# Industry Submission

## Central City Built Form Review – Amendment C270

## SUMMARY

### 1. Position Summary

Over the past 20 years, Melbourne has experienced significant growth in the number and density of new development in the city. According to research from Charter Keck Cramer, in 2015, over 10,000 apartments were released within the central city area and over 4,500 within the city fringe.

In principle, the Institute supports the objective to protect Melbourne's long-term value as a high amenity liveable place and a generator of significant economic growth. As an extension to this, the Institute supports the development of planning provisions that:

- Provide certainty and overall consistency in the application of discretion in relation to built form outcomes;
- Improve public amenity; and
- Ensure development enhances Melbourne's long-term liveability.

In reviewing the proposed City of Melbourne Planning Scheme Amendment c270, the Institute has a number of concerns relating to elements within the amendment and the assumptions that have been made to support their inclusion. The following points are a summary of the broader issues identified in the Institute's review of the proposed amendment and supplementary documentation:

1. The introduction of the floor area uplift (FAU) mechanism shifts the planning scheme away from being a tool for managing amenity impacts into a tool for activating contributions for public infrastructure. This effectively implies that amenity outcomes can be negotiated in exchange for contributions.

2. That the bar on floor area ratio (FAR) has purposely been set low to ensure a greater proportion of proposals seeking to make efficient and effective use of their site trigger use of the FAU mechanism. The proposed 18:1 is not considered to represent a 'reasonable' maximum FAR for a typical site.

3. The lack of a transitionary period on provisions which are considered to have a significant economic impact threatens the confidence of investment and development in Victoria. Furthermore, the relevant legislation does not allow the amendment to be applied retrospectively.

4. The potential for FAU is limited by the capacity of the small number of items listed. Implementation of the FAU may result in the opportunity to maximise the yield within a site to become limited over time.

5. The assumption that the full value of the granted development rights are capitalised fully by land owners is false. Stamp duty captures the value of transactions and both rates and land tax capture the value of the land.

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While the Institute supports many of the measures proposed within amendment c270, there is a grave concern over the introduction of a value capture mechanism. It is the opinion of the Institute that other measures proposed within the amendment addresses any amenity concerns of the public. As such, the need to incorporate a plot ratio for the purpose of triggering a floor area uplift mechanism is not supported.

## 2. Recommendations

The Institute recommends that:

1. Government evaluates the legitimacy of incorporating a value capture provision within the planning scheme. Legal advice is needed to ensure that such a mechanism can legally be enforced in accordance with the relevant legislation, regulations and state planning provisions.

2. Proper consideration to the potential issues that would arise due to the potential proliferation of the floor area uplift mechanism is given. Particular focus should be on the potential for councils to impose a low bar for development yield in order to enact value capture opportunities.

3. The Floor Area Ratio (FAR) remains set at 24:1 in line with what is considered 'reasonable' for a typical site within the central city region.

4. A transitionary arrangement for the purposes of addressing investment uncertainty concerns and issues around what is fair and appropriate is incorporated. Options include:
    - Plot ratio and the floor area uplift component not commence for one year from the date of gazettal;
    - For two years, where an applicant provides evidence of a loss in land value, the loss is discounted from the gross realisation value (GRV) of additional floor area.
5. Government models the potential limits to maximum floor area that could result from the implementation of the FAU mechanism. Considerations should focus on the community benefit needs and the limitation on additional floor area.

6. Plans to introduce a value sharing mechanism within the planning scheme is abandoned and a more fair and equitable approach to delivering infrastructure within the central city region is explored.

7. Minor implementation issues and unintended consequences are identified and properly considered prior to commencing with a new FAU mechanism.

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## ABOUT US

### Urban Development Institute of Australia (Victoria)

The Urban Development Institute of Australia (Institute) is the peak industry body for the urban development sector. In Victoria, we provide over 320 member companies with the benefits of policy and advocacy, industry intelligence, networking and business building.

Our members include developers, consultants, financial institutions, suppliers, government authorities and utilities. Together we drive industry discussion and debate and inform all levels of government to achieve successful planning, infrastructure, affordability and environmental outcomes.

## 1. Concept & Purpose of Amendment

### Position

Implementation of a tool that effectively implies that good amenity outcomes can be negotiable for a price goes against the purpose of the planning scheme. Incorporation of a floor area uplift mechanism has the potential to set a ratio at conservative levels to ensure that it increases the value capture opportunity.

In most cases, the proposed measure allows the most efficient use of land under the condition that it makes a contribution towards community infrastructure. However, unlike other development contribution models, the floor area uplift model is not linked by the notion of need or nexus.

Further consideration of the relevant legislation, regulations and state planning provisions is needed.

### Recommendation

Government evaluates the legitimacy of incorporating a value capture provision within the planning scheme. Legal advice is needed to ensure that such a mechanism can legally be enforced in accordance with the relevant legislation, regulations and state planning provisions.

Proper consideration to the potential issues that would arise due to the potential proliferation of the floor area uplift mechanism is given. Particular focus should be on the potential for councils to impose a low bar for development yield in order to enact value capture opportunities.

### Detailed Analysis & Feedback

# Industry Submission

## Central City Built Form Review – Amendment C270

Amenity v Value Capture

The government's supporting documentation seeks to justify the need for a review on the Central City Built Form by stating that built form outcomes from applications approved since 2010 has resulted in:

- Towers built up to or close to the street frontage which compromise the quality of the pedestrian experience and the character of the street;
- Buildings that are out of scale with local heritage context;
- Inactive or poorly articulate facades at street and lower levels due to dominance of service areas and car parking
- Towers built to close together
- Walls of towers
- Clustering of tall buildings that have created unacceptable windy conditions

While we disagree with the above observations regarding built form outcomes, in addressing 'amenity' outcome, we support that it is desirable that central city controls:

- Provide certainty and consistency of built form outcomes; and
- Improve public amenity.

On this basis, the introduction of mandatory floor area ratios is being strategically justified by the government as a tool for managing the 'amenity' impacts of the built form within the central city area.

Interim City of Melbourne Planning Scheme Amendment C262 did this through the introduction of a number of measures, including a plot ratio of 24:1.

Proposed City of Melbourne Planning Scheme Amendment c270 moves the planning scheme away from being a tool for managing 'amenity' impacts. Instead the amendment focuses on retrospectively capturing additional value from development within the central city area.

Effectively, the planning scheme amendment operates under the presumption that good amenity outcomes can be negotiated for a price.

The Institute is highly critical of any amendment that fundamentally changes the purpose and objectives of the planning scheme. We also object to the notion that good amenity outcomes can be negotiable for the price of providing unrelated infrastructure.

Furthermore the practice of introducing a value share mechanism on additional floor area that was originally permitted before the mechanism was introduced is questionable. Particularly without transitionary period.

# Industry Submission

## Central City Built Form Review – Amendment C270

### Legitimacy of the Floor Area Uplift Mechanism

Provisions within the *Planning & Environment Act 1987* identify what a planning scheme can provide for and what conditions can be imposed on a planning permit. There has been little consideration as to whether value capture forms part of the current planning legislation.

Section 62(5) and 62(6) of the Act imposes a number of restrictions on what can be required of a developer, by way of a financial contribution or the carrying out of works. In brief, unless there is a development contribution plan in place, it is not possible to include a condition that requires a contribution towards public infrastructure.

While Section 173 agreements are capable of requiring works and contributions that legitimises development outcomes, the application of these agreements is something that needs proper discussion, review and assessment. It is unlikely that Section 173 agreements provides a legitimate approach to requiring the provision of some or all public benefit items identified for the FAU mechanism.

The concept of proponents requiring to pay for an uplift in land value is not new. Both stamp duty and land taxes capture a proportion of the land's value with every transaction and every year. What is new, is the concept of including an additional value capture mechanism within the planning scheme.

This concept is fundamentally different from the three other types of development contributions outlined in *Figure 2* of the *Central City Built Form Review – Economic Issues Report*. For example, all other examples are underpinned by the notion of nexus and need.

If the items captured by a FUA scheme was based on this notion, there would be no need to introduce the FUA. Instead, public benefits could be provided through application of any one of the three development contribution triggers.

### Proliferation of Use

If Planning Scheme Amendment C270 is approved and introduced for the purpose of capturing value, what is stopping other Council's from applying a low bar for all development within the region for the purpose of utilising a floor area uplift mechanism.

If such a scenario was to occur, this would have a disastrous effect on development feasibility.

Before the introduction of a FAU mechanism should be considered, the state government will need to justify how and why such a mechanism is appropriate for the Central City area and not within other municipality areas. Alternatively, there will need to be specific measures in place to ensure municipalities do not deliberately set a low bar to apply a FAU mechanism to development that on its own merits would be considered reasonable and appropriate.

## 2. Floor Area Ratio

### Position

There is concern that the floor area ratio (FAR) has been set at conservative levels to ensure that a greater proportion of planning applications trigger use of the Floor Area Uplift (FAU) mechanism. Such an approach ignores the notion that any FAR should represent what is considered a 'reasonable' quantum of development for a typical site.

The proposed 18:1 fails to meet any appropriate testing to set the floor area ratio (FAR) at an amount considered 'reasonable'. Further analysis identifies that a higher FAR better represents the quantum of development that can be achieved on a typical site which would not be expected to have a negative impact on the city.

### Recommendation

The Floor Area Ratio (FAR) remains set at 24:1 in line with what is considered 'reasonable' for a typical site within the central city region.

### Detailed Analysis & Feedback

Relevance of current international regulation

The interim City of Melbourne Planning Scheme Amendment c262 introduced a plot ratio (floor area ratio) of 24:1. It was cited that this figure reflected a midpoint between recent approvals within the central city and international examples.

Some of the examples used when introducing C262 and in the supplementary reports for C270 included New York, Chicago, Singapore, Perth, Sydney and Auckland. However, the provisions identified, only reflect the current provisions that apply to development within those cities, not what has been currently built that makes their cities so great that Melbourne would want to consider copying them.

For example, in an article within the New York Times[1], 40 percent of buildings that exist in Manhattan could not be built today. As such, when proposed plot ratio/ floor area ratio measures are proposed on the basis of current provisions, the relevance and significance of those measures is questioned as their importance in contributing to the amenity of the exemplar cities is not given the level of assessment needed.

[1] 40 percent of buildings in Manhatton could not be built today, New York Times, http://www.nytimes.com/interactive/2016/05/19/upshot/forty-percent-of-manhattans-buildings-could-not-be-built-today.html?_r=2

# Industry Submission

## Central City Built Form Review – Amendment C270

<u>'Reasonable' quantum of development</u>

The *Central City Built Form Review – Synthesis Report* identifies that an allowable floor area ratio (FAR) is not an exact science that will determine the perfect ratio. It is about setting a 'reasonable' threshold where the development would not be expected to have negative impacts on the city within a typical site. On atypical sites, it is reasonable to expect that the allowable FAR cannot be achieved.

Between 2010 and 2015, 60% of approved development had a plot ratio greater than 20:1. Furthermore, the majority of applications approved by the Minister for Planning exceeded 18:1. As all of these applications would have needed to be assessed according to their impact on the city, it is difficult to justify setting a FAR that a majority of these applications would not comply with. A 'reasonable' FAR should be met by a large proportion of development the Minister considered as being appropriate for a typical site within the central city area.

If you were to set the 'reasonable' plot ratio at an amount that 75% of all approved development could meet, it would be set somewhere between 30.1:1 and 39.9:1. (Note: based on *Table 15* of the *Central City Built Form Review – Existing Context Report*)

The current proposed 18:1 has been set based on architectural testing of two case studies. The case studies included an area within Hoddle Grid with 8 sites with redevelopment potential, and an area within Southbank with 10 sites with redevelopment potential.

In summary, the *Architectural Testing of Built Form Controls* identified the plot ratio potential for the sites as follows:

| 6% Tower Setbacks for Buildings Above 80m - Maximised Floor Area Ratio | Hoddle Grid | Southbank |
|---|---|---|
| | Site A : 32.4:1 | Site A: 14:1<br>(atypical site due to size) |
| | Site C: 18.3:1 | Site D: 19.5:1 |
| | Site F: 10.8:1<br>(atypical site due to heritage) | Site E: 22.8:1 |
| | Site G: 11.7:1<br>(atypical site due to narrow frontage) | Site F: 16:1<br>(atypical site due to narrow frontage) |
| | Site H: 18.3:1 | Site G: 16.8:1<br>(atypical site due to narrow frontage) |
| | Site J: 24.4:1 | Site I: 19:4:1 |
| | Site K: 19:1 | Site H: 22:1<br>(atypical site due to irregular shape. Size makes irregularity less difficult) |
| | Site M: 13.2:1<br>(atypical site due to size of lot) | Site M: 27.1:1 |
| | | Site N: 8.9:1<br>(atypical site due to size and irregular shape) |
| | | Site K: 13.8:1<br>(atypical site due to size) |
| Median and Upper quartile plot ratio amounts | Median = 18.3:1<br>Upper Quartile = 21.4:1 | |

| | |
|---|---|
| Median and Upper quartile plot ratio amounts (excluding atypical sites) | Median = 19.5:1<br>Upper Quartile = 24.4:1 |

| 6% Tower Setbacks for Buildings Above 80m<br>Indicative Optimised Forms | Hoddle Grid | Southbank |
|---|---|---|
| | Site A : 32.4:1 | Site A: 14:1<br>(atypical site due to size) |
| | Site C: 16.3:1 | Site D: 19.5:1 |
| | Site F: 10.8:1<br>(atypical site due to heritage) | Site E: 22.8:1 |
| | Site G: 11.7:1<br>(atypical site due to narrow frontage) | Site F: 16:1<br>(atypical site due to narrow frontage) |
| | Site H: 18.3:1 | Site G: 16.8:1<br>(atypical site due to narrow frontage) |
| | Site J: 24.4:1 | Site I: 19:4:1 |
| | Site K: 19:1 | Site H: 22:1<br>(atypical site due to irregular shape. Size makes irregularity less difficult) |
| | Site M: 13.2:1<br>(atypical site due to size of lot) | Site M: 27.1:1 |
| | | Site N: 8.9:1<br>(atypical site due to size and irregular shape) |
| | | Site K: 13.8:1<br>(atypical site due to size) |
| Median and Upper quartile plot ratio amounts | Median = 17.6:1<br>Upper Quartile = 21.4:1 | |
| Median and Upper quartile plot ratio amounts (excluding atypical sites) | Median = 19.5:1<br>Upper Quartile = 24.4:1 | |

When considering the median plot ration of sites considered re-developable in the case studies, it generally reflects the 18:1 proposed. However, this means that half of those sites considered re-developable would need additional floor area to meet their development potential. An upper quartile ratio of 21.4:1 will ensure that 75% of developable areas will not need to obtain additional floor area to reach their maximum potential.

Furthermore, about half of the sites within the case studies are either small, irregularly shaped, have narrow frontages or are limited by other constraints. Removing an atypical sites, the median plot ratio is identified as 19.5:1 and the upper quartile is identified as 24.4:1.

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Setting a 'reasonable' plot ratio

Setting the plot ratio at a 'reasonable' amount ensures that the focus of the planning scheme remains at ensuring good amenity outcomes are achieved. Setting the plot ratio at conservative levels conflicts with Plan Melbourne's objectives for:

> *….making efficient use of underutilised land, enabling significant density in defined locations …..*

Additionally, setting a low bar on FAR puts into question the government's intention for introducing the proposed amendment and the purpose of the planning scheme. Is the planning scheme a tool for ensuring acceptable outcomes, or is it a tool for negotiating outcomes in exchange for contributions?

Analysis of recently approved planning permit applications within the central city area and a more detailed review of the architectural testing reveals that a 'reasonable' plot/ floor area ratio amount is greater than the 18:1 proposed by amendment c270.

To set the plot ratio at an amount considered 'reasonable' for a typical site within the central city area, a plot ratio larger than 18:1 can be achieved. For example, approximately 75% of planning permit applications approved between 2010 and 2015 had a floor area ratio less than 39.9:1. Furthermore, for 75% of typical sites identified within the case studies of the architectural testing to reach their developable potential, a floor area ratio of 24.4:1 could be set.

Any plot ratio set below what is considered 'reasonable' can be interpreted as an intentional measure to obtain additional contributions from development, not to manage the amenity of the central city area.

## 3. Transitional Arrangements

### Position

Due to the significant economic impact the overnight introduction of the interim c262 amendment had on land value, and the further impact retrospectively applying c270 can have, the Institute urges State government to take a more sensible approach to commencement.

As stated within the government's own supplementary reports, there is a need for a period of transition. The shock of the overnight introduction of c262 that saw land values drop between 13 – 44% is still being felt, the retrospective introduction of Amendment c270 would only create more uncertainty for investment.

With the tightening of finance for development, the targeting of foreign investment, retrospectively applying controls which further devalues investment within Victoria sends a wrong message. It is a concern of the industry that the greater level of uncertainty by introducing such an amendment without a transitionary period will significantly hurt investment confidence within the Victorian built environment sector.

At a time where living standards in Australia have stagnated, is the government prepared to lose some of the tens of thousands of jobs that have been directly and indirectly delivered by construction within the central city area.

### Recommendation

A transitionary arrangement for the purposes of addressing investment uncertainty concerns and issues around what is fair and appropriate is incorporated. Options include:

- Plot ratio and the floor area uplift component not commence for one year from the date of gazettal;
- For two years, where an applicant provides evidence of a loss in land value, the loss is discounted from the gross realisation value (GRV) of additional floor area.

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## Central City Built Form Review – Amendment C270

### Detailed Analysis & Feedback

Need for a transitionary period

Both the *Central City Built Form Review – Synthesis Report* and the *Central City Built Form Review – Economic Issues Report* recognises the need for a period of transition.

> *There needs to be a period of transition, where the expectation of current land owners of their land value may be greater than the value determined by the development feasibility of the site under the FAR and new built form controls.* - Central City Built Form Review Synthesis Report, Hoydl+Co
>
> *some market adjustment can be expected, as previously 'unlimited' development capacities are now likely to be subject to a FAR (and FAU) arrangement.*
>
> *The duration of the adjustment period, and the extent of market adjustment required, will depend, in part, on the balance between the quantum of development rights secured under the base FAR and that which is subject to community benefit transfers.*
>
> *Adjustment timing and scale will also depend on how the FAR scheme is introduced – if the market is given adequate forewarning, development proponents will factor the 'cost' of the additional development rights into their feasibilities and change their acquisition behaviours accordingly. In turn, this will facilitate a smooth adjustment in the value expectations of land owners, particularly if there is a reasonably strong underlying trend of growth in land values.* – Central City Built Form Review Economic Issues Report, SGS Economics and Planning

According to the *Central City Built Form Review – Feasibility Review* by Ernst & Young, the City of Melbourne Interim Planning Scheme Amendment c262 is estimated to have reduced land value by approximately 13 – 44%. It is very clear that the overnight introduction has had a very real impact on the values of land within the city.

After receiving an initial shock from the overnight introduction of the interim provisions, an immediate reduction in floor area ratio (FAR) will provide an additional aftershock. Such a significant economic impact isn't overlooked by investors and developers. Proper use of transitionary periods is encouraged to provide a level of certainty and to send the message that investment in Victoria can be trusted.

Justifying the lack of a transitionary period, the government has relied upon the following advice from SGS Economics and Planning:

> *Arguably, the introduction of the interim controls has already alerted the market to the changed trading conditions. Any shock effect may well have been substantially absorbed by the market already.*

Firstly, this statement is vague and lacks evidence to support it. Secondly, the comment was clearly directed at any proposal where the FAR is set at 24:1. The use of the 24:1 for analysis within the report supports this statement. As such, the comments made regarding the need for transition still apply.

Legality of retrospectively applying an amendment

The City of Melbourne Planning Scheme Amendment c270 is stated to not apply to:

- *use or development of land that is undertaken in accordance with a permit under the Building Act 1993 issued before the commencement of Amendment C262 to this planning scheme;*
- *use or development of land that is undertaken in accordance with a planning permit that was issued before the commencement of Amendment C262 to this planning scheme;*
- *an application made before the commencement of Amendment C262 to this planning scheme.*

According to the above, only applications made before the commencement of amendment c262 are not affected by the amendment c270. For those applications, the schedules in force immediately before amendment c262 apply.

Effectively, proposed amendment c270 is seeking to retrospectively apply to applications before and after its implementation. This conflicts with Section 37 of the *Planning and Environment Act 1987*, which states that:

> *An amendment comes into operation—*
> *(a) when the notice of approval of the amendment is published in the Government Gazette; or*
> *(b) on any later day or days specified in the notice.*

In accordance with this section of the *Planning and Environment Act 1987*, proposed amendment c270 can only operate when it is published in the gazette or on a later day/days. As something as simple as commencement does not comply with the relevant legislation opens up further concern towards the legitimacy of the FAU mechanism as previously discussed.

Options for a transitionary period

To minimise investor and developer uncertainty, a transitionary period can give the market is given adequate forewarning to adjust to the new conditions. To do so, the Institute consider the following options as an appropriate transitional arrangement:

1. Plot ratio and the floor area uplift component doesn't commence for one year from the date of gazettal;
2. For two years, where an applicant provides evidence of a loss in land value, the loss is discounted from the gross realisation value (GRV) of additional floor area.

While both options provide adequate transitional arrangements, option 2 allows the mechanism to apply to all development upon commencement. However, any loss in land value is appropriately compensated through a discount on the GRV of additional floor space.

If the legitimacy of the FAU mechanism has been confirmed, the Institute believes that option 2 provides a fair and reasonable transitional arrangement for the development and investment community while still allowing opportunity to incorporate public benefits within a development.

## 4. Community Infrastructure

### Position

Requiring a large proportion of planning applications to utilise the floor area uplift (FAU) mechanism may leave a number of late comers with little to no opportunity to maximize their floor area. As the Council ultimately has the decision to accept a benefit, over time when a capacity is reached their will be limited to no opportunity to increase a developments floor space.

There has been no analysis undertaken to determine the capacity that each of the listed community benefits could unlock. Additionally there has been no thought as to how affordable housing providers will be able to take the responsibility for affordable housing units.

Further thought is needed as to the need for community infrastructure and whether implementation of the mechanism could unlock the full development capacity of sites within the central city area.

Additionally, the proposed mechanisms proposes that those sites that can achieve a FAR greater than 18:1 are required to pay for the community needs of Melbourne's residential and working population. It is the opinion of the Institute that such a measure fails the fair and equitable test.

### Recommendation

Government models the potential limitations that could result in the implementation of the FAU mechanism. Considerations should focus on the community benefit needs and the limitation on additional floor area.

Plans to introduce a value sharing mechanism within the planning scheme is abandoned and a more fair and equitable approach to delivering infrastructure within the central city region is explored.

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### Detailed Analysis & Feedback

As previously discussed, a large proportion of sites would need to apply the FAU to maximise their yield if a plot ratio of 18:1 is applied. Considering there is a limited number of items that can provide a credit for additional floor space and a large proportion of those depend on demand, there is a concern that the potential for additional floor area is greater than the capacity for floor area uplift.

For example, at some point there would be a limit to how much publicly accessible open and enclosed areas that the Council is willing to accept responsibility for. Likewise, there may be capacity issues for affordable housing providers regarding how many units they are able to manage with the funding available.

As there is likely to be a limit to the total amount of uplift that can be achieved through the FAU mechanism, first movers have an unfair advantage over later proposals.

Furthermore, there has been very little thought into whether the proposed mechanism represents a fair and equitable approach to delivering infrastructure.

In principle, development charges seeks to ensure that all development within an area contributes towards the infrastructure needed to service the area's new population. However, the FAU requires a proportion of developments within the area to contribute towards the delivery of infrastructure that services the whole population of the area.

## 5. Value Sharing

### Position

The reasoning provided to justify the inclusion of a value sharing mechanism such as the FAU is based on false assumptions. Currently a share of the value from property transactions and a share of the value of land is regularly received.

Stamp duty, land tax and council rates all share part of the value of a property. Areas that benefit from re-zoning or granting of development approval rights share their value through higher amounts of stamp duty and land tax.

The premise for justifying the introduction of a value sharing mechanism within the planning scheme is false.

### Recommendation

Plans to introduce a value sharing mechanism within the planning scheme is abandoned and a more fair and equitable approach to delivering infrastructure within the central city region is explored.

### Detailed Analysis & Feedback

Seeking to justify the merits of a value sharing/ value capture mechanism, the *Central City Built Form Review Economic Issues* report by SGS Economic and Planning states the following:

> *In other markets where access is regulated or rationed in the interests of a better community outcome compared to open access (for example, liquor distribution, commercial fishing, radio and TV broadcasting, etc.) a licence fee is typically levied to parties granted access by regulation. By the same logic the granting of development approvals could be subject to licence fees. Making the granting of development approvals for floor area uplift (FAU) conditional on the provision of defined community benefits, is tantamount to a licence fee arrangement, albeit delivered in kind rather than a monetary payment.*
>
> *In the absence of the proposed FAU scheme, the full value of the granted development rights will be capitalised into residual land values and accrue fully to land owners. The FAU scheme shares this uplift with the wider community. This is a normal and reasonable expectation of the workings of the planning system.*

The same report cites that since 1999 with the removal of the plot ratio bonus scheme, there has been no value sharing mechanism.

In summary the above seeks to justify the merits of a value sharing mechanism such as the FAU under the following false assumptions:

- The quasi-monopoly nature of the market justifies the implementation of a licence fee for the access that is granted to them; and
- That since 1999 there has been no licence fee on land that has access to development rights.

The report fails to consider how both stamp duty and land taxes operate. Stamp duty obtains a share of the value of the transaction, while land tax obtains a share of the value of the land on a yearly basis. Additionally, whether the value has lifted or fell, both stamp duty and land taxes obtain a share of the total value of the transaction or land.

In the most recent State budget 2016-17, revenue from stamp duty equates to over $5.6 billion and land tax over 2.2 billion.

Overall, property tax and charges amounts to approximately 42% of total state taxation revenue. This excludes other charges such as Council rates, which is also based on the value of the land.

The assumption that there is no avenue for state and local government to capture value of developable land is incorrect. Considering the level of revenue attracted from property and development, any statements suggesting that an appropriate share of value has not been obtained is questionable.

## 6. Miscellaneous

The following includes a number of issues that have been raised by the membership. While issues of a more minor impact on the residential development industry, they should be given further consideration.

1. Measuring plot ratio is not a difficult or complex task. Any planner or architect can review plans and use a simple equation to identify and/or confirm the plot ratio of a proposal. The need for this to be confirmed by a quantity surveyor is unnecessary.
2. Further consideration is needed regarding the gross realisation values identified within the amendment.
3. The design measures proposed in c270 essentially limits commercial development within the first 20 – 40 metres of a building as the typical office floor plates currently in demand would not be able to be located within the tower component.
4. Valuation method doesn't consider the maintenance costs associated with retaining a publicly accessible open area within private ownership. In most cases, retaining the area within private ownership is of greater benefit to the public because amenity and maintenance standards are higher and public funds are not used to maintain it.
5. A competitive design process will require pre-commitment from Council to accept the floor area uplift associated with public benefit components that will be incorporated within the project. Without a project brief that confirms the floor area obtainable, and the public benefit components that must be incorporated, the competitive design process is useless.