Urban Taskforce
AUSTRALIA

21 July 2026

Mr Mark Brisby
Strategic Planner
Lane Cove Council
PO Box 20
LANE COVE NSW 1595

Sent to: service@lanecove.nsw.gov.au

Dear Mr Brisby

Draft Planning Agreements Policy

I write in relation to Lane Cove Council's proposed Planning Agreements Policy. Urban Taskforce Australia has reviewed the draft Policy and provides the following comments:

Value capture

Urban Taskforce is pleased that the draft policy states, in *7.1 Principes for using a planning agreement,* that:

> *"Council will not use a planning agreement as a value-capture mechanism. Any public benefit sought must remain grounded in planning purpose, infrastructure need and public interest."*

Further on in the draft policy – clause *8.6 What Council will generally not accept* – it appears to qualify this, by stating that Council will **generally not support** a planning agreement proposal that:

> *"Is primarily a value capture mechanism unrelated to planning purpose."*

This is ambiguous. The draft policy needs to be clear and consistent throughout that planning agreements will not be used for value capture.

Value capture taxes are detrimental in nature and unworkable in practice. While increases in value often flow to the landholder, the value capture levy is paid by the developer.

While value capture charges to a development seeking uplift may be positive from a revenue-raising perspective, they become another cost applied to a development that undermines feasibility and makes housing prices unaffordable.

They replicate the developer local infrastructure contributions on the same development (which would be higher because of any additional uplift), allowing councils to double dip at the project's expense.

Of concern, at the same time that the draft planning agreements policy is downplaying value capture, the draft affordable housing policy is talking it up, stating that:

> *"Planning agreements for affordable rental housing will ensure value uplift from planning decisions are captured and used directly for delivering affordable housing.*

> *Any such planning agreement is to include a contribution (land, monetary or both) for affordable housing."*

The two policies are directly contradictory.

Recommendation 1: That Lane Cove Council specifically preclude the ability to apply value capture charges within planning agreements.

Security arrangements

It is not clear from the draft policy 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 occupation certificate (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 in 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.

Recommendation 2: That Lane Cove Council ensure that security arrangements are not applied unnecessarily when there is no risk of default from a developer.

Affordable Housing

Urban Taskforce notes that the policy states under clause 6*.1 What is a planning agreement,* that a developer may provide a public benefit in the form of

> *"…dedication of land, public infrastructure, community facilities, affordable housing, the payment of a monetary contribution, the provision of works or other material public benefits or a combination of these."*

Urban Taskforce acknowledges the need to support affordable housing to help address rental stress for segments of our community, and that this may be supported through the development process.

However, we believe that the most effective method for delivering affordable housing, without the risk of making projects unfeasible, is through collaboration and incentives.

With construction costs at historically elevated levels, high, in-perpetuity affordable housing contribution rates could prevent many projects from progressing from development application (DA) to construction commencement and completions. This would reduce the overall number of market and affordable dwellings delivered within the LGA.

Urban Taskforce has made a separate submission on the Council's draft affordable housing policy, but we believe that the planning agreement process should not be used as a way to strongarm developers into providing more affordable housing than is feasible.

If a developer cannot get the numbers to stack up for a project, they will be unlikely to receive finance for construction.

Probity

Urban Taskforce has concerns about clause 7.5 (h), which relates to the use of independent probity advisers for complex, high value, or Council owned land matters.

While we appreciate that a probity advisor may generally be required where a planning agreement involves council-owned land, a planning agreement, by its nature, involves public benefits that will often include works on public land.

We do not see how this delivery of public benefits, of its own, would raise any probity concerns.

Further, the terms "complex, high values" are very broad and open to interpretation. What is complex? What is a high value?

As planning agreements often include millions of dollars' worth of value, why would probity advisor be needed just because a planning agreement is complex?

The broad requirement to use independent probity advisors could provide an avenue for opposition to a planning proposal or DA. For example, if a situation arises where a probity advisor hasn't been used, does that open the project up to objections?

The Department of Planning, Housing and Infrastructure (DPHI) planning agreements practice note does not require external probity advisors in these circumstances. Lane Cove Council should not either.

As the DPHI practice note states,

> *"Depending on the type of planning agreement and the Council's involvement, the Council may engage a probity expert for advice and assistance with the agreement. The developer will be responsible for the cost of this expert."*

This suggests that the use of probity advisors should be decided on a case-by-case basis, and on merit, rather than being prescribed for almost all circumstances.

Conclusion

Urban Taskforce Australia does not object per se to the use of voluntary planning agreements to deliver a public benefit in response to the delivery of new residential development.

However, Council needs to be mindful that developer contributions, along with other fees, taxes, and charges could undermine project feasibility.

Rising land, construction, and regulatory costs, combined with an array of taxes and levies, have adversely affected supply. Councils must do a better job at acknowledging and addressing these market problems rather than continuing to add to them.

Unreasonable developer contributions Increase the cost of development, further pushing house prices and, ultimately, deter development, and worsen the housing supply and affordability crisis.

Planning agreements should be used as a tool to facilitate development, rather than to add to its costs and feasibility.

Should you wish to discuss any aspect of this submission further, please call our Economist and Planning Analyst, William Hughes, on 0418 286 530 or via email will@urbantaskforce.com.au

Yours sincerely

Paul Waterhouse
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