

LAND ACQUISITION & DECICATION STUDY

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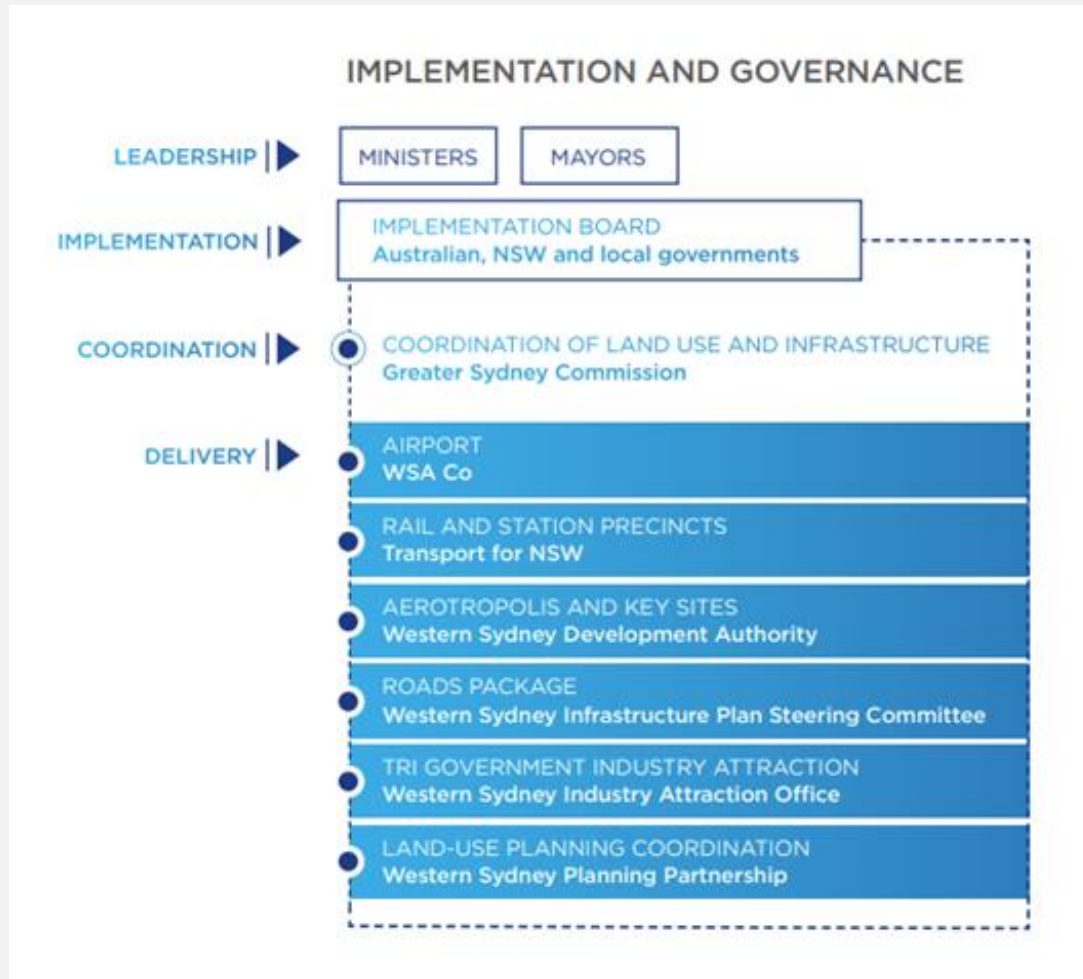
ACKNOWLEDGMENT OF COUNTRY

The Western Sydney Planning Partnership acknowledges more than 60,000 years of continuous Aboriginal connection to the land that makes up NSW.

Today we meet online with each of us joining from across Greater Sydney. We acknowledge that we meet on the homelands of the Darug, Eora, Gundungurra, Darkinjung, and Dharawal people. We pay respects to all Elders past, present and emerging.



Planning Partnership



HOA goals ... more efficient and higher quality outcomes.

Principles:

- Works on behalf of its partner organisations
- Acknowledges the unique character of the communities and places across Western Sydney
- Drives the highest levels of collaboration amongst its partner organisations
- Strives for best practice
- Develops evidence-based solutions
- Develops solutions that can be applied at the regional scale

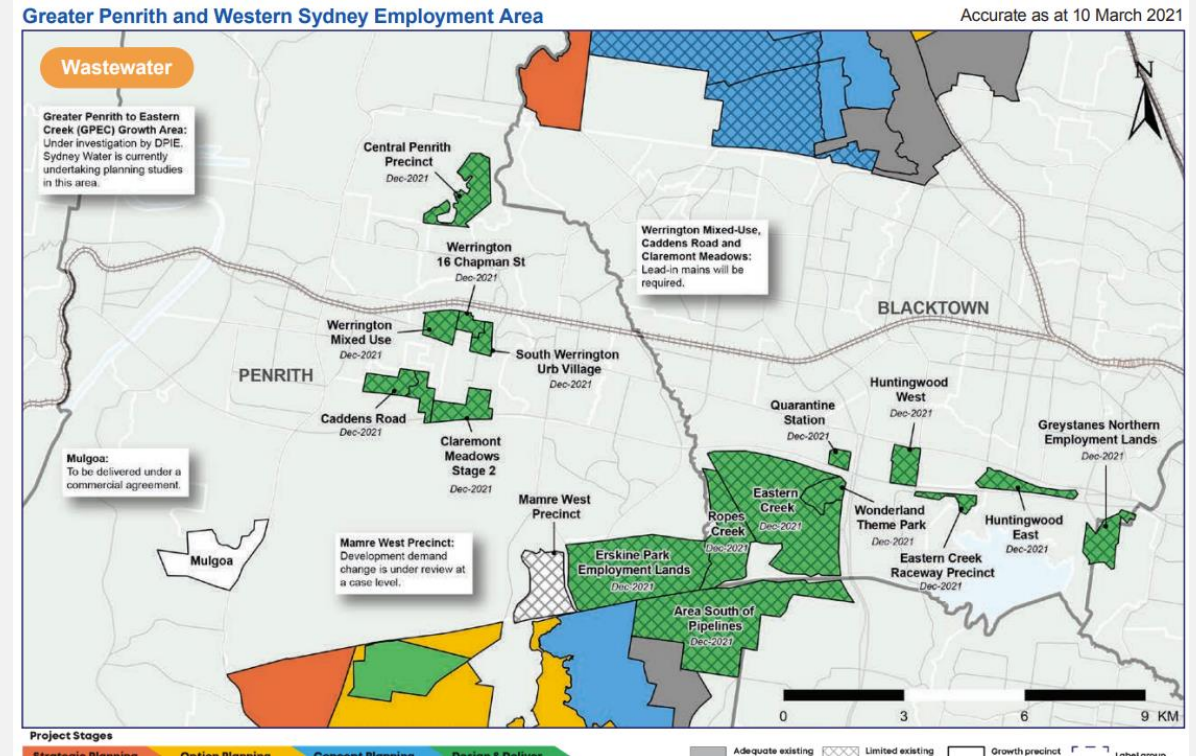
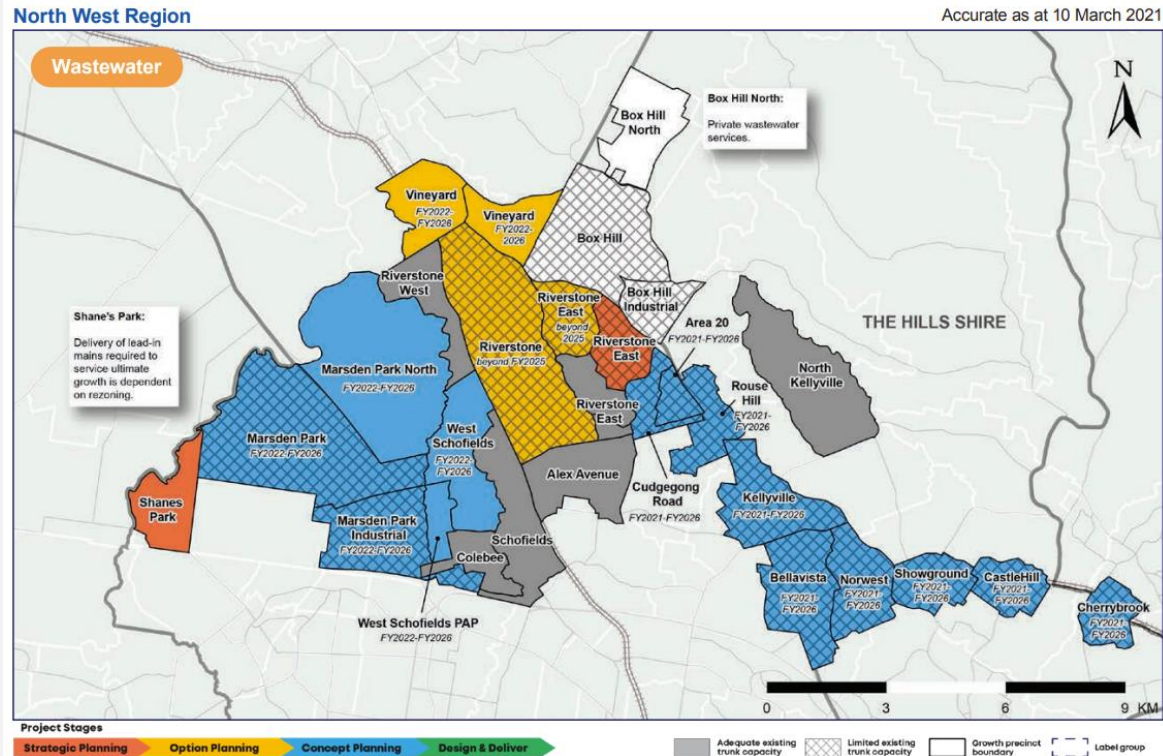
Overview

- Joint project through WSPP with Western Sydney growth area local councils and DPE
- Expert PWG of contributions planning, property and finance staff (along with reference group from state government) provided input into preparation of report into addressing land acquisition & dedication problems in growth areas
- GLN / Atlas prepared a report with WSPP, outlining the problems, potential technical solutions, and landed on recommendations for WSPP to consider. Problem is structural gap between income from CPs and actual costs for acquiring land
- WSPP endorsed final report in December 2022 and agreed to support stage 2 – implementation in February 2023. Stage 2 implementation is currently being set up
- Recommendations identify local, state or joint implementation – and report considered by local councils and DPE for implementation. WSPP is setting up stage 2 –implementation, for a series of joint regional projects that are being progressed in 23-24
- Presentation provides an overview of the findings, and learnings from the work

Project charter – stage 1

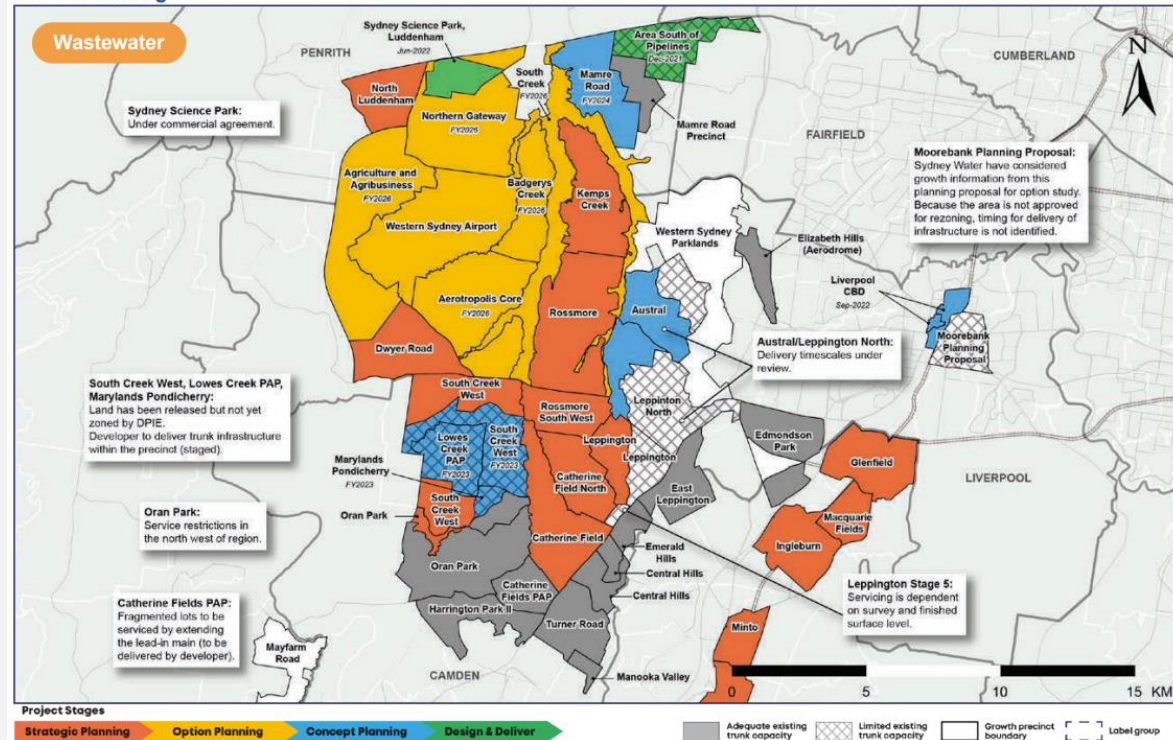
Project objectives	Progress
Identify existing problems, and the case for change, for the current approaches for growth land acquisition/dedication and funding by local government, and how this could better support the growth of Western Sydney.	✓
Develop and evaluate policy initiatives and options, to obtain land identified in development contribution plans prior to contributions being received (i.e., early land acquisition/dedication).	✓
Identify the financial implications for local councils in Western Sydney of early land acquisition and dedication.	✓
Evaluate at a high level the benefits and costs for State government of initiatives to assist local councils in financing early land acquisition/dedication, including management of risk associated with repayment of debt using income from development contribution plans, setting up supportive policy and programs, and related to maintaining financial sustainability of local councils.	✓
Review the current pathways used by local councils in Western Sydney for land acquisition & dedication to support growth and identify best practice and potential modifications that would better support efficient and equitable land acquisition & dedication.	✓
Engage with relevant state agencies, including OLG, OSL, DPE, VG, WPCA and expert input from local council's relating to property, planning and contributions and financial management in undertaking the project.	✓
Prepare a report that develops an approach for Western Sydney by which local councils and the state government can facilitate early land acquisition & dedication and makes a series of prioritised recommendations for consideration by local and state government.	✓

Context



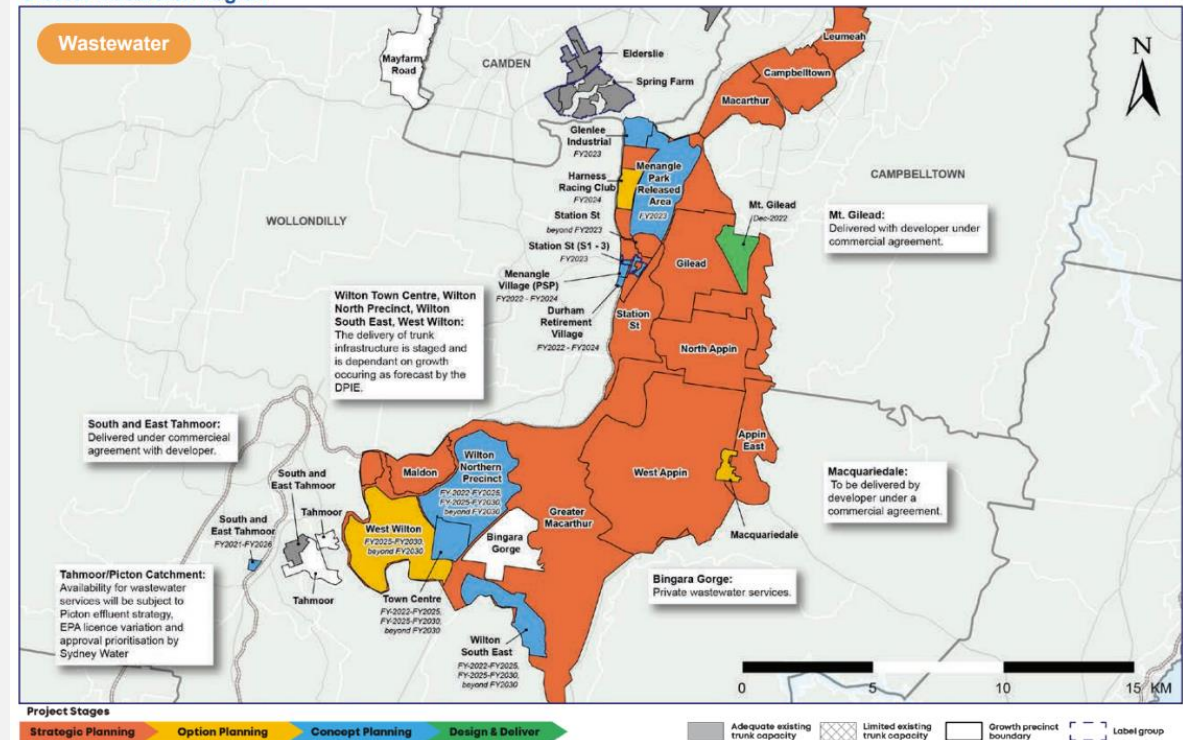
South West Region

Accurate as at 10 March 2021



Greater Macarthur Region

Accurate as at 10 March 2021



Overview of recommendations from GLN/Atlas report

What is the problem to solve?

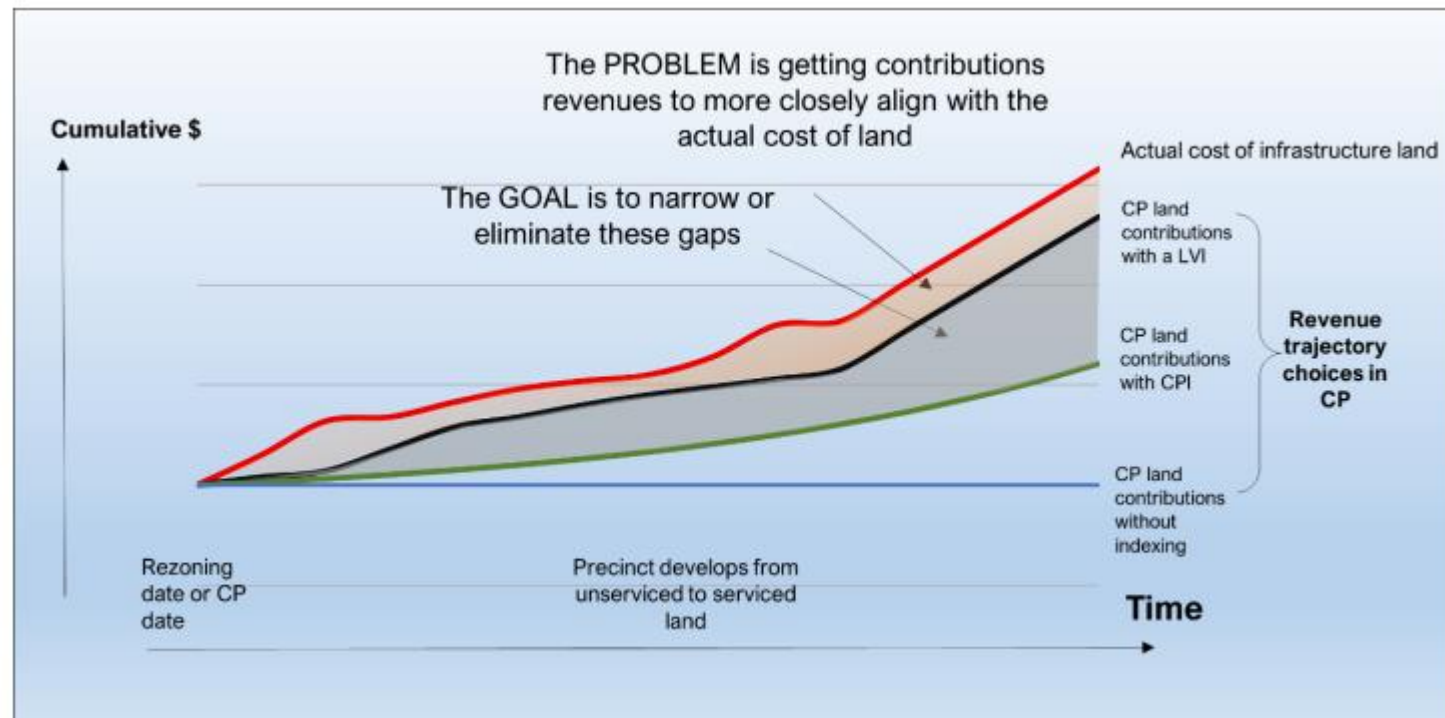
Infrastructure land acquisition costs are not adequately funded by contributions revenue received.

The problem is one of revenue, cost and time.

Revenue Problem	Cost Problem
<ul style="list-style-type: none">• Revenue receipts insufficient to recover cost of land	<ul style="list-style-type: none">• Rate of price growth > contributions index• Land acquired no longer englobed but serviced and zoned• Just Terms cost, remediation cost
<ul style="list-style-type: none">• Nominal method of rate-setting (Cost ÷ development)	<ul style="list-style-type: none">• Mismatch between when rates are collected and when cost is incurred
<ul style="list-style-type: none">• Funds collected are not 'Market Value'	<ul style="list-style-type: none">• Price paid/ land dedicated is at 'Market Value' (and more)

Misaligned costs and revenues

- After land is rezoned, Councils have before them the task of acquiring land to deliver enabling infrastructure so that development can occur.
- In the early years of a contribution plan (CP), there would be limited contributions income received, yet expenditure on early infrastructure is required.



Business-as-usual

Revenue collected insufficient to cover cost of land in present value terms

CP rates set by 'nominal' approach, indexed to CPI

Acquisition via Just Terms – significant additional infrastructure land costs unable to be fully recouped

Little or no strategy for timing of acquiring land

Limited acquisition by negotiation

Smaller councils with limited skilled staff – not equipped to engage in major land acquisition

Limited funds pooling and internal borrowing to accelerate acquisition

Limited or no external borrowing

Inconsistent approaches to valuation of dedicated land



Councils financially exposed to unfunded cost of land

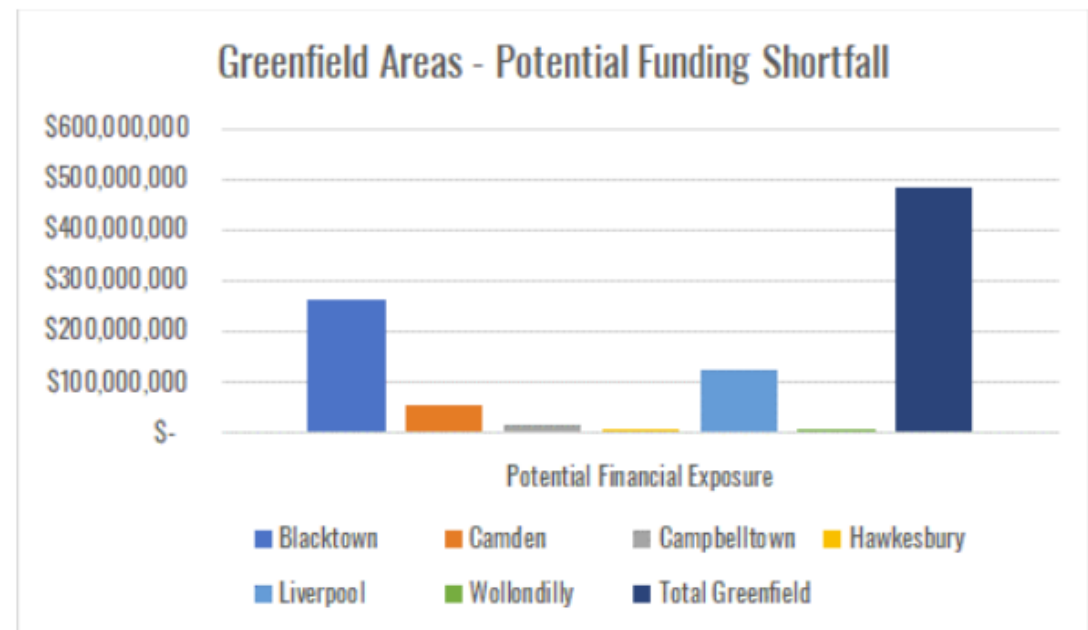
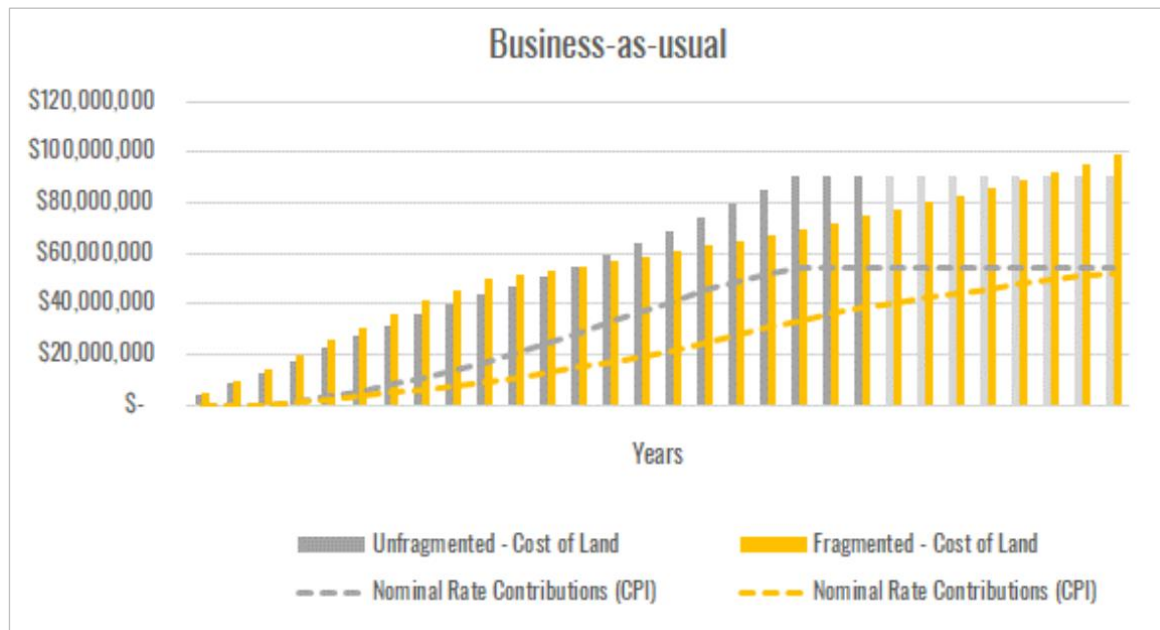
On the ground outcomes including:

Some infrastructure being delayed or not being provided

Temporary facilities such as drainage basins becoming pseudo-permanent facilities, unnecessarily preventing land from being developed

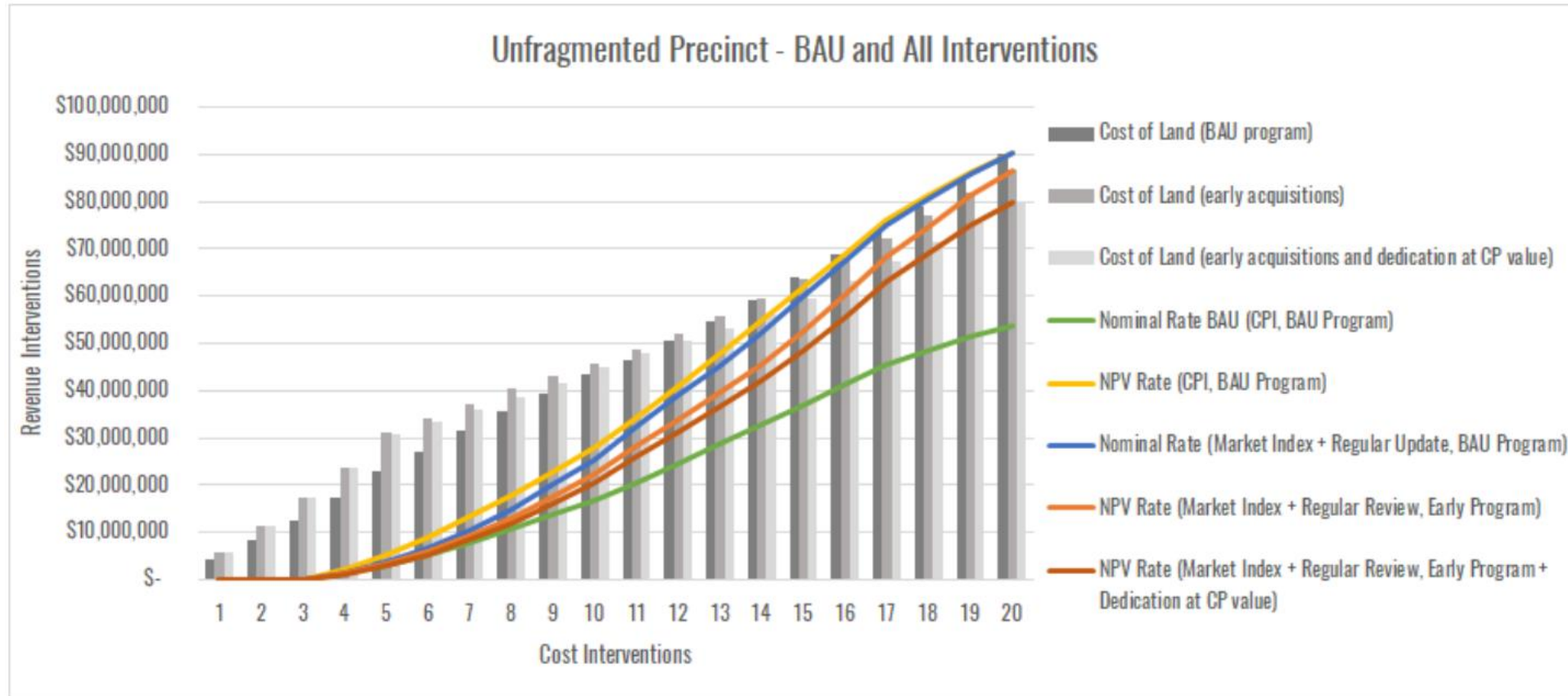
BAU funding deficit

- The study highlights that contribution plans face a **funding deficit** where the contributions collected are not able to cover the cost of land required for infrastructure.



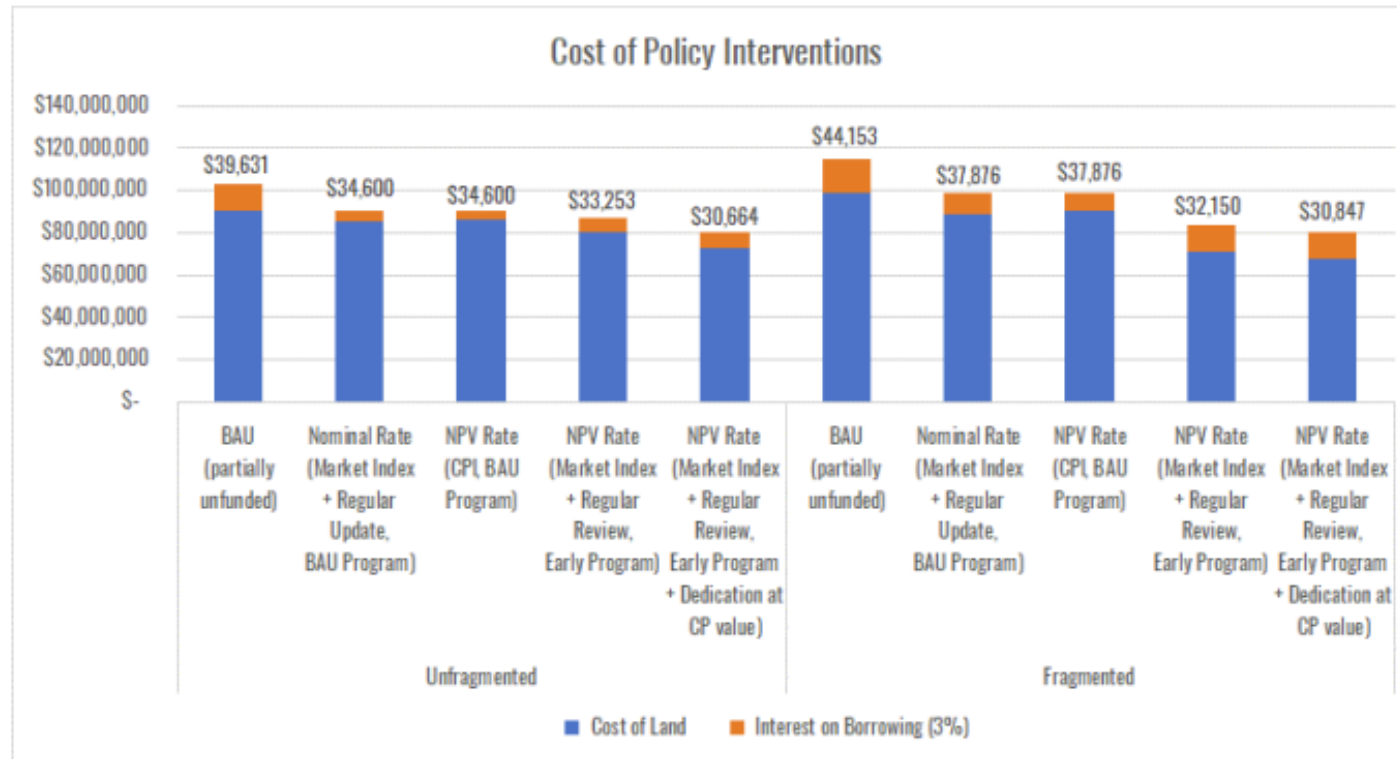
Options - revenue AND cost-side interventions

- Cost-side interventions are examined in this diagram



Impact of policy interventions on cost

- The overall cost to Council, part of which is unfunded (under BAU). In all policy interventions, payment for the cost of land is shifted to development. The relative cost of the policy options (in overall cost and in per dwelling terms) are shown



Note: the hypothetical development scenario has 2608 dwellings

Recommendations

Western Sydney Planning Partnership Councils	NSW Government
Land Acquisition & Dedication Policy with early land acquisition program, and targets and criteria around their acquisition activities	Speed up the issuing of DA consents by permitting contribution conditions to be imposed under a 'provisional' CP
Contribution rate-setting using a net present value (NPV) approach so that contribution rates can recover what is spent on land	Adopt a package of measures that harmonise and improve land acquisition processes and that actively support councils in implementing an early acquisition program
Design and implement a market-reflective land value index	Pilot the recommended improvements to CPs as part of upcoming contributions planning for growth precincts
Land valuation advice at site master planning stage to assess land cost risks and minimise Just Terms costs	Prepare NPV Practice Note: guidance to councils on how they can implement an NPV approach to s7.11 rates-setting
CPs specify that indexed CP value (using a market-reflective index) will be paid or credited to developers dedicating land at the time of development	Prepare Funds Pooling Practice Note: guidance to councils on pooling other CP funds for financing early land acquisition and infrastructure provision
Greater use of funds pooling (across CPs) and internal borrowing	Develop a best practice acquisition policy and delivery model
Council CFOs to take a lead role in implementing infrastructure funding plans as part of the integrated planning and reporting framework	Revise T-Corp low cost loans rules and NSW Office of Local Government to update relevant 'Fit for the Future' benchmarks for high growth councils
Robust consideration of land costs in preparation of CPs (e.g. remediation, Just Terms Act compensation items)	Grant funding scheme to assist councils in funding hardship acquisitions, and to assist in joint funding of high priority early land acquisitions
Develop a regional approach to achieve scale and specialist expertise to improve acquisitions outcomes	DPE to provide funding to and collaborate with councils to implement projects that support the recommendations in the report
Update borrowing policies to allow loans for early land acquisition where other funds are insufficient, so long as debt service benchmarks are met	DPE to investigate opportunities for rezoning to be progressed only after suitable arrangements for meeting the cost of infrastructure land have been resolved

Recommendations - key elements

Key elements of recommendations from the GLN/Atlas report:

- **Addressing revenue-side problems** to ensure that income from contributions plans (CPs) is better matched to the actual costs of acquisition of land by local councils. Key initiatives include **utilisation of Net Present Value calculation of rates** in CPs, and the **development of a market reflective index** for inclusion in CPs.
- **Addressing cost-side problems** to ensure that land is acquired in a cost-effective manner to reduce the impact on the structural funding gap for local councils and minimise the impact on overall contribution rates for development. Key initiatives include **establishment of an early land acquisition program** between the state and local councils to acquire (and seek dedication) land for high priority enabling infrastructure, as well as proposing that **land dedicated will be at indexed CP value** (including land value indexation in CPs), where landowners are seeking to dedicate land voluntarily.
- **Financing of early land acquisition** is a key element in the recommendations and is an area that would be facilitated by financial assistance being provided by the state government (due to the scale of land acquisition required), while also **supporting the financially sustainable use of internal and external borrowing by councils** to fund early land acquisition as part of an overall financing approach.
- **Opportunities to work jointly through the WSPP** for local and state government to facilitate implementation of improvements to land acquisition and dedication, and a stage 2 of the project is proposed with a focus on joint implementation activities in 2023.

Staging 2 - implementation

Joint projects

- Develop a Net Present Value (NPV) calculation methodology for inclusion in contributions plans
 - Design and implement a land value index and supporting policy and provisions for contributions planning
 - Design an early land dedication and acquisition policy framework
 - Develop a best practice land acquisition guideline for local councils
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- Innovation and change to BAU critical to achieve implementation
 - WSPP identified joint regional projects to target areas where change can be progressed
 - Seeking to design, test and seek to replicate new approaches
 - Early land acquisition example – piloting for 2 LGAs growth areas establishing schemes, as basis for repetition at regional scale

My personal key learnings

- Working to better integrate infrastructure delivery (and land) with planning it is critical to better utilise contribution planning. Financial sustainability is a critical issue for local government in growth areas – and a primary driver for responsible local government decision-making.
- Resourcing of the delivery of contributions plans is as important as preparing a plan – and the development of land acquisition schemes and property resourcing and skills are critical
- Planning teams need to improve their financial literacy and modelling capacity – NPV tools etc..
- Methodology that looks at problem solving, and analysing options for technical solutions is important part of planning practice – and challenges strategic planning process for plan making. Addressing technical solution needs to also consider political supportability and organisational capacity in defining a preferred option.
- Considering how to scale-up and building ‘innovative capacity’ into local government system at the regional level is critical for changes to BAU – including testing / piloting and monitoring impact as part of the policy design process is a critical element

DISCUSSION

Get a copy of the study at

<https://theparks.nsw.gov.au/wspp/projects/>

ATTACHMENTS

Recommendations- detailed

Improvements to contributions plans

Recommendation 1: Improve the content of, and the process for preparing and making of, local infrastructure contributions plan through implementing the following:

Utilising a Net Present Value calculation methodology to calculate the land acquisition contribution rates in plans that contain significant land acquisition costs.

Design and implement a market-reflective index that more accurately reflects land acquisition price movements than indexes currently used in contributions plans.

Including provisions in plans that clearly state that owner of infrastructure land to be dedicated as part of development projects will be credited or compensated an amount that mirrors the indexed value of the land included in the contributions plan's works schedule.

Ensuring the plan includes avoiding or minimising potential 'severance and other non-market value' costs that may arise in any future acquisition of land through the compulsory process under the Just Terms Act

Avoiding unnecessary delays in issuing development consents through the use provisional contribution rates

Adopt a Council policy position that requires land dedication as part of development to be ascribed indexed CP value.

Recommendation 2: A land valuation professional (such as a registered valuer) be involved in the preparation of draft master plans, structure plans and rezoning layout plans for new development areas. The purpose of their involvement would be to recommend adjustments to infrastructure land requirements so as to avoid or minimise potential severance and non-market value costs arising from any future compulsory acquisition.

Recommendation 3: Reduce delays in the issuing of development consents after land has been rezoned caused by the separate contributions plan preparation process. This can be done by conditions of consent containing infrastructure contributions amounts that reflect the rates included in an interim or 'provisional' contributions plan. This change will allow early works associated with the subdivision of land that have no relationship to the quantum of infrastructure contributions to proceed earlier.

Recommendation 4: Pilot Recommendations 1-3 immediately for the Aerotropolis Precincts in Liverpool and Penrith LGAs and develop with council-specific advice on how their individual contributions plans can be updated.

Recommendation 5: To assist councils in the preparation of more robust, fit-for-purpose contributions plans, DPE should:

(a) Negotiate with IPART a streamlined plan review process so that uncapped contribution plans for essential works can be approved at or around the timing for rezoning of land, or to assist in the transition from a 'provisional' contributions plan to 'final' contributions plan as outlined in Recommendation 3.

(b) Participate with councils in developing an agreed methodology for constructing and maintaining a market-reflective land value index to insert in contributions plans, and seek adoption of this market index in CPs

(c) Review historical Just Terms Act acquisition transactions to justify to IPART the inclusion of a greater allowance of Just Terms compensation items in the cost of land that is included in CPs.

(d) Prepare infrastructure contributions practice notes that provide guidance to councils on:

i. how they can implement an NPV approach to s7.11 rates-setting as well as prepare a simple model that can be used for NPV calculation by councils in CP preparation, and

ii. on how to use pool contribution funds for financing early infrastructure land acquisition without compromising financial sustainability.

Recommendation 6: DPE to investigate opportunities for processes for rezoning to be 'switched-on' only after suitable arrangements for meeting the cost of infrastructure land have been agreed between the proponent and with the council.

Recommendations- detailed

Early land acquisition program

Recommendation 7: State government to adopt a package of measures that harmonise and improve land acquisition processes and that actively support councils in implementing an early acquisition program. The package should be developed in partnership with the WSPP and include the following elements:

- (a) State government coordination of acquisition program that aligns opportunities for priority State-led acquisition to also where possible deliver acquisition of land for local infrastructure set out in CPs (i.e., for areas including the Aerotropolis precincts, state-led precinct planning areas etc)
- (b) Establish a Memorandum of Understanding between local and State government for how financing and transfer of State-led acquisition processes that acquire local infrastructure land would occur (for example MoU set up with Office of Strategic Lands)
- (c) Establish a fast-track program for compulsory acquisitions under Just Terms Act with the Valuer-General and Office of Local Government that identifies with local councils in priority growth areas the pipeline of expected acquisitions to deliver local contributions plans and ensures that all agencies have allocation of resourcing to fast track these processes.
- (d) Investigate the establishment of a panel at a regional level for Western Sydney to provide consistent expert advice to local councils on land valuations to inform acquisition processes.

Recommendation 8: State government to pursue the following improvements for councils to utilise external borrowing and funding for land acquisition in partnership with the WSPP:

- (a) Establish T-Corp low-cost lending facility to support land acquisition for local infrastructure, including updating guidelines to allow councils to use low-cost loans to permit purchase of whole parcels of land that contain CP infrastructure land and allows future CP income as security for loans, if required.
- (b) Office of Local Government to adjust the minimum debt service ratio (DSR) for high growth councils to a positive percentage (i.e. 5%) rather than zero to facilitate greater borrowing capacity to allow for early land acquisition.
- (c) Establish a grant funding scheme that would support local councils to fund hardship acquisitions in the first 2-3 years following rezoning and to assist in joint funding of high priority early land acquisition where council's capacity for pooling of CP income and use of low-cost loans is not sufficient. In these cases, grant funding could be provided for the acquisition with future repayment based on CP income being received over the life of the plan (i.e., a revolving fund).

Recommendation 9: There is the opportunity to strengthen the governance and delivery phase (after the contributions plan has been approved and is collecting money) by council Chief Financial Officers leading the responsibility for implementation of infrastructure funding plans as part of the integrated planning and reporting framework.

Recommendation 10: Councils with moderate to high contributions plan land acquisition obligations to prepare a Land Acquisition and Dedication Policy addressing matters including:

- (a) the council's planned early acquisition program
- (b) the criteria for prioritising acquisition lands (which could include ownership patterns and extent of lot fragmentation)
- (c) funding sources to be used for acquiring land, including the council's strategy for pooling of contributions funds, and utilising internal or external borrowings to finance early land acquisitions
- (d) a framework for decisions on external debt funding, including managing financial risk related to CP income, and how debt will be serviced
- (e) interim uses and income-generation options for acquired land until it is needed for infrastructure purposes
- (f) where there is the opportunity for commercial property portfolio funding to be made available for part land acquisition (where complementary to core infrastructure lands requirements), and then how this land will be managed for a commercial return.

Recommendations- detailed

Recommendation 11: WSPP councils review their borrowing policies (or introduce new policies) with a view to:

- (a) Allowing loans which facilitate early land acquisition for growth site where other funds are insufficient, so long as debt service benchmarks are not breached.
- (b) ensuring that debt service indicators are adhered to and reported on (both the Debt Service Ratio and Debt Service Cover Ratio).

Skills and capacity in councils

Recommendation 12: Develop a best practice acquisition policy and delivery model for local councils to deliver land acquisition programs, including training and capacity development for liaison and compulsory acquisition.

This should involve consultation with the Community Commissioner in development and include MoU for State led acquisition of land which also includes part local government infrastructure lands.

Recommendation 13: Develop a regional approach to improving land acquisition capacity that will assist councils during their transition to new approaches, while also providing a regional approach for councils to utilise at-scale instead of developing individual local approaches.

WSPP should seek funding assistance from DPE for a transformation change management plan and to develop a number of joint projects to assist councils adopt the recommendations of this report.