



HOUSING INDUSTRY ASSOCIATION



# Housing Australians



## Reforming Building & Planning Laws

Submission to the Independent Pricing and Regulatory Tribunal (IPART)

### **Review of Developer Charges and Backlog Sewerage Charges for Metropolitan Water Agencies**

22 January 2018



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## ABOUT THE HOUSING INDUSTRY ASSOCIATION

The Housing Industry Association (HIA) is Australia's only national industry association representing the interests of the residential building industry, including new home builders, renovators, trade contractors, land developers, related building professionals, and suppliers and manufacturers of building products.

As the voice of the industry, HIA represents some 40,000 member businesses throughout Australia. The residential building industry includes land development, detached home construction, home renovations, low/medium-density housing, high-rise apartment buildings and building product manufacturing.

HIA members comprise a diversity of residential builders, including the Housing 100 volume builders, small to medium builders and renovators, residential developers, trade contractors, major building product manufacturers and suppliers and consultants to the industry. HIA members construct over 85 per cent of the nation's new building stock.

HIA exists to service the businesses it represents, lobby for the best possible business environment for the building industry and to encourage a responsible and quality driven, affordable residential building development industry. HIA's mission is to:

*"promote policies and provide services which enhance our members' business practices, products and profitability, consistent with the highest standards of professional and commercial conduct."*

The residential building industry is one of Australia's most dynamic, innovative and efficient service industries and is a key driver of the Australian economy. The residential building industry has a wide reach into manufacturing, supply, and retail sectors.

The aggregate residential industry contribution to the Australian economy is over \$150 billion per annum, with over one million employees in building and construction, tens of thousands of small businesses, and over 200,000 sub-contractors reliant on the industry for their livelihood.

HIA develops and advocates policy on behalf of members to further advance new home building and renovating, enabling members to provide affordable and appropriate housing to the growing Australian population. New policy is generated through a grassroots process that starts with local and regional committees before progressing to the National Policy Congress by which time it has passed through almost 1,000 sets of hands.

Policy development is supported by an ongoing process of collecting and analysing data, forecasting, and providing industry data and insights for members, the general public and on a contract basis.

The association operates offices in 23 centres around the nation providing a wide range of advocacy, business support including services and products to members, technical and compliance advice, training services, contracts and stationary, industry awards for excellence, and member only discounts on goods and services.

## 1.0 INTRODUCTION

This submission has been prepared by the Housing Industry Association (HIA) for the Independent Pricing and Regulatory Tribunal (IPART) in response to the issues paper “Review of Developer Charges and Backlog Sewerage Charges for Metropolitan Water Agencies”. This submission has also addressed the responses provided by Sydney Water, Hunter Water and Central Coast Council released for stakeholder comment in December 2017.

Urban growth and new residential development in cities and towns generate increased demand for public facilities and infrastructure. The way new infrastructure is funded differs with State and local governments using several funding mechanisms including a mix of borrowings, general revenue, user-pays charges and statutory contribution schemes. Large items of infrastructure, such as major road improvements, hospitals and transport projects, will generally serve the broader population and as such be funded by general Government revenue. Development specific infrastructure such as traffic signals from a development onto a main road, a new primary school or a small electricity substation may primarily benefit a new development and as such be provided or funded solely by the developer. Often new infrastructure is shared between existing and new communities and may provide wider public benefits for the whole community. In those cases, it is appropriate that the cost of the infrastructure be shared by all taxpayers.

The abolition of developer charges by the State Government in 2008, effectively transferred the costs associated with providing new water/sewer infrastructure from new homebuyers to the wider customer base of the utility. In effect this ended the inequitable and unfair upfront burden on the new homebuyer and allowed the capital cost of new infrastructure to be recovered over time as part of the periodic billing by the water utility to its customer base. This arrangement is appropriate and should be retained.

## 2.0 HOUSING AFFORDABILITY

In June 2017, the NSW Government released a housing affordability statement containing a broad package of reform measures aimed at assisting first home buyers and boost housing supply. The changes announced included the removal of the caps on Section 94 contributions and additional use of Special Infrastructure Contributions (SIC) in high growth areas. In terms of the package’s objective to improve housing affordability, these specific measures are more likely to hurt new home buyers. It is relevant to note that the main planks of the 2008 Mini Budget were the capping of Section 94 contributions, the halving of SIC levies and abolition of developer charges paid to water utilities. It would be very concerning if this exercise became a Trojan horse to reinstate developer charges to Sydney and the Hunter.

A typical new home in Sydney, Newcastle or Wollongong may incur about \$50,000 in up front charges paid to both local council and the State Government for the purpose of funding new and upgraded infrastructure. This will often be in addition to any physical infrastructure works provided by the developer as required by a local council such as construction of kerb and guttering, the replacement of pedestrian footpaths, general streetscape improvements and new street lighting. Often there will be infrastructure provided by the developer that delivers a benefit to the general community and as such should be funded by Government on behalf of the general public. Section 94 Contributions have generally been limited to specific types of infrastructure but there has been a recent trend for local councils to expand its scope to include social infrastructure such as community facilities, passive recreation facilities and public facilities upgrades. Recent regulations made by the State Government to limit the types of infrastructure that can be funded by Section 94, including the introduction of the Essential Works List, has been a welcome reform to limit escalation of charges levied upon new home buyers.





In this context, the decision of the NSW Government to abolish infrastructure charges levied by Sydney Water and Hunter Water provided an immediate benefit to the housing construction industry. Developer charges paid to these State-owned utilities for water supply, sewerage and, in some cases stormwater infrastructures was as much as \$15,000 per lot. The removal of these charges provided a direct stimulus to the residential housing industry and savings were passed onto the new homebuyer. Although the current Government has indicated that it has no plans to change to the current position regarding these infrastructure levies, any decision to reinstate them will have significant impacts on housing affordability in NSW. This submission has reflects the importance of housing affordability to the continued viability of the industry.

## 3.0 COMMENTS ON ISSUES PAPER

### 3.1 INTRODUCTION

The issues paper released by IPART has been prepared to inform stakeholders about the scope of the review and to initiate responses on a number of matters relating to the determinations for developer charges relevant to Sydney Water, Hunter Water and the Central Coast Council. Other charges under review include backlog sewerage capital contributions and a number of other capital charges relevant to the metropolitan water utilities, except recycled water developer charges. The focus of the issues paper is arithmetic methodology that is used to set developer charges. Consideration of the negative impacts of the charges such as their impact on housing affordability and the feasibility of residential development are outside the scope of IPART's review. This limits the ability of the review to fairly assess the merits of the developer charges regime.

Water utilities collect developer charges to recover their costs of providing water, sewer and stormwater infrastructure to new residential and commercial developments. Developer charges collected by Sydney Water, Hunter Water and the two Central Coast local councils have been regulated by IPART since 1992 when the Premier at the time issued an Order under Section 4(1) of the Government Pricing Tribunal Act 1992 declaring a range of specific services to be government monopoly services. IPART does not set the charges instead it issues a calculation methodology and guidelines which are used by the water agencies to set prices for various locations experiencing redevelopment and growth. The Independent Pricing and Regulatory Tribunal Act 1992 provides IPART with a standing reference to review pricing of government monopoly services provided by the water agencies. It is important that these pricing determinations regularly are reviewed on a regular basis to ensure they are current and consistent with the services being funded.

The current review process has been established to examine two determinations issued in respect of developer charges applying to the water agencies. The relevant determination applying to Sydney Water and Hunter Water is the determination dated 21 September 2000 and the Central Coast Council it is the determinations applying to the former Gosford and Wyong Councils dated May 2013. The determination for Sydney Water and Hunter Water remains active but has not been applied since 2008 when the Government set prices to zero as part of the wider package to boost housing construction. Only the determination for the Central Coast Council is both active and in force. The purpose of the review to update both determinations so that their methodology is up to date and consistent with other IPART retail price determinations. It would be prudent for IPART to embark on a process to update the parameters behind the Central Coast Council determination given was issued almost five years ago. There is a less compelling need to commence a review into the determination applying to Sydney Water and Hunter Water given that the charge is inactive and has not been applied for almost ten years. Without the State Government giving an indication that it was intending to reinstate the charge, undertaking the review of the September 2000 determination is unnecessary. We recommend that the determination applying to Sydney Water and Hunter Water remain unaltered until a clearer policy position from the Government is known.



A criticism of the issues paper is that it fails to properly explain the reasons for the Government decision to abolish the developer charges in respect to Sydney Water and Hunter Water announced in December 2008. It is understood the announcement was made as part of a comprehensive package to assist the housing construction sector which included the capping of Section 94 contributions and halving of Special Infrastructure Contribution (SIC) levies. This decision was made by the entire Government taking into consideration a wide range of factors, including economic and social impacts. Although IPART has not suggested the reinstatement of developer charges for Sydney Water and Hunter Water, it does suggest that updating the methodologies of both determinations delivers consistency should developer charges in Sydney and the Hunter be reinstated.

### **3.2 METHODOLOGY TO SET DEVELOPER CHARGES**

Section 2 of the issues paper provides a detailed explanation of the methodology established by IPART for water utilities to apply when they set developer charges within their areas. IPART's determinations are based on a methodology and procedural steps which utilities follow in the application the methodology to calculate their developer charges.

The scope of the review includes the determination which applied to Sydney Water and Hunter Water (issued September 2000) prior to December 2008 and the determination which applies to the Central Coast Council (issued May 2013). It is appropriate to carry out the review into the 2013 determination given it is currently being actively applied. As there has been no indication from the Government that it intends to reinstate developer changes for Sydney Water and Hunter Water, the review process into the September 2000 determination appears to serve little purpose at this time.

HIA does not have any specific views on the proposed changes to the methodology contained in the determination applying to the Central Coast Council. The current methodology appears to be fit for purpose and generally accepted by local stakeholders.

### **3.3 PROCEDURAL REQUIREMENTS TO SET DEVELOPER CHARGES**

Part 3 of the issues paper asks stakeholders to provide feedback on the current procedural provisions in the developer charges determinations, including the requirements for Development Servicing Plans (DSP). In our experience the DSP process and the obligations for water utilities to meet these requirements are reasonable and transparent. It is important that this process gives stakeholders as much information and certainty as possible. HIA supports the current arrangements regarding the preparation and consultation of DSPs.

### **3.4 METHODOLOGY TO SET BACKLOG SEWERAGE CHARGES**

In Part 4 of the issues paper deals with backlog sewerage charges. These apply where an environmentally acceptable wastewater management service is provided in an urban or semi-urban area by a water utility. The current arrangements for this charge are governed by three determinations, including a determination for the whole Sydney Water area, the whole Hunter Water area and all parts of the Central Coast Council (except parts of Gosford – determined in July 1997. In 2006, IPART issued two new determinations for Gosford City Council, applying to (a) Priority Sewerage Program properties and (b) non-Priority Sewerage Program properties.

This charge only applies to a number of areas within the Hunter and the Central Coast. There are currently no areas in Sydney where this charge applies as the remaining un-sewered areas will be connected to the sewer



network as adjoining redevelopments occur. The review of this charge is appropriate and timely to reach a consistent methodology to be applied to each of the relevant areas.

### **3.5 OTHER RELATED CAPITAL CONTRIBUTIONS**

In Part 5 of the issues paper IPART identifies a number of other capital contributions levied by the water utilities (Hunter Water major service connection charge, Sydney Water minor service extension charge and Sydney Water's Developer Direct) which in the view of IPART should be incorporated into their determinations for metropolitan water developer charges.

HIA has no objection to these contributions being reviewed by IPART and included in the next updated determination.

## **4.0 COMMENTS ON RESPONSES FROM WATER UTILITIES**

### **4.1 SYDNEY WATER**

Sydney Water has provided its response to the issues paper and IPART has released this response for other stakeholders to review. Sydney Water is a State Owned Corporation providing water, wastewater, recycled water and, in some cases stormwater services, to residents of Sydney, Illawarra and Blue Mountains. Sydney Water has not charged developer charges since late-2008 when the State Government decided to abolish the charges as part of a broader housing support package.

In its submission, Sydney Water has identified the challenge IPART faces to assess the effectiveness of a regulatory framework that has not been in use for about 10 years. Although the experience of the Central Coast Council, where developer charges have remained active, is that the charges can be applied if the Government reversed its policy.

Sydney Water has raised a number of significant issues regarding the current methodology and fairness issues between existing customers and developers. Previous experience in this area should be taken into consideration to determine if the proposed methodology is appropriate in all areas.

In its submission, Sydney Water has raised a number of alternative developer charge options for IPART to consider. As current Government policy provides for a zero charge in Sydney and the Hunter, raising alternative methods for calculating developer contributions is just a hypothetical exercise and beyond the scope of this review. Discussion of alternative revenue options such as those being proposed by Sydney Water should be raised as part of a wider examination of infrastructure funding with terms of reference which take into consideration the impact of development contributions, taxation and the impact of infrastructure funding on housing affordability more broadly.

### **4.2 HUNTER WATER**

Hunter Water has provided its response to the issues paper and IPART has released this response for other stakeholders to review. Hunter Water is a State Owned Corporation providing water, wastewater, recycled water and, in some cases stormwater services, to residents of the Lower Hunter region. Hunter Water has not charged developer levies since late-2008 when the State Government decided to abolish the charges as part of a broader housing support package.



Hunter Water in its response has decided to focus on the operation of Development Servicing Plans (DSP) within the region and the potential benefits arising from their rationalisation and simplification. Prior to the developer charges being abolished in 2008, Hunter Water had 19 DSPs for water supply and 59 wastewater DSPs. The water utility has acknowledged that the number and complexity of DSPs may have increased opacity in application of the methodology. Although there were issues with the operation of the former DSPs and their application as developer charges, the purpose of the current is not to reinstate developer charges for Sydney Water and Hunter Water areas. The Hunter Water response has raised issues beyond the scope of the current review.

### 4.3 CENTRAL COAST COUNCIL

Central Coast Council (the Council) has provided its response to the issues paper and IPART has released its response for other stakeholders to review. The Council was formed in May 2016 following the merger of Gosford and Wyong councils. Unlike local councils in Sydney and the Hunter, local government on the Central Coast has responsibility for the provision of water supply and wastewater services in accordance with the Local Government Act 1993. The pricing of these services have been regulated by IPART since 1992. Whilst developer charges were abolished for Sydney Water and Hunter Water, the charges are still collected by the Council in accordance with a determination issued by IPART in May 2013.

The response to IPART prepared by the Council is important as it is the only water utility with an operating developer charge determination. The charges contained in Council's DSPs are an important component to the future development of water and sewer infrastructure on the Central Coast. As the Council has no other option but to meet its costs of providing for new infrastructure through collection of developer charges, it is important that the determination issued by IPART is equitable and fair. It is welcoming to see that the Council recognises the need to find an appropriate balance between the recovery of infrastructure costs and the encouragement of appropriate economic development.

The IPART process is focused on the maximum price for upfront developer charges paid when land is developed for new housing. It is up to the Council and IPART to find an appropriate balance between recovery of capital expenditure on infrastructure through an upfront levy or progressively over time as part of the community's periodical water charges as is the case in Sydney and the Hunter.

### 5.0 CONCLUSION

The concept of reviewing and updating the determination for developer charges is supported as it is important that the basis for setting these charges remains current and up to date. It is appropriate that the methodology adopted by IPART follows industry best practice and is consistent with the process adopted for other pricing determinations. This is especially the case for the Central Coast Council where an active determination is in force and currently being applied.

This exercise to review the September 2000 determination should not become a process to justify the reintroduction of developer charges to the area of operations of Sydney Water and Hunter Water. The Government decision to abolish those charges in December 2008 contributed to boosting the lagging housing construction sector and continues to provide a small boost to housing affordability. Accordingly, the May 2013 determination applying to the Central Coast Council should be reviewed and updated as necessary and IPART should take no action in respect to the September 2000 determination.

