

Public Consultation Draft: December 2018

Environmental Planning and Assessment (Special Infrastructure Contribution – Hunter Region) Determination 2018

under the

Environmental Planning and Assessment Act 1979

I, the Minister for Planning, in pursuance of section 7.23 of the *Environmental Planning and Assessment Act 1979*, make the following Determination.

Minister for Planning

Dated:

Part 1 Preliminary

1 Name of Determination

This Determination is the *Environmental Planning and Assessment (Special Infrastructure Contribution – Hunter Region) Determination 2018*.

2 Commencement

This Determination takes effect on the date of its publication in the Gazette.

3 Land to which Determination applies

This Determination applies to Hunter Region Special Contributions Area.

Note. Hunter Region Special Contributions Area comprises the following local government areas: City of Cessnock, Dungog, City of Lake Macquarie, City of Maitland, Mid-Coast, Muswellbrook, City of Newcastle, Port Stephens, Singleton, Upper Hunter Shire. However, the land known as “Kings Hill Urban Release Area”, in Port Stephens Local Government Area, is excluded from the Special Contributions Area.

4 Objective of Determination

The objective of this Determination is to provide for special infrastructure contributions to be made to the provision of infrastructure in connection with the intensification of urban residential and industrial development in Hunter Region Special Contributions Area as a result of changes

to planning controls in the Hunter Region and, in particular, as a result of the rezoning of rural land for urban purposes.

5 Definitions

(1) In this Determination:

contribution rate – see clauses 11 and 12 for residential SIC development and clauses 28 and 29 for industrial SIC development.

developer means the person having the benefit of a development consent for the time being.

development consent does not include a complying development certificate.

environmental zone means any of the following land use zones:

- (a) Zone E1 National Parks and Nature Reserves,
- (b) Zone E2 Environmental Conservation,
- (c) Zone E3 Environmental Management,
- (d) a land use zone, not included in the Standard Instrument, that is substantially equivalent to any of the preceding zones.

greenfield industrial land means any of the following kinds of land:

- (a) land within an industrial zone that is identified on the Released Land Map as existing released land,
- (b) land in the Lower Hunter Service Catchment that, after this Determination takes effect, is rezoned from any of the following zones to an industrial zone:
 - (i) a rural zone,
 - (ii) an environmental zone,
 - (iii) a recreation zone,
 - (iv) a special purposes zone,
- (c) land (other than land described in paragraph (a) or (b) of the definition of **greenfield residential land**):
 - (i) that adjoins land in an industrial zone described in paragraph (a) and (b) of this definition, and
 - (ii) on which development for a purpose permitted within the industrial zone is authorised to be carried out under a development consent that is granted pursuant to a provision of an environmental planning instrument that is in the same terms, or substantially the same terms, as clause 5.3 (Development near zone boundaries) of the Standard Instrument.

greenfield residential land means any of the following kinds of land:

- (a) residential land that is identified on the Released Land Map as existing released land,
- (b) land that, after this Determination takes effect, is rezoned from any of the following zones to a residential zone:
 - (i) a rural zone,
 - (ii) an environmental zone,
 - (iii) a recreation zone,
 - (iv) a special purposes zone,
- (c) land (other than land described in paragraph (a) or (b) of the definition of ***greenfield industrial land***):
 - (i) that adjoins land in a residential zone described in paragraph (a) or (b) of this definition, and
 - (ii) on which development for a purpose permitted within the adjoining residential zone is authorised to be carried out under a development consent that is granted pursuant to a provision of an environmental planning instrument that is in the same terms, or substantially the same terms, as clause 5.3 (Development near zone boundaries) of the Standard Instrument.

Hunter Region Special Contributions Area means the special contributions area of that name, as described in Schedule 4 to the Act.

Huntlee New Town Site means the area of land identified as Huntlee New Town Site on the Urban Release Area Maps adopted by *Cessnock Local Environmental Plan 2011* and *Singleton Local Environmental Plan 2013* as in force when this Determination takes effect.

Note. The Urban Release Area Map adopted by Cessnock LEP 2011 showing Huntlee New Town Site is identified as URA_005 in the map index for that LEP. The Urban Release Area Map showing the remainder of Huntlee New Town Site adopted by Singleton LEP 2013 is identified as URA_015 in the map index for that LEP.

industrial SIC development means development for which a special infrastructure contribution must be made under clause 24.

industrial zone means any of the following land use zones:

- (a) Zone IN1 General Industrial,
- (b) Zone IN2 Light Industrial,
- (c) Zone IN3 Heavy Industrial,
- (d) Zone IN4 Working Waterfront,
- (e) Zone B5 Business Development,
- (f) Zone B7 Business Park,
- (g) a land use zone, not included in the Standard Instrument, that is substantially equivalent to any of the above zones.

infrastructure has the same meaning as it has in Subdivision 4 of Division 7.1 of the Act.

Lower Hunter Service Catchment comprises the following local government areas within Hunter Region Special Contributions Area and land within Huntlee New Town Site in Singleton:

- (a) City of Cessnock,
- (b) City of Lake Macquarie,
- (c) City of Maitland,
- (d) City of Newcastle,
- (e) Port Stephens (except land known as “Kings Hill Urban Release Area”).

Note. See Schedule 1 for a map showing the service catchments. “Kings Hill Urban Release Area” is not part of Hunter Region Special Contributions Area.

Mid Coast Service Catchment comprises the local government areas of Mid-Coast and Dungog within Hunter Region Special Contributions Area.

Note. See Schedule 1 for a map showing the service catchments.

non-residential building construction index or **non-residential building construction number** means the Producer Price Index (Catalogue No. 6427.0) for 3020 Non-residential building construction New South Wales, Table 17, Series ID A2333679F, issued by the Australian Bureau of Statistics.

planning agreement means a voluntary agreement referred to in section 7.4 of the Act with the Minister (whether or not another planning authority is also a party to the agreement).

public housing has the same meaning as in the *Housing Act 2001*.

recreation zone means any of the following land use zones:

- (a) Zone RE1 Public Recreation,
- (b) Zone RE2 Private Recreation,
- (c) a land use zone, not included in the Standard Instrument, that is substantially equivalent to either of the preceding zones.

Released Land Map means the map entitled “Hunter Region Special Contributions Area Released Land Map” identifying existing released land for the purposes of this Determination, as approved by the Minister on the making of this Determination and deposited in the head office of the Department of Planning and Environment.

Note. The Released Land Map is available on the website of the Department of Planning and Environment.

residential accommodation means any of the following:

- (a) attached dwellings,
- (b) dual occupancies,
- (c) dwelling houses (but not secondary dwellings),
- (d) multi-dwelling housing,
- (e) residential flat buildings,
- (f) semi-detached dwellings,
- (g) a group of self-contained dwellings that is seniors housing,
- (h) shop top housing.

residential building work means development for the purpose of residential accommodation (other than residential subdivision).

residential land means land within a residential zone under the relevant environmental planning instrument.

residential SIC development means development for which a special infrastructure contribution must be made under clause 7.

residential subdivision means surface subdivision of residential land, including community title subdivision and subdivision work, but excluding strata subdivision.

residential zone means any of the following land use zones:

- (a) Zone R1 General Residential,
- (b) Zone R2 Low Density Residential,
- (c) Zone R3 Medium Density Residential,
- (d) Zone R4 High Density Residential,
- (e) Zone R5 Large Lot Residential,
- (f) Zone RU5 Village,
- (g) Zone E4 Environmental Living,
- (h) a land use zone, not included in the Standard Instrument, that is substantially equivalent to any of the above zones.

rural zone means any of the following land use zones:

- (a) Zone RU1 Primary Production,
- (b) Zone RU2 Rural Landscape,
- (c) Zone RU3 Forestry,
- (d) Zone RU4 Primary Production Small Lots,
- (e) Zone RU6 Transition,
- (f) a land use zone, not included in the Standard Instrument, that is substantially equivalent to any of the above zones.

service catchment means Upper Hunter Service Catchment, Mid Coast Service Catchment and Lower Hunter Service Catchment.

SIC development means residential SIC development or industrial SIC development.

social housing provider means any of the following:

- (a) the New South Wales Land and Housing Corporation constituted by the *Housing Act 2001*,
- (b) the Department of Family and Community Services,
- (c) a registered community housing provider within the meaning of the Community Housing Providers National Law (NSW),
- (d) the Aboriginal Housing Office constituted by the *Aboriginal Housing Act 1998*,
- (e) a registered Aboriginal housing organisation within the meaning of the *Aboriginal Housing Act 1998*,
- (f) a provider of specialist disability accommodation under the *National Disability Insurance Scheme Act 2013* of the Commonwealth,
- (g) a local government authority that provides affordable housing,
- (h) a not-for-profit organisation that is a direct provider of rental housing to tenants.

special infrastructure contribution works-in-kind agreement – see clause 37.

special purposes zone means any of the following land use zones:

- (a) Zone SP1 Special Activities,
- (b) Zone SP2 Infrastructure,
- (c) Zone SP3 Tourist,
- (d) a land use zone, not included in the Standard Instrument, that is substantially equivalent to any of the above zones.

Standard Instrument means the standard instrument for a principal local environmental plan prescribed by the *Standard Instrument (Local Environmental Plans) Order 2006*.

the Act means the *Environmental Planning and Assessment Act 1979*.

Upper Hunter Service Catchment comprises the following local government areas within Hunter Region Special Contributions Area:

- (a) Upper Hunter Shire,
- (b) Muswellbrook,
- (c) Singleton, other than land within Huntlee New Town Site.

Note. See Schedule 1 for a map showing the service catchments.

- (2) Words or expressions used in this Determination have the same meaning as they have in the Act, unless otherwise defined.

Note. See section 1.4 of the *Environmental Planning and Assessment Act 1979* for definitions generally and section 6.2 of the Act for the meaning of subdivision of land.

- (3) The following words or expressions have the same meanings as they have in the Standard Instrument:

- (a) attached dwelling,
 - (b) dual occupancy,
 - (c) dwelling,
 - (d) dwelling house,
 - (e) emergency services facility,
 - (f) health services facility,
 - (g) multi-dwelling housing,
 - (h) passenger transport facility,
 - (i) place of public worship,
 - (j) public utility undertaking,
 - (k) recreation area,
 - (l) residential flat building,
 - (m) school,
 - (n) secondary dwelling,
 - (o) semi-detached dwelling,
 - (p) seniors housing,
 - (q) shop top housing.
- (4) A reference to a lot in this Determination does not include:
- (a) a lot that is association property within the meaning of the *Community Land Development Act 1989*, and
 - (b) a strata lot (or common property), within the meaning of the *Strata Schemes Development Act 2015*, even if created under a strata scheme that forms part of a community scheme within the meaning of the *Community Land Development Act 1989*.
- (5) A reference in this Determination to an existing lot, in connection with a development consent, is a reference to a lot that existed at the time the development consent was granted.
- (6) If the non-residential building construction index ceases to be published or issued by the Australian Bureau of Statistics, a reference to the index in this Determination is taken to be a reference instead to an index designated by the Minister for the purposes of this Determination.
- (7) A reference in this Determination to the Minister in relation to a special infrastructure contribution works-in-kind agreement includes a reference to the Planning Secretary, or other officer of the Department of Planning and Environment, acting for and on behalf of the Crown in right of the State of New South Wales.
- (8) A reference in this Determination to the erection of a dwelling includes, in the case of a manufactured home, a reference to installation of the manufactured home. Accordingly, a reference to the number of dwellings that a development consent authorises to be erected

includes the number of dwellings that the consent specifies as the maximum number of dwellings for which the land concerned may be used.

Part 2 Residential development on greenfield residential land

6 Application of Part to greenfield residential land within the SCA

This Part applies only to greenfield residential land within Hunter Region Special Contributions Area. This Part does not affect the operation of Part 3.

7 Residential development for which SIC must be made under this Part

- (1) Subject to this clause, a special infrastructure contribution must be made for development on greenfield residential land within Hunter Region Special Contributions Area involving either or both of the following:
 - (a) residential building work,
 - (b) residential subdivision.

Note. A special infrastructure contribution may be imposed only as a condition of development consent. See the direction given by the Minister under section 7.24 of the *Environmental Planning and Assessment Act 1979* to consent authorities to impose a condition to require a special infrastructure contribution in accordance with this Determination on a grant of consent given on or after the date on which this Determination takes effect.

- (2) A special infrastructure contribution is not required for development that comprises only either or both of the following:
 - (a) the carrying out of a work,
 - (b) the demolition of a building or work.

Note. See the definition of “development” in section 1.5 of the *Environmental Planning and Assessment Act 1979*.

- (3) A special infrastructure contribution is not required to be made for residential building work if the residential building work:
 - (a) will not result in an increase in the number of dwellings on the land to which the development application relates (whether contained in new buildings or existing buildings), or
 - (b) will not result in more than one dwelling on each existing lot to which the development application relates.
- (4) A special infrastructure contribution is not required to be made for development for the purpose of public housing or for the purpose of seniors housing or affordable housing carried out by or on behalf of a social housing provider.

- (5) A special infrastructure contribution is not required to be made for residential subdivision of land if the number of lots that will result from the subdivision is equal to or less than the number of existing lots being subdivided (or consolidated and re-divided).
- (6) A special infrastructure contribution is not required to be made in respect of complying development for which a complying development certificate is issued.
- (7) An exclusion from the requirement to make a special infrastructure contribution provided by a subclause of this clause is not limited by the terms of an exclusion provided by any other subclause of this clause.

Note. A special infrastructure contribution cannot be imposed as a condition of consent to the carrying out of development if a planning agreement made in accordance with section 7.4 of the *Environmental Planning and Assessment Act 1979* excludes the application of section 7.24 to the development.

8 Development that is residential SIC development in part only

A special infrastructure contribution is required to be made for residential SIC development in accordance with this Part even if the development consent for the residential SIC development:

- (a) also authorises development on land outside Hunter Region Special Contributions Area or on land that is not greenfield residential land, or
- (b) also authorises development that is not residential SIC development.

9 Nature of contribution

- (1) The special infrastructure contribution for residential SIC development is to be made as:
 - (a) a monetary contribution, or
 - (b) a contribution of a kind specified in a special infrastructure contribution works-in-kind agreement that is in force in relation to the residential SIC development (being the carrying out of works for the provision of infrastructure for the relevant service catchment or the dedication or other provision of land for the purpose of that infrastructure), or
 - (c) a contribution specified in a planning agreement that applies to the residential SIC development where:
 - (i) the contribution required to be provided under the agreement is for the provision of an item (or part of an item) of infrastructure specified in Schedule 2 for the relevant service catchment or for the dedication or other provision of land for the purpose of that infrastructure, and
 - (ii) the agreement does not exclude the application of section 7.24 of the Act to the residential SIC development, and
 - (iii) the agreement provides that an obligation to make a special infrastructure contribution imposed by a condition of development consent for the residential SIC development in accordance with this Determination (or other determination under section 7.23 of the Act that applies to the land on which

the residential SIC development may be carried out) may be met (wholly or partly) by the provision of the contribution under the planning agreement.

Note. A special infrastructure contribution works-in-kind agreement is an agreement that is entered into after a development consent imposing an obligation to make a special infrastructure contribution has been granted. It is an agreement about how that obligation may be satisfied. A planning agreement as described in section 7.4 of the *Environmental Planning and Assessment Act 1979* is generally entered into before development consent is granted.

- (2) The special infrastructure contribution may comprise part of the amount of the monetary contribution otherwise payable and the balance as a contribution provided by a special infrastructure contribution works-in-kind agreement (or a planning agreement of a kind described in subclause (1) (c)).

10 Amount of monetary contribution

The monetary contribution that is payable as a special infrastructure contribution for residential SIC development authorised by a development consent is the amount calculated as follows:

$$\$C_p = \$C_R (L_N + D_N)$$

where:

$\$C_p$ is the monetary contribution payable

L_N is the number of additional lots in any proposed residential subdivision authorised by the consent (as determined in accordance with clauses 13 and 14)

D_N is the number of additional dwellings resulting from any proposed residential building work authorised by the consent (as determined in accordance with clauses 15 to 18)

$\$C_R$ is the amount in dollars of the contribution rate, applicable at the date of payment, for the residential SIC development (as provided by clauses 11 and 12).

Note. See Schedule 3 for examples illustrating how the number of additional lots and the number of additional dwellings are to be determined in accordance with clauses 13 to 18 for the purpose of applying the above formula to calculate the contribution for a development.

11 Contribution rates for determining monetary contribution

- (1) The contribution rate that applies, at any time before 1 July 2019, in the calculation of the monetary contribution for residential SIC development is as follows:

Service catchment	Contribution rate
Lower Hunter Service Catchment	\$9,857 per lot or per dwelling
Mid Coast Service Catchment	\$658 per lot or per dwelling
Upper Hunter Service Catchment	\$658 per lot or per dwelling

Each of the amounts of \$9,857 and \$658 (in relation to both Mid Coast Service Catchment and Upper Hunter Service Catchment) is a **contribution amount** for the purposes of this clause and clause 12.

- (2) The contribution rate that applies at any time during the 12 month period commencing 1 July 2019, and during each subsequent 12 month period, is to be determined by adjusting each contribution amount in accordance with clause 12 (**adjusted contribution amount**). Accordingly, the contribution rate for any such period is the adjusted contribution amount per lot or per dwelling.

12 Annual adjustment of contribution amount in contribution rate

- (1) On 1 July 2019 and on 1 July in each subsequent year, each contribution amount is to be adjusted by multiplying it by the following fraction:

latest non-residential building construction number / base non-residential building construction number

where:

latest non-residential building construction number is the non-residential building construction number for the March quarter in the year in which the adjustment is made, and

base non-residential building construction number is the non-residential building construction number for the March quarter in 2017.

(The March quarter is the quarter commencing on and including 1 January and ending on and including 31 March in the same year.)

Note. The non-residential building construction number for the March quarter in 2017 was 111.4, according to the ABS website as at 22 July 2017.

- (2) However, if the adjustment of a contribution amount results in an amount that is not a whole number multiple of \$1, the amount is to be rounded up to the nearest whole number multiple of \$1.

13 Number of additional lots for determining monetary contribution

- (1) For the purpose of calculating the amount of the monetary contribution under clause 10, the number of additional lots in a proposed residential subdivision authorised by a development consent (**the relevant development consent**) is, subject to this clause, the lesser of the following:
 - (a) the number of proposed lots into which the land concerned is to be subdivided less the number of existing lots of which the land is comprised,
 - (b) the number of proposed lots into which the land concerned is to be subdivided less the number of lots that are excluded lots, as determined in accordance with clause 14.

- (2) A proposed lot is not to be excluded from the determination of the number of additional lots merely because it is only partly located on residential land.
- (3) To avoid doubt, a residential subdivision of land will not result in any additional lots if the number of proposed lots into which the land is to be subdivided is equal to or less than the number of lots of which it is currently comprised.

14 Exclusion of lots from number of additional lots

- (1) A proposed lot in a residential subdivision authorised by the relevant development consent is an excluded lot for the purpose of clause 13 (1) (b) if:
 - (a) there is an existing building (other than a temporary structure) comprising a dwelling or dwellings on the proposed lot, or
 - (b) a building (other than a temporary structure) comprising a dwelling or dwellings is to be erected, or is being erected, on the proposed lot, under another development consent (whether granted before or after this Determination takes effect), or
 - (c) the proposed lot is used for a designated community purpose.
- (2) A proposed lot in a residential subdivision authorised by the relevant development consent is also an excluded lot for the purpose of clause 13 (1) (b) if:
 - (a) development can be carried out on the proposed lot for a designated community purpose under the relevant development consent (but for no other purpose), or
 - (b) the proposed lot is required to be set aside or dedicated for a designated community purpose, or
 - (c) the proposed lot is to be dedicated as a public road under the *Roads Act 1993* or as a public reserve or drainage reserve under the *Local Government Act 1993*.
- (3) Despite subclause (1), a proposed lot is not an excluded lot (because of its existing or proposed buildings or current use) if:
 - (a) residential building work can be carried out on the proposed lot under the relevant development consent, or
 - (b) other development that is not for a designated community purpose can be carried out on the proposed lot under the relevant development consent, or
 - (c) any existing building or buildings on the proposed lot can be demolished and no new use of the proposed lot is authorised by the relevant development consent, or
 - (d) any existing buildings on the proposed lot can be demolished and the relevant plan of subdivision does not indicate an intention to dedicate the proposed lot as a public road under the *Roads Act 1993* or as a public reserve or drainage reserve under the *Local Government Act 1993*.

A building can be demolished, for the purpose of this subclause, if the relevant development consent, or another development consent or a complying development certificate, authorises its demolition or its demolition is exempt development.

Note. Even if there is an existing building on a proposed lot, the lot attracts a contribution where that building can be demolished (without a further development consent) and its use for a designated community purpose listed below has not been authorised by the development consent. Where there is existing housing on the proposed lot, but new residential building work can be carried out under the relevant development consent, the lot is no longer treated as an excluded lot.

- (4) For the purposes of this clause, a designated community purpose is any of the following:
- (a) school,
 - (b) TAFE establishment,
 - (c) emergency services facility,
 - (d) health services facility owned or operated by a public authority,
 - (e) passenger transport facility,
 - (f) place of public worship,
 - (g) public open space,
 - (h) public utility undertaking,
 - (i) bus depot,
 - (j) recreation area,
 - (k) cemetery within the meaning of the *Cemeteries and Crematoria Act 2013*,
 - (l) public amenities or public services, for which development contributions have been imposed under section 7.11 or section 7.12 of the Act, or may be imposed in accordance with a contributions plan that is in force (when consent is granted for the development),
 - (m) infrastructure for which a contribution may be required to be made under this Determination,
 - (n) public housing,
 - (o) seniors housing or affordable housing, if carried out by or on behalf of a social housing provider.

15 Number of additional dwellings for determining monetary contribution

- (1) For the purpose of calculating the amount of the monetary contribution under clause 10, the number of additional dwellings authorised by a development consent for the residential SIC development (*the relevant development consent*) is, subject to this clause and clauses 16 to 18, the sum of:
- (a) the number of dwellings that the consent authorises to be erected, including as a result of any extension or enlargement to an existing building, and
 - (b) the number of dwellings that will result from a change of use of an existing building that the consent authorises.
- (2) Any dwelling that is to be provided for public housing, or provided for seniors housing or affordable housing by or on behalf of a social housing provider, is not an additional dwelling.

- (3) To avoid doubt, additional dwellings authorised by the relevant development consent do not include:
- (a) existing dwellings on the land at the time that the relevant development consent was granted, or
 - (b) dwellings that are not residential accommodation.

16 Reduction of number of dwellings based on number of existing lots

- (1) This clause applies where the relevant development consent (as referred to in clause 15) authorises residential building work, but not the residential subdivision of any existing lots on which the residential building work is to be carried out.
- (2) The number of additional dwellings authorised by the relevant development consent, as determined in accordance with clause 15, is reduced by the sum of the following:
- (a) the number of existing dwellings on the land concerned that have been, or are authorised to be, demolished under the relevant development consent, or under another development consent, or a complying development certificate, that was granted no more than 3 years before the grant of the relevant development consent, and
 - (b) the number of existing lots to which the relevant development consent applies, disregarding the following:
 - (i) any lot that was an excluded lot under clause 14 for the purposes of determining a previous special infrastructure contribution,
 - (ii) any lot on which no new dwellings are to be erected under the relevant development consent,
 - (iii) any lot on which there is an existing dwelling,
 - (iv) any lot (being a current plan lot within the meaning of section 9 of the *Strata Schemes Development Act 2015*) that together with one or more other such lots is to be subdivided by strata plan under the relevant development consent (to create a single parcel of land subject to the proposed strata scheme).

If the resulting number is a negative number, then the number of additional dwellings is zero.

- (3) The demolition of a particular dwelling cannot be relied on under subclause (2) (a) to reduce the monetary contribution payable for the residential SIC development if it has previously been relied on to reduce the monetary contribution for another residential SIC development.
- (4) The number of additional dwellings may be reduced under subclause (2) (b) for the purpose of calculating only one special infrastructure contribution in respect of any development on the existing lot or lots concerned. However, if such a lot is further subdivided (into at least 2 whole lots), this subclause does not prevent a reduction in the number of additional dwellings under subclause (2) (b), based on the number of new lots created, for the purpose of calculating a later contribution.

17 Reduction of number of dwellings based on number of proposed lots

- (1) This clause applies where the relevant development consent (as referred to in clause 15) authorises the residential subdivision of existing lots on which residential building work is also to be carried out under the consent.
- (2) The number of additional dwellings authorised by the relevant development consent, as determined in accordance with clause 15, is reduced by the sum of the following:
 - (a) the number of existing dwellings on the land to which the development consent applies that have been, or are authorised to be, demolished under the relevant development consent, or under another development consent or a complying development certificate, that was granted no more than 3 years before the grant of the relevant development consent,
 - (b) the number of proposed lots in the residential subdivision on which residential building work is to be carried out under the relevant development consent, unless the number of proposed lots in the subdivision is less than or equal to the number of lots of which the land is currently comprised.

If the resulting number is a negative number, then the number of additional dwellings is zero.

Note. The proposed lots in the residential subdivision on which residential building work is to be carried out will generally be taken into account under clause 13 in calculating the special infrastructure contribution based on the number of additional lots. The effect of subclause (2) is to reduce what would otherwise be the total of additional dwellings on any one proposed lot by one.

- (3) The demolition of a particular dwelling cannot be relied on under subclause (2) (a) to reduce the monetary contribution payable for the residential SIC development if it has previously been relied on to reduce the monetary contribution for another residential SIC development.

18 Reduction in number of dwellings where clauses 16 and 17 apply

- (1) If clause 16 applies to part of the land to which the relevant development consent applies and clause 17 applies to another part of the land, the number of additional dwellings authorised by the consent is reduced by the sum of the resulting numbers determined under clause 16 (2) and 17 (2) respectively. If that is a negative number, the number of additional dwellings is zero.
- (2) For the purposes of determining, under clause 16 or 17, the number of dwellings authorised to be demolished under a relevant development consent:
 - (a) a dwelling that is not residential accommodation is to be included in the number, and
 - (b) a boarding house and a hostel are each to be treated as a single dwelling.

19 Final decision by Planning Secretary of number of additional lots or dwellings

- (1) A developer is entitled under this Determination to a reduction in, or an exclusion from, the determination of the number of additional lots or additional dwellings provided by clauses 13 to 18, only if the developer establishes the matters relevant to the reduction or exclusion to the Planning Secretary's satisfaction.
- (2) The Planning Secretary may make any decision required to be made for the purpose of calculating the special infrastructure contribution for residential SIC development in accordance with this Determination and, for that purpose, may have regard to any information available at the time, including information in an application for a construction certificate or modification of a construction certificate.
- (3) In particular, if a developer is unable to establish the number of dwellings in any building that is to be demolished under a development consent or a complying development certificate to the Planning Secretary's satisfaction, the Planning Secretary may decide to treat that number as any number less than the number that the developer asserts (including as one) for the purposes of applying clause 16 or clause 17.

20 When a monetary contribution for residential SIC development must be paid

If a special infrastructure contribution for residential SIC development is to be made as a monetary contribution, it must be paid before:

- (a) any subdivision certificate is issued in relation to a plan of subdivision, where the relevant development consent authorises the subdivision, or
- (b) any construction certificate (other than a construction certificate for subdivision work or a subdivision works certificate) is issued in relation to residential building work the subject of the relevant development consent,

whichever is the earlier.

Note. "Subdivision certificate" is defined in the *Environmental Planning and Assessment Act 1979*.

21 When a monetary contribution for residential SIC development involving residential subdivision must be paid

- (1) This clause applies to residential SIC development that involves residential subdivision (including where existing buildings are to be demolished), but does not apply where the residential SIC development involves new residential building work.
- (2) Despite clause 20, if a subdivision certificate is sought for a plan of subdivision that would, on registration, create only some of the lots in the subdivision authorised by the relevant development consent, the monetary contribution for the residential SIC

development may be paid progressively, with an amount being paid before the issue of each subdivision certificate for a plan of subdivision authorised by that consent.

- (3) The amount that must be paid before the issue of each subdivision certificate for a plan of subdivision is to be calculated as if the relevant development consent for the residential SIC development applied only to the land for which the subdivision certificate is sought. However, for the purpose of applying clauses 13 and 14 in relation to any plan of subdivision, a proposed lot in that plan is to be treated as an excluded lot only if it cannot be further subdivided in accordance with the relevant development consent.

22 Payment of monetary contribution where residential subdivision and new residential building work on different parts of land

- (1) This clause applies if a single development consent for residential SIC development authorises:
 - (a) residential subdivision, but not residential building work other than demolition, on one parcel or parcels of land, and
 - (b) residential building work, but not residential subdivision, on another parcel or parcels of land.
- (2) Despite clause 20, the special infrastructure contribution for the residential SIC development (if made as a monetary contribution) is to be paid:
 - (a) at the earliest time by which payment would, but for this clause, be required to be made for the residential SIC development as a whole, or
 - (b) as provided by subclause (3).
- (3) Separate monetary contributions may be made for the residential subdivision and for the new residential building work, respectively, as if separate development consents had been granted for these. Accordingly:
 - (a) the monetary contribution for the residential subdivision may be paid before the issue of a subdivision certificate in relation to the plan of subdivision (or in accordance with clause 21), and
 - (b) the monetary contribution for the residential building work may be paid before the issue of a construction certificate in relation to that work.

Part 3 Industrial development on greenfield industrial land

23 Application of this Part

This Part applies to greenfield industrial land within the Lower Hunter Service Catchment. This Part does not affect the operation of Part 2.

24 Industrial development for which SIC must be made under this Part

- (1) Subject to this clause, a special infrastructure contribution must be made for development on greenfield industrial land within the Lower Hunter Service Catchment.
- (2) A special infrastructure contribution is not required to be made for development for the purpose of any of the following:
 - (a) school,
 - (b) TAFE establishment,
 - (c) emergency services facility,
 - (d) health services facility owned or operated by a public authority,
 - (e) passenger transport facility,
 - (f) place of public worship,
 - (g) public open space, including a public reserve within the meaning of the *Local Government Act 1993*,
 - (h) drainage reserve within the meaning of the *Local Government Act 1993*,
 - (i) public utility undertaking,
 - (j) bus depot,
 - (k) recreation area,
 - (l) cemetery within the meaning of the *Cemeteries and Crematoria Act 2013*,
 - (m) public amenities or public services, for which development contributions have been imposed under section 7.11 or section 7.12 of the Act, or may be imposed in accordance with a contributions plan that is in force (when consent is granted for the development),
 - (n) infrastructure for which a contribution may be required to be made under this Determination,
 - (o) public housing,
 - (p) seniors housing or affordable housing, if carried out by or on behalf of a social housing provider.
- (3) If a special infrastructure contribution has been made for development on land in accordance with this Part, a further special infrastructure contribution is not required to be made for other development on that land, irrespective of whether development consent for the development for which a contribution has already been made was granted before or after the granting of development consent for the other development on that land.
- (4) If a contribution has been made (whether before or after this Determination takes effect) under a planning agreement that applies to the land to which a development consent relates, a special infrastructure contribution is not required to be made for development on that land authorised by that consent, even though it is not development to which the planning agreement applies and section 7.24 of the Act is not excluded for that development.

- (5) A special infrastructure contribution is not required to be made for development on land if:
 - (a) the Planning Secretary has certified that satisfactory arrangements have been made to contribute to the provision of State infrastructure (however described) in relation to the land, for the purposes of a provision of an environmental planning instrument, and
 - (b) the contribution has been made, in accordance with those satisfactory arrangements.
- (6) A special infrastructure contribution is not required to be made for a subdivision for the purpose only of rectifying an encroachment on any existing lot.
- (7) A special infrastructure contribution is not required to be made for development that comprises only the demolition of a building or work, or the carrying out of a work, or both.
- (8) A special infrastructure contribution is not required to be made in respect of complying development for which a complying development certificate is issued.
- (9) An exclusion from the requirement to make a special infrastructure contribution provided by this clause is not an exclusion from a requirement to make a special infrastructure contribution under Part 2.
- (10) An exclusion from the requirement to make a special infrastructure contribution provided by a subclause of this clause is not limited by the terms of an exclusion provided by any other subclause of this clause.

25 Development that is industrial SIC development in part only

A special infrastructure contribution is required to be made for industrial SIC development under this Part even if the development consent for the industrial SIC development:

- (a) also authorises development on land outside the Lower Hunter Service Catchment (including on land outside Hunter Region Special Contributions Area) or on land that is not greenfield industrial land, or
- (b) also authorises development that is not industrial SIC development.

26 Nature of contribution

- (1) The special infrastructure contribution for industrial SIC development is to be made as:
 - (a) a monetary contribution, or
 - (b) a contribution of a kind specified in a special infrastructure contribution works-in-kind agreement that is in force in relation to the industrial SIC development (being the carrying out of works for the provision of infrastructure for the Lower Hunter Service Catchment or the dedication or other provision of land for the purpose of that infrastructure), or

- (c) a contribution specified in a planning agreement that applies to the industrial SIC development where:
- (i) the contribution required to be provided under the agreement is for the provision of an item (or part of an item) of infrastructure specified in Schedule 2 for the Lower Hunter Service Catchment or for the dedication or other provision of land for the purpose of that infrastructure, and
 - (ii) the agreement does not exclude the application of section 7.24 of the Act to the industrial SIC development, and
 - (iii) the agreement provides that an obligation to make a special infrastructure contribution imposed by a condition of development consent for the industrial SIC development in accordance with this Determination (or other determination under section 7.23 of the Act that applies to the land on which the industrial SIC development may be carried out) may be met (wholly or partly) by the provision of the contribution under the planning agreement.
- (2) The special infrastructure contribution may comprise part of the amount of the monetary contribution otherwise payable and the balance as a contribution provided by a special infrastructure contribution works-in-kind agreement (or a planning agreement of a kind described in subclause (1) (c)).

Note. A special infrastructure contribution cannot be imposed as a condition of consent to the carrying out of development if a planning agreement made in accordance with section 7.4 of the *Environmental Planning and Assessment Act 1979* excludes the application of section 7.24 to the development.

27 Amount of monetary contribution

The amount of the monetary contribution that is payable as a special infrastructure contribution for industrial SIC development authorised by a development consent is the amount calculated by applying the contribution rate for the development, as at the date of payment, to the net developable area for the development. That is, the monetary contribution is an amount calculated as follows:

$$\text{\$C}_P = \text{NDA} \times \text{\$C}_R$$

where:

- \\$C_P** is the monetary contribution payable
- NDA** is the net developable area, in hectares, for the development (determined in accordance with clauses 30 and 31)
- \\$C_R** is the amount in dollars of the contribution rate, applicable at the date of payment for the development (as provided by clauses 28 and 29).

Note. See Schedule 3 for examples illustrating how net developable area is to be determined in accordance with clauses 30 and 31 for the purpose of applying the above formula to calculate the contribution for an industrial development.

28 Contribution rate

- (1) The contribution rate that applies, at any time before 1 July 2019, in the calculation of the monetary contribution for industrial SIC development in the Lower Hunter Service Catchment, is \$34,197 per hectare of net developable area.
- (2) The contribution rate that applies at any time during the 12 month period commencing 1 July 2019, and during each subsequent 12 month period, is to be determined by adjusting the contribution amount of \$34,197 in accordance with clause 29 (***adjusted contribution amount***). Accordingly, the contribution rate for any such period is the adjusted contribution amount per hectare of net developable area.

29 Annual adjustment of contribution amounts in contribution rates

- (1) On 1 July 2019 and on 1 July in each subsequent year, the contribution amount of \$34,197 is to be adjusted by multiplying it by the following fraction:

latest non-residential building construction number / ***base non-residential building construction number***

where:

latest non-residential building construction number is the non-residential building construction number for the March quarter in the year in which the adjustment is made, and

base non-residential building construction number is the non-residential building construction number for the March quarter in 2017.

(The March quarter is the quarter commencing on and including 1 January and ending on and including 31 March in the same year.)

Note. The non-residential building construction number for the March quarter in 2017 was 111.4, according to the ABS website as at 22 July 2017.

- (2) However, if the adjustment of a contribution amount results in a number that is not a whole number multiple of \$1, the amount is to be rounded up to the nearest whole number of \$1.

30 Net developable area

- (1) The net developable area for industrial SIC development is the area of the land, in hectares, to which the development consent for the development relates, subject to this Determination.
- (2) The following areas are not to be included in the calculation of the net developable area for the industrial SIC development:

- (a) the area of any land that the development consent authorises, or requires, to be used as a road or dedicated as a public road,
 - (b) the area of any existing road (or the area by which it is to be widened) in respect of which the development consent authorises, or requires, road work (such as road widening) to be carried out,
 - (c) any area of land that is at or below the level of a 1:100 ARI (average recurrent interval) flood event if the Planning Secretary is satisfied that the area is unsuitable for carrying out the development because it is at or below that level,
 - (d) any area of land within the curtilage of a building listed on the State Heritage Register,
 - (e) any area of land that is within an asset protection zone:
 - (i) that is specified in a bush fire safety authority issued under the *Rural Fires Act 1997*, or
 - (ii) that is required to be established by the development consent for the industrial SIC development,
 if the Planning Secretary is satisfied that the area is unsuitable for the development because it is in the asset protection zone,
 - (f) any area of land that is the subject of an easement in favour of a public utility undertaking for the purpose of the supply of the utility service to the public as shown on the title to that land or as confirmed in writing by the public utility undertaking, if the Planning Secretary is satisfied that the area is unsuitable for the industrial SIC development because of the easement,
 - (g) any area of land that is within a public transport corridor (other than a road corridor) as shown on a Land Zoning Map for the purposes of an environmental planning instrument or a development control plan made under the Act, if the Planning Secretary is satisfied that the area is unsuitable for the industrial SIC development because its being within the public transport corridor.
- (3) To avoid doubt, the net developable area does not include any area of land on which the development consent for the industrial SIC development authorises the carrying out of development for the purpose of any of the following, or that is to be reserved, dedicated or otherwise set aside for such a purpose as part of the development (or is already used for such a purpose):
- (a) school,
 - (b) TAFE establishment,
 - (c) emergency services facility,
 - (d) health services facility owned or operated by a public authority,
 - (e) passenger transport facility,
 - (f) place of public worship,
 - (g) public open space, including a public reserve within the meaning of the *Local Government Act 1993*,
 - (h) drainage reserve within the meaning of the *Local Government Act 1993*,
 - (i) public utility undertaking,
 - (j) bus depot,

- (k) recreation area,
 - (l) cemetery within the meaning of the *Cemeteries and Crematoria Act 2013*,
 - (m) public amenities or public services, for which development contributions have been imposed under section 7.11 or section 7.12 of the Act, or may be imposed in accordance with a contributions plan that is in force (when consent is granted for the relevant development),
 - (n) infrastructure for which a contribution may be required to be made under this Determination,
 - (o) public housing,
 - (p) seniors housing or affordable housing, if to be provided by or on behalf of a social housing provider.
- (4) In this clause, *curtilage of a building listed on the State Heritage Register* means the curtilage of that building or the site of the building, as specified or described in the listing of the building on the State Heritage Register kept under Part 3A of the *Heritage Act 1977*.

31 Reduction of net developable area

- (1) This clause applies to an industrial SIC development involving subdivision of land (other than strata subdivision) if a lot that will result from the subdivision will contain an existing dwelling (*lot with a dwelling*).
- (2) The net developable area of the industrial SIC development does not include the area of any lot with a dwelling if that area is no more than 0.1 hectare.
- (3) The area of each lot with a dwelling that is more than 0.1 hectare that will be created as a result of the industrial SIC development is taken to be reduced by 0.1 hectare for the purpose of calculating the net developable area of the development.
- (4) An exclusion of an area from the calculation of the net developable area of industrial SIC development is not affected by this clause.

32 Final decision regarding NDA by the Planning Secretary

The Planning Secretary may make any decision required to be made for the purpose of calculating the net developable area for industrial SIC development in accordance with this Determination and, for that purpose, may have regard to any information available at the time, such as construction plans and any measurements of a registered surveyor of the land concerned.

33 When is monetary contribution to be paid

If a special infrastructure contribution for industrial SIC development is to be made as a monetary contribution, it must be paid before:

- (a) any subdivision certificate is issued in relation to a plan of subdivision, where the relevant development consent authorises the subdivision, or

- (b) any construction certificate (other than a construction certificate for subdivision work or a subdivision works certificate) is issued in relation to building work the subject of the relevant development consent,

whichever is the earlier.

34 Payment of monetary contribution for industrial SIC development involving only subdivision

- (1) This clause:
 - (a) applies to an industrial SIC development that involves only the subdivision of land (including subdivision work), not being strata subdivision (*industrial SIC subdivision*), and
 - (b) applies even if the development consent for the industrial SIC development also authorises the demolition of existing buildings.
- (2) Despite clause 33, if a subdivision certificate is sought for a plan of subdivision that would, on registration, create only some of the lots authorised to be created by the development consent for the industrial SIC subdivision, the monetary contribution for the subdivision may be paid progressively, with an amount being paid before the issue of each subdivision certificate for a plan of subdivision authorised by that consent (*subdivision certificate for a staged subdivision*).
- (3) The amount that is to be paid before the issue of each subdivision certificate for a staged subdivision is to be calculated:
 - (a) as if the subdivision of land to which the subdivision certificate relates comprised the entire subdivision authorised by the development consent, and
 - (b) on the basis that the net developable area does not include the area of any transitional lot in the plan of subdivision for which the subdivision certificate is sought.

A *transitional lot* is a lot in a plan of subdivision for which the subdivision certificate is sought that may be further subdivided in accordance with the development consent for the industrial SIC subdivision.

35 Payment of monetary contribution for industrial SIC where different kinds of development on different parts of land

- (1) This clause applies if a single development consent for industrial SIC development authorises:
 - (a) the subdivision of land (including subdivision work), not being strata subdivision (*industrial SIC subdivision*), on one parcel or parcels of land, but not development of another type, and

- (b) other development on a different parcel or parcels of land (*industrial SIC building work*), but not the surface subdivision of those parcels.

However, it does not matter, for the purpose of the application of this clause, whether the single development consent also authorises the demolition of a building, or work, or the carrying out of a work on the land subject to the industrial SIC subdivision.

- (2) Despite clause 33, the special infrastructure contribution for the industrial SIC development (if made as a monetary contribution) is to be paid:
 - (a) at the earliest time by which payment would, but for this clause, be required to be made for the development, or
 - (b) as provided by subclause (3).
- (3) Separate monetary contributions may be made for the industrial SIC subdivision and the industrial SIC building work, respectively, as if separate development consents had been granted for these. Accordingly:
 - (a) the monetary contribution for the industrial SIC subdivision may be paid before the issue of a subdivision certificate in relation to the plan of subdivision (or in accordance with clause 34), and
 - (b) the monetary contribution for the industrial SIC building work may be paid before the issue of a construction certificate in relation to that work.

Part 4 General provisions

36 Calculation of contributions if development spans both residential zone and industrial zone

- (1) This clause applies where a single development consent authorises development on both greenfield residential land and greenfield industrial land.
- (2) The total amount of the monetary contribution for SIC development to which this clause applies is to be calculated by applying Part 2 to that part of the development to be carried out on greenfield residential land and Part 3 to that part of the development to be carried out on greenfield industrial land, and then adding the resulting two amounts (if any) together.

37 Special infrastructure contribution works-in-kind agreement

- (1) For the purposes of this Determination, a special infrastructure contribution works-in-kind agreement is an agreement that meets the requirements set out in this clause.
- (2) A special infrastructure contribution works-in-kind agreement is an agreement between the Minister and the developer for the carrying out of works to provide an item (or part of an item) of infrastructure specified in Schedule 2, or for the dedication or other provision

of land for the purpose of any such infrastructure, in lieu (in part or in whole) of the payment of a monetary contribution for the development concerned.

- (3) A special infrastructure contribution works-in-kind agreement, in relation to the carrying out of works, is to:
- (a) specify or acknowledge the monetary contribution that would otherwise be payable for the SIC development, and
 - (b) describe the works that are to be or may be carried out by or on behalf of the developer to contribute to the provision of a specified item or items of infrastructure in lieu of a monetary contribution, and
 - (c) specify the attributable cost of the item or items of infrastructure and provide for the adjustment of that cost in a manner that is consistent with the adjustment of the contribution amount under this Determination, and
 - (d) provide that the maximum amount of the liability to make the special infrastructure contribution that may be discharged by the carrying out of the works is not to exceed the attributable cost of the item or items of the infrastructure, and
 - (e) provide for the nature or form of security to be provided by the developer for a failure to meet obligations with respect to the special infrastructure contribution or in circumstances where the works concerned are not completed by the time at which the contribution, if made as a monetary contribution, would have been required to be made under this Determination.
- (4) A special infrastructure contribution works-in-kind agreement, in relation to the dedication or other provision of land, is to:
- (a) specify or acknowledge the monetary contribution that would otherwise be payable for the SIC development, and
 - (b) specify the time by which the land is to be dedicated or otherwise provided, and
 - (c) specify the manner in which the value of that land is to be calculated, and
 - (d) provide for the nature or form of security to be provided by the developer for a failure to meet obligations with respect to the special infrastructure contribution or in circumstances where the land concerned is not dedicated or otherwise provided by the time at which the contribution, if made as a monetary contribution, would have been required to be made under this Determination.
- (5) In this clause, *attributable cost*, in relation to an item of infrastructure, means the amount specified in Schedule 2 for that item.

Note. The decision to negotiate or enter into a special infrastructure contribution works-in-kind agreement as proposed by a developer is entirely at the Minister's discretion. The developer is not entitled to enter into any such agreement in lieu of making a monetary contribution. For example, if the NSW Government gives priority to providing one item of infrastructure over another, then the Minister may decide not to agree to the developer providing that other item.

38 Matters for which special infrastructure contribution is made

- (1) For the purpose of section 7.23 (3A) of the Act, 1.5% of a special infrastructure contribution required to be made by this Determination is for matters specified in section 7.22 (1) (d) of the Act.

Note. The matters specified in section 7.22 (1) (d) of the *Environmental Planning and Assessment Act 1979* are the carrying out of any research or investigation, preparing any report, study or instrument, and doing any other matter or thing in connection with the exercise of any statutory function under the Act, by the Minister, the Planning Ministerial Corporation, the Planning Secretary or the Department of Planning and Environment.

- (2) For the purposes of section 7.32 (6) of the Act, affordable housing is not a class of infrastructure for which special infrastructure contributions are required to be made under this Determination.

39 Identification of land that is rezoned to become greenfield residential land or greenfield industrial land

- (1) For the purposes of this clause, a reference to the Hunter SCA Rezoned Areas Map is a reference to a map or maps of that name published from time to time by the Department of Planning and Environment on its website, or the NSW Planning Portal, to identify land that has become greenfield residential land or greenfield industrial land after this Determination takes effect, as described in paragraph (b) of the definition of greenfield residential land or definition of greenfield industrial land, respectively.
- (2) If land is not identified on the Hunter SCA Rezoned Areas Map at the time development consent to carry out development on that land is granted, the land is taken not to be land described in paragraph (b) of the definition of greenfield residential land or definition of greenfield industrial land.

40 Reasons for the level and nature of the special infrastructure contribution

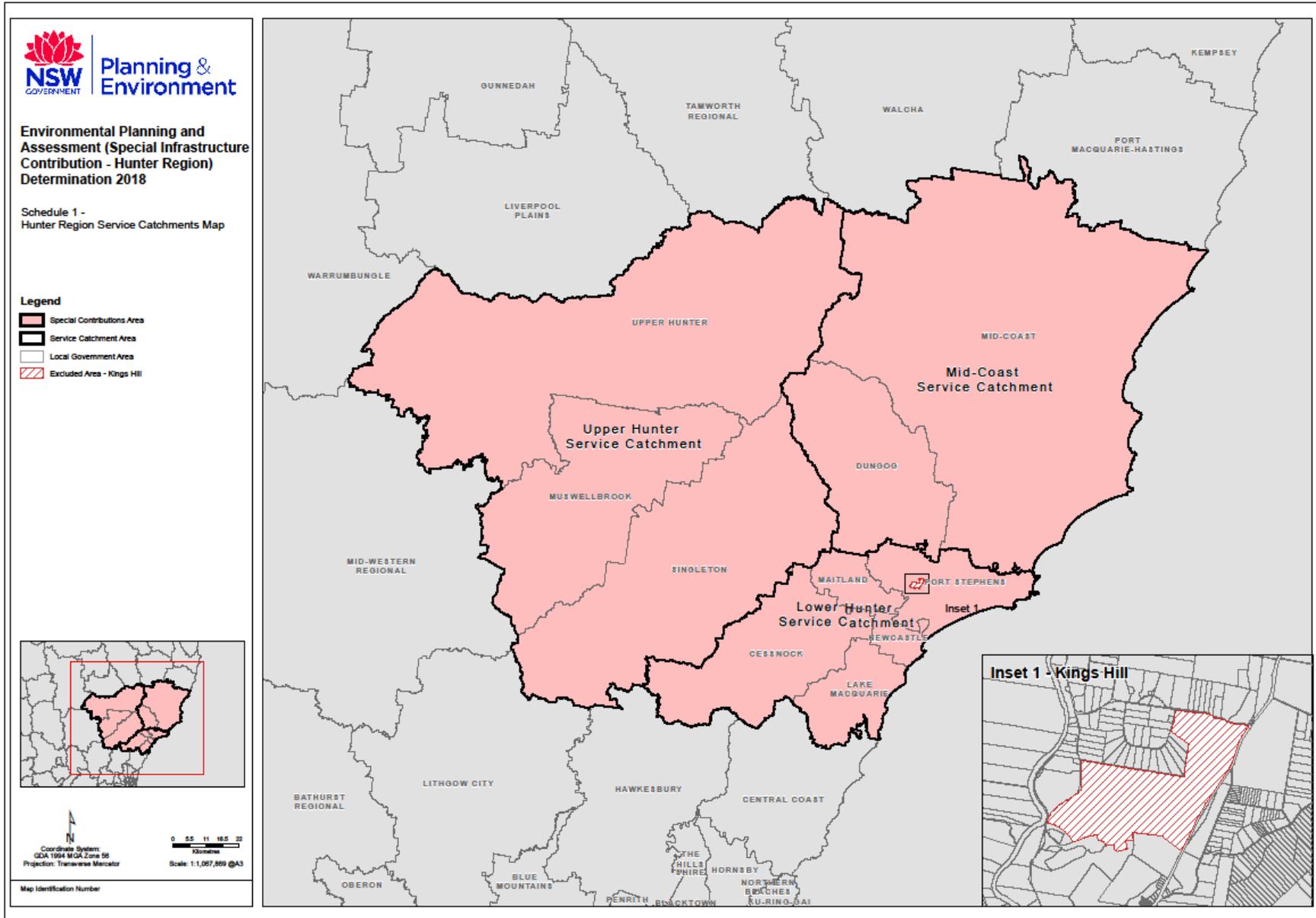
For the purpose of section 7.23 (5) of the Act, the reasons for the level and nature of special infrastructure contributions required to be made by this Determination are as follows:

- (a) to assist in providing adequate funding for regional public infrastructure (described in Schedule 2) in Hunter Region Special Contributions Area,
- (b) to ensure that future development bears a share of the cost of the provision of such infrastructure,
- (c) to provide for the adjustment of special infrastructure contributions to reflect changes in economic conditions between the time of imposing the contribution and the time at which the contribution is made,
- (d) to provide flexibility as to the manner in which special infrastructure contributions may be made,
- (e) to ensure that special infrastructure contributions reflect a reasonable apportionment between the demand for infrastructure generated by existing development and the

- demand for that infrastructure that is likely to be generated by new development for which contributions must be paid,
- (f) to ensure that the level of special infrastructure contributions does not adversely affect housing supply.
-

SCHEDULE 1 – HUNTER REGION SERVICE CATCHMENTS MAP

(Clause 5 (1))



SCHEDULE 2 – LIST OF INFRASTRUCTURE

Special Infrastructure Contribution Rate

Residential SIC Development

Lower Hunter Service Catchment	\$9,857	per lot or per dwelling
Mid Coast Service Catchment	\$658	per lot or per dwelling
Upper Hunter Service Catchment	\$658	per lot or per dwelling

Industrial SIC Development

Lower Hunter Service Catchment	\$34,197	per hectare of net developable area
--------------------------------	----------	-------------------------------------

Infrastructure items

Lower Hunter service catchment

	Project cost recoverable through contributions (\$ million)
Roads	
Upgrade of Cessnock Road (between Cessnock and Kurri Kurri)	\$18.8
Upgrade of Main Road (Cessnock)	\$39.0
Upgrade MR104 Raymond Terrace Road (New England Highway to Harvest Boulevard)	\$6.8
Upgrade New England Highway (Anambah Road to Kyle Street)	\$1.7
Upgrade George Booth Drive (Edgeworth to West Wallsend)	\$3.0
Upgrade intersection at MR217 Main Road and Dora Street	\$2.3
Upgrade of Dora Street (Morisset to F3 Freeway)	\$23.4
Upgrade New England Highway (Rutherford to Lochinvar)	\$16.2
Upgrade New England Highway at Lochinvar	\$41.4
Upgrade Lake Road (Boolaroo to Argenton)	\$11.7
Duplicate HW9 Weakleys Drive	\$1.5
Upgrade MR302 Tomago Road / Cabbage Tree Road (Tomago Connection to Williamtown)	\$13.0
Upgrade Anambah Road	\$10.0
New Western Road Link	\$5.5
Upgrade intersection at Minmi Road and Newcastle Link Road roundabout	\$55.0
Thornton Rail Bridge (Stage 2)	\$16.3
Emergency services	
	Project cost recoverable through contributions (\$ million)
New ambulance station at Rutherford	\$0.3
New police station for NSW Police, Hunter Valley District	\$0.9
Education	
	Project cost recoverable through contributions (\$ million)
Provision of primary school teaching spaces	\$126.0
Provision of secondary school teaching spaces	\$37.5

All service catchments

	Project cost recoverable through contributions (\$ million)
Health	
Provision of health facilities	\$31.5

Planning and delivery costs (all service catchments)

Planning and SIC review costs	\$7.0 million
	1.5% of total costs recoverable through contributions

SCHEDULE 3

EXAMPLES OF CALCULATION OF CONTRIBUTIONS FOR RESIDENTIAL SIC DEVELOPMENT ON GREENFIELD RESIDENTIAL LAND (PART 2)

The following are examples of how a development contribution for a residential SIC development is to be calculated under Part 2 of the Determination based on the number of additional lots or additional dwellings authorised by the development consent for the development. They illustrate how clause 10 and clauses 13 to 18 are to be applied. The rate of \$9,857 per lot or per dwelling applies, up to 30 June 2019, to development on greenfield residential land in the Lower Hunter Service Catchment, and is used throughout to assist understanding.

Example 1: Consent for subdivision, followed by consent for construction of housing

Development consent is granted to subdivide one lot of vacant residential land into 5 lots.

Under clause 13 (1), the number of existing lots (1) must be subtracted from the number of lots into which the land is to be subdivided (5). There are no excluded lots under clause 14. Accordingly, the number of additional lots is 4.

Applying the formula in clause 10, the contribution payable is: \$9,857 x 4 additional lots.

Later, development consent is granted for the construction of multi-dwelling housing comprising 3 dwellings on one of the lots created under the earlier subdivision. Applying clause 15 (1), the number of additional dwellings, being the number of dwellings authorised to be constructed by that consent, is 3. However, because of clause 16 (2), that number must be reduced by the number of existing lots on which the dwellings are to be built. Accordingly, because the multi-dwelling housing is to be built on one existing lot (and that was not an excluded lot for the purpose of calculating the previous special infrastructure contribution), the number of additional dwellings is reduced from 3 to 2.

The contribution payable under the second consent is: \$9,857 x 2 additional dwellings.

A total of 5 lots and 3 dwellings results from the two development consents. The total amount of the contributions payable is equal to: \$9,857 x 6.

Example 2: Consent for subdivision into super lots, followed by further consent for subdivision

Development consent is granted to subdivide a vacant lot of residential land into 4 "super" lots, being lots at least twice the minimum lot size permitted in the area.

Under clause 13 (1), the number of existing lots (1) must be subtracted from the number of lots into which the land is to be subdivided (4). Accordingly, the number of additional lots is 3.

The contribution payable is: \$9,857 x 3 additional lots.

Later, another development consent is granted for subdivision of one of the super lots into 3 further lots. The number of additional lots is 2.

The contribution payable is: \$9,857 x 2 additional lots.

A total of 6 lots results from the two development consents. The total amount of the contributions payable is equal to: \$9,857 x 5.

Example 3: Consent for subdivision, demolition and construction of housing, followed by further consent for construction of housing on new lot

Development consent is granted to subdivide one parcel of land, on which there is currently only one dwelling house, into 5 lots. The consent authorises the demolition of the dwelling house and the construction of multi-dwelling housing (comprising 4 dwellings) on one of the proposed lots.

Under clause 13, the number of additional lots is 4, being the number of lots that will result from the proposed subdivision (5) less the number of existing lots (1). There are no excluded lots: although the existing house is on one of the proposed lots, which can be a ground for excluding a lot under clause 14 (1) (a), the consent also authorises its demolition but no new use of the proposed lot. Accordingly, clause 14 (3) (c) applies, so as to preclude the proposed lot being treated as an excluded lot for the purpose of calculating the number of additional lots.

The number of additional dwellings is 2. Although the development consent authorises 4 dwellings to be built, that number is reduced by 2 under clause 17. It is reduced, first, because the existing dwelling house can be demolished under the consent (clause 17 (2) (a)) and, secondly, because the multi-dwelling housing is to be constructed on a proposed lot in the subdivision (clause 17 (2) (b)), which has attracted a “charge” on that basis. Accordingly, the contribution payable is equal to:

$\$9,857 \times 4$ additional lots + $\$9,857 \times 2$ additional dwellings.

A total of 5 lots and 4 dwellings results from the development consent. The contribution payable is equal to: $\$9,857 \times 6$.

A further development consent is later granted for multi-dwelling housing comprising 4 dwellings on the new lot where the dwelling house has now been demolished. The number of additional dwellings is 3, because the multi-dwelling housing is being built on a lot that is now an existing lot for the purpose of clause 16 (and is not a lot that falls within the description of any lots that must be disregarded under subparagraphs (i) to (iv) of clause 16 (2) (b)). The number of dwellings to be used in the calculation of the contribution payable must therefore be reduced from 4 to 3 under clause 16.

The contribution payable is: $\$9,857 \times 3$ additional dwellings.

A total of 5 lots and 8 dwellings results from the two development consents. The total amount of contributions payable is equal to: $\$9,857 \times 9$.

Example 4: Consent for consolidation and re-division and construction of residential flat buildings

Development consent is granted for the consolidation of 10 existing lots and their simultaneous redivision into 2 lots (but not along the boundaries between any of the existing lots). (This is a “subdivision” of land within the meaning of the Act (section 6.2) and therefore a residential subdivision within the meaning of the Determination.)

The consent also authorises the construction of a 100 unit residential flat building on one of the 2 proposed lots (and the subsequent subdivision of the proposed lot and the residential flat building by strata plan), as well as the demolition of 10 houses on the 10 existing lots.

The creation of the 2 lots, out of the existing 10 lots, will not attract a contribution, as the number of lots that will result (2) is less than the number of lots that made up the land (10) (see clause 7 (5) and clause 13 (3)). The number of additional lots is therefore zero.

The number of additional dwellings is 90. The number of dwellings authorised to be built by the consent is 100. However, clause 17 applies because the development involves both residential building work and

residential subdivision and, under clause 17 (2) (a), there is a reduction for the 10 existing houses that can be demolished. There is no reduction for the proposed lot on which the residential flat building is to be constructed, because the total number of proposed lots in the residential subdivision (2) is less than the total number of existing lots (10) (see clause 17 (2) (b)).

Accordingly, the contribution payable under the development consent for the development is equal to:

$\$9,857 \times 0$ additional lots + $\$9,857 \times 90$ additional dwellings.

A further development consent is granted for the construction of another 100 unit residential flat building on the other lot (and the subdivision of the building and lot by strata plan) created under the earlier consent.

The number of existing lots (1) is to be subtracted from the number of dwellings (100) authorised by the consent under clause 16 (2) (b) (as only one existing lot is to be subdivided under the strata plan, clause 16 (2) (b) (iv) does not apply to preclude that existing lot being taken into account to reduce the number of dwellings). The number of additional dwellings is therefore 99 (noting that, under clause 16 (3), the demolition of the dwellings under the earlier consent cannot be taken into account again).

The contribution payable under the second development consent is: $\$9,857 \times 99$ additional dwellings.

A total of 200 dwellings and 2 “surface” lots results from the two development consents. The total amount of contributions payable is equal to: $\$9,857 \times 189$.

Example 5: Consent for subdivision and construction of school and TAFE

Development consent is granted to subdivide one lot of land into 10 lots and to construct a school on one of the lots and a TAFE establishment on another of the lots.

Clause 13 (1) requires both the number of proposed lots less the number of existing lots, and the number of proposed lots less the number of excluded lots under clause 14, to be determined. Whichever number is the lesser is the number of additional lots.

The number of proposed lots (10) less the number of existing lots (1) is 9. The number of proposed lots less the number of excluded lots is 8, because under clause 14 (2) and (4), both the proposed lot on which the school is to be built and the proposed lot on which the TAFE establishment is to be built are excluded lots.

Accordingly, as 8 is less than 9, the number of additional lots is 8, applying clause 13 (1).

The contribution payable is: $\$9,857 \times 8$ additional lots.

EXAMPLES OF CALCULATION OF CONTRIBUTIONS FOR INDUSTRIAL SIC DEVELOPMENT ON GREENFIELD INDUSTRIAL LAND (PART 3)

The following are examples of how a development contribution for an industrial SIC development is to be calculated under Part 3 of the Determination based on the net developable area of the land to which the development consent relates. They illustrate how clauses 27, 30 and 31 are to be applied. The rate of \$34,197 per hectare of net developable area is the applicable rate for development on greenfield industrial land in the Lower Hunter Service Catchment up to 30 June 2019, and is used in the examples.

Example 1: Consent for garden centre and subdivision of 12,500 m² into 3 lots

Development consent is granted for the subdivision of 12,500 m² of land, which was in a rural zone, before being rezoned IN1 (General Industrial), into 3 lots. Two lots are 4,000 m² each and one lot is 4,500

m². The consent authorises development for the purpose of a garden centre on the proposed lot of 4,500 m², and an existing farmhouse is on another proposed lot of 4,000 m².

Applying clauses 30 and 31, the net developable area is 11,500 m². The area to which the development consent relates is 12,500 m² (clause 30). However, that area must be reduced under clause 31, because one of the proposed lots has an existing dwelling on it (namely, the farmhouse) and its area of 4,000 m² is more than 0.1 hectare. Its area is reduced by 0.1 hectare for the purpose of calculating the net developable area, under clause 31 (3). Accordingly, the proposed lot with the farmhouse is to be treated as having an area of 3,000 m². The net developable area for the development is therefore 11,500 m².

The contribution payable is: 1.15 ha x \$34,197.

Example 2: Consent for subdivision of 25,000 m² into 4 lots, and internal roads

Development consent is granted for the subdivision of 25,000 m² of land, which was in a rural zone before being rezoned IN2 (Light industrial), thereby becoming greenfield industrial land. The consent authorises the subdivision of the land into 4 lots of 5,000 m² each, together with the construction of internal roads (which the DA proposes will be dedicated as public roads and vested in the local council). Buildings for the purpose of assembling electronic goods and for the manufacture of pharmaceutical goods are authorised to be built on each of two of the lots respectively. One of the other lots is required to be dedicated as a public reserve, as a development contribution under section 7.11 of the *Environmental Planning and Assessment Act 1979*. No development is authorised on the remaining lot (currently being used for horticultural purposes). The consent also authorises the construction of roads between the 4 lots, linking to the existing public road network. (These are not roads that will be funded by local infrastructure contributions under section 7.11 or section 7.12 of the Act). The area of the roads to be constructed is also 5,000 m².

Applying clause 30, the net developable area for the development is 15,000 m². The area of land to which the development consent relates is 25,000 m². However, the area of the land to be dedicated as a public reserve of 5,000 m² is excluded from the net developable area, because of clause 30 (3) (g) (and possibly clause 30 (3) (m)). The area of the proposed internal roads (5,000 m²) is also excluded from the net developable area under clause 30 (2) (a). Accordingly, the net developable area for the industrial SIC development is 25,000 m² less 10,000 m².

The contribution payable is: 1.5 ha x \$34,197.
