide greater levels of investment certainty in the medium term, both for developers and infrastructure providers in cases where major trunk infrastructure may be required.

## **3. Land Release Policy Process**

Once the structure of the MDP has been determined, a new land release policy framework should focus on a simplified three stream process for land being released.

### **3.1 Stream 1 – Sequenced Development**

Sequenced development would be a project that is included in the 5 year time horizon in the MDP.

Funding of lead-in and trunk infrastructure for these projects would be factored into the GIP process and be delivered as required to enable and encourage adequate levels of production to meet demand. Opportunities for developers to explore works in kind arrangements under the SIC framework would also be taken into account in planning infrastructure delivery. Utility infrastructure (power, water and sewer) would be fully funded by the relevant utility and would be in place to support market driven levels of production.

### **3.2 Stream 2 – Out of Sequence Development**

Out of sequence development would be a project which is envisaged to be released on the MDP between the 5 year and 10 year time horizon. The fundamental characteristics of a project in this category is that Government has determined that it has strategic merit, and that it would ultimately move into Stream 1 – Sequenced Development at the appropriate time, and thereby have infrastructure funded through the combination of government funding and potentially works in kind under a SIC framework or equivalent.

In other words, infrastructure/infrastructure spending which was to be funded by Government is simply being brought forward. In this context, the developer of Stream 2 land should fund only the financing cost of bringing the essential utility infrastructure investment forward. Government, with its significant (and lower cost) borrowing power, should, if demand for land warrants; agree to fund this essential utility infrastructure through borrowings within the relevant utility provider, with the developer meeting the finance costs to Government.

This model ensures that the bring forward financing cost to government are paid for hence resulting in no additional cost to Government or its utilities while offering the opportunity for increased levels of demand to be met, and affordability maintained.

The SIC framework could still be applied in this circumstance, offering the developer flexibility to undertake works in kind on SIC infrastructure to offset future levy obligations.

If the above model is not acceptable to Government, UDIA would advocate the following model for Stream 2 land.

Developers could bring forward their project so long as they could finance the lead-in essential utility infrastructure necessary to support the commencement of development, but this would not include major upgrades to arterial roads or trunk or network infrastructure.

Infrastructure funding for these additions could work similarly to the processes Sydney Water currently use for PAPs. The developer funds the lead-in essential utility works and is then reimbursed on a per lot basis until 50% of the developable yield is achieved and then is reimbursed a balloon payment for the remainder of the costs. Overlaying this model would be a SIC framework where SIC levy is payable unless a VPA is in place for works in kind delivery of SIC works. This model is based on the view that land coming through Stream 2 does so at some disadvantage in terms of infrastructure funding (at least until the Regional Growth Plan is reviewed) so that undue disruption to agency capital budgets for works servicing Stream 1 land does not occur.

Ideally, any proposal that gets support in this stream could be added to the MDP (rather than treated as a separate category forevermore) if it is over a certain size (say 200 dwellings, as per current threshold). After five years an out of sequence development could transition to being a sequenced development at the five yearly review (or earlier if the government chooses) of the Regional Growth Plan provided adequate levels of production were being achieved. In the event that a business case demonstrates that sequenced development land is failing to deliver the required supply targets then an out of sequence land parcel should move into Stream 1 to stimulate market supply.

### **3.3 Stream 3 – Non Sequenced Development**

Non sequenced development is a proposal that is not currently included on the 10 year MDP. A developer could introduce a project so long as it fully funds the infrastructure without the prospect of receiving reimbursement from Government whilst it remains a Stream 3 project. The project would have to be supported by the Sub Regional Planning Boards or DOPI with the primary criteria being whether it is broadly consistent with long term regional planning.

This path could function similarly to the current Gateway process, where the ideal scenario is Council support and then a Gateway determination from DoPI after consultation with other agencies, and then on to the rezoning process. Criteria developed for PHP sites review are broadly acceptable and could be used to assess merits of these proposals. If in the event the proposal has merit but is not supported by Council, DoPI could direct a Council that it is proceeding with the site investigation for potential future supply.

Development in Stream 3 could be considered for inclusion on the MDP during the five year review phase of the Sub Regional Delivery Plan.

## **4. Criteria and Performance Metrics**

A more transparent framework for decision making is required when considering which Stream a proposal belongs in. Projects also need to be reviewed regularly to ensure production is occurring and infrastructure funding is being directed towards the more productive areas. This section provides a broad framework on these issues.

### **4.1 Stream Criteria**

The Stream 1 criteria would draw on work undertaken by UDIA in 2011 in the “Building Blocks” project. This project examined the critical factors to distil what makes a project successful and to introduce commercial viability into the planning process. There is an opportunity for the new land release process to draw on this work. The criteria used in “Building Blocks” could be considered as selection criteria under the various streams of the new process. The criteria were developed using multivariate cluster analysis and identified which factors were statistically significant in determining whether a site was developable.

#### ***Stream 1 Criteria***

- the proposal is strategically consistent with the MDP
- capable of production within a five year timeframe with a clear business case being able to be demonstrated
- able to provide utility services and infrastructure with the government having a reasonable degree of confidence about its return on any investment it makes
- environmentally suitable for urban development
- capable of being serviced by public transport
- capable of being a catalyst for development in immediately surrounding area

#### ***Stream 2***

- capable of meeting the criteria for Stream 1 within the 5 – 10 year timeframe

#### ***Stream 3***

- criteria used for PHP site analysis are broadly acceptable

### **4.2 Performance Metrics**

UDIA believes that strict numeric performance metrics are not appropriate given that there is a wide range of factors which can influence production rates, ranging from the broader macroeconomic conditions through to site specific issues such as an uncooperative neighbour across whose land an access road, unexpected finds or lead-in infrastructure that needs to be built.

UDIA's preferred approach is for there to be a robust assessment framework for inclusion in the three streams. Projects in Stream 1 would be expected to be producing at a reasonable level to meet localised market demand. If a Stream 1 project remains unproductive for five years, its status as a Stream 1 project should be reviewed. If a particular supply blockage is close to being resolved, its status could be maintained. If there is no reasonable prospect of production in the short term, infrastructure funding should be re-allocated to more productive projects and consideration should be given to moving the project to Stream 2.

Stream 2 projects should be able to move into Stream 1 after consistently demonstrating reasonable levels of production for a period of three years and provided adequate infrastructure funding is available to ensure that funding focused on existing Stream 1 projects is not diluted.

Stream 3 projects should only be able to move into Stream 2 as part of the review of the relevant Regional Growth Plan or Sub-regional Delivery Plan. It would be at this point that the fundamental strategic merits of a project could be reviewed taking into account changed circumstances such as increased infrastructure funding availability, or unforeseen supply shortages arising from a sustained period of high demand within Stream 1 and 2 projects.

## **5. Other Issues**

### **5.1 Land Fragmentation**

The Land Release Policy discussion paper asks whether a different system should be in place for fragmented land. Ideally there are only the three streams outlined above, and no special process for fragmented land in terms of the decision to release. However, targeted and coordinated lead infrastructure investment to stimulate production and land assembly is supported and this should be undertaken by UrbanGrowth NSW and linked in with the MDP process.

Deciding which areas and which infrastructure would be more complex, but would be geared around production potential and the need to support infrastructure investments which are located in close proximity to fragmented land, even if they were undertaken for broader purposes (e.g. Camden Valley Way and South West Rail Link).

Consideration should also be given to the phasing in over time of increases in Council rates and land tax for fragmented land after rezoning. Increased holding costs for land act as a disincentive for acquisition by a developer when essential infrastructure may be some time away, but the earlier the acquisition is able to be undertaken, the greater the prospect of coordinated planning and development.

### **5.2 Contestability**

The Government is clearly seeking to implement this principle more widely, although it is difficult to see at this stage how it would work in practice. Developers already have the opportunity in many cases to design and fund infrastructure and in some cases (water and sewer) get reimbursed, and in others get credit against infrastructure levy obligations.

The desire to see greater contestability in network design and network infrastructure provision is worthwhile in principle but in practice has the potential to lead to uncertainty and delayed investment in critical and expensive network infrastructure.

### **5.3 Industry Involvement**

The framework proposed above is fundamentally focused on maximising the efficiency of infrastructure planning and investment to drive market responsive levels of housing demand, while in the long term ensuring the city is developed in a rational and sustainable manner.

To achieve this objective, it will be essential that there is a high degree of industry involvement and consultation. Up to date advice on development intentions and progress will be essential to inform infrastructure planning and land release sequencing. This is particularly the case given that land is largely sold on a pre-sale basis now and quite early in the construction phase. Sales can occur up to 18 months before dwelling occupation and

water connection, and this needs to be taken into account in decisions about land supply and release area sequencing, as well as infrastructure planning and funding.

## **6. Conclusion**

UDIA NSW welcomes the opportunity to present its policy position on land release. It is critical that the process is streamlined while at the same time providing an appropriate framework for investment in infrastructure and city shaping. Should there be any issues in this policy that require further clarification please do not hesitate to contact me on (02) 9262 1214 or by email at [salbin@udia-nsw.com.au](mailto:salbin@udia-nsw.com.au).

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