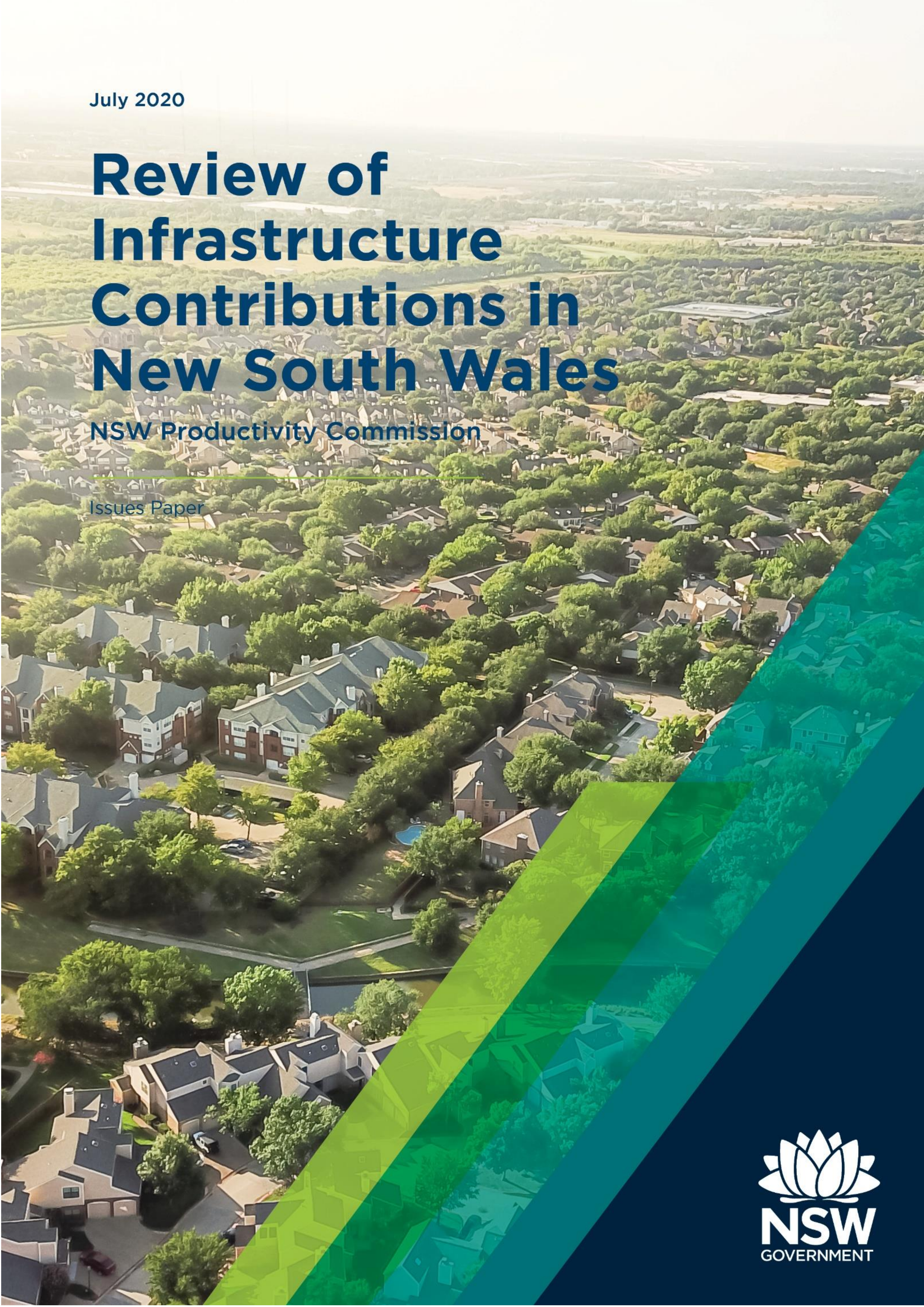
July 2020

Review of Infrastructure Contributions in New South Wales

NSW Productivity Commission

Issues Paper



NSW GOVERNMENT

Preface

The NSW Government is committed to delivering a reformed infrastructure contributions system that achieves greater certainty, transparency, efficiency, and fairness in infrastructure funding and delivery in New South Wales.

On 15 April 2020, I was appointed by the Minister for Planning and Public Spaces to undertake a comprehensive review of the infrastructure contributions system in New South Wales (the Review). This follows the Premier's announcement in November 2019 that the Government would progress planning reforms to:

1. Cut red tape, increase transparency, reduce assessment timeframes and make e-planning mandatory for metro councils
2. Supercharge new hubs across New South Wales to ensure people can live in communities close to their work
3. Fix the uncertainty of developer contributions to boost investment, and
4. Preserve our heritage, create beautiful new public planes, and promote good design.

As part of the Review's Terms of Reference, I was tasked with reviewing and making recommendations to deliver an infrastructure contributions system that:

- delivers the public infrastructure required to support development in New South Wales
- achieves greater certainty, transparency, efficiency and fairness in the setting of infrastructure contributions
- identifies legislative regulatory changes necessary to implement the proposed reforms.

During May and June 2020, I heard from some peak stakeholder groups and this helped me better understand the issues in the current infrastructure contributions system and shape the discussion in the Issues Paper.

This Issues Paper is not NSW Government policy, but rather a broad summary of key issues with the existing system. It is designed to support community feedback on how we can best address these issues and ask questions that will inform broad reform directions. Stakeholders are invited to make a submission via ICReview@productivity.nsw.gov.au.

The Issues Paper will be followed by a series of stakeholder roundtables (held in August) with participation from NSW Government agencies, local government, industry, and community groups. This will enable further discussion of the issues and feedback on potential reform options.

The outcomes from the public submissions and stakeholder roundtables will be used to inform and refine the design of a shortlist of reform options. These will be contained in the Final Report, planned for release later this year, for consideration by the Minister for Planning and Public Spaces.

With this, I invite you to have your say on how we can work together to deliver a reformed infrastructure contributions system for New South Wales.

"Seek the peace and prosperity of the city ... because if it prospers, you too will prosper" (Jeremiah 29:7)

Peter Achterstraat AM
NSW Productivity Commissioner

July 2020

Terms of Reference

The NSW Productivity Commission should:

- review the infrastructure contributions system to determine whether it meets the objectives of certainty and efficiency while delivering public infrastructure required to support development
- make recommendations for reform aimed at delivering a principles-based system that delivers the infrastructure required to accompany growth, and
- identify legislative and regulatory changes necessary to implement the proposed reforms.

Contributions under Part 7 of the *Environmental Planning and Assessment Act 1979* are within the scope of the Review. The Review should also have consideration of the relationship to and impact of other charges and levies relating to the development process.

In reviewing the contributions system, the Commission should, at a minimum, consider the following:

- certainty and transparency for communities, local government and developers
- the extent that contributions rates reflect efficient costs and the principle that beneficiaries should pay
- the major cost drivers in the contributions system and how these factors can be managed
- the relationship with local government funding and service provision, and
- implications for the volume and nature of the housing market and the delivery of public open space.

The Review should be complementary to broader reforms to the planning system. The Review will coincide with system improvements led by the Department of Planning, Industry and Environment.

The Commission should provide a Final Report to the Minister for Planning and Public Spaces by the end of 2020. In undertaking its review, the Commission should:

- consult with NSW Government agencies, external stakeholders, and the community, as appropriate
- assemble and analyse relevant data, and
- draw on best practice in other jurisdictions, previous review and published research.

Note
General inquiries concerning this document should be initially directed to:
NSW Productivity Commission; ICReview@productivity.nsw.gov.au.

This publication can be accessed from the NSW Productivity Commission’s website www.productivity.nsw.gov.au/.

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Summary

An effective infrastructure contributions system is important to delivering vital public infrastructure, unlocking new housing supply, supporting commercial development and boosting investment in New South Wales. Cost recovery through the infrastructure contributions system was first introduced with the passage of the *Environmental Planning and Assessment Act 1979* ('the Act'). Section 94 of the Act allowed councils to levy contributions for infrastructure provision with a nexus to their developments.

Since then, numerous reforms to the system have been undertaken including the introduction of additional mechanisms and further regulatory requirements being imposed. This has resulted in a more complex system, with a perceived lack of transparency and efficiency. In addition to this, limitations on other funding sources is placing greater pressure on the contributions system to raise the funds needed to meet rising infrastructure costs.

In response to these infrastructure funding challenges, in April 2020, the Minister for Planning and Public Spaces requested the NSW Productivity Commissioner conduct a comprehensive review of the infrastructure contributions system.

This Paper is the first stage of this Review. We aim to explore the issues relating to the existing infrastructure funding system, including mechanisms under Part 7 of the Act, as well as the broader infrastructure funding system. Each section of this Paper presents questions for stakeholder consideration.

Chapter 1 outlines the context of this Review and presents high level principles for consideration in a reformed contributions system, including **efficiency**, **equity**, **certainty** and **simplicity**. These principles do not necessarily sit easily with each other; it can be difficult to have a system which is both efficient and equitable, while at the same time certain and simple. Finding the right balance between efficiency, equity, certainty, and simplicity will pose a key challenge in reforming the infrastructure contributions system.

Chapter 2 explores the various ways infrastructure is currently funded in New South Wales. This includes through the NSW Government's **budget** (Consolidated Fund and Restart NSW), the Commonwealth through **grants**, local government from **general rates revenue** and cost recovery through direct **user charges** and **infrastructure contributions**. The chapter also discusses key challenges faced by State and local governments in service provision, such as growing infrastructure demand, rising infrastructure costs and implications of the local government rate peg.

Key issues identified within the current infrastructure contributions mechanisms are discussed in Chapter 3, while issues with infrastructure funding more broadly are discussed in Chapter 4. Discussion boxes highlight the key issues throughout the document and proposes a series of discussion questions – see Table S.1 below for the discussion questions.

The goal of this Review is to deliver a set of recommendations that will:

- fund the infrastructure needed to support our growing communities
- lead to an infrastructure contributions system this is simple to understand, transparent and principles-based
- meet the objectives of certainty and efficiency to support our stakeholders and boost investment in New South Wales.

The release of this Issues Paper starts the conversation on the way we currently fund infrastructure in New South Wales, focusing on key issues within the current infrastructure contributions system.

Feedback provided on the issues and discussion questions in this Paper will inform the direction of future reforms.

Table S.1: Issues and discussion questions

Issue 1.1: Striking the right balance There can be difficulty in reconciling the competing principles of efficiency, equity, certainty, and simplicity. Failure to strike the right balance can undermine confidence in the planning system. ▪ Is a 'one size fits all' approach appropriate or do parts of the State require a bespoke solution? ▪ What are the advantages and disadvantages of a site-specific calculation based on demand generated, compared with a broader average rate? ▪ Do other jurisdictions have a better approach to infrastructure funding we should explore? ▪ How can a reformed contributions system deliver on certainty for infrastructure contributions while providing flexibility to respond quickly to changing economic circumstances?
Issue 2.1: Enable a broader revenue source for the funding of infrastructure ▪ Are there any potential funding avenues that could be explored in addition to those in the current infrastructure funding mix?
Issue 2.2: Integrating land use and infrastructure planning The Greater Sydney Region Plan provides the overarching vision and infrastructure needs, which is translated into separate District Plans and Local Strategic Planning Statements. These are used by councils for land use and infrastructure planning. ▪ How can the infrastructure contributions system better support improved integration of land use planning and infrastructure delivery?
Issue 3.1: Principles for planning agreements are non-binding The Planning Agreements Practice Note is currently non-binding on councils, although the Ministerial Direction exhibited by the Department aims to change this. There are no equivalent guidelines for use when negotiating planning agreements with the State. Additionally, there is little agreement between stakeholders on what the principles should be for either local or State planning agreements and there is no consensus on the appropriateness of value capture through planning agreements. ▪ What is the role of planning agreements? Do they add value, or do they undermine confidence in the planning system? ▪ Is 'value capture' an appropriate use of planning agreements? ▪ Should planning agreements require a nexus with the development, as for other types of contributions? ▪ Should State planning agreement be subject to guidelines for their use?
Issue 3.2: Transparency and accountability for planning agreements are low Reporting and accounting requirements for planning agreements are low, although proposed changes to the Regulation may improve this. Differing practices between councils and the State in maintaining separate planning agreement registers and public notice systems is confusing and reduces transparency and accountability. ▪ What could be done to improve the transparency and accountability of planning agreements, without placing an undue burden on councils or the State? ▪ Should councils and State government be required to maintain online planning agreement registers in a centralised system? What barriers might there be to this?

Issue 3.3: Planning agreements are resource intensive

Planning agreements are a resource intensive mechanism but have potential to deliver unique and innovative outcomes.

- Should the practice note make clear when planning agreements are (and are not) an appropriate mechanism?

Issue 3.4: Contributions plans are complex and costly to administer

Contributions plans can be opaque, making it hard for developers to calculate a potential contribution liability and the community to know what infrastructure it can expect and when.

Many plans are not updated in a timely manner, leading to issues with cost escalation, outdated assumptions, and difficulty meeting community infrastructure needs. Some councils have significant contributions balances, indicating there may be barriers to timely expenditure.

- How could the complexity of s7.11 contributions planning be reduced?
- What are the trade-offs for, and potential consequences of, reducing complexity?
- How can certainty be increased for the development industry and for the community?

Issue 3.5: Timing of payment of contributions and delivery of infrastructure does not align

Developers want to delay the payment of contributions to the occupation certificate stage to support project financing arrangements. This would delay receipt of funds to councils and, in the absence of borrowing funds, may delay infrastructure delivery.

- What are the risks or benefits of deferring payment of infrastructure contributions until prior to the issuing of the occupation certificate, compared the issuing of a construction certificate? Are there options for deferring payment for subdivision?
- Would alternatives to financial securities, such as recording the contributions requirement on property title, make deferred payment more viable?
- Would support to access borrowing assist councils with delivering infrastructure? What could be done to facilitate this? Are there barriers to councils to accessing the Low Cost Loans Initiative?
- What else could be done to ensure infrastructure is delivered in a timely manner and contributions balances are spent?

Issue 3.6: Infrastructure costs and contributions rates are rising

Infrastructure costs are rising—particularly for land acquisition—as are contribution rates. Caps and thresholds introduced to encourage sector activity have, however undermined important market signals for development efficiency and are now likely to be reflected in higher land values.

The application of the essential works list can put councils' finances under pressure given their current inability to expand their rate base in line with population growth.

- Currently IPART reviews contributions plans based on 'reasonable costs', while some assert the review should be based on 'efficient costs'. What are the risks or benefits of reframing the review in this way?
- Should the essential works list be maintained? If it were to be expanded to include more items, what might be done to ensure that infrastructure contributions do not increase unreasonably?
- What role is there for an independent review of infrastructure plans at an earlier point in the process to consider options for infrastructure design and selection?

Issue 3.7: The maximum s7.12 rate is low but balanced with low need for nexus

Section 7.12 local infrastructure levies are low and do not reflect the cost of infrastructure.

- Given that the rationale for these low rates reflects the lower nexus to infrastructure requirements, what issues might arise if the maximum percentages were to be increased?
- What would be a reasonable rate for s7.12 development consent levies?

Issue 3.8: Limited effectiveness of special infrastructure contributions

Special infrastructure contributions were introduced to strengthen delivery of state infrastructure. They can be an efficient and equitable mechanism for modest infrastructure cost recovery, while helping to ensure that development is serviced in a timely way. Over time, incremental changes and *ad hoc* decisions have, however, led to inconsistencies in their application, which may have limited their effectiveness.

- Is it appropriate that special infrastructure contributions are used to permit out-of-sequence rezoning?
- Should special infrastructure contributions be applied more broadly to fund infrastructure?
- Should they be aligned to District Plans or other land use planning strategies?
- Should the administration of special infrastructure contributions be coordinated by a central Government agency i.e. NSW Treasury?

Issue 3.9: Difficulty funding biodiversity through special infrastructure contributions

Biodiversity offsetting is a key part of the plan for developing Greater Sydney and requires a secure source of funding. The application of special infrastructure contributions to support this has been inconsistent.

- Should implementation of special infrastructure contributions for biodiversity offsets be subject to a higher level of independent oversight?
- Are special infrastructure contributions the appropriate mechanism to collect funds for biodiversity offsetting, or should biodiversity offsets be managed under a separate framework?

Issue 3.10: Affordable housing

Affordable housing contributions are made on top of other infrastructure contributions. The percentages are determined individually, and each scheme must demonstrate the rate does not impact development viability.

- Is provision of affordable housing through the contributions system an effective part of the solution to the housing affordability issue? Is the recommended target of 5-10 per cent of new residential floorspace appropriate?
- Do affordable housing contributions impact the ability of the planning system to increase housing supply in general?

Issue 4.1: Sharing land value uplift

If investment in public infrastructure increases land values, then the benefits are largely captured by private property owners. 'Value capture' mechanisms can return a share of the value created by public investment to the taxpayer.

There are several ways a 'value capture' mechanism could be applied, including land tax, council rates, betterment levy, or an infrastructure contribution.

- Where land values are lifted as a result of public investment, should taxpayers share in the benefits by broadening value capture mechanisms? What would be the best way to do this?

Issue 4.2: Land values that consider a future infrastructure charge When land is rezoned, there is often an increase in land values as a result of the change in development potential. ▪ Should an "infrastructure development charge" be attached to the land title?
Issue 4.3: Land acquisition for public infrastructure purposes Requiring the direct dedication of the land that is needed for infrastructure purposes is an option that aims to address the problem of rapidly increasing land values. ▪ If supported, how could direct dedication be implemented? How could this be done for development areas with fragmented land ownership? ▪ Could earlier land acquisition be funded by pooling of contributions, or borrowings? ▪ Are there other options that would address this challenge such as higher indexation of the land component?
Issue 4.4: Keeping up with property escalation Land values (particularly within the Sydney metropolitan area) can increase rapidly and often increase on early signs of land being considered for future development; well ahead of the rezoning process. ▪ What approaches would most effectively account for property acquisition costs?
Issue 4.5: Corridor protection Early identification of corridors has the potential to result in better land use and investment decisions. Without funds available to facilitate their early acquisition, it is likely that being 'identified' would encourage speculation and drive up land values, making the corridor more expensive to provide later. ▪ What options would assist to strike a balance in strategic corridor planning and infrastructure delivery?
Issue 4.6: Open space While the seven-acre open space standard is not based on evidence, it nevertheless continues to be relied upon. Open space provision is moving towards a performance-based approach. ▪ How can performance criteria assist to contain the costs of open space? ▪ Should the government mandate open space requirements, or should councils be allowed to decide how much open space will be included, based on demand? ▪ Are infrastructure contributions an appropriate way to fund open public space?
Issue 4.7: Metropolitan water charges Currently, costs of new and upgraded connections for Sydney Water and Hunter Water are borne by the broader customer base rather than new development. ▪ How important is it to examine this approach? ▪ What it the best way to provide for the funding of potable and recycled water provision?

Issue 4.8: Improving transparency and accountability
There are limited infrastructure contributions reporting requirements. ▪ What would an improved reporting framework look like? Should each council report to a central electronic repository? ▪ What elements should be included? How much has been collected by contributions plan and other mechanisms? How much council has spent, and on what infrastructure items? ▪ Should an improved reporting framework consider the scale of infrastructure contributions collected?
Issue 4.9: Shortage of expertise and insufficient scale
The ability of the local government sector to efficiently deliver contributions plans are impaired by shortages of skilled professionals and lack of scale for smaller councils. ▪ What can be done to address this issue? ▪ Should the contributions system be simplified to reduce the resourcing requirement? If so, how would that system be designed?
Issue 4.10: Current issues with exemptions
Exemptions from contributions are complex as they are set out across a range of planning documents and are inconsistent across contribution mechanisms. ▪ Given that all developments require infrastructure, should there be any exemptions to infrastructure contributions? ▪ Is it reasonable to share the cost of 'exemptions' across all of the new development rather than requiring a taxpayer subsidy? ▪ Are there any comparative neutrality issues in the providing exemptions for one type of development, or owner type, over another?
Issue 4.11: Works-in-kind agreements and special infrastructure contributions
Works-in-kind agreements can realise savings and efficiencies, but they can result in infrastructure being provided out of the planned sequence and prioritise delivery of some infrastructure (such as roads) at the expense of other infrastructure (such as open space and biodiversity offsetting). ▪ Should developers be able to provide works-in-kind, or land, *in lieu* of infrastructure contributions? ▪ Developers may accrue works-in-kind credits that exceed their monetary contribution. Should works-in-kind credits be tradeable? What would be pros and cons of credits trading scheme? ▪ What are implications of credits being traded to, and from, other contributions areas?

Chapter 1: Introduction

In November 2019, the NSW Premier, the Hon. Gladys Berejiklian MP, announced the Government's vision to improve the timeliness, certainty, and transparency of the State's planning system. A key element of proposed planning reforms is to fix the uncertainty of infrastructure contributions.

In April 2020, the Minister for Planning and Public Spaces, the Hon. Rob Stokes MP ('the Minister'), asked the NSW Productivity Commissioner to conduct a holistic review of the infrastructure contributions system. Specifically, the Commissioner has been asked to:

- determine whether it meets the objectives of certainty and efficiency, while delivery public infrastructure to support development
- make recommendations for reform aimed at delivering a principles-based system, and
- identify legislative and regulatory changes necessary to implement the proposed reforms.

As part of this Review, the Productivity Commission will assemble and analyse relevant data, draw on best practice and consult with stakeholders including local government, industry, and NSW Government agencies.

This Issues Paper provides some background on how infrastructure is funded in New South Wales while highlighting key issues and challenges. It is the first step in the review process and will be followed by:

- invitation to lodge submissions on issues identified in this Paper
- stakeholder roundtables to further refine proposed reform options
- a Final Report, to be delivered to the Minister by the end of 2020.

The purpose of the Paper is to discuss the issues and importantly, to seek your feedback. To assist with this, we have used text boxes to highlight issues and pose questions to help structure feedback and reform ideas. The feedback we receive will be considered as we identify options for reform to be presented to the Minister later this year.

a. Context for this Review

Infrastructure contributions are an integral part of the planning and infrastructure delivery systems in New South Wales, raising over $1 billion each year to support growth. Presently, mechanisms are prescribed by Part 7 of the *Environmental Planning and Assessment Act 1979* ('the Act'):

- section 7.4 planning agreements
- section 7.11 local infrastructure contributions
- section 7.12 fixed development consent levies
- section 7.24 special infrastructure contributions
- section 7.32 affordable housing contributions.

Early feedback to the Review suggests that the existing infrastructure contributions system could be improved to provide greater certainty, consistency and transparency in both how contributions are set and how revenues are managed. There is scope to make the system simpler, more efficient, and one that allows for better coordination between infrastructure delivery and development activity when accommodating growth.

Since commencing in 1980, there have been several reviews of the infrastructure contributions system. The last major legislative reforms occurred in 2005 when planning agreements and fixed development consent levies (then known as s94A levies) were introduced. While other reviews have been conducted since 2005, this Review is broader in scope as it is not limited to the Act in its consideration of contributions in the context of infrastructure delivery in New South Wales.

This Review is being progressed in parallel with improvements to the contributions system by the Department of Planning, Industry and Environment ('the Department') outlined in Box 1.1. These proposed reforms are iterative and complementary to this Review and are aimed for near term implementation. They do not, however, encompass the systematic reform of infrastructure funding in New South Wales.

Box 1.1: The Department's immediate reforms (exhibited May – June 2020)

- guidance material to provide more transparent negotiations of **planning agreements** (s7.4)
- reforms to how **contributions plans** (s7.11) are reviewed
- criteria for when higher percentage rates for **consent levies** (s7.12) may be appropriate
- guidelines to improve transparency of **special infrastructure contributions** (s7.24)
- draft amendments to the **Environmental Planning and Assessment Regulation 2000** ('the Regulation') to improve councils' and planning authorities' transparency in accounting for, and reporting on, contributions revenues.

b. Principles for the infrastructure contributions system

The term 'infrastructure' relates to the stock of physical assets that enable our society—the state of New South Wales, its cities, towns, and regions—to properly function. This captures a very wide range of services:

- **Transport**—roads, footpaths, rail, and ports—for the movement of people and freight
- **Water**—pipes and drainage—for drinking water and waste and stormwater removal
- **Energy**—electricity, gas, and fuel—to power economic activities
- **Communications**—telecommunications and digital—to enable business, service delivery and social inclusion
- **Housing**—social, affordable, and private—ideally located where people can enjoy a quality lifestyle within reasonable commute of their jobs
- **Education**—schools, universities, and colleges—for accumulation of human capital
- **Health—primary care facilities and hospitals**—to allow the delivery of health services
- **Sport and recreation facilities**—stadia, parks, playing grounds, pools—to allow people to gather, enjoy the outdoors and exercise
- **Community facilities**—such as libraries and community centres.

All three levels of governments—Commonwealth, State, and local—have an important role in the provision of infrastructure.

In providing infrastructure, there are a range of mechanisms that governments can deploy:

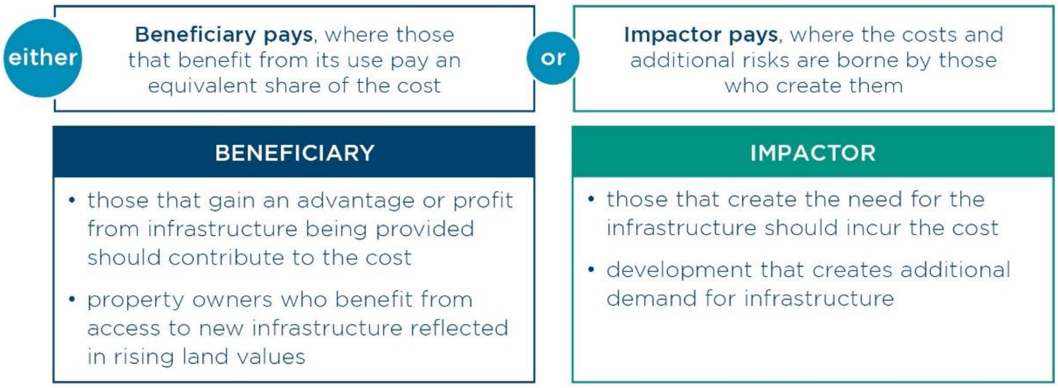
- through **direct provision**, such as, for example, public schools and libraries
- through **arms-length provision**, such as, for example, utilities operated on a commercial basis but maintaining government ownership or subsidies for private provision

- through **contracting**, such as, for example, tolled private motorways
- as **regulator**, such as, for example, of wholly private markets
- via **charges**, such as, for example, infrastructure contributions and user charges
- as **coordinator**, for example, through strategic planning.

The Commonwealth Productivity Commission's Public Infrastructure Inquiry Report (2014) notes that the *"funds to pay for public infrastructure ultimately have to come either from users and other beneficiaries, or from governments."* In New South Wales, these funding sources are:

- **Public funding mechanisms:**
    - the NSW Government through the **budget (including Restart NSW**) from **revenue** (debt is a call on future revenue) and **asset transactions**
    - the Commonwealth through **grants** and
    - local government from general **rates** revenue.
- **Cost recovery mechanisms:**
    - direct **user charges** and
    - **infrastructure contributions**.

Generally, the appropriate funding mechanism will be the one that is the best balance of fairness, administrative simplicity, and economic efficiency. When discussing infrastructure contributions specifically, the Commonwealth Productivity Commission proposed the following principles for the recovery of infrastructure costs:



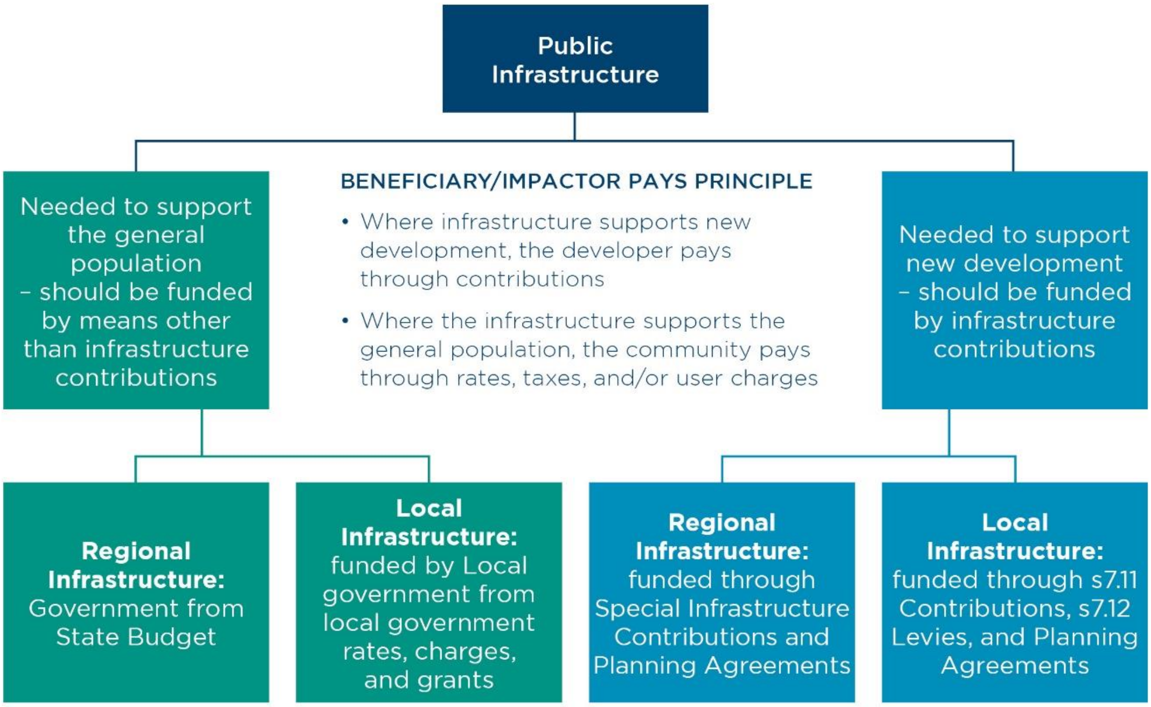
Throughout this Paper we will refer to 'public infrastructure'. This is a broad term and can have many meanings. While not seeking to be definitive, we are generally referring to infrastructure that involves government intervention to ensure its delivery. This can include, but is not limited to:

- roads and pedestrian and cycle paths
- public transport, including transport interchange facilities
- water cycle management
- open space for passive and active recreation purposes
- biodiversity conservation and management
- community facilities such as community centres and libraries, schools and hospitals
- utility services such as water and sewer, electricity, gas, telecommunications.

The Act refers to 'public amenities' or 'public services' but notes that this does not include 'water supply or sewerage services'. This is because water and sewerage services are dealt with under different legislation. In this Paper, we do, however, consider utility services as part of the infrastructure needed to support growing communities.

Figure 1.1 illustrates how infrastructure is delivered in New South Wales at a high level. Appendix A provides an explanation of concepts and terms used within this Paper.

Figure 1.1: Overview of infrastructure funding system in New South Wales



There is difficulty in ensuring that mechanisms are either 'impactor pays' or 'beneficiaries pays'. Certain types of infrastructure are required solely to enable specific developments such as local roads, drainage and local parks, yet are able to be used by the broader community. Some infrastructure supports both new and existing residents, such as community centres and libraries; and state infrastructure such as major roads, schools and hospitals, and can bring amenity to a whole region or city. It is not therefore always possible to ensure that the impactor or beneficiary pays as the funded projects offer benefits well beyond the immediate development.

A well-functioning infrastructure contributions system should be based upon the principles of efficiency, equity, certainty, and simplicity.

Table 1.1 identifies principles underpinning a well-functioning contributions system that should be applied to test different possible reform options.

Table 1.1: Principles for consideration in a reformed contributions system

Efficiency	Infrastructure costs should create a price signal to direct development to occur in areas where it is most viable – allocating resources to their best use.
Advantages	▪ By supporting an economically efficient outcome, we ensure levels of service that reflect what future users want and/or need, but no more. ▪ The funding mechanism acts as a 'price signal': o areas with higher costs of delivery will have this reflected in charges; where costs are excessively high, development will be discouraged o development will be encouraged in areas with lower costs of delivery.
Challenges	▪ This may be at odds with planning strategies, requiring a higher level of government intervention to support growth in areas that are desirable to achieve a strategic outcome. ▪ Difficulty in measuring 'demand' and apportioning costs—and the need to adapt to changing circumstances to ensure ongoing efficiency—can compromise other objectives, such as certainty, transparency.

Equity	Service delivery and cost apportionment should be treated consistently across service types, locations, and levels of government. Costs should not be borne by parties that are neither an impactor or a beneficiary.
Advantages	▪ Consistent treatment builds confidence in the planning systems. ▪ Ability to consider sharing infrastructure costs between existing and future users.
Challenges	▪ Somewhat counter-intuitive, but this principle does not consider 'capacity to pay' as all parties are treated as equal. ▪ Consistent treatment can be difficult when other policy objectives intervene.

Certainty	Infrastructure contributions should be applied in a manner that is predictable.
Advantages	▪ Supports preparation of accurate development feasibility assessments, minimising risk. ▪ Development supply overall is enhanced as a result.
Challenges	▪ There is a trade-off between certainty and flexibility, i.e. it reduces capacity to respond quickly to changing circumstances.

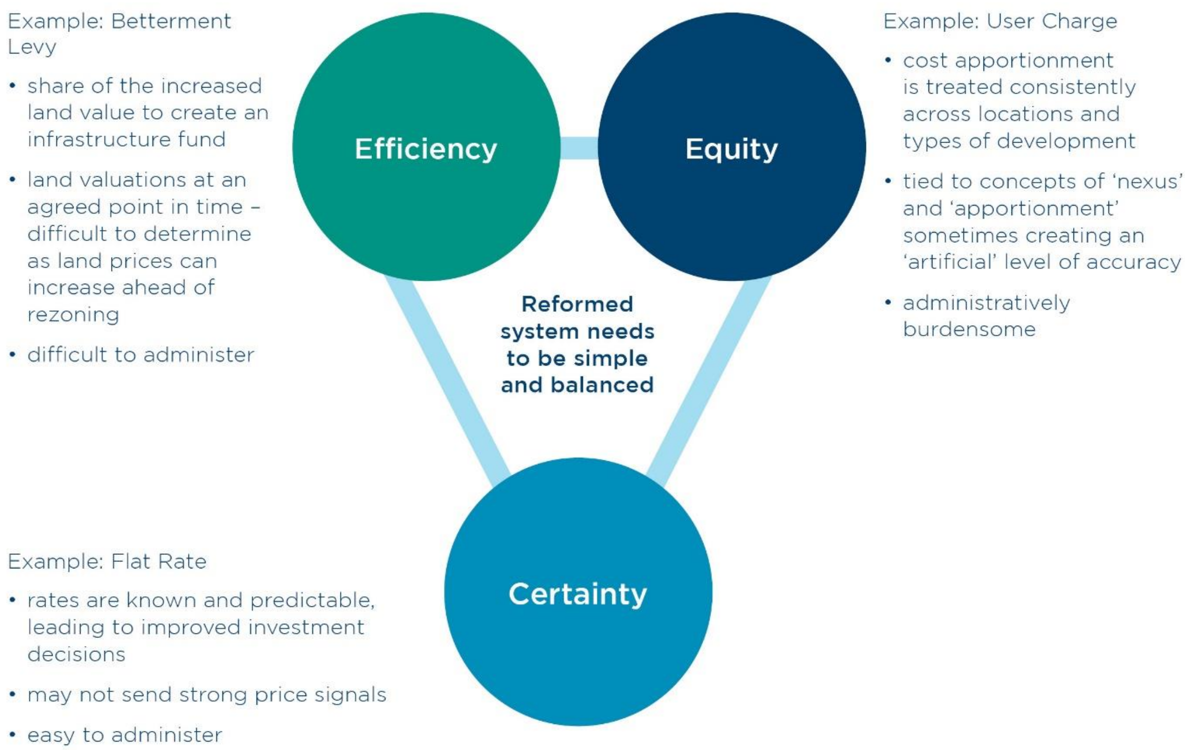
Simplicity	The contributions system should be easy to understand and compliance costs should be kept to a minimum.
Advantages	▪ System is designed so that changes can be made relatively simply and quickly to support fast response to changing circumstances. ▪ People can easily find out how much the infrastructure contributions for their development will be, assisting them in making investment decisions.
Challenges	▪ Requires a shift away from layered policies. ▪ May not send as clear price signals for service costs in different areas.

Fundamental to a reformed contributions system is that it is transparent, with a high level of governance to build public trust that funds collected for infrastructure purposes and spent on their proper purpose.

'Simplicity' is considered an essential design principle that will be used to underpin reform recommendations.

Balancing the principles of efficiency, equity and certainty will be a challenge for this Review in proposing reforms (Figure 1.2).

Figure 1.2: Balancing the principles when considering potential reforms



The current system focuses on the impactor bearing infrastructure costs. Early stakeholder feedback indicates the current system is less transparent than it could be. The requirement to develop detailed and costed infrastructure plans for specific areas carries a heavy administrative burden and can sometimes offer false precision in terms of costs. There may be a case for shifting the balance towards a simpler, less administratively burdensome system.

Appendix D provides a limited overview of how other jurisdictions apply infrastructure contributions.

Issue 1.1: Striking the right balance

There can be difficulty in reconciling the competing principles of efficiency, equity, certainty, and simplicity. Failure to strike the right balance can undermine confidence in the planning system.

- Is a 'one size fits all' approach appropriate or do parts of the State require a bespoke solution?
- What are the advantages and disadvantages of a site-specific calculation based on demand generated, compared with a broader average rate?
- Do other jurisdictions have a better approach to infrastructure funding we should explore?
- How can a reformed contributions system deliver on certainty for infrastructure contributions while providing flexibility to respond quickly to changing economic circumstances?

c. Outline for the rest of this Paper

The remaining chapters of this Paper are as follows:

- Chapter 2 discusses general issues in infrastructure funding and delivery affecting State and local government
- Chapter 3 explores specific issues related to the development contributions mechanisms under the *Environmental Planning and Assessment Act, 1979*
- Chapter 4 highlights further issues in planning, infrastructure and contributions
- Chapter 5 outlines the way forward for this Review.

Chapter 2: Infrastructure funding in New South Wales

a. Infrastructure funding sources

Infrastructure can be funded in a range of ways:

- the NSW Government through the **budget (Consolidated Fund** and **Restart NSW**)
- the Commonwealth through **grants**
- local government from general **rates** revenue
- cost recovery through direct **user charges** and **infrastructure contributions**.

As illustrated in Figure 2.1, the type of infrastructure being delivered determines the funding source.

Figure 2.1: State and local infrastructure funding sources

State infrastructure	Local infrastructure
Examples include: - State and regional roads - Public transport infrastructure - District cycling paths - Health and emergency services - Regional/district open space - Biodiversity offsets	**Examples include:** - Local roads and traffic management - Local pedestrian and cycling paths - Local sports fields and open space - Stormwater drainage and management - Community facilities
Funding sources: - Consolidated Fund (State Budget) - Special infrastructure contributions - Asset recycling (i.e. Restart NSW) - Commonwealth specific purpose grants	**Funding sources:** - Local infrastructure contributions - Local government rates - Direct user charges - State and Commonwealth grants

State Infrastructure Spending

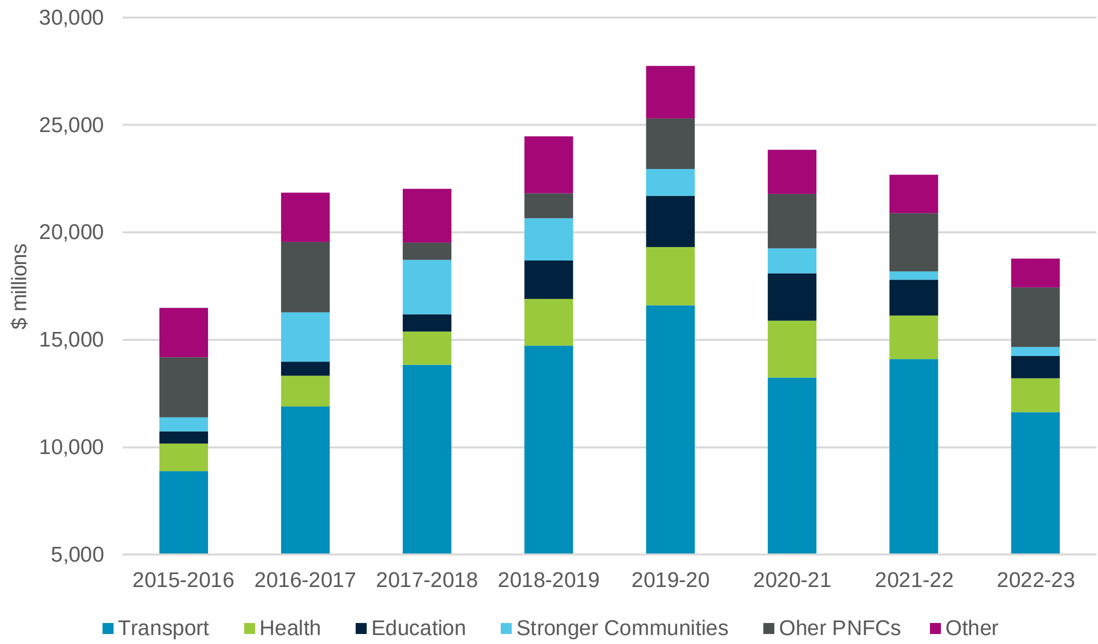
State Budget

The 2019-20 State Budget includes record capital expenditure of $97.3 billion over four years for the Total State Sector, which includes both general government and the state-owned corporations. Most funding is provided by State sources such as taxation and own source revenues ($64.1 billion, or 68.9 per cent), and Restart NSW ($11.2 billion, or 12 per cent).

As shown in Figure 2.2, well over half the State's infrastructure program is for **Transport** (59.7 per cent). Other categories of investment are non-transport Public Non-Financial Corporations (PNFCs)—**Energy, Water and Property** agencies (11.2 per cent), **Health** (9.8 per cent) and **Education** (8.5 per cent).

Of $105.6 billion of total budgeted expenditure in 2019-20, capital expenditure had the second largest share at $22.3 billion, or 21 per cent (see Figure 2.3). Only employee related expenses—salaries and wages, and superannuation—made up a larger share at 36 per cent.

Figure 2.2: State infrastructure spending by cluster [a][b]

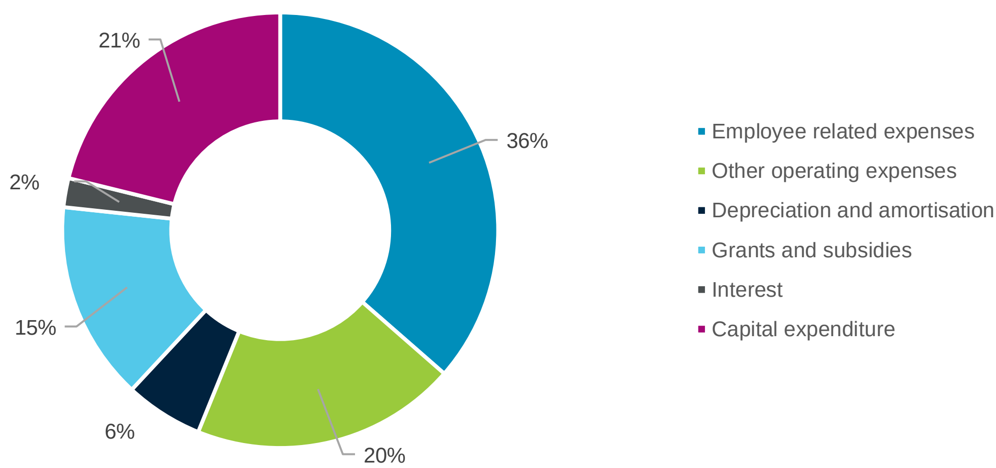


Source: 2019-20 State Budget

(a) Clusters are reported where appropriate to align with new Machinery of Government changes announced in April 2019, which take effect from 1 July 2019.

(b) Numbers represented in the chart are on an eliminated Government Sector basis.

Figure 2.3: Composition of 2019-20 budgeted general government expenditure



Source: 2019-20 State Budget

Within the capital program, major projects include:

- WestConnex and NorthConnex
- Sydney Metro Northwest, City & Southwest, and West
- Light rail in Sydney, Newcastle, and Parramatta
- new and redeveloped hospitals at Northern Beaches, Rouse Hill, Kuring-Gai, Blacktown and Mount Druitt, Westmead, Campbelltown, Wagga Wagga, Dubbo and Gosford
- Regional road upgrades, including Pacific Highway, Princes Highway, and Newell Highway.

The State Government also recently announced a further $1.6 billion over three years to 2022-23 (on top of the $100 million provided in the 2019-20 Budget) for the Digital Restart Fund. This additional investment will help deploy new technologies to improve the digital customer experience across the public sector.

Restart NSW

The *Restart NSW Fund Act 2011* was established to promote economic growth and productivity by funding infrastructure. The Treasurer is the minister responsible for the fund, making allocations to projects on the recommendation of Infrastructure NSW. A 30 per cent target has been adopted for allocations to regional projects.

Examples of projects being delivered through Restart NSW include:

- major metropolitan transport projects, e.g. WestConnex, Sydney Metro, Parramatta Light Rail
- regional transport, including roads and aviation
- regional water security.

As of the 2019-20 Half Year Review, Restart NSW has received $33.1 billion from asset transactions and interest earnings. Of this, $27.4 billion has been committed for project planning and delivery. A further $5.8 billion has been reserved for future projects (2019-20 Half-Year Review).

Local government rates

The largest single source of revenue for councils is local government rates, accounting for about two-thirds of council income. The remainder is sourced from a combination of user charges, grants from other levels of government (particularly the Commonwealth), and infrastructure contributions.

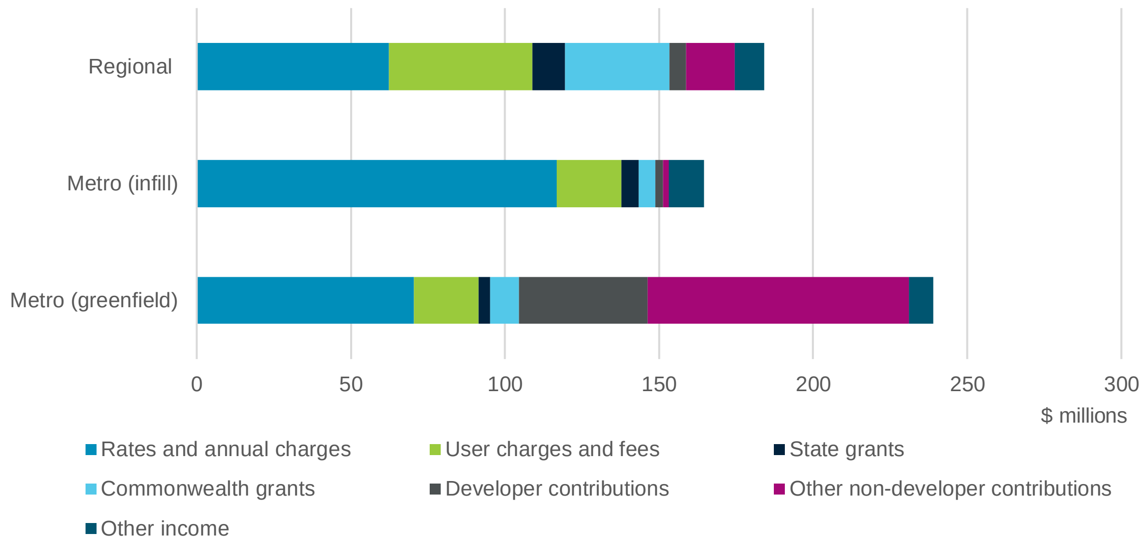
A description of how rates are applied is provided in Box 2.1.

Box 2.1 How local government rates are set in New South Wales

The *Local Government Act 1993* prescribes how rates should be calculated. Rate assessments are based on **a percentage of the unimproved land value** of the rateable property as estimated on a three-year rolling average by the NSW Valuer General. The unimproved value excludes the value of buildings and other embellishments to the land. Assessments may be subject to *either*:

- a **base amount**, a fixed charge that is applied in addition to the percentage amount, *or*
- a **minimum amount**, a fixed charge, where the percentage amount would fall below a certain minimum.

Figure 2.4: Composition of 2018-19 council revenue



Source: 2018-19 council annual reports

Figure 2.4 illustrates the composition of council revenue using three examples of a regional, a metro (infill), and a metro (greenfield) council in 2018-19. A *greenfield* area refers to land where there has been no previous urban development. Sites that have previously been developed are known as *infill* areas (such as redevelopment of former industrial areas).

Although the composition differs vastly between the councils, local government rates make up a large proportion of council revenue. Interestingly, the metro (infill) council relies more heavily on local rates revenue (71 per cent) than the metro (greenfield) (30 per cent) and regional (34 per cent) councils. For the metro (greenfield) council, a large portion of funds is derived from the property sector, reflecting the higher provision of new infrastructure to support a growing community. This includes:

- developer contributions (provided in the form of a monetary payment)
- other 'non-developer contributions' (contributions that are not made via a development contributions plan) including works that are required as conditions of development consent and other works-in-kind arrangements.

Support from the Commonwealth through grants

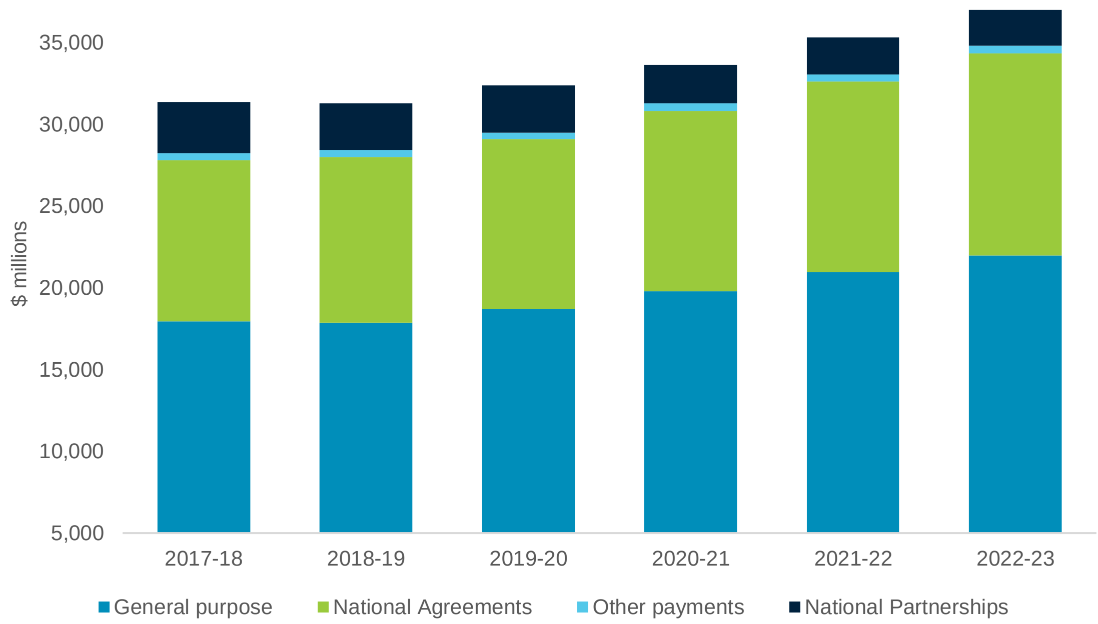
Commonwealth support comes in the form of specific purpose grants or general-purpose grants.

Specific purpose grants

Specific purpose grants are conditional payments made to the states (to be used for recurrent or capital purposes). These are generally tied to the delivery of national objectives in areas such as health, education, and community care. According to the Council on Federal Financial Relations (2019), these are provided as part of:

- **National Agreements** – of which five are currently in effect (National Healthcare Agreement, National Agreement for Skills and Workforce Development, National Disability Agreement, National Indigenous Reform Agreement and the National Health Reform Agreement)
- **National Partnerships** such as the Universal Access to Early Childhood Education, Skilling Australians Fund, DisabilityCare Australia Fund Payments and Land Transport Infrastructure Projects (2019–2024).

Figure 2.5: Commonwealth grants revenue increasing overtime



Source: 2019-20 State Budget

Over the next four years to 2022-23, Commonwealth grant revenue is expected to grow by an average of 4.3 per cent per annum. In 2019-20, the State is forecast to receive $32.4 billion from the Commonwealth. This comprises general purpose grants (58 per cent - largely GST revenue) and specific purpose grants (41 per cent) (see Figure 2.5).

General purpose grants

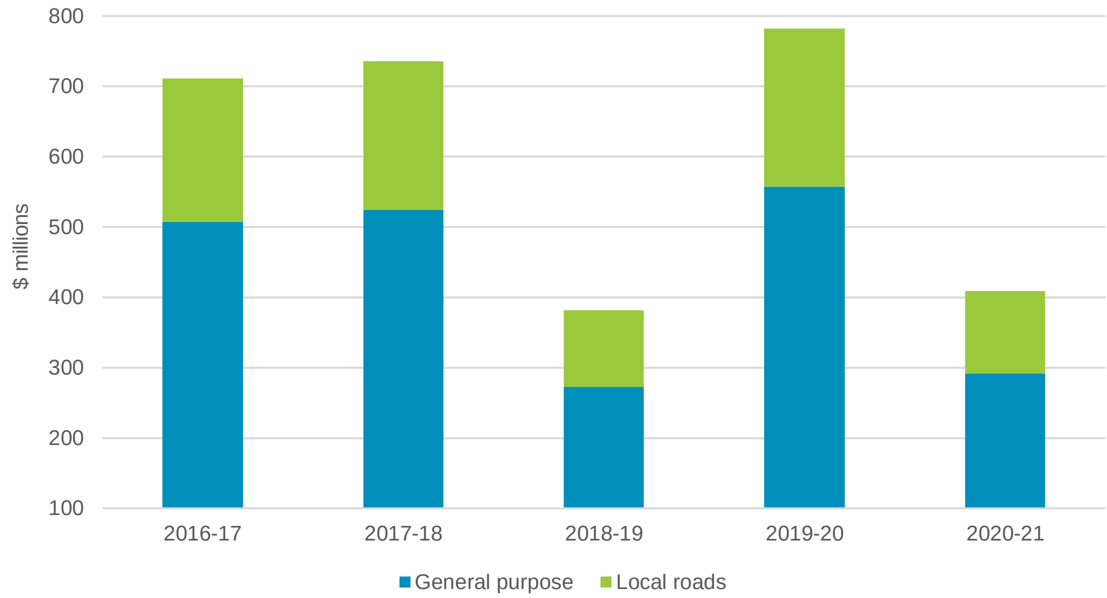
General purpose grants can be spent by the State and local governments on any state or local priority. An example of untied grants are financial assistance grants provided to local governments via the State through the Local Government Grants Commission (within the Planning, Industry and Environment cluster). It consists of two components:

- a **general purpose** component distributed on a per capita basis
- a **local roads** component distributed according to fixed historical shares.

Over the period 2016-17 to 2020-21, funding provided to local councils under these grants averaged around $604 million a year, with a larger proportion being general purpose grants (71 per cent or $431 million) (see Figure 2.6). They are distributed to councils in accordance with the National Distribution Principles of the *Commonwealth Local Government (Financial Assistance) Act 1995.*

On 22 May 2020, the Commonwealth Government announced a new $500 million Local Roads and Community Infrastructure Program (with over $139 million allocated to New South Wales councils). The funding will support local governments in the delivery of priority local roads and community infrastructure projects across Australia and create local jobs to assist post COVID-19 recovery.

Figure 2.6: Composition of grants in Commonwealth Financial Assistance Grants program



Source: Department of Infrastructure, Transport, Regional Development and Communications and Local Government Grants Commission

Under the current arrangements, the same level of funding is provided to councils for a given population size regardless of differences in their socio-economic status and land values within their area. The NSW Independent Review of Local Government (2013) and the Henry Tax Review (2009) are two reports that have called for the removal of the minimum grant principle to enable a higher level of horizontal equalisation and more equitable redistribution of grant funding.

Cost recovery through user charges

Under a user-pays arrangement, the user or beneficiary of the infrastructure contributes all or part of the cost of its provision. Examples of common user charges include road tolls and utilities pricing.

This Review can help design a system that ensures the infrastructure funding mix strikes the optimal balance between cost recovery—through contributions and user charges—and the broader tax base.

Issue 2.1: Enable a broader revenue source for the funding of infrastructure

Are there any potential funding avenues that could be explored in addition to those in the current infrastructure funding mix?

b. Challenges in State Government service provision

New South Wales faces a range of existing and emerging headwinds, many of which are national or global in nature. Each of these present challenges for State and local government to address and have bearing on the planning and delivery of infrastructure. A reformed contributions system should complement existing policies and other reform initiatives under consideration. It is necessary, therefore, to set the broader economic, social, and environmental context for this Review.

Infrastructure demand will continue to grow despite record investment

Despite record infrastructure investment, service demand will continue to rise with a growing population. By 2041, the State is projected to reach nearly 11 million residents (as compared to a population of eight million in 2019) with Greater Sydney contributing around seven million to these projections (DPIE, 2020).

Notable examples of additional pressure on infrastructure include:

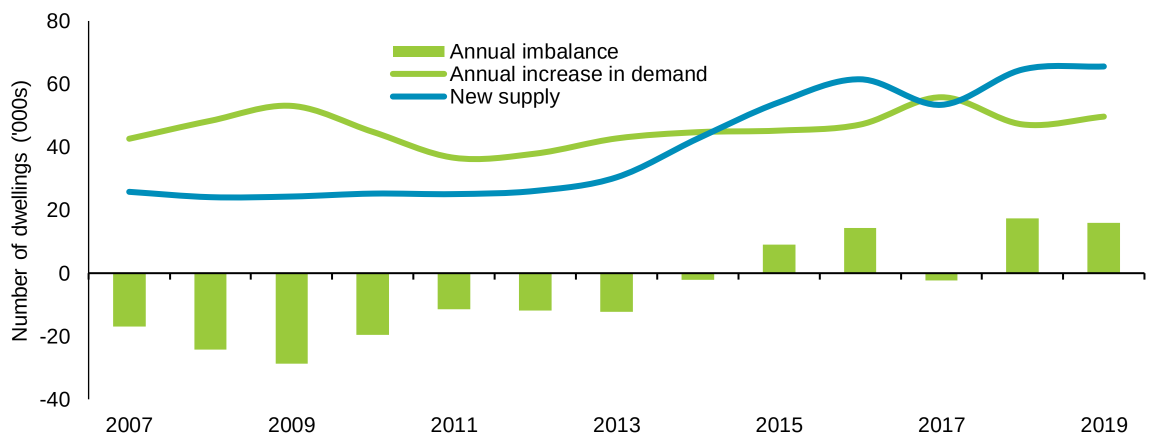
- **Rail network patronage**, with the number of trips projected to rise by 113 per cent between 2016 and 2036, an increase of more than 1 million extra trips each day (INSW, 2018).
- **Private vehicle use**, with car trips projected to rise by 30 per cent between 2016 and 2036 to 12.1 million a day (INSW, 2018).
- **School student** numbers expected to require an extra 7,200 classrooms over the next 30 years (Department of Education, 2017).
- **Growth areas and precincts** that require a coordinated approach to infrastructure delivery.

Housing undersupply and declining approvals

The 2016 NSW Intergenerational Report was the first to directly model the housing market in New South Wales. It estimated an undersupply of 100,000 dwellings had emerged, based on historic annual completions and long-terms trends in living arrangements. This accumulated undersupply reflects housing completions not keeping pace with housing requirements (i.e. driven by strong population growth), particularly over the period from 2006 to 2012, when new housing supply nearly halved and net overseas migration to Australia doubled.

Constrained supply, combined with an extended environment of low interest rates since the 2008-09 Global Financial Crisis, helped propel an unprecedented uplift in housing prices over the past decade. A surge in residential construction activity since 2011-12 helped reduce the housing backlog, but a net undersupply remains (Figure 2.7). While high prices have been sustained, construction activity is on the decline. Dwelling approvals for New South Wales fell by 22 per cent from their peak of 73,315 in 2015-16 to 57,238 approvals in 2018-19 (ABS 8731.0).

Figure 2.7: Annual dwelling production and demand in New South Wales



Source: ABS 6416.0, NSW Treasury

The slowdown in approvals and commencements is explained by volatile house prices, largely as a result of macroprudential measures introduced in 2017 and interest rate reductions beginning in June 2019. Since bottoming out in May 2019, Sydney house prices have grown considerably, with the median Sydney price up by 9.8 per cent. Presently, Sydney house prices remain around 4.0 per cent below their peak in June 2017 (CoreLogic). Going forward, the withdrawal of the Commonwealth's JobKeeper initiative and other stimulus measures from September 2020, present further uncertainties.

Infrastructure costs are rising

Infrastructure Australia (2019) has identified the following significant emerging cost pressures facing Australian governments in general, with each of these particularly relevant to New South Wales:

- rising **property acquisition** costs are contributing to higher project delivery costs
- growing **environmental and planning** compliance costs
- supply constraints in the construction sector, in part driven by **skills shortages**
- significantly greater **maintenance** costs to prevent a decline in service quality from assets and a greatly expanded capital base at State and local levels in recent years.

In recent years, record infrastructure investment and robust private development activity have intensified cost pressures in the construction sector and are stretching finite resources. A recent global study of construction costs found Sydney to be the most expensive Australian capital city for construction and ranking 30th in an assessment of 100 cities globally (Arcadis, 2020).

High costs are further exacerbated by the complexity and uncertainty of the current planning system, which limits investment, employment growth, housing supply, and living standards.

The 2019-20 bushfires and COVID-19 have compounded existing challenges

The pre-existing challenges are broadly compounded by the combination of the 2019-20 summer bushfire season and outbreak of the current COVID-19 global pandemic. New South Wales was, unfortunately, among the hardest hit among the states by these successive crises. Presently, it is not clear how long the crisis will last or whether there will be a 'second wave'. The immediate focus of governments—Commonwealth, state, and territory—have, correctly, been on measures to contain the crisis while buttressing the livelihoods of households and businesses (see Box 2.2).

COVID-19 is expected to generate some easing of the above pressures. Migration—particularly from overseas—is expected to temporarily slow and this is likely to temporarily ease housing and infrastructure demands, particularly in Greater Sydney. The necessary, but costly, measures taken to address the crisis will, however, ensure the medium-term budget position is even more constrained than the NSW Intergenerational Report (2016) projected.

Climate change will continue to alter the frequency and intensity of extreme weather events such as heatwaves and flooding. This is likely to increase the vulnerability of the State's infrastructure to natural disasters. Building the long-term resilience of the State's existing and new infrastructure to future shocks will reduce risk and costs to Government.

These challenges collectively require substantial improvement to how we plan, fund, and deliver infrastructure in New South Wales.

Box 2.2: Planning response to COVID-19

The planning system has an important role to play in the fight against COVID-19. To assist with economic recovery and facilitate a 'bounce back', the following steps have been taken:

- Planning System Acceleration Program to fast-track planning projects and support jobs in the construction sector.
- Ministerial Orders made under the newly introduced COVID-19 Legislation Amendment (Emergency Measures) Bill 2020 including:
  - extended days for infrastructure and construction work
  - changes to retail trading and operating hours and waste removal
  - greater flexibility for restaurants, food trucks, and 'dark kitchens'
  - relaxing operating hours for home businesses.

For more information on the planning response to COVID-19 visit planning.nsw.gov.au/Policy-and-Legislation/COVID19-response

Improvements to infrastructure planning and delivery processes are in train

In recent years, the State Government has implemented a range of process improvements to streamline infrastructure planning and delivery within the State.

Strategic planning integrates land use change with service provision

The Government's infrastructure and land use planning adopts a strategic approach involving a 20-year outlook and a clear line-of-sight across each plan. The 'Greater Sydney Region Plan: *A Metropolis of Three Cities'*, the 'State Infrastructure Strategy 2018-2038', and 'Future Transport 2056' adopted a vision for a Greater Sydney comprising of three distinct cities:

- the Eastern Harbour City, centred on the Central Business District
- the Central River City, centred on Parramatta
- the Western Parkland City, centred on the new airport at Badgerys Creek.

The objective is to ensure residents live within 30 minutes of jobs, education, health facilities, services and leisure spaces. The Greater Sydney Region Plan is supported by District Plans that provide detail on how the vision will be implemented and growth will be managed. These plans are then reflected in Local Strategic Planning Statements prepared for each local government area to provide more detailed implementation and guidance. Successful delivery of these strategies relies on substantial investment in infrastructure, highlighted as an example for the Greater Parramatta to Olympic Peninsula corridor in Box 2.3.

Box 2.3: Greater Parramatta/Olympic Peninsula Infrastructure Compact

Greater Parramatta/Olympic Peninsula (GPOP) is a 6,000-hectare area at the physical centre of Greater Sydney. The pilot 'Place Infrastructure Compact' will bring together service delivery agencies across government to align the staging and sequencing of infrastructure delivery with future housing.

A strategic program business case for the GPOP Infrastructure Compact has been completed. The program of initiatives will now proceed to business case stage for individual investment decisions by Government.

The State Infrastructure Strategy attempts to reconcile competing pressures on Government

The current 20-year State Infrastructure Strategy, adopted in 2018, identified six strategic areas of priority for the whole-of-government infrastructure program (see Table 2.1).

Table 2.1: State Infrastructure Strategy 2018–2038

Strategic Objectives	
1. Continuously improve the integration of land use and infrastructure planning	2. Ensuring existing and future infrastructure is resilient to natural hazards and human-related threats
3. Planning, prioritisation, and delivery that makes the best possible use of public funds	4. Improving state-wide connectivity and realising the benefits of technology
5. Optimising the management, use, and performance of existing assets	6. High-quality consumer-centric services and innovative service delivery models

Source: State Infrastructure Strategy 2018–2038

The first three objectives are the most significant in containing overall capital expenditure to the State:

- demand for new projects can be contained by **optimising use of existing assets**
- careful **prioritisation and sequencing** of new projects will maximise social returns on an increasingly constrained capital budget
- **alignment between strategic plans** allows coordination of private development with service delivery, allowing the realisation of savings.

To date, several recommendations have been implemented including:

- a new whole-of-government **Asset Management** Policy
- a 10-point commitment to the construction sector, developed to support value-for-money procurement and major project delivery (NSW Government Construction Leadership Group, 2018)
- developing new guidelines for **infrastructure resilience** to climate change and natural disasters.

The contributions system needs to play its role in addressing these infrastructure challenges

The above initiatives are step change in infrastructure policy. They are, however, insufficient to meet the looming fiscal challenge while maintaining services to a growing and ageing population.

A missing element is better support for the capital budget as asset-recycling winds down and the post COVID-19 recovery gets underway. There is a need to explore new and innovative ways to fund the infrastructure required to accommodate growth and underwrite our quality of life.

Issue 2.2: Integrating land use and infrastructure planning

The Greater Sydney Region Plan provides the overarching vision and infrastructure needs, which is translated into separate District Plans and Local Strategic Planning Statements. These are used by councils for land use and infrastructure planning.

- How can the infrastructure contributions system better support improved integration of land use planning and infrastructure delivery?

c. Challenges in local government service provision

The NSW Productivity Commission's 2019 Discussion Paper: *Kickstarting the Productivity Conversation* addressed the changing nature of local government to meet rising community expectations. Traditionally, the roles and responsibilities of councils are prescribed under the *Local Government Act 1993*. Its functions have, however, grown significantly over time, resulting in systemic fiscal challenges for the sector that need to be addressed. A significant role is also conferred on councils by the *Environmental Planning and Assessment Act 1979*.

Rising expectations on councils to provide services

Another principal driver behind the expanding functions of councils is the rising expectations of their communities. These increasing expectations are not uniform across all Local Government areas, reflecting differences in service preferences across communities.

The challenges facing the State are broadly applicable to local governments as well:

- councils are subject to pressures from growth and demographic change
- as the Summer 2019-20 bushfires season and COVID-19 demonstrate, their ability to serve their communities is also vulnerable to natural and unforeseen hazards
- rising costs for property acquisition, design standards to achieve planning and environmental compliance, and construction, skills shortages also apply to local government.

Rate pegging and special variations

Since 1977, the Minister for Local Government has set annual limits to increases in councils' general rate income. The regulated increase is called the 'rate peg' and is based on:

- the percentage increase in the Local Government Cost Index, which measures price changes over the previous year for goods, materials, and labour used by an average council

  less

- an assumed, or desired, increase in productivity factor.

The annual rate peg is determined by the Independent Pricing and Regulatory Tribunal (IPART) under delegation by the Minister for Local Government. The rate peg was set at 2.3 per cent in 2018-19, 2.7 per cent in 2019-20 and 2.6 per cent for 2020-21.

Councils can apply to IPART to allow them to increase their general income above the prescribed rate peg through a special variation process, subject to guidelines set by Office of Local Government. This process, however, can be difficult for councils given a four-year election cycle.

For a special variation to be granted, councils must demonstrate:

- community **awareness** of their plans
- a demonstrated **need** for more revenue
- a **record** of council productivity improvements.
- a **reasonable** impact on ratepayers
- a **sustainable** financing strategy

The practice of rate pegging in Australia and its origins is discussed in Appendix C.

Issues arising from rate pegging

Rate pegging carries a range of implications, some of which have unintended consequences and flow-on impacts for urban growth. The Independent Local Government Review Panel's Final Report (2013) noted over the period 2001-02 to 2010-11, growth in total revenue of NSW councils was 5.7 per cent per annum. This compared to an average 8.0 per cent for the other mainland states. Rates revenue increased by 4.4 per cent per annum in New South Wales compared to an average of 8.0 per cent elsewhere.

Disincentive for councils to accommodate growth

In response to population growth, communities are confronted by the collective weight of its impacts:

- *Costs*, such as **road congestion, public transport crowding, rationing** of community services, **loss of environmental amenity** and **maintenance** of a growing asset portfolio.
- *Benefits*, such as **larger and deeper markets** for products and skills accessed by businesses and better **economies of scale** in service delivery.

As their agent in the political process, councils are expected to be responsive to community views. Because development is accompanied by both costs and benefits, the planning system must deal appropriately with accommodating growth and facilitating access to housing and employment, while managing environmental outcomes, promoting health and wellbeing, and attracting investment.

Rates revenue funds service delivery for the existing community including recurrent costs that cannot be recovered through infrastructure contributions. The rate peg, however, acts as a financial disincentive for councils to accept development. In its presence, their rates revenue does not rise as population and land values increase. This contrasts with the both State and the Commonwealth, which are both able to expand their revenue with rising population and asset prices.

Moreover, some stakeholders have argued rate pegging currently encourages some councils to extract more revenue through contributions than is justified. They suggest councils are incentivised to capitalise future maintenance costs by requiring infrastructure be built to standards and specifications that reduce maintenance and extend the life of the asset. While this is arguably a more sustainable approach to assets management, it can be inefficient. Instead, options with a higher up-front cost and lower maintenance, and those with lower up-front costs and higher maintenance, should be subject to economic evaluation. This presents future costs (and benefits) in present value terms.

On 18 June 2020, the Minister for Local Government announced the Government's response to IPART's Review of the Local Government Rating System (2016) and advised that the Office of Local Government is exploring changes to the rate peg to account for population growth. This development is welcomed by the Review and complements an efficient, reformed infrastructure contributions system.

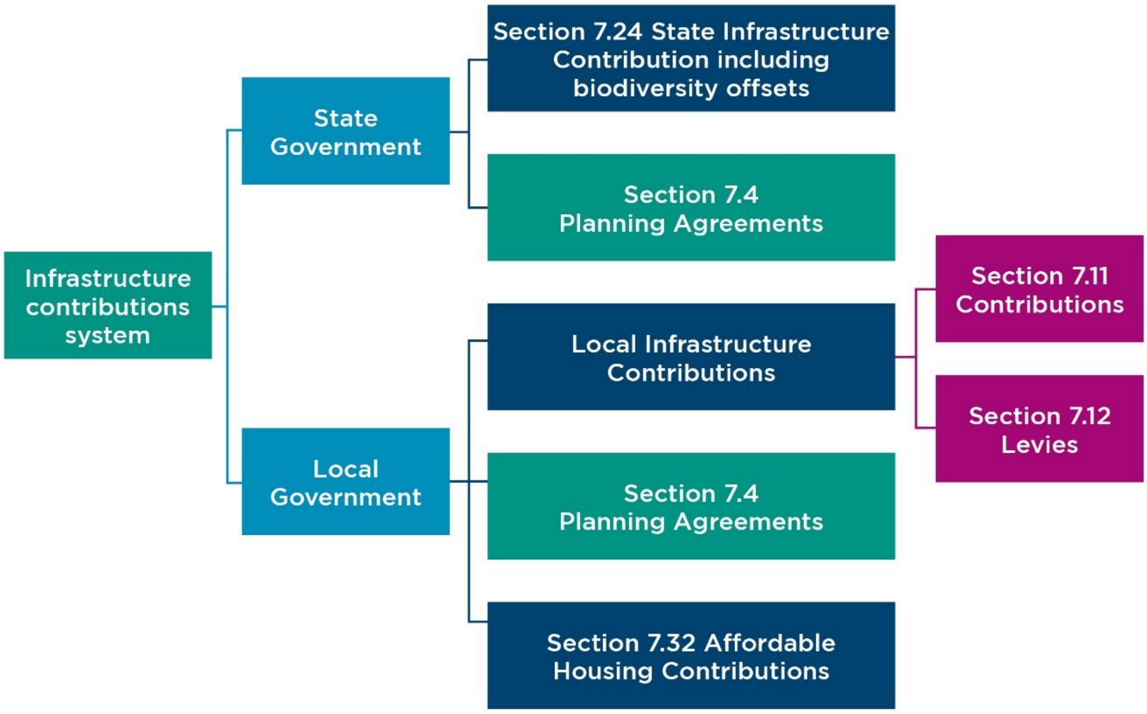
Chapter 3: Infrastructure contributions mechanisms and issues

a. Infrastructure contributions mechanisms

Overview of the infrastructure contributions system

The infrastructure contributions framework consists of five mechanisms (see Figure 3.1).

Figure 3.1: Overview of the New South Wales infrastructure contributions system

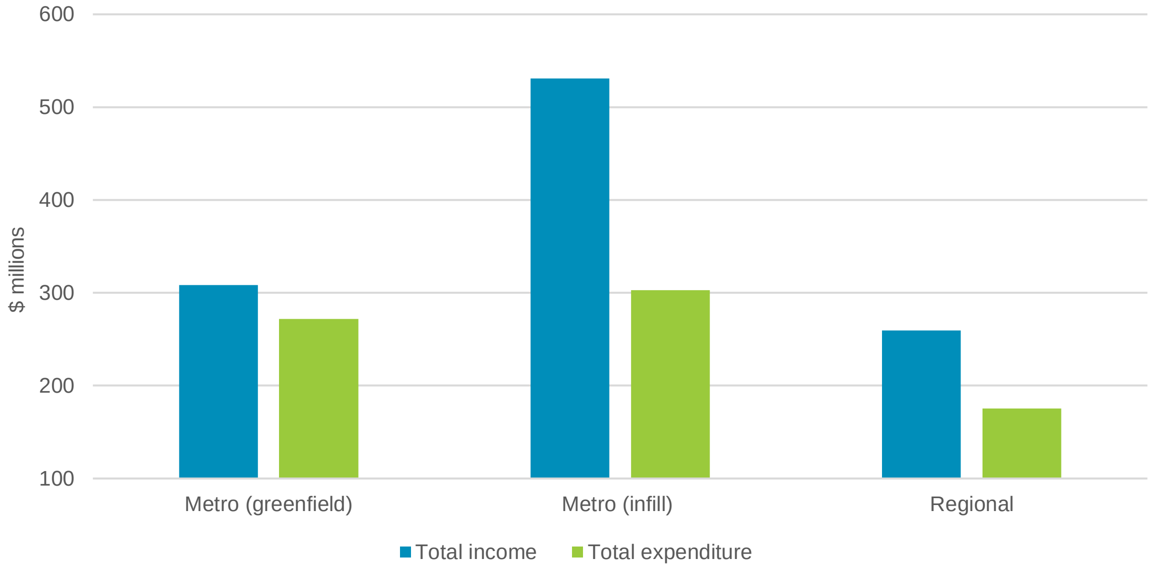


Contributions are collected by both State and local government. The State is responsible for state and regional roads, public transport, health facilities, emergency services, schools, regional open space improvements and some pedestrian and cycling paths. In 2018-19, the State collected approximately $49 million through special infrastructure contributions and around $21.2 million under State planning agreements (DPIE 2018-19 Annual Report).

Local government is generally responsible for delivering local infrastructure such as open space, community facilities, stormwater drainage, local roads, footpaths, and traffic management. Funds collected by councils through contributions are held in trust for delivery of the infrastructure it was collected for.

Figure 3.2 compares annual income and expenditure from contributions grouped into metro (greenfield), metro (infill), and regional areas, measured as an average over the three-year period (2016-17 to 2018-19).

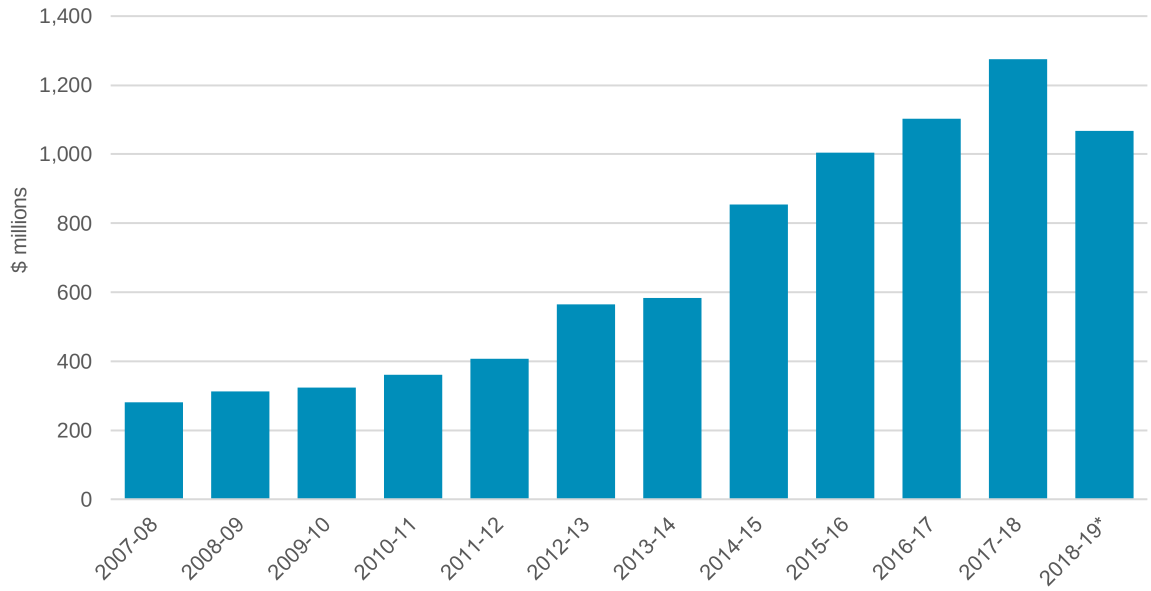
Figure 3.2: Total infrastructure contributions income and expenditure by council type



Source: DPIE

Figure 3.3 compares total contributions revenue collected by councils from 2007 to 2019, noting that the data for 2018-2019 is not complete. While total contributions collected have been increasing, so too have property acquisition and construction costs (refer to Chapter 4 for further discussion).

Figure 3.3: Local infrastructure contributions collected by councils over time



Note: Due to an incomplete dataset produced by the Office of Local Government NSW in 2018-19, DPIE has separately estimated the local contributions of five councils using their audited financial statements.

Source: DPIE

Infrastructure contributions in New South Wales are often criticised for being 'high', with industry groups arguing they adversely impact development feasibility. They are also criticised for being hard to predict and adding a level of uncertainty to the development process. Importantly, while they attract significant attention, contributions comprise an average of between one and four per cent of total development costs. This is illustrated in Table 3.1 below.

Table 3.1: Indicative costs of development in Sydney

Development cost components	Greenfield Development Approximate portion (%)	Infill Development Approximate portion (%)
Land acquisition	17	22
Construction costs	44	39
Stamp duty and land tax	7	8
GST	8	8
Company tax	3	4
Infrastructure contributions	4	1
Other utility, council fees etc.	2	2
Sales and marking costs	4	4
Legal and financing	2	2
Developer profits	9	10
Total	**100**	**100**

Source: Based on interpretation of data contained in 2018 *Taxes and Charges on new housing* prepared by ACIL on behalf of the Property Council of Australia (PCA).

Section 7.4 Planning Agreements

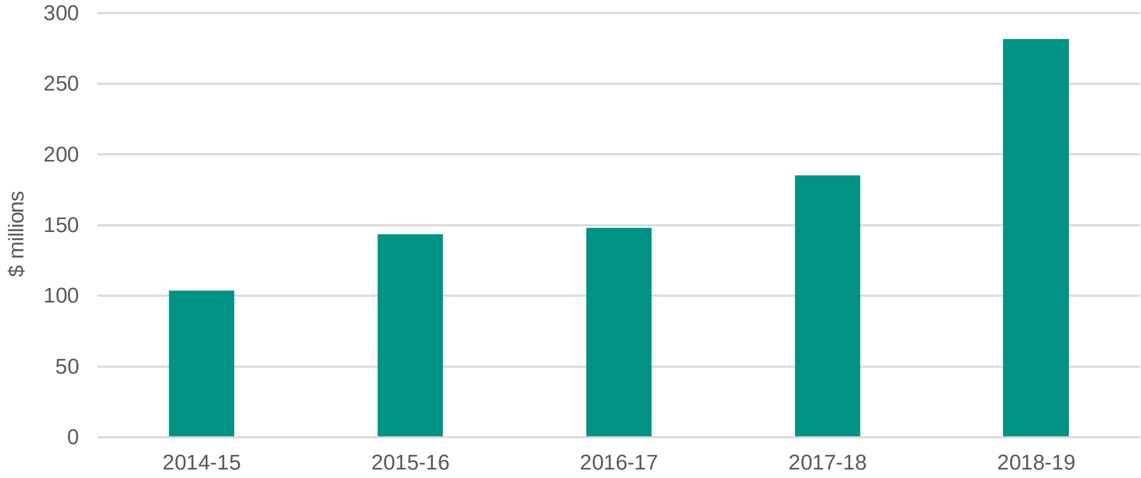
Planning agreements are negotiated between developers and planning authorities (either State or local government) and can deliver a wide array of public benefits. Planning agreements encourage innovative solutions to infrastructure delivery, as they:

- are not limited to the provision of infrastructure based on a schedule of works contained in contributions plans
- are commonly used to provide infrastructure in areas not covered by a contributions plan
- can address site-specific infrastructure needs
- can be used to fund recurrent expenditure, unlike other contributions mechanisms
- can be tied to the land subject to the agreement, rather than the development consent.

The State uses planning agreements as a mechanism for developers to make 'satisfactory arrangements' for the provision of regional infrastructure. This approach is often applied in areas where no special infrastructure contribution is in place.

The use of planning agreements by councils has increased significantly in recent years. Some stakeholders have suggested this is in part because of constraints on other revenue sources. Figure 3.4 illustrates the increasing role of planning agreements, showing cash balances held by councils over the past five years.

Figure 3.4: Planning agreements – cash balance held by councils over time



Source: Office of Local Government NSW, Summary of Annual Financial Statements for NSW Local Government

While indicative, the data tends to understate the value of planning agreements, as they do not include the value of works-in-kind, which are commonly used to facilitate direct delivery of infrastructure.

Flexibility of planning agreements has both advantages and disadvantages

The flexibility of planning agreements can have benefits. It can allow developers to provide innovative solutions to infrastructure need or enable an out-of-sequence project to proceed, and councils can share in the land value uplift (an example of a project delivered under planning agreement is provided in Box 3.1).

Box 3.1 Case study: Bennelong Bridge Planning Agreement

Bennelong Bridge in Homebush Bay is an example of an innovative piece of infrastructure funded entirely through a value sharing planning agreement. The planning agreement saw a developer consortium construct a $63 million bridge between Rhodes and Wentworth Point and provide an upfront cash contribution to maintain the bridge for the first 40 years of its life. In exchange, the State government approved a rezoning to increase the density of 25 hectares of developable land around the bridge by 20 per cent, or an additional 1,300 dwellings.

The bridge now connects the two communities via bus services, while pedestrians and cyclists use the bridge for local trips as an alternative to the private car. The bridge is the first in Sydney to exclude private car travel.

Source: *Sydney's Bennelong Bridge: Pioneering 'value sharing'*, New Planner, Issue No. 110, March 2017.

A lack of consistently applied principles in their application can, however, foster uncertainty. It can also undermine confidence in the planning system. Critics argue that they can create the perception that 'development is for sale' especially where they lead to spot re-zoning, or allowance of additional height and floor space.

Local government

The *Environmental Planning and Assessment Act 1979* (the Act) and *the Environmental Planning and Assessment Regulation 2000* (the Regulation) set the framework in which councils can negotiate planning agreements. This is supplemented by a more detailed departmental practice note, which outlines principles that should underpin agreements including:

- planning decisions may not be 'bought or sold'
- benefits under a planning agreement should not be 'wholly unrelated' to the development (though this is not as strict as the nexus requirements for section 7.11 contributions plans).

Several issues have been raised including:

- councils are not required by the Act to 'have regard' to practice notes when negotiating planning agreements, unlike for section 7.11 contributions and section 7.12 levies
- the *Planning Agreements Practice Note* has not been updated since 2006 and, therefore, may not reflect contemporary circumstances and
- councils have adopted policies on planning agreements that do not align with the practice note, such as bonus floor space provisions.

There has been increasing use of planning agreements by councils as a 'value capture' mechanism, where the council may agree to provide additional height or floorspace where a developer agrees to pay a share of the additional value created to the council. This has led to some criticism from the development industry that agreements are not 'voluntary' and that councils may have incentive to keep planning controls (particularly height and floor space ratios) deliberately low in order to extract payments. Alternatively, some argue that planning agreement policies that specifically outline the density bonus provisions provide greater transparency. The use of planning agreements as a 'value capture' mechanism may be appropriate, but current practice is inconsistent, lacking clear principles and adding uncertainty.

In April 2020, the Department released a draft revised planning agreements policy framework. The policy includes a Ministerial Direction requiring councils to 'have regard' to the practice note. Stakeholder feedback on the draft practice note, when first exhibited in 2017 and again in 2020, demonstrates there is, however, a lack of consensus in how planning agreements should be used.

NSW Government

The Act and Regulation also set the framework for the State to negotiate planning agreements with developers. There is no equivalent practice note to provide policy guidance for State negotiations. Additionally, the State can require that development applications cannot be approved in an 'urban release area' unless satisfactory arrangements for the provision of State infrastructure have been made. This measure facilitates the rezoning of land, with infrastructure provision to be managed at a later stage but is criticised for the uncertainty and delay it generates.

Planning agreements can reflect a lack of strategic planning

Planning agreements can be a fall-back mechanism when unanticipated development occurs, and detailed infrastructure contributions planning has not yet been undertaken. There is, however, a risk that planning agreements can be used as a substitute for proper strategic infrastructure planning. The infrastructure provided may not align with council's overall planning and funding policies or the development may not fit with the with broader strategic land use plan for the area. This can reduce certainty for the community, in terms of the development outcome, and for developers in terms of the contribution they will be liable for. Out of sequence development can also increase overall infrastructure costs to both councils and State government.

Issue 3.1: Principles for planning agreements are non-binding

The Planning Agreements Practice Note is currently non-binding on councils, although the Ministerial Direction exhibited by the Department aims to change this. There are no equivalent guidelines for use when negotiating planning agreements with the State.

Additionally, there is little agreement between stakeholders on what the principles should be for either local or State planning agreements and there is no consensus on the appropriateness of value capture through planning agreements.

- What is the role of planning agreements? Do they add value, or do they undermine confidence in the planning system?
- Is 'value capture' an appropriate use of planning agreements?
- Should planning agreements require a nexus with the development, as for other types of contributions?
- Should State planning agreement be subject to guidelines for their use?

Transparency and accountability

Planning agreements are often less transparent than other mechanisms because negotiations are confidential. Even after agreements have been struck, they are not always fully open to public scrutiny.

Public notice and public register of planning agreements

The Act requires planning agreements be publicly notified for at least 28 days. Moreover, the Regulation requires planning authorities keep, and make public, a register of all planning agreements. Councils comply with this requirement in different ways. Some provide an up-to-date online register, some hold the information at the council customer service centre, while others only provide it on request. The Department keeps a separate register of all draft and finalised State planning agreements on their online State Voluntary Planning Agreements Register.

Reporting and accounting practices

The Regulation contains only limited reporting and auditing requirements for planning agreements. This was identified by the 2018 Kaldas Review as a barrier to transparency and accountability, potentially increasing the risk of corruption in the system.

The discussion paper 'Environmental Planning and Assessment Regulation: proposed amendments', released by the Department in April 2020, includes new requirements for reporting and accounting of contributions received via planning agreements and related expenditure.

Issue 3.2: Transparency and accountability for planning agreements are low

Reporting and accounting requirements for planning agreements are low, although proposed changes to the Regulation may improve this. Differing practices between councils and the State in maintaining separate planning agreement registers and public notice systems is confusing and reduces transparency and accountability.

- What could be done to improve the transparency and accountability of planning agreements, without placing an undue burden on councils or the State?
- Should councils and State government be required to maintain online planning agreement registers in a centralised system? What barriers might there be to this?

Planning agreements can be resource intensive and time consuming

Negotiation, delivery, and monitoring of planning agreements can be resource intensive and time consuming. For example:

- both the planning authority and developer need the resources and skills to undertake successful negotiation and must each have their own legal advisors
- each agreement requires appropriate security (such as linking delivery to the release of certificates, registration on title or financial security such as a bond or bank guarantee), which can differ, depending on the circumstances
- ongoing monitoring is required, especially where the security is tied to the release of construction or subdivision certificates
- multiple landowners can make it harder to reach consensus
- a developer may be required to negotiate separate State and council agreements.

Infrastructure provided through planning agreements can vary significantly in complexity and value. In the case of State planning agreements, they can include unknown or complex requirements, conservation land and biodiversity offsetting, and involvement of other State agencies, such as Transport for NSW and the Department of Education. Even relatively simple planning agreements may impose a significant impost in terms of time and administrative requirements.

Issue 3.3: Planning agreements are resource intensive

Planning agreements are a resource intensive mechanism but have potential to deliver unique and innovative outcomes.

- Should the practice note make clear when planning agreements are (and are not) an appropriate mechanism?

Section 7.11 Local Infrastructure Contributions

Section 7.11 contributions (previously known as section 94) was the original mechanism under the Act to recover the costs of local infrastructure delivery. Section 7.11 contributions plans are based on the principles of:

- reasonableness
- nexus (the connection between proposed development and the demand created)
- apportionment (the share of the total demand that the developer must pay).

Councils are required to prepare a local infrastructure contributions plan setting out the 'nexus', or relationship, between a development and the infrastructure required to service it. The charge is determined by apportioning costs attributable to the additional demand the development creates. These contributions can only be applied to capital costs of providing new, expanded or augmented facilities. They cannot be applied for maintenance or operating costs (with the limited exception of roads impacted by extractive industry operations).

Contributions plans that propose rates above a threshold set by the Minister for Planning and Public Spaces (currently $20,000 for infill and $30,000 for specified greenfield areas) are reviewed by the Independent Pricing and Regulatory Tribunal (IPART). This assesses the reasonableness of the contributions plan and ensures only 'essential' local infrastructure is included. Councils can then charge the approved contribution rate as a condition of development consent.

Complexity

The efficiency and effectiveness of these contributions plans depends on the accuracy and currency of contributions rates at any time. Councils must write contributions plans that detail the relationship between the infrastructure to be provided and the development. This ensures the cost of local infrastructure is distributed fairly between all beneficiaries; but it also creates complexity and imposes an administrative burden on local government. Because these contributions plans are generally difficult to navigate, it also tends to reduce transparency. The result is developers are often unable to easily calculate a potential contribution liability and the community cannot easily deduce what infrastructure it can expect and when. While they are required to set out an indicative rate, the actual contribution owed on a specific development must be calculated by the council in each case.

Plan management and implementation

Contributions plan management and implementation requires considerable legislative and regulatory skill. Councils may have limited staff available and operational requirements may mean that the ongoing management of adopted contributions plans is not prioritised. Additionally, some councils have accumulated significant contributions balances, indicating there may be barriers to their timely expenditure.

Some local infrastructure would be most appropriately provided by two councils in collaboration. For example, larger community facilities often serve a catchment area that crosses local government area boundaries and some roads form the boundary between local government areas. While the legislation and practice notes specifically allow for cross-boundary infrastructure contributions planning, in practice this is rarely undertaken.

Review of plans

Strategic planning is a long-term exercise and most contribution plans have implementation timeframes of 10 to 20 years. Contributions plans require periodic review to ensure infrastructure requirements and cost estimates remain current. The Development Contributions Plans Practice Note 2005 recommends contributions plans be reviewed at least every five years. Approximately 37 per cent of councils have contributions plans at least 10 years old.

This frequency of review is recommended as the design principles and cost of delivery will change over the lifetime of a plan, as will community expectations and infrastructure need. The assumptions underpinning the contributions plan, such as expected density and development outcomes, also change over time and additional infrastructure requirements may be identified as development progresses.

Lack of review can be influenced by many factors, including insufficient resources and skills on behalf of the councils, as well as uncertainty regarding the policy settings.

Issue 3.4: Contributions plans are complex and costly to administer

Contributions plans can be opaque, making it hard for developers to calculate a potential contribution liability and the community to know what infrastructure it can expect and when. Many plans are not updated in a timely manner, leading to issues with cost escalation, outdated assumptions, and difficulty meeting community infrastructure needs. Some councils have significant contributions balances, indicating there may be barriers to timely expenditure.

- How could the complexity of s7.11 contributions planning be reduced?
- What are the trade-offs for, and potential consequences of, reducing complexity?
- How can certainty be increased for the development industry and for the community?

Misalignment between timing of payment and delivery of infrastructure

Section 7.11 contributions are imposed as a condition of consent and payments are typically required prior to obtaining a construction or subdivision certificate. Councils have the discretion to allow payments to be deferred to a later stage but typically require a financial security for the full contribution amount. This security requirement effectively neutralises the financing benefits of deferring the payment. The timing of payment is a 'cash flow' issue for councils, that argue a need for early payment to facilitate provision of 'enabling infrastructure'. Timing is also a 'financing' issue for developers as the risk profile for the project is different pre and post construction.

The Department has received requests in response to economic conditions arising due to COVID-19, to allow contributions payments to be deferred, without the need to provide security, until prior to the release of the occupation certificate, rather than the construction certificate. This means payment would occur after the building is constructed, but prior to property settlements being able to occur. By deferring payment until after construction, there is less risk in the project, creating more favourable conditions for the raising of finance. This could create some financial risk for councils, as there is no security to call on in the event of an occupation certificate being released without payment being received. As part of this Review, legislative changes could be considered to provide alternatives to financial securities, such as recording the contribution requirement on the property title.

As noted earlier, timing of payment of contributions is a cash flow issue for councils as they wait to receive funds prior to delivering infrastructure. This practice of waiting for contributions to be collected often prioritises roads and drainage infrastructure over open space and community facility infrastructure, as it is considered 'essential' to unlock development capacity. An alternative to waiting for contributions to be received is for councils to borrow money to finance infrastructure that could be repaid as contributions are collected. This would increase capacity to deliver infrastructure, facilitate improved sequencing of infrastructure delivery and support growing communities. Despite programs such as the Department's *Low Cost Loan Initiative*[1], many councils remain reluctant to fund infrastructure by borrowing because of the:

- impact on debt servicing costs
- risk that the contributions plan will not recover the full amount to service the loan
- perception they would be assuming financial risk associated with private development
- public attitudes to debt and the political risk associated with being perceived as a 'poor financial manager'.

Issue 3.5: Timing of payment of contributions and delivery of infrastructure does not align

Developers want to delay the payment of contributions to the occupation certificate stage to support project financing arrangements. This would delay receipt of funds to councils and, in the absence of borrowing funds, may delay infrastructure delivery.

- What are the risks or benefits of deferring payment of infrastructure contributions until prior to the issuing of the occupation certificate, compared the issuing of a construction certificate? Are there options for deferring payment for subdivision?
- Would alternatives to financial securities, such as recording the contributions requirement on property title, make deferred payment more viable?
- Would support to access borrowing assist councils with delivering infrastructure? What could be done to facilitate this? Are there barriers to councils to accessing the Low Cost Loans Initiative?
- What else could be done to ensure infrastructure is delivered in a timely manner and contributions balances are spent?

[1] The *Low Cost Loans Initiative* assists councils with the cost of new infrastructure by funding 50% of the interest paid on borrowings related to infrastructure.

High contribution rates related to rising infrastructure costs

Contribution rates are variable across New South Wales with rates in high growth areas being a concern. Some greenfield areas, for example, are experiencing contribution rates of $80,000 per dwelling or more. Some stakeholders argue high contribution rates are negatively impacting on the feasibility of some developments, particularly where these costs are not known early in the process. An alternative view is that, rising costs reflect broad market conditions and their impact on the feasibility of projects—while unwelcome—inevitably reflect market trends. It would therefore be better to address the underlying reasons for rising costs, rather than how this feeds through into the contributions system.

Reasons for high contribution rates are often associated with the cost of land acquisition and more detail on this is provided in Chapter 4.

Contributions capping

In 2009, the then Government introduced caps on s7.11 contribution rates of $20,000 per dwelling. This was later increased to $30,000 per dwelling in greenfield areas. Contributions plans with rates above this threshold were subject to an IPART review, with the approved excess in specified areas funded by the State. Most recently, these State subsidies were provided through the Local Infrastructure Growth Scheme. Beginning in 2017, the subsidies were reduced, with the funding scheme closing on 30 June 2020. The thresholds nevertheless remain in terms of being a trigger for a review by IPART.

The caps were put in place to sustain housing supply amidst the 2008-09 Global Financial Crisis and were aimed at stimulating construction activity. The cost of providing infrastructure, and thus the contribution rates charged to development is, however, a signal of economic efficiency. Removal of these signals has therefore delivered less efficient development patterns. Moreover, over time it is likely that these subsidies were ultimately taken up in terms of higher land values. Further context for contributions caps and the Local Infrastructure Growth Scheme is provided in Appendix B.

IPART review of contributions plans

IPART reviews contributions plans based on 'reasonable costs', that is that the contribution rate is based on a reasonable estimate of the cost of providing the public amenities and services. Some industry stakeholders assert IPART should instead review plans based on 'efficient costs', reflecting the most cost-effective means of achieving a desired level of service.

While an IPART review ensures the reasonableness of contributions plans, the process also adds significant time to plan approvals. Analysis by the Department indicates the review process—including steps undertaken by councils, IPART and the Department—can take in excess of 12-18 months to complete (DPIE, April 2020). This can significantly delay development or result in development progressing but paying a contribution rate from a previous outdated plan.

IPART assessment ensures plans are limited to items on the 'essential works list' (see Box 3.2). This means infrastructure not on the list must be funded by other means, such as council rates, fees and charges, or grants. Of major concern to councils is that the plans can only fund the land for community facilities, and not the cost of their construction. This has a greater impact on 'greenfield' councils, where the high demand for infrastructure (and particularly land for open space and drainage) usually pushes contribution rates over the $30,000 threshold, requiring the removal of any items not on the list. Both the construction and maintenance of new community facilities must therefore be funded from ordinary council rates, potentially requiring existing residents to fund facilities benefiting new residents.

Other issues arising with the essential works list include:

- Councils argue they do not have enough fiscal flexibility to fund infrastructure not on the essential works list. As discussed in Chapter 2, grants have conditions attached and rate pegging constrains own source revenue. This either places pressure on council finances or means the necessary infrastructure is not delivered. In either case this can reduce confidence in the planning system and engender community opposition to growth.
- The list is more easily applied to greenfield than infill areas. For example, there is no flexibility to allow councils to upgrade existing open space or community facilities, rather than buy land, which can be prohibitively expensive in the infill setting.
- The essential works list allows for 'base level' embellishment of open space, providing for some community needs, but leaving construction of higher order recreation facilities unfunded. Additionally, 'base level' provision does not allow for durable open space landscapes and fixtures, leading to higher maintenance costs and potentially earlier need for replacement.

Box 3.2: Essential works list

Items included on the essential works list include:

- land for open space, including base level embellishment
- land for community services libraries
- land and facilities for transport, but not including carparking
- land and facilities for stormwater management
- the costs of plan preparation and administration

Source: DPIE Local Infrastructure Contributions Practice Note (2019)

Issue 3.6: Infrastructure costs and contributions rates are rising

Infrastructure costs are rising—particularly for land acquisition—as are contribution rates. Caps and thresholds introduced to encourage sector activity have, however undermined important market signals for development efficiency and are now likely to be reflected in higher land values.
The application of the essential works list can put councils' finances under pressure given their current inability to expand their rate base in line with population growth.

- Currently IPART reviews contributions plans based on 'reasonable costs', while some assert the review should be based on 'efficient costs'. What are the risks or benefits of reframing the review in this way?
- Should the essential works list be maintained? If it were to be expanded to include more items, what might be done to ensure that infrastructure contributions do not increase unreasonably?
- What role is there for an independent review of infrastructure plans at an earlier point in the process to consider options for infrastructure design and selection?

Section 7.12 Fixed Development Consent Levies

Section 7.12 fixed development consent levies were introduced in 2005 as a simpler and less administratively costly alternative to s7.11 contributions plans. They are charged as a fixed percentage of development costs and generally used:

- where it is difficult to establish a 'nexus' and 'apportionment' of costs
- in regional areas, infill areas, or mixed-use sites where growth is difficult to predict.

Unlike s7.11 contributions plans, councils do not have to demonstrate a link between revenue collected and the infrastructure it funds. In the case where both types of local infrastructure contributions apply to a given area, the development is only liable for contributions under one.

Low maximum levy rate

The Regulation sets one per cent as the maximum councils can levy under s7.12, with some exceptions (generally in strategic centres). This low ceiling could explain the limited take up of this mechanism, as one per cent is generally much less than would be collected under a s7.11 contributions plan. Equivalent s7.11 contributions are generally in the range of 7.0 or 8.0 per cent in greenfield areas. Similarly, one per cent of development cost does not reflect the high cost of infrastructure in infill areas, where land acquisition costs are significant.

In April 2020, the Department exhibited a discussion paper that proposed a set of potential criteria to be used in assessing requests for a higher maximum percentage for s7.12 levies. The paper proposes to allow councils to request a higher percentage of up to three per cent for specified areas, if they meet the relevant criteria.

Low need for nexus

Councils are required to develop infrastructure delivery plans for s7.12 consent levies. There is, however, no requirement for a direct connection between developments generating the revenue and the infrastructure it is spent on. Consent levies therefore cannot be appealed on the grounds of a lack of nexus. The lack of a requirement for nexus is balanced by the low maximum percentage.

Inconsistent application and windfall gains

Other issues identified with s7.12 development consent levies include:

- the inconsistent application of the levies when the consent authority is not the council (i.e. a Planning Panel or the Minister for Planning and Public Spaces)
- windfall gains from developments with high delivery costs but low infrastructure demand such as solar farms.

Issue 3.7: The maximum s7.12 rate is low but balanced with low need for nexus

Section 7.12 local infrastructure levies are low and do not reflect the cost of infrastructure.

- Given that the rationale for these low rates reflects the lower nexus to infrastructure requirements, what issues might arise if the maximum percentages were to be increased?
- What would be a reasonable rate for s7.12 development consent levies?

Section 7.24 Special Infrastructure Contributions

Special infrastructure contributions (also known as SICs) are levied by the State in some growth areas of Greater Sydney and regional New South Wales. They are applied to 'Special Contributions Areas', as determined by the Minister for Planning and Public Spaces.

The special infrastructure contribution framework is administered by the Department and is set by a Determination, Ministerial Direction, and Ministerial Order. A 'Special Contributions Area Infrastructure Fund' (a special deposits account) has been established to facilitate the collection and payment of financial contributions. It is managed by the Department in consultation with Treasury.

Currently special infrastructure contributions are applied in the following areas:

- Western Sydney Growth Centre
- Gosford Town Centre
- Wyong Employment Zone
- Warnervale.

There are also proposals for special infrastructure contributions in the Hunter, Greater Macarthur, Wilton, St Leonards/Crows Nest, Rhodes and Northwest Growth Area.

Lack of guiding principles

Special infrastructure contributions were introduced to strengthen delivery of state infrastructure in areas where there would be coordinated growth. They provide an efficient and equitable mechanism to enable some infrastructure cost recovery while helping to ensure that development is serviced in a timely way. Unlike other mechanisms the Act is not, however, prescriptive in how they can be used.

Over time the way special infrastructure contributions have been applied has changed incrementally. Some of these changes include:

- discounts applied during the Global Financial Crisis remain in place over a decade later (see Appendix B)
- changes to the way the rate is calculated in different areas (percentage of construction costs, rate per net developable hectare and rate per dwelling)
- restrictions in the scope of infrastructure that can be funded by special infrastructure contributions, such as allowing recovery of land acquisition costs for schools and hospitals, but not cost of construction; and transport interchanges but not rail lines in between.

The unintended consequence of incremental decisions, discounted contributions and increased development potential is to significantly increase the Government's infrastructure liability.

Lack of transparency

There is limited transparency around how a special infrastructure contribution rate is calculated for a given area. Special infrastructure contributions, unlike other mechanisms, include a 'capacity to pay' assessment. This opens the system to interpretation and variability. It also means different rates can be set across different areas within a special infrastructure contributions area, decreasing transparency and certainty.

Currently, payments are collected and allocated to projects by the Department. The allocation of funds to specific infrastructure projects is separate to Treasury's budget process, which has at times lead to competing priorities, uncoordinated infrastructure investment, and inefficiency. There is limited reporting on how projects are assessed, and funds are allocated.

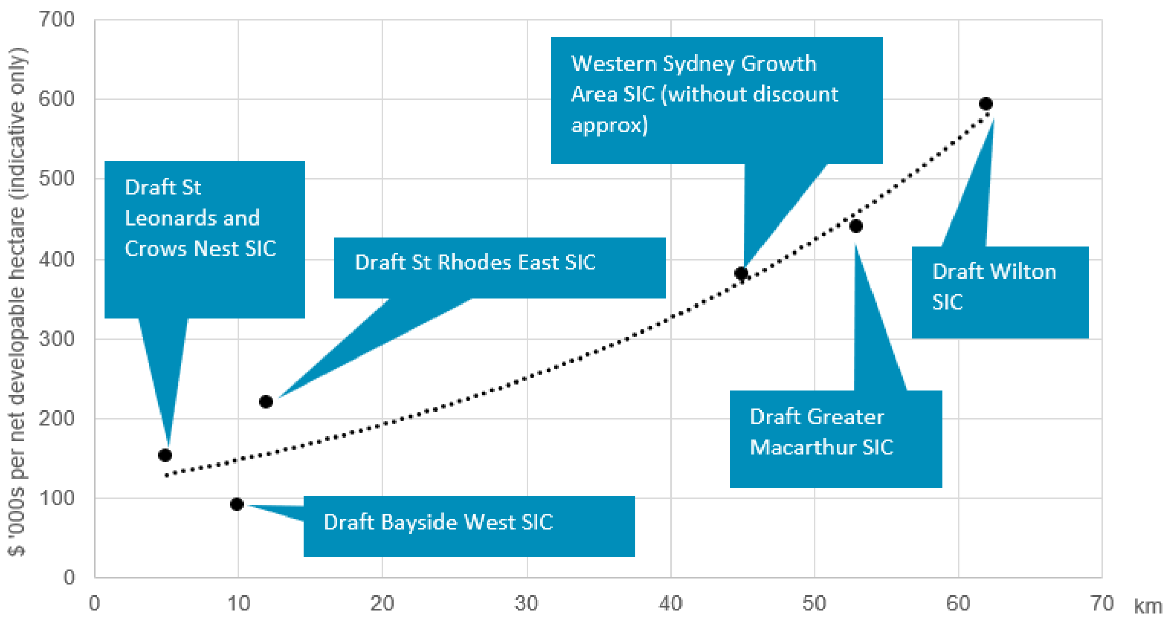
Special infrastructure contributions as a tool for out-of-sequence rezoning

There is a more recent trend toward the use of special infrastructure contributions to address requests by developers for out-of-sequence rezoning of land, underpinned by a policy of 'no cost to government'. This term is perhaps misleading, as there remains an infrastructure cost or 'contingent liability' that Government must ultimately fund, including provision of schools, hospitals, emergency services and the like. It is sometimes also described as 'no additional cost to government', which perhaps better reflects the expectation that governments will invest to deliver services to the growing population, wherever this growth occurs.

This approach by the state is part of a framework that seeks to recover more of the infrastructure costs from development. On the one hand, this approach might be considered inequitable, making development more expensive in some areas. On the other hand, this might be considered an appropriate price signal, as development that makes better use of existing infrastructure is more efficient and should be encouraged.

Figure 3.5 highlights how the special infrastructure contributions rates rise with distance from central Sydney.

Figure 3.5: Special infrastructure contribution rates and distance from central Sydney



Source: DPIE

Issue 3.8: Limited effectiveness of special infrastructure contributions

Special infrastructure contributions were introduced to strengthen delivery of state infrastructure. They can be an efficient and equitable mechanism for modest infrastructure cost recovery, while helping to ensure that development is serviced in a timely way. Over time, incremental changes and *ad hoc* decisions have, however, led to inconsistencies in their application, which may have limited their effectiveness.

- Is it appropriate that special infrastructure contributions are used to permit out-of-sequence rezoning?
- Should special infrastructure contributions be applied more broadly to fund infrastructure?
- Should they be aligned to District Plans or other land use planning strategies?
- Should the administration of special infrastructure contributions be coordinated by a central Government agency i.e. NSW Treasury?

Biodiversity offsetting under special infrastructure contributions

Special infrastructure contributions can also be used to collect funds for biodiversity offsetting. This has been applied in Sydney Growth Centres through a $530 million Conservation Fund, which is helping deliver 2,500 hectares for employment uses and more than 180,000 homes. Initially, 75 per cent of the funding was sourced from special infrastructure contributions, but this has since been reduced to 50 per cent.

The Cumberland Plain Conservation Plan comprises the impact assessment, avoidance, and mitigation measures and the conservation program for Greater Sydney's Western Parkland City. This includes biodiversity offsets, for which special infrastructure contributions have been identified as a potential funding mechanism.

These plans have multiple environmental and productivity benefits as they coordinate land management and approvals processes; however, the acquisition of conservation lands can only occur with a secure ongoing funding mechanism. Using special infrastructure contributions for this has several issues including:

- Land acquisition cost is the main cost associated with biodiversity offset schemes. As the cost of land increases significantly faster than the index used in calculations, this creates a funding shortfall that is borne by the state government.
- Slow implementation of draft determinations and lack of oversight around the rate of cost recovery results in a reduced proportion of the biodiversity offset cost being recovered.
- Works-in-kind provisions allow developers to fulfil their biodiversity offset obligation through unrelated works such as road construction.

Issue 3.9: Difficulty funding biodiversity through special infrastructure contributions

Biodiversity offsetting is a key part of the plan for developing Greater Sydney and requires a secure source of funding. The application of special infrastructure contributions to support this has been inconsistent.

- Should implementation of special infrastructure contributions for biodiversity offsets be subject to a higher level of independent oversight?
- Are special infrastructure contributions the appropriate mechanism to collect funds for biodiversity offsetting, or should biodiversity offsets be managed under a separate framework?

Section 7.32 Affordable Housing Contributions

Section 7.32 of the Act allows consent authorities to levy contributions for affordable housing. *State Environmental Planning Policy No. 70 – Affordable Housing (Revised Schemes)* ('SEPP 70') provides the framework for councils to develop these schemes. From February 2019, SEPP 70 has been expanded to encompass all local government areas. Contributions can be fulfilled either by monetary payment, dedication of dwellings, or a combination of both. In this approach, planning agreements are used to secure affordable housing as a community benefit, in exchange for additional height and floor space.

Special infrastructure contributions can also collect contributions for affordable housing if it is listed in the schedule of works, though not in conjunction with SEPP 70. The application of affordable housing contributions does not affect the levying of s7.11 or s7.12 local infrastructure contributions.

The Greater Sydney Region Plan recommends an Affordable Rental Housing Target generally in the range of 5–10 per cent of new residential floor space in areas identified for rezoning. Each scheme must, however, demonstrate that the inclusion of affordable housing contributions will not impact the viability of development that area. There is, therefore, no set percentage for affordable housing contributions.

Issue 3.10: Affordable housing

Affordable housing contributions are made on top of other infrastructure contributions. The percentages are determined individually, and each scheme must demonstrate the rate does not impact development viability.

- Is provision of affordable housing through the contributions system an effective part of the solution to the housing affordability issue? Is the recommended target of 5-10 per cent of new residential floorspace appropriate?
- Do affordable housing contributions impact the ability of the planning system to increase housing supply in general?

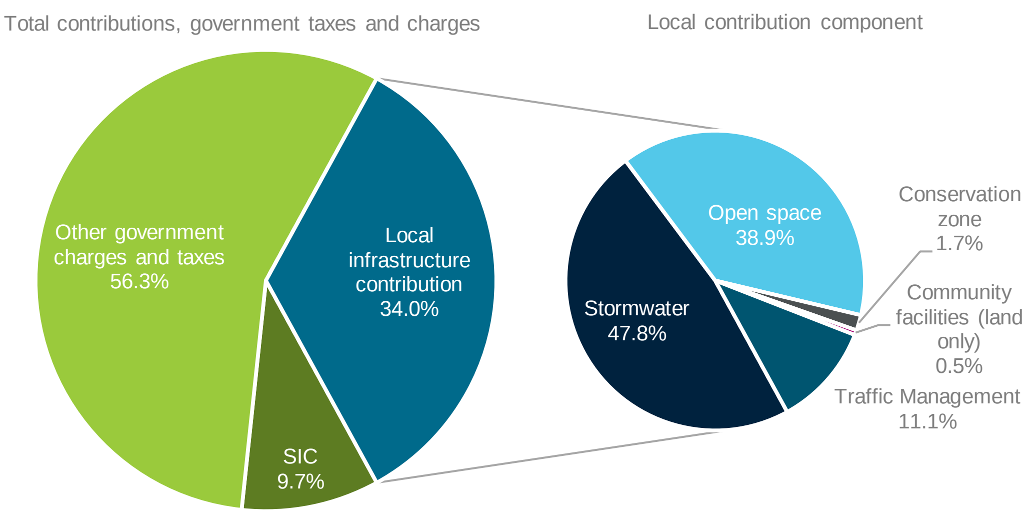
b. Development case studies

The infrastructure contributions and other government taxes and charges shown in these worked case studies only represent a small proportion of the total cost of development (as demonstrated in Table 3.1). The figures below have developed using the average percentage costs from Table 3.1 to estimate the 'other government taxes and charges' on the development. Local contributions and special infrastructure contributions have been calculated with reference to relevant plans and reflect a higher percentage of costs than shown in Table 3.1 as they relate to a specific development and not a general average.

Greenfield development

Development	Charge	Per dwelling	Total (24 dwellings)
• Hypothetical construction of **24 residential dwellings** in a high growth greenfield subdivision • Development is charged contributions for both local and State infrastructure • Other Government taxes and charges include GST, stamp duty, company tax, other utility and council fees	Local infrastructure contributions	$54,267	$1,302,419
	Special infrastructure contribution[2]	$15,426	$370,224
	Other government charges and taxes	$89,800 (approx.)	$2,155,200

Figure 3.6: Greenfield infrastructure contribution broken down by component

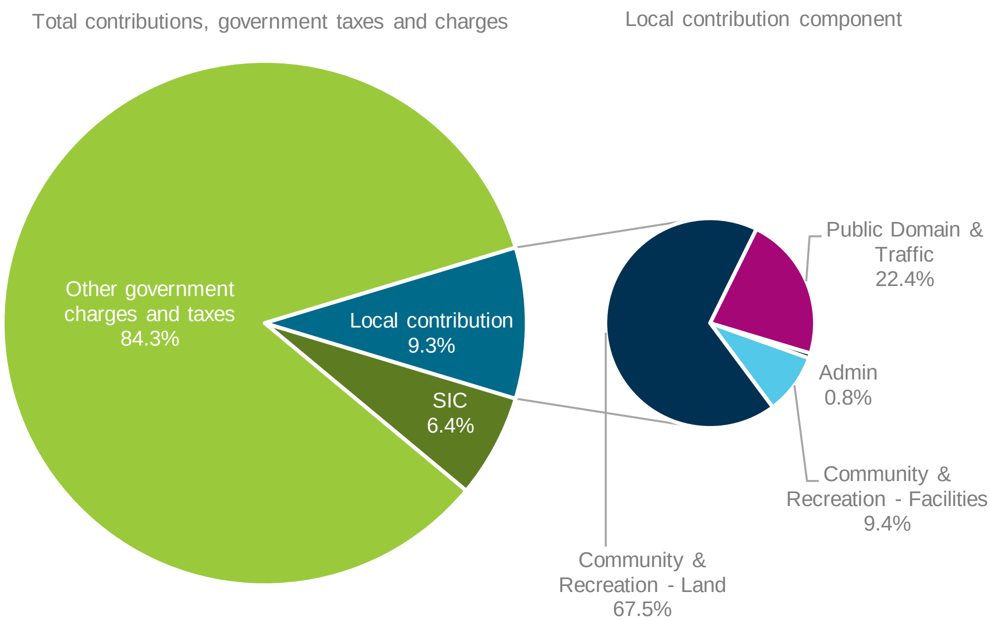


[2] Assumes proposed Draft North West Growth Area SIC is determined

Infill high rise development

Development	Charge type	Per dwelling	Total (654 dwellings + commercial/retail)
• Mixed use development including two residential towers (654 apartments), significant retail & commercial space • Currently only local infrastructure contributions apply • A draft SIC for State infrastructure has been exhibited, and this was used for calculations	Local infrastructure contribution	$12,770 - $42,568	$14,148,926
	Special infrastructure contribution[3]	$15,000	$9,705,000
	Other government charges and taxes	$196,000 (approx.)	$128,184,000

Figure 3.7: Infill infrastructure contribution broken down by component



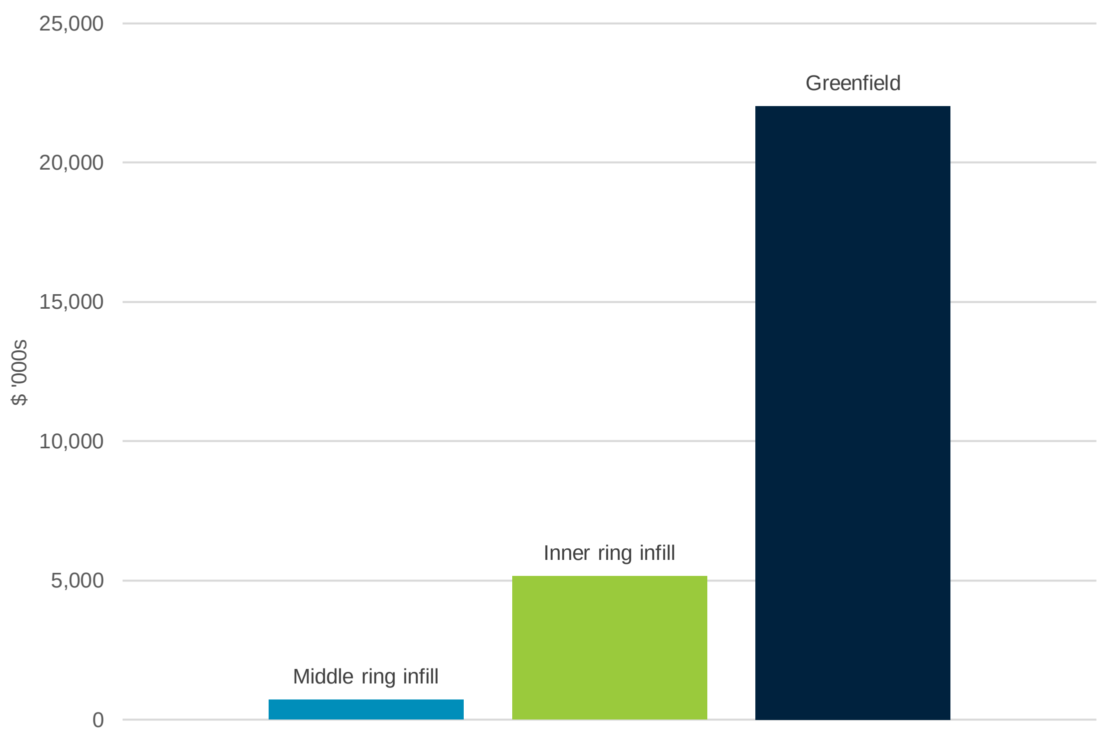
[3] Assumes proposed Draft St Leonards and Crowns Nest SIC is determined

Non-residential development

Contributions payable can differ significantly depending on where development occurs and the type of contributions applicable to the area. The following example examines the contribution charged on the same industrial development if it was located in three different areas.

Example industrial development	Location	Type of contribution	Amount payable
• Nine industrial units ranging in area from 383 sqm – 1,128 sqm • 3.02 hectare land size • 6,518 sqm increase in gross leasable area • $7,150,000 cost of work	Middle ring infill	s7.12 fixed levy	$71,500
	Inner ring infill	s7.11 local infrastructure contributions	$514,636
	Greenfield	s7.11 local infrastructure contributions and SIC	$2,202,651

Figure 3.8: Comparison of same example development in different areas



Chapter 4: Further issues in infrastructure contributions

a. Property owners benefit from public investment in infrastructure

Public investment is capitalised into land values

The benefits of economic infrastructure—particularly roads, rail, bus and ferry services—are often geographically concentrated. This improvement in amenity is capitalised into the value of nearby land. The value of much public investment is therefore largely captured by existing property owners.

The amount of value capitalised will depend on the benefits of the infrastructure delivered. This could include:

- travel time savings
- comfort, reliability, and frequency
- avoided costs associated with switching modes, such as fuel and vehicle depreciation
- re-zonings *enabled* by infrastructure, e.g. 'city-shaping' projects such as metro rail lines.

Some have argued that the increase in land value as a result of public investment should be shared through a 'value capture' contribution. This contribution would provide a funding source that could be spread across a wider range of beneficiaries. In some instances, the State uses special infrastructure contributions for the provision of major infrastructure, but these arrangements are confined to specific locations. While special infrastructure contribution schemes can help fund some infrastructure, their *ad hoc* application means they provide only limited funding.

Issue 4.1: Sharing land value uplift

If investment in public infrastructure increases land values, then the benefits are largely captured by private property owners. 'Value capture' mechanisms can return a share of the value created by public investment to the taxpayer.

There are several ways a 'value capture' mechanism could be applied, including land tax, council rates, betterment levy, or an infrastructure contribution.

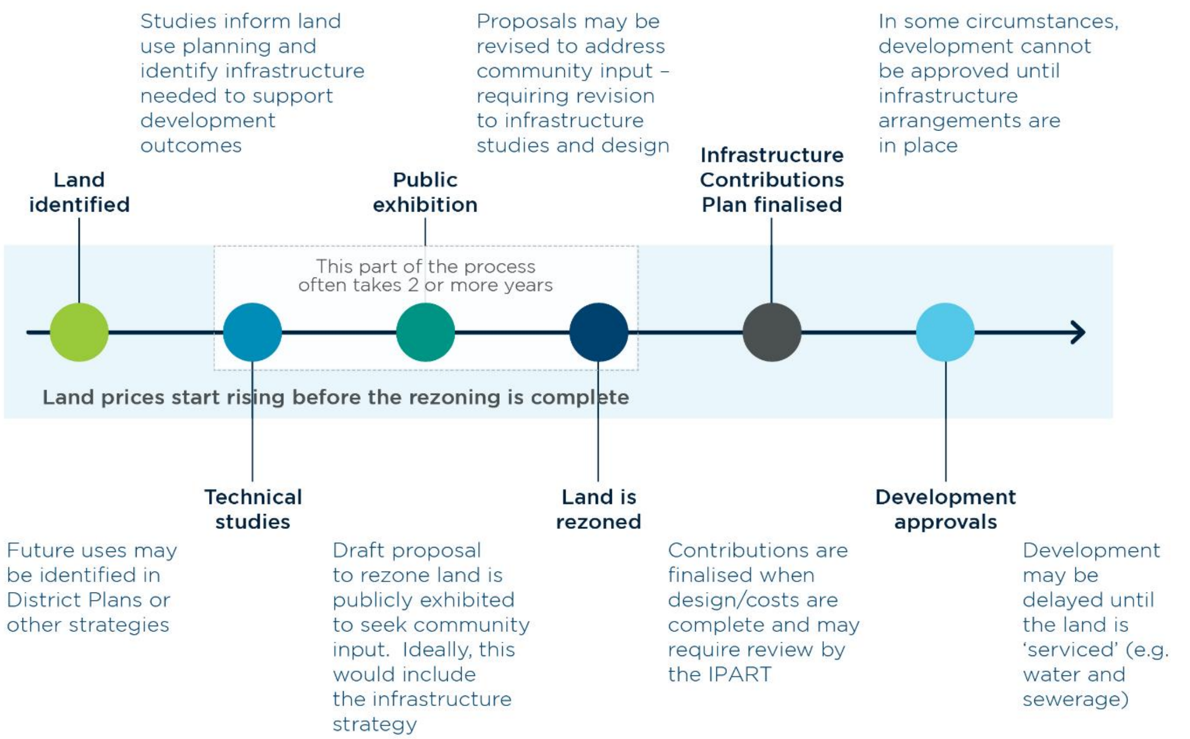
- Where land values are lifted as a result of public investment, should taxpayers share in the benefits by broadening value capture mechanisms? What would be the best way to do this?

b. Land acquisition and rising land values

Land values are subject to significant market cycles

Land acquisition costs are an issue across infrastructure types, jurisdictions and contribution mechanisms. A disconnect between infrastructure planning, land use planning, and land acquisition can have financial implications for both State and local governments. Land values can increase significantly—and increase rapidly—in response to, or through speculation about, government announcements on future urbanisation, potential transport investments and zoning changes. These forces can increase costs for Government because land for infrastructure is invariably not acquired until a later time, usually after rezoning. Figure 4.1 below describes key steps in the land rezoning and development process.

Figure 4.1: Overview of rezoning and development process



Issue 4.2: Land values that consider a future infrastructure charge

When land is rezoned, there is often an increase in land values as a result of the change in development potential.

- Should an "infrastructure development charge" be attached to the land title?

Early acquisition of land is often cited as an option to reduce the costs of providing infrastructure, but this is dependent on the availability of funding. As outlined in this Paper, the State budget is constrained and there is strong competition among infrastructure projects for funding.

Another option cited for reducing the cost of land acquisition is to require land to be dedicated as part of the development process. While this would remain a part of the cumulative cost of development, it may offer a way forward in addressing funding shortfalls that arise from collecting funds early, for purchase of land later, after prices have increased.

Issue 4.3: Land acquisition for public infrastructure purposes

Requiring the direct dedication of the land that is needed for infrastructure purposes is an option that aims to address the problem of rapidly increasing land values.

- If supported, how could direct dedication be implemented? How could this be done for development areas with fragmented land ownership?
- Could earlier land acquisition be funded by pooling of contributions, or borrowings?
- Are there other options that would address this challenge such as higher indexation of the land component?

Determining the correct cost escalation for land values can be difficult

Growth in land values can significantly outstrip growth in consumer and producer prices. For example, over the four years to 2017-18 the price of unimproved land grew by 36 per cent in New South Wales, compared with Sydney consumer price growth of 7.8 per cent (Table 4.1). This is an issue for contributions systems. If funds are collected several years before the land is purchased—depending on the point in the property cycle—the available funds may fall short of what is needed.

Table 4.1: Change in unimproved land values against Sydney CPI

Year	Change (%)	
	Total unimproved land values	CPI (Sydney)
2014-15	20.7	2.0
2015-16	11.3	1.5
2016-17	15.3	2.0
2017-18	5.9	2.1
2018-19	-5.4	1.6

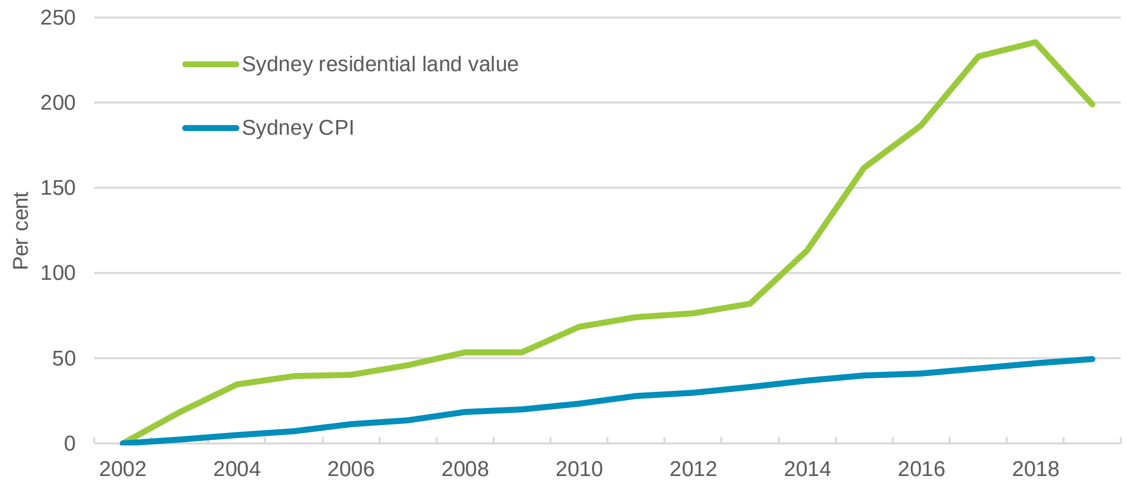
Source: Valuer General's Report on NSW land values at 1 July 2019, ABS 6401.0

It is difficult to make the right assumptions about future property acquisition costs, but some estimate is required if contributions are to be collected in advance. Issues that arise include:

- identifying the **right tool** to forecast changes in property prices—some indices may provide a better fit than Consumer Price Index but are backwards-looking and may not adequately address movements in land value (see Table 4.1 and Figure 4.2)
- contributions need to be **regularly updated** to reflect changing costs as acquisition costs can escalate rapidly
- **consistency** across local governments as, in response to the failure of standard indices, councils have developed bespoke indices—and adjustment mechanisms—for their contribution plans
- **spiralling contributions and land values** as the development process is simultaneously, the trigger for payment of contributions, a signal of future infrastructure investment and a driver of higher land values.

For example, the *Western Sydney Growth Areas Special Infrastructure Contribution* applies the Consumer Price Index to annually adjust the land and works costs. In 2010, the land to be acquired had a value of $1.0 billion. By March 2020, this has reached $1.2 billion. If the land component had been indexed using the Residential Property Price Index (Sydney), the value would have been more appropriately escalated to $1.7 billion. This would have recovered an additional $500 million for land acquisition that is now a cost to be borne by the State. The difference between these two indices is shown in Figure 4.2 below.

Figure 4.2: Movement in Sydney residential land value against Sydney CPI



Source: ABS 6401.0, Valuer General's Report on Long Term Land Value – Trends Residential, DPIE

The *Land Acquisition (Just Terms Compensation) Act 1991* provides the valuation method for the compulsory acquisition of land for government agencies and local councils. The same methodology applies for owner-initiated acquisition in cases of hardship. The market value is based on the highest and best use of the land, disregarding the public purpose zoning. The compensation methodology is based on the principle that the landowner should be in the same or similar position prior to the acquisition of the land. As a result, the amount required may include the market value of the land, plus additional costs such as 'special value', 'disturbance' and 'severance'.

It is possible that the operation of the *Land Acquisition (Just Terms Compensation) Act 1991* is leading to a high cost for land that has limited development potential. This includes riparian and flood affected land.

The Department applies the 'just terms' compensation methodology to Western Sydney Growth Area special infrastructure contribution works-in-kind land dedications. In these instances, the 'highest and best use' valuation will almost certainly exceed the value anticipated in the SIC determination, generating a shortfall to be borne by the State.

Issue 4.4: Keeping up with property escalation

Land values (particularly within the Sydney metropolitan area) can increase rapidly and often increase on early signs of land being considered for future development; well ahead of the rezoning process.

- What approaches would most effectively account for property acquisition costs?

c. Corridors

Corridor protection should be explored to enable early acquisition of land

Corridor protection is the setting aside of land for future construction of major infrastructure, such as motorways or railway lines. The premise is that early acquisition of land minimises costs and maximises the Government's ability to capture value uplift, when it occurs.

> *"Done well, corridor protection reduces the future financial costs of delivering infrastructure, while minimising the social costs of acquiring homes and businesses and disrupting existing communities. It minimises the chance that infrastructure will need to be delivered in expensive tunnels; it protects against a scenario where critical infrastructure goes undelivered as a result of prohibitive costs."*

Source: Infrastructure Australia (2017), *Corridor Protection: Planning and investing for the long term*

But corridor protection involves trade-offs:

- funding must be available at the right time, this involves higher taxes or debt, or fewer resources for other priorities
- depending on zoning and other conditions, the economy can forgo valuable interim uses after protection but before a corridor is used
- depending on the level of government commitment—which can vary as a result of changes in project scope, priority, minister, or governing party—corridors may or may not prove to be necessary

This suggests corridor protection should be subject to comprehensive evaluation before proceeding, including whether the social, economic, and environmental benefits are enough to justify it.

Issue 4.5: Corridor protection

Early identification of corridors has the potential to result in better land use and investment decisions. Without funds available to facilitate their early acquisition, it is likely that being 'identified' would encourage speculation and drive up land values, making the corridor more expensive to provide later.

- What options would assist to strike a balance in strategic corridor planning and infrastructure delivery?

d. Provision of open space

Open space provision is based on a long-standing standard of 2.83 hectares for every 1,000 people. This is believed to be based on historic British standard of seven acres for every 1,000 people. While there is a limited understanding of the historical basis for the seven-acre standard, it has continued to be applied. The limitation of this standard is that it does not recognise the different circumstances involved with providing open space in low-density areas relative to high-density areas.

Both the Greater Sydney Commission and the Department support a performance-based approach towards the provision open space. This would allow for different open space outcomes according to the residential forms, moving beyond a numeric standard. Performance standards would be combined with demographic profiles to plan for open and recreation space, allowing focus to be on outcomes, rather than inputs of land.

Land is the most significant component of the costs of open space provision. In greenfield areas, there may be savings from the location of passive recreation areas on land that is part of the stormwater management system. Community expectations for open space have also increased. For example, playing fields now have lighting for evening use, play equipment comes with shading, safety fencing and soft-fall surfaces.

Issue 4.6: Open space

While the seven-acre open space standard is not based on evidence, it nevertheless continues to be relied upon. Open space provision is moving towards a performance-based approach.

- How can performance criteria assist to contain the costs of open space?
- Should the government mandate open space requirements, or should councils be allowed to decide how much open space will be included, based on demand?
- Are infrastructure contributions an appropriate way to fund open public space?

e. Water charges

New and upgraded metropolitan connections are subsidised

Sydney Water provides potable water, wastewater, and some stormwater services to the Sydney, Blue Mountains and Illawarra regions. It has the status of a State-owned corporation, which requires it to operate on a commercial basis and provide a return on capital to the NSW Government. Hunter Water operates on the same arrangements for the Lower Hunter region.

Presently, costs of new water connections and upgrades to existing connections are not recovered from developers. Charges are, instead, set at zero, with the water entities recovering these costs from all their consumers. These arrangements date back to the NSW Government's response to the 2008-09 Global Financial Crisis and were aimed at supporting the construction sector. The arrangements have remained in place, notwithstanding the passage of time and the recovery of the housing market that began in 2012. (Further detail on the 2009 changes can be found in Appendix B).

As explained in Chapter 1, a principles-based contributions system is one that sets charges based on the cost associated with new developments. This aligns development feasibility with economic efficiency, ensuring the State gets the developments it wants while avoiding those that are costly to service. Reintroducing water connection charges could act as a price signal for the metropolitan construction and water sectors and potentially, incentivise the take-up of recycled water.

Issue 4.7: Metropolitan water charges

Currently, costs of new and upgraded connections for Sydney Water and Hunter Water are borne by the broader customer base rather than new development.

- How important is it to examine this approach?
- What it the best way to provide for the funding of potable and recycled water provision?

f. Better use of digital tools

Better use of digital tools to plan and monitor infrastructure delivery

A consistent concern about the current infrastructure contributions system is the lack of accountability and transparency. While there are requirements for councils to maintain 'contributions registers' and to make these publicly accessible, it is rare to be able to access this information online. Previous reviews have raised issues related to accounting and reporting standards, including the 2018 Kaldas Review of the planning system. The Department has proposed reforms to require more accounting and reporting of contributions received and expended.

Most stakeholders are calling for more information on how infrastructure is planned, including how much money has been collected and where, and when, it is being spent. There is a significant opportunity to take advantage of the technology that is available and use digital tools to plan for infrastructure needs. This could include better mapping of infrastructure and making this available in an interactive format. This would enable the community to understand what is planned. It would also provide greater confidence to the development industry on the timing and availability of supporting infrastructure.

Issue 4.8: Improving transparency and accountability

There are limited infrastructure contributions reporting requirements.

- What would an improved reporting framework look like? Should each council report to a central electronic repository?
- What elements should be included? How much has been collected by contributions plan and other mechanisms? How much council has spent, and on what infrastructure items?
- Should an improved reporting framework consider the scale of infrastructure contributions collected?

g. Skills and experience

Significant skills shortages are experienced in the planning sector

As of the most recent Census, there were 4,460 urban and regional planners working in New South Wales (ABS Census 2016). Local Government NSW (2018) surveyed councils and found urban and town planners were the second highest skills shortage currently affecting the sector. Other skills required to efficiently deliver contributions plans are also lacking, including traffic and stormwater engineering, recreation and social infrastructure planning, and financial accounting (see Table 4.2).

Councils identified major infrastructure projects and growth within the local government area as top reasons for skills shortages.

Table 4.2: Top 10 professional skills shortage occupations listed by councils

Rank	Occupation	Percentage of councils (%)		
		Shortage	Less skilled	Critical issue
1	Engineer	52.7	25.5	45.5
2	Urban and town planner	41.8	25.5	40.0
3	Building surveyor	38.2	20.0	38.2
4	Project manager	21.8	18.2	21.8
5	Environmental health officer	21.8	12.7	23.6
6	Building surveying technician	18.2	10.9	16.4
7	Engineering technician	16.4	10.9	12.7
8	Asset and facilities manager	16.4	3.6	10.9
9	Human resource professional	14.5	5.5	16.4
10	Contract manager	12.7	9.1	12.7

Source: LGNSW (2018)

Issue 4.9: Shortage of expertise and insufficient scale

The ability of the local government sector to efficiently deliver contributions plans are impaired by shortages of skilled professionals and lack of scale for smaller councils.

- What can be done to address this issue?
- Should the contributions system be simplified to reduce the resourcing requirement? If so, how would that system be designed?

h. Exemptions

Issues with existing exemptions can outweigh its potential benefits

Exemptions, or partial exemptions, remove, or reduce, the contribution required for developments that provide a public benefit. This revenue is, however, lost to councils, as there are no alternative funding sources, thus impairing their ability to deliver local infrastructure. The current contributions system largely prevents these costs from being recovered from other developments meaning exemptions can create financial shortfalls for local government.

Current, exemptions are available through Ministerial Directions, State Environmental Planning Policies, Planning Circulars, Regulations, special infrastructure contribution determinations, and contributions plans individually. The result is a system that is both complex and inconsistent, with some development being exempt from one type of contribution mechanism, but not another. This is summarised in Table 4.3 below.

Table 4.3: Exemptions by type of development and contribution mechanism

Type of Development	Type of Exemption		
	Section 7.11	Section 7.12	Special Infrastructure Contributions
Seniors Housing (provided by Social Housing Provider)	Fully exempted by Ministerial Direction	Fully exempted by Ministerial Direction	No overarching exemption
Student Accommodation	No overarching exemption	No overarching exemption	No overarching exemption
Affordable housing (Crown)	Partly exempt by Circular D6	Fully exempt by cl25J of Regulation	Multiple approaches
Affordable housing (Other)	No overarching exemption	Fully exempt by cl25J of Regulation	Multiple approaches
Educational establishments (Crown)	Partly exempt by Circular D6	No overarching exemption	Fully exempt (schools and TAFE)
Educational establishments (Private)	No overarching exemption	No overarching exemption	Fully exempt across all SICs
Law/Order services (Crown)	Partly exempt by Circular D6	No overarching exemption	No overarching exemption
Health services (by public authority)	Partly exempt by Circular D6	No overarching exemption	Fully exempt across all SICs
Public utility undertakings	No overarching exemption	No overarching exemption	Fully exempt across all SICs
Complying development	No overarching exemption	No overarching exemption	Multiple approaches

Source: DPIE

Other issues with existing exemptions arrangements include:

- Guidance on what types of development should and should not be subject to exemptions is fragmented across sources and not regularly updated. This includes Circular D6, last revised in 1995 and including redundant or outdated content.
- The lack of overarching principles for exemptions makes the system highly discretionary, which has led to uncertainty as different consent authorities take different approaches.
- Many stakeholders have reported that the current exemptions policy framework is unresponsive to contemporary trends. This includes increase in mixed-use developments and the increasing role for the private sector in providing public services.
- Exemptions tend to be linked to a specific contribution type. This has introduced inconsistency between different types. For example, exemptions for Crown development provided in Circular D6

only apply to s7.11 contributions. This could be remedied by applying standard principles across all classes.

Issue 4.10: Current issues with exemptions

Exemptions from contributions are complex as they are set out across a range of planning documents and are inconsistent across contribution mechanisms.

- Given that all developments require infrastructure, should there be any exemptions to infrastructure contributions?
- Is it reasonable to share the cost of 'exemptions' across all of the new development rather than requiring a taxpayer subsidy?
- Are there any comparative neutrality issues in the providing exemptions for one type of development, or owner type, over another?

i. Works-in-kind

Works-in-kind agreements

A developer can offer to satisfy their development contribution obligations through the provision of 'works-in-kind'. Acceptance of an offer is at the discretion of the council (for local contributions) or the State (for special infrastructure contributions). While similar to a planning agreement, a works-in-kind agreement has some important differences:

- the works-in-kind agreement relates to satisfying an obligation to make a development contribution that has been imposed as a condition of development consent
- the works are identified in the relevant contributions plan or SIC determination
- the agreement does not need to be publicly exhibited.

Works-in-kind agreements have benefits to government as they result in timelier provision of infrastructure, often at less cost without the need for procurement processes. An advantage for developers is that they can prioritise the infrastructure required directly for their development. They may be able to realise savings if they can include the infrastructure into contracts for existing works for the development.

Potential disbenefits of works-in-kind agreements include:

- they prioritise some infrastructure types (commonly roads) at the expense of other infrastructure types (such as open space and biodiversity offsets)
- inconsistency in approach to the valuing of works
- funding shortfalls where the agreed value is higher than the cost estimate
- high potential for disputes including scope of work, design standards and specifications and defects rectification.

Works-in-kind credits and special infrastructure contributions

As a developer completes work or dedicates land, the value of the works and land is offset against development contribution obligations. Where the value of the works and land exceeds the obligation, a 'credit' is recognised. Developers may draw down on works-in-kind credits to offset the payment of a monetary special infrastructure contribution on further development applications. The remainder of any contribution owed, that is not covered by works-in-kind, is paid in cash. Developers may accrue works-in-kind credits that exceed their monetary contributions.

Some developers have sought a tradeable credits scheme to allow for the sale of credits to a third party. Developers are currently able to use their works-in-kind credits anywhere within the Western Sydney Growth Area, but not to sell them to a third party.

Issue 4.11: Works-in-kind agreements and special infrastructure contributions

Works-in-kind agreements can realise savings and efficiencies, but they can result in infrastructure being provided out of the planned sequence and prioritise delivery of some infrastructure (such as roads) at the expense of other infrastructure (such as open space and biodiversity offsetting).

- Should developers be able to provide works-in-kind, or land, *in lieu* of infrastructure contributions?
- Developers may accrue works-in-kind credits that exceed their monetary contribution. Should works-in-kind credits be tradeable? What would be pros and cons of credits trading scheme?
- What are implications of credits being traded to, and from, other contributions areas?

Chapter 5: The way forward for this Review

The following issues have been identified for further exploration with stakeholders:

- **Local government rate pegging** creates a financial disincentive for councils to accept growth and increases their dependence on other revenue sources such as infrastructure contributions. The recently announced reforms to the rate peg to include a population growth factor is supported as an important step to providing councils with a funding source to further support their growing communities. It is also complementary to reform of the infrastructure contributions system.
- **Rising infrastructure costs—**particularly through rising property prices—pose a financial risk to councils and developers by inflating the cost of contributions plans. Options to address property acquisition for public infrastructure purposes will be a key focus area.
- **Inconsistency in the application of s7.24 special infrastructure contributions** as a result of incremental and ad hoc changes may have limited their effectiveness in state infrastructure provision. Opportunities exist to improve funding allocation to infrastructure projects and to make more effective use of works-in-kind to facilitate timely provision.
- **'Nexus' requirements in s7.11 contribution plans** add complexity and imposes administrative burden on councils in preparing local contributions plans. There is a clear need to find a balance between the principles of equity, efficiency and certainty that retains the best features of the current system but is more easily understood.
- **Lack of principles in s.7.4 Planning Agreements** enables flexibility of planning agreements but creates uncertainty and undermines confidence in the planning system. While the Department has done some work to address this, questions remain about the role of planning agreements in a reformed infrastructure funding framework.
- **Lack of transparency and certainty** in the way contributions are calculated and spent on infrastructure provision needs to be addressed. There are opportunities to make better use of digital tools in project planning and when communicating costs, timing, and delivery to all stakeholders.
- **Misalignment between contributions payments and delivery of infrastructure**, particularly as councils may wait for the full cost to be collected through the contributions plan instead of borrowing to fund timely delivery. Earlier delivery of infrastructure—particularly earlier property acquisition—is an opportunity to reduce costs and risk. Options to fund this will be considered.
- **Operation of the essential works list** has restricted the ability to deliver some types of infrastructure, most notably, community facilities. Works excluded from the essential works list are difficult to fund and deliver, especially because of rate pegging.

While early consultations have been limited in scope, we have been struck by both the consensus the system needs reform and the passion for a more sustainable infrastructure funding model. There are, and will continue to be, strong and differing opinions both within and between stakeholder groups, which this process will seek to balance.

Your input into this Review is important to ensuring we hear from all stakeholders to deliver recommendations that are implementable, balanced, and lead to clear improvements in how infrastructure is delivered in New South Wales.

Public submissions to the Issues Paper are encouraged to provide feedback to the discussion questions identified throughout this Paper. Stakeholders are invited to lodge submissions to the Review via ICReview@productivity.nsw.gov.au.

Appendix A

Key concepts and terms associated with the current contributions system

Term	Definition
Public infrastructure	This is a broad term and can have many meanings. While not seeking to be definitive, in this Paper we are generally referring to infrastructure that are 'public goods' and needed to support growing communities. This could be delivered at a range of scales and includes, but is not limited to: ▪ roads and road networks, pedestrian and cycle paths ▪ public transport, including transport interchange facilities ▪ water cycle management ▪ open space for passive and active recreation purposes ▪ biodiversity conservation and management ▪ community facilities such as community centres and libraries, schools and hospitals ▪ utility services such as water and sewer, electricity, gas, telecommunications. The *Environmental Planning and Assessment Act 1979* refers to *"public amenities or public services"* but notes that this does not include 'water supply or sewerage services'. This is because water and sewerage services are dealt with under different legislation. In this Paper, we do consider utility services as part of the infrastructure needed to support growing communities.
Scale of infrastructure	Infrastructure is sometimes described as being 'local, 'district' or 'regional'. This is a reference to the scale of provision. Typically, local government (also referred to as councils) provide local infrastructure. This is at a scale that tends to relate to suburbs or precincts. Regional infrastructure is typically provided by the State Government. District infrastructure (servicing more than the local population, but not as large as a regional population) can sometimes be missed in the current development contributions system.
'User pays' principle ('Impactor pays')	The development contributions system is founded in the 'user pays' principle, which is a pricing approach based on the idea that those who use the goods should pay the cost of those goods – in this case, infrastructure. While the planning system refers to 'user pays', the term 'impactor pays' is used in this Paper and is perhaps more accurate. In a nutshell, this principle is: those that generate the **need** for the infrastructure should pay for it. Some of the contribution mechanisms under the Act have very specific principles of 'nexus' (or demand) and 'apportionment' (cost sharing) that are important to how the levy is collected, others do not.

Term	Definition
'Nexus' and 'apportionment' principles	These principles are specific to s7.11 contributions. This means that development must only pay for its share of the demand that it generates. These rules are a source of significant complexity in the current contributions system. There must be a link between the development and the need for the infrastructure. This is sometimes relatively simple to determine, such as for drainage catchments, where there is a clear physical topographical boundary. However, it becomes more difficult to determine, such as for the local road network which can be used by people from other areas. When preparing a s7.11 Contributions Plan, the council forecasts the amount of net additional development it expects. It the plans for the infrastructure that will be needed to support the development and estimate its cost. A determination of how much of the infrastructure will be required as a result of that additional development is made, and how much is used by others (which cannot be charged to that additional development and must usually be funded from the council's general revenue). Development potential is measured in a demand unit. For residential development, this is most commonly a 'rate per person'. For non-residential development, this could be a 'rate per worker'. Other methods include vehicle trip generation, or land area (particularly for drainage works). <u>Simple example</u> ▪ 12 existing parcels of land that each have one house located on them are going to be consolidated and then subdivided to create 100 new house and land packages. ▪ Each house has an average occupancy rate of 3.1 people. ▪ A new park is planned for use by 10,000 people. ▪ The park will cost $800,000 to build. **Step 1: Calculate the number of future residents** 100 x 3.1 people per household = 3,100 total residents 12 x 3.1 people per household = 37.2 existing residents Total net additional residents = 3,062.8 people **Step 2: Calculate the cost of the park per person** $800,000 / 10,000 = $80 per person **Step 3: Calculate the contribution to the park for the new development** $80 per person x 3062.8 additional people = $245,024 Measuring demand from development forecasts becomes quickly complicated when dealing with non-residential development. The methods for estimating infrastructure demand vary depending on the type of infrastructure and the type of development. For this reason, contributions levied on development are often made up of more than one component.

Term	Definition
	Some developments may ask for an exemption from paying contributions (such as affordable housing being provided by a not-for-profit community housing provider). Any ‘exemption’ granted to a development is funded by the community (through council rates) as the rules of ‘nexus’ and ‘apportionment’ mean that it should not be passed on to other developers to pick up the cost. Preparation and on-going management and review of contribution plans is resource intensive. It is common to have detailed technical studies to support these plans.
Funds held in trust	The money collected through development contribution levies must be held in trust and be applied for the public purpose that it was collected for. There are rules for how funds can be ‘pooled’ and progressively applied to infrastructure priorities.
Timing of payment	Contributions are usually required to be paid prior to the release of a Construction Certificate, which is before construction begins. For subdivision of land, the payment is usually required prior to the release of the Subdivision Certificate, which is before the subdivided lots can be legally registered.
Indexation	Cost estimates for infrastructure, and subsequently the contribution rates to be paid, are prepared at a point in time. To help them keep up with price rises, they are “indexed”. The Act requires that the index is one that is readily accessible, such as the Consumer Price Index. The Australian Bureau of Statistics publishes a range of indices. Sometimes a customised index may be produced, such as a Land Value Index, to manage changes in price that may be more specific to a location.

Appendix B

Background to infrastructure contributions in New South Wales

Origins of infrastructure contributions

The principle that beneficiaries of development-related infrastructure should share in the cost of the services provided is a relatively recent phenomenon. In conducting this Review, it is important to understand the context in which the current system originated from and how each of its component parts has evolved. Perhaps surprisingly, the story is one of incremental improvements to a system that does not have a long history in New South Wales.

From the beginning of European colonisation in 1788 until the passage of the *Environmental Planning and Assessment Act 1979* (the 'Act'), there was no formal cost-recovery mechanism for publicly provided infrastructure. Settlement patterns in New South Wales were based on subdivisions by Crown authorities, with infrastructure delivered at the cost of the public purse (State or local).

The post-Second World War years saw the arrival of two trends that would change public perceptions about service provision and industry's responsibilities. The first was rapid population growth driven by high fertility rates (the so-called 'baby boom') and an influx in immigration that required more land, housing, and public services to accommodate demand growth. The second was rising living standards, driving increasing expectations for the level and quality of public services on a per person basis. From these combined forces came calls for industry to contribute to the provision of infrastructure as a condition of development approval.

When viewed from this perspective, the advent of infrastructure contributions came relatively late. Section 94 of the Act allowed councils to levy contributions for infrastructure provision with a nexus to their developments. Improvements would be made in subsequent years as both Government and the private sector grappled with the complexity of cost-recovery mechanisms.

Earlier attempts at reform

A perceived lack of transparency and consistency in how charges were applied was addressed by the so-called Simpson Review of the Act in 1989. That Review recommended that councils prepare and exhibit contributions plans when levying section 94 charges. This was legislated in 1991.

The early 2000s saw further efforts to improve and expand section 94 of the Act. In 2000, a Review of the Developer Contributions System resulted in Act amendments allowing councils to apply contributions for affordable housing.

In 2004, the Final Report of the Contributions and Development Levies Taskforce was delivered. Further amendments—legislated in 2005—introduced:

- section 93F Planning Agreements, and
- section 94A Fixed Development Consent Levies, initially set at a maximum of one per cent.

Further reforms were implemented in 2006; section 94EF was legislated allowing for the imposition of Special Infrastructure Contributions (SIC). These aimed to recover 75 per cent of costs of providing regional infrastructure to support the growth including major roads and some public transport, land for health, education, emergency services and justice facilities, and biodiversity offsets.

The 2008 changes and their legacy

Yet another review was conducted in 2008 in the context of the Global Financial Crisis and additional amendments to the Act were enacted. Unlike earlier reforms, these measures, for the most part, did little to improve the economic efficiency of how contributions were being applied. Instead, they introduced distortions into the system, some of which remain to this day.

Changes, implemented in 2009, included:

- removal of some types of infrastructure from the SIC framework, such as rail and bus infrastructure, even though they had a direct link to development and provided a benefit to the community at large
- reduction SIC recovery for State infrastructure from 75 per cent to 50 per cent
- capping of local contributions at $20,000 per residential lot, except with ministerial approval
- abolition of charges payable to Sydney Water and Hunter Water Corporation.

In 2010, the cap on local contributions was lifted to $30,000 for greenfield areas. For some specific areas, contribution plans were exempted from the caps (known as “grandfathered”) where development was well advanced and would result in significant disruption if the cap was applied. A funding scheme was introduced, where the State covered the shortfall between the contribution amount and the prescribed caps, but only where the contribution related to infrastructure identified as “essential works”.

The change of Government in March 2011 brought new momentum for comprehensive reform. The Coalition was elected on a platform that included a new planning system to replace the existing Act. In July 2012, *A New Planning System for NSW - Green Paper* was issued that flagged comprehensive reform to infrastructure contributions. Among other issues with the existing system, it highlighted:

- varying standards of administration of, and accounting for, contributions revenues between councils
- holding costs for industry through levying of contributions in advance of cash flow needed for project delivery
- a lack of transparency in how contributions revenues are maintained and allocated.

The 2013 Planning White Paper proposed the following elements of reform:

- introduction of Growth Infrastructure Plans to align land use planning decisions and infrastructure planning and delivery. These plans were to be informed by Subregional Delivery Plan and identify infrastructure needs over a 10-year timeframe. A Regional Infrastructure Contribution was to be introduced to fund this infrastructure and charged on a sub-regional basis.
- introduction of a separate Regional Growth Fund for the acquisition of land needed for public open space and drainage. This contribution was to be charged on a regional basis.
- local infrastructure contributions were to remain with the caps of $20,000 and $30,000 to be removed, as they were considered ‘artificial’ and ‘inefficient’. The scope of infrastructure that could be funded through these contributions was to be narrowed.

These reforms were not taken forward because of failure to legislate broader planning reform in 2014.

In 2017, the Government announced its housing affordability strategy *A Fair Go for First Home Buyers* that included:

- rollout of additional SIC plans in growth areas
- phase out of the Local Infrastructure Growth Scheme by 30 June 2020.

Timeline of system reforms

Year	Reform
1979	Enactment of section 94 of the EP&A Act, which allowed councils to levy infrastructure contributions on developers.
1989	Simpson Inquiry conducted in response to concerns regarding the application and administration of the infrastructure contributions system.
1991	In response to the Simpson Inquiry, the *EP&A Amendment (Contributions Plans) Act 1991* was introduced, requiring councils to prepare and exhibit contributions plans when levying section 94 charges.
2000	Following the publication of the 'Review of Developer Contributions System 2000', the *EP&A Amendment (Affordable Housing) Act 2000* was introduced to allow the levying of affordable housing contributions (section 94F-G).
2004	Established in September 2003 to review the process for levying contributions, the Final Report of the Section 94 Contributions and Development Levies Taskforce was delivered, containing 21 recommendations to improve the system.
2005	Planning Agreements (section 93F) and Fixed Development Consent Levies (section 94A) was introduced under the *EP&A Amendment (Development Contributions) Act 2005.*
2006	The imposition of Special Infrastructure Contributions (SICs) (section 94EF) on developers was legislated (*EP&A Amendment Act 2006*) which aimed to recover the costs of regional and state infrastructure provision. On 10 November 2006, the Minister for Planning issued a direction introducing changes to the application of section 94A.
2007	The Department of Planning introduced a package of non-statutory reforms, including changes to the types of infrastructure funded by SICs and local infrastructure funded by sections 94 and 94A (which must be directly related to a development site).
2008	Another review was conducted to ensure that the contributions framework was supporting the State's housing and employment targets.
2009	From 30 April 2009, contributions payable to local councils was capped at $20,000 per residential dwelling/lot.
2010	The cap on local contributions was lifted to $30,000 for greenfield areas.
2012	Release of *A New Planning System for NSW – Green Paper* that flagged comprehensive reform to infrastructure contributions and resulted in Draft Planning Bill 2013 however this was not enacted.
2013	The Government introduced the Local Infrastructure Growth Scheme (LIGS) aimed at subsidising the cost of development by funding the gap between the contributions cap and approved contribution rates for LIGS transition areas.
2017	Government announced its housing affordability strategy *A Fair Go for First Home Buyers* that included the rollout of additional SIC plans in growth areas and phase out of LIGS by 30 June 2020.
2018	The caps were increased by $5,000 from 1 January 2018 to $25,000 for infill and $35,000 for greenfield areas. From 1 July 2018, an additional $5,000 is added to both caps.
2019	On 1 July 2019, the caps were increased to $35,000 and $45,000 for infill and greenfield developments respectively.
2020	The cap was removed entirely with LIGS funding to cease on 1 July 2020.

Source: NSW Parliamentary Library Research Service (2011), DPIE (2020)

Appendix C

Local government rate pegging in New South Wales and other Australian jurisdictions

The current system has its roots in the economic upheaval of the 1970s. Oil supply shortages led to a negative global economic supply shock, characterised by rising inflation and rising unemployment. Australia was not immune. Between 1973 and 1976, inflation was 56 per cent. The local government sector in New South Wales was hit hard, prompting rate increases of an average 188 per cent over the same period.

In March 1976, the NSW Labor Party was elected on a platform of reintroducing rate pegging (which had existed in an earlier form before 1952). The current structure was adopted in 1978.

According to the Productivity Commission (2017), other states have practised rate pegging from time to time:

- In 1995, the Victorian Government capped rates below inflation following reforms that reduced the number of councils from 210 to 78 and cut rates 20 per cent. The rate cap was eliminated in 1999 but reintroduced in 2016.
- In 2019, an attempt to legislate rate capping in South Australia failed in Parliament. Capping was only applied in South Australia temporarily in the 1997-99.
- Rate pegging was applied temporarily in the Northern Territory between 2007 and 2010.

Appendix D

Jurisdictional analysis of infrastructure contributions frameworks

	United Kingdom	New Zealand	New South Wales	Victoria	Western Australia	Queensland	South Australia
Strategic planning	Local Plan which incorporates the Community Infrastructure Levy (CIL) charging schedules. From December 2020, local authorities must publish an infrastructure funding statement which identifies their infrastructure needs and the total cost of service provision, anticipated developer contributions and how this funding will be spent.	National Environmental Standards and Policy Statements. Regional and District Plans. Long Term Plan which sets out a council's policy on development contributions.	State Environmental Planning Policies (including regional environmental plans). Local Environmental Plans and Development Contributions Plans (DCPs).	Planning schemes are developed by both State and local governments in accordance with planning policies and strategies. The Infrastructure Contributions Plan (ICP) forms part of the planning scheme and can only be prepared for Melbourne's metropolitan greenfield growth areas.	State Planning Policies and Regional and Sub-regional Strategies. Local Planning Scheme (including DCPs).	State planning instruments (state planning policies, regulatory provisions, regional plans). Local planning schemes such as the Local Government Infrastructure Plan (LGIP).	State Planning Strategy (including plans for regional areas), which informs the planning policies in Structure Plans, Precinct Plans and local government development plans.
Infrastructure contributions mechanisms	Any development which creates net additional floor space of 100 square metres or more is liable to a standard levy rate known as the Community Infrastructure Levy (CIL). This limit does not apply to new houses or flats and the CIL can be levied on a single house or flat of any size.	Contributions are implemented through a development contributions policy, contained in a Long Term Plan. Development agreements can be entered into between a developer and the consent authority.	Local community infrastructure is funded through s7.11 contributions and s7.12 fixed levies. Key infrastructure in priority growth areas is provided under s7.24 State Infrastructure Contributions (SICs). s.7.4 Planning Agreements can be used to fund a wider	Contributions can be sought and collected through ICP conditions on planning permits and voluntary agreements. Standard levy rates apply for the Metropolitan Greenfield Growth Areas (set by the Minister for Planning). A supplementary levy is designed to	Much of the standard infrastructure related to a development is paid for or provided directly by the developer. Infrastructure contributions beyond the standard requirements or community infrastructure can only be sought if they have been identified in a DCP, or through voluntary	Contributions for trunk infrastructure (i.e. infrastructure that is shared between multiple developments) may be levied by councils under the LGIP or through an Infrastructure Agreement. Developers are responsible for funding and providing all non-trunk infrastructure within a development or that	Two new infrastructure schemes are being phased in from 1 July 2019 under the new planning system: ▪ Basic Infrastructure Scheme (BIS) – used to provide basic infrastructure in rezoned and existing infill areas.

	United Kingdom	New Zealand	New South Wales	Victoria	Western Australia	Queensland	South Australia
			range of infrastructure such as affordable housing or environmental conservation.	fund infrastructure that is 'non-standard' or involves costs over and above the standard levy. Only certain state infrastructure can be funded from supplementary levy. A Community Infrastructure Levy (CIL) may also be applied to fund the provision of community facilities. Public open space contributions may also be collected under clause 52.01 of the planning scheme and *Subdivision Act 1988*.	agreement with the developer.	connects a development to trunk infrastructure.	▪ General Infrastructure Scheme (GIS) – provides essential infrastructure to facilitate significant development or urban renewal. Land Management & Infrastructure Agreements are executed with individual land owners to cover the costs of significant infrastructure works need to make the land suitable for intended purposes.
Enabling legislation	*Planning Act 2008*	*Local Government Act 2002 Amendment Act 2014*	*Environmental Planning and Assessment Act 1979*	*Planning and Environment Act 1987*	*Planning and Development Act 2005*	*Planning Act 2016*	*Planning, Development and Infrastructure Act 2016* (to replace the current *Development Act 1993* when the new reforms are implemented)
What can it be used to fund?	Wide range of infrastructure as outlined in section 216(2) of the *Planning Act 2008* (i.e. open space, community and recreational facilities, education and medical infrastructure, roads and transport facilities).	Broad infrastructure classes such as reserves, network infrastructure (water, wastewater, stormwater, roads and transport) and community infrastructure (land	Local contribution plans proposing amounts over the prescribed caps for infill ($20,000) and greenfield ($30,000) areas can only be used to fund 'essential'	The Ministerial Direction contains separate lists for allowable items to be funded from the standard levy or the supplementary levy.	Standard contributions requirements listed under Appendix 1 (State Planning Policy 3.6) such as: ▪ Land contributions such as primary schools, roads	Trunk infrastructure includes essential development works such as water, roads, sewerage, stormwater, parks and land for community facilities.	BIS delivers community infrastructure (such as water, sewerage, utilities, local roads) in 'designated growth areas'.

	United Kingdom	New Zealand	New South Wales	Victoria	Western Australia	Queensland	South Australia
	The levy cannot be used to fund affordable housing.	or provision of public amenities).	infrastructure described in the Essential Works List. SICs are applied to priority growth areas and is used to fund key infrastructure such as major roads, regional open space, land for schools and hospitals.		and public open space (equivalent to 10 per cent of the gross subdividable area) ▪ Infrastructure works such as public utilities and roads (including footpaths) ▪ Monetary contributions for water, sewerage and drainage headworks.	Non-trunk infrastructure includes works that is generally internal to a development site.	GIS delivers a wider range of infrastructure such as public transport, health, education and community facilities etc. Current legislation also contains a provision for dedicating up to 12 per cent for open space (or cash contribution) as well as allowing councils to establish funds for developers to contribute to car parking.
How is the liability calculated?	The amount of levy payable is calculated by multiplying the additional gross internal area by the rate for a development type (expressed as pounds per square metre). The applicable rates are set out in a charging schedule, which is prepared by the charging authority. Differential rates can also be set with reference to: • intended uses of development (reduced rate of levy to encourage delivery of social housing) • scale (i.e. floor area or number of dwelling units).	Calculated by multiplying the household unit of demand (HUD) by the standard rates for each service type (stormwater, water, wastewater and transportation). Depending on catchment areas, FY2020 rates vary between $1,401 to $28,625 per HUD.	Section 7.11 contributions are calculated based on an apportionment of infrastructure costs that is attributable to development-growth (generally expressed as per dwelling or per square metre). Section 7.12 levies are calculated as a standard rate (generally up to a maximum of 1 per cent) of the estimated development cost.	In a metropolitan greenfield growth area, the liability is determined by multiplying the applicable standard levy by the amount of net developable hectares in a parcel of land. For 2020-21, the standard levy rates combined for community and recreation construction and transport construction are: residential development ($217,763) and commercial and	The cost apportionment schedule within a DCP sets out the calculation of infrastructure costs.	A local government may, by a charges resolution, adopt charges for providing trunk infrastructure for development (which must be no more than the maximum adopted charge prescribed under the Planning Regulation 2017). The resolution must include a method for working out the infrastructure costs and criteria for deciding a conversion application (if works serve a trunk function).	An independent scheme coordinator is responsible for preparing and administering the schemes including developing a work program and determining the apportionment of charges between stakeholders.

	United Kingdom	New Zealand	New South Wales	Victoria	Western Australia	Queensland	South Australia
	Any differential rates must be supported by robust evidence on viability.			industrial development ($126,713). The rate of supplementary levy is based on the estimated cost of the specific infrastructure. A maximum CIL applies: $450 per dwelling constructed and 0.25 cents in the dollar of the cost of building work in any other case. The CIL liability is capped at the maximum dwelling amount prescribed by the Department of Planning (for the 2020-21 financial year, this is $1,210).			
When is it levied?	On commencement of development.	When a development contributions notice is issued granting resource consent for a development, building consent, or authorisation for service connection.	As part of the subdivision clearance process or prior to commencement of construction.	Development levies are collected through conditions on planning permits. CIL is collected at the building permit stage.	As part of the subdivision clearance process or prior to commencement of construction.	When the infrastructure charges notice is issued by the charging authority.	At the depositing of a land division plan or the undertaking of an approved development. BIS is a one-off charge payable at the time when the benefit is realised. GIS involve contributions over a period of time.

Source: MHCLG (2019), DPLH (2019), DELWP (2020), Department of Infrastructure (2007), DSDMIP (2020), DILGP (2017), Tasman District Council (2020), Department of Internal Affairs (2019), DPTI (2018, 2020).

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