

PLANNING SYSTEM

Changes to section 94 local infrastructure contributions

Circular	PS 17-002
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Related	PS 11-012 (15 Mar 2011), PS 10-025 (23 Nov 2010)

Changes to section 94 local infrastructure contributions

This circular is to advise councils, industry and the community of changes to arrangements for section 94 local infrastructure contributions and the Local Infrastructure Growth Scheme.

Introduction

On 1 June 2017, the Premier announced a \$4.3 billion Housing Affordability Strategy for NSW. The Strategy will facilitate the delivery of state and local infrastructure critical to deliver housing and give first home buyers more support to enter the housing market.

Commitment to funding the Local Infrastructure Growth Scheme

As part of the Housing Affordability Strategy the Government has committed \$369 million to the Local Infrastructure Growth Scheme (LIGS) over the next three years. This funding is in addition to \$239 million already provided by the Government to help fund essential local infrastructure since 2012 to unlock housing.

The LIGS will continue to support the cost of essential local infrastructure in the following eligible areas (the 'LIGS transition areas'):

- precincts in Blacktown (Alex Avenue, Area 20, Marsden Park Industrial, Riverstone, and Schofields) and The Hills (Balmoral Road, Box Hill, Box Hill North, and North Kellyville) local government areas (LGAs) where LIGS funding is currently in place;
- precincts in Wollongong (West Dapto), Bayside (Rockdale Urban Renewal), and Blacktown (Marsden Park) LGAs where contributions plans have been or are currently being reviewed by the Independent Pricing and Regulatory Tribunal (IPART) for LIGS funding; and
- rezoned precincts in the Priority Land Release Areas in Camden (Oran Park, Turner Road and Catherine Fields (Part)) and Liverpool (Austral, Edmondson Park, Leppington, East Leppington, and Leppington North) which have not yet sought IPART review or LIGS funding.

The contributions plans identified in the Ministerial direction and their relationship to relevant development precincts are listed in the table attached to this circular.

Changes to the cap on local infrastructure contributions

Under the *Environmental Planning and Assessment (Local Infrastructure Contributions) Direction 2012* dated 28 August 2012, section 94 infrastructure contributions are capped at \$30,000 per dwelling in identified greenfield areas and \$20,000 per dwelling across the rest of NSW (with some identified exemptions). These cap amounts have been fixed since September 2010.

The Minister for Planning has issued a new direction that amends the 2012 direction to put in place new thresholds for contribution rates both in the LIGS transition areas and across the rest of NSW.

LIGS transition areas

In the LIGS transition areas listed above, the caps will be lifted over the next three years to:

- \$35,000 in greenfield areas and \$25,000 in infill areas on 1 January 2018;
- \$40,000 in greenfield areas and \$30,000 in infill areas on 1 July 2018;
- \$45,000 in greenfield areas and \$35,000 in infill areas on 1 July 2019; and
- Lifted entirely on 1 July 2020.

The application of the cap is determined by the date of development consent being granted by a council or planning panel.

Precincts in the LIGS transition areas will only be able to charge the escalated cap once the relevant contributions plan has been assessed by IPART and the Minister has given advice on the outcome.

For precincts where LIGS funding is currently in place, this process has already been completed.

Other areas

In other areas, a threshold will be established consistent with the existing caps at \$30,000 in greenfield areas and \$20,000 in infill areas. In areas where a contributions plan is proposed that exceeds the thresholds, the council will be able to have the plan assessed by IPART in accordance with the Department's Development Contributions Practice Note (February 2014) to ensure the plan only contains essential local infrastructure. Once the assessment is finalised, council has adopted a final plan, and the Minister for Planning (or the Minister's delegate) has advised the council of the outcome, a council will be able to charge the full contribution amount as a condition of development consent.

This process will be detailed in the Ministerial direction and in further advice to be prepared by the Department in consultation with IPART.

Areas exempted from the cap

There will be no changes to arrangements for areas exempted from contribution caps in Schedule 1 of the 2012 direction.

Effect of the direction

The Ministerial direction will take effect on and from its date of publication in the NSW Government Gazette.

Councils will be able to seek assessment of contributions plans exceeding the cap amounts immediately (pending further process advice to be issued by the Department).

The direction will not apply to:

- section 94 contribution conditions imposed prior to the direction coming into effect;
- monetary contributions required under section 94A (fixed percentage levies) of the EP&A Act;
- affordable housing contributions under section 94F (affordable housing contributions) of the EP&A Act; and
- conditions requiring the dedication of land free of cost (section 94(1)(a)).

This direction does not affect the ability of councils to accept the dedication of land or provision of material public benefits in lieu of monetary contributions (section 94(5)).

Further Information

More information on the NSW Government's comprehensive package to improve housing affordability is available at <https://www.nsw.gov.au/housingaffordability>.

For further information please contact Service NSW on 13 77 18.

Department of Planning and Environment circulars are available from planning.nsw.gov.au/circulars

Authorised by:

Marcus Ray
Acting Secretary

Important note: This circular does not constitute legal advice. Users are advised to seek professional advice and refer to the relevant legislation, as necessary, before taking action in relation to any matters covered by this circular.

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Attachment – Lands included in the LIGS Transition Areas

Contributions plan as identified in the Ministerial direction	Precinct name	Precinct name identified in in <i>the State Environmental Planning Policy (Sydney Region Growth Centres) 2006</i> (if applicable)
Precincts where LIGS funding is currently in place		
The Hills Section 94 Contributions Plan (CP) No.13 – North Kellyville Precinct	North Kellyville	The precinct identified as North Kellyville in the Growth Centres SEPP
The Hills Section 94 Contributions Plan (CP) No.15 – Box Hill Precinct	Box Hill	The precinct identified as Box Hill in the Growth Centres SEPP
	Box Hill Industrial	The precinct identified as Box Hill Industrial in the Growth Centres SEPP
Contributions Plan No.12 – Balmoral Road Release Area	Balmoral Road Release Area	n/a
The Hills Section 94 Contributions Plan (CP) No.16 – Box Hill North Precinct	Box Hill North	n/a
Section 94 Contributions Plan No.20 – Riverstone & Alex Avenue Precincts	Riverstone	The precinct identified as Riverstone in the Growth Centres SEPP
	Alex Avenue	The precinct identified as Alex Avenue in the Growth Centres SEPP
Section 94 Contributions Plan No.24 – Schofields Precinct	Schofields	The precinct identified as Schofields in the Growth Centres SEPP
Section 94 Contributions Plan No.22 – Area 20 Precinct	Area 20	The precinct identified as Area 20 in the Growth Centres SEPP
Section 94 Contributions Plan No.21 – Marsden Park	Marsden Park Industrial	The precinct identified as Marsden Park Industrial in the Growth Centres SEPP
Precincts that have been or are currently being reviewed by IPART		
Draft West Dapto Release Area Section 94 Development Contributions Plan (2017)	West Dapto	n/a
Draft Rockdale Contributions Plan 2016 – Urban Renewal Area	Rockdale Urban Renewal Area	n/a
Section 94 Contributions Plan No.21 – Marsden Park	Marsden Park	The precinct identified as Marsden Park in the Growth Centres SEPP
Zoned precincts in the Priority Land Release Areas which have not yet sought IPART review or LIGS funding		
Liverpool Contributions Plan 2008 (Edmondson Park)	Edmondson Park	The precinct identified as Edmondson Park in the Growth Centres SEPP within the Liverpool LGA
Liverpool Contributions Plan 2014 Austral and Leppington North Precincts	Austral	The precinct identified as Austral in the Growth Centres SEPP
	Leppington North	The precinct identified as Leppington North in the Growth Centres SEPP within the Liverpool LGA
Liverpool Contributions Plan 2014 – East Leppington Precinct	East Leppington	The precinct identified as East Leppington in the Growth Centres SEPP within the Liverpool LGA
Oran Park and Turner Road Precincts Section 94 Contributions Plan	Oran Park	The precinct identified as Oran Park in the Growth Centres SEPP
	Turner Road	The precinct identified as Turner Road in the Growth Centres SEPP
Camden Growth Areas Contributions Plan	Leppington	The precinct identified as Leppington in the Growth Centres SEPP
	Leppington North	The precinct identified as Leppington North in the Growth Centres SEPP within the Camden LGA
Catherine Fields (Part) Precinct Section 94 Contributions Plan	Catherine Fields (Part)	Part of the precinct identified as Catherine Fields in the Growth Centres as released by the Minister for Planning and Infrastructure in the NSW Government Gazette No 79 on 5 Aug 2011