



25 February 2020

The Hon. Richard Wynne MP
Minister for Planning, Housing and Multicultural Affairs
8 Nicholson Street
East Melbourne VIC 3002

Dear Minister Wynne,

Infrastructure Contribution Plan System for Greenfield Development Settings

Thank you for the opportunity to make a significant contribution to the policy development and implementation of the Infrastructure Contribution Plan (ICP) System on behalf of our members and the broader urban development industry.

The Victorian Division of the Urban Development Institute of Australia (UDIA Victoria) is a non-profit advocacy, research and educational organisation supported by a membership of land use and property development organisations, across the private sector and Victoria's public service. We are committed to working with both industry and Government to deliver housing, infrastructure and liveable communities for all Victorians.

The development of the ICP system has been a significant undertaking from both government and the urban development industry. I commend the Victorian Planning Authority for ensuring it has remained a top priority for government both with respect to the refinement of the system for Greenfield Development settings, and the impending development of a new system for Strategic Development settings and Regional Development settings.

We believe that the work done to date to improve the Greenfield ICP system is sound, though we have made important submissions that would vary the recommendations to deliver important improvements.

We encourage you to take steps to enact reforms of the land valuation methodology as soon as possible. We believe that these changes will provide a long-term solution to what has been a vexed issue. The changes should not be retrospective, as that would simply stall shovel ready developments which would be caught up in further scheme amendments for little practical benefit.

We do not believe that the time is right to review the ICP rate for transport projects. This review should occur when the 5-year review is undertaken. The focus now should be on developing and implementing the proposed reforms and determining the Strategic Development and Regional Development ICP systems. Once enacted the changes proposed to the Greenfield ICP system should also act to moderate some of the transport costs which should help to rein in the tendency for supplementary levies.

Many of the changes to the Greenfield ICP system require legislative reform, and we would encourage you to instruct your Department to commence that process, including to allow:

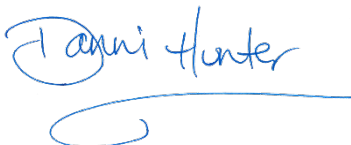
- Funds to be pooled between land and infrastructure cashflows. This is a major frustration of Councils and the industry and will facilitate the early delivery of infrastructure and services.
- A new ICP levy for PSP preparation costs - 1% of the standard transport and community / recreation levy. This will ensure all developers pay their share of essential planning costs and would save about 3 months in the PSP process. The VPA would find less resistance to the standard PSP funding agreements. It could also allow the VPA to finance PSP funding and claim back those funds when development occurs.
- An easier process for Councils and developers to acquire land for public purposes to deliver infrastructure and services earlier for the benefit of residents. This will save months, sometimes years from delivery timeframes and will all be consistent with the PSP and ICP. This was understood to be a cornerstone of the new system but was not included as part of the original reform.
- For all parties to make submissions on land valuations and for the reports to be fully public.

We also support a legislated requirement for Councils to consult on and prepare ICP annual implementation reports which would cost and prioritise projects – this is fitting as the ICPS will deliver tens of billions of dollars of local projects so these decisions should not be opaque.

I would encourage you to move on the non-legislative reforms quickly and to start work on the new legislation as soon as possible.

Please contact me directly on the details below if you would like to discuss our submission further.

Yours sincerely,



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Chief Executive Officer

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Introduction

The Mesh report is a sound document with well-reasoned discussion and recommendations. UDIA Victoria supports most of the recommendations, however we do seek some important modifications. We have also included some additional submissions not couched by Mesh which will improve Infrastructure Contribution Plans (ICPs).

Response to Mesh Recommendations

Land Valuation Methodology (R1 to R3)

1. **R1 is supported.** We agree that R1 introduces necessary refinements to the site-specific land valuation methodology to guard against inflated land values. These refinements ensure that inner public purpose land is valued on a reasonable basis and will reduce typical land equalisation charges by 10% to 15%.
2. **R2 is supported.** We agree that it is not appropriate to make the land valuation changes retrospective. Despite the attraction of a single system, the existing approved ICPs have been through a lengthy process and have allowed planning permits, sales and construction to proceed. If the changes were retrospective affected development projects would stall, impacting housing supply.
3. **R3 is supported.** This makes a consequential recommendation to adjust the Ministerial Direction to clearly reflect R2.

While not addressed in the Mesh recommendations around land valuations, we urge the Government to:

- Make land valuation reports public when the ICP is exhibited. There is no reason for the valuations to be considered confidential. We feel this is a principal that should be legislated.
- Provide any party, including 'under providers', with the opportunity to make submissions around land valuations – recognising that these will be determined by the Valuer General rather than through a planning panel process.

These changes would ensure natural justice and transparency and allow under providers to challenge any inflated land values to ensure they are not overcharged. This is important as once the ICP is approved the values are locked in except for indexation and because Public Land Equalisation Methodology (PLEM) charges can be significant. This also ensures ICPs are not opaque and will boost confidence in the process.

Supplementary Levy Criteria and Use (R4 to R7)

4. **R4 is supported, with modification.** We agree that the planning authority should be required to document how they have addressed the supplementary levy criteria. However, we submit that this documentation should occur in the Explanatory Report which is available when the Amendment is exhibited. The Part A submission timing proposed is too late to be helpful for persons preparing submissions to the amendment. The Part A submission can then elaborate as required.
5. **R5 is supported with modification.** We support the proposed assessment process and criteria which emphasise the need for the planning authority to identify potential savings in project scope to avoid the imposition of a supplementary levy. This would be a significant improvement to the process.

The UDIA proposes one modification – the reference to PSP and ICP preparation costs (refer R6) should be a separate standard levy being 1% of the standard monetary contribution.

6. **R6 is supported with modification.** Our members already routinely fund PSP preparation costs through a standard VPA funding agreement. Presently these costs cannot be recouped by the developer. This means that non fundees get a free ride – which is plainly unfair. R6 ensures that the PSP preparation costs can be offset against the ICP by the funder when they develop their land. It also ensures that all developers pay their share of the PSP preparation costs.

However, the UDIA requests several modifications:

- A new separate standard levy should be created for ‘PSP preparation’. The levy should be struck at 1% of the standard monetary component. This way the plan preparation (PSP and ICP) cost will be separate, removing argument and concern from Councils that PSP costs might trigger a supplementary levy. A separate standard levy is also desirable as it separates what will usually be a Council managed standard levy for roads and community / recreation items from the plan preparation costs which would normally be instigated by the VPA.
 - Council’s should be encouraged or even required to credit the PSP preparation costs up front by moving funds between the different levy buckets (plan preparation, transport etc). This can ensure that the fundee receives a credit for the PSP costs in the first stages of their development or at least within their project timeframe. The risk otherwise is that fundees are not paid out until the completion of development within the PSP area which could be 25 years after the PSP costs are funded. Early credit is reasonable as the PSP preparation costs which could be \$1-\$2mn are funded up front by the developer and should be reimbursed early as the project is complete.
7. **R7 is supported.** Each component, including the PSP preparation costs would be considered in the 5-year review.

Standard Transport Levy Rate (R8 to R9)

8. **R8 is supported.** We strongly support this recommendation. This is especially important as the new criteria to be implemented through R5 should see the number and value of supplementary levies reduce. It would be premature for the existing transport charge rates to be reviewed now. This also would allow additional time and experience in implementation costs associated with the various

standard costs and templates which will provide for a more considered review process. We also point out that there should be less risk of cost overrun in future as each project is scoped in detail, is indexed and includes 15% contingency.

9. **R9 is supported.** We strongly support this recommendation. The new criteria for imposition of a supplementary levy will assist to reinforce the principles that ICPs are not expected to be full cost recovery mechanisms.

General Direction Review (R10 to R11)

10. **R10 is supported with modification.** We support the changes to the Ministerial Direction provided changes are made as per our submissions regarding R5 and R6 relating to the PSP preparation levy.

The other modifications we request are:

- We submit that the separate walking and cycling infrastructure that may now be included separate to arterial roads and intersections should only include 'essential links'. This recognises that Council or the Growth Area Infrastructure Contribution (GAIC) should still fund major links between communities or to other areas outside the PSP. Without this clarification there is a risk that Council's may seek to include large cycle projects that provide benefits to the wider network in ICPs. Council may also seek elaborate pedestrian bridges at close intervals which are unreasonable, and which will drive up costs.
- We agree that a 1.75m² culvert for a pedestrian crossing may lead to unsafe narrow, dark pedestrian tunnels. However, the criteria should be tempered to allow for culverts to be fit for purpose. A specific measurement is not required. If one is included it should measure between 5m² and 10m², rather than introduce new 10m² minimum dimension with no supporting evidence and without an understanding of the cost implications.
- We do not support funding for rail grade separations, including cycle / pedestrian culverts of any size to be included in ICPs. These should be funded from other sources, like the GAIC. It should not be possible to create a supplementary levy to fund these items. If they don't fit in the Standard Levy, then they should not be permissible.
- We agree that exclusion of land for an indoor recreation facility is an oversight and has formed a standard part of the former Development Contribution Plan (DCP) process prior to the introduction of the ICP system.
- We strongly support inclusion of the costs of each allowable item in the ICP. This will provide a sound basis for the implementation phase. This will provide improved signalling to developers around expectations of the broad scope of each project.

We also submit that the Government should legislate to require Council's, separate to the ICP, to:

- Make a scoping sheet for every ICP project available to the public, including the estimated cost of each item.

- Prepare an annual report to Council providing an implementation strategy, including priorities, for the ICP.
- Provide for Council to advertise the draft implementation and make the final report public.

These modifications will provide for a transparent implementation process and provide clear signals to developers around likely timing of ICP credits which can be built into project cashflows. Requiring a strong implementation framework from Councils is not unreasonable given the ICPs will collectively deliver tens of billions of dollars of land and infrastructure – they need a corresponding level of implementation rigor. This approach will also ensure probity and reduce likelihood for opaque decisions.

11. **R11 is supported.** Industry and Council communication is paramount.

Impact of Changing Government Policy (R12 to R14)

12. **R12 is supported.** There needs to be stability in the ICP charging system within the 5-year review periods. It is true that Government policy around infrastructure scope changes from time to time. However, these changes tend to happen slowly, the consequences take time to fully emerge and implementation is usually progressive. Government policy changes should be picked up in the 5-year review process.

The three-year-old kindergarten changes are an example of a Government policy change. In that case the State Government allocated funds to upgrade kinder facilities in the established and regional areas with a view to accommodating the three-year-old kinder policy changes. Government, not future homeowners, should cover increased costs arising from new policy.

Programming and design and delivery efficiencies (including multi-storey community and school facilities) should be explored to minimise any additional capital cost requirements to fulfil the policy commitment. DET policy intent for early learning provision on primary school sites and shared facilities, and the opportunities for the VSBA to address any deemed infrastructure shortfall in their delivery program.

Increasing ICPs should be a last resort and not the first point of call.

13. **R13 is supported.** Per discussion around R12.

14. **R14 is supported.** Per discussion around R12.

Planning and Environment Act Related Matters (R15 and R16)

15. **R15 is supported.** This is a very important change. It was industry's expectation that this was a cornerstone of the new system. We were surprised when the ICP legislation did not allow for pooling between land and infrastructure. This change will deliver vast improvements in ICP project implementation.

16. **R16 is supported.** The VPA should create a standard expectation around funds transfer between the collecting agency and development agency. This could be written into the ICP template and varied where necessary, for example if the Council and another development agency agreed on an alternative arrangement. As per our submission on R6, the Council should credit the PSP preparation costs upfront for the relevant developers so that it is refunded before their project is complete.

Early Acquisition of Land (R17 to R20)

17. **R17 is supported.** This should occur as a matter of course when every PSP and ICP is prepared. This would greatly assist in the smooth implementation of greenfield land development and infrastructure delivery. The industry has understood that there would be no need for a PAO under the new system, however, that expectation did not flow through to the legislation.
18. **R18 is supported.** As per comment on R17.
19. **R19 is supported.** As per comment on R18.
20. **R20 is supported.** In addition to application of a PAO, it is already possible under s36 of the Subdivision Act for developers to compulsorily acquire an easement that is essential for the orderly and economic development of land. This can be a lengthy process. It may be possible for an amendment to be made to the relevant legislation so that developers can acquire inner public purposes land in a straight-forward process through the Subdivision Act and in accordance with the relevant ICP land at the relevant PLEM land value. Equally, it should be straight forward for Councils to do the same under a new head of power for Councils to take the land without delay and to the value set in the ICP.

Implementation Related Matters (R21 and R22)

21. **R21 is supported.** We would reinforce that one of the fundamental principles of the DCP and ICP systems for decades has been that it is not a full cost recovery system. Council have other funding sources at their disposal and the State also assists from time to time. Any review of the recreation and community charge should not result in major increases to the charge and there should be no ability to have a supplementary levy for these projects.
22. **R21 is supported.**

The attachment provides some further comment on the Ministerial Direction.

Attachment – Comment on Ministerial Direction regarding ICPs

Table 4: Transport construction supplementary levy allowable items

<i>Supplementary levy allowable item Criteria for applying a supplementary levy</i>	<i>Supplementary levy allowable item Criteria for applying a supplementary levy</i>	UDIA Victoria comment
<p><i>Arterial roads</i></p> <p><i>This includes:</i></p> <ul style="list-style-type: none"> • <i>upgrades to existing local roads to arterial road standards; and</i> • <i>new arterial roads.</i> 	<p><i>At least one of the following apply:</i></p> <ul style="list-style-type: none"> • <i>The Precinct Structure Plan or equivalent strategic plan requires:</i> <ul style="list-style-type: none"> • <i>arterial road spacing above the standard set out in Table 3; or</i> • <i>the interim construction of two through lanes in each direction.</i> • <i>Construction costs of the council arterial road cannot be wholly or partially funded from the standard levy because:</i> <ul style="list-style-type: none"> • <i>of the topographical, geographical, environmental or other physical conditions of the land; or</i> 	<p><u>Design standards</u></p> <p>Longstanding apportionment principles must continue to apply.</p> <p>If there is a need for an arterial road larger or more frequent than the standard in Table 3 (Standard allowable items), then in order for the supplementary levy to be triggered, it must be demonstrated that the additional demand is being generated entirely by the new PSP.</p> <p>For example, in Minta Farm, demand for the upgraded arterial road standard was created by the surrounding area, rather than by development within the PSP area. In such examples, alternative funding sources should be identified, or costs apportioned.</p>

Attachment 1

UDIA Victoria comments on allowable items from November 2019 submission:

<i>Supplementary levy allowable item Criteria for applying a supplementary levy</i>	<i>Supplementary levy allowable item Criteria for applying a supplementary levy</i>	UDIA Victoria comment
	<ul style="list-style-type: none"> • <i>the road is designed to primarily service industrial development; or</i> • <i>the area of the precinct in net developable hectares is limited.</i> 	
<p><i>Intersections with council and declared State arterial roads</i></p> <p><i>This includes:</i></p> <ul style="list-style-type: none"> • <i>arterial and arterial road intersections; and</i> • <i>arterial and connector road intersections.</i> 	<p><i>At least one of the following apply:</i></p> <ul style="list-style-type: none"> • <i>The Precinct Structure Plan or equivalent strategic plan requires:</i> <ul style="list-style-type: none"> • <i>additional number of intersections above the standard set out in Table 3; or</i> • <i>intersection design requirements above the standard set out in Table 3.</i> <p><i>Construction costs of the intersections cannot be wholly or partially funded from the standard levy because:</i></p> <ul style="list-style-type: none"> • <i>of the topographical, geographical, environmental or other physical conditions of the land; or</i> 	<p>We note that the realities of land availability must be considered when determining intersection design, and what constitutes creditable works. Flexibility around staging of works should occur, especially when the stages provide for medium term traffic capacity. This is another reason to facilitate developers or Councils top take land as per the ICP to facilitate development.</p>

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UDIA Victoria comments on allowable items from November 2019 submission:

<i>Supplementary levy allowable item Criteria for applying a supplementary levy</i>	<i>Supplementary levy allowable item Criteria for applying a supplementary levy</i>	UDIA Victoria comment
	<ul style="list-style-type: none"> the road is designed to primarily service industrial development; or the area of the precinct in net developable hectares is limited. 	
<i>Road bridges (including rail overpasses)</i>	<p><i>The constructions costs of the bridge cannot be wholly or partially funded from the standard levy.</i></p> <p><i>The bridge forms part of the council arterial road network.</i></p>	Rail and Freeway overpasses – road and ped/cycle - are higher order items that should be eligible for GAIC funding and for GAIC – WIK agreements.
<i>Pedestrian bridges and accessways</i>	<p><i>The constructions costs of the pedestrian bridge or accessway cannot be wholly or partially funded from the standard levy.</i></p> <p><i>The pedestrian bridge or accessway is required to provide access across a railway, arterial road, waterway corridor, major easement or other major obstacle.</i></p>	<p>There are currently items that should be considered higher order infrastructure therefore appropriately funded by GAIC rather than ICPs – such as overpasses and pedestrian bridges to rail and freeways. Recent examples of this include but are not limited to the following:</p> <ul style="list-style-type: none"> - Donnybrook-Woodstock ICP: Cameron Street Bridge – railway overpass in (\$22million project adding \$11,000/NDHa)

Attachment 1

UDIA Victoria comments on allowable items from November 2019 submission:

<i>Supplementary levy allowable item Criteria for applying a supplementary levy</i>	<i>Supplementary levy allowable item Criteria for applying a supplementary levy</i>	UDIA Victoria comment
		<ul style="list-style-type: none"> - Mt Atkinson & Tarneit Plains ICP: Hopkins Road Level Crossing upgrade at Melbourne-Ballarat rail corridor \$938,000 - Plumpton & Kororoit ICP: \$7.7m Ped/Cycle bridge over Western Freeway <p>Alternative funding sources for these items must be identified (and committed to) during the PSP stage.</p> <p>-</p>
<i>Major culverts</i>	<i>The constructions costs of the major culvert cannot be wholly or partially funded from the standard levy. The internal cross-sectional area of the culvert is at least 1.75 square metres.</i>	Support the increase of the cross section area to '5 to 10 square metres'.

Table 5: Other supplementary levy allowable items

<i>Supplementary levy allowable item Criteria for applying a supplementary levy</i>	<i>Supplementary levy allowable item Criteria for applying a supplementary levy</i>	UDIA Victoria comment
<i>Other local works, services or facilities</i>	<ul style="list-style-type: none"> • <i>The item is essential to the development of the area;</i> • <i>The item is not listed as a standard levy allowable item; and</i> • <i>The Minister agrees to the item being funded from a supplementary levy.</i> 	This provision is vague and should be deleted.
<i>Early delivery of works, services or facilities</i>	<p><i>The early delivery of the item is essential to the orderly development of the area; and</i></p> <ul style="list-style-type: none"> • <i>The financing costs are:</i> <ul style="list-style-type: none"> • <i>incurred by the development agency responsible for providing the item; and</i> • <i>associated with the early delivery of the item which is listed as a standard levy allowable item or a supplementary levy allowable item; or</i> 	<p>Financing costs for State agencies should not be eligible for supplementary levies.</p> <p>The role of the development industry in delivering local infrastructure under works in kind agreements must be acknowledged.</p> <p>Financing costs should only be considered where a Council has a seriously entertained and well defined proposal and has passed a</p>

Attachment 1

UDIA Victoria comments on allowable items from November 2019 submission:

<i>Supplementary levy allowable item Criteria for applying a supplementary levy</i>	<i>Supplementary levy allowable item Criteria for applying a supplementary levy</i>	UDIA Victoria comment
	<ul style="list-style-type: none"> • <i>associated with the early acquisition of public purpose land referred to in section 46GV(8) of the Act which is required for the early delivery of the item.</i> 	resolution to borrow funds to finance a project.
<i>Intersections with council local roads</i>	<i>The intersection is on or adjoins land in fragmented ownership.</i>	

Attachment 1

UDIA Victoria comments on allowable items from November 2019 submission:

<i>Supplementary levy allowable item Criteria for applying a supplementary levy</i>	<i>Supplementary levy allowable item Criteria for applying a supplementary levy</i>	UDIA Victoria comment
<p><i>Local or collector roads;</i></p> <ul style="list-style-type: none"> <i>• Local road or pedestrian bridges; or</i> <i>• Local pedestrian accessways.</i> 	<ul style="list-style-type: none"> <i>• The item, normally provided by a developer to develop the land for urban purposes, is on or adjoins land in fragmented ownership;</i> <i>• The fragmented land ownership makes the delivery of the item by the developer difficult;</i> <i>• The item is essential to the orderly development of the area;</i> <i>• The relevant municipal council has agreed to be the development agency for the item; and</i> <i>• The cost of the item can be fairly levied amongst the developers who will benefit from the delivery of the item.</i> 	<p>Only benefiting owners within the fragmented area should contribute to such local roads or other facilities.</p>

Attachment 1

UDIA Victoria comments on allowable items from November 2019 submission:

Table 6: State infrastructure supplementary levy allowable items

Note: In accordance with 46GH of the P&E Act, this only applies in GAIC areas where the Council is the development agency

<i>Supplementary levy allowable item Criteria for applying a supplementary levy</i>		<i>Supplementary levy allowable item Criteria for applying a supplementary levy</i>	UDIA Comment
<i>Transport infrastructure</i>	<i>Construction of declared State roads, including intersections and bridges, and public transport infrastructure</i>	<i>The infrastructure is identified in a growth corridor plan or equivalent State or local strategic plan adopted by a Minister, government department or a planning authority;</i> <ul style="list-style-type: none"> <i>• The development generates a need for the State infrastructure;</i> <i>• The provision of State infrastructure through the infrastructure contributions plan complies with section 46GH of the Act; and</i> <i>• The State or State government agency has agreed to be the development agency for the infrastructure item.</i> 	Even where Councils are the Development Agency, UDIA Victoria considers that State infrastructure must not be funded by ICPs in GAIC areas.
<i>Community facilities</i>	<i>Construction of state education, health or emergency facilities</i>		
<i>Other State works, services or facilities</i>	<i>Construction of infrastructure that is essential to the development of the area</i>		