australian network of environmental defender's offices

Submission on: *Our Cities – building a productive, sustainable and liveable future*, 2010 Discussion Paper

3rd March 2011

The Australian Network of Environmental Defender's Offices (ANEDO) consists of nine independently constituted and managed community environmental law centres located in each State and Territory of Australia.

Each EDO is dedicated to protecting the environment in the public interest. EDOs provide legal representation and advice, take an active role in environmental law reform and policy formulation, and offer a significant education program designed to facilitate public participation in environmental decision making.

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Submitted to: Major Cities Unit, Department of Infrastructure and Transport

Introduction

The Australian Network of Environmental Defender's Offices Inc (ANEDO) is a network of 9 community legal centres in each state and territory, specialising in public interest environmental law and policy. ANEDO welcomes the opportunity to provide comment on the discussion paper *Our Cities – building a productive, sustainable and liveable future* (the discussion paper). We note that the discussion paper is accompanied by a Background and Research Paper *Our Cities – the challenge of change* (the research paper) and we refer to the information contained in that document where appropriate. This submission provides a broad response to some of the proposals regarding the development of a National Urban Policy. The submission then addresses the five main topic areas identified in the discussion paper:

A) Our Aspirations;
B) Harnessing our Productivity;
C) Advancing our Sustainability;
D) Enhancing our Liveability; and
E) Improving the Governance and Planning of Cities.

As noted above, ANEDO specialises in public interest environmental law and policy, and there are many aspects of this discussion paper that relate to subject matter that falls outside this area of expertise. This submission therefore focuses on those aspects most relevant to our public interest planning and environmental law and policy expertise. ANEDO has offices in each state and territory and would be happy to provide further specific state based information if required.

Executive Summary

From the outset, it is important to note that whilst the discussion paper focuses on the development of a National Urban Policy, planning occurs primarily on a state or regional level, and as such ANEDO submits that any new Commonwealth role in urban environmental planning and development should be clearly defined, in addition to existing roles through COAG, building standards, Infrastructure Australia etc. ANEDO submits that the key Commonwealth role should be one of coordination, funding and review where appropriate to ensure that national policy goals are advanced.

We support the development of a federal framework to clarify specific roles, established by a COAG agreement and legislation where necessary. Some of the key components of such a framework could include:

- coordinating and resourcing a national planning advisory body made up of representatives from all levels of government, and representatives of academia and peak industry and conservation groups;
- developing nationally consistent best practice guidelines for integrated development;
- accrediting various best practice assessment mechanisms (according to sustainability criteria) that could be implemented where appropriate around Australia; and

- funding or co-funding essential programs, such as obtaining the necessary baseline data (such as risk and vulnerability mapping needed to underpin adaptation planning in response to climate change).

At a broad level, a strong Commonwealth role would benefit the development of consistent planning objectives across states and territories. Regarding Commonwealth involvement in individual projects, the new framework could be complemented by amendments to existing legislation to allow the Commonwealth to intervene or withhold federal funding where development is inconsistent with national protection standards or guidelines.

ANEDO would like to make reference to a recent report developed by the EDO NSW for the Total Environment Centre and the Nature Conservation Council of NSW - *The State of Planning in NSW*. Whilst the objective of the report is to identify improvements that could be made to the planning system in NSW, the key principles for planning that are identified in the report are extremely relevant to the topics being addressed in the discussion paper. Of the ten key principles articulated by the EDO NSW, ANEDO submits that the following eight should be implemented in the development of any National Urban Policy or similar document:

1. A focus on strategic planning;
2. Implementing ecologically sustainable development;
3. Improving the objectivity, credibility and cumulative impact review of the environmental impact assessment process;
4. Genuine, appropriate and timely public participation;
5. Transparency and accountability for major public projects;
6. Applying a meaningful 'maintain or improve environmental outcomes' test to key developments;
7. Making planning law climate-ready; and
8. Ensuring integration with other environmental legislation.

The five areas of the discussion paper are discussed below.

A) Our Aspirations:

The first two questions[1] of the discussion paper are very broad, inquiring firstly about the desired vision for Australian cities, and secondly about the challenges and opportunities that exist for different cities.

In terms of a vision, ANEDO understands that although the first question asks what Australia's cities should "look like", the discussion paper is not searching for responses based on aesthetic characteristics alone. Instead the Government is looking for strategies that can be implemented to address both the current and future challenges facing Australia's largest urban areas. These challenges are covered extensively in the research paper and discussion paper where they are categorised into the following three areas of:

[1] 1. What is your vision for Australian cities? What should our cities look like in 2030 or even 2050? 2. What do you think may be the differing challenges and opportunities faced by regional cities or cities of different sizes and stages of development?

- Population ageing;
- Population growth; and
- Climate change and the environment.

These are very broad categories, with each containing a plethora of complex and intertwined issues including, but not limited to, health, transport, productivity, energy, sustainability and governance. As such, ANEDO's vision for Australian cities is one that is based on strategic planning whereby environmental, social and economic factors are given appropriate consideration, and where that consideration is acted upon in a planned, not ad-hoc, fashion. The two most essential features of ANEDO's future vision are that any development must be sustainable, and that the community must be involved in future planning processes. Through the use of this triple bottom line approach and strategic planning (discussed further at Part C) the opportunities that exist to improve the productivity, sustainability, liveability and governance structures of Australia's cities can begin to be realised.

ANEDO submits that now is the time for Australian cities to begin setting ambitious objectives to strive towards being amongst the world's leading green cities responding to climate change and the pressures associated with urban development. Examples that lead the way include Freiburg in Germany and Copenhagen. It is through following these examples that Australia's cities and urban centres can be:

> "transformed into models of walkability; how TOD/POD/GOD programs (transit oriented development, pedestrian oriented development and green oriented development) can create whole corridors where people do not need a car; how plug-in electric vehicles (bikes, scooters, golf carts, buses and cars) can be linked through a Smart Grid to renewable energy providing the possibility of 100% renewable energy from the vehicle storage system (V2G); how older car dependent suburbs can be greened and renewed; how eco-villages can reclaim scattered housing on the fringes no longer viable due to fuel prices; how biodiversity can be enhanced throughout the city and its region."[2]

ANEDO submits that our vision for Australia's cities is to start creating worlds' best practice green cities. Some of the measures to start achieving this are discussed below.

B) Productivity

Questions 3-12 of the discussion paper seek responses regarding labour and productivity, economic infrastructure, the National Broadband Network, integrating and leveraging investment, promoting private investment and pricing reforms. As such, the majority of these areas fall outside ANEDO's area of expertise.

However, we would like to briefly comment on the introduction of pricing reforms regarding carbon and water. ANEDO has long advocated for the introduction of an appropriate **carbon price** in Australia. Carbon pricing will encourage many of the reforms that are needed including reducing car use, generating new and increased funding for public transport, and encouraging energy efficiency. This is consistent with improved implementation of one of the fundamental principles of Ecologically Sustainable Development (ESD) – internalisation of environmental costs. In addition to

[2] Available at: http://sustainablecities.dk/en/actions/interviews/peter-newman-towards-the-resilient-city

the internalisation of environmental costs, policies need to be introduced on a federal level that incentivise the development of practices such as the construction of energy and water efficient buildings. Such policies will equip Australia's major cities with the infrastructure to facilitate long-term economic and environmental benefits.

Other productivity reforms required are in the following areas:

- **Improving public transport** – in particular, providing high-speed rail services between major cities, and especially between Melbourne and Sydney. This is a significant productivity reform, saving business time and money, and will also alleviate carbon emissions from the most-travelled air travel route in the world. It is also a uniquely Commonwealth responsibility, to coordinate with the State Governments (Questions 3, 4, 6, 7, 11).
- **Removing regulatory barriers to environmentally friendly buildings** – Many eco-friendly retrofitting initiatives (for example, introducing residential renewable or low-emissions generation, building houses with recycled material) are currently hampered by planning laws and building regulations. This imposes a regulatory barrier to green businesses, and impedes improvements in the efficient use of resources (Questions 4, 9).
- **Implementing strategies to reduce traffic congestion** – A number of options should be considered ranging from increasing public transport to imposing a congestion tax (Questions 3, 6, 8);
- Implementing 'human capital' policies that increase productivity by **improving public health** – encouraging bike-riding and discouraging car use, encouraging healthy and sustainable food production/consumption and discouraging imported junk food (Question 10). It is becoming increasingly apparent that a healthy population is a more productive population. Recent studies have demonstrated that obese workers "cost US employers $73.1 billion US dollars a year, much of it due to "presenteeism" or being less productive on the job due to health problems."[3] Therefore to increase productivity, these links need to be reflected in urban policy and planning through the incorporation of features that promote physical activity, such as cycling and walking, as primary modes of transport. Creating green cities with increased opportunity for utilising outdoor green spaces would therefore contribute to increased productivity in this regard.
- **Deployment of the National Broadband Network** – will provide opportunities for reducing demand upon the transportation infrastructure by encouraging telecommuting and home office businesses, telemedicine and distance learning opportunities, as well as e-commerce. Such activities would result in less congestion on road and rail networks and should also reduce air pollution, traffic accidents, and stress.

C) Advancing our Sustainability

Questions 13-17 of the discussion paper address issues in relation to protecting land and habitats, taking into account climate change risks, efficiently utilising resources, and lowering ecological footprints and greenhouse gas (GHG) emissions. These fundamental issues are discussed below.

[3] Available at: http://news.smh.com.au/breaking-news-world/obese-workers-cost-us-73bln-dlrs-a-year-study-20101008-16beo.html.

It is clear that the way in which Australian cities are operating is unsustainable and to address the issues highlighted in the research paper, significant Commonwealth coordination and direction is needed. The EDO offices in each state and territory have commented extensively on planning issues and in particular the amendments that should be made to legislation and policy instruments to bring about more sustainable planning and development outcomes within the urban environment in each jurisdiction.[4]

The research paper highlights that the anticipated changes in both the composition and size of Australia's population, and subsequent urban expansion and increased population densities, will create a series of challenges. These include issues surrounding water, energy, waste, climate change, land consumption and conversion. One of the fundamental messages that should be implemented in any National Urban Policy to help address these issues is adherence to the following principles of Ecologically Sustainable Development (ESD), namely:

a. Application of the precautionary principle;[5]
b. Application of inter- and intragenerational equity;
c. Conservation of biological diversity and ecological integrity;
d. Internalisation of Environmental Costs; and
e. Application of the Polluter Pays Principle.

Consistent legislative instruments in each jurisdiction that place strong emphasis on implementing these key principles (or example by using imperative terms like "shall" or "must" in legislation, rather than aspirational terms such as "should" or "may") is undoubtedly a solid basis from which the sustainability of Australia's cities can be improved.

ANEDO believes that in addition to the operationalisation of the principles of ESD, the implementation of the following specific mechanisms may serve to minimise the environmental impacts associated with these challenges, as well as promote the sustainable use of resources:

- Improved planning and development controls, including no-go areas for development in sensitive environmental zones;
- Audit and proper valuation of environment and community assets in the urban zone;
- Comprehensive environmental impact assessment (EIA) mechanisms for strategic planning and development approval, including consideration of cumulative impacts;
- Public participation processes for strategic planning and development assessment processes (discussed further at Part E), including for example, developing sustainable transport infrastructure;
- Mandatory sustainability requirements for all urban structures to achieve zero energy use buildings and maximize strategies to reduce, recycle or reuse resources housing requirements for all types of housing (such as rain water tanks, grey

[4] A number of planning reform submissions are available at: www.edo.org.au with links to state sites and submissions.
[5] Defined in Principle 15 of the *Rio Declaration (1992)*: where there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.

water systems, energy efficiency measures, insulation, solar heating, green roofs etc);

- A focus on the investigation of retrofitting existing structures to achieve such zero energy and resource reduction goals;
- The importance of the provision and maintenance of wildlife corridors and habitats;
- Comprehensive vulnerability and risk assessment;
- Mechanisms to protect air and water quality (such as improved sewage treatment infrastructure and improved regulation of pollutants in sensitive environments); Greater emphasis on utilisation of renewable energy sources (for example, wind, solar, hydro and thermal) and localised power generation, transmission and distribution;
- An emphasis on public awareness and increased regulation; and
- A comprehensive adequate and representative network of protected areas, and biolinks to provide climate refugia.[6]

The experience with the expansion of the Melbourne Urban Growth Boundary (UGB) illustrates some of the challenges faced and problems experienced in protecting and enhancing land and habitats around our cities. In 2009 the Victorian Government announced plans to expand Melbourne's UGB. The expansion covered 6,900 ha of endangered Plains Grassland and over 900 ha of Grassy Woodland, which would be approved for clearing. This included many sites known to have high vegetation quality or high ecological significance. It also included habitats for 25 fauna species and 32 flora species listed, or nominated for listing, under the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (EPBC Act).

A Strategic Impact Assessment (SIA) under the EPBC Act was conducted, and approved by Minister Garrett. However, there were a number of problems with that assessment:

- the assessment of ecological impacts was inadequate, with no systematic threatened species survey was conducted, and on-site vegetation mapping covered only a fraction of the urban investigation areas;
- the SIA did not place enough emphasis on avoiding vegetation clearance, as opposed to offsetting it;
- the offset grassland reserves did not replace the high-quality grassland within the UGB, which had different and often site-specific ecological values;
- it is not clear how the offset land will be acquired – where the funding will come from and how legal protection will be provided – casting doubt on the reliability of these offsets; and
- the SIA framework was largely fixed, and did not allow for amendment or flexibility if new evidence later came to light.

SIAs under the EPBC Act can be an effective tool for assessing and planning proposed urban development, and preventing or mitigating unsustainable development. However, the experience with Melbourne's UGB shows that they are not necessarily so, and that the Commonwealth Government needs to more effectively use this process to protect the environment in and around our cities. Similar concerns were noted regarding the proposed Commonwealth SIA of the Growth Centres development in Western Sydney,

[6] See: *Climate change and the legal framework for biodiversity protection in Australia: a legal and scientific analysis*, available at: http://www.edo.org.au/edonsw/site/publications.php.

including that the offsetting process ('biocertification'[7]) does not meet Commonwealth standards.[8]

The Commonwealth can also have a role in improving the sustainability of major State infrastructure projects, where the State Government as the proponent may otherwise not give this a priority. The experience with the assessment of the Frankston bypass (Peninsula Link) in Victoria is an example of how this could work. The Victorian Government committed to construction of the Frankston bypass: a freeway linking existing sections of the Mornington Peninsula Freeway. An environmental impact assessment was conducted under the *Environment Effects Act 1978* (Vic), and the terms of reference for that inquiry included a requirement that the project's impact on greenhouse gas emissions be considered. However, the project proponent – the Southern & Eastern Integrated Transport Authority (SEITA) - submitted a consultant's report which said that the project would lead to a net *reduction* in GHG emissions, because motorists would complete the same journey in less time, thereby using less petrol. This assessment completely overlooked the impact of induced demand: the fact that building new freeways encourages more motorists to use them, thereby increasing GHG emissions. The local community group who were concerned about the freeway proposal had to engage their own experts to raise these facts in the Environment Effects Act process (facts which were subsequently accepted by the reviewing panel in preference to SEITA's evidence). The Commonwealth can encourage higher standards in major State infrastructure and building projects by reforming the EPBC Act, and/or by imposing sustainability criteria as a condition of Commonwealth funding.

Finally, if we want our cities to improve sustainability in the global sense, then we need to ensure our cities do everything possible to mitigate the impacts they have on climate change. It has been recently demonstrated that regarding climate change mitigation, the cost of inaction far surpasses that of responding in a constructive and proactive manner. The most recent Garnaut review update again highlights that:

> "The climate change that has already occurred has imposed substantial costs on Australia. The incremental climate change that is already in train as a result of increased atmospheric concentrations of greenhouse gases that have resulted from past human activity but which have not yet had their full effects on climate will add substantially to these costs."[9]

Therefore, as the Australian Conservation Foundation recently noted, "if we cannot afford sustainability, we certainly cannot afford unsustainable cities."[10] It is essential in order to adequately address environmental impacts and promote sustainable use of resources that an integrated approach to natural resource management, planning and development is adopted in not only Australia's major cities, but all cities. This will require cooperation between different agencies regulating different resources, land uses and impacts; as well as cooperation between all levels of government.

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[7] See Part 7AA of the *Threatened Species Conservation Act 1995*, and accompanying Biodiversity Certification Assessment Methodology.

[8] See EDO NSW *Submission on the proposed Sydney Growth Centres Strategic Assessment*, 25 June 2010, available at: http://www.edo.org.au/edonsw/site/policy.php#2.

[9] Available at: http://www.garnautreview.org.au/update-2011/update-papers/up1-weighing-costs-benefits-climate-change-action.html.

[10] Available at: http://www.aph.gov.au/House/committee/environ/cities/subs/sub44.pdf.

D) Enhancing our liveability

The 'liveability' questions in the discussion paper relate primarily to the transport options, dwelling design, and urban layout challenges. The definition of liveability in the discussion paper refers to "the way the urban environment supports the quality of life and well-being of communities."[11] It should however, be noted that quality of life and well-being are highly subjective concepts, and therefore what is required is extensive public participation and community engagement to develop these concepts.

A recent study by the Grattan Institute entitled *Cities: Who Decides*[12] refers to the decision making arrangements in cities that are comparable to those in Australia. Basically it asked "in successful cities, who made the decisions and how?" It was found that in "successful" cities,

> "it became clear that where hard decisions had been implemented, there was early, genuine, sophisticate and deep public engagement (and that)… if we want to face our hard decisions in a way that makes our cities better places to live, involving residents is not optional."[13]

Furthermore,

> "as we try to manage growth – and make effective choices that actually stick – our best bet is to give city-dwellers a real say."[14]

The importance of public participation is fundamental to urban planning, with many of the ANEDO offices writing extensively on this topic.[15] Unfortunately there has been a trend in a number of states away from the emphasis on public participation and transparent decision making in state and local planning processes. ANEDO is therefore pleased to see that the Commonwealth is actively consulting on the development of a National Urban Policy, and looks forward to seeing some strong wording surrounding the importance of public participation within the draft and final document.

In terms of liveability, it is important that any National Urban Policy take into account the impacts of climate change. One such impact is the increase in temperatures that is already being seen on both a national and global scale, and how urban planning needs to take this into account. It is well documented that on warm days, urban areas can be significantly hotter than surrounding areas as a direct result of the "heat island effect." This can be attributed to two factors:

> "First, dark surfaces such as roadways and rooftops efficiently absorb heat from sunlight and reradiate it as thermal infrared radiation these surfaces can reach temperatures 50-70 degrees F higher than surrounding air. Second, urban areas are relatively devoid of vegetation, especially trees, that would provide shade and cool the air."[16]

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[11] Pg. 42 of *Our Cities – building a productive, sustainable and liveable future*.
[12] Available at: http://www.grattan.edu.au/pub_page/report_cities_who_decides.html.
[13] Available at: http://www.grattan.edu.au/news/20101018_media_release_cities_who_decides.pdf.
[14] Available at: http://www.grattan.edu.au/news/20101018_media_release_cities_who_decides.pdf.
[15] A number of submissions concerning the importance of public participation in the decision making process can be found on line at www.edo.org.au.
[16] Available at: http://www.cdc.gov/healthyplaces/articles/Urban_Sprawl_and_Public_Health_PHR.pdf.

With the use of structured urban planning, impacts such as the "heat island effect" can be dramatically reduced through simple strategies as the retention of vegetation and planting of trees. It is through these relatively simple interventions where real benefits to liveability and strengthening of local communities can be realised.

Transport Development

In terms of transport, ANEDO would like to see a much greater investment in the development of active transport (walking and cycling) and public transport infrastructure which would in turn encourage a reduction in the use of private motor vehicles in urban areas. The long term economic benefits are reason alone to increase investment in public transport:

> "data on 100 cities show that public transport oriented cities, especially rail-based cities, are considerably better off than car dependant cities. Those cities that have invested in public transport, use around five to eight per cent of their wealth in transport, whereas those cities which are car dependent use 12-15 per cent or more. Rail-based cities are 40 per cent wealthier than non-rail cities in the 100 city comparison. Despite the upfront capital coasts for a city, the building of quality public transport systems will benefit the whole city."[17]

Such activities would reduce traffic congestion, decrease GHG emissions and encourage physical activity; all of which are positive outcomes. Furthermore, the social costs of congestion are high, with many individuals tending to underestimate the impact it can have on their lives;

> "Congested roads, overcrowded public transport and the inability to ensure that key transport corridors and assets are free from bottlenecks and protected for future growth are growing costs for our economy and community. The avoidable social cost of urban traffic congestion was estimated at about $9.4 billion in 2005, and is expected to more than double by 2020."[18]

Besides investing more in the development of this active and public transport infrastructure, some major international cities have had success in this transition through implementing some economic measures to drive behavioural change. One such example is the introduction of congestion charges around major city centres such as London. The London Congestion Charge is an economic measure which was introduced in February 2003, with proceeds being invested into improving London's public transport system. Between 2003 and 2007, traffic congestion in London was reduced by 30% and the revenue collected was able to be invested in the provision of 11,000 new bus seats.[19] Similar schemes have been implemented in cities like Stockholm, with other cities such as San Francisco proposing to introduce similar systems in the near future. ANEDO submits that research should be conducted to determine the economic, social and environmental benefits that such schemes could have in Australia's major metropolitan cities.

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[17] Newman, P. 2005, "Pipe Dreams and Ideologues: Values and Planning", *People and Places,* vol. 13, no. 3.
[18] Mrdak, M. 2010 "The infrastructure challenge", *Public Administration Today,* No. 23, Pgs 9-11.
[19] Abalate & BI, 2009 "What local policy makers should know about urban road charging: lessons from worldwide experience", *Public Administrative Review.*

It is clear that regarding many Australian cities, we need to ask the question posed by Jan Gehl "what do you value more – your people, or your cars?"[20] In relation to a recent document produced regarding Sydney's future vision, Gehl forwarded a number of ideas, not only applicable to the city of Sydney, but all cities, to increase the liveability of a city through investment in public transport and cycle ways:

> "Parking is confined to the city edges, freeing the city streets for cyclists, pedestrians and a light-rail system. There is room, too, for great public art, for fountains and play-areas for children (who know how to use space spontaneously), and there are quiet places for people to sit and watch the world go by. No city should be "off-limits" to either the very young or the older people, and all cities should provide delight and surprise."[21]

The reduction in dependency on car use is undoubtedly a common thread throughout much of the literature; as such Australian cities should begin this necessary transition away from car dependency through methods such as those used in Copenhagen, whereby:

> "Every year for the last 30 years the city of Copenhagen has removed 2% of its parking space from streets and squares, and created pedestrian areas. Each year the city has grown in its cycling and walking (now accounting for 36% of the modal split), and car use has declined (now only 27%). Yet the city has become more popular as a place to live and work and has grown in its ability to create wealth through services. The number of people sitting in the squares and pedestrian areas has grown consistently as the car parking spaces have been removed."[22]

The introduction of such a strategy may assist Australia's major cities in reducing the current reliance on private car use as a primary means of transport, and improve 'liveability.'

Dwelling Design

It is becoming increasingly apparent in Australia that implementing green building design features, does not necessarily mean increased construction costs.

> "Change is afoot in suburbia. The fringes of cities continue to be developed, but economic factors are forcing variation as affordable shrinking lots force an evolution in house designs."[23]

A very recent example of this evolution can be observed in Sydney's inner west suburb of Lilyfield, where an apartment complex has become the first housing estate in Australia to achieve a five-star energy efficiency rating. It was designed by architect Gustavo Thiermann, who moved away from traditional project home environment with "single houses sitting in the middle of a block" to sharing walls to save "not only in the material,

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[20] Sustainable Sydney 2030. Available at: http://www.cityofsydney.nsw.gov.au/2030/documents/2030Vision/2030VisionBook.pdf.
[21] Sustainable Sydney 2030. Available at: http://www.cityofsydney.nsw.gov.au/2030/documents/2030Vision/2030VisionBook.pdf.
[22] Rosser, M. 2009, "Call for Resilient Cities" *Planning News*, Vol. 35, No. 5.
[23] Wheeler, T. 2010, "Garden cities of tomorrow", *Griffith Review Edition 29: Prosper or Perish.*

but also from a thermal loss and thermal gain in winter and summer."[24] The complex was designed to store 120,000 litres of water in tanks under the building, which collects all the roof water to use in toilets and irrigation. This is one example of the inexpensive, yet economically and environmentally beneficial techniques that should be encouraged to be implemented in any National Urban Policy.

As noted above, the concept of liveability is subjective; however there is often a strong connection with priorities such as the conservation of the natural environment and access to green-spaces. In densely populated neighbourhoods, the integration of green-spaces into rooftops, internal courtyards and vegetated verandas will become important contributing factor to liveability, as noted:

> "There is a way, however, to combine the more efficient higher-density housing with the best aspects of the freestanding home – that is, individuality, privacy, variety and, most critically, access to a private garden. This is the holy grail for sustainable housing, and the solution may well be a scheme that is upside down, inside out and back to front."[25]

Where private gardens are not possible, there are other options such as communal gardens and street plantings that can contribute to the liveability of a suburb – for example, Chippendale in Sydney's inner-west has communal gardens and communal compost facilities for all residents to share.

Urban Layout

In terms of city design and layout, commentators such as Wheeler suggest that there is no one size fits all model to accommodate the growing population in all major Australian cities, however "new housing forms go hand in hand with public transport systems." This can be demonstrated with Sydney developing the "cities-within-cities approach… to strengthen existing urban growth centres… as cities within their own right." In Melbourne it has been noted that there is a persuasive argument that "a far greater density can be achieved along the high streets of that radially formed city." Whilst in Queensland there is a suggestion for a different form of development; "one which is a dense, linear city that hugs the coast… and stretches from Noosa to Coolangatta."[26] This reinforces the need for extensive local place-based public consultation and implementation of strategic planning in the development of any National Urban Policy.

There needs to be a significant amount of study on the social, environmental and economic impacts of urban sprawl versus increasing population density by urban infill. Some studies are suggesting that extending the urban growth boundary of cities to allow for the development of the a city's fringes, can "damage family life" as "people who live in these far flung suburbs will be condemned to a worse quality of life because of inadequate public transport and the need to commute for hours to get to jobs and services."[27] Others argue that urban sprawl, and the low density developments that often accompany it, can be good for the environment due to the prominence of gardens filled with vegetation that help absorb pollutants and heat. However, urban sprawl without serious consideration of employment precincts and public transport connectivity can

[24] Available at: http://www.abc.net.au/news/stories/2011/02/09/3134472.htm?site=news.
[25] Wheeler, T. 2010 "Garden cities of tomorrow", *Griffith Review Edition 29: Prosper or Perish.*
[26] Wheeler, T. 2010, "Garden cities of tomorrow", *Griffith Review Edition 29: Prosper or Perish.*
[27] Available at: http://www.acfonline.org.au/articles/news.asp?news_id=3293.

serious impacts on liveability and sustainability of city fringes. There may also be additional impacts on sensitive city fringe environments, currently used by city dwellers for recreation or natural area conservation. If predicted growth is accommodated by outward urban expansion, Sydney and Melbourne will each require more than 430,000 ha of new land for housing. [28] This will increase travel times and GHG emissions, reduce the land available for food production, and require thousands of hectares of vegetation with high ecological significance to be cleared. It will place a huge demand on public services, especially transport, to keep up with this rapid growth. By concentrating this growth within existing city limits, on the other hand, these impacts could be avoided. For example, a report commissioned by the Victorian Department of Transport and the City of Melbourne found that Melbourne could accommodate another 2 million people by redeveloping inner areas along key tram and bus routes. This would drastically cut Melbourne's GHG emissions, and save an estimated $110 billion over 50 years.[29] The Commonwealth has a role in encouraging and incentivising this type of sustainable planning.

E) Improving the Governance and Planning of Cities.

> "Delivering increasing densities is fundamentally about improving governance and information flows, facilitating greater public engagement and unlocking the potential of urban villages/precincts. These will drive future strategic advantage and build stronger communities. Improving integration between city-wide development intent and village/precinct level delivery is the key challenge for governance. Meaningful community engagement is central to resolution."[30]

Questions 25-28 of the discussion paper seek guidance on how to improve planning arrangements across levels of government, and local government boundaries. The discussion paper identifies the following key concepts through which to achieve this aspiration:

- Improving the planning and management of cities; and
- Streamlining administrative processes.

ANEDO supports the objective to improve the planning and management of cities, demonstrated throughout this submission by the call for increased focus on strategic planning (see part A). It is apparent that current governance and institutional arrangements differ in each state and territory causing a 'patchwork' management effect and a lack of clearly identified and common urban priorities. Therefore, whilst we support the development of a National Urban Policy, we would recommend that this forms a component of a suite of measures, or larger framework, used to improve the planning, coordination and governance of major cities throughout Australia. As noted above, we would also advocate for the development of a federal framework, established by a COAG agreement and legislation. Governance elements to be addressed in the framework could include:

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[28] National Institute of Labour Studies, *Long-term physical implications of net overseas migration: Australia in 2050* (2010).

[29] City of Melbourne and Victorian Department of Transport (2009), *Transforming Australian Cities for a more financially viable and sustainable future: Transportation and Urban Design.*

[30] ADC Cities Report – Enhancing Liveability. Available at: http://www.adcforum.org/assets/files/City%20Summit/ADC_Cities_Report_part_1.pdf.

- improved cohesion and consistency of approach across jurisdictions, driven by an enhanced federal role;
- an integrated management approach taking into account all activities and impacts (and management) within the urban zone;
- clarification of roles, responsibilities and resourcing of different agencies involved at different levels of urban management; and
- additional guidance and resources for local councils at the front line of implementing measures to address population increase and climate change.

One of the most important steps that the Commonwealth could take to improve the planning and governance of Australia's cities is to take a more stringent approach to accrediting environmental impact assessment processes under the EPBC Act through the bilateral agreements. In some States the Commonwealth has accredited sub-standard State environmental impact assessment processes that do not meet the standards of the EPBC Act. For example, the Victorian environment assessment process has been accredited for the purposes of the EPBC Act, however, the inadequacy of the Victorian environment assessment process has been widely recognised.[31] The development of bilateral agreements was partly intended to raise the standard of State environment assessment processes. To the contrary, however, the Commonwealth-Victoria bilateral agreement has been used as an endorsement of the Victorian Government's existing assessment approach, likely delaying much-needed reform. The bilateral agreement also means that Victoria's inadequate process is applied to assess and regulate the environmental impacts of Victorian projects on matters of highest concern to the Commonwealth. If the Commonwealth is serious about improving the decision-making framework for important urban planning decisions like the construction of new freeways, then it should revoke this bilateral agreement and demand more from State Governments. The Commonwealth bilateral agreement with NSW accrediting the controversial discretionary EIA process under Part 3A of the *Environmental Planning & Assessment Act 1979*, raises similar concerns.[32]

Regarding the 'streamlining' of administrative processes, ANEDO believes that whilst there is a need for the efficient and effective use of resources within the decision making process, there are concerns raised in the discussion paper that need to be treated with caution:

> "cumbersome administrative processes and 'red tape' can slow down the planning, release and development of land, infrastructure and vital services" and "the focus should be on minimising time and costs for proponents and government administrative bodies, but this needs to be balanced with appropriate consideration for, and input from, stakeholders and communities."[33]

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[31] Robyn Leeson, 'EIA and the Politics of Avoidance' (1994) February, *Environment and Planning Law Journal* 71; Murray Raff, 'The Renewed Prominence of Environmental Impact Assessment: "A Tale of Two Cities"' (1995) August, *Environment and Planning Law Journal* 241, Roger Eade, 'Issues in Environmental Impact Assessment in Victoria: What Has Scoresby Taught Us?' (2000) 18(4) *Urban Policy and Research* 515; Brad Jessup, 'Victoria and the Channel Deepening Project' in Tim Bonyhady and Andrew Macintosh (eds), *Mills, Mines and other Controversies* (2010) 105; Samitha Rao, 'Reforming the Environment Assessment Process in Victoria' (2010) 1 *National Environmental Law Review* 34.

[32] See: EDO *Comment on the Draft Agreement between the Australian Government and the State of New South Wales*, 5 December 2006, available at: http://www.edo.org.au/edonsw/site/policy.php#4.

[33] Pg 52 of the discussion paper.

In ANEDO's experience "streamlining" planning and development processes is often done at the expense of comprehensive community consultation and full consideration of environmental impacts of development. ANEDO would like to make clear that submissions should be called for on any "administrative streamlining" that is proposed to take place. It is vital that all environmental checks and balances are maintained through such a process and that the opportunities for public participation within planning decisions are increased and not reduced. For example, the discussion paper refers to amending "the extent of third party appeals… to enhance the ability of jurisdictions to put strategic plans into effect."[34] ANEDO strongly opposes the removal of such important checks and balances. Opportunities for third party appeals are already significantly constrained by existing legislation in many states (for example, Queensland). Proper policy formulation, coupled with proper implementation of those policies is the best way of reducing the need for third party appeals of development decisions. Streamlining must not result in achieving a 'lowest common denominator' approach. Rather, any review should have the goal of establishing best practice processes across jurisdictions.

On a final note, the Organisation for Economic Co-operation and Development (OECD) developed a series of principles to be followed to ensure adequate metropolitan governance, some of which have been described in the box below.

Selected OECD principles for metropolitan governance[35]

- **Cities for Citizens** – governance should meet the needs and aspirations of people who live in them
- **Coherence** – 'who does what' should be clear to the electorate
- **Coordination** – local authorities and regional agencies should work together, particularly on strategy planning
- **Effective financial management** – the costs of measures should reflect the benefits received
- **Flexibility** – institutions should be able to adapt as necessary to changing economic, social, and technological change
- **Participation** – community representation should be open to a diverse range of groups
- **Social cohesion** – institutions should promote non-segregated areas, public safety, and opportunity
- **Subsidiarity** – services should be delivered by the most local level that has sufficient scale to reasonably do so
- **Sustainability** – economic, social, and environmental objectives should be integrated and reconciled.

ANEDO would like to see the incorporation of the above principles into Australia's National Urban Policy.

[34] Pg 55 of the discussion paper.
[35] Kelly, J., 2010, *Cities: Who Decides?,* Grattan Institute, Melbourne.