Development Contributions in NSW:
A Review of the Section 7.11 Contributions Cap

An exploratory case study.

'*Development contributions help cover the cost of delivering infrastructure needed to support new communities and homes'*
(NSW Department of Planning and Environment 2018c)

Image: NSW Department of Planning and Environment 2018a

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Final Report

5 November 2018

Unpublished dissertation completed in partial fulfillment of the requirements for the degree of Master of Local Government, University of Technology Sydney.

ACKNOWLEDGEMENTS

Thank you to all of the Councils that participated in the quantitative survey.

Thank you to the following organisations for their generous time given for an interview:

- Blacktown City Council;
- Local Government New South Wales;
- NSW Department of Planning and Environment;
- Urban Development Industry of Australia, NSW.

Thank you to all of the lecturers at UTS and to my fellow students for your support and encouragement, which has allowed me to grow and learn so much throughout my studies.

[redacted]

And last but not least, a **huge thank you** to my amazing friends and family, and both former and current work colleagues and managers. I've really appreciated all your support and encouragement over the past six years.

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ACRONYMS

ABS	Australian Bureau of Statistics
CLG	Centre for Local Government
DIPNR	NSW Department of Infrastructure, Planning and Natural Resources
DoP	NSW Department of Planning (previously DIPNR)
DPI	NSW Department of Planning and Infrastructure (previously DoP)
DPE	NSW Department of Planning and Environment (previously DPI)
EP&A Act 1979	Environmental Planning and Assessment Act 1979 No 203 (NSW)
EP&A Regulation 2000	Environmental Planning and Assessment Regulation 2000 (NSW)
EWL	Essential Works List
Greater Sydney	ABS Greater Capital City Statistical Area (1GSYD)
IPART	Independent Pricing and Regulatory Tribunal
IPPG	Institute for Public Policy and Governance
LG Act 1993	Local Government Act 1993 No 30
LG NSW	Local Government NSW (previously LGSA)
LGA	Local Government Area
LGSA	Local Government and Shires Association (now LGNSW)
LIGS	Local Infrastructure Growth Scheme
Ministerial Direction	A Direction issued by the Planning Minster under Section 7.17 (previously Section 94E) of the *EP&A Act 1979*
NSW	New South Wales
OLG	Office of Local Government
QLD	Queensland
Section 7.11	Section 7.11 of the *EP&A Act 1979* (previously Section 94)
Section 7.12	Section 7.12 of the *EP&A Act 1979* (previously Section 94A)
Section 94	Section 94 of the *EP&A Act 1979* (now Section 7.11)
Section 94A	Section 94A of the *EP&A Act 1979* (now Section 7.12)
SEPP	State Environmental Planning Policy
SIC	Special Infrastructure Contributions
UTS	University of Technology Sydney
VIC	Victoria
VPA	Voluntary Planning Agreement or Planning Agreement
WA	Western Australia

1. INTRODUCTION

1.1 Background to the study

This study addresses an issue that is an important part of local government's legislated function, the levying of financial contributions on new developments, known as development contributions.

Development contributions are provided in the form of monetary contributions, the dedication of land and/or the provision of capital works and are a method of financing public infrastructure that is required as a direct or indirect result of new development (DIPNR 2005; O'Flynn 2011). According to Dollery (in O'Flynn 2011, p.1), contributions are collected for three reasons:

1. To augment the funding of municipal infrastructure by taxing those who benefit directly from infrastructure improvement.
2. It is economically efficient for developer charges to be levied on those responsible for the development so that infrastructure costs are included in development decision-making.
3. It is equitable to charge those individuals who benefit from public investment in infrastructure.

Development contributions are a specific function within the land use planning department of a local government organisation and is a complex policy area that can have significant financial implications for councils, the state government, the development industry and homebuyers.

Section 7.11 (formerly Section 94), the traditional basis for levying development contributions, was introduced to the *Environmental Planning and Assessment Act 1979 No 203 (NSW)* (*EP&A Act 1979*) in 1979, however has only been widely used since 1993 (McNeil and Dollery 1999a).

By the 2000s the use and quantum of contributions for residential development had increased significantly and as a result, in 2009 a cap (or limit) was placed on the Section 7.11 contribution that could be levied to residential development without prior approval (DoP 2008).

Councils rely on development contributions as a funding source for new infrastructure required to support new development and increased populations. The introduction of the cap has directly impacted councils in various ways, as will be discussed throughout this report.

Having been employed in the area of development contributions within two local government organisations, including in both accounting and planning roles, for the past eight years I have gained a solid understanding of the development contributions system, including policy preparation, plan implementation and financial implications. This has helped to recognise a need for this research.

The contributions cap was an agenda item at the February 2018 Southern Councils Development Contributions Group meeting, where officers from a number of councils meet to discuss contributions related topics. A number of attending councils have Section 7.11 plans approved over the cap, others have Section 7.11 plans over the cap but choose to just levy the cap amount, and others have newly prepared draft Section 7.11 plans that are over the cap and pending review by the Independent Pricing and Regulatory Tribunal (IPART).

This topic affects a lot of councils, as well as other stakeholders, as the contributions payable can have a direct or indirect impact on development feasibility and land prices, and funding shortfalls can have an impact on councils' capacity to fund the required infrastructure (DoP 2008; DoP 2010a).

1.2 Research rationale and objective

Based on a position that 'the imposition of levies can have an indirect impact on house prices' (DoP 2008, para. 6), in 2008 the NSW Government announced a limit, or cap, on residential Section 7.11 contributions to ensure 'that the contribution framework is supporting the State's housing and employment targets' (DoP 2008, para. 7).

The cap commenced in April 2009 at $20,000 per residential lot or dwelling, and then in 2010 an alternative cap amount of $30,000 was introduced for specified greenfield development areas as well as other transitional provisions (DoP 2010b). A process for the review of plans seeking to levy over the cap were then established, as well as state government funding for the 'gap' between the capped developer contribution (i.e. $20,000 or $30,000) and the higher approved contribution rate, however this state government gap funding is currently being phased out and will be lifted entirely in 2020.

Other than these minor amendments, the cap has now been in place, largely unchanged, for almost ten years. With the increasing costs of land and infrastructure resulting in a growing number of contributions plans that are over the cap, and the recent decision to remove the state government gap funding, it is considered timely to review the cap as a reform mechanism.

This review will include whether the cap has been effective in achieving its objectives and whether the model and cap amounts remain appropriate, with a view to putting forward recommendations for alternative approaches to a contributions cap in NSW.

This report firstly presents a literature review that provides the background to development contributions, the cap and discusses related issues. A context setting of NSW and NSW local government follows this. The research design and methodology is then put forward, followed by a presentation and analysis of the research findings. The report concludes with a short summary, conclusion (including the findings for each research question) and recommendations.

Note: During the course of this study all sections of the *EP&A Act 1979* were renumbered. Specifically, Section 94 was renumbered to Section 7.11 resulting in changes to the research title and questions. Some documents or references in this paper will contain the previous numbering.

1.3 Research questions

Following an initial scoping of the research topic a range of ways to consider the issues were identified, and ultimately the research questions aimed to provide both quantitative and qualitative data, and to be broad enough to allow the research findings to influence the report outcomes. This research project aims to answer the following questions:

1. What have been the trends in Section 7.11 contribution rates between 1993 and 2018?
2. Has the contributions cap been an effective reform mechanism?
3. What are alternate approaches to the current contributions cap?

1.4 Study timeframes

The study was completed over two semesters in 2018 based on the following timeline:

Table 1 Study timeline

Phase in research project	Completion date
Research proposal	Monday 9 April 2018
Research design and methodology	Monday 7 May 2018
Literature review	Monday 18 June 2018
Carry out applied research and analyse data	June - September 2018
Draft dissertation	Monday 24 September 2018
Viva voce (verbal presentation)	Monday 8 October 2018
Final dissertation (this document)	Monday 5 November 2018

1.5 Ethical approval

Prior to undertaking any applied research ethics approval was sought from the Institute of Public Policy and Governance (IPPG), University of Technology Sydney (UTS).

An *IPPG Ethics Program Form* requesting approval to carry out the research was submitted on 9 April 2018. A request for further information was received on 1 May 2018. The additional information, and amendments to the Program Form to include the surveys that were required under Method 2 were returned on 1 May 2018. The applied research component of this study did not commence until ethical approval has been granted. Ethics approval was granted on 16 May 2018 (see **Appendix 1**).

The research was carried out in accordance with the Australian Code for Responsible Conduct of Research, UTS Privacy Principles, National Statement on Ethical Conduct in Human Research 2007 and UTS Ethical Conduct of Research Policy.

2. LITERATURE REVIEW

This section presents the findings of a narrative literature review carried out as the first step in the data gathering process for the study. The literature review provides information on the specific research questions as well as the overall topic, providing a solid foundation for the study to build on.

A total of 24 research articles met the criteria as outlined in **Section 4.3.1**. These articles are summarised in a Table of Evidence at **Appendix 2**. It is noted that due to the nature of the topic a large amount of information needed to be sourced from policy documents.

The literature review findings are presented based on the following topics:

1. Development contributions as a source of local infrastructure funding.
2. The history of development contributions in NSW.
3. Section 7.11 development contributions.
4. Background to the introduction of the cap and changes to date.
5. Any relationship between Section 7.11 contributions and housing affordability.
6. Any evaluation or review of the contributions cap as a reform mechanism.

A summary of the findings in relation to each research question is then provided.

2.1 Development contributions as a source of local infrastructure funding

Local governments play a vital role in ensuring that local communities are provided with the basic services and facilities that Australian communities expect. Over the past few decades this role has expanded from 'services to property' to 'services to people' with local governments now providing services such as safety, recreation, housing and community facilities, whilst still maintaining their 'service to property' functions (Dollery et al. 2006).

Councils in NSW are responsible for funding new and maintaining existing local infrastructure such as roads and parks (*LG Act 1993*), however as a result of rate pegging, stringent loan controls and a decrease in grant funding have been under increasing financial strain (Drew and Dollery 2015; Koutifaris and Mangioni 2012; McNeil and Dollery 1999(a); Neutze 1995). These constraints have resulted in an increased reliance of user-pays financing such as Section 7.11 and other development contributions to supplement income (Barnes and Dollery 1996; Urban Taskforce 2010).

Although funding was undoubtedly a key reason for the use of Section 7.11 contributions, there are many other benefits to the user-pays system. Firstly, with developers taking some responsibility for the cost of infrastructure and internalising infrastructure costs in their decision-making it has dictated in a positive way where development occurs, encouraging higher density, reducing urban sprawl and therefore the costs of development (Grant and Drew 2017 p271; Neutze 1995). Secondly, the system provides councils with more 'own source' revenue raising capacity (Koutifaris and Mangioni 2012), and third, the strategic planning of infrastructure before development commences has ensured that future needs such as roads, parks, sports grounds and community facilities are suitably planned and funded (DELWP 2018; UDIA 2008). The system also aims to mitigate adverse impacts of developments, for example contributions are required from developers in certain areas to replace affordable housing when it is reduced as a result of development (McNeil and Dollery 1999a).

As will be discussed in **Section 2.2**, Section 7.11 is founded on a set of principles including a link or 'nexus' between the development and need for new infrastructure, 'apportionment' of costs between existing and new development and overall 'reasonableness' of the contribution (Gurran et al. 2009; Robinson and De Gruyter 2018). A 2004 Taskforce Report found that 'the original policy basis for levying developer contributions at the local level (Section 7.11) generally remains legitimate and the current system should be maintained' (in O'Neil 2011).

The (then) LGSA (now LG NSW) supports the concept of development contributions as an economically efficient and equitable financing mechanism because they internalise the cost of public infrastructure into the individual development (2008, p. 3). The DPE has also taken a policy position that the beneficiaries of new infrastructure should make a contribution to that infrastructure (DoP 2008, para.4).

Although there are many benefits to the system it has not been without criticisms. All states and territories in Australia now have some arrangements in place to enable the collection of financial or in-kind contributions however the level of contributions, and approaches to collection, vary greatly (Gurran et al. 2009). The development industry has stated that they do not consider paying contributions an issue per se, but have expressed concern about the scale and calculation of charges, and not being able to see where the funds are spent (Gurran et al. 2009). The Green Paper *A New Planning System for NSW* found that Section 7.11 contributions are 'overly complex, open to over-collecting by local councils and insufficiently transparent' (Finegan 2013, p.22).

It is a long-standing principle of the existing planning system that new development makes a contribution towards the cost of infrastructure that will meet the additional demand it generates (Finegan 2013, p.21). The challenge for policy-makers is to ensure that there are sufficient funds to deliver new infrastructure without adversely impacting development feasibility or housing affordability (Gurran et al. 2009; Murray 2018).

2.2 The history of development contributions in NSW

Prior to discussing the cap and other related topics it is important to first understand the history and progression of the development contribution system, the various frameworks and methods of levying and the historic and current NSW planning reforms.

Although contributions had been sought from developers earlier, in 1979 this system was formalised through the introduction of Section 94 (now Section 7.11) to the *EP&A Act 1979*. From 1993 councils were required to prepare a contributions plan and in 2005 alternative mechanisms for levying contributions were introduced, including a fixed levy method (introduced as Section 94A of the *EP&A Act 1979*, now Section 7.12) and Planning Agreements (also known as Voluntary Planning Agreements or VPAs).

These and other milestones are shown on the timeline at **Table 2**, which has been compiled from a number of sources, and shows that the history of the NSW development contributions system is complex and has been the subject of continued reviews and reform (O'Flynn 2011).

Table 2 Timeline of the NSW development contributions system

Up to 1950s	Land could be subdivided into building lots without the provision of services such as sealed roads, footpaths, sewer and electricity, which then became the responsibility of the local authorities to provide.
1950s	Following a boom of greenfield subdivisions, local authorities could not keep up with the demand for the provision of roads and footpaths and required developers to provide these as part of development approval.
1960s	Developers are required to fund water and sewer services upfront.
1970s	Developers now commonly fund the full cost of services including road, drainage, water, sewer, electricity, street lighting, footpaths and parks.
1979	Section 94 of *EP&A Act 1979* enacted, enabling Councils to levy contributions.
1989	Simpson Enquiry conducted in response to concerns over accountability of funds and the application and administration of the system.
1993	Councils are required to prepare and exhibit a contributions plan, resulting in the imposition of contributions becoming more widespread.
2000	Developers in designated areas may be required to make land or monetary contributions towards the provision of affordable housing.
2003	A review committee prepared the report Review of the Developer Contributions System 2000, followed by the establishment of the Section 94 Contributions and

	Development Levies Taskforce in 2003 to review the process and procedure for levying contributions.
2004	The Section 94 Contributions and Development Levies Taskforce release their report, which includes providing 21 recommendations to improve the system.
2005	Planning Agreements and Fixed Development Consent Levies (Section 94A) were introduced to the *EP&A Act 1979*. The *Environmental Planning and Assessment Regulation 2000 (NSW) (EP&A Regulation 2000)* and DIPNR 2005 Practice Note were updated accordingly.
2006	The Special Infrastructure Contributions (SIC) requires developers in certain areas are to pay a contribution toward regional and state infrastructure.
2007	The type of local infrastructure to be funded by Section 7.11 is clarified.
2008	Another review was carried out resulting in the creation of *EP&A Act 1979* 'Part 5B Provision of Local Infrastructure' however this was not enacted.
2009	The contributions cap was introduced at $20,000 per residential lot/dwelling.
2010	The contributions cap increased to $30,000 for designated greenfield areas. Contributions Plans over the cap are to be reviewed by IPART.
2011 – 2013	Proposed reforms to the planning system *A new planning system for NSW* resulted in the *Draft Planning Bill 2013* however this was not enacted.
2013	DPE implemented the Local Infrastructure Growth Scheme (LIGS), their latest mechanism to fund the gap between the cap and approved contribution rates.
2017	DPE advise that the LIGS funding scheme will end in three years. In the LIGS transition areas the cap will incrementally increase from 1 January 2018 and from 1 July 2020 IPART approved plans will levy developers the total rate.
2018	All sections of the *EP&A Act 1979* were renumbered. The cap in LIGS transition areas increased to $35,000 on 1 January and $40,000 on 1 July.
Due 2019	On 1 July 2019 the cap in LIGS transition areas is set to increase to $45,000.
Due 2020	On 1 July 2020 the cap in LIGS transition areas will be lifted entirely.

Sources: DoP 2007, 2009, 2010a; DPE 2017, 2018a; DPI 2013; McNeil and Dollery 1999(a); Neutze 1995; EP& A Act 1979; O'Flynn 2011.

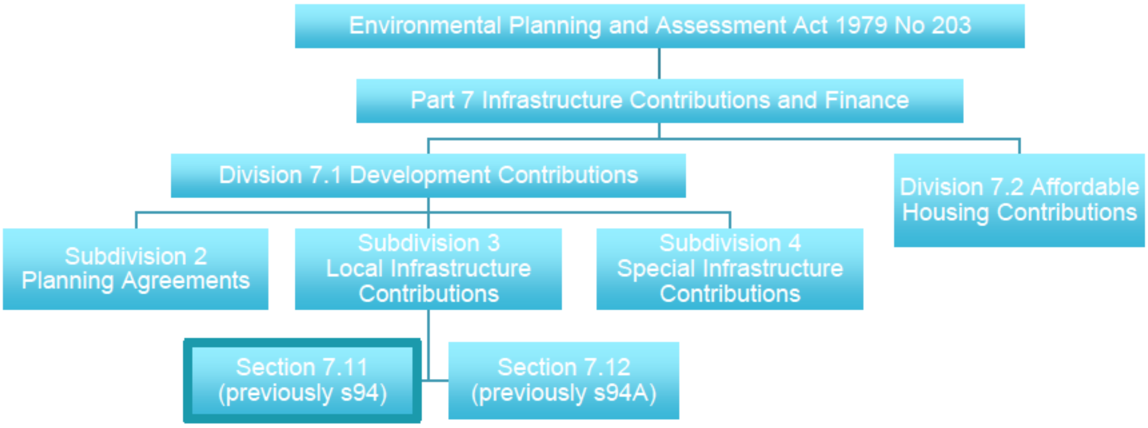
The progression of the development contributions system in NSW (as shown above) demonstrates the complexity of the system and the many changes and reforms that have occurred. Development contributions in NSW are currently collected under the following mechanisms:

- **Section 7.11 contributions:** the 'original' or 'traditional' contribution, paid to councils based on the cost of providing additional infrastructure to meet the demand of new development. The contribution is levied based on the additional demand generated, i.e. the increase in residential lots/dwellings or the increase in commercial floor space.
- **Section 7.12 contributions**: a fixed levy, usually 1%, paid to councils based on the proposed cost of carrying out development (the levy is 'capped' through clause 25K of the *EP&A Regulation 2000*);
- **Planning Agreements:** also known as Voluntary Planning Agreements or VPAs, the developer voluntarily negotiates the contributions (monetary, land and/or works) with a council or the state government either in addition to or instead of, other development contributions that may be payable;
- **Affordable Housing**: the provision of land or monetary contributions to a council or the state government where development in designated areas reduces or creates a need for affordable housing;

- **Special Infrastructure Contributions (SIC)**: levied by the state government to development within designated growth areas to help fund state and regional infrastructure (DPE 2018c; DPE 2018d; EP&A Act 1979; O'Flynn 2011).

In NSW the development contributions system is established through the *EP&A Act 1979* and further defined through the *EP&A Regulation 2000*, DIPNR 2005 Practice Note, Planning Circulars and Ministerial Directions. An extract of the legislative framework (*EP&A Act 1979*) is shown at **Figure 1**.

Figure 1 NSW development contributions framework



Source: EP&A Act 1979

This research project will focus specifically on Section 7.11 contributions (as outlined in **Figure 1**).

2.3 Section 7.11 development contributions

Section 7.11 (previously 94) is the original policy basis for levying developer contributions at the local level (DIPNR 2004). Section 94 was introduced to the *EP&A Act 1979* in 1979 and currently states:

> 7.11 Contribution towards provision or improvement of amenities or services (cf previous s 94)
>
> (1) If a consent authority is satisfied that development for which development consent is sought will or is likely to require the provision of or increase the demand for public amenities and public services within the area, the consent authority may grant the development consent subject to a condition requiring:
>
> (a) the dedication of land free of cost, or
>
> (b) the payment of a monetary contribution, or both.

Since 1993 Councils have been required to prepare contributions plans to levy a contribution (DIPNR 2005). In preparing a contributions plan the cost of providing additional infrastructure to service the increased demand is distributed across the projected increase in demand, resulting in a per unit contribution rate (i.e. per lot/dwelling, per hectare, per sqm gross floor area), with separate rates calculated for residential and non-residential (i.e. industrial, commercial) development (DIPNR 2005).

As each contributions plan will have different growth assumptions, infrastructure items and apportionments, the formula for calculating contributions and the way in which they are levied will vary between plans. Commonly, residential development is levied based on the number of additional lots and/or dwellings to developments such as the subdivision of land and the construction of dual occupancies and multi-dwelling housing.

Robinson and De Gruyter (2018) have compiled (from Kirwan 1990 and other sources) nine principles that provide a set of user-pays framework benchmarks:

1. Nexus – councils should demonstrate a link between the development being levied and the need for the infrastructure being funded.
2. Equity - the cost should be proportional to the projected use of the development, reasonably estimated and restricted to essential works only.
3. Certainty – developers should have certainty regarding the levies payable, infrastructure

items to be funded, indexation methods and works in kind credits.

4. Financial Accountability – contributions should be allocated to the infrastructure for which they were collected and financial accounts should demonstrate this.
5. Timeliness – infrastructure should be planned for delivery as it is needed, either based on specific dates or thresholds of development (i.e. completed dwellings).
6. Transparency – the methods of calculating levies should not be excessively complex to follow or for developers and the general public to understand.
7. Public accountability – the public should be involved in the preparation of plans, comments considered and final decisions should be explained to the public.
8. Essentiality – developers should only make a contribution toward essential infrastructure, noting that there is no singular, consensus definition.
9. Alignment – infrastructure needs should be considered in a wider context.

In their assessment of each state against these principles, NSW scored well in the areas of public accountability and nexus; however, it was considered that NSW could benefit from incorporating contributions plans into the wider planning scheme (i.e. Local Environmental Plan) and to show the infrastructure in this planning instrument, as most other states do (Robinson and De Gruyter 2018).

2.4 Background to the introduction of the cap and changes to date

As the use of Section 7.11 contributions increased so too did the contribution rate and by 2008 rates in Greater Sydney were as high as $66,000 per lot (Ainsaar 2014; DoP 2008). This rise can be attributed to increased expectations of communities (i.e. open space quantum and embellishment levels) and an increase in construction costs and the value of land to be acquired (Ainsaar 2014).

The development contributions system in NSW is administered by DPE, a department of the NSW State Government. Another policy area of DPE is housing supply and at the same time that Section 7.11 rates were increasing, the government was implementing a housing stimulation strategy (DoP 2008). To ensure that the contribution framework was supporting the State's housing targets, in 2008 a review of infrastructure contributions was announced. As part of this review a $20,000 threshold was identified as the point above which a local contribution may be unaffordable and in January 2009 a Ministerial Direction was issued, imposing a maximum contribution that can be levied of $20,000 per residential lot or dwelling on development consents issued on or after 1 April 2009 (DoP 2009).

In response to this statewide policy reform, LGSA (2008, p.3) stated that:

> These reforms appear to be driven by issues specific to the unique housing market in Sydney's fringe-metropolitan regions where the quantum of development contributions is relatively higher mainly due to the cost of land acquisitions... This system does not allow for consideration of different circumstances across the state… and specific local issues that impact the cost of development and require infrastructure solutions.

Further reforms took place in 2010. A $30,000 cap was established for designated greenfield areas recognising the higher cost of creating well-planned communities in these areas and exemptions to the cap were granted to areas where more than 25% of development applications had been lodged (DoP 2010a). IPART was delegated the role of reviewing plans that sought contributions above the relevant cap and the Essential Works List (EWL) was introduced for plans over the cap (DoP 2010a).

These reforms have been implemented through Ministerial Directions under Section 7.17 of the *EP&A Act 1979*, with additional information provided via Planning Circulars; see **Appendix 3**.

The consolidated version of the 2012 Ministerial Direction issued in 2018 (includes subsequent amendments up to 2018) identifies:

- Thirty eight land areas across twenty LGA's where no cap applies to the contributions plan and developers are levied the total contribution rate (Schedule 1);
- Specific land areas within fifteen LGA's where the $30,000 cap applies (Schedule 2);

- Seventeen transitional areas across seven LGAs where plans have been approved over the cap and the gap funding (LIGS) is being incrementally phased out and the cap incrementally increasing until it is lifted entirely out on 1 July 2020 (DPE 2018a).

Based on the number of councils that have been given approval to levy over the cap, as high as $50,000 or more, the Urban Taskforce considers that 'the cap has failed' (2010 p.45).

It is noted that there have been no changes to the capped rates since their implementation in 2009 and 2010, either to reflect indexing or increased land acquisition and construction costs.

The literature review returned no specific information on the background to the introduction of the cap in terms of supporting documents and studies. This is considered a gap in the available information required to understand the background and rationale for the cap, and in particular the basis for the original $20,000 threshold and the subsequent $30,000 cap.

2.5 Any relationship between contributions and housing affordability

In the discussion around 'reasonable' and 'appropriate' levels of development contributions, it is important to consider the impact of these charges, if any, on housing affordability.

> A well-functioning development contributions system should be able to balance the competing objectives of certainty, equity and flexibility, to the benefit of future communities and in the context of ensuring housing affordability (WAPC 2016).

Housing affordability is a significant area of NSW public policy and increasing housing supply remains a priority for the NSW Government (NSW Government 2018b). The DoP cited housing affordability as a reason for the introduction of the cap; 'the imposition of levies can have an indirect impact on house prices' (2008, para. 6).

The term 'housing affordability' refers to the whole housing system and the relationship between the costs of housing (price, mortgage payment, rent) and household incomes. This is distinct from the term 'affordable housing', which refers to low income or social housing provided through a housing assistance program and where the rent is below market (AHURi 2018; Thomas and Hall 2017). This section of the literature review is considering the relationship (if any) between contributions and housing affordability.

A lot of factors impact on housing prices and affordability, including supply and demand. Housing supply is influenced by a number of factors including the complexity of the planning system, an undersupply of developable land and economic trends within the construction industry (Urban Taskforce 2010). Over the past 30 years Australia's population has increased from 16.5 to over 24.5 million people (ABS 2017), whilst the average household size has declined, compounding the demand for new residential dwellings in Australia.

Although it is often argued that additional costs, such as contributions, are passed on to the consumer, economic theory suggests otherwise. Gibbons (1990) puts forward that the price is set by supply and demand functions and additional costs must be passed backwards (to greenfield land owners) and reflected in reduced greenfield land values, as these landowners are only entitled to non-urban land values (Gibbons 1990).

Based on the findings of the 1989 Simpson Enquiry, Neutze (1995) proposes that it is more likely that the costs will be passed forward (to home buyers) rather than backwards or absorbed by the developer. The greenfield land owners are better able to protect themselves (i.e. decide when they will sell and at what price) whereas homebuyers may have reduced options (Neutze 1995). This position is consistent with the Urban Taskforce's 2010 report (p. 43).

In their 2014 study, Bryant and Eves examined the question of "who really pays for urban infrastructure?"; the developer, original landowner, new homebuyer or other parties (i.e. existing home owners). Due to a lack of empirical evidence in Australia the paper presented the results of a number of international findings and applied them to an Australian example. Research from the USA showed an ‘over-shifting’ of costs, and that an average of 160% of the contribution is passed on to the homebuyer (Bryant and Eves 2014).

The first Australian study, completed in 2015, was consistent with international findings that not only are infrastructure charges passed on to home buyers, but that there is a significant ‘over-shifting’, in this case of around 400% (Bryant 2017). The study noted that limitations such as reliability of data, the treatment of additional costs and the size of the sample set may have affected the outcome.

To the contrary of these previous findings, Murray’s research (2018) supports the view of planning practitioners that contributions are economically benign and do not impact the price or quantity of new dwellings. This research included a critique of previous studies (including Byrant 2017 and the International examples used in Bryant and Eves 2014) finding that these studies have flawed outcomes based on an existing correlation between the variables. Murray’s empirical research was carried out in the period where the contributions cap was introduced in Queensland against baseline contributions and concluded that developer charges are borne by the developer (or landowner) and do not impact house prices, rather, house prices are set by the market (Murray 2018). This is consistent with the perspectives of a sample of developers (Ruming et al. 2011).

2.6 Any evaluation or review of the contributions cap as a reform mechanism

The only form of review appears to be of the state government ‘gap’ funding (i.e. LIGS) and that this is now being phased out, with the total rate payable by the developer in these areas from July 2020.

Neither the literature review nor the DPE website returned any information on any evaluation or review (either past or proposed) of the contributions cap. Further, there was no evidence found on whether the cost savings of developers (through the capped contribution) has been passed on to homebuyers through reduced land values, or whether it has been retained by developers through increased profits.

This is either a result of a gap in the literature or that neither evaluation nor review has occurred.

2.7 Summary and key implications for study

In terms of answering the specific research questions, the literature has returned:

1. **What have been the trends in Section 7.11 contribution rates between 1993 and 2018?**
   The literature review has identified that there has been an increased usage of Section 7.11 contributions and that contribution rates have increased significantly in past decades. However, it does not appear that these rates or increases have been quantified or attributed to local government types (i.e. metropolitan, metropolitan fringe, regional, rural, large rural).

2. **Has the contributions cap been an effective reform mechanism?**
   On one hand the literature review has found that in some instances the cap has limited the contributions payable by developers; however this has left a funding gap that has needed to be met by either rate increases, state government funding or the local council. In other cases the cap has been increased to $30,000 and in some cases the cap does not apply at all. In addition, DPE has recently announced that LIGS funding will be phased out, which will result in the developers being responsible for funding the total contribution by 2020.

   The effectiveness of the cap has only been somewhat answered by the literature review.

3. **What are alternate approaches to the current contributions cap?**
   The development contributions system has been subject to ongoing reform and refinement over the past decades. The principle of levying developments a contribution toward the provision of infrastructure that is required to meet the demands generated from that development is sound (Finegan 2013, p. 21), however there have been various mechanisms and reviews in an attempt to ensure a fair and transparent system.

   While the literature review provided background to the introduction of the cap, it did not identify specific alternate approaches to the current contributions cap.

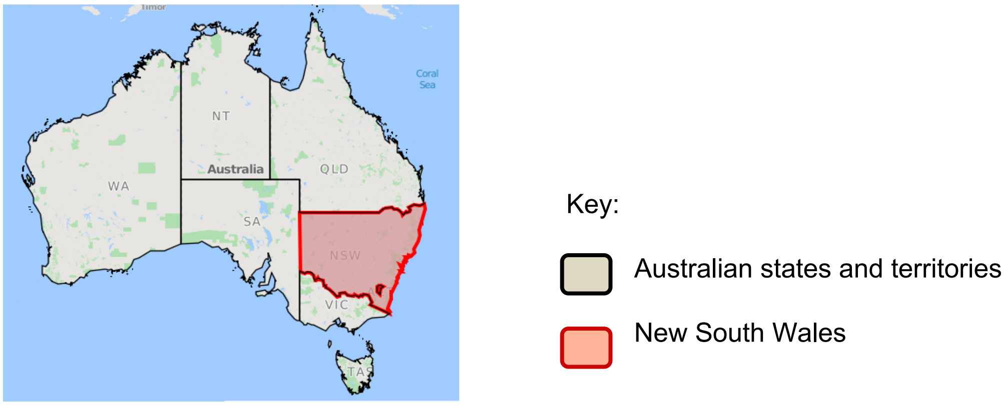
3. NEW SOUTH WALES

3.1 Geography and population

The Australian state of New South Wales (NSW) lies on the mid-eastern coast of Australia (as shown at **Figure 2**) and has four distinct geographical features - the coast, mountains, central plains and western plains - and is just over 800,000 square kilometres in land area (ABS 2018).

It has the highest population of any state in Australia, with 7.7 million residents as of December 2016; approximately 65% of which (5 million people) live in Greater Sydney (ABS, 2018; NSW Government 2018a). The population is expanding rapidly, growing by an average of 110,000 people or 1.5% annually over the past five years, making it the fastest growing state in Australia (ABS 2018).

Figure 2 NSW - Australian context



Source: ABS 2018b

3.2 Local government

In NSW local government organisations obtain their powers from the *Local Government Act 1993 No 30* (*LG Act 1993*), Chapter 3 of which provides 'Principles for local government'. The objective of these principles is to provide 'guidance to enable councils to carry out their functions in a way that facilitates local communities that are strong, healthy and prosperous' (clause 8). A set of principles is provided including on decision-making and community participation (clause 8A), sound financial management (clause 8B) and integrated planning and reporting (clause 8C).

Over the past few decades local government in NSW has been subject to significant and seemingly ongoing reforms. In 2009 the *LG Act 1993* was amended to include a new Integrated Planning and Reporting (IP&R) framework (OLG 2018) and in 2013 the NSW Treasury Corporation (TCorp) assessed the financial sustainability of councils resulting in financial ratings being assigned to all councils (TCorp 2013). The Independent Local Government Review Panel (ILGRP) was then established to formulate options for governance models, structures and boundary changes and their Final Report made 65 recommendations, including suggested council amalgamations and boundary adjustments (ILGRP 2013).

Council amalgamation appeared to be the principle public policy tool on the basis that larger councils are able to achieve greater economies of scale and strategic capacity (Grant and Drew 2017, p. 357-358) and in 2015 IPART was appointed to assess how councils met the 'Fit for the Future' criteria. IPART ultimately deemed that 52 of the 139 councils were 'fit' and 87 were 'unfit' (Grant and Drew 2017, p. 366). In 2016 forty-two councils were amalgamated into nineteen new councils (OLG 2018).

Other reforms have included the review of the *LG Act 1993*, partly implemented in 2016 with further amendments to follow, and in 2017 the establishment of Joint Organisations (JO's) - there are now 85 regional councils that are members of thirteen JO's (OLG 2018).

As discussed at **Section 2** the NSW development contributions system has also been under review and proposed reforms (as part of the NSW planning system reforms), however the proposed changes (including Part 5B and the 2013 Planning Bill) did not eventuate.

The NSW planning system reforms, local government reforms and financial sustainability of councils are all related to the development contributions system, which provides both a strategic planning mechanism and funding source for local infrastructure in NSW.

There are currently 128 councils in NSW, as shown at **Figure 3**. This is made up of a mix of council types including metropolitan (25), metropolitan fringe (9), regional (37), rural (15) and large rural (42) (OLG 2017). The number of councils and key data is provided at **Table 3**.

Table 3 Summary of NSW local government types

Council type	No. of councils	Land area (km^2)	Land area (% of NSW)	Population (ERP at 30 June 2018)	Population (% of NSW)	Population density (persons per km^2)	Population change over 10 years (%)
Metropolitan	25	1,969	0.3%	3,824,766	48.66%	1,942.39	20.03%
Metro. Fringe	9	10,202	1.4%	1,306,690	16.63%	128.09	14.73%
Sub total	*34*	*12,171*	1.7%	*5,131,456*	*65.29%*	*421.63*	*18.63%*
Regional	37	136,452	19.3%	2,247,544	28.59%	16.47	10.44%
Sub total	*37*	*136,452*	19.3%	*2,247,544*	*28.59%*	*16.47*	*10.44%*
Rural	15	228,191	32.2%	46,493	0.59%	0.20	-4.38%
Large Rural	42	330,819	46.8%	434,487	5.53%	1.31	2.5%
Sub total	*57*	*559,010*	79.0%	*480,980*	*6.12%*	*0.86*	*1.79%*
Total	**128**	**707,632**	**100%**	**7,859,980**	**100%**	**11.11**	**15.03%**

Source: ABS 2018; OLG 2017.

As shown at **Table 3** above, the size and population of NSW councils vary greatly; from the densely populated metropolitan LGAs (the City of Sydney Council has a population density of 8,384 persons per km^2) to the expansive rural LGA's with low population (Central Darling Shire Council has a population density of 0.034 persons per km^2) (ABS 2018). This therefore creates different challenges for the respective councils, in terms of service delivery, infrastructure requirements and funding.

The development contributions system, and specifically Section 7.11, supports the planning and funding of new and upgraded infrastructure to meet the demands of the increased populations.

Figure 3 NSW local government areas

Key:

Local Government Areas

Source: Australian Government 2018b

4. RESEARCH FRAMEWORK AND METHODOLOGY

Research is a way of knowing or understanding; it is processes of systematic enquiry to collect, analyse, interpret and use data (Mertens 2010). Many government organisations are now favoring evidence-based policies and programs, as these strategies have been proven with research (Robson 2011). This research aims to provide an evidence base for the review of the contributions cap and will involve both primary and secondary research (Robson 2011). This section outlines the framework under which the research will be carried out and the data collection and analysis methods.

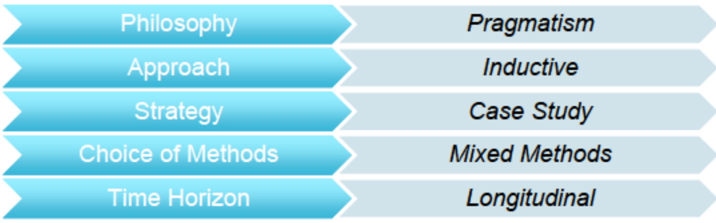
4.1 Research design

Researchers will start a project with certain assumptions about how and what they will learn. These assumptions can be referred to as knowledge claims, philosophical assumptions, a philosophy or paradigm (Creswell 2003, p.6). This research was carried out within the ***pragmatic*** paradigm due to its concern with the applications (what works) and solutions to problems (Creswell 2003, p.11). It used an ***inductive approach*** and the topic was explored in depth (Creswell 2003). With the questions being generally of a 'what' nature, this is an ***exploratory case study*** (Yin 2009).

Due to the complex nature of the topic the research used ***mixed methods***, that is, both quantitative and qualitative data collection methods. This is based on the assumption that collecting diverse types of data best provides an understanding of a research problem (Creswell 2003).

The case study used a ***concurrent*** strategy of inquiry, in which both the qualitative and quantitative data was collected at the same time, then integrated in the overall results, providing a comprehensive analysis of the research problem (Creswell 2003). The research used a ***longitudinal*** time horizon, considering contribution rates both before and after the introduction of the contributions cap, generally from 1993 to 2018. A summary of the research design is provided at **Figure 4**.

Figure 4 Summary of research design



Source: Adapted from Saunders et al. 2007 in Omotayo and Kulatunga 2015

4.2 Research process and limitations

The following research process (adapted from Creswell 2003 and Mertens 2010) was followed:

1. Identify broad research topic and specific research questions.
2. Prepare research design and methodology, including theoretical framework.
3. Carry out a literature review.
4. Carry out qualitative research and collect quantitative data.
5. Analyse the data and summarise findings.
6. Write the research report.
7. Identify recommendations and future directions.

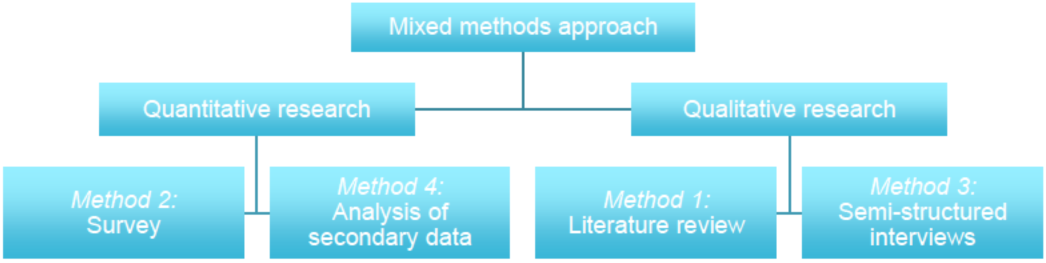
The overall timeframe of the project, as shown at **Table 1** limited the overall scope of the study. In addition, the following topics were not included in the scope or considered in the research:

- Section 7.11 contributions levied on non-residential development (i.e. industrial and commercial) including both the quantum of contribution rates and lack of any 'cap';
- Other contribution methods such as Section 7.12 (Section 94A), works in kind, planning agreements and affordable housing contributions;
- State contributions levied under the Special Infrastructure Contributions (SIC);
- Construction industry economics and development feasibility.

4.3 Data collection and analysis methods

The research took a mixed method approach and used a range of data collecting methods as shown at **Figure 5**. This section provides details on each of the data collection methods, including how the data was analysed.

Figure 5 Data gathering methods



Source: Adapted from Creswell 2003 and Mertens 2010.

4.3.1 Method 1 – Literature review

The purpose of the literature review was to understand what has previously been published on the topic (Rhoades 2011). The literature review was carried out based on Woods (2016).

The scope for the literature review was limited to Australian publications, and in particular NSW, with some focus on Victoria, Queensland and Western Australia. The timeframe of the 1990s to 2018 was searched using a range of terms such as developer charges, development contributions, infrastructure funding, local government, planning reforms and housing affordability.

Initially peer reviewed published literature was searched from databases including Google Scholar, UTS Library, SAGE Journals online, Taylor and Francis and Wiley. Due to a limited amount of information from these sources the inclusion criteria was extended to include unpublished and public (or 'grey') literature from NSW state government websites, local government websites, development industry websites and media releases.

The findings from the literature review were analysed according to key themes that emerged. For example, for 'relationship with housing affordability', a range of perspectives and research findings were provided in literature, including both quantitative and qualitative data. This was analysed to determine relevance, and compared with the research's own quantitative data to determine findings.

The literature review (see **Section 2**) has provided an evidence base for answering the research questions, and for testing the qualitative and quantitative research findings.

4.3.2 Method 2 – Quantitative survey

To identify trends in Section 7.11 contribution rates, a quantitative survey was carried out to collect contributions plan data from between 1993 and 2018 from a range of councils. Although Section 7.11 (94) contributions have been levied since 1979, the requirement to prepare a contribution plan commenced in 1993, so this is when contribution rate data is available from.

The Office of Local Government (OLG) has classified each council in NSW as either a metropolitan, metropolitan fringe, regional, rural or large rural council (OLG 2017). Due to a smaller number of councils in the metropolitan fringe and rural council types, for the purposes of this study they were merged with metropolitan and large rural respectively. This aimed to ensure a sufficient sample size could be collected and analysed for each group.

Initially the Project Information Sheet (**Appendix 4**), consent form and survey (**Appendix 6**) was emailed to thirty councils, ten from each group, with an aim of achieving a 50% response rate, or a total of fifteen councils responding (five from each group).

From initial survey responses it was found that each council had a number of contributions plans and the survey was not structured to adequately allow this information to be captured. In addition, the infrastructure cost break down section of the survey was not specifically required to inform the study. Therefore, a decision was made to update the survey (see **Appendix 7**) and this was emailed out to all thirty councils. Most council's then provided responses on the new survey and the required data was able to be collected. Two reminder emails, including an extension on the time to respond, were sent to encourage participation.

There was sufficient data collected from metropolitan fringe councils (see **Section 5**) for the findings to be presented and analysed separately to metropolitan councils (that is, without grouping types).

4.3.3 Method 3 – Semi-structured interviews

The purpose of the interviews was to gather a range of perspectives on the topic, both before and after the introduction of the cap, and to link the literature review findings to practical experience. Interviews were carried out with the following stakeholders:

- Local Government – Blacktown City Council, a metropolitan council, part of the North West Growth Centre with a number of plans subject to the cap, EWL and IPART review process.
- Local Government Industry – Local Government NSW, the peak industry association that represents the interest of NSW and general and special purpose councils.
- NSW State Government – Department of Planning and Environment, responsible for setting the policy direction and being actively involved in development contributions.
- Development Industry – Urban Development Industry of Australia, NSW, the states' leading development industry body that advocates on behalf of its members.

An organisation representing the planning industry was also contacted and invited to participate however due to time constraints and availability an interview was not conducted.

The interview participants were emailed a brief overview of the project and attached Project Information Sheet (**Appendix 5**), consent form and open-ended questions (**Appendix 8**). Some participants sought and received clarification on the research process and publication details. A signed consent form was received before each interview was conducted.

At the start of each interview the participant was reminded of the purpose of the study and that the research is being carried out in accordance with the UTS research policies.

One hour was allowed for each of the meetings however they only took around half an hour. Due to time and travel constraints most of the interviews were conducted via the telephone. All interviewees thought that the topic was quite relevant to current debate and reform and were happy to participate.

At the end of the interview participants were reminded that they would have an opportunity, prior to publication, to check any text used in the published report to ensure the meaning was correctly interpreted. Once the responses had been written into the draft report, an extract was provided to the participants for their review. One respondent requested some minor changes, which were made. All of the respondents advised that their responses had been accurately conveyed and were happy with how they had been identified. All participants were happy to have their organisation, but not their name, identified in the report.

4.3.4 Method 4 – Analysis of secondary data

Secondary analysis is a form of primary research as it includes the original analysis of secondary data, that is, data that has previously been collected by others (Mertens 2010).

To further explore the topic a range of data was gathered from a number of sources and analysed:

- The contributions framework, and any caps, in other Australian states;
- Guidelines on provision standards for social and community infrastructure (for example, number of libraries required per head of population);
- Benchmark cost estimates for local infrastructure items, including standardised adjustments for indexation, contingency, regional and other factors;
- Median land values (historical and current) by local government area;
- Contributions for land acquisition by LGA and council type;
- IPART assessed contributions plans.

5. PRESENTATION AND ANALYSIS OF FINDINGS

This section presents a summary and analysis of the research findings, being the quantitative survey, semi-structured interviews and secondary analysis.

5.1 Quantitative survey results

As shown at **Table 4** the survey was sent to thirty councils, representing 23% of all NSW councils. Ten councils responded to the survey so an overall participation rate of 33% was achieved.

All of the Councils that participated in the survey provided data for more than one contributions plan, so although the overall participation rate was relatively low a wide range of data was able to be collected. This also meant that there was sufficient sampling from metropolitan and metropolitan fringe councils to present and analyse these findings separately. No data was collected from rural or large rural councils. The survey sampling and participation rates are shown at **Table 4**.

Table 4 Summary of survey participation

Type of council	Number of councils in NSW	Sampling		Participation		
		Number of councils	% of councils	Number of councils	% of councils	Number of S7.11 Plans
Metropolitan	25	7	28%	2	29%	7
Metropolitan Fringe	9	3	33%	3	100%	10
Sub total	*34*	*10*	*29%*	*5*	*50%*	*17*
Regional	37	10	27%	5	50%	13
Sub total	*37*	*10*	*27%*	*5*	*50%*	*13*
Rural	15	3	20%	0	0%	0
Large Rural	42	7	17%	0	0%	0
Sub total	*37*	*10*	*18%*	*0*	*0%*	*0*
Total	**128**	**30**	**23%**	**10**	**33%**	**30**

The main reasons cited for non-participation from metropolitan, metropolitan fringe and regional councils was that they were either too busy to participate in the study, or they only had a Section 7.12 plan in place and therefore did not have Section 7.11 contribution rate data and had not been affected by the cap. In four instances no response was received at all.

The reasons cited for non-participation in the rural and large rural councils was that there was little or no development occurring in the LGA and any contributions received were insignificant (i.e. very low), or there was only a Section 7.12 plan in place so they did not have any Section 7.11 rate data and were not affected by the cap. Seven councils did not provide a response to the survey at all.

The following three sections present a brief description and the findings for each of the three council types where data was obtained. The data for each contribution plan was grouped according to the council type, and presented in a line graph with data from 1993 to 2018. The line graph provides a visual representation of the trends in contribution rates, that is, whether the rates have increased, decreased or remained steady over the period. The movement (increase or decrease) represents a change in contribution rate due to indexation, a contributions plan review or introduction of the cap.

The point in time of when the cap was introduced (2009) is marked on the graph to identify if contribution rates have been impacted (i.e. decreased) since the introduction of the cap. For plans subject to the cap and supported by LIGS gap funding two graphs are provided; one showing the total contribution rate as per the adopted plan, and one showing the developer paid contribution. The developer paid contribution rate graph includes projected trend data to 2020 to demonstrate the impact of the incremental increase and then removal of the cap in the LIGS transition areas.

The fourth section broadly discusses contributions in the rural and large rural councils and the fifth section presents a summary of the overall findings.

5.1.1 Metropolitan councils

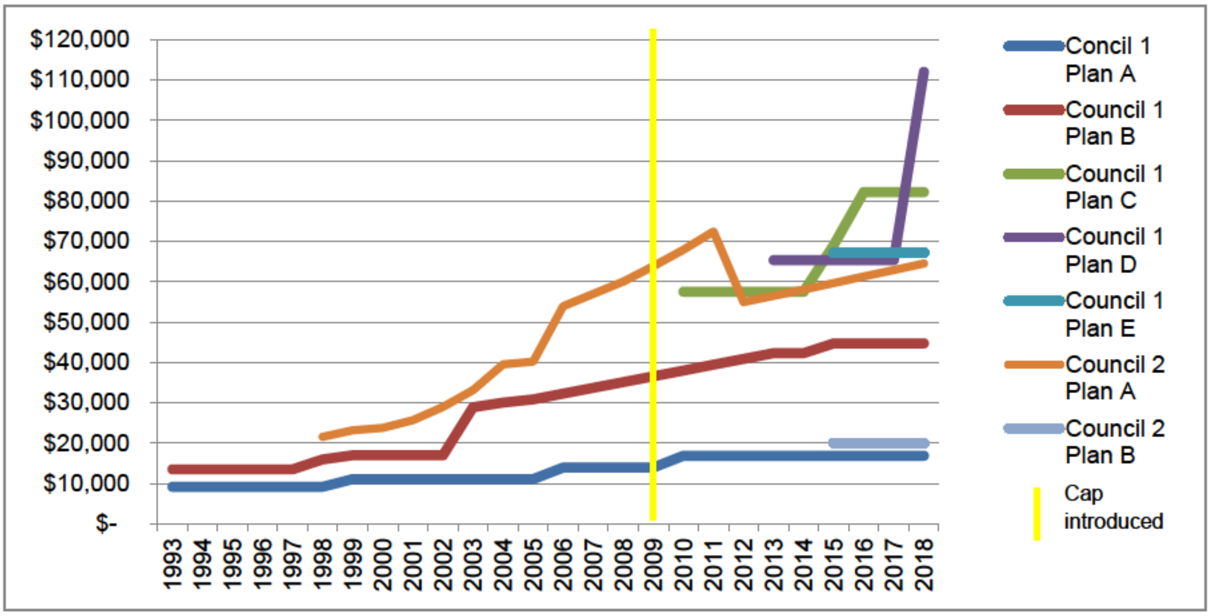
Despite the twenty-five metropolitan councils covering only 0.3% of the land area in NSW they are home to almost 49% of the states population (ABS 2018). In the past decade these councils have experienced an average per annum growth rate of 2%, or an additional 63,000 people per year (ABS 2018). It is noted that the rate of $66,000 per residential lot cited by DoP when the cap was introduced was within a metropolitan growth centre council (DoP 2008).

The two metropolitan councils that responded to the survey provided data for seven different contributions plans. Some of these plans commenced in 1993 providing historical trend data, and some of these plans commenced in the past ten years providing indicative current contribution rates.

The data showed that plans adopted before and after 2009 had rates above the cap. Of the seven plans, one was under the cap (Council 1 Plan A), one was subject to the $20,000 cap (Council 2 Plan B), three had rates approved over the cap with LIGS gap funding (Council 1 Plans C, D and E), one had a unique cap amount (Council 2 Plan A) and one was exempt from the cap (Council 1 Plan B).

The total approved contribution rate for each contribution plan sampled is shown at **Figure 6**.

Figure 6 Metropolitan councils: total contribution rates



Based on these trends lines it appears that the introduction of the cap has not directly impacted contribution rates, or resulted in rates decreasing. To the contrary, rates in both existing and new plans were found to be significantly above the $30,000 cap amount, and as high as $100,000.

It is noted that the sudden decrease in Council 2 Plan A around 2011/2012 was the result of a contributions cap being imposed specifically on that contributions plan.

Where the cap has impacted, however, is on the developer paid portion of the total contribution rate (i.e. the contribution rate that developers pay). As noted above, three of these plans have approval for LIGS funding, which means the developer rate is capped. The capped developer contribution rates are shown at **Figure 7**. With the announcement that LIGS is being phased out, the cap is being incrementally increased and by 2020 developers will be required to pay the total contribution rate. To demonstrate the effect and the resulting contribution once the cap is lifted entirely, the timeframe of **Figure 7** has been extended to 2020 to show the anticipated future 'uncapped' rates.

As shown at **Figure 7**, the developer paid contribution for three of the plans has been capped for a period of time, however other contributions plans continue to levy over the cap. Also, from 2017 the cap has been incrementally increasing. In 2019 the capped rate will increase to $45,000 per lot or dwelling and in 2020 the cap will be lifted entirely, resulting in the total contribution rate being paid by developers. These projected contribution rates are shown to the right of the green line.

Figure 7 Metropolitan councils: developer contribution rates

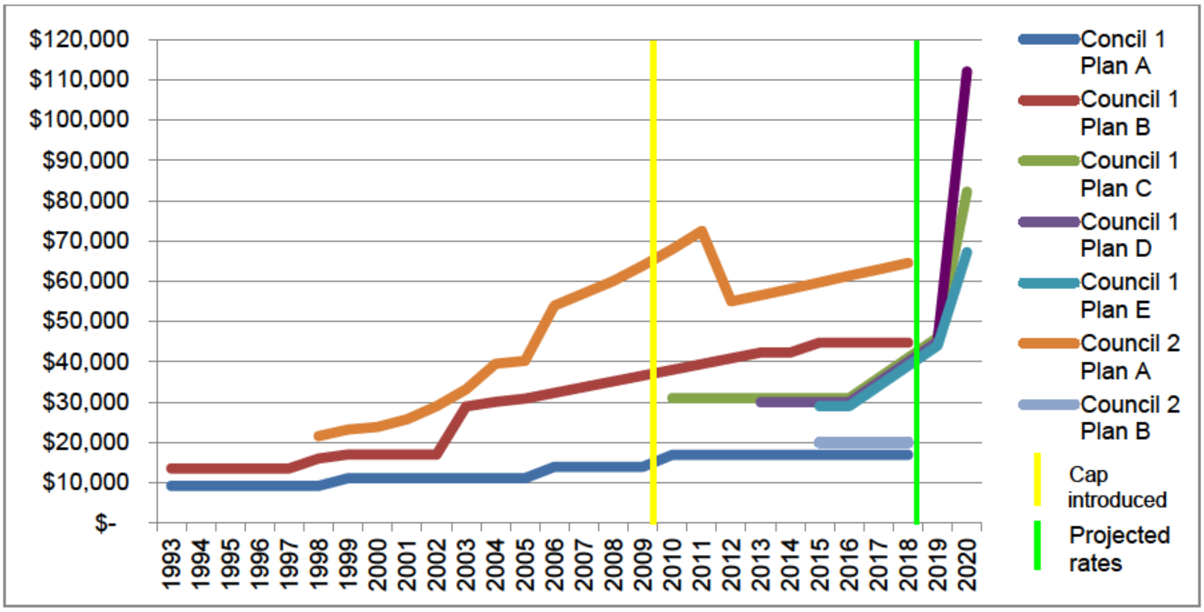
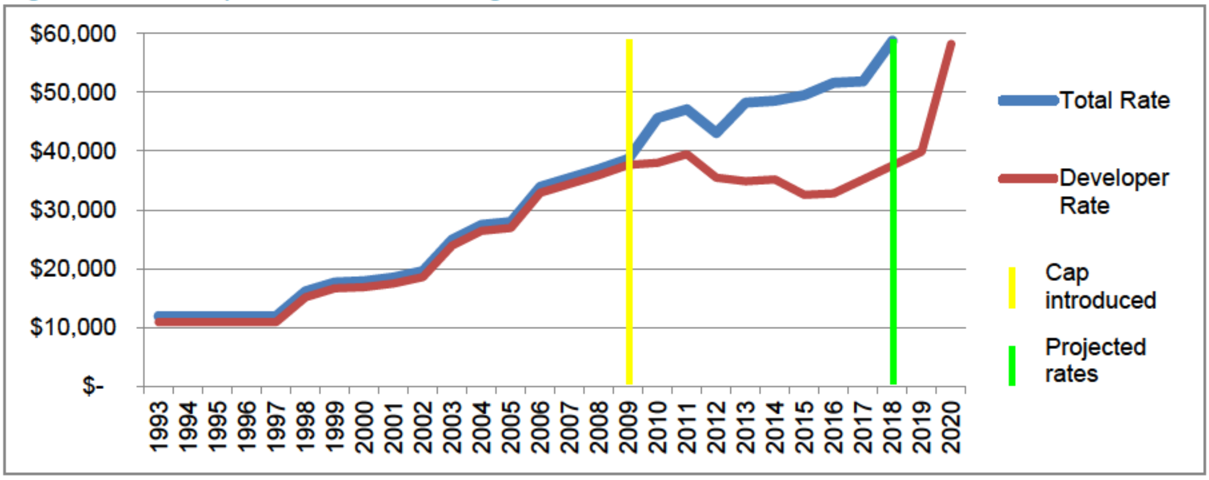


Figure 8 shows the average contribution rate for the metropolitan councils' contributions plans, both the total rates and developer rates, which have both been over the $30,000 cap since 2006.

Figure 8 Metropolitan councils: average contribution rates



This demonstrates that although some plans are under the cap, the average contribution rate is above the cap. The cap did result in decreased developer paid contribution rates for a period of time.

5.1.2 Metropolitan fringe councils

Metropolitan fringe councils also form part of Greater Sydney (GSC, 2018) and have similar characteristics to metropolitan councils such as high density and high population growth. The majority of the state-planned growth areas are in metropolitan fringe LGAs (DPE 2018f).

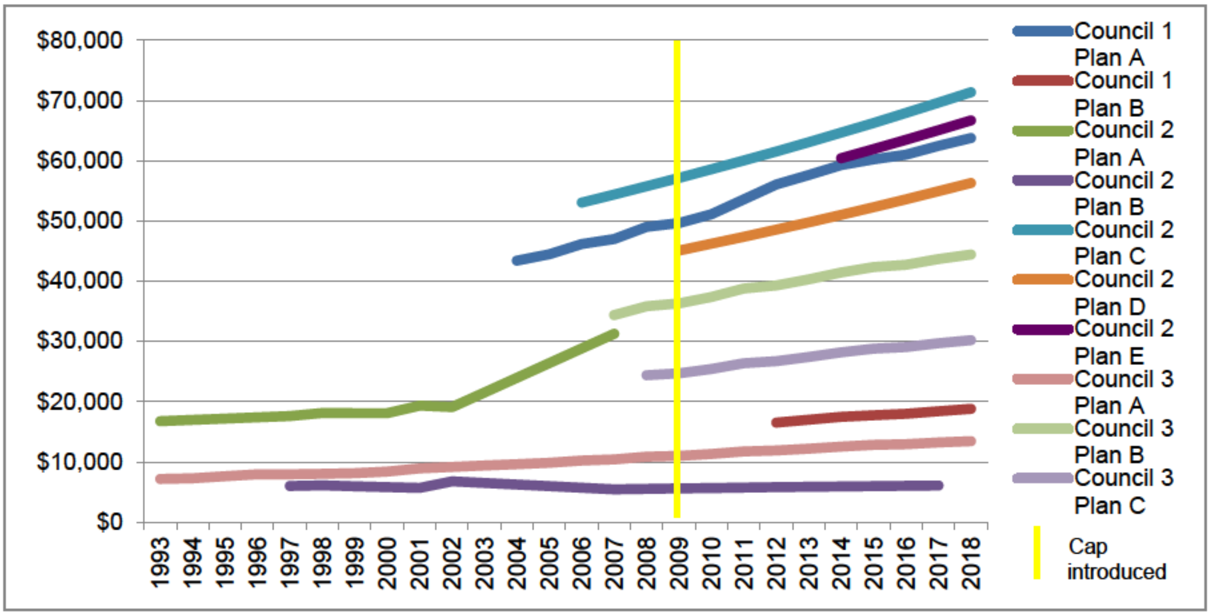
The nine metropolitan fringe councils in NSW cover approximately 1.4% of the state and are home to about 16.6% of the state's population, experiencing average growth rates of around 1.5% or 17,000 people per annum (ABS 2018).

The three councils that responded provided data for ten contributions plans. Some of these plans commenced in 1993 providing historical trend data, and some of these plans commenced in the past ten to fifteen years, providing indicative current contribution rates.

Again, the data shows that plans adopted both before and after 2009 had rates above the cap. Of the ten plans, one was repealed before the cap was introduced (Council 2 Plan A), three were under the cap (Council 1 Plan B, Council 2 Plan B, Council 3 Plan A), one was subject to the $30,000 cap (Council 3 Plan C), three had contribution rates approved over the cap and approval for LIGS funding (Council 2 Plans C, D, E) and two were exempt from the cap (Council 1 Plan A, Council 3 Plan B).

The total approved contribution rate for each metropolitan fringe plan sampled is shown at **Figure 9**.

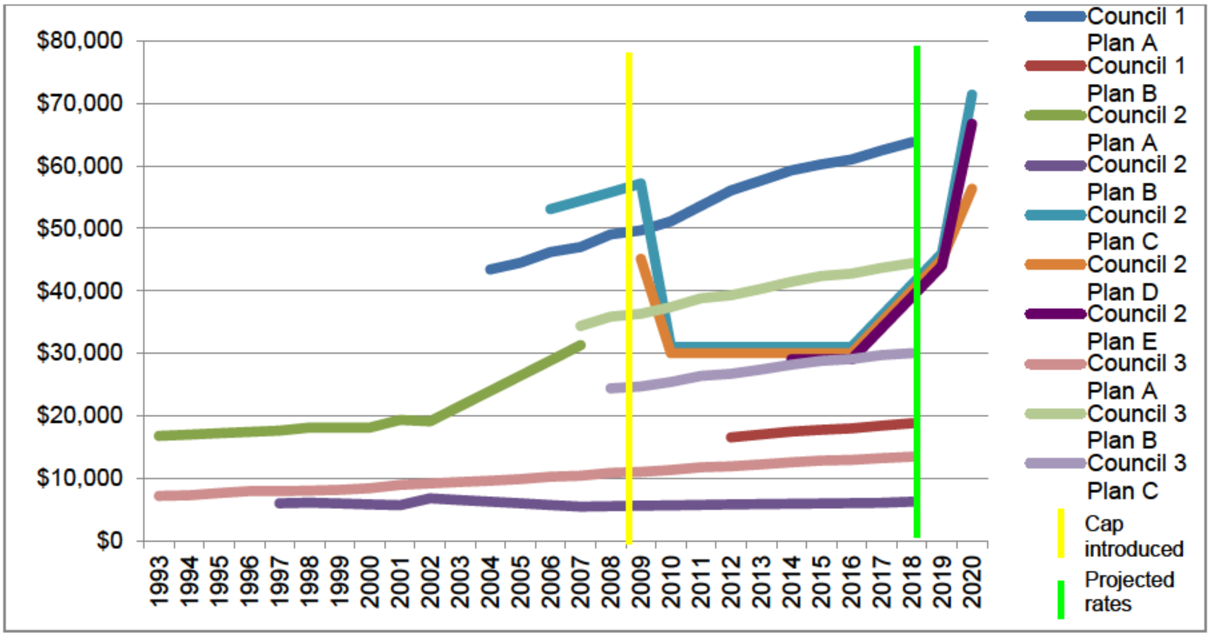
Figure 9 Metropolitan fringe councils: total contribution rates



Similar to the findings for metropolitan councils, based on these trends lines it appears that the introduction of the cap has not directly impacted contribution rates, or resulted in rates decreasing. To the contrary, contribution rates continue to be significantly above the $20,000 and $30,000 cap amounts, and recently have exceeded $70,000 per lot or dwelling.

Where the cap has have impacted, however, is on the developer portion of the total contribution rate (i.e. the contribution rates that developers pay). As noted above, some of these plans are capped or within a LIGS transition area. **Figure 10** shows the capped developer rates. To demonstrate the effect and resulting contribution once the cap is lifted in the LIGS transition areas, the timeframe of the graph has been extended to 2020 (shown to the right of the green line).

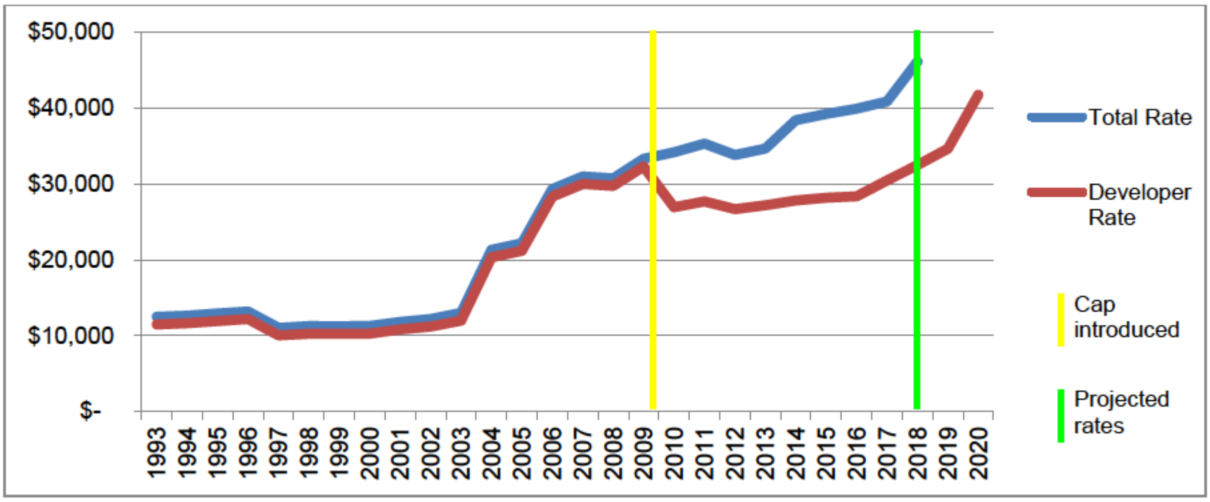
Figure 10 Metropolitan fringe councils: developer contribution rates



This graph shows that although a small number of plans have been restricted to the cap and developers have paid less contributions, there are still plans levying over the cap, and with the removal of the LIGS funding these contribution rates are set to escalate.

Figure 11 shows that the average contribution rate for these metropolitan fringe councils' contributions plans, both the total rates and developer rates, are also near or above the cap.

Figure 11 Metropolitan fringe councils: average contribution rates



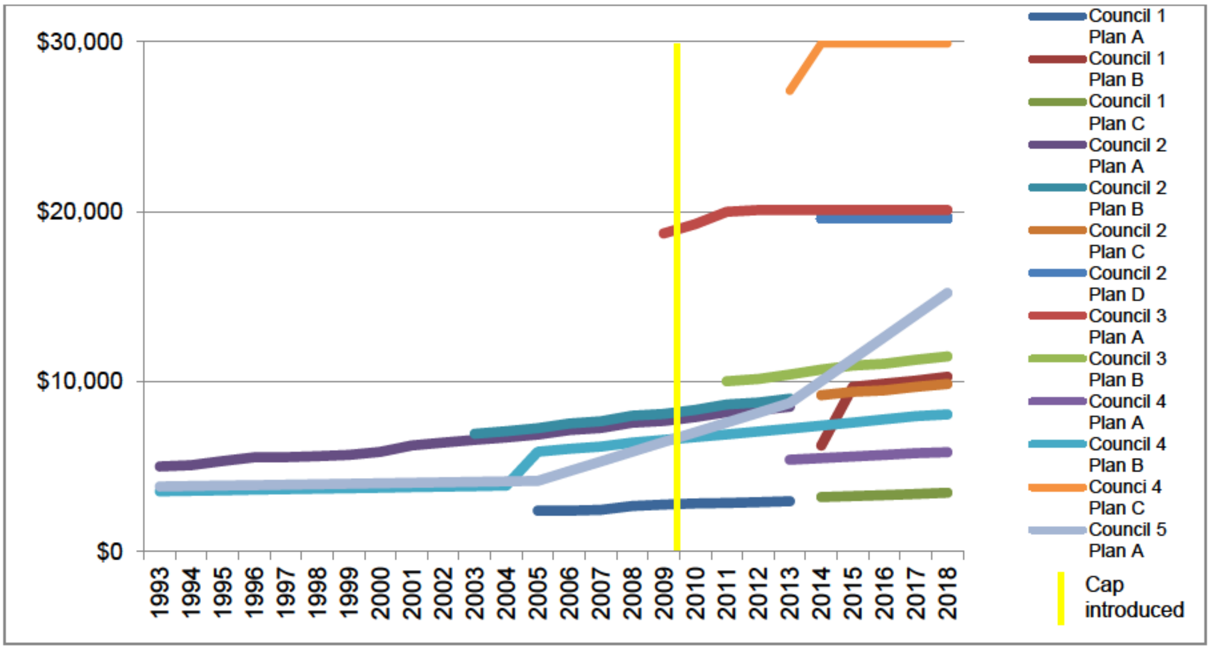
5.1.3 Regional councils

Regional councils cover 19.3% of the NSW land area and house approximately 2.25 million people, or 28.6% of the states population (ABS 2018). In the past decade these councils have experienced an average per annum growth rate of 1%, or an additional 21,000 people per year (ABS 2018).

The five regional councils that responded provided data for thirteen contributions plans. As shown at **Figure 12,** most of the plans were well under the cap (at around 50% or $10,000 per lot/dwelling) and therefore were not affected by the cap. Two plans were subject to the $20,000 cap (Council 2 Plan D, Council 3 Plan A) and one was subject to the $30,000 cap (Council 4 Plan C). It is noted that once the indexed rate hit the cap the councils did not levy over this amount, presumably choosing not to send the plan to IPART for two reasons. Firstly, the plan would be subject to the essential works list and by removing non-essential items would likely bring the rate below the cap. Secondly, the resources and time required may not justify the likely small increase in contribution rate.

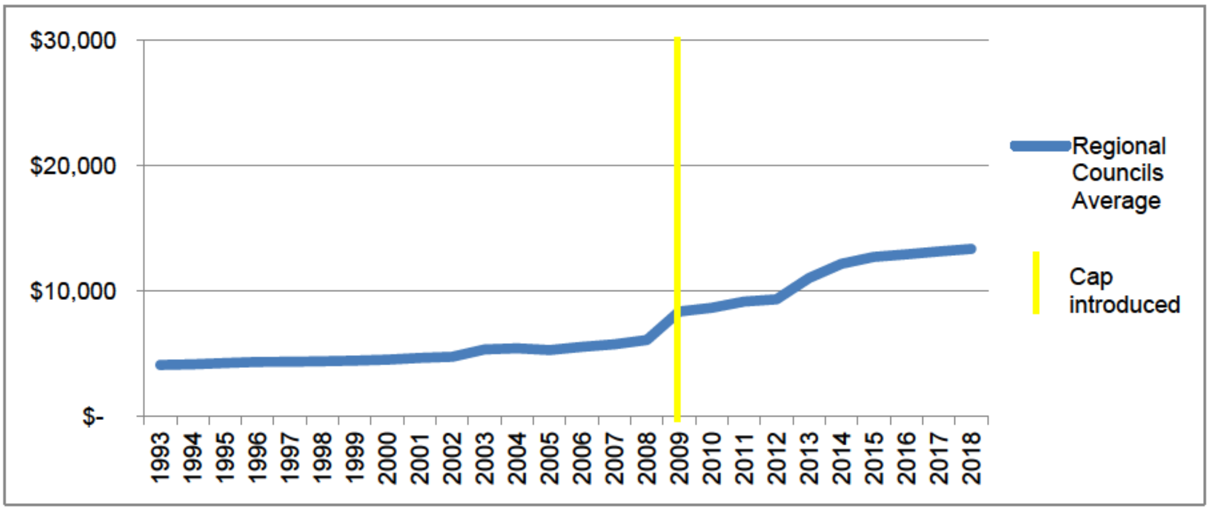
The trend data at **Figure 12** shows that contributions in regional councils are generally well under the cap thresholds and as such the cap appears to not be a major issue for regional councils.

Figure 12 Regional councils: contribution rates



The average contribution rates for the regional plans sampled are well under the cap (**Figure 13**).

Figure 13 Regional councils: average contribution rate



5.1.4 Rural and large rural councils

Together, rural and large rural councils make up 79% of NSW land area, but house only 6.12% of the population (see **Table 4**). These councils are generally larger in land area with smaller populations; the Central Darling Shire Council is 53,492km^2 with a population of only 1,875 persons (ABS 2018).

Rural councils have been experiencing a declining population over the past decade of around -0.4% or a loss of 200 persons per annum, while large rural councils have had a small population increase of around 0.25% or 1,000 persons per annum (ABS 2018).

As noted in **Section 5.1**, the survey returned no data for these council types. Due to the lack of responses a desktop analysis was carried out by reviewing each council's website to ascertain if contributions plans were in place. The findings are shown at **Table 5**.

Table 5 Rural and large rural councils' contributions plans

Council No.	Type of contributions plan(s)	Other information
1	Section 7.12 Contributions Plan	
2	Section 7.11 Contributions Plan	Plan applies to rural roads only.
3	No contributions plan found on website	
4	Section 7.12 Contributions Plan	
5	Section 7.12 Contributions Plan	
6	Section 7.12 Contributions Plan	
7	Section 7.12 Contributions Plan	
8	Both a Section 7.11 and Section 7.12 Contributions Plan	Section 7.11 rate noted in Plan is $3,230.87 per lot or 3 bedroom dwelling.
9	No contributions plan in place	This council levies developers toward water, sewer and stormwater only.
10	No contributions plan found on website	

As shown at **Table 5**, most of these councils have a Section 7.12 plan in place, if any at all. Therefore the quantum of development contributions, particularly Section 7.11 contributions and therefore the contribution cap, do not appear to be relevant to rural and large rural councils. Based on the findings of Barnes and Dollery (2006) there is possibly a lack of skilled resources to prepare a more complex Section 7.11 plan and a Section 7.12 plan may be more suitable due to low growth.

5.1.5 Summary of survey findings

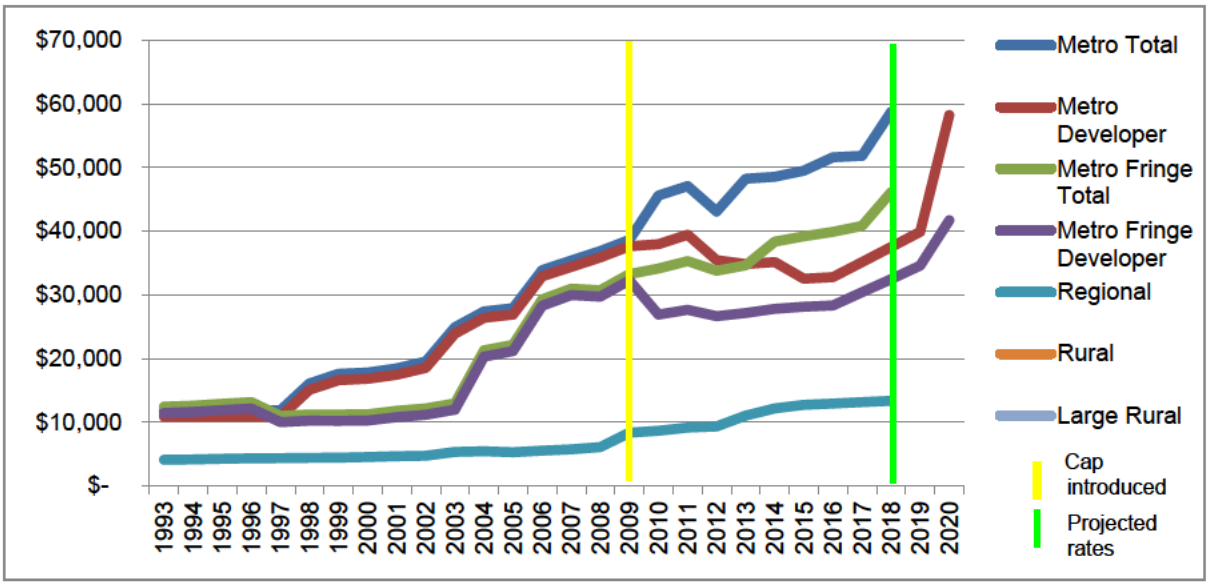
The survey aimed to collect quantitative data to identify trends in contribution rates, both over a time period and by council type, noting the limitations that arise from the sampling and response rates.

The trend lines identified from the survey are that rates are increasing and the introduction of the cap in 2009 has had a limited impact on contribution rates. In metropolitan and metropolitan fringe councils these increases are quite significant. In regional councils rates have been steadily increasing however the quantum is not as high and they are still generally under the cap. Section 7.11 contributions do not appear to be levied in rural and large rural councils.

The introduction of the cap has reduced the contribution paid by developers in some instances however for developers in the 'LIGS transition areas' (where the approved LIGS gap funding is now being incrementally phased out) the cap is increasing and will be removed in 2020. This will result in an escalation of contribution rates, as shown the graphs (see Figure 14 to the right of the green line).

Figure 14 shows the average contribution rate for each council type, including both the total and developer rates for metropolitan and metropolitan fringe councils. It also shows that although there was a reduction in the developer paid contribution rates, the averages are still generally over the cap, and are set to increase significantly in 2020.

Figure 14 Average contribution rates by council type



The data from the survey has shown that the quantum of contributions varies significantly between council types. This same data is now expressed as a change (generally an increase) in contribution rates by five-year increments. The total increase between 1993 and 2017 (twenty five years), and the average annual increase are also shown. This allows the data to be expresses as a percentage change, regardless of the rate itself. As shown at **Table 6** below, rates have increased by up to 350% over the past 25 years, or an average of 14% per annum.

Table 6 Five year change in contribution rates by council type

Council Type	1993 to 1997	1998 to 2002	2003 to 2007	2008 to 2012	2013 to 2017	Total 1993 to 2017	Average annual increase
Metropolitan*	0.00%	22.09%	42.92%	17.01%	7.55%	**350.80%**	14.03%
Metro. Fringe*	-12.08%	8.67%	144.24%	10.16%	18.13%	**237.14%**	9.49%
Regional	6.27%	7.82%	7.69%	53.13%	19.15%	**219.61%**	8.78%

** Based on total contribution rate*

5.2 Semi-structured interview responses

As shown at **Table 7** a total of four interviews were carried out over July and August 2018.

Table 7 Summary of interviews

Stakeholder	Date of interview	Interview type
Local government – Metropolitan council	24 July 2018	Telephone
Local government industry - LGNSW	18 July 2018	In person
NSW state government – DPE	31 July 2018	Telephone
Development industry – UDIA NSW	4 August 2018	Telephone

The specific questions that were asked to each stakeholder are shown at **Attachment 8**. Although the questions varied slightly, the responses are presented based on five key question areas.

5.2.1 Introduction of the cap

All stakeholders were asked about their recollection of the introduction of cap, what the climate was (i.e. economic, political, status of planning reforms) and whether they recalled a draft proposal being exhibited or any other form of consultation. Although some of the respondents were working with another organisation at the time, they all had some knowledge or involvement with the introduction of the cap, and offered their insights to the study from that perspective (this is denoted by # which represents a comment that does not necessarily reflect the respondent's current organisations view).

At the time of the caps introduction, the population of Greater Sydney was increasing rapidly and there was a need for new housing. The precinct planning for a number of sites in the north and south west growth centres had commenced and the development industry was putting pressure on the government to increase land supply and reduce costs, such as development contributions:

> *I recall the chaos and pressure on the state government from the development industry to increase the release of land (LGNSW#).*
>
> *We were working with the department on preparing a draft contributions plan for the newly announced growth centre. The rate was around $55,000 per lot and there was a push to reduce this rate. It was during this process that the NSW Premier announced the cap, as well as cuts to the SIC and Sydney Water levy (Metropolitan council).*
>
> *At the time the cap was introduced we were in what is known as a 'seven year slump', which saw really low supply, a depressed market and need for stimulus. The cap was designed to stimulate supply, alongside a number of other reforms such as activation precincts and the formalisation of rate pegging (Development industry).*

The cap aimed to increase housing supply and address housing affordability concerns:

> *The government wanted to do something to address housing affordability. The imposition of a cap and the introduction of the essential works list were intended to reduce housing cost (DPE#).*
>
> *To promote the supply and availability of land you either need to reduce fees and charges, profit margins or the raw land value. If there is no incentive for the initial landowner to sell then it is hard to reduce the raw land value. The banks set profit margins as a financing requirement. So the government can only influence affordability by reducing fees and charges (Development industry).*

There was also a much broader economic downturn, the Global Financial Crisis (GFC):

> *Around 2008 the government (at both the State and Federal levels) was working to buffer the impact of the GFC on the Australian economy. Housing construction is an important contributor to the economy and is a significant employer (DPE#).*

There was a general consensus, consistent with the literature review findings, that the cap was a surprise announcement and there was neither prior consultation, nor evidence as to how the $20,000 amount had been determined:

> *I do not recall any warning or consultation when the announcement came out. The introduction of the cap sent our council into shock as although the draft plan for the new growth centre had been reduced to around $45,000, this was still well over the $20,000 cap (Metropolitan council).*
>
> *The council I was working at was releasing new greenfield growth centre land areas and was working closely with DoP on contributions. The DoP had flagged the introduction of a 'cap' and 'essential works list' but there was little concrete information (DPE[#]).*
>
> *It was unclear how the $20,000 rate was determined (Metropolitan council).*

5.2.2 Impact of the cap

The cap was perceived to impact upon each of the various stakeholders differently. For councils there was immediate financial concern:

> *My recollection is that this came as a surprise and was a significant disrupter for local government. Council was caught in a scenario where it faced extensive financial shortfalls (DPE[#]).*
>
> *Our existing contributions plans had commenced, and the cap would have had major impacts. This is potentially where the transitional arrangements came from; where 25% of development consents had been granted these plans were exempt from the cap. This helped to fix the worst of the housing supply interruption that was caused by the cap (DPE[#]).*

Following the introduction of further reforms in 2010 (DoP 2010a), including the $30,000 greenfield cap, provision for an exemption from the cap where more than 25% of development has been approved and the introduction of gap funding mechanisms, respondents considered that the financial impact to councils should have been minimal:

> *At one level, the introduction of the cap shouldn't have impacted councils, as IPART has considered requests for contributions plans above the cap and most of these applications have been approved, some significantly higher than cap (LGNSW).*
>
> *Following the introduction of the cap came various policies for councils to recover the amount above cap, including the state government funded Housing Acceleration Fund (HAF), Priority Infrastructure Fund (PIF) and now LIGS. Once this alternative funding was set in motion it was not a big issue for this council (Metropolitan council).*

The introduction of the EWL and gap funding mechanisms have had their own impacts:

> *There is potentially a greater impact from the pairing back on necessary infrastructure, those services still need to be provided, someone needs to pay for them (LGNSW).*
>
> *The contributions cap impacts the state government, as it has had to find a funding source to address this gap. The funding is sourced through NSW Treasury, not DPE's budget. My understanding is that this is a large financial burden and the Government has announced a winding back of this funding. The reductions to the SIC levy is also an ongoing financial burden to NSW Treasury (DPE).*

There has also been a resourcing impact to both councils and state government:

> *To get LIGS funding you need to go through IPART. A lot of councils chose not to do this, as the IPART process is extremely resource intensive. The first Plan we had reviewed took 18 months to adopt. Since then there has been about another five plans reviewed, ranging from 12 to 18 months (Metropolitan council).*
>
> *There has been a resourcing impact to DPE as staff time has been required to facilitate contribution plan reviews and implementation of the LIGS (DPE).*

There have been some non-financial impacts of the cap and IPART review process:

> *The process of having a contributions plan reviewed by IPART has potentially slowed the release of land by Councils by a six months plus time frame (LGNSW).*
>
> *The introduction of the cap has resulted in an increase use of Planning Agreements over the last decade. These are often in lieu of a $30,000 capped contributions plan, and have enabled*

> *developments to start before a plan is finalised. This also benefits the developer as the rate is 'locked in' and either the monetary contribution can be paid, or the developer can deliver works in kind. This is well understood by the developers and allows the developer to provide the infrastructure, which can be harder in fragmented areas (Development industry).*

There have been benefits to the introduction of the cap. The cap and subsequent IPART review process is seen to have brought accountability to the contributions system:

> *It could be argued that bringing IPART into it the process brought about robustness in council's planning, however this process has also showed that Councils know what they're talking about and that they have not been 'gold plating' contributions plans (LGNSW).*
>
> *The cap and the essential works list work together. If a plan is over the cap then non-essential items must first be removed, helping to reduce the gap. Then if the plan is still over it must be reviewed by IPART (DPE).*

There were also cash flow benefits to councils:

> *The state government 'gap' funding (i.e. HAF, PIF, LIGS) was positive in that it provided funding earlier than when it would usually be received. The gap funding is paid on development approval, rather than when the lots are subdivided (Metropolitan council).*

The cap was welcomed by the development industry:

> *There are many benefits to the cap; it provides certainty (from the time of buying raw land to delivering houses), it increases feasibility, which helps to increase supply, it makes councils that are under the cap more efficient (and encourages councils to stick to the cap) and it is supported by gap funding (Development industry).*

5.2.3 Evaluation or review of the cap

Interview respondents were asked whether they were aware of any evaluation or review of the cap, and their thoughts on the announcement of the LIGS phase out.

The only form of review or evaluation appears to be a review of the state government funding arrangement (LIGS):

> *It is understood that the LIGS is being phased out as the State Government can no longer afford to fund the gap forever, as it was costing them too much. In these "LIGS transitional areas" the cap will be removed but in all other areas the cap still applies (Metropolitan council).*

However the EWL and IPART review process is here to stay:

> *The 'cap' on development contributions has been the subject of careful consideration and it was recently announced that the cap would be progressively removed. It is important to note that this does not change the requirement for IPART to review contributions plans above the relevant threshold ($20,000 or $30,000). This remains an important feature of the contributions planning framework and provides assurances to the development industry that costs are being carefully monitored and reviewed (DPE).*
>
> *It is disappointing that Plans still need to go through IPART for review and that the essential works list still applies. For example, community buildings are necessary to support a new housing development yet remain unfunded (Metropolitan council).*

There are no known plans to review or remove the cap, EWL or IPART review process:

> *I am not aware of any plans to review the cap. The IPART review process is here to stay. The cap provides a trigger or threshold for when a plan needs to be reviewed by IPART. The IPART review process adds weight to a plan. It is a three step process:*
>
> 1. *Councils can independently prepare a plan up to the $20,000 or $30,000 cap;*
> 2. *If the plan exceeds the relevant cap they need to limit the works to the EWL;*
> 3. *If the rate is still over then they need to send the plan to IPART for review (DPE).*
>
> *This is seen as an important oversight function and with the removal of top-up funding, it will*

remain important to ensure that contribution rates are kept in check. The development industry needs confidence that they are being asked to pay their fair share of infrastructure costs. The IPART review provides this function (DPE).

With the phase out of the LIGS and increase of the cap in these areas, the cost will be shifting back to developers and the debate continues on who should be funding:

The state government should continue to play a greater role in funding essential infrastructure (LGNSW).

DPE acknowledges the need for broader reforms, but in terms of funding infrastructure, the state government is providing large state infrastructure such as schools, hospitals and major roads. The federal government allocates GST revenue to state government, so in that sense we are in a similar situation to councils, relying on funding from higher tiers (DPE).

5.2.4 Appropriateness of the cap

The question of whether the cap is considered current and appropriate was asked. Not surprisingly the local government respondents gave a resounding 'no':

It was never an appropriate reform mechanism. It just made them look like they were doing something when they weren't (LGNSW[#]).

No. The EP&A Act and EP&A Regulation are designed to cover contributions by developers. The supplementary Ministerial powers, under which the cap was imposed only limits the developer's portion. The infrastructure still needs to be funded - someone has to pay. As long as costs are reasonable, the next question is who should pay what (Metropolitan council).

The DPE respondent offered the following perspective, which highlights the complexity of the topic, its various influences, perspectives and considerations:

I think that the effectiveness and appropriateness of the cap and essential works list could be debated at length and with great energy. There are a variety of views and this has significant influence on how you would perceive these tools.

For example, if you wanted to send clear price signals to the development industry regarding the cost of development and ensure that we capitalise on existing infrastructure investment, then the 'cap' did not achieve this. However, if you wanted to put downward pressure on the cost of housing production to improve housing affordability, then perhaps the 'cap' was a useful tool as development in greenfield areas remains relatively more affordable than inner/middle suburb areas.

If the objective is to bring housing to market, then the 'essential works list' ensures that infrastructure is provided to facilitate this outcome. However, if the objective is to deliver liveability and amenity, then you could view the 'essential works list' as a barrier.

I don't think I could offer a particular view on this question (DPE).

The development industry stated:

The current contributions framework is not considered current or appropriate and there are a number of recent reports on this topic. There is little accountability as to how and when infrastructure will be delivered. Rates are unpredictable, unclear and highly variable (Development industry).

5.2.5 Alternative approaches to the cap

Most participants were then asked their thoughts on alternative approaches to the funding of local infrastructure and/or the development contributions regime, or if they had any other comments on the topic. There was a range of responses.

LGNSW stated:

There are many ways to "slice and dice" the costs but at the end of the day infrastructure is needed. The state government should be playing a far greater role in this space, whether *directly funding, or some sort of fund type arrangement such as an infrastructure development fund (LGNSW).*

The metropolitan council responded:

Local infrastructure costs what it costs. Councils need to acquire land and build the works. It is who pays that is the big question. The White Paper tried to look at this, suggesting a broader base on which to levy contributions, for example a tax paid by all Sydney Councils.

In the past there was an expectation that the additional houses would provide more rates income for council, and that this could be used to fund the infrastructure. This is considered unreasonable as rates are fundamentally designed to cover operational costs.

One of the biggest costs in our plans is land acquisition. Good planning principles may suggest that open space is best located next to medium density housing, however this means that council is acquiring land for open space at medium density land values. Locating open space next to creek lines to reduce the cost is an option, however this may not provide the best planning outcomes (Metropolitan council).

DPE responded:

There is a need for broader reforms. The current system places the whole of the upfront cost on the first developer. Councils are also subject to rate pegging which restricts their funding source for the operational costs. Cost sharing is a possibility. There is also a political aspect to any reforms and policy decisions (DPE).

The development industry’s thoughts are:

The contributions framework in NSW is broken. In fact, the whole planning system in NSW is broken. Developers are paying the full cost; we need to shift to a beneficiary pays model and spread the cost of infrastructure across a broader range of beneficiaries (Development industry).

The development industry representative was also asked about their experience in how land values are determined, and whether they are driven by market demand or based on development costs (i.e. raw land, contributions, profit margins etc).

In terms of land sale values, developers can charge a maximum price to what the market will accept. Over a short term period there may be a market demand element, however over the medium to long term the price of land is ultimately dictated by supply (Development industry).

5.2.6 Summary of interview responses

The interview responses have been valuable in providing a range of perspectives on the topic and linking the literature review findings to practical experience.

From a local government perspective, the cap impacted not only on a council’s ability to fund required infrastructure, but also to strategically plan for infrastructure provision (for example needing to relocate open space from residential areas to next to creek lines after master planning had occurred). The IPART review process adds another lengthy and resource intensive step into the already complex process of preparing and adopting a contributions plan.

The state government acknowledges that contributions are a complex policy area and there are different needs that need to be met (i.e. ensuring adequate land supply, ensuring development feasibility and ensuring communities are adequately provided for). The gap funding cannot be maintained and is currently being phased out, however IPART will continue to review contributions plans above the cap. The need for broader reforms is acknowledged.

The main concerns expressed from the development industry was the lack of transparency in the way contributions are calculated and the uncertainty as to that the contributions will be from the time raw land is purchased to the time they are levied. The development industry also identified a need for broader reforms.

5.3 Analysis of secondary data

This section collates and analyses data from a range of sources to further assist in the understanding and development of alternative approaches to the contributions cap.

5.3.1 Contributions frameworks in other Australian states

As each Australian state or territory establishes its own development contributions systems, there is benefit in understanding the approach taken to contributions and whether any cap applies in these other jurisdictions. The states of Queensland, Victoria and Western Australia were chosen for review due to their inclusion in a number of research articles reviewed during the literature review.

<u>*Queensland*</u>

The cap on residential development, announced on 12 April 2011, was a surprise decision (Murray 2018). Currently, the *Planning Act 2016* establishes the Infrastructure Planning and Charges Framework, and the *Planning Regulation 2017* (Schedule 16, Prescribed Amounts) sets the current maximum adopted charge for residential development (i.e. lots, dwellings, dual occupancies) at:

- $20,239.95 for each dwelling with 2 or less bedrooms;
- $28,335.90 for each dwelling with 3 or more bedrooms.

In addition, the Adopted Infrastructure Charges Schedule 2016 specifies the maximum charges for all land use types, including non-residential development, and also where a charge cannot be levied. There is also provision for these maximum charge amounts to be indexed annually (DILGP 2016).

Although it is unclear from this initial review whether there are any allowances for levying over this amount or how the per bedroom rate is applied to subdivisions, the Queensland system supports the concept of a maximum charge or 'cap' and additionally provides certainty on charges for all land use types (including non residential) as well as indexation of charges.

<u>*Victoria*</u>

Contribution rates in metropolitan Melbourne have increased significantly in recent decades. Between 1997 and 2003 the average contribution was $50,800 per hectare and between 2010 and 2014 the average was $214,900 per hectare (Ainsaar 2014). This significant increased resulted in a review committee contemplating the use of a standard levy system (Shipp 2014).

In 2016 the new Infrastructure Contributions Plan (ICP) system, which includes a standard levy, was introduced to metropolitan greenfield growth areas (DELWP 2018). ICP's are also subject to standard infrastructure items, making them easier to prepare and providing greater clarity for both council and developer. Where these items have unusual construction requirements resulting in a cost beyond that of the standard levy a supplementary levy can be used (Robinson and De Gruyter 2018).

The standard levy is enforced through a ministerial direction and includes 'per net developable hectare' base rates for the specified 'allowable' items of infrastructure with different rates for residential and commercial/industrial development (DELWP 2016). The current indexed residential standard levy amounts for 2017-18 are shown at **Table 8**.

Table 8 Victoria's standard levy amounts for residential development

Metropolitan growth area	Contribution rate per net developable hectare			
	Community & recreation construction	Transport construction	Public land	Total levy rate (per hectare)
South-east	$86,800	$108,700	$158,500	**$354,000**
North and west	$86,800	$108,700	$138,800	**$334,300**

Source: Victoria DELWP 2018

As shown at **Table 8** a standard levy amount has been set based on the construction costs for different types of infrastructure and land acquisition. It is noted that although the construction costs are the same, the land acquisition levy varies due to differing land acquisition costs in different areas and as will be discussed at **Section 5.3.4** land values can also vary greatly across NSW.

To enable a comparison of 'caps' across the three states, the per hectare rate must be converted into a to a per lot/dwelling rate. This has been calculated based on various density scenarios at **Table 9**.

Table 9 Victoria's standard levy amounts converted to a per lot rate

Metropolitan growth area	Total levy rate (per hectare)	Per hectare rate converted to per lot rate		
		@ 15 lots per hectare	@ 20 lots per hectare	@ 25 lots per hectare
South-East	$354,000	$23,600	$17,700	$14,160
North and West	$334,300	$22,287	$16,715	$13,372

As shown at **Table 9** the comparative per lot contribution rate varies depending on the assumed lot yield (i.e. how many lots will be developed). Therefore, for the purposes of comparisons at **Table 11** the range of contribution rates will be used, that is between $13,372 and $23,600.

Western Australia

In Western Australia the State Planning Policy 3.6 Development Contributions for Infrastructure and the accompanying guidelines set out the principles and considerations that apply to development contributions for the provision of infrastructure in new and established urban areas. This is limited to:

- New communities: infrastructure to meet the needs of a community in the first 5-10 years;
- Existing communities: upgrades of existing infrastructure to accommodate the new population and not unreasonably impact on existing facilities (WAPC 2016).

A set of standard and non-standard infrastructure is then identified to provide further guidance as to which categories and item of infrastructure can and cannot be included in a Plan, see **Table 10**.

Table 10 Western Australia - categorisation of infrastructure Items

Category	Inclusion in plan	Description of category	Examples
A	Not required	Standard essential Infrastructure - can be required as a condition of consent.	Water and power supply, new and upgraded roads and intersections, land and basic development (i.e. earthworks) of open space, local drainage etc.
B	Required	Standard essential Infrastructure – where cost redistribution is necessary.	
C	Required	Infrastructure important for liveability from the earliest stages of development (i.e. to meet the needs of the community in the first five to ten years).	Basic embellishment of open space (i.e. playground, basic seating), land and embellishment of sportsfields, land and construction for community facilities.
D	Required	Administrative Items.	Costs to prepare and administer plan.
E	Not appropriate	Infrastructure optional for liveability, no nexus (delivery at discretion of developer or government agency).	Public transport facilities, enhanced facilities for open space, special purpose sports facilities, regional cycle paths, regional drainage, council offices.

Source: WAPC 2016

As shown at **Table 10**, the items that can or cannot be included in a contributions plan is explicit.

In addition, the planning system requires that as part of a development 10% of the gross subdivisible land area be provided towards public open space, including basic embellishment. In cases of fragmented land ownership inclusion in a contributions plan is required to facilitate this outcome, as is provision for any additional embellishment such as playgrounds (WAPC 2016, p. 28).

Further, it is an overall principle that contributions are not intended to cover the full costs of delivering infrastructure required for new communities, rather, they should be used in conjunction with other sources such as general rates and external grants (WAPC 2016). The categorisation of infrastructure items as shown at **Table 10** assists with identifying what should be funded through contributions.

Summary of findings

A review of these other Australian states found that in Queensland and Victoria mechanisms are in place to cap or standardise the amount of contributions that can be levied. In Queensland a per lot/dwelling method is used (similar to NSW) and in Victoria a per hectare rate is applied.

Both of these states also provide contributions caps or standard levy rates for non-residential development and provide for the capped rate to be indexed annually. In Victoria the standard levy rate only applies to specified metropolitan greenfield growth areas and in Queensland it is statewide.

A comparison of the maximum residential charges in Queensland and standard levy in Victoria to the NSW cap is shown at **Table 11**. Notwithstanding that allowable 'exceptions' can result in varying rates, the Queensland and Victorian amounts are within a similar range to the NSW caps.

Table 11 Comparison of caps and standard levies in NSW, Queensland and Victoria

State	Cap or standard levy	Exceptions	Cap indexed?
NSW	$20,000	• No cap on some land areas. • $30,000 for greenfield sites. • Where IPART has reviewed and approved a Plan.	No
Queensland	$28,335.90*	• 1 or 2 bedroom dwellings $20,239.95.	Yes
Victoria	$13,372 to $23,600**	• A Supplementary Levy may also apply.	Yes
Western Australia	N/A	N/A	N/A

** A dwelling of 3 or more bedrooms*

*** Equivalent per lot/dwelling range, depending on location and dwelling density (from Table 4).*

Although the Western Australia system has not imposed a cap it provides a detailed framework under which contribution are levied, thereby regulating contributions through another method.

5.3.2 Infrastructure provision standards

In NSW there are various infrastructure provision standards and guidelines for social infrastructure including open space and community facilities. It is considered these guidelines could form the basis for the calculation of infrastructure requirements, particularly in greenfield growth areas.

For example, in 2010 the NSW state government published the Recreation and Open Space Planning Guidelines for Local Government (DoP 2010b), which, as shown at **Table 12**, provides a basis for the calculation of a range of open space types. These standards would be used as a starting point and site specific considerations would determine the final mix and quantum (for example these levels may be inappropriate within metropolitan councils, where a range of leisure and recreational facilities would be provided to meet the overall community need) (DoP 2010b).

Table 12 Infrastructure provision standards – open space and recreation

Type of open space	Provision standard (hectares per 1,000 persons)	Source document
Local Park	0.33 hectares	Recreation and Open Space Planning Guidelines for Local Government (DoP, 2010b)
District Park	0.5 hectares	
City-Wide Park	0.3 hectares	
Active (Sports fields)	1.7 hectares	
Total	**2.83 hectares**	

Source: DoP, 2010b

From this open space hierarchy expected levels of embellishment could be established for each type of open space, for example, a local park servicing a local population may provide less embellishment than a district or city-wide park. A standard or 'benchmark' level of embellishment may then enable a benchmark cost estimate to be prepared, noting that the value of land to be acquired (see **Sections 5.3.4** and **5.3.5**) or other constraints would be site specific and impact final costs.

Similar provision standards could be adopted for community facilities. **Table 13** provides existing guidelines for libraries that could be used when preparing contribution plans.

Table 13 Infrastructure provision standards – community facilities

Community facility	Benchmark provision standard		Source document
	10 year population forecast	Floor area (sqm)	
Branch library	< 20,000	190 to 1,380sqm	People Places: A guide for public library buildings in NSW (State Library NSW, 2012).
	20,001 to 35,000	936 to 1,638sqm	
	35,001 to 65,000	1,470 to 2,730sqm	
	65,001 to 100,000	2,418 to 3,720sqm	
	> 100,000	3,360sqm +	

Source: State Library NSW 2012

5.3.3 Local infrastructure benchmark costs

In 2014 IPART released a report providing benchmark cost estimates for a range of local infrastructure items, as well as suggested contingency rates, adjustment factors and indexation methods to assist in calculating the cost of infrastructure. Examples of items are shown at **Table 14**.

Table 14 Examples of local infrastructure benchmark costs

Item number	Item name	Unit	Base rate (per unit)
1.1.1	New sub-arterial road (4 lanes)	metre	$10,235
1.5	New local access road (1 lane)	metre	$2,231
1.10.2	New footpath adjacent to traffic lane (2.2m wide)	metre	$545
1.13.2	Signalised intersection (4 way intersection)	each	$260,680
3.10 (L)	Park furniture - seating (timber slats, back support)	each	$3,066
3.21 (L)	Amenity block (<100sqm)	sqm	$1,745
3.5(D)	Basketball court - outdoor	court	$72,163
4.2	Library (building)	sqm	$3,980
4.5.1	Car park (at grade)	space	$6,300

Source: IPART 2014

As shown at **Table 14** there are certain standard infrastructure items to which a benchmark cost could be applied to inform the preparation of a contributions plan. The above base per unit rates are the starting point, to which contingency, adjustment factor and indexation apply. This report also provides for plan administration costs of up to 1.5% of the value of works in the plan. The report also provides guidelines for the preparation of plans, including that plans should clearly:

- Identify the local infrastructure to be provided and demonstrate the nexus;
- Explain how costs are apportioned between catchments and new and existing demand;
- Explain how the costs have been estimated;
- Explain how the contribution rates are calculated (IPART 2014, p. 92).

Additional best practice strategies that can be used when preparing a plan are:

- Using independent experts to develop robust demand analysis, nexus and costings;
- Engaging with key stakeholders early and effectively to identify any areas of concern;
- Updating the plan when significant changes arise, i.e. costs, projections (IPART 2014 p 93).

5.3.4 Median land values

It was considered relevant to look at land values in different LGAs and council types for two reasons. Firstly, the survey has identified that contribution rates vary greatly across council types and this section considers any correlation between contribution rates and land values. Secondly, to explore a possible alternate approach to cap or limit on contributions based on a percentage of land value.

The median land values for 2013 and 2017, and the five-year increase (as a percentage) for the councils sampled in the survey are shown at **Table 15**. The median is the halfway point in a series of data, in this case the land value of properties sold in a LGA. The 2017 average Section 7.11 contribution rate for that council type (from **Section 5.1** of this report) is then expressed as a percentage of the median land value for that LGA and the council type average.

Table 15 Median land values by local government area

Council type	Median land value			Average 27 S7.11 rate for council type	Average S7.11 rate as a % of land value
	2013	2017	Change (%)		
Metropolitan	$224,000	$441,000	96.88%	$51,349	11.64%
	$284,000	$535,000	88.38%	$51,349	9.60%
	$679,000	$1,340,000	97.35%	$51,349	3.83%
	$1,040,000	$1,620,000	55.77%	$51,349	3.17%
	$635,000	$1,180,000	85.83%	$51,349	4.35%
	$827,000	$1,730,000	109.19%	$51,349	2.97%
	$819,000	$1,640,000	100.24%	$51,349	3.13%
Average	*$644,000*	*$1,212,286*	*88.24%*	$51,349	*4.24%*
Metropolitan fringe	$230,000	$427,000	85.65%	$40,350	9.45%
	$407,000	$832,000	104.42%	$40,350	4.85%
	$224,000	$372,000	66.07%	$40,350	10.85%
Average	*$287,000*	*$543,667*	*89.43%*	$40,350	*7.42%*
Regional	$104,000	$115,000	10.58%	$13,166	11.45%
	$132,000	$158,000	19.70%	$13,166	8.33%
	$126,000	$150,000	19.05%	$13,166	8.78%
	$171,000	$215,000	25.73%	$13,166	6.12%
	$162,000	$177,000	9.26%	$13,166	7.44%
	$110,000	$116,000	5.45%	$13,166	11.35%
	$75,900	$87,400	15.15%	$13,166	15.06%
	$234,000	$370,000	58.12%	$13,166	3.56%
	$89,400	$110,000	23.04%	$13,166	11.97%
	$117,000	$129,000	10.26%	$13,166	10.21%
Average	*$132,130*	*$162,740*	*23.17%*	*$13,166*	*8.09%*
Rural	$5,060	$137,000	2,607.51%	No data	No data
	$18,500	$5,750	-68.92%	No data	No data
	$51,700	$84,300	63.06%	No data	No data
Average	*$25,087*	*$75,683*	201.69%	No data	No data
Large rural	$49,600	$285,000	474.60%	No data	No data
	$43,600	$54,900	25.92%	No data	No data
	$46,200	$22,200	-51.95%	No data	No data
	$33,000	$47,500	43.94%	No data	No data
	$42,100	$54,700	29.93%	No data	No data
	$113,000	$31,500	-72.12%	No data	No data
	$57,100	$50,300	-11.91%	No data	No data
Average	*$54,943*	*$78,014*	41.99%	No data	No data

Source: Valuer General 2018

Unfortunately, historical data was not readily available, as there would have been value in analysing median land values from 2000 or earlier, with a view to identifying whether the introduction of the cap had any impact on land values, or whether there continued to be steady increases. Nonetheless, the data at **Table 15** shows that over the past five years there have been significant increases in metropolitan and metropolitan fringe LGAs, steady growth in regional councils and values have generally remained steady in rural and large rural councils (noting that there were anomalies).

The contribution rates appear to be somewhat relative to median land values however as a percentage there is variance between council types. For example, the 2017 metropolitan median land values ranged from $441,000 to $1,730,000 and therefore the 2017 average contribution is between 2.97% and 11.64% of the median land values. Metropolitan fringe councils had similar results; the median land values for 2017 ranged between $372,000 and $832,000 while the contribution was between 4.85% and 10.85% of the land value. In the regional councils sampled the median land value for 2017 ranged from $87,400 to $370,000 and the average contribution as a percentage of these values was between 3.56% and 15.06%.

The contribution caps are expressed as a percentage of the average median land value for each council type at **Table 16**. The $20,000 cap that currently applies to rural and large rural councils, if levied, would equate to approximately 26% of the average median land value and the $30,000 cap approximately 39%. A contribution of this amount is not considered reasonable in these council types, as it would have a significant impact on development feasibility and housing affordability.

Table 16 Contribution caps as a percentage of median land values

Council type	Average 2017 Median land value by council type (from Table 15)	$20,000 cap as a % of average 2017 median land value	$30,000 cap as a % of average 2017 median land value
Metropolitan	$1,212,286	1.65%	2.47%
Metropolitan fringe	$543,667	3.68%	5.52%
Regional	$162,740	12.29%	18.43%
Rural	$75,683	26.43%	39.64%
Large rural	$78,014	25.64%	38.45%

This data shows that a flat statewide cap may not be appropriate for individual LGAs or council types. For example, a $50,000 contribution may be absorbed into the land value in metropolitan and metropolitan fringe councils (at around 5%), however a $20,000 contribution in rural or large rural councils could have a significant impact on affordability (at around 26%).

5.3.5 Contributions for land acquisition

Generally, the cost of infrastructure construction will be somewhat constant across council types, noting that there will be some variances such as regional adjustment factors, congestion factors, availability of materials and site specific designs, however a large component of a contribution rate can be for land acquisition. Given that land values significantly differ between LGAs and council types, this would ultimately result in varying costs and contribution rates for the same infrastructure.

Using an example of acquiring public open space for 10,000 people at the rate of 2.83 hectares per 1,000 people (total 28.3 hectares) and an occupancy rate of 2.6 persons per dwelling (total 3,846 dwellings) the resulting contribution rates for each council type are shown at **Table 17**.

Table 17 Contributions for land acquisition

Council type	Average land value * (from Table 16)	Total cost to acquire land (Land value x 28.3)	Rate per lot/dwelling (Total cost / 3,846)
Metropolitan	$1,212,286	$34,307,694	$8,920.36
Metropolitan Fringe	$543,667	$15,385,776	$4,000.46
Regional	$162,740	$4,605,542	$1,197.49
Rural	$75,683	$2,141,829	$556.90
Large Rural	$78,014	$2,207,796	$574.05

** It is noted that the median land value has been used as a per hectare rate for the purpose of this calculation.*

Table 17 demonstrates that the cost of acquiring land for public purposes such as open space, roads, community facilities or drainage management will vary greatly between council types and this can have a significant impact on contribution rates.

For example, the varying costs of acquiring land results in different per lot/dwelling contribution rates, being $8,920.36 in a metropolitan council but only $574.05 in a large rural council. The metropolitan council rate is more than fifteen times higher than the large rural council rate, which will affect the overall contribution rate. Again, this data also suggests that a standard cap amount across all council types in NSW may not be appropriate.

5.3.6 Contributions plans assessed by IPART

The IPART website was reviewed to understand how many Section 7.11 plans have been assessed by IPART and the type of councils which are subject to this review process.

As shown at **Table 18**, there have been a total of eighteen contributions plans (either new or amended) assessed by IPART. Of these, nine relate to metropolitan councils, eight metropolitan fringe councils and one a regional council. There were no plans from rural or large rural councils that had been assessed by IPART. It is also noted that fourteen out of the eighteen plans were from two growth centre councils (IPART 2018).

Table 18 Summary of IPART reviewed contributions plans

Name of council	Type of council	Number of times a plan has been sent to IPART
Blacktown City Council	Metropolitan	8
Camden Council	Metropolitan fringe	1
Campbeltown City Council	Metropolitan fringe	1
The Hills Shire Council	Metropolitan fringe	6
Rockdale City Council	Metropolitan	1
Wollongong City Council	Regional	1
Total		**18**

Source: IPART 2018

The information from **Table 18** indicates that it is metropolitan and metropolitan fringe councils, and in particular councils with growth areas, that have higher contribution rates and are therefore subject to the cap and IPART review process. This is potentially due to the higher costs of delivering infrastructure in these new areas and demonstrates that these issues are unique to the Greater Sydney housing market, and more specifically the growth areas.

It also confirms that IPART supports the position that contributions of more than $30,000 per lot or dwelling are reasonably required to support new developments in these areas.

6. SUMMARY, CONCLUSION AND RECOMMENDATIONS

6.1 Summary

The dissertation has addressed an issue that is an important part of local government's legislated function, the levying of development contributions. The use of a development contributions system is generally supported and will continue to be a major source for councils funding new infrastructure, however it appears that the scope and quantum of contributions will continue to be debated, as will any potential impact on housing supply and affordability and an 'ideal approach'.

The introduction of the cap aimed to mitigate the effects of the GFC on housing supply and affordability, however in the ten years since its introduction it has not been reviewed or evaluated.

This research set out to answer three questions:

1. What have been the trends in Section 7.11 contribution rates between 1993 and 2018?
2. Has the contributions cap been an effective reform mechanism?
3. What are alternate approaches to the current contributions cap?

To answer these questions a mixed methods approach was adopted. Firstly a narrative literature review was carried out. Then, a quantitative survey was sent to thirty councils to ascertain the trends in contribution rates between 1993 and 2018. Third, semi structured interviews were held with a range of stakeholders including local and state government and the development industry. Finally, a wide range of secondary data was analysed.

The literature review has explored a range of information including the background and progression of the NSW development contributions systems, which was found to be complex and subject to regular review and reform. Whilst it is acknowledged that development contributions are a cost of development, there were found to be various arguments and positions, both for and against, whether or not contributions directly impact housing prices and therefore housing affordability. There was limited information found to support the basis for the introduction of the cap, in particular how the $20,000 and $30,000 caps were determined.

The quantitative survey data allowed trends to be identified for each council type that responded (metropolitan, metropolitan fringe and regional), highlighting that there has been a steady increase in rates, more significant in metropolitan and metropolitan fringe councils. A desktop analysis of rural and large rural councils showed that these councils generally do not have a Section 7.11 plan.

The interview responses were invaluable in gaining practical insight into this complex problem from a wide range of perspectives including local and state government and the development industry, and added to the understanding of the cap and contributions system.

The analysis of secondary data explored benchmark provision standards and cost estimates, the use of which could potentially inform a more structured contributions framework. Queensland and Victoria also have some form of contributions cap or standard levy in place, and there are lessons that can be learnt and adapted by NSW from these states as well as Western Australia. Median land value data for LGA's was compared against average contribution rates for council types to understand the rates as a percentage of land value. The IPART reviewed plans were tabled by council type.

In summary, this research report has employed a range of data gathering and analysis methods to provide an evidence base for a review of the Section 7.11 contributions cap in NSW.

6.2 Conclusion

This dissertation has provided the following answers to the research questions:

1. What have been the trends in Section 7.11 contribution rates between 1993 and 2018?

The quantitative survey data has allowed trends in Section 7.11 contribution rates from 1993 to 2018 to be identified. Although responses were only received from a limited number of councils, data for a number of contributions plans was provided, allowing trend data to appear. The trends are shown at **Section 5.1** of this report in line graph format.

The trends identified from the survey are that rates are increasing. In metropolitan and metropolitan fringe councils these increases are quite significant. In regional councils rates have been steadily increasing however the quantum is not as high and they are still generally under the cap. Section 7.11 contributions do not appear to be an issue in rural and large rural councils.

Due to the various transitional arrangements that have been put in place since the original introduction of the cap, the cap appears to have had limited impact on steadying contribution rates. Further, once the cap is lifted in the LIGS transition areas contribution rates are set to escalate significantly.

2. Has the contributions cap been an effective reform mechanism?

There are many different factors to be considered when attempting to answer this question. This study can only begin to attempt to do this.

On one hand the development contributions system is supporting housing development through ensuring that new communities have adequate infrastructure provision. On the other hand there are arguments that contributions are making housing unaffordable. The cap aimed to reduce this impact.

There are a number of exemptions and exceptions to the cap, so in some way it has limited effect. Where the cap has reduced the developer contribution it has created a funding shortfall (gap) that has needed to be funded by another source, thereby only shifting the cost to another party. In some areas the cap is now being phased out, and by 1 July 2020 will not apply in these areas at all.

The cap has been effective in establishing a threshold over which a plan must be reviewed by IPART. This process has provided assurance to the development industry that costs are being reviewed but added additional resource and time to a plans preparation.

3. What are alternate approaches to the current contributions cap?

The cap provides a threshold contribution rate, above which a plan must be reviewed by IPART. Based on average contribution rates and median land value data for each council type, it is considered that a statewide cap amount is not appropriate; rather a cap amount for each council type could be established.

The findings from the review of the other Australian states have provided alternatives that could potentially be implemented by NSW. This could include providing capped rates for non-residential (i.e. industrial and commercial) development (see Victoria DELWP 2018) or all types of land uses (see Queensland DILGP 2016). Alternatively the cap could apply only to selected metropolitan greenfield development sites and/or other recognised growth areas (see Victoria DELWP 2018).

There are potentially increased regulatory controls and guidelines that could be provided to assist in limiting the scope and quantum of contributions levied (see WAPC 2016).

The following **Section 6.3** provides additional recommendations regarding alternative approaches.

6.3 Recommendations

Based on the findings of this study, and notwithstanding the recognised need for broader reforms, the following recommendations are put forward with a view to improving the system. These include lessons learnt from other states, policy reviews, and alternate approaches to the contributions cap.

1. Further investigate the broader issue of funding local infrastructure, of which contributions are a part-funding source, for example reducing rate pegging and/or increasing state or federal grants.
2. Review the cap as a reform mechanism to evaluate if it is achieving its objectives. Carry out a regular review of the cap (i.e. every three years) and make adjustments as necessary.
3. Review and update the DIPNR 2005 Practice Note to ensure that councils are provided with up to date guidance and frameworks when preparing and implementing contributions plans.
4. Provide a detailed list of infrastructure items that can be required as part of the development consent, what can be included in a plan and what needs to be funded through other sources (see WAPC 2016). Unlike the essential works list, it is considered that this framework should apply to all contributions plans to provide certainty and consistency.
5. That the costs of works included in plans have regard to the IPART Infrastructure Benchmark Costs Report, and that any variation greater than (say) 30% be explained as part of the public exhibition process. This would require that IPART regularly review and update this 2014 report.
6. Establish a cap amount for each type of council, an example of which is shown at **Table 19**:

   Table 19 Suggested alternate contribution cap amounts by council type

Council type	Current contributions cap		Suggested contributions cap	
	Standard	Greenfield	Standard	Greenfield
Metropolitan and metropolitan fringe	$20,000	$30,000	$25,000	$35,000
Regional	$20,000	$30,000	$20,000	$30,000
Rural and large rural	$20,000	$30,000	$10,000	$15,000

   These suggested cap amounts are based on the findings from the quantitative survey (contribution rates by council type) and varying land acquisition costs (sections 5.3.4 and 5.3.5).
7. Consider a cap threshold based on the land value. For example, where the contribution rate exceeds 5% or 10% of the LGA's median land value, the plan must be reviewed by IPART.
8. Consider a standard levy system in Greater Sydney growth areas (see Victoria DELWP 2018).
9. That single landowner residential subdivision developments be required to provide land for public open space purposes free of cost under Section 7.11(1)(a) of the *EP&A Act 1979* as part of that development, reducing the per lot/dwelling contribution rate (see also WAPC 2016).
10. Provide additional guidance for the levying of non-residential development to ensure consistency across the state. This may include caps, maximum levies or developments that should not be levied (see Queensland DILGP 2016). The terms used should align with those provided in the *Standard Instrument – Principal Local Environmental Plan (NSW)*, including:
    - Commercial premises (including business, office and retail premises);
    - Industry (including general, heavy and light industry);
    - Educational establishments (public and private);
    - Health services facility (including medical centre, health consulting rooms, hospital).

The NSW development contributions system has been, and will continue to be, subject to ongoing review and reform. There will be benefits in the next phase of reform focusing on the unique issues of Greater Sydney (i.e. metropolitan and metropolitan fringe councils) and the equitable distribution of costs in these high growth areas, as well as providing an updated framework and guidance for regional, rural and large rural councils to ensure that new communities in these areas are adequately planned and provided for. The recommendations in this report may provide a starting point for the next phase of reviewing the development contributions system in NSW.

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8. APPENDICES

Appendix 1 Ethics Application and Approval

IPPG ETHICS PROGRAM FORM

USE THIS FORM EVERY TIME YOU INITIATE A RESEARCH PROJECT AS AN IPPG STAFF MEMBER, STUDENT OR ASSOCIATE.

Title of research project:	Local development contributions in NSW: A review of the Section 94 contributions cap
Chief Investigator:	[redacted]
Additional researchers:	N/A
Funding body (including client):	N/A
Project start date:	7 March 2018 (updated 1 May 2018)

Is your project classified as research for reporting purposes?	☒Yes	☐No → No need to use this form
Does the research involve humans?	☒Yes	☐No → No need to use this form
Does the research support evidence-based policy formulation, promote informed debate on key policy issues and help address major challenges facing the local government sector?	☒Yes	☐No → Need to go through the HREC
What method/s does your proposed project use?	Please describe briefly, including description of participants:	
☐ Focus groups		
☒ Interviews (structured and semi-structured)	In depth interviews with 3 – 4 key stakeholders. The interviews will be semi structured and will take approximately 1 hour. Participants to be confirmed – will aim to include representatives from State and Local Government and the Development Industry.	
☒ Analysis of secondary data	Analyse data from a range of NSW government websites to calculate a benchmark per lot or dwelling contribution rate.	
☒ Surveys	A survey will be sent to 30 councils to gather qualitative data on historic, current and exhibited draft Section 94 contribution rates levied under the Environmental Planning and Assessment Act 1979 No 203 (NSW).	
☐ Deliberative panels		
☒ Desktop literature reviews	Background information on Section 94 and the introduction of the cap	
☐ Other → Need to go through the HREC		

Does the research target any members of the following groups? ☐ Women who are pregnant and the human foetus ☐ Children and young people (clarify definition) ☐ People in dependent or unequal relationships ☐ People highly dependent upon medical care who may be unable to give consent ☐ People with a cognitive impairment, an intellectual disability or a mental illness ☐ People who may be involved in illegal activities ☐ Aboriginal and Torres Strait Islander Peoples ☐ People in other countries.	☒ No	☐Yes → Need to go through the HREC

Please complete the following ethics checklist and submit your application for ethics approval to the Delegated Approving Officer.

☒ Are all researchers competent and familiar with the Australian Code for the Responsible Conduct of Research, the UTS Privacy Principles, the National Statement on Ethical Conduct in Human Research 2007 (Updated December 2013) and the UTS Ethical Conduct of Research Policy?

☒ Have you developed appropriate Project Information sheets and Consent forms for all participants (or alternatives when methods are not undertaken face to face)

☒ Does your project plan detail whether the data collected will be anonymised and at what stage?

☒ Have you identified appropriate storage for the data (physical and electronic)?

ONCE APPROVED, SAVE THE FORM IN THE APPROPRIATE WORK FOLDER FOR THE PROJECT

APPROVAL

☒ Ethics form and checklist reviewed

☒ Any issues discussed with the chief investigator (please note below)

☒ Approved on 16/05/2018 by [redacted] (Delegated Approving Officer)

Notes:

Appendix 2 Literature Review – Table of Evidence

No.	Title, date and author	Study objectives	Methodology	Key findings
1	A note on the use of developer charges in Australian Local Government (1999) McNeil, J. and Dollery, B.	To review the evolution of developer contributions policy and describe their increasing importance to local government in NSW.	To consider the background to the more extensive use of developer charges, then compare developer charges in other states.	Local governments in NSW are increasingly using developer charges to fund local infrastructure, as is a similar trend in other jurisdictions.
2	Counting the costs: planning requirements, infrastructure contributions and residential development in Australia (2009) Gurran, N. et al.	To understand the relationships between urban planning regulation and housing outcomes in Australia, in particular the cost impact of planning regulations for housing developments.	Qualitative, using four strategies: Literature review; Define the Australian planning frameworks; Understand scale and range of planning related costs; Determine policy implications and options	Rather than the quantum of development contributions, of greater concern is the capacity for local government to deliver the infrastructure needed to support development.
3	Deny everything: Why NSW urban development is going nowhere and what must be done to fix it (2010) Urban Taskforce.	A qualitative study explaining the reforms that are required to make the NSW planning system work once again.	Reviews key issues and puts forward recommendations for improving the planning system.	Identifies five key issues with the current system including 'the highest development levies in Australia'.
4	Developer Contributions and Infrastructure Funding (1990) Gibbins, R.	Considers various funding sources and how the system should work in the future.	Provides arguments for and against development contributions as source of funding infrastructure.	Developer contributions should be based on nexus, apportionment and accountability to provide an efficient and equitable system.
5	Developer Contributions: An economic analysis of Section 94 of the NSW EP&A Act of 1979 (1996) Barnes, N. and Dollery, B.	To determine if all authorities can levy contributions under the Section 94 system efficiently.	To collect and analyse data from 1993 including how extensively it has been used and the nature of infrastructure which it funds.	Section 94 can be administratively inefficient for some councils, i.e. small councils, due to the cost of preparing a Plan and collection timeframes. An *ad valorem* tax is recommended.
6	Developers pay developer charges (2018) Murray, C.	To provide empirical research to support the view of planning practitioners that developer charges have no effect on dwelling prices.	To use data that incorporates a surprise policy change (the introduction of contributions cap) against a baseline contribution.	The study results show that there are no measurable effects on price or quantity of new dwellings from development contributions.

No.	Title, date and author	Study objectives	Methodology	Key findings
7	Equity and Efficiency: Section 94 Developer Charges and Affordable Housing in Sydney (1999) McNeil, J. and Dollery, B.	To examine the equity aspects of developer charges in mitigating the effects of new development on disadvantaged groups.	Uses case studies of Waverley and North Sydney City Councils where the Section 94 system has been used to replace affordable housing.	The calculation of levies for affordable housing in the case study areas was not clear and may be hard to implement by other Councils.
8	Financing infrastructure through user-pays development contributions: an assessment of Australian practice (2010) Robinson, J. and De Gruyter, C.	To detail and then evaluate the current framework in five Australian states and outline pathways towards improvement.	To understand current practice, identify good practice principles and assess current practice for each of the five states.	Each state performed differently. Most states require a contribution plan that ensures nexus. Difficulties arise with apportionment methods.
9	Funding infrastructure through private developers (1995) Neutze, M.	To explain the origins of development contributions and assess the impact of developer charges on housing prices.	Considers the history of development contributions, including the 1978 Housing Cost Inquiry, and the level of charges, particularly off site works.	Proposes that the use of developer charges for off site works should be replaced by increased user charges.
10	Funding Local Infrastructure (2004) Report by the S94 Contributions and Development Levies Taskforce to the Minister for Infrastructure and Planning and Natural Resources.	To investigate the existing system of Section 94 contributions and development levies, and what alternative models are available to fund local infrastructure in NSW.	The taskforce considered a number of discussion papers and submissions, held workshops and received briefings from various organisations.	The taskforce found that the original policy basis for levying Section 94 remains legitimate and sound, and a total of 21 recommendations were made to improve the system.
11	History of development contributions under the NSW planning system (2011) O'Flynn, L.	Discusses the different types of development contributions and documents the history of development contributions under the NSW Planning system.	The five main types of developer contributions in NSW are discussed. A history of reviews and reforms is provided. Alternative funding sources are provided.	The principle of development contributions is sound. The comparatively high contributions in NSW may be affecting housing prices however this is debatable.
12	Housing Affordability and Development Contributions: New Perspectives from Industry and Local Government in NSW, Victoria and Queensland (2011) Ruming, K. et al.	To delve beneath ambit industry views to explore if planning costs are added on to the sale price of land and/or dwellings.	To examine the experiences and perspectives of 18 developers in relation to 26 projects across NSW, Victoria and Queensland.	The industry view that contributions increase house prices and impact affordability is challenged. Rather, developers recognise that the market drives final sale prices.

No.	Title, date and author	Study objectives	Methodology	Key findings
13	Housing Affordability in Australia (2017) Thomas, M. and Hall, A.	The briefing paper examines housing affordability in Australia for over recent decades.	Considers trends in dwelling prices and household income, and affordability measures for renters.	An Affordable Housing Working Group (formed by COAG in 2016) is working on ways to increase the supply of affordable housing.
14	Housing affordability in Australia: an empirical study of the impact of infrastructure charges (2016) Bryant, L.	To provide empirical evidence on the effect of infrastructure charges on housing prices in Australia.	A hedonic price model was applied to 4,699 new and 25,053 existing house sales in Brisbane between 2005 and 2011.	That consistent with international studies, infrastructure charges in Australia are passed on to new home buyers in the order of around 400%.
15	Local Government in Australia: History, Theory and Public Policy (2017) Grant and Drew.	To provide the history of local government in Australia from a normative perspective.	Brings together the existing research material on local government in Australia	Offers an understanding of Australian local government historical and political phenomenon.
16	NSW Planning Reforms: Infrastructure (2013) Finegan, J.	A briefing paper (one of four) prepared on the proposed reform of the NSW planning system.	Describes the changes to infrastructure planning and provision under the proposed new planning system for NSW.	The existing principle that new development makes a contribution towards the cost of infrastructure will remain. Other changes discussed.
17	Rates versus developer contributions as revenue sources for local government (2012) Koutifaris, K. and Mangioni, V.	To examine and compare changes in the relativity of rates revenue and development contributions.	To compare data collected from the Department of Local Government (June 2006 to June 2010) with a 1996 study (30 June 1993 data).	Both are important revenue sources for local government, but are subject to state government restrictions, which should be removed.
18	Review of Development Levies: Submission to the NSW Government (2008) UDIA (NSW).	To provide the UDIA's response to the NSW governments review of development levies.	To highlight that the expansion of local and state levies has constrained dwelling production.	A number of recommendations are made including refining the works list and deferring the payment.
19	Review of increases to infrastructure contributions; prepared for the UDIA NSW (2018) PricewaterhouseCoopers	To assess the proposed State Government Reforms (A fair go for first home buyers) in the context of the current housing market, and provide comments on impacts.	The report explores the state of the housing market and issue of undersupply, the cost of housing production, likely impacts of reforms and developer contributions.	There are a number of issues with the proposed reforms, supply levels and affordability need to be maintained and must not be impacted by high contributions.

No.	Title, date and author	Study objectives	Methodology	Key findings
20	Review of the Developer Contributions System (2000) Report by the S94 Review Committee to the Minister for Urban Affairs and Planning.	To review the Section 94 contributions system (examine issues) and identify improvements (make recommendations).	Representatives of local government, the development industry and staff from NSW government departments formed a committee to carry out the review.	24 recommendations made including alternative approaches (planning agreements and flat percentages levies), consistency in contributions plans and better accounting.
21	Risky Business: Managing development contributions is a national challenge (2014) Shipp, P.	This article is an adaptation of a presentation to the PIA Leading National Practice Symposium on Development Contributions.	Provides an overview of the presentations including the proposed standard levy system.	The need to improve transparency and minimise impacts on housing affordability is not unique to Victoria.
22	Submission to NSW Government Review of Development Contributions conducted by NSW Treasury (2008) Local Government and Shires Association of NSW.	To provide comments on the review of development contributions as announced by the NSW Treasurer on the November 2008 mini-budget.	To review the impacts of the proposed reforms including the effects on housing affordability and development activity, current issues and challenges and the need for revenue neutrality of any changes.	The proposed reforms appear driven by the unique Sydney housing market and are unlikely to impact housing affordability and development activity. Rather, the challenges should be addressed through regulatory design.
23	The escalation of development contribution plan levies (2014) Ainsaar, M.	This article is an adaptation of a presentation to the PIA Leading National Practice Symposium on Development Contributions.	To identify key trends in developer charges levied across Metropolitan Melbourne by analysing data from 1997 to 2014.	The levies have risen dramatically, i.e. $50,800 per hectare (1997-2003 average) to $214,900 per hectare (between 2010 and 2014).
24	The link between infrastructure charges and housing affordability in Australia: where is the empirical evidence? (2014) Bryant and Eves.	To examine the question of who really pays for urban infrastructure within the residential sector and the corresponding impact on housing affordability.	In the absence on Australian empirical evidence, the authors present the findings of international empirical studies then apply these findings to an Australian example.	That infrastructure charges significantly increase house prices, with an average of 160% of the contribution being passed on.

Appendix 3 Summary of relevant Ministerial Directions and Planning Circulars

Date	Reference	Particulars
5 July 2006	Planning Circular PS06-016	To advise the introduction of Special Infrastructure (state) Contributions
6 November 2007	Planning Circular PS07-018 (Superseded by PS08-017)	To advise of changes to state and local infrastructure contributions.
23 December 2008	Planning Circular PS08-017	To advise of a review of contributions and that a cap will be introduced.
13 January 2009	Ministerial Direction	Imposes a 'cap' or limit on residential Section 7.11 contributions at $20,000 per lot/dwelling from 30 April 2009.
31 May 2009	Ministerial Direction	Updated Direction in relation to cap.
10 July 2009	Ministerial Direction	Updated Direction in relation to cap.
4 June 2010	Ministerial Direction (Revokes Directions dated 13/1/09, 31/5/09, 10/7/09)	An updated Direction imposing $20,000 cap on residential lots.
16 September 2010	Ministerial Direction (Revokes 4/6/10 Direction)	A $30,000 cap will apply in designated greenfield areas.
23 November 2010	Planning Circular PS10-025 (Related PS10-022)	To advise of a new Practice Note for the assessment of Plans by IPART.
7 February 2011	Planning Circular PS11-004 (Related PS08-017)	To advise changes to the SIC – Western Sydney Growth Areas.
4 March 2011	Ministerial Direction (Revokes 16/9/10 Direction)	Updated Direction in relation to cap.
13 May 2011	Ministerial Direction	Sets the maximum contribution that can be levied under the Warriewood Valley S94 Plan at $62,100 per lot/dwelling
21 August 2012	Ministerial Direction (Revokes 4/3/11)	Updated Direction in relation to cap.
19 June 2013	Ministerial Direction (Amends 21/8/12)	Update to schedules of 21/8/12 Direction.
22 February 2015	Ministerial Direction (Revokes 13 May 2011)	Revocation of 13 May 2011 Direction
14 September 2016	Ministerial Direction (Amends 21/8/12)	Update to schedules of 21/8/12 Direction.
17 July 2017	Ministerial Direction (Amends 21/8/12)	Implements the incremental raising of the cap as outlined in PS17-002.
27 July 2017	Planning Circular PS17-002 (Related PS11-012, PS10-025)	To advise that the cap will be incrementally phased out in the LIGS transition areas.
29 January 2018	Planning Circular PS18-002	To advise of an updated Practice Note for IPART's review of Plans.
23 February 2018	Ministerial Direction	Consolidated 21/8/12 Direction including 2013, 2016 and 2017 amendments.

Source: DPE 2018e; DPE 2018g

Appendix 4 Project Information Sheet - Survey

Project Information Sheet

Thank you for agreeing to participate in the research project *Local Development Contributions in NSW: A review of the Section 94 contributions cap* being conducted by [redacted], a postgraduate student at the Centre for Local Government at the University of Technology Sydney.

The purpose of the research is to examine if the Section 94 contributions cap has been effective in achieving its objectives, and to consider whether the model and cap amounts remain appropriate. To do this, the research aims to answer 3 questions:

1. What have been the trends in Section 94 contribution rates?
2. Has the Section 94 contributions cap been an effective reform mechanism?
3. What are alternate approaches to the current contributions cap?

Your participation will involve providing responses to a quantitative data gathering survey (attached) in order to answer research question 1 and will take approximately 1 hour of your time.

You can contact [redacted] if you have any concerns about the research. You are also free to withdraw your participation from this research project at any time without giving a reason.

[redacted] can answer your questions about the project.

The research data gathered from this project may be published in a form that identifies the council respondent as a metropolitan, regional or rural council.

Note:
Studies undertaken by the Centre for Local Government (CLG) and the Institute for Public Policy and Governance (IPPG) have been granted program approval by the University of Technology Sydney, Human Research Ethics Committee. If you have any complaints or reservations about any aspect of your participation in this research you may contact [redacted] or the UTS Ethics Committee through the Research Ethics Officer, [redacted]. Any complaint you make will be treated in confidence and investigated fully and you will be informed of the outcome.

Appendix 5 Project Information Sheet - Interview

Project Information Sheet

Thank you for agreeing to participate in the research project *Local Development Contributions in NSW: A review of the Section 94 contributions cap* being conducted by [redacted] a postgraduate student at the Centre for Local Government at the University of Technology Sydney.

The purpose of the research is to examine if the Section 94 contributions cap has been effective in achieving its objectives, and to consider whether the model and cap amounts remain appropriate. To do this, the research aims to answer 3 questions:

1. What have been the trends in Section 94 contribution rates?
2. Has the Section 94 contributions cap been an effective reform mechanism?
3. What are alternate approaches to the current contributions cap?

Your participation will involve a semi-structured interview and will take approximately 1 hour of your time. The proposed research questions are attached.

You can contact [redacted] if you have any concerns about the research. You are also free to withdraw your participation from this research project at any time without giving a reason.

[redacted] can answer your questions about the project.

You will be given the opportunity, prior to publication, to check any text that is to be used in the published report that identifies you or your organisation to ensure the meaning was interpreted correctly by the researcher.

<u>Note:</u>
Studies undertaken by the Centre for Local Government (CLG) and the Institute for Public Policy and Governance (IPPG) have been granted program approval by the University of Technology Sydney, Human Research Ethics Committee. If you have any complaints or reservations about any aspect of your participation in this research you may contact [redacted] or the UTS Ethics Committee through the Research Ethics Officer, [redacted] Any complaint you make will be treated in confidence and investigated fully and you will be informed of the outcome.

Appendix 6 Research Instrument – Survey (superseded)

Council Name:			
Name of Section 7.11 Contributions Plan			
Date adopted (or date exhibited if still draft)			
Date Repealed (or 'N/A' if still current)			
Residential rate per lot/dwelling	$		
Or other rate basis (i.e. per hectare)			
Is the rate over the relevant cap?			
Was the Plan reviewed by IPART?			
Optional information			
Other comments			
Area covered (i.e. whole LGA, release area)			
Timeframe of Plan			
Growth assumptions - i.e. number of lots			
Value of Works Schedule:			
Open space and recreation - land	$	$	$
Open space and recreation - works	$	$	$
Community Facilities - land	$	$	$
Community Facilities - works	$	$	$
Roads & Traffic - land	$	$	$
Roads & Traffic - works	$	$	$
Drainage - land	$	$	$
Drainage - works	$	$	$
Plan Administration	$	$	$
Other - land	$	$	$
Other - works	$	$	$
Total Value of Works Schedule	***$***	***$***	***$***

Appendix 7 Research Instrument – Survey (updated)

Name of participating Council:			
Contribution rate per residential lot/dwelling as at	***Name of Contributions Plan (if more than one)***		
1993	$	$	$
1994	$	$	$
1995	$	$	$
1996	$	$	$
1997	$	$	$
1998	$	$	$
1999	$	$	$
2000	$	$	$
2001	$	$	$
2002	$	$	$
2003	$	$	$
2004	$	$	$
2005	$	$	$
2006	$	$	$
2007	$	$	$
2008	$	$	$
2009	$	$	$
2010	$	$	$
2011	$	$	$
2012	$	$	$
2013	$	$	$
2014	$	$	$
2015	$	$	$
2016	$	$	$
2017	$	$	$
2018	$	$	$
If Contribution over cap please provide details here:			

Appendix 8 Research Instrument – Interview Questions

<u>Stakeholder: Local government (Metropolitan council and industry representative)</u>

Q1 What is your recollection of the introduction in the cap in 2009/2010; what was the climate (economical, planning reform etc) at the time; do you recall a draft proposal being exhibited for comment or any other form of consultation?

Q2 How has the introduction of the cap impacted on NSW local government organisations capacity to levy and collect contributions to fund additional infrastructure requirements?

Q3 The Local Infrastructure Growth Scheme is the most recent State Government mechanism to fund the 'gap', however the Department of Planning and Environment has recently advised that will be phased out, resulting in developers funding the full contribution rate, effectively removing the cap for these contributions plans. What are your thoughts on this?

Q4 Do you consider the contributions cap to be current and appropriate reform mechanism?

Q5 What would an alternative approach be to funding local infrastructure and/or the development contributions regime?

<u>Stakeholder: State government (NSW Department of Planning and Environment)</u>

Q1 What is your recollection of the introduction in the cap in 2009/2010; what was the climate (economical, planning reform etc) at the time; do you recall a draft proposal being exhibited for comment or any other form of consultation?

Q2 How has the introduction of the cap impacted on the department financially?

Q3 Has there been any form of evaluation or review of the program carried out?

Q4 The Essential Works List and IPART review process are currently being reviewed, are there any plans to review the cap, either the rate or the mechanism itself?

Q5 Is the current reform mechanism considered to be current and appropriate?

<u>Stakeholder: Development Industry</u>

Q1 What is your recollection of the introduction in the cap in 2009/2010; what was the climate (economical, planning reform etc) at the time; do you recall a draft proposal being exhibited for comment or any other form of consultation?

Q2 Has the introduction of the cap impacted on the development industry, and if so, how?

Q3 Has the introduction of the cap impacted the provision of new infrastructure required to support new development?

Q4 What is your experience in how land sale values are determined; are they based on market demand or development costs (i.e. raw land, contributions, profit margins etc)?

Q5 Do you consider the development contributions framework to be current and appropriate?