
PLANNING SYSTEM

Development Contributions

Circular	PS 18-002
Issued	29 January 2018
Related	PS 10-025 superseded, PS 18-002

Assessment of Local Infrastructure Contributions Plans by the Independent Pricing and Regulatory Tribunal (IPART)

The purpose of this circular is to assist councils understand IPART's role in the assessment of contributions plans as a result of changes to local infrastructure contributions and Local Infrastructure Growth Scheme arrangements.

Background

In 2010, the NSW Government introduced a cap on the amount councils can charge for local infrastructure contributions. The cap was set at \$30,000 per greenfield dwelling and \$20,000 per dwelling in other areas, to help reduce development costs in the wake of the global financial crisis and to support housing supply.

Changes to the cap on local infrastructure contributions

In July 2017, the NSW Government revised its framework for local infrastructure contributions and the Local Infrastructure Growth Scheme (LIGS), in support of the Government's Housing Affordability Strategy.

As part of the Housing Affordability Strategy, the NSW Government has committed \$369 million to the LIGS. The scheme will continue to support the cost of essential local infrastructure in the following eligible areas (the 'LIGS transition areas'):

- precincts in Blacktown and The Hills local government areas where LIGS funding is currently being provided
- precincts at West Dapto in Wollongong, Rockdale in Bayside, and Marsden Park in Blacktown where contributions plans have been or are currently being reviewed by IPART for Councils proposing to seek LIGS funding
- rezoned land in the Growth Centres where a contributions plan has not yet been lodged.

The cap on contributions will increase by \$5,000 on 1 January 2018 to \$35,000 in greenfield LIGS transition areas and by \$5,000 to \$25,000 in LIGS transition infill

areas, and from 1 July 2018, an annual \$5,000 increase to the caps each year will apply for two years. In transition areas, the caps will be lifted entirely on 1 July 2020.

Councils can seek assessment by IPART of any contributions plans which propose to charge contribution rates above the relevant cap amounts. IPART will assess the contributions plan against the assessment criteria in the Practice Note. After IPART has assessed the contributions plan against the assessment criteria, the Minister may advise council that changes are needed to the contributions plan and publish advice on the Department of Planning and Environment's website.

The role of IPART in local infrastructure contributions

The Independent Pricing and Regulatory Tribunal (IPART) will continue its role in the assessment of the local infrastructure contributions plans ensuring transparency and accountability in the process.

Local Infrastructure Contributions Practice Note for IPART assessment contributions plans

Purpose of the Practice Note

The purpose of the *Local Infrastructure Contributions Practice Note (2017)* is to assist councils in understanding the local infrastructure contributions plan assessment process in NSW and the role of IPART in reviewing contributions plans, by identifying:

- the contributions plans requiring assessment by IPART if councils wish to charge contributions

- above the specific caps set out in the Minister's direction;
- the criteria against which contributions plans will be assessed by IPART;
- the requirements for the submission of contributions plans to IPART; and
- the process for IPART and the Minister for Planning to provide advice to councils on contributions plans.

The Practice Note has been updated to account for changes to local infrastructure contributions arrangements associated with the Ministerial Direction¹ made on 28 July 2017. The Practice Note is available on the DPE website at: planning.nsw.gov.au

Relationship with the 2005 Development Contributions Practice Notes

The *Local Infrastructure Contributions Practice Note (2017)* outlines how IPART will assess contributions plans. This Practice Note should be read in conjunction with the *Development Contributions Practice Notes – July 2005* (2005 Practice Notes). The 2005 Practice Notes outlines the requirements for local councils in preparing contributions plans. Contribution plans must be prepared having regard to relevant Practice Notes.

Assessment by IPART

Councils can seek assessment of contributions plans by IPART if the proposed contributions rate exceeds the cap amount or as otherwise determined by the Minister for Planning. This includes draft contributions plans which propose to amend an existing contributions plan consistent with clause 32 *Environmental Planning and Assessment Regulation 2000* and propose a contribution level above the relevant cap.

Timing of assessment of contributions plans

Draft contributions plans should be submitted for IPART review at the following times:

- after public exhibition of the draft contribution plan by council
- prior to the lodging of applications for LIGS funding.

Note: The application process for councils eligible to seek LIGS funding is subject to separate processes.

Ministerial Direction under 94E - Exemptions

The Ministerial Direction (including the amendments made to the Direction on 28 July 2017) does not apply to:

- development contribution conditions imposed prior to the direction (or amendments) 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
- conditions requiring the dedication of land free of cost (section 94(1)(a))
- exempt lands identified in Schedule 1 of the Minister's direction.

The 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)).

Section 94A contribution plans

The changes relating to the maximum amounts that may be required as local infrastructure contributions under section 94, and the essential works list, will not apply to section 94A contributions plans.

Related information

Refer to *Planning Circular PS 17-01 Changes to section 94 local infrastructure contributions* for further details on changes to the arrangements for section 94 local infrastructure contributions and the Local Infrastructure Growth Scheme.

Further Information

For further information please contact Service NSW on 13 77 18. For further enquiries relating to IPART please contact IPART on 9290 8400 or www.ipart.nsw.gov.au

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

Authorised by:

Brendan Nelson
A/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.

© State of New South Wales through the Department of Planning and Environment planning.nsw.gov.au

Disclaimer: While every reasonable effort has been made to ensure that this document is correct at the time of publication, the State of New South Wales, its agencies and employees, disclaim any and all liability to any person in respect of anything or the consequences of anything done or omitted to be done in reliance upon the whole or any part of this document.

¹ The *Environmental Planning and Assessment (Local Infrastructure Contributions) Direction 2012*, has been amended by the *Environmental Planning and Assessment (Local Infrastructure Contributions) Amendment Direction 2013*, *Environmental Planning and Assessment (Local Infrastructure Contributions) Amendment Direction 2016*, and *Environmental Planning and Assessment (Local Infrastructure Contributions) Amendment Direction 2017*.