

NSW Government Response to NSW Productivity Commission's Review of Infrastructure Contributions in NSW

Item	Recommendation	Response
2.1	<p>Enhance efficiency of the infrastructure contributions system Implement reform to deliver an efficient infrastructure contributions system so:</p> <ul style="list-style-type: none"> local contributions are cost-reflective charges on impactors, applied through a consistent framework but with flexibility for adaptation to local circumstances State contributions are simple and certain charges on impactors and beneficiaries of State service delivery. 	Accept
3.1	<p>Allow councils' general income to increase with population Subject to review by the Independent Pricing and Regulatory Tribunal, reform the local government rate peg to allow councils' general income to increase with population.</p>	Accept
4.1	<p>Develop infrastructure contribution plans upfront as part of the zoning process Amend legislation to require:</p> <ul style="list-style-type: none"> where land is being rezoned, the draft infrastructure contributions plan must be publicly exhibited at the same time as the planning proposal. adoption of the infrastructure contributions plan before any determination is made on a development application. 	Accept. Consideration will be given to managing the time taken for councils to adopt contributions plans, which would otherwise unreasonably delay the rezoning of land.
4.2	<p>Introduce a direct land contribution mechanism to improve both efficiency and certainty for funding land acquisition</p> <p>i. Amend legislation to introduce a direct land contribution mechanism to:</p> <ul style="list-style-type: none"> apply a statutory charge on the land at the time of rezoning that requires land contribution be made require the contribution on sale of the land, or subdivision development application, whichever comes first allow the contribution to be satisfied as a monetary payment, or dedication of land. <p>ii. Consult with key stakeholders from councils and industry in the design and implementation of a direct land contribution mechanism.</p>	Accept. A case study to be prepared in consultation with the External Advisory Group.
4.3	<p>Issue advice for land valuation to improve consistency and accuracy Develop a practice note, in consultation with the Valuer General, to guide land valuation, including assumptions and methodology, particularly for land that is yet to be rezoned and may be constrained.</p>	Accept
4.4	<p>Index land contribution amounts to changing land values</p> <p>i. The Valuer General prepare a methodology and publish appropriate land value indices.</p>	Accept

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	ii. Amend legislation to require new contributions plans to separately identify and escalate land contribution amounts by the appropriate index	Accept
	iii. The Minister to direct councils to separately identify and escalate land contribution amounts by the appropriate index when reviewing contributions plans.	Accept
4.5	Section 7.11 contribution plans use benchmark costs Independent Pricing and Regulatory Tribunal to develop and maintain standardised benchmark costs for local infrastructure that reflect the efficient cost of provision.	Accept
4.6	Contributions plans reflect development-contingent costs only	Accept. DPIE and IPART to work together to interpret 'efficient infrastructure design', particularly as it relates to greenfield development and land use planning to support creation of liveable and resilient communities.
	i. Apply the essential works list to all section 7.11 contributions plans.	
	ii. IPART to review the essential works list and provide advice on the approach to considering efficient infrastructure design and application of nexus.	
	iii. Subject to review by the IPART issue a revised practice note.	
4.7	IPART review of contributions plan be 'by exception' and based on efficient costs	Accept
	i. Remove the monetary trigger for review of contributions plans by IPART.	
	ii. Develop Terms of Reference for the IPART to review any costs in a section 7.11 contributions plan on a 'by exception' basis with the option of a 'targeted' review of specific sections of a plan.	
	iii. Prepare a practice note to reflect the 'by exception' review process and requirements for local contributions plans.	
4.8	Contributions plans are prepared using standard online templates	Accept
	i. Develop standard online contributions plan templates for section 7.11 local contributions and section 7.12 fixed levies.	
	ii. Amend legislation to require new contributions plans to be made using the standard templates and housed within the contributions digital tool to be developed on the NSW Planning Portal.	
	iii. Require contribution plans upon review to transition to the digital tool.	
4.9	Encourage councils to forward fund infrastructure, through borrowing and pooling of funds	Accept
	i. Amend legislation to allow: <ul style="list-style-type: none"> pooling of contributions funds as the default option interest costs associated with borrowing for infrastructure to be collected through contributions plans. 	
	ii. Incentivise councils to borrow to forward fund infrastructure, including by: <ul style="list-style-type: none"> Treasury Corporation reviewing their lending criteria to consider allowing capital grants and contributions (including infrastructure contributions) to be included in debt serviceability calculations where contributions relate specifically to the project for which council is seeking funding establishing a program to provide an additional financial incentive when councils borrow to build infrastructure. 	

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4.10	<p>Defer payment of contributions to the occupation certificate stage</p> <p>i. Extend permanently the <i>Environmental Planning and Assessment (Local Infrastructure Contributions – Timing of Payments) Direction 2020</i> that was introduced as a temporary measure in response to the COVID-19 pandemic.</p> <p>ii. Design the NSW Planning Portal so that the release of occupation certificates is contingent upon payment of infrastructure contributions.</p> <p>iii. Increase oversight of private certifiers by requiring that the certifying authority must confirm payment of contributions before issuing an occupation certificate.</p> <p>iv. Amend legislation to create an offence should certifiers issue a certificate without an infrastructure contribution payment.</p>	Accept
4.11	<p>Increase the maximum allowable rate for section 7.12 fixed development consent levies</p> <p>i. Amend the maximum rate for section 7.12 contributions as follows:</p> <ul style="list-style-type: none"> • \$10,000 per additional dwelling for houses (detached, semi-detached, townhouses) • \$8,000 per additional dwelling for all other residential accommodation • \$35 per square metre of additional GFA for commercial uses • \$25 per square metre of additional GFA for retail uses • \$13 per square metre of additional GFA for industrial uses <p>ii. Index contribution rates quarterly using the Producer Price Index (Road and Bridge Construction – NSW) and review periodically (approximately every three to five years) to ensure they remain in line with the intended proportion of development costs.</p>	Accept. Final rates subject to confirming the charging methodology.
4.12	<p>Planning agreements consistent with the principles-based approach</p> <p>i. Adopt the Draft Planning Agreements Practice Note 2020 and EP&A Regulation amendments exhibited by the Department in April 2020 to provide immediate improvements to the operation of planning agreements.</p> <p>ii. Amend the practice note to embed the principles of the contributions system so that planning agreements are:</p> <ul style="list-style-type: none"> • for the delivery of infrastructure to support development that is out-of-sequence or unexpected. • to facilitate the direct delivery of development-contingent infrastructure or impact mitigation works. <p>iii. Amend the legislation to require planning authorities to:</p> <ul style="list-style-type: none"> • register planning agreements and draft planning agreements in a centralised system, contained within the NSW Planning Portal. • 'publicly exhibit' rather than 'publicly notify' planning agreements, including requirements to receive and consider public submissions. 	Accept

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4.13	<p>Publish guidelines for planning agreements for mining and energy related projects consistent with the principles-based approach</p> <p>Publish a guideline for mining and energy related projects consistent with the principles-based approach, so that planning agreements primarily relate to direct delivery of development-contingent infrastructure.</p>	Accept
4.14	<p>Improve accountability for affordable housing contributions</p> <p>i. Require affordable housing contributions received through section 7.32 contribution mechanisms and planning agreements be reported by councils, including:</p> <ul style="list-style-type: none"> the amount of monetary contributions received the value and location of any in-kind provision, both works and land expenditure of monetary contributions transfer and management of assets. 	Accept
	<p>ii. Undertake a future evaluation of section 7.32 affordable housing contribution programs to determine their effectiveness and efficiency.</p>	Accept
5.1	<p>Adopt regional infrastructure contributions</p> <p>i. Prepare and implement state contributions for Greater Sydney, Central Coast, Hunter, and Illawarra-Shoalhaven regions.</p>	Accept. Savings and transitional arrangements for SIC determinations made prior to 1 July 2022 to be determined.
	<p>ii. Greater Sydney region charges (subject to no substantial impacts on feasibility) as follows:</p> <ul style="list-style-type: none"> \$12 000 per dwelling for houses (detached, semi-detached, townhouses) \$10 000 per dwelling for all other residential accommodation \$10 to \$15 per square meter for industrial \$20 to \$30 per square meter for commercial \$30 to \$40 per square meter for mixed uses. 	Accept. Final rates subject to confirming the charging methodology.
	<p>iii. Central Coast, Hunter and Illawarra-Shoalhaven region charges (subject to no substantial impacts on feasibility) as follows:</p> <ul style="list-style-type: none"> \$10 000 per dwelling for houses (detached, semi-detached, townhouses) \$8 000 per dwelling for all other residential accommodation \$10 to \$15 per square meter for industrial \$20 to \$30 per square meter for commercial \$30 to \$40 per square meter for mixed uses. 	
	<p>iv. Governance arrangements and criteria for infrastructure projects to be established.</p>	Accept. Allocation methodology to be confirmed.
5.2	<p>Improve guidance for State planning agreements</p> <p>Publish a guideline for State planning agreements to ensure they:</p> <ul style="list-style-type: none"> support out-of-sequence development in areas not supported by special infrastructure contributions plans, or facilitate the direct delivery of development-contingent infrastructure. 	Accept

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5.3	<p>Adopt transport contributions for major projects</p> <p>i. Prepare and implement a transport contribution for major projects that:</p> <ul style="list-style-type: none"> is additional to regional infrastructure contributions, where these apply applies to properties within a service catchment and is subject to additional development capacity created as a result of the investment. <p>ii. Contribution charges should be established for residential and non-residential uses. A minimum charge of \$5,000 per dwelling should be applied, with Transport for NSW required to apply higher charges where costs and benefits are relatively higher.</p>	<p>Accept. The Minister for Planning and Public Spaces will retain responsibility for adopting a standard approach to development contributions to apply to precincts identified for rezoning in conjunction with new major transport infrastructure. DPIE and Transport for NSW will undertake further work to determine the level of the charge to be levied on future rezonings, having regard to development capacity, feasibility and cumulative impact of development contributions, as well as considering a holistic and strategic approach to future transport infrastructure investment.</p>
5.4	<p>Create a new category of contributions plan specific to biodiversity</p> <p>i. Create a new contribution category under Part 7 of the EP&A Act for biodiversity offsets.</p> <p>ii. Prepare and implement a biodiversity contribution for areas subject to biodiversity certification.</p>	<p>Accept. Savings and transitional arrangements for SIC determinations made prior to 1 July 2022 to be determined.</p>
5.5	<p>Phase in metropolitan water contributions for more efficient delivery of water infrastructure</p> <p>i. Rescind the 2008 Section 18 Direction that approved zero developer charges for water, wastewater and stormwater services for Sydney Water and Hunter Water.</p> <p>ii. Direct Sydney Water and Hunter Water to reintroduce water charges and include provision for:</p> <ul style="list-style-type: none"> the approach to phase-in, and exemptions for development completed prior to 1 July 2026. <p>iii. Establish a service level agreement for Sydney Water and Hunter Water for expenditure of water charges funding.</p>	<p>Accept</p>
6.1	<p>Develop and implement a centralised contributions digital tool</p> <p>i. Develop a contributions digital tool in the NSW Planning Portal, integrated with the spatial mapping and development application system, which requires:</p> <ul style="list-style-type: none"> councils and the State to make contributions plans receive and track payments report on contributions spending, fulfill accounting requirements, and report on the infrastructure delivery pipeline landowners and developers to estimate, calculate, and pay their infrastructure contributions for both local and state infrastructure in one place, ideally in one payment. <p>ii. Amend legislation to support the digital tools and require their use to be phased in.</p>	<p>Accept</p>

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6.2	<p>Promote consistency and transparency in works-in-kinds agreements Develop a practice note to guide efficient and consistent use of works-in-kind agreements.</p>	Accept
6.3	<p>Build the capability and expertise of the planning sector</p> <p>i. Create and maintain consolidated guidance material for each contribution mechanism that reflects up-to-date information and integrates with the digital tool.</p> <p>ii. Implement a training and professional development program to support planning practitioners and build a knowledge sharing culture within the planning system.</p>	Accept
6.4	<p>Introduce a simple, clear, centralised exemptions policy Produce a simple, clear, standardised exemptions policy, underpinned by guiding principles, to ensure a consistent and transparent application of exemptions.</p>	Accept
6.5	<p>Better synchronise State and local strategic planning frameworks</p> <p>i. Amend legislation to update the review timeframes of Local Strategic Planning Statements to five years, in line with other State and regional plans.</p> <p>ii. Issue a Ministerial direction extending the regional implementation plan timeframe to cover a 4-year period to align with councils' delivery program.</p>	Accept
6.6	<p>Incorporate the local infrastructure contributions system into the Integrated and Performance Reporting Framework Update the Integrated and Performance Reporting guidelines to require councils to:</p> <ul style="list-style-type: none"> include infrastructure contribution plans in their reporting review their infrastructure contributions plans by 1 July 2024, and every four years thereafter (or earlier if required), to align with their delivery program. 	Accept
6.7	<p>Strategic planning to maximise the efficient use of land</p> <p>i. Issue a Ministerial Direction to require planning proposals to demonstrate consideration of efficient use of land, including opportunities for dual-use and joint-use.</p> <p>ii. Develop a practice note to establish performance-based benchmarks for open space planning.</p>	Accept. Consideration will be given to creation of liveable and resilient communities, and ensuring quality outcomes.
7.1	<p>Strong governance to guide implementation Establish an Implementation Steering Committee to oversee implementation of the reforms.</p>	Accept

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