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Dear Mr Caballero

## **Draft Planning Agreement Policy and Guideline**

I write in relation to the City of Ryde's proposed Planning Agreement Policy and Guideline. Urban Taskforce Australia has strong concerns regarding the Policy's stated intention for 50% value capture % of any uplift in a development site being a "starting point for negotiations".

### **Value capture will kill off housing projects**

The value capture policy, described in Ryde's draft documents, is effectively a "betterment" tax being levied on perceived value increases, without any apparent attempt to consider associated costs.

Value capture taxes are detrimental in nature and unworkable in practice.

Any increase in density is ultimately to the benefit of the landholder, rather than the developer, increasing the purchase price that the former can demand, before any potential return comes to the latter. A broad based and tax is a far more sensible way to levy a tax which recognises and self-adjusts for investments in nearby infrastructure or rezonings which include uplift in height or FSR.

Council's policy seeks no recompense from the landowner, only from the developer, who cannot renegotiate the land purchase price to overcome the loss.

A 50% margin on additional value could create a considerable financial and feasibility burden for many development projects, which has not been factored into Council's calculations:

- The cost of aggregating land is high.
- There is significant uncertainty over the measurement of value before and after transport infrastructure or rezoning have been delivered, so a pre-development valuation may not be an accurate assessment.
- Additional density is not a blank cheque for a developer. The additional perceived value must be financed and built, creating considerable risk for the developer that gets factored into the developer's margin and financing costs.
- Much of any additional value received by a developer from uplift already goes to government as taxes.
- If a developer is not able to use the additional floorspace as collateral for financing, they may not be able to source the funding needed to create the new space.

Council has made it clear in the papers that this tax would be in addition to developer contribution levies and other fees, taxes, and charges already placed on development projects.

Proposals for massive increases in taxes, fees, and charges can and will actively discourage the delivery of new housing. The proposed changes to introduce a value capture tax are therefore strongly opposed.

### **Value capture plus developer contributions is a double dip**

Ryde's proposed policy is a cash grab framed as seeking "public benefit". It does not consider development costs or liabilities; it simply takes half of whatever theoretical additional value is created.

Unallocated, pre-construction value capture levies are simply a way to bolster the coffers of the Council at the expense of any future homebuyer.

It is a blatant double-dip – taking a slice of uplift while charging developer local infrastructure contributions on the same part of the development.

If a building is granted higher density, it will automatically increase Council's developer contributions, as more units would be created (for s.7.11 payments) and construction costs will be higher (for s.7.12 payments). These are reviewed by IPART. VPAs have typically been used to support local amenity associated with larger uplifts in land value.

### **Removing "voluntary" from "voluntary planning agreements"**

The draft policy states that it "*is not legally binding*", but states that Council intends "*that the Council and all persons dealing with Council ... will follow this policy to the fullest extent possible.*"

In other words, it will clearly not be a "voluntary agreement". If a developer wants to deliver new housing, and they are required to form an agreement to do so, there will be no exemption from the Council's value capture plans, regardless of the costs involved.

### **Security arrangements**

It is not clear from the document what types of contributions will require financial security and what the quantum of security will be:

As a general approach, Urban Taskforce believes that financial security should:

- Never be required for the payment of a monetary contribution (this would be equivalent to requiring financial security for the payment of a s 7.11 contribution). If the infrastructure contribution fee is not paid, an OC is not issued;
- Not be required for the dedication of land – this is secured by the agreement that it can be compulsorily acquired for \$1 so having a security is unnecessary;
- Not be required for works that will be carried out on the developer's land to be dedicated to a council – for example, embellishment works to a local park. This is because the development itself cannot progress until compliance is achieved, and the voluntary planning agreement (VPA) could specify that no OC or subdivision certificate can be issue until the works are completed and the park dedicated;
- Be provided for defects, but to a low level – for example, 5% of the value of the works; and
- Be provided for works on public land, because there is a risk that Council will have to step in to fix up any defects or to complete abandoned work.

## The numbers don't stack up

Recent analysis by Urban Taskforce has shown that taxes and fees can add as much as \$400k to the price of a new unit, which is more than enough to kill feasibility.

Charges this high potentially mean that units could be priced to a level where they may never sell, or the developer will be forced to their margin to zero. Tailoring those calculations to Ryde suggests that the problem could be even worse:

<b>Macquarie Park, 2 bedroom, 80sqm apartment in a 100-unit development<sup>1</sup></b>		
<b>Sale price per dwelling</b>		<b>\$ 1,364,000<sup>23</sup></b>
Land cost		\$ 227,333 <sup>4</sup>
GST	Commonwealth	\$ 124,000 <sup>5</sup>
Company tax (based on 15% pre-GST developer margin)	Commonwealth	\$ 55,800 <sup>6</sup>
Local Infrastructure fees (4%, s.7.12)	Local	\$ 30,000 <sup>7</sup>
HPC	State	\$ 10,812 <sup>8</sup>
VPA	Local or State	\$ - <sup>9</sup>
Affordable Housing Contribution (10% in perpetuity)	Local or State	\$ 151,556 <sup>10</sup>
Water Infrastructure DSP	State	\$ 3,500 <sup>11</sup>
Land Tax (based on 3-year land holding)	State	\$ 12,338 <sup>12</sup>
DA lodgement fees (typical SSDA fee)	State	\$ 600 <sup>13</sup>
Payroll Tax (5.45% of wage costs)	State	\$ 13,625 <sup>14</sup>
Public art levy	Local	\$ 750 <sup>15</sup>
Cost of Preparing a DA to satisfy the SEARs per dwelling (all consultant reports plus planner and architect)	State	\$ 3,800 <sup>16</sup>
Stamp duty	State	\$ 57,032 <sup>17</sup>
<b>COST OF TAXES AND FEES</b>		<b>\$ 463,813<sup>18</sup></b>
<b>COST TO DEVELOP (Incl. margin)</b>		<b>\$ 1,570,115<sup>19</sup></b>
<b>DIFFERENCE (a loss per unit)</b>		<b>\$ 206,115</b>

<sup>1</sup> Assumes uplift from 80 to 100 units

<sup>2</sup> Cost of construction is assumed to be \$750k per apartment

<sup>3</sup> The total purchase price including stamp duty would be \$ 1,421,032

<sup>4</sup> Calculated as 1/6 of the sale price

<sup>5</sup> Included within the sales price

<sup>6</sup> Company Tax assumes a 15% developer margin on costs

<sup>7</sup> Current s.7.12 levy for Macquarie Park

<sup>8</sup> Current HPC rate for infill development

<sup>9</sup> It is not clear what additional fees might be applied through a VPA, beyond value capture, which is calculated separately

<sup>10</sup> Affordable Housing Contributions are based on the lost revenue arising from the transfer of title or the relevant published cash contribution - a 10% rate, shared amongst the remaining 90 units

<sup>11</sup> Water DSPs are based on actual charges in the relevant locations

<sup>12</sup> Land tax is calculated based on land value being one sixth of the sale price for apartments and one third of the sale price for a greenfield separated dwelling – calculated for a three-year holding

<sup>13</sup> DA fees assumes all projects are assessed through the SSDA pathway and applicants are required to respond to SEARs

<sup>14</sup> Payroll tax assumes that 33% of construction cost is labour

<sup>15</sup> 0.1% public art levy in Macquarie Park

<sup>16</sup> Cost of preparing a DA includes cost of consultant reports required to address Secretary's Environmental Assessment Requirements (SEARs), architect fees, and SDRP meetings

<sup>17</sup> Stamp duty is an additional tax on the property sale price and affects project feasibility

<sup>18</sup> Total taxes and fees, including stamp duty

<sup>19</sup> Construction cost (\$750k) + 15% margin on pre-GST sale price + land cost + taxes and fees, less stamp duty

**These calculations do NOT include:**

- Costs associated with the RAB Act and the DBP Act (which only exist in NSW, adding cost to development in this state), including the requirement for OC audits, and 10 years' defect liability warranty
- The requirement for 2% strata bond payments which are held for 2 years
- The delays caused by current requirements for lodgement of registered drawings for construction even with minor amendments to design
- The cost of connections to the Ausgrid or Essential Energy network (this used to be covered by the State but has been shifted to private funding)

The total cost to build a two-bedroom apartment in Macquarie Park, with an appropriate return for the developer, is **\$1,570,115**. But the apartments are selling for around **\$1,364,000**.

This is a loss of **\$206,115 per apartment** – a total loss of \$20,611,500 across a 100-unit development.

Even if the developer took no margin (thereby also paying no company tax), the project would only just move into the black. But the project would receive no funding, so it would not be built.

**This lack of feasibility will only get considerably worse if Council were to apply a value capture charge** on top of affordable housing levies, public art charges, infrastructure "contributions", and other taxes, charges, and fees.

### **Conclusion**

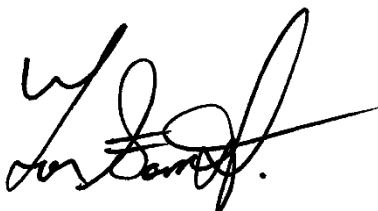
This policy, relying upon value capture as a way of raising funds for the "public benefit", will increase the cost of development, further push housing prices to be less affordable, and, ultimately, deter development, and worsen the housing supply crisis.

The impact, as demonstrated in the table above, will create a massive barrier to new development.

Council should take a more collaborative approach to housing development to encourage the creation of more dwellings within the LGA.

Should you wish to discuss any aspect of this submission further, please call our Policy, Planning, and Research Analyst, Paul Waterhouse, on 0411-875-366 or via email [paul@urbantaskforce.com.au](mailto:paul@urbantaskforce.com.au)

Yours sincerely



**Tom Forrest**  
**Chief Executive Officer**