

Department of Planning, Housing and Infrastructure

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Guide to infrastructure contributions

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Acknowledgement of Country

The Department of Planning, Housing and Infrastructure acknowledges that it stands on Aboriginal land. We acknowledge the Traditional Custodians of the land, and we show our respect for Elders past, present and emerging through thoughtful and collaborative approaches to our work, seeking to demonstrate our ongoing commitment to providing places in which Aboriginal people are included socially, culturally and economically.

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1 Introduction

This guide is designed to help you better understanding how the New South Wales infrastructure contributions system works. It focuses on the funding mechanisms under Division 7.1 of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

The guide provides an overview of the key aspects of the system. It is useful to anyone interested in how infrastructure is planned, funded and delivered.

Terminology

Infrastructure contributions: Infrastructure contributions, development contributions and developer charges generally have the same meaning. In this document we refer to them consistently as infrastructure contributions.

Developer: A person or company undertaking some type of development. This can be a significant development, such as apartment construction or a new release residential development. It can also be simpler development such as building a single house or undertaking renovations.

2 Overview of the NSW infrastructure contributions system

2.1 What are infrastructure contributions?

Infrastructure contributions are payments made when development occurs, that help pay for and deliver the infrastructure needed to support development. They are a key source of funding for councils and the NSW Government to deliver local, regional and state infrastructure.

2.2 What are infrastructure contributions used for?

Infrastructure contributions help fund the infrastructure that enables new development, supporting new residents and workers. This infrastructure can include roads, transport infrastructure, stormwater and drainage systems, parking facilities, open space, sports and recreation facilities, and other community services.

Councils provide the local infrastructure such as local roads and parks, while the NSW Government is responsible for state infrastructure such as regional sporting facilities and state level roads.

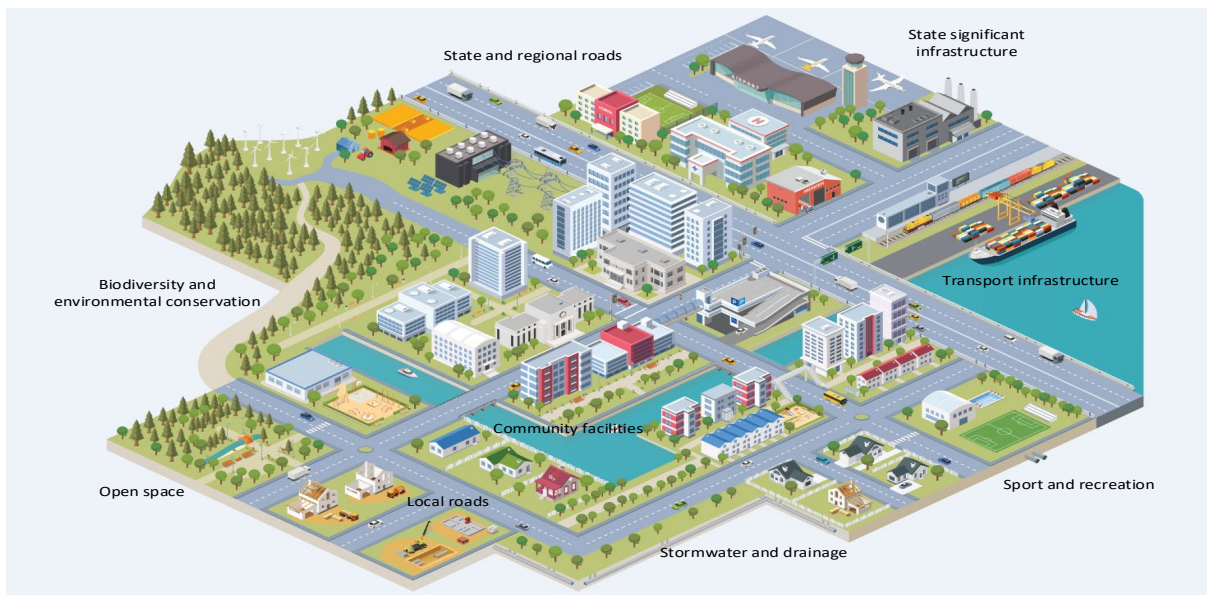


Figure 1: Types of infrastructure funded through the contributions system

2.3 How are infrastructure contributions collected?

Infrastructure contributions are charged during the approval process for development such as subdividing land, building new dwellings or renovating existing dwellings. They can also be charged on commercial and industrial development.

Contributions are charged as conditions of consent on a development application and complying development certificates. This means they must generally be paid before someone can finish building or move into a new development.

Local infrastructure contributions are paid to councils while contributions for state and regional infrastructure are paid to the State.

They can be made as:

- Money paid to the state or council and used to buy land or construct infrastructure.
- Land dedicated by developers for the provision of infrastructure.
- Works provided by developers in lieu of money.

2.4 What types of development pay contributions?

Contributions can be charged on development that requires a development consent (either development application or complying development certificate). This includes development such as subdividing land, building new dwellings like house or apartments, or renovating existing dwellings. They can also be charged on commercial and industrial development.

Some types of development are **not** required to pay infrastructure contributions.

- Development that does not need planning approval is not required to pay contributions.
- Some developments are exempted from paying contributions through legislation, a policy or a contributions plan.

You can read more about exemptions from local infrastructure contributions in the practice note module [Exempting certain developments from contributions](#).

3 Types of contributions

Councils and the State can only collect infrastructure contributions if they are using one of the following mechanisms under Division 7.1 of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

- Section 7.11 local infrastructure contributions
- Section 7.12 local infrastructure levies
- Housing and Productivity Contributions
- Planning agreements.

Consent authorities can apply other charges such as local government rates, development application fees and affordable housing levies. These are not infrastructure contributions provided for under Division 7.1 and are not covered by this guide.

3.1 Section 7.11 local infrastructure contributions

Section 7.11 contributions are a contribution towards infrastructure that can be charged where development creates the need for that infrastructure. Councils must establish exactly what infrastructure is needed in an area and estimate how much this will cost to provide. Once this has been established, each development must pay for a portion of this cost. Two concepts determine the amount paid by developers under a section 7.11 plan:

- **Nexus** is the relationship between the expected types of development in the area and the demand for additional infrastructure to meet that demand.
- **Apportionment** is a calculation that ensures that new development only pays for the proportion of the demand that it generates.

Councils can only charge section 7.11 contributions if they have prepared and approved a contributions plan. The plan outlines how much they are going to collect and what they will spend it on. Contributions can only be spent on the infrastructure they were collected for.

IPART review thresholds

Most section 7.11 plans can only charge up to \$20,000 or \$30,000 per lot or dwelling. If a council wants to charge a rate above their relevant threshold, the Independent Pricing and Regulatory Tribunal (IPART) must review the plan to ensure that the plan is reasonable.

You can read more about these contributions in the [Section 7.11 contributions practice note](#).

3.2 Section 7.12 local infrastructure levies

Section 7.12 levies are simpler contribution that are charged as a percentage of the cost of development. This is usually not more than 1% of the cost but it can be higher in certain areas.

Councils can only charge section 7.12 levies if they have prepared and approved a contributions plan for an area, and this plan should still detail the infrastructure that will be provided. This type of plan is simpler to make and has a lower administration burden to manage, but also usually brings in less revenue for councils.

Unlike section 7.11 contributions, section 7.12 levies can be charged even if there is no direct relationship (*nexus*) between the development being levied and the infrastructure being funded. However, the plan must show that development in the area is creating a general need for new infrastructure.

Section 7.12 levies can be charged each time there is a development. For example, someone knocking down an existing building and replacing it with another building can be charged a section 7.12 levy, even if the original development had paid one.

The only exceptions is where a section 7.11 contribution was paid when the land was subdivided. Then section 7.12 levies cannot be charged on a subsequent development, **unless** the new development will result in an increase in demand beyond what was created by the initial subdivision.

You can read more about these contributions in the [Section 7.12 levies practice note](#).

3.3 Housing and Productivity Contributions

The NSW Government collects money to fund state and regional infrastructure, known as the Housing and Productivity Contribution. Introduced in October 2023, these contributions help fund the delivery of state and regional infrastructure, such as state and regional roads, public transport infrastructure, active transport, land for hospitals, schools and emergency services, and open space.

The Housing and Productivity Contribution is paid in the Greater Sydney, Central Coast, Illawarra-Shoalhaven and Lower Hunter regions. It is charged on applicable residential, commercial and industrial development. The Housing and Productivity Contribution is separate from local infrastructure contributions, such as section 7.11 contributions or section 7.12 levies, and can be charged in addition to these other levies.

The Housing and Productivity Contribution is calculated as part of the application process through the NSW Planning Portal.

You can read more about the Housing and Productivity Contribution on the [NSW Planning Portal](#).

3.4 Planning agreements

Planning agreements are a contract negotiated and agreed between a planning authority — such as a council or the Minister — and a developer. They can be used in addition or as an alternative to other types of contributions. Local planning agreements are negotiated with a local council while state planning agreements are negotiated with the Department on behalf of the Minister.

Planning agreements can provide greater flexibility to address the infrastructure needs of development. A developer can offer to negotiate a planning agreement when they are applying to undertake development (by submitting a development application) or applying to change zoning or planning controls (through a process known as a planning proposal).

Planning agreements are voluntary, so neither the developer nor the planning authority is required to enter into one.

An example of a planning agreement may be a council and a developer agreeing that instead of paying a monetary contribution, the developer will build the certain roads at the same time they build the houses in their development. Another example would be a developer offering to

build an innovative sporting facility which will service their housing development, which may be different to the facility that council had originally planned on building.

You can read more about these contributions in the [*Planning agreements practice note*](#).

4 Roles and responsibilities

Many stakeholders play a role in the infrastructure contributions system, including State government agencies, councils, developers, property owners, community groups and interested individuals. The below organisations have responsibility over key steps in the infrastructure contributions process.

4.1 Councils

Councils prepare and adopt local contributions plans, negotiate planning agreements and collect infrastructure contributions as part of the development assessment process. They also build the local infrastructure that infrastructure contributions go towards.

Information on individual local contribution plans can be found on each council's website as well as the [NSW Planning Portal](#).

4.2 Department of Planning, Housing and Infrastructure

The Department is responsible for advising the Minister on setting state wide policy for infrastructure contributions. We manage the policy framework surrounding contributions and support councils through guidance. This framework includes legislation, ministerial directions and practice notes.

The Department is only involved in local contributions plans when they require IPART review or where a council is requesting to charge a section 7.12 rate above the maximum of 1%. In these instances, the Department and council work together to ensure the plans meet all legislative and policy requirements, but it is still the councils that makes the contributions plans and collects infrastructure contributions.

The Department also administers the Housing and Productivity Contribution.

4.3 Independent Pricing and Regulatory Tribunal

The Independent Pricing and regulatory Tribunal (IPART) is the independent pricing regulator for water, public transport, and local government in NSW. Its role in the contributions system is to review whether the infrastructure and cost estimates in certain contributions plans are reasonable and provide advice to the Minister on recommended changes to the plan.

IPART reviews contributions plans above the thresholds set by the Minister, which is up to \$20,000 or \$30,000 per lot or dwelling.

IPART reviews these plans and makes recommendations for potential changes to the Minister for Planning for consideration. The minister considers the recommendations and provides advice to the council on the contributions plan, particularly on whether it should make any changes to the contributions plan. Council must make changes to the contributions plan in accordance with the Minister's advice.

4.4 Office of Local Government

The Office of Local Government is responsible for strengthening the sustainability, performance, integrity, transparency and accountability of the local government sector.

This role includes managing council's infrastructure contributions reporting and accounting requirements. They gather compliance data and help ensure that councils are kept up to date with any changes to the requirements.

4.5 NSW Audit Office

The Audit Office conducts financial and performance audits on NSW Government entities, universities and councils.

This can include identifying whether councils and the state are complying with accounting standards and relevant laws, regulations, and government directions in relation to infrastructure contributions, and auditing councils use of their contributions funds.

5 More information

Infrastructure contributions are collected under a robust framework of legislation (law) and policy. This ensures that the system is transparent and fair, and that the money collected by councils and the State is spent on the infrastructure it was intended for.

There are many different rules around how councils and the State are allowed to collect, spend and manage infrastructure contributions.

The department has prepared a set of detailed practice notes to help councils, applicants and the community understand the contributions system.

The practice notes give detailed guidance and establish policies around how councils should write contributions plans and negotiate planning agreements, how they can collect and spend money, and what this money can be used for.

Councils are required to consider the practice notes when preparing and administering infrastructure contributions.

Applicants can also use the practice notes to find more information on specific issues.

[Local Infrastructure contributions practice notes](#)