

**Appendix 9 –**

**Land Value Sharing Study**

March 2022



# Land Value Sharing Advice

Inner West Council

25 | 06 | 2021





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# 1. Introduction

SGS Economics and Planning has been appointed by Inner West Council with advice on the applicability of value sharing to the Leichhardt Precinct along Parramatta Road. Council is in the process of preparing a planning proposal for this precinct, building on the NSW Government's Parramatta Road Corridor Urban Transformation Strategy, as well as on strategic planning work by Council. The planning proposal will provide an uplift in development potential in the Leichhardt Precinct as well as in other precincts along the Parramatta Road Corridor.

Council is seeking advice in relation to:

- What is land value sharing, and why is it justified?
- What are the opportunities for land value sharing in the Parramatta Road Corridor?
- The identification of a recommended land value sharing mechanism for land subject to Council-led planning proposals, and how the proposed mechanism would apply to subject sites.

SGS's scope of work includes reviewing precedents and justifications for value sharing, identifying opportunities in the Parramatta Road Corridor and a preferred value sharing mechanism, and analysis of how a preferred mechanism would be implemented.

Detailed feasibility modelling and market analysis is not included in the scope of works of this project. Instead SGS has used feasibility and market inputs from recent feasibility modelling undertaken by SGS and Savills under appointment by Council for a separate project, and modelling undertaken by Council in support of an affordable housing contribution.

## 1.1 Document structure

This report contains the following sections:

- 'Chapter 2 – Rationale for value sharing' summarises what value sharing is, its potential role in the planning system and its limitations.
- 'Chapter 3 – Policy context' discusses precedents for value sharing inside and outside NSW, as well as recent changes to NSW Government policies which impact on Council's options for implementing value sharing.
- 'Chapter 4- Designing a value sharing system' provides key questions and principles in the design of a value sharing system and a recommendation for the statutory approach in Inner West.
- 'Chapter 5 – Value sharing opportunities along Parramatta Road' provides feasibility results and the implications for how much value can be captured and on which development sites.
- 'Chapter 6 – Conclusion' summarises SGS's recommendations, a potential implementation for value sharing and how much value it could capture.

## 2. Rationale for value sharing

### 2.1 Components of Land Value

Various reports have identified the components of land value in the context of trying to communicate concepts around value sharing<sup>1</sup>. Drawing from these reports to understand how property value relates to value sharing, a property's value in the Australian context can be considered as a result of six drivers:

- A) **Amenity values** reflecting the site's locational and natural qualities, its proximity to regional open space and recreational opportunities, plus the quality of general 'urban upkeep', that is, the historical maintenance of infrastructure investment. This 'raw' amenity value component increases in an urban setting.
- B) **Population growth** (as a proxy of economic growth) which in an urban context enhances the general scarcity and utility of the property.
- C) **State level infrastructure provision** reflecting the property's direct access to beneficial or 'social' infrastructure such as public transport, major roads, schools and hospitals.
- D) **Granting of development rights** to allow for realisation of latent value, effected through rezonings, an increase in development potential and/or development approvals.
- E) **Local level infrastructure provision** reflecting the value of off-site development servicing infrastructure such as reticulated water and sewerage, stormwater drainage, distributor and collector roads.
- F) **On-site improvements** undertaken by the landowner including buildings, landscaping and other facilities.

FIGURE 1 overleaf illustrates in a hypothetical case how these components could change over time in response to various changes in site use, underlying supply and demand, infrastructure provision and land zoning.

In the absence of nearby major infrastructure investment or significant development right, the value of undeveloped land on which a single residential dwelling or commercial premise can be built will be principally influenced by its underlying amenity (A), and to increase steadily over time reflecting an increase in demand for well located land due to population and economic growth (B). Other things being equal, investment in major state-level infrastructure will cause value to increase in excess of the background level of growth, both in expectation of the infrastructure being built and its actual completion (C).

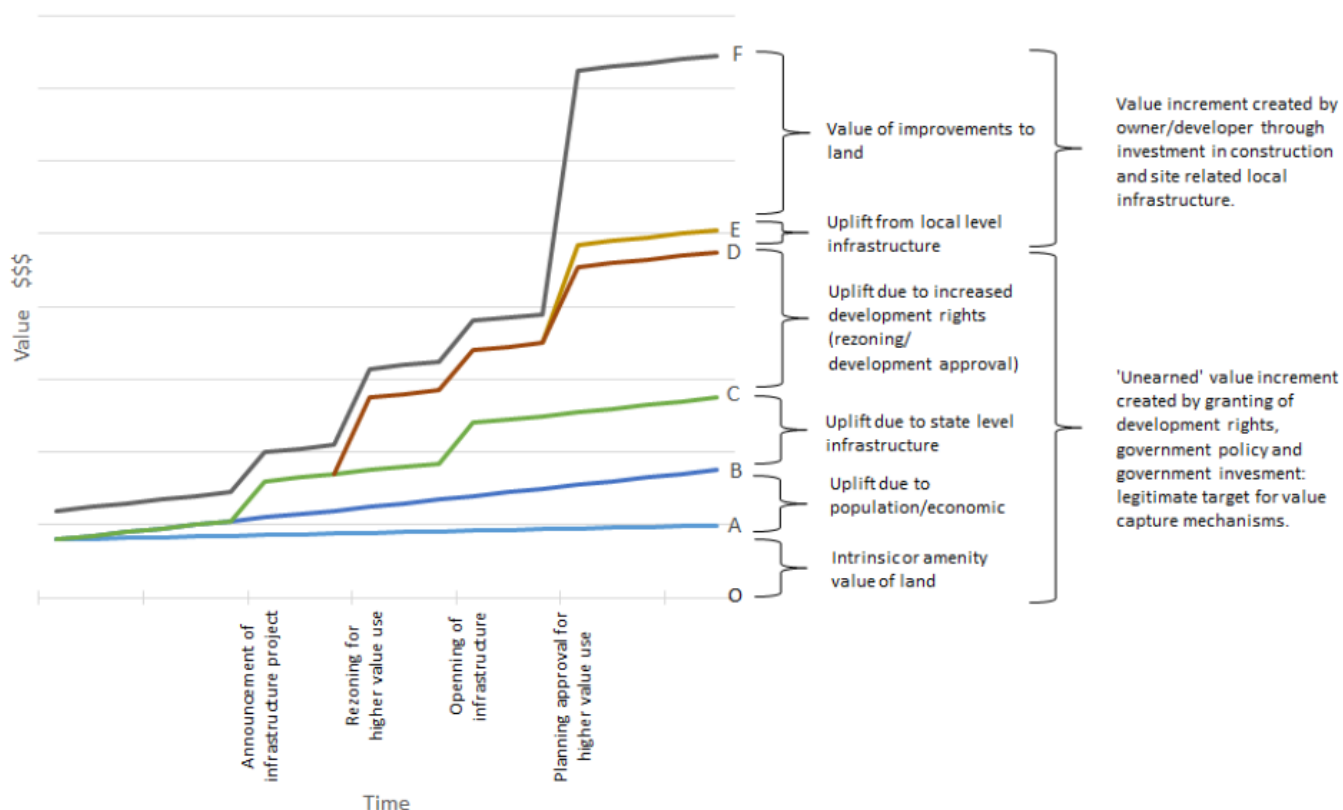
Granting of development rights through rezoning of the land to allow more intense and profitable development (for example through subdivision or apartment building construction) will cause a significant increase in land value when the rezoning occurs (D), as will investment in local servicing infrastructure (E).

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<sup>1</sup> For example Peter Newman, Evan Jones, Jemma Green and Sebastian Davies-Slate (December 2015) Entrepreneur Rail Model, Tapping Private Investment for New Urban Rail, Curtin University, page 34  
Fensham P and Gleeson B (2003) 'Capturing Value for Urban Management: A New Agenda for Betterment' Urban Policy and Research, Volume 21, Issue 1, pages 93 - 112

Finally, development of the land will also create some value on the property. This will increase notably whenever redevelopment or improvement occurs, for example if a house is built on a vacant site or an apartment built on a site previously containing a house.

FIGURE 1: DRIVERS OF PROPERTY VALUE



Source: SGS Economics and Planning

This conceptualisation of property value illustrates that there are a variety of sources of land value, some of which originate in actions by the land owner, while others originate from government investment or regulation. If developers or land owners are charged for the value of local development infrastructure (E) through local infrastructure charges levied on a user pays basis, then the extent that the underlying land value (driven by A to D) increases over time represents a 'windfall' gain to the land owner (or seller), in that the increase in value follows from action by the government rather than any action of the property owner.

As portions A – D represent the 'unearned' increment of land value, components C-D of which are created directly by the government, they are a legitimate target for land tax and/or value sharing arrangements which seek to create public benefits including for example funding for public projects such as transport infrastructure.

Developers who generally anticipate operating on the basis of reasonable margins on their investment in on-site improvements and contributions to development of local infrastructure should be indifferent to a charge on a reasonable share of additional development rights granted on the site. Such a value sharing approach will generally not impact on development viability. This point is discussed in more detail in the following section.



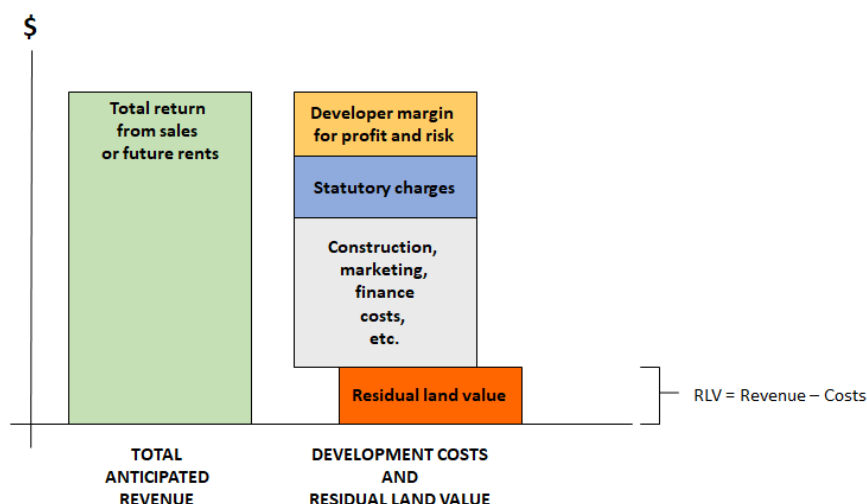
## 2.2 Valuing and capturing development uplift

### The residual land value

Residual land valuation is an approach used to establish the value of land based on its development potential. Simply put, residual land value (RLV) is the total revenue from the potential development minus all development costs, including the developers profit margin.

The cost of land is deliberately not included because the primary purpose of the residual land value calculation is to determine how much the land is worth for the hypothetical development. All other development costs are included: the developers margin for profit and risk, construction and site preparation costs, professional fees, marketing and finance costs, statutory fees and charges including user charges for development infrastructure (e.g. section 7.11 payments in NSW), inclusionary requirements and a consideration for impact mitigation measures (see Figure 1).

**FIGURE 2: RESIDUAL LAND VALUE APPROACH TO VALUING LAND**



As the RLV is what is left after all development costs are considered, including a profit margin, the RLV can be considered as:

The price a rational development could pay for a development site to profitably develop, based on the highest and best uses (e.g. the maximum amount of floor space allowed by the existing planning controls), and an average target rate for profit and risk.

Residual land values will vary between sites, based on the specific location, amenity, size and shape, and other idiosyncrasies. Regardless of these variations, valuers can estimate average residual land values for particular precincts, centres, or suburbs using data on site sales and/or feasibility studies. These average RLVs can also be expressed as residual land value per square metre of floor space for different types of development.

### Uplift in residual land value resulting from rezoning

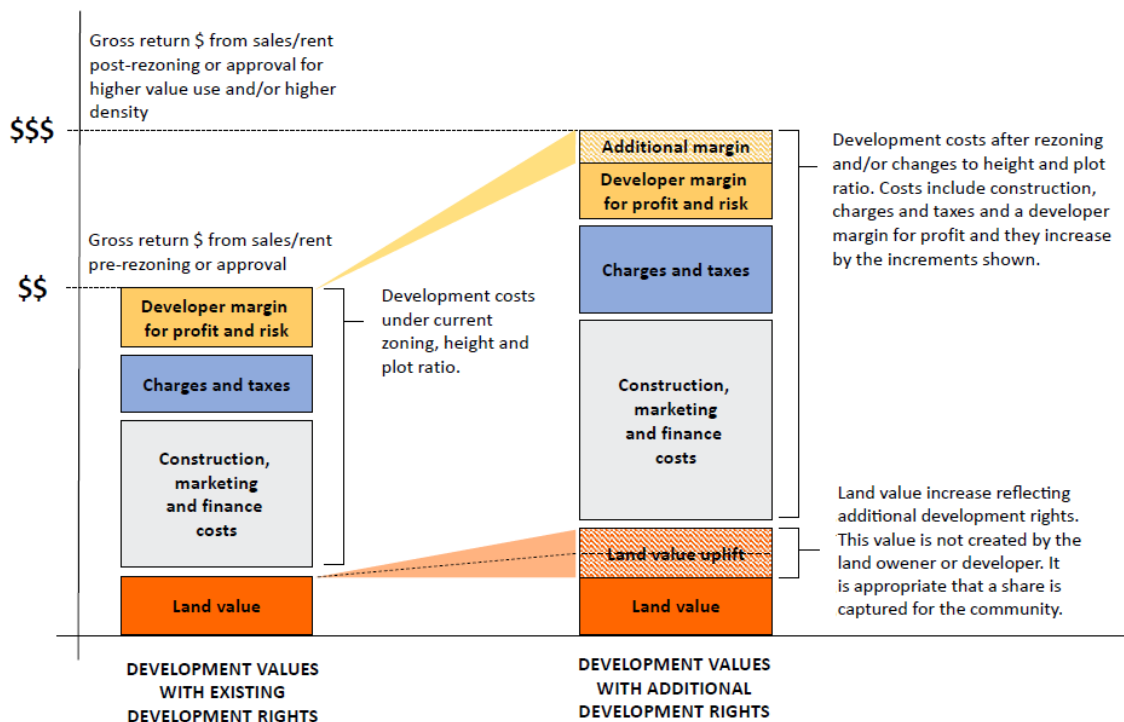
When a particular parcel of land is rezoned or has its development potential increased, the land owner is effectively granted additional development rights which are not available to all land owners (specifically those whose land is not rezoned do not receive these rights). This granting represents a rationing of development rights to particular precincts or locations based on appropriate planning, as opposed to a free for all which would result if there were no restrictions on development rights.

This rationing of development rights creates increased land values for those land owners who receive the rights. For example, other things being equal, land approved for a multi-storey apartment building will be worth more than otherwise equivalent land designated for a single house. The increase in land value can be conceptualised through the residual land value.

After a change to the zone or other development controls, all costs will increase for the higher value and denser development, including construction costs, development contributions, charges and taxes, and the margin for profit and risk. Revenue will also rise in line with more units being developed. Other things being equal, revenues will rise by more than costs and as a result, the residual land value will increase.

The figure below highlights these concepts and shows pre- and post-rezoning ‘development values’.

**FIGURE 3: CONCEPTUAL VALUATION OF ADDITIONAL DEVELOPMENT RIGHTS**



Source: SGS Economics and Planning

This increase in land value (the orange hatched box in Figure 3) is generated by rezoning wholly independently of any investment by the land owner or developer and is separate from a reasonable profit margin received by the developer (yellow hatched box in Figure 3). It is therefore reasonable that a share of this uplift in residual value be extracted for broader community benefit.

If a proportion of the increase in RLV is captured through a charge or other value sharing arrangement, it will not usually impact the viability of development. Developers will factor all charges and costs into their financial calculations, and so will pay less for the land if a value sharing arrangement is in place as some of the increase in RLV will need to be paid to the government or spend on public benefits. A developer will still be able to develop at a target profit margin providing that the RLV remains higher than the value of land for existing uses. In this case the developer can pay more for land than it would otherwise sell for, and so can compete in the private market for development sites.

If a share of this administratively-produced increase in land value is not captured, it will be entirely appropriated by the land owner in subsequent sale of the land. Alternatively, if developers already own land, it will result in windfall profits for the developer well in excess of usual profit margins.

## **2.3 Types of development contributions**

When considering how a value sharing approach is conceptualised and designed, it is helpful to position it within the broader range of development contributions, which are charges and fees (either monetary or in-kind) paid by a developer to a public authority.

Development contributions exacted through the planning system can be grouped into four mutually exclusive categories, premised on the grounds of user pays, impact mitigation, value sharing or inclusionary requirements. The distinction between these categories is briefly described below and also illustrated in Figure 4. As this paper deals specifically with the value sharing frame, clarity on its definition and unique justification is essential.

### **User pays contributions**

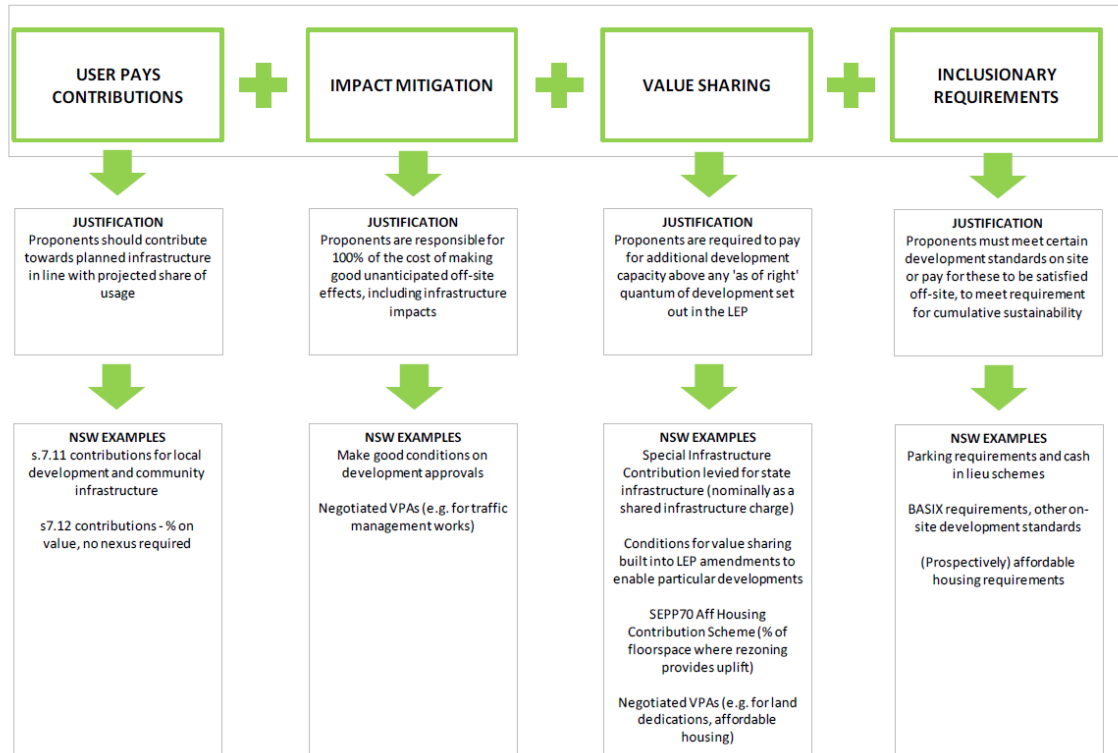
User pays contributions are levied to recoup the cost of planned infrastructure to meet the needs of incremental development. These contributions are distributed across both existing development and successive new development projects, according to projected share of usage.

The rationale that the user of new infrastructure should pay for it underpins the section 7.11 contributions in NSW. These contributions rely on the demonstration of a usage nexus which explicitly connects the amount of contribution levied to the increase in infrastructure requirements created by development.

### **Impact mitigation measures**

This rationale refers to the obligation on development proponents to make good any unanticipated adverse effects of their projects, including reduced functionality or levels of service from surrounding infrastructure. Impact mitigation works impose a cost on the proponent, they should not be construed as a public benefit. Rather, these measures are required to ensure there is no net loss of amenity or functionality for the community as a result of development.

**FIGURE 4: FOUR FRAMES OF DEVELOPER CONTRIBUTIONS**



Source: SGS Economics and Planning

### Value sharing

This rationale refers to the requirement for proponents of development to pay a de facto licence fee for the development rights awarded to them via rezonings and/or granting of development approvals. In the absence of such a licence fee, the value of these development rights would be capitalised in residual land value and therefore fully captured by the site owner, to the exclusion of the wider community. These extractions should be calibrated to the actual uplift in residual land value, which is the measure of the value of the development rights, rather than construction costs or the total value of the development.

This type of contribution is the sole focus of following sections of this paper, but it is important to consider what it is not – a value sharing mechanism should be different in conceptualisation and implementation than a mechanism for one of the other frames.

### Contributions premised on inclusionary requirement grounds

Inclusionary requirements are the design provision that successive projects must incorporate to ensure that development proceeds in an orderly fashion, sustainably and within community expectations.

Examples of inclusionary provisions include: car parking requirements; mandatory compliance with building form, design and density requirements; special provision in conservation areas; or incorporation of affordable housing to meet environmental requirements for social mix. In some cases, for example car parking and affordable housing, inclusionary provisions can be discharged by making cash in lieu contributions for the requisite provisions to be satisfied in off-site locations.

## **2.4 The role of value sharing**

The above economic principles form the conceptual basis for a system of value sharing which operates by capturing a portion of the value uplift created by the granting of additional development rights. If implemented in advance of land prices increasing to reflect development rights (in particular in advance of rezoning), such a system will not impact development viability, and if well designed would not otherwise impede development.

A key principle is that capturing value should not be viewed as the reason for development, over-riding appropriate planning considerations. In practice and when applied consistent with this principle, value sharing has significant potential as an instrument of planning policy, discussed below.

### **Lack of development nexus**

Revenues collected via value sharing arrangements do not necessarily need to be expended to benefit any particular site, and are therefore able to contribute to achieving a wide range of public benefits. They could be pooled with other council revenue streams to fulfill broader objectives contained in council's planning policies. This is unlike funds collected through 'user pays' or 'impact mitigation' contribution schemes, which have a development nexus and will be site related (even if not site specific).

### **Connecting growth to delivering public benefits**

Where value sharing contributions are available councils can sequence key infrastructure upgrades or provide other beneficial services in line with increases in development intensity, thereby enabling liveability and productivity improvements to be more readily accessed by communities experiencing growth. This in turn provides an incentive to facilitate housing and other warranted development and is likely to make this development more acceptable to existing communities. This logic suggests value sharing contributions deployed for beneficial infrastructure and services helps to liberalise the land supply chain for housing construction.

### **Efficiency of the planning system**

The implementation of a broad-ranging value sharing mechanism would make the planning system more economically efficient.

In the current scenario, there is often significant land speculation in which land is transacted at significantly inflated prices on the basis that it may be able to be developed in the future following potential changes to land use planning instruments or the completion of infrastructure. These increases may have little resemblance to what ultimately will be allowed on land and are economically inefficient.

Land speculation on the basis of potential future development rights can also adversely impact orderly planning and development. The inflation of property prices based on one potential future development type can make development appear to be unfeasible for other potential uses, restricting land use planning outcomes. It can also sterilise land for its current use or a variety of other possible uses when the land is withheld from use in the expectation of potential future development. Finally, inflated land prices can make development contributions appear to be unfeasible, restricting planning authorities from levying contributions required for orderly and sustainable development.

## 2.5 Limits to value sharing

The equivalent proportion of the value or uplift which is captured from a site will depend on:

- The value of the land.
- The value of the improvements.
- How long the site has been owned.
- How often the site is sold.
- Whether or not the site attracts a land tax liability (and for which level of government).
- Whether or not the owner is subject to a CGT liability when they sell the site (likely to apply to small-scale investors and land speculators).
- Whether or not there is a company tax liability associated with the development of site (likely to be the case for developers but will depend on net profitability across a portfolio of development projects).

All of these factors may be at play and may constrain the size of contributions which can be captured through value sharing. The reality is that while value uplift is undoubtedly generated in some circumstances – and should be subject to value sharing arrangements - there may be a limit to how much can be extracted for new projects, given the obvious need to maintain a margin for a return on capital and that at least part of any value uplift may be captured and accounted for via existing contribution mechanisms.

### Other taxes and charges

Land and its improvements may already be subject to a range of existing taxes and charges including stamp duty, land tax, capital gains tax (CGT), company tax and user pays infrastructure contributions. If not otherwise viewed as a development cost, the application of these taxes and charges already extract a proportion of the uplift in land value through the development process.

The application of the existing taxes and charges depend on a range of factors including threshold values (e.g. land tax), triggers (e.g. capital gains tax and stamp duties are paid on sale of land) and exemptions (e.g. exemption of owner occupied dwellings from land tax and CGT).

While RLV uplift can (and should) be calculated and captured exclusive of other taxes and charges, the reality is that there is some degree of competition between taxes and charges for the available 'value'. A high user pays based infrastructure charge for example will reduce the amount that might be captured through value sharing.

### The difficulties of identifying the causes of land value increase

The design of land value sharing mechanisms may be complicated by the varying time scales over which unearned increases in land value occur. 'Background' components of value uplift associated within amenity and population growth are not easily accounted for, and it can be difficult to determine how much of the general land value uplift should be attributed to particular factors.

Capturing the increase of RLV upon rezoning (or at least nominating the value to be captured in due course at the approvals or completion stage of development) circumvents many of these challenges. As

it is relatively straightforward to calculate the RLV before and after rezoning, this increase in value can be directly attributed to the rezoning.

It may be difficult to agree valuations before rezoning. In many cases landholder expectations and land speculation will increase land values well in advance of rezoning, especially if a lengthy strategic planning process has occurred. It is critical that land value sharing policies are telegraphed as early as possible to prevent this occurring.

Despite these difficulties, there are functioning value sharing schemes in Australia and internationally. The ACT lease value variation scheme is a key example which sets contributions rates per dwelling or square metre of uplift and so avoids difficulties in different valuations. This scheme is discussed in more detail in Section 3.3.

### **Cases with low development viability**

As highlighted in Section 2.2, value sharing applies to the nominal increase in RLV before and after a rezoning. By definition if there is no increase in RLV or perhaps if this is very modest (because the additional allowable development is modest, there are significant other contributions to be paid, or the existing land value is very high), a value sharing contribution is not available or viable. A contribution required in the absence of an increase in RLV would likely render the development not viable.

## 3. Policy context

### 3.1 Recent policy changes

There have been multiple recent changes to the policy context regarding value sharing and planning agreements, which would be required to implement many of the currently available mechanisms for value sharing. This section provides an overview of the evolving policy context, while value sharing mechanisms are discussed in more detail in the following section.

There have been recent changes to the Practice Note on Planning Agreements in February 2021. These partly respond to a review of infrastructure contributions by the NSW Productivity Commission. Changes to the infrastructure contribution system seek broadly to establish common and streamlined development contribution practices across NSW. This would reduce the potential for Council to use bespoke or unconventional development contributions planning with the aim of value sharing if they are seen as contrary to the NSW Government's policy direction.

#### Productivity Commission Report

The NSW Productivity Commission released a report on the NSW contributions system in December 2020. This report specifically criticises the use of planning agreements for value capture (another term for value sharing):

“The use of planning agreements for monetary value capture on height and floor space increases should be curtailed. Instead, planning agreements should only recover development-contingent costs of ‘out-of-sequence’ development proposals not identified in strategic plans. They should also be allowed for direct delivery of land or works with a relationship to development.” (p. 9)

This criticism responds to a perceived inconsistent use of planning agreements creating uncertainty and inefficiency, impeding development and undermining confidence in the planning system. The report also expresses concern that there could be a perception that the potential for monetary return will unduly influence (or be perceived to do so) decision making in local councils around rezoning.

While the report does not explicitly say that value capture should not occur, it notes implementation difficulties and recommends a broad, flat per dwelling or sqm state contribution rate as more practical and sustainable than inconsistent application of an ‘active value capture system’.

The report makes a series of recommendations, all of which were adopted by the NSW government. These include to:

- Amend relevant practice notes and legislation to embed principles in which planning agreements are for the delivery of infrastructure to support development that is out of sequence or unexpected, or to facilitate the direct delivery of development-contingent infrastructure or impact mitigation works.
- Improve accountability for affordable housing contributions.



- Adopt regional infrastructure contributions of \$12,000 per housing and \$10,000 per other dwelling in Greater Sydney, \$10-\$15 psqm for industrial floorspace, \$20-\$30 for commercial floorspace and \$30-\$40 psqm for mixed uses. These would be levied by the NSW Government.

### Practice note on Planning Agreements

An update to the *Practice Note Planning Agreements* was released in February 2021. In line with the Productivity Commission recommendations it discourages the use of planning agreements for value capture:

“In general, the use of planning agreements for the primary purpose of value capture is not supported as it leads to the perception that planning decisions can be bought and sold and that planning authorities may leverage their bargaining position based on their statutory powers.

Planning agreements should not be used explicitly for value capture in connection with the making of planning decisions. For example they should not be used to capture land value uplift resulting from rezoning or variations to planning controls. Such agreements often express value capture as a monetary contribution per square metre of increased floor area or as a percentage of the increased value of the land.” (pp. 5-6)

The Practice Note notes that the objectives for the use of planning agreements will be context specific. However, it provides several general objectives that planning agreements should be directed towards:

- Meeting the demands created by the development for new or augmented public infrastructure, amenities and services.
- Securing off-site benefits for the community so that development delivers a new community benefit.
- Compensating for the loss of or damage to a public amenity, service, resource or asset by development through replacement, substitution, repair or regeneration.

### Discussion

SGS disagrees with the notion that an active value sharing system, that is one that explicitly captures a portion of land value uplift upon rezoning, will necessarily impede development, create inefficiency or undermine the planning system. A value sharing system which is predictable and applied ideally prior to rezoning, or alternatively phased in over time, will capture a portion of the increase in residual land value. Providing that value is captured above the density at which development is feasible, this will not impact on feasibility or the efficient development of land.

## 3.2 Value sharing and contributions mechanisms and precedents in NSW

### Site by site planning agreement negotiation

Planning agreements (PAs) can be negotiated with development proponents on a site by site basis to secure public benefits when proponents lodge a planning proposal to rezone land, or lodge a development application which requests a density bonus.

This approach can only be applied on an ad-hoc basis when a proponent initiates a development proposal. There is no legislated requirement for proponents to enter PA negotiations, so this approach would be voluntary if proponents wish to mitigate off-site impacts or provide a public benefit associated with development.

This approach can be considered within the four development contribution frames as either a value sharing approach, or as a mechanism for impact mitigation.

Several precedent local government policies are provided below which aim to capture a share of value uplift, which is valued on a site by site basis. However, as noted in the previous section, the NSW Government now discourages this approach. Any policy which includes a proportion of value uplift to be captured would likely be contrary to this policy.

#### Advantages

- Flexibility to capture wide variety of benefits due to the development-specific nature of the negotiations and PAs.
- Can be sensitive to differences in valuation within precincts as uplift on each site would be considered individually.

#### Disadvantages

- Must be negotiated on a site by site basis, which is administratively burdensome and could create legal risks for Council and lead to inconsistent outcomes.
- Potential for disagreement on valuation or valuation method during negotiation.
- Uncertainty for developers and Council on the size of the contribution likely to be provided.

## Precedents

**TABLE 1: PRECEDENTS FOR PA POLICIES WITH SITE-BY-SITE VALUATION**

Policy	How is uplift valued	Share of uplift captured
Woollahra PA Policy	Case by case valuation of RLV change	50%
Parramatta PA Policy	Case by case valuation of site	50%

### **Planning agreement policy with pre-scheduled rates**

PAs can also be used to capture land value uplift more consistently if a policy is gazetted which contains pre-scheduled rates that specify the value of uplift that the proponent must provide per sqm of additional development rights granted (either monetary or in-kind). This policy would need to be consistently applied, otherwise this approach would resemble the first approach with uncertain outcomes dependent on development-specific negotiations.

As with the first approach, this approach can only be applied when a proponent initiates a development proposal, and there is no legislated requirement that a proponent enters PA negotiations or agrees to a PA.

Several precedent local government policies are provided below which provide pre-scheduled value sharing rates for PAs. However viewing these rates as a requirement could be seen to suggest that PAs are primarily a value sharing mechanism, which is discouraged by the NSW Government Practice Note.

This approach is best considered as a mechanism for value sharing, as specified pre-scheduled rates would depend on a value sharing on uplift rationale.

#### Advantages

- Flexibility to capture wide variety of benefits due to the development-specific nature of the negotiations and PAs, although flexibility is reduced slightly by the use of pre-scheduled rates.
- Pre-scheduled rates provide certainty to developers and Council on the size of contribution that will be captured.

#### Disadvantages

- Must still be negotiated on a site by site basis, which could be administratively burdensome and leave Council open to challenge as Council cannot require a proponent agree to a PA.

## Precedents

**TABLE 2:PRECEDENTS FOR PLANNING AGREEMENT POLICIES WITH PRE-SCHEDULED RATES**

Policy	How is uplift valued	Share of uplift captured
Waverley PA Policy	Pre-scheduled GRV – costs rates provided for residential floorspace. Outside of identified precincts or for other land uses, case by case valuation of GRV – costs should be used. For planning proposals, case by case increase in RLV should be used	50%
Georges River PA Policy	Pre-scheduled RLV rates for specified precincts. Case by case valuation of RLV change in areas outside these precincts.	50%
Cumberland PA Policy	Pre-scheduled RLV rates by precinct and by land use.	50%

## **SEPP 70**

The Department of Planning, Industry and Environment's (DPIE's) guideline for the development of SEPP70 affordable housing schemes specifies that they should be applied when land is rezoned and should not compromise development viability. This explicitly positions affordable housing contributions to capture land value uplift. However, in the four pillars SEPP70 contributions could also be considered as an inclusive requirement using the argument that provision of affordable housing is a necessary part of development to ensure the cumulative sustainability of the immediate neighbourhood and LGA overall.

SEPP70 can be applied at a precinct level and would likely be implemented through precinct-scale pre-scheduled contribution rates.

### Advantages

- Can be applied to broad precincts, minimising administrative burden.
- Could capture a high proportion of land value uplift as it is not explicitly constrained.
- Is becoming more well-established as a mechanism, with guidance from DPIE on how to do it.

### Disadvantages

- Can only be used for affordable housing.

## Precedents

**TABLE 3: PRECEDENTS FOR SEPP 70 CONTRIBUTIONS**

Policy	How is contribution calculated	Share of uplift captured
City of Sydney SEPP70 schemes	Pre-scheduled rates per sqm	Not calculated as % of uplift
Kensington and Kingsford scheme	3% of total floor area used for residential purposes, increasing to 5% after 13 August 2022 Equivalent monetary contribution rates defined	
Willoughby scheme	Contribution equivalent to 4% of total floor area in identified precincts (precincts are limited in area)	

### **Community infrastructure charge**

Community infrastructure charges have been implemented in Green Square, Kensington to Kingsford, Burwood and Penrith (see precedents below). In this approach, the LEP specifies that community infrastructure must be provided for consent to be granted to some kinds of development applications.

In most cases, a base floor space ratio (FSR) is set on relevant sites, which can be achieved without proponents providing any value sharing contribution (i.e. towards community infrastructure). Identified sites are able to achieve higher FSRs generally up to a maximum FSR if community infrastructure is provided, with the rate of contribution and appropriate contribution types usually specified in a separate policy.

The rationale for this approach is generally to secure community infrastructure which is required to support high-density development, but which cannot be funded in other ways. It is also viewed as a value sharing mechanism, for example by Randwick Council in Kensington and Kingsford.

This approach would likely require a planning agreement to be entered into as part of development, and so would be subject to the NSW Government's Practice Note. To be consistent with this practice note, the size of a contribution required would need to be premised on securing required infrastructure rather than capturing value.

#### Advantages

- Can be applied to broad precincts.
- Flexibility to secure a range of development types.

#### Disadvantages

- Requires proponents to agree to PAs to provide contributions and so gain access to development bonuses.
- Disagreement over how and when this approach can be applied.

## Precedents

**TABLE 4: PRECEDENTS FOR COMMUNITY INFRASTRUCTURE CHARGES**

Policy	Contribution rate and calculation rationale	Contribution types accepted
Green Square community infrastructure floorspace scheme	Pre-scheduled rates by land use, calculated based on feasibility and amount of infrastructure required \$475/sqm residential, \$275/sqm retail. \$200/sqm non-residential	Monetary contribution discounted to account for infrastructure delivered on site
Green Square Town Centre development rights scheme	Same rates as above, but applies to Town Centre and the City only rezoned land in the Town Centre at landowner request, in accordance with City strategies and masterplans and if landowners committed to funding required infrastructure.	Monetary contribution discounted to account for infrastructure delivered on site
Kensington and Kingsford scheme	Pre-scheduled rates by land use on floorspace above base FSR, set at the same level as Green Square on the basis that these are proven to be supportable by the market.	In-kind infrastructure from a specified works list, or a monetary contribution
Burwood Town Centre CIC	\$1,700 psqm above base FSR, revised annually in line with market movement. Initially calculated based on infrastructure required and feasibility.	Generally monetary contribution, with a rate per sqm set in the Council fees schedule
Penrith Town Centre CIC	\$150/sqm of additional gross floor area above base FSR.	In-kind or monetary contribution. Policy sets preferred infrastructure types and principles for what in-kind infrastructure will be accepted.

### Infrastructure contributions

Development contributions to fund infrastructure are levied through s7.11, s7.12 or through a special infrastructure contribution (SIC). Contributions increase as the amount of development increases, and they do contribute towards the provision of new infrastructure which provides a public good. Increasing contribution amounts will decrease the residual land value in competition with other potential value sharing mechanisms. For these reasons, infrastructure contributions can be regarded to some extent as a form of value sharing (particularly SICs where the strict nexus between the development and the infrastructure to be provided is not necessarily 'tight' or apparent).

However, the rationale for infrastructure contributions is on a user-pays basis, whereby development must pay for the additional infrastructure need it creates rather than contributing more broadly to the public good. The associated design features of the infrastructure contribution system (particularly for 7.11 contributions), such as the need for a strong nexus between development and infrastructure and

the capping of contributions, make the system relatively inflexible and not able to be used to fulfill a broader value sharing role.

#### Advantages

- Well established system routinely used by councils (section 7.11 and 7.12 contributions in particular).
- Can be applied broadly on a precinct or LGA basis.

Contributions can be used to fund a variety of infrastructure with a nexus to development, can be pooled within a precinct or scheme, and can apply to a broad base of types of development

#### Disadvantages

- Contributions are capped unless IPART approval is received.
- If IPART approval for a higher contribution is received, only items from the essential infrastructure list can be funded, leaving a range of necessary infrastructure like community facilities unable to be funded.
- Development of a contributions scheme requires an infrastructure schedule with a demonstrated strong nexus with development, and apportionment of infrastructure demand between new and existing development.
- Cannot be used to fund some important items like affordable housing.

#### Precedents

Infrastructure contributions are routinely used by Councils across Australia. SICs are often applied by the NSW Government to fund state infrastructure in major growth precincts.

#### **Satisfactory arrangements clause**

Satisfactory arrangements clauses require the satisfactory provision of enabling infrastructure before development in line with the land zone and height or FSR controls can occur.

These clauses are normally employed when land is rezoned to enable more intense development, but there is a shortfall in major infrastructure (typically state-level infrastructure) which is required before development can proceed. For example, they are employed to prevent greenfield development occurring until sewerage, water supply and other enabling infrastructure is connected. They have also been employed to require upgraded transport infrastructure in areas undergoing infill or other urban redevelopment.

These clauses can sometimes, but not always, be considered as development contributions mechanisms which can capture some land value uplift. Where the clauses pause development until infrastructure is provided by the State Government or another agency, they do not impose any development contributions on development proponents. However, there are some cases where the implementation of the clause would require proponents to contribute to the delivery of state infrastructure before development could proceed, for example through a planning agreement, or through the future imposition of a SIC or development contribution scheme. These cases pause development and identify the need for contributions without specifying the mechanism. Examples are listed in the precedents below.

Where proponent contribution is required, satisfactory arrangements clauses can be regarded as another kind of user pays infrastructure contribution, with some of the same advantages and disadvantages as other infrastructure contributions.

#### Advantages

- Can be applied on a precinct basis to capture contributions towards required infrastructure.
- Is not as constrained in amount and infrastructure type as s7.11 and s7.12 contributions.

#### Disadvantages

- Only appropriate for required infrastructure with a nexus with development, and where development cannot proceed otherwise.
- Does not have a well-established implementation framework like s7.11 or s7.12 contributions.

#### Precedents

The Marrickville LEP 2011 (s 6.18) and Liverpool LEP 2008 (s 6.4A) both specify that development consent must not be granted for residential accommodation, or other kinds of development in the Marrickville case, in specified precincts until satisfactory arrangements have been made to contribute to the provision of designated public infrastructure.

### **Design requirements and consent conditions**

Design requirements and other consent conditions are imposed when development approval is granted. These conditions can generate public benefits as a result of development, for example through the undergrounding of electricity wires when development occurs or the provision of a through site link on a large development site.

The scope of conditions which can be imposed is set in the Environmental Planning and Assessment Act 1979. There needs to be a direct link between the development occurring, its impacts or requirements for sustainable design, and the condition imposed. This limits the applicability of consent conditions as a value sharing mechanism. For example, a consent authority could not impose a general monetary contribution to capture an increase in the RLV.

In terms of the four frames of development contributions, consent conditions can fill a role either as impact mitigation, for example through make good conditions, or as inclusionary requirements which ensure the overall sustainability of development and the broader area.

#### Advantages

- Allows Council to secure limited public benefits on development sites, delivered by the developer.

#### Disadvantages

- The scope of conditions which can be imposed is limited.



### 3.3 Precedents outside NSW

#### City of Melbourne

The City of Melbourne’s planning scheme includes a floor area uplift and public benefits scheme. Under this approach, planning applications in the Melbourne CBD and Southbank that exceed a floor space ratio of 18:1 are required to provide community benefits, commensurate with the uplift in land value associated with the addition floor space (the ‘floor area uplift’).

The contribution amount is calculated via pre-scheduled rates for the end sale value (described in the policy as the “gross realisation value” or GRV) of different land uses in different precincts (see Figure 11 and Table 7 below). The public benefit contribution is intended to capture 80% of the RLV increase. This amount is estimated as 10% of the increase in the gross realisation value. This figure was determined based on a desire to capture 80% of the uplift in land value, and advice that the RLV for additional floor space is, on average, 12.5% of the GRV (80% x 12.5% = 10%).

In Victoria, it is not possible for a planning authority to accept cash payments as part of a planning agreement. The public benefits must be provided as land or works in kind. The policy provides guidance of the types of public benefits that can be provided, and the methods for valuing them.

**TABLE 5: CITY OF MELBOURNE SCHEDULE OF GRVS BY PRECINCT AND FLOOR SPACE TYPE, JANUARY 2016**

USE	PRECINCT (see Fig.1)							
	Eastern Core	North Eastern	Civic	Flagstaff	Western Core	Spencer	Southbank	Docklands
Retail	\$17,000	\$14,000	\$16,000	\$15,000	\$17,000	\$14,000	\$12,000	\$14,000
Hospitality	\$9,000	\$8,000	\$8,000	\$7,000	\$7,500	\$6,500	\$6,500	\$6,500
Commercial	\$9,000	\$6,000	\$7,000	\$5,500	\$7,000	\$5,000	\$5,000	\$5,000
Residential	\$9,000	\$8,000	\$8,000	\$7,000	\$7,500	\$6,500	\$6,500	\$6,500

Source: DELWP (2016) How to calculate Floor Area Uplifts and Public Benefit

#### ACT lease variation charge

The ACT’s Lease Variation Charge (LVC) system demonstrates however that a comprehensive value sharing system can be readily developed. It applies a charge to the marginal increase or change in floorspace type when a site increases in development intensity or use. For residential intensification charges vary at a fine grain level between areas (given different RLVs) and are based on a per additional dwelling rate, which varies by size of development. Charges for commercial and industrial uses also vary by location and apply on an additional gross floor area amount per square metre.

The LVC, implemented since 2011 is unique to the leasehold system of property ownership in the ACT. is based on (75% of) the RLV of either an additional dwelling or additional square metre of commercial and industrial floorspace which varies by location, but which avoids any requirement to identify ‘before and after’ values.

There are two methods used for calculating the LVC under the Planning and Development Act 2007:

1. **Codified regime** (s276E) – through a table of fees with charges levied per dwelling/unit or per square metre of additional GFA, based on the type of zoning, location, and whether the proposal includes the consolidation of leases or a variation to the number of dwellings/GFA permitted on a site.
2. **Valuation regime** (s277) – through a formula based on the value after the variation (V1) and the value before the variation (V2), with 75% of the uplift in value being paid as the LVC charge.

An extract of the codified regime is shown in Figure 5 and Figure 6, along with a map illustrating examples of different precincts under the LVC system show in Figure 6. This regime has relatively broad applicability, minimising the need for widespread use of the valuation regime. Once such a system is in place it removes the need for ad hoc valuations of the existing use.

Variations under section 277 include those which are not covered by the codified regime, such as proposals to add or delete a use or a clause from a lease, or change an easement. The values used to calculate the LVC under the valuation regime are required to be sourced from an accredited valuer. The improvement on the land is not taken into account, with the charge based on the added value as a result of the variation.

**FIGURE 5: EXAMPLE OF RESIDENTIAL CHARGES LEVIED UNDER CODIFIED LVC REGIME**

<b>Lease Variation Charge Determination Schedule 2 – Residential</b>			
<b>column 1</b>	<b>column 2</b>	<b>column 3</b>	<b>column 4</b>
<b>Total Approved Number of Dwellings</b>	<b>Locality A additional dwelling amount</b>	<b>Locality B additional dwelling amount</b>	<b>Locality C additional dwelling amount</b>
<b>SUBURB</b>	<b>Ainslie</b>		
2 Dwellings	\$110,000	\$120,000	\$130,000
3 Dwellings	\$65,000	\$75,000	\$75,000
4 Dwellings	\$60,000	\$65,000	\$70,000
5-10 Dwellings	\$55,000	\$60,000	\$65,000
11-20 Dwellings	\$50,000	\$55,000	\$60,000
21-40 Dwellings	\$45,000	\$50,000	\$50,000
41-100 Dwellings	\$40,000	\$45,000	\$45,000
>101 Dwellings	\$35,000	\$40,000	\$40,000
<b>SUBURB</b>	<b>Amaroo</b>		
2 Dwellings	\$45,000		
3 Dwellings	\$50,000		
4 Dwellings	\$45,000		
5-10 Dwellings	\$40,000		
11-20 Dwellings	\$35,000		
21-40 Dwellings	\$30,000		
41-100 Dwellings	\$30,000		
>101 Dwellings	\$25,000		

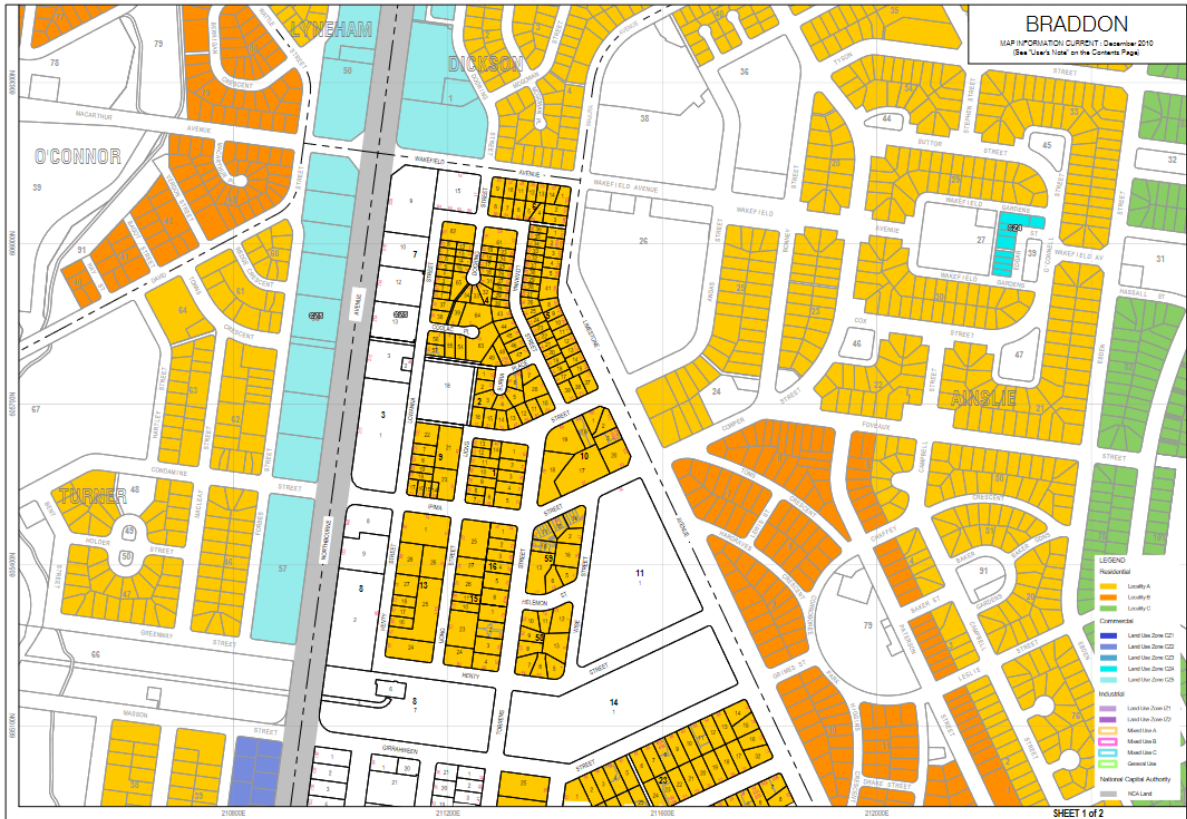
Source: ACT Government, 2021

FIGURE 6: EXAMPLE OF COMMERCIAL CHARGES LEVIED UNDER CODIFIED LVC REGIME

<b>Lease Variation Charge Determination Schedule 3 – Commercial and Industrial</b>			
column 1 Zone	column 2 Suburb	column 3 Applicable criteria (if any)	column 4 Additional gross floor area amount per square metre
<b>Commercial – Town Centres</b>			
Commercial CZ1	Belconnen	Town Centre – Retail Core	\$390
		<b>Town Centre – Business</b>	
Commercial CZ2	Belconnen	less than 10,000m <sup>2</sup> GFA maximum	\$515
Commercial CZ2	Belconnen	10,000m <sup>2</sup> to 20,000m <sup>2</sup> GFA maximum	\$360
Commercial CZ2	Belconnen	20,000m <sup>2</sup> GFA maximum and above	\$265
<b>Services Zone</b>			
Commercial CZ3	Belconnen	less than 5,000m <sup>2</sup> GFA maximum	\$465
Commercial CZ3	Belconnen	5,000m <sup>2</sup> GFA maximum and above	\$400
<b>CZI Areas</b>			
Commercial CZ1	City	Less than 10,000m <sup>2</sup> GFA maximum	\$570
Commercial CZ1	City	10,000m <sup>2</sup> to 20,000m <sup>2</sup> GFA maximum	\$380
Commercial CZ1	City	20,000m <sup>2</sup> GFA maximum and above	\$340
Commercial CZ1	Greenway	Town Centre Retail Core	\$390
Commercial CZ2	Greenway	Town Centre – Business	\$265
Commercial CZ3	Greenway	Town Centre Service Zone	\$265
Commercial CZ1	Gungahlin	Town Centre -Retail Core	\$390
Commercial CZ2	Gungahlin	Town Centre - Business	\$275
Commercial CZ3	Gungahlin	Town Centre Service Zone	\$245
Commercial CZ5	Gungahlin	Mixed Use Area	\$220
Commercial CZ1	Phillip	Town Centre Retail Core	\$390
Commercial CZ2	Phillip	less than 10,000m <sup>2</sup> GFA maximum	\$465
Commercial CZ2	Phillip	10,000m <sup>2</sup> to 20,000m <sup>2</sup> GFA maximum	\$370
Commercial CZ2	Phillip	20,000m <sup>2</sup> GFA maximum and above	\$250
Commercial CZ3	Phillip	Town Centre Service Zone	\$560

Source: ACT Government 2017

**FIGURE 7: EXAMPLE OF FIN-GRAIN PRECINCTS WITH DIFFERENT CHANGES UNDER CODIFIED LVC REGIME**



Source: ACT Government, 2021

**Victorian windfall gains tax**

The Victorian Government has announced that as part of their 2021 budget, a windfall gains tax will be introduced. This tax will apply to land where rezoning has created an increase in land value, and will levy up to 50% of the increase in land value upon sale of the land. The tax will be excluded from applying to sales of land under a threshold price.

# 4. Designing a value sharing system

## 4.1 Key questions in value sharing system design

There are three key questions in the design of a value sharing system:

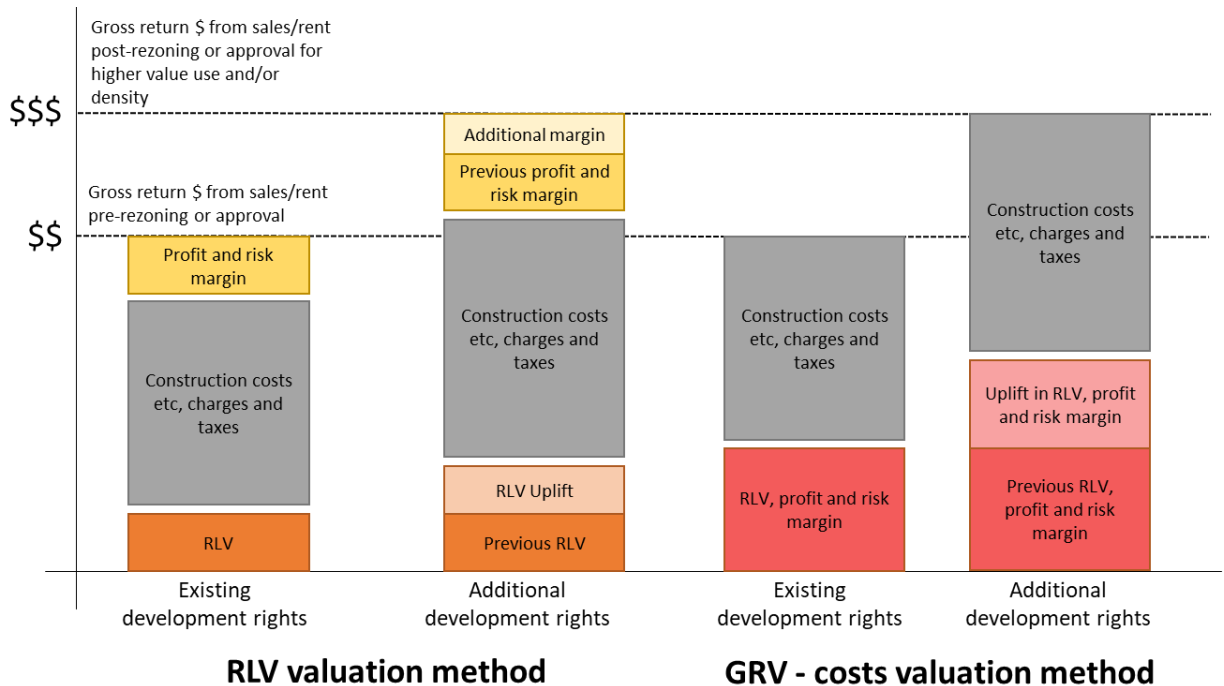
1. How to value the uplift which occurs upon rezoning?
2. How much of the uplift to capture?
3. How to require and enforce value sharing (the statutory implementation)?

There are several different possible pathways for value sharing under the current legislative arrangements in NSW. These are discussed in more detail in the previous chapter. Some of these approaches are limited in the scope of value they are able to capture, restricting answers to the second and third questions.

### How to value uplift?

There are two conceptual approaches currently in use in NSW for calculating the overall value uplift. These are depicted in Figure 8 below.

**FIGURE 8: CONCEPTUAL WAYS TO VALUE UPLIFT**



Source: SGS Economics and Planning

### 1. RLV method

The first approach is to use the RLV, which is discussed in Section 2.2. Calculating RLV before and after rezoning provides an estimate of the total value available for capture without impacting development feasibility.

### 1. GRV – Costs method

The second approach is to calculate the change in gross realisable value (GRV) minus the change in construction costs when additional floorspace is added for development. This is similar to an RLV calculation, except that the developer's profit and risk margins are not included in the costs. As such, this approach captures some of the profit and risk margin and will result in higher levels of value captured. However, it is likely to face greater opposition from the development industry because it cuts into the profit and risk margin. This approach is only used by Waverley Council.

Once a conceptual way of considering value uplift has been determined, it remains to decide how this value will be calculated for individual properties. There are two general approaches for doing this.

#### 1. Site by site valuations

This method requires a calculation of the 'before' and 'after' value on each site taking account of site-specific factors that will affect the value. It is impractical for Council to individually value each development site, and different valuations may be arrived at developing on the assumptions made. As such, this approach would typically require 'open book' negotiations between development proponents and Council using agreed assumptions.

#### 2. Pre-scheduled uplift rates on a precinct basis

In this approach, average expected revenues and costs per square metre of floorspace are used to derive average uplift rates per sqm of additional floorspace on a precinct or suburb basis, usually varying by land use. These rates, equivalent to the RLV of the floorspace in question, are gazetted and used in calculating value sharing rates on every site. Rates must be periodically updated to reflect changes in the property market.

This approach requires more upfront work to calculate rates than the first approach. However, it is easy to administer once the system is in place and carries low risk. It is also more practical if value sharing is intended to be implemented across a precinct.

### **How much uplift to capture?**

Value sharing policies currently in operation in Australian jurisdictions capture between 50% and 80% of the land value uplift, with 50% being common in New South Wales (see further detail on precedents in the previous chapter).

The logic for not capturing 100% of the uplift is to provide an incentive to the land seller to release land to the market.

There is no clear logic for adopting the lower-end rate other than it has precedent and perhaps a general acceptance that a '50:50 split' between the developer/land owner and the community is 'reasonable' or 'fair'.

In the United Kingdom, the Greater London Authority suggests that the base land value for calculating uplift should be the Existing Use Value plus 10% to 30%<sup>2</sup>, implying that 70% to 90% of land value uplift can be directed towards public benefits through affordable housing contribution policies. In the ACT, 75% of uplift is captured via the Lease Variation Charge regime.

## 4.2 Recommended value sharing principles and approach

In general, SGS's considers the following as key principles of a fair and reasonable value sharing system:

1. Wherever possible, the value sharing objective should be **codified and pre-notified**. This renders value sharing more transparent and accountable, and reduces uncertainty, allowing developers to factor value sharing rates into development feasibility calculations. Moreover, it reduces transaction and negotiation costs leading to faster and better planning decisions.
2. The value sharing rate targeted in planning agreement negotiation should be **fair and efficient**; that is, it should not be so high as to dampen the flow of development sites onto the active development market. The value created by a planning decision is given by the residual land value for the development capacity prospectively approved in a planning decision, minus the residual land value for the existing or as of right development capacity on the site. If approval authorities sought to negotiate full capture of this margin, site owners might withhold their land from development to the detriment of the wider community.

### Statutory implementation and mechanism

The table overleaf provides a summary of the statutory mechanisms highlighted in Chapter 3, when each mechanisms would be recommended to apply, and their alignment with the principles above.

Alignment with the second principle is reflected in the last two columns, as a limit on the size of the contribution could restrict whether a fair and efficient contribution size could be levied, and a restriction on the kinds of benefits possible would also restrict the efficiency of the system.

On the basis of this assessment, a community infrastructure charge is the only appropriate mechanism for precinct-scale value sharing if items apart from affordable housing are to be funded.

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<sup>2</sup> See page 40-41 of 'Homes for Londoners Affordable Housing and Viability Supplementary Planning Guidance 2017', accessed 26/5/21 at [https://www.london.gov.uk/sites/default/files/ah\\_viability\\_spg\\_20170816.pdf](https://www.london.gov.uk/sites/default/files/ah_viability_spg_20170816.pdf)

**TABLE 6: SUMMARY OF STATUTORY MECHANISMS**

Mechanism	When should it be used as a value sharing mechanism?	Is it codified and pre-notified?	Is there a limit on the size of the contribution?	Kinds of benefits that can be captured
Site by site PA negotiation	On a very limited number of sites through proponent-initiated rezoning. (Use of planning agreements exclusively for value capture is discouraged by the Practice Note)	No	No	Broad
PA policy with pre-scheduled rates	On a limited number of sites, with either proponent initiated rezoning or rezoning on key sites in line with a masterplan. (Use of planning agreements exclusively for value capture is discouraged by the Practice Note)	Yes	No	Broad
Community infrastructure charge	If application is expected on a limited or moderate number of sites, following a Council masterplan and high-level understanding of infrastructure requirements.	Yes	No	Moderate
SEPP 70	In most cases where there is an identified need for affordable housing (as there is in the Inner West) and uplift is proposed.	Yes	No	Narrow (only affordable housing)
Infrastructure contributions or satisfactory arrangements	Should not be regarded as value sharing, but should be used to levy contributions for required infrastructure, and higher contributions may be appropriate (in line with infrastructure requirements) if other forms of value sharing are not possible.	Yes	Yes	Narrow – moderate
Design requirements and consent conditions	Should not be regarded as value sharing.	No	Yes*	Narrow – moderate (must be connected to development)

\* - While there is no direct cap on contributions through design requirements and consent conditions, it is unlikely that a large contribution of the scale of 50% of RLV uplift could be captured



### How to value uplift

In relation to the first principle, **pre-scheduled rates** are the preferred approach to designing a value sharing system. Using site by site valuations requiring valuers and consultants to undertake valuation modelling or analysis is administratively burdensome and could lead to inconsistency. However, site by site valuations are less burdensome if only a limited number of sites are expected to be subject to value sharing arrangements.

Pre-scheduled rates or contribution amounts can be implemented through a community infrastructure charge, as well as through several other of the mechanisms in the table above.

### How much uplift to capture

In relation to the second principle, **50% of the RLV uplift**, has emerged as an accepted if pragmatic way to acknowledge the lack of certainty in any valuation process at the pre-development stage, and to ensure that land owners are still encouraged to sell sites for redevelopment and renewal.

To ensure that feasibility is not impacted, the RLV uplift is calculated based on the difference in development value of a site between the existing and proposed FSR.

### Preferred approach

Under a precinct-based approach to value sharing, the only appropriate mechanisms are a community infrastructure charge and SEPP70. With a community infrastructure charge, a PA would need to be entered into on each site, although the administrative burden of this could be partly minimised through using standard format PAs and expected contribution amounts. In addition, if the CIC captures uplift only on key sites, this would limit the number of developments making a contribution and the consequent number of PAs that would need to be negotiated.

In order to be consistent with NSW Government policy, a CIC clause would need to be premised on delivering infrastructure which improves amenity, liveability and sustainability, and which is necessary to facilitate higher-density development within an area of appropriate amenity and character.

If a CIC cannot be used, there are currently no well-established mechanisms which represent effective implementations of precinct-scale value sharing. In this case, SEPP 70 could be used exclusively, and could still capture 50% (or more) of the uplift above a feasible baseline FSR.

It is not recommended to regard development contributions or consent requirements as value sharing mechanisms, as their design is inconsistent with value sharing principles. Nonetheless, they should also be incorporated as part of the standard planning and development process.

# 5. Value sharing opportunities along Parramatta Road

## 5.1 Tipping points and value which can be captured

Under a CIC arrangement as suggested in the previous chapter as the preferred (and only available broad-based precinct-scale) approach, value can be captured for any uplift in allowable floorspace above a base FSR which is encoded in Clause 4.4 of an LEP. As long as development at this base FSR is feasible (i.e. the FSR is greater than an FSR tipping point at which development becomes feasible), any further increase in FSR will increase the RLV, with 50% of this uplift theoretically available to be captured.

Feasibility assumptions and models from other projects have been used to provide estimates of residual land value per sqm of residential use in Leichhardt, and the FSR tipping points for sites in Leichhardt depending on the existing use. More detail on assumptions and methodology are provided in Appendix A.

The following table shows the total FSRs required to make development feasible for each existing use if a 0.5:1 non-residential FSR is provided as part of the development. In this case the residential FSR will be 0.5:1 lower than the values shown in the table below. Development is considered feasible if the residual land value is the same as the existing use value. The following contributions have been included in the feasibility calculation:

- \$20,000 per unit s7.11 contribution (the maximum possible for a dwelling in this precinct).
- \$10,000 per unit SIC/broad based charge in line with the NSW Productivity Commission recommendations.
- 2% affordable housing contribution, calculated as a 2% reduction in residential gross realisation value. This is equivalent to dedication of 2% of the total floorspace as affordable housing, or an equivalent monetary contribution.

**TABLE 7: FSR TIPPING POINTS FOR FEASIBLE DEVELOPMENT WITH DIFFERENT EXISTING USES (WITH A BUFFER FOR RLV OF 20% ABOVE EXISTING USE VALUE)**

Existing use	Commercial	Residential flat buildings	Commercial strata	Separate or terraced dwellings
FSR tipping point (with 0.5:1 non-residential)	2.8:1*	3.5:1	5.0:1	1.9:1*

\* These are the predominant land uses and the ones appropriate to consider in designing a CIC or value sharing scheme. Commercial is most common where a FSR of 3:1 is proposed.

The table above includes all existing uses considered in Council's SEPP70 feasibility modelling for the Leichhardt Precinct. Commercial and separate or terraced dwellings are the predominant uses in the Leichhardt precinct, with commercial premises comprising most premises along Norton Street and Parramatta Road and some along Renwick Street and other streets.

Separate or terraced dwellings comprise many of the premises on Balmain Road and Renwick Street, and some on other streets. Residential flat buildings and commercial strata would be unlikely to be redeveloped unless substantially higher densities were proposed, and have been included for completeness, but should not be used in calculating whether a value sharing contribution should be used.

For any increase in FSR above these tipping points, up to 50% of the RLV uplift could be captured through a community infrastructure contribution or other mechanism to fund required infrastructure and increases in amenity and sustainability commensurate with higher density development.

This modelling indicates that the RLV in Leichhardt is \$2,818/sqm of residential GFA once development contributions are excluded, and so \$1,409 could be captured per sqm of uplift in residential GFA without unduly impacting on development feasibility. Residential tipping points are shown in the table below. The RLV for retail development is \$1,453/sqm of floorspace, and so around \$727/sqm could be captured per sqm of uplift in non-residential GFA without unduly impacting on development feasibility.

## 5.2 Potential value sharing sites

Council's masterplan for Leichhardt shows the following FSRs applying to potential development sites;

- 1.9:1 applying to most sites on the western side of Norton Street and the eastern side of Renwick Street, as well as some other potential development sites. Most of these sites have narrow frontages and contain, most contain separate or terraced dwellings and some contain commercial uses.
- 3:1 applying to most sites fronting Parramatta Road on which residential development is permitted. Some of these sites contain large commercial premises, but most are narrow and contain existing or former main-street style shops (commercial uses in the existing use table above).
- 3:1 applying to most sites on the eastern side of Norton Street, with the potential for additional height and FSR where public benefit is provided on the Leichhardt Plaza site and several adjoining sites. Apart from the Forum and Norton Plaza, the eastern side of Norton Street contains predominately commercial and retail premises.

These FSRs exceed or are close to the tipping points shown in Table 7, with most separate or terraced dwellings along Norton Street and Renwick Street proposed to have a FSR of 1.9:1 and most existing commercial properties a FSR of 3:1.

The proposed FSRs are not substantially larger than the tipping points. While development is considered to be likely to be feasible at the FSRs proposed, the residual land value as modelled will not be high enough to provide a large buffer on the existing use value to allow a developer to pay more for a site than its existing use value in order to quickly acquire sites for development or to facilitate site amalgamation.

If additional height or density was, a contribution to required infrastructure could be made at the rates identified above per square metre of floorspace above the tipping point FSR. Where a FSR of 3:1 is proposed, the contribution could apply to the difference between the commercial uses tipping point and the proposed FSR (i.e. 0.2:1). However, it is noted that it may be administratively burdensome to negotiate PAs for each development and to pool contributions across sites (which may be required).

The total amount of value which could be captured would be dependent on the maximum floorspace allowed on each site, which could be either negotiated between proponents and Council or specified in a maximum floorspace map in the LEP as per the approach in the Kensington and Kingsford CIC.

### **Comparison with feasibility modelling undertaken by Savills**

SGS and Savills were recently appointed by Inner West Council to provide feasibility modelling and statutory planning recommendations for development in Leichhardt. The modelling conducted by Savills showed development to be feasible on the sites tested, including those with a proposed FSR of 1.9:1 and 3:1.

Savills modelling appears to indicate higher development feasibility than the modelling in this study, although both sets of results show development to be broadly feasible. Savills development cost and timing assumptions have been used for this study. However, Savills modelling and the modelling for this study are different in the following ways:

- Savills conducted this modelling using a discounted cash flow (DCF) feasibility model. Point in time residual land value modelling was conducted for this study.
- Savills valued development sites based on prices paid for other development sites per square metre of permitted floorspace. By contrast, for this study SGS has applied existing values provided by Council from separate feasibility modelling to determine if an affordable housing contribution would be feasible.
- Savills tested the feasibility of high-level concept designs, while per square metre values and general floorspace efficiencies have been used in this study.

Given the different methodologies and differences in assumptions, some differences in results would be expected.

SGS's scope for this project does not extend to a detailed feasibility modelling process or detailed analysis and validation of market inputs and feasibility assumptions. Instead, inputs and assumptions from existing feasibility modelling have been integrated to provide as accurate as possible a picture of RLV/sqm across the Leichhardt Precinct.

### **5.3 Changes to feasibility over time**

This modelling has occurred using high level standard development assumptions and estimated price points. Land acquisition costs, development costs and development returns may differ on individual sites from the values used.

Development feasibility analysis is a point in time analysis. It measures current feasibility based on current market conditions. Feasibility may change in the future in response to shifts in the local or

broader property market. Property prices will shift in the future over market cycles, which will change development feasibility. For example, feasibility is likely to be impacted by a downturn in unit prices and increase in house prices following COVID-19, but unit prices may improve in the future which would increase development feasibility.

If a CIC or similar scheme is created for the Leichhardt Precinct, it is recommended that the development market and feasibility is periodically reviewed to assess the RLV/sqm for the Leichhardt Precinct.

# 6. Conclusion

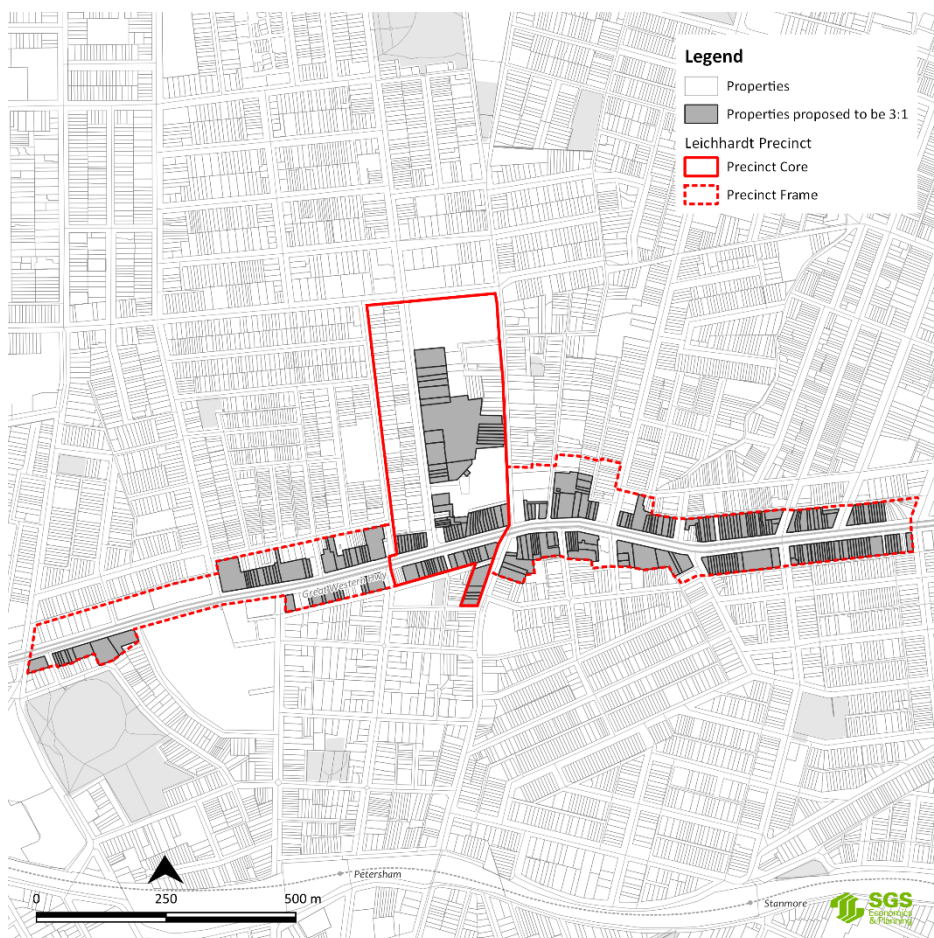
As noted in Chapter 4, site by site planning agreement negotiations are an appropriate form of value capture only in the context of a limited number of proponent initiated rezoning requests. Community infrastructure charges and SEPP70 are the most appropriate mechanisms for value sharing where Council has conducted precinct-scale master planning.

In the context of rezoning along Parramatta Road, a community infrastructure charge and SEPP70 are the recommended value sharing mechanisms. Providing that a community infrastructure charge is introduced at the time rezoning occurs, it should not impact on development feasibility.

## 6.1 Amount of value which could be captured

Opportunity sites on which additional height may be considered where public benefits can be provided according to Council draft Leichhardt Structure Plan are shown in the figure below.

**FIGURE 9: SITES ON WHICH FSR BONUSES MAY BE POSSIBLE**



Feasibility result show that development is broadly feasible across the Leichhardt Precinct. It also demonstrates that on sites proposed to be lifted to 3:1, value sharing is also feasible if applied to 0.2:1 FSR at a rate of \$1,409 per sqm of residential uplift and \$7271 per sqm of commercial uplift. These values are 50% of the expected increase in RLV when rezoning occurs. In this case, the following formula would be used to calculate the expected contribution on each site, under the assumption that the bonus FSR would be developed with residential floorspace (residential is the highest yielding development type):

$$\text{Value capturable} = \text{Site area} \times (\text{FSR proposed} - \text{Base FSR}) \times \$1,409$$

It is expected that the proposed FSR will be 3.0, and the base FSR 2.8:1.

All up, sites proposed for FSR 3:1 comprise 19.9 ha of land. If the above community infrastructure contribution applies to floorspace at a ratio of 0.2:1 on each site, a total of \$28,093,769 could be generated from these sites.

## 6.2 Implementation process

Given NSW Government Policy discouraging the use of planning agreements as a value sharing mechanism, a policy requiring the use of planning agreements and premised on securing 50% of RLV uplift as a monetary value sharing contribution would be unlikely to receive support from the NSW Government.

An alternative approach to developing a community infrastructure scheme which would be more consistent with the NSW Planning Agreement Practice Note would be to view a community infrastructure contribution as a mechanism to secure an additional contribution (above s7.11) towards needed infrastructure and amenity improvements where this would not impact on feasibility and where they cannot be funded through another mechanism. These infrastructure or amenity improvements would partly facilitate development at high densities on subject sites (given the high level of amenity needed for high density development), as well as providing a precinct wide benefit. This could be implemented through the following process:

1. Calculate total value uplift on a precinct basis.
2. Identify monetary amount of value that could be captured for each site and on a precinct basis, based on 50% of RLV uplift above a feasible baseline and the assumptions that developers will maximise FSR to a set maximum.
3. Identify necessary infrastructure across the precinct up to the total value calculated in step 2, with a potential focus on infrastructure on development sites where uplift is possible.
4. Calculate contribution expected per site to provide funding required to deliver infrastructure identified in step 3. This will be less than the maximum possible contribution identified in step 2 only if a smaller infrastructure budget is identified in step 3 than the maximum precinct-wide amount.
5. Provide total contribution amount per property and a preferred infrastructure list in a community infrastructure policy or schedule. Monetary contributions may be possible instead of on-site in-kind infrastructure dedications, subject to negotiation with Council.

As noted above, the contribution scheme should be premised on securing necessary infrastructure through an additional contribution where this will not impact on feasibility. Setting a maximum overall contribution of 50% of the RLV uplift ensures that development feasibility is not unduly impacted.



# Appendix A: Feasibility modelling assumptions

## FEASIBILITY COST ASSUMPTIONS FOR LEICHHARDT

<b>Construction costs</b>	
Apartment	\$3,500/sqm
Parking	\$50,750 per space
Balcony	\$1,000/sqm
Construction contingency	3% of construction cost
Sustainability and design	Around \$10,500 per unit
Site preparation	\$110/sqm of land
<b>Statutory fees</b>	
Authority fees (s7.11)	\$20,000 per dwelling
Regional infrastructure contribution	\$10,000 per dwelling
Affordable housing contribution	2% of gross realisable value
<b>Other assumptions</b>	
Profit margin	18%
Professional fees	8.5% of construction costs
Sales commission	2.5% residential, 2% non-residential
Marketing fee	0.7% of gross realisable value (GRV)
Interest rate	6% per annum, average 50% construction debt exposure, 100% of land value funded by debt
Project contingency	2% of construction costs & professional fees & authority fees
Legal costs	\$1,500 per unit
Project timing	12 months lead in period, 24 month project length
Number of car parks (based on advice from Council)	0 spaces per studio apartment 0.3 spaces per 1-bedroom and 0.7 spaces per 2-bedroom apartment
<b>Existing land value (by existing land use)</b>	
Separate houses	\$5,168/sqm of land

Residential flat buildings	\$9,093/sqm of land
Commercial	\$7,133/sqm of land
Commercial strata	\$13,362/sqm of land
Commercial strata (low value)	\$2,389/sqm of land
<b>Development revenue</b>	
Residential gross realisable value	\$14,500/sqm
Non-residential gross realisable value	\$8,300/sqm

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