

Audit of the Productivity Commission's 2020 Infrastructure Contributions Review Recommendations

- At the Legislative Council's Inquiry into the Environmental Planning and Assessment Amendment (Housing and Productivity Contributions) Bill 2023 the Property Council of Australia gave an undertaking to provide the Committee with additional information on progress against the Productivity Commission's 29 Infrastructure Contribution Review recommendations.
- It should also be noted that the below assessment is based on the Property Council's own research and best understanding of the current status of contributions reform, as of 13 June 2023.
- Of the 29 recommendations made by the Productivity Commission, only 8 have been delivered or partially delivered to date, with 11 not delivered and the status of 10 recommendations unknown to industry.

No.	Recommendation	Background	Status
1	2.1: Enhance efficiency of the infrastructure contributions system	The NSW Productivity Commission recommended a principles-based approach to contributions which focused on "system-wide reform".	Not delivered
2	3.1: Allow councils' general income to increase with population	In 2020, the NSW Productivity Commission made clear that while the local government rate peg allowed councils' rate base to increase with prices, it did not allow for increases in the volume of services demanded.	Delivered: Law changed
3	4.1: Develop infrastructure contribution plans upfront as part of the zoning process	Requiring infrastructure contributions plans be exhibited concurrently with rezoning proposals will create certainty, send clear cost-based signals to developers, and encourage efficient investment.	Unknown: Land Value Contributions Scheme abandoned by former government
4	4.2: Introduce a direct land contribution mechanism to improve both efficiency and certainty for funding land acquisition	A direct land contribution requires all landowners to contribute a common share of land required for public purposes, either by direct dedication or by monetary contribution. Direct land contributions should be enforced through a statutory charge on land, which will require amendments to the Environmental Planning and Assessment Act (1979).	Unknown: Land Value Contributions Scheme abandoned by former government
5	4.3: Issue advice for land valuation to improve consistency and accuracy	To further address land value escalation, the Valuer General should develop a land cost index and improved guidance for land valuations.	Unknown: No information provided
6	4.4: Index land contribution amounts to changing land values	A move to ensure 7.11 plans aren't perpetually being reviewed to catch up with growing acquisition costs.	Not delivered
7	4.5: Section 7.11 contributions plans use benchmark costs	Council's expressed concerns this would led to loss of potential income to fund local infrastructure.	Not delivered
8	4.6: Contributions plans reflect development-contingent costs only	The Productivity Commission recommended that following reform of the revised local government rate peg, works that are not development-contingent should be removed from the essential works list.	Not delivered
9	4.7: Independent Pricing and Regulatory Tribunal review of contributions plans be 'by exception' and based on efficient costs	Standard rates for infrastructure provision, i.e. benchmarked efficient costs, and limiting the Independent Pricing and Regulatory Tribunal review of section 7.11 contributions plans to be only 'by exception', will reduce costs and administrative complexity.	Not delivered: Current IPART referral thresholds remain
10	4.8: Contributions plans are prepared using standard online templates and digital tools	Identified by DPE as an area for development.	Unknown
11	4.9: Encourage councils to forward fund infrastructure through borrowing and pooling of funds	While a provision for pooling of section 7.11 and 7.12 funds has been allowed this has not led to significant forward funding of infrastructure	Partially delivered
12	4.10: Defer payment of contributions to the occupation certificate stage	As a COVID-19 response, payment of contributions was temporarily deferred to the occupation certificate stage to encourage more development projects to commence. The Productivity Commission recommended deferral should be permanent, subject to all contributions having been paid, before an occupation certificate is issued. Collecting local contributions at the construction certificate stage effectively constitutes a tax on the commencement of construction works. It is a barrier to the delivery of new housing supply and impacts on the liquidity of industry as they deliver new projects.	Not delivered
13	4.11: Increase the maximum rate for section 7.12 fixed development consent levies	This is a simplicity measure designed to encourage local government to consider 7.12 levies as an alternative to 7.11 plans which are more complex to design and administer. In November 2021, the former government introduced a Ministerial Direction to stage the introduction of the maximum 3%	Delivered

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		Section 7.12 levy under the Central Sydney Development Contributions Plan. The Ministerial Direction managed the transitional arrangements between the maximum 2% and 3% levy rates prior to 1 July 2022 when the maximum 3% levy was applied.	
14	4.12: Planning agreements consistent with the principles-based approach	<p>The Productivity Commission recommended the use of planning agreements for monetary value capture on height and floor space increases should be curtailed. Instead, planning agreements should only recover development-contingent costs of 'out-of-sequence' development proposals not identified in strategic plans. They should also be allowed for direct delivery of land or works with a relationship to development.</p> <p>The Productivity Commission contended that these reforms, together with adoption of the draft revised planning agreements policy framework released in April 2020, will ensure appropriate use of planning agreements. Legislative amendments to require public exhibition and registration of planning agreements in a centralised system would increase transparency, according to the Commissioner.</p>	Unknown: VPAs were to be reformed to ensure greater accountability
15	4.13: Publish guidelines for planning agreements for mining and energy related projects consistent with the principles-based approach	The Productivity Commission recommended section 7.11 contributions plans should specify infrastructure costs if possible, otherwise a planning agreement would be the most appropriate mechanism - but only recover development-contingent or development-associated costs.	Unknown: DPE previously advised that this was being progressed
16	4.14: Improve accountability for affordable housing contributions	<p>The Productivity Commission made clear affordable housing costs will be incurred regardless of whether development proceeds - and as such do not fit within an efficient infrastructure contributions system. The section 7.32 mechanism is, however, relatively new and yet to be evaluated. Improved reporting of affordable housing contributions should be required to inform a future review of their efficiency and effectiveness.</p> <p>The Regional Infrastructure Contributions (RIC) Package exhibited in late 2020 included recommendations for affordable housing contributions.</p>	Unknown: the GCC Region Plan Discussion Paper canvassed an affordable housing target across Greater Sydney, but no detail on improved reporting of contributions has been provided.
17	5.1: Adopt regional infrastructure contributions	According to the Productivity Commission, greater cost recovery through broad-based state contributions would better leverage the State's capital program towards growth enabling infrastructure. A broad-based state contribution was recommended for the regions of Greater Sydney, Central Coast, Hunter, and Illawarra-Shoalhaven. Governance arrangements were also recommended to ensure contributions are directed to the growth areas most in need and towards projects with high economic benefits.	Delivered: the NSW Government introduced Housing Productivity Contribution (H&PC) in May 2023.
18	5.2: Improve guidance for state planning agreements	This was included in the former Government's Contribution Bill and responds to multiple reviews of the role of VPAs in the planning system, including an ICAC review.	Not delivered
19	5.3: Adopt transport contributions for major projects	The RIC Package exhibited in late 2020 included recommendations for transport contributions.	Unknown: No detail provided in the Housing Productivity Contribution (H&PC) Package
20	5.4: Create a new category of contributions specific to biodiversity	The RIC Package exhibited in late 2020 included recommendations for biodiversity contributions. The Housing and Productivity Contribution Bill provides funding for biodiversity as a discrete category within regional infrastructure, but not as a separate contribution scheme.	Partially delivered: through the Housing Productivity Contribution (H&PC) Package
21	5.5: Phase in metropolitan water contributions for more efficient delivery of water infrastructure	<p>Sydney Water first time exhibited its Development Service Plan (DSP) charges in April 2023. The DSPs impose significant taxes on the delivery of new housing in greenfield growth areas, with no apparent boost to infrastructure funding or delivery timelines.</p> <p>No revised governance structure has been proposed in line with the Productivity Commission's reform principles.</p>	Partially delivered: Multiple DSPs on public exhibition proposing unforeseen new costs on the delivery of housing, with no improvement to the coordination and roll-out of growth infrastructure.

No.	Recommendation	Background	Status
22	6.1: Develop and implement a centralised contributions digital tool	A contributions digital tool within the NSW Planning Portal will make the system easier to understand and interact with. This will support implementation of a more transparent, certain, and simple contributions system.	Delivered: through the Housing Productivity Contribution (H&PC) Package
23	6.2: Promote consistency and transparency in works-in-kind agreements	A works-in-kind agreement establishes an indicative works-in-kind value and the scope, timing, milestones and requisite security for construction/land dedication. According to DPE, works-in-kind agreements executed before the introduction of the Housing and Productivity Contribution will remain and continue to operate. However, there remains an inconsistent approach to works-in-kind agreements across state government and individual councils.	Not delivered: DPE have advised that they will seek to progress this recommendation
24	6.3: Build the capability and expertise of the planning sector	This recommendation replies to the need to address the planning skills shortage through educational measures.	Partially delivered: former government's Regional Housing Flying Squad and current government's planning cadetship program provided separate funding streams to address the planning skills shortage
25	6.4: Introduce a simple, clear, standardised exemptions policy	Designed to complement the Digital Tool.	Unknown
26	6.5: Better synchronise State and local strategic planning frameworks	The 2018 Greater Sydney Region Plan – A Metropolis of Three Cities failed to effectively embed strategic alignment between state and local planning frameworks, informed by appropriate principles for good growth. This is evidenced in the failure of local councils to achieve housing targets set by the Greater Cities Commission (formerly the Greater Sydney Commission).	Not delivered
27	6.6: Incorporate the local infrastructure contributions system into the Integrated and Performance Reporting framework	The Integrated Planning and Reporting Framework, introduced in 2009, streamlines and integrates council strategic planning, reporting and delivery but does not include infrastructure contributions. According to the Productivity Commission, incorporating them into the framework would address the disconnect between fund collection and expenditure.	Unknown
28	6.7: Strategic planning to maximise the efficient use of land	This recommendation sought to improve the identification and acquisition of strategic corridors to support the long-term growth of the state.	Not delivered: no systematic corridor acquisition strategy has been developed
29	7.1: Strong governance to guide implementation	The Productivity Commission recommended an Implementation Steering Committee be established, including senior representatives from the Department of Planning, Industry and Environment and Treasury. It was recommended the Committee should monitor progress, identify risks, provide strategic direction, and report every six months to the Minister for Planning and Public Spaces.	Not delivered

Supplementary Information provided to Portfolio Committee No. 7 - Planning and Environment Inquiry on Environmental Planning and Assessment Amendment (Housing and Productivity Contributions) Bill 2023

- At the Legislative Council's Inquiry into the *Environmental Planning and Assessment Amendment (Housing and Productivity Contributions) Bill 2023* the Property Council of Australia gave an undertaking to provide the Committee with additional information on the various approaches taken by local government with respect to deferring contributions.
- The Property Council examined contribution plans from all local government areas in the Sydney region. Only twelve local councils had contribution plans which made no provision for considering a deferral in payment.
- Of the plans that did provide for deferral, the nature and extent of the deferrals differed widely and considered staggered payment plans, security of payment, limitations to the length of payment deferral and criteria for considering whether or not to permit a deferral.
- It should also be noted that there is no correlation between a council's financial health and whether or not the council adopts a policy that provides for deferral of payments.

Name of Council	Mechanism of charge	Deferrals permitted?	Policy link
Cumberland Council	s7.11	Yes	Cumberland Local Infrastructure Contributions Plan 2020 (nsw.gov.au) Page 38
City of Parramatta Council	s7.11	No	City of Parramatta (Outside CBD) Development Contribution Plan 2021 - Amendment 1 Page 20
Blacktown City Council	s7.11	Yes	https://www.blacktown.nsw.gov.au/files/assets/public/buidling-and-planning/section-94-plans/cp21-marsden-park.pdf Page 37
The Hills Shire Council	s7.12	No	https://www.thehills.nsw.gov.au/files/sharedassets/public/ecm-website-documents/page-documents/building/development-contributions/the_hills_section_7.12_contributions_plan.pdf Page 12
The Hills Shire Council	s7.11	Limited to subdivisions	Contributions Plan No.12 Balmoral Road Release Area (CP12) https://www.thehills.nsw.gov.au/files/sharedassets/public/ecm-website-documents/page-documents/building/development-contributions/cp12_-_balmoral_road.pdf
Bayside Council	s7.11	Yes	Botany Section 7.11 Development Contributions Plan 2016 S7.11 Development Contributions Plan 2016 - Amendment 1.pdf (nsw.gov.au)
Burwood	S7.12	No	
Canada Bay	S7.11 S7.12	Yes	Canada Bay Local Infrastructure Contribution Plan - final.pdf (nsw.gov.au)
City of Sydney (CBD)	S7.12	Yes	https://www.cityofsydney.nsw.gov.au/-/media/corporate/files/publications/development-contribution-plans/central-sydney-contributions-plan/centralsyd_devcontplan_dec2020.pdf
City of Sydney (non-CBD)	S7.11	No	https://www.cityofsydney.nsw.gov.au/-/media/corporate/files/publications/development-contribution-plans/central-sydney-contributions-plan/centralsyd_devcontplan_dec2020.pdf

			nt-contribution-plans/city-of-sydney-development-contributions-plan-2015.pdf
Inner West Council	S7.11 S7.12	No	https://www.innerwest.nsw.gov.au/ArticleDocuments/747/Inner%20West%20-%20Contribution%20Plan%20-%2020%20February%202023.pdf.aspx
Randwick City Council	S7.12	No	S94A-DCP-2015.pdf (nsw.gov.au)
Municipality of Strathfield	s7.11	No	https://www.strathfield.nsw.gov.au/wp-content/uploads/2023/06/Strathfield-Council-Developer-Contributions-and-Planning-Agreement-Register-2-June-2023-PDF.pdf
Waverley Council	S7.12	Yes	https://www.waverley.nsw.gov.au/___data/assets/pdf_file/0012/44220/Development_Contributions_Plan_Amd_9.pdf
Woollahra Municipal Council	S7.11 S7.12	Yes	https://www.woollahra.nsw.gov.au/___data/assets/pdf_file/0006/261780/Woollahra-Section-7.12-Development-Contributions-Plan-2022.pdf https://www.woollahra.nsw.gov.au/___data/assets/pdf_file/0006/261780/Woollahra-Section-7.12-Development-Contributions-Plan-2022.pdf
Georges River Council	s7.11 s7.12	No	Georges River Council Local Infrastructure Contributions Plan 2021 (Section 7.11 and Section 7.12)(nsw.gov.au)
Sutherland Shire Council	s7.11	Yes	2020-07-27-section-7.11-plan-amendment-3-v2.pdf (nsw.gov.au)
Canterbury-Bankstown Council	s7.11 s7.12	Yes	Canterbury-Bankstown Local Infrastructure Contributions Plan 2022 http://webdocs.bankstown.nsw.gov.au/api/publish?documentPath=aHR0cDovL2lzaGFyZS9zaXRlcj9Db2ltdW5pY2F0aW9ucy90dWJsaWNhdGlvbnMvV2Vic2l0ZSBEb2N1bWVudHMvTG9jYWwgS W5mcmFzdHJ1Y3R1cmUgQ29udHJpYnV0aW9ucyB0bGFuF0i5wZGY=&title=Local%20Infrastructure%20Contributions%20Plan%20WEB.pdf
City of Ryde	S7.11 S7.12	No (s7.11) Yes (s7.12)	city-of-ryde-s7.11-developer-contributions-plan-2020.pdf (nsw.gov.au) Ryde fixed rate levy contribution plan (nsw.gov.au)
Hornsby Shire Council	S7.11 S7.12	Yes	Section 7.11 Development Contributions Plan - for Publication (nsw.gov.au)
Hunters Hill	S7.12	No	s 7.12 Contri Plan V2.2 doc+forms - at 7 Jan20 - ADOPTED + EFFECTIVE v1.1 - FINAL (nsw.gov.au)
Ku-ring-gai	S7.11 S7.12	Yes	https://www.krg.nsw.gov.au/files/assets/public/hptrim/information-management-publications-public-website-ku-ring-gai-council-website-planning-and-development/ku-ring-gai-council-s7.12-contributions-plan-2023.pdf
Lane Cove	S7.11	Yes	SECTION 94 CONTRIBUTION PLAN (nsw.gov.au)
Mosman	S7.12	Yes	Mosman Contributions Plan 2022 (nsw.gov.au)
North Sydney	S7.11 S7.12	No	local-infrastructure-contributions-plan-2020-licp- (nsw.gov.au)
Northern Beaches	S7.12	No	Northern_Beaches_Section_7.12_Contributions_Plan_2022.PDF (nsw.gov.au)

			Dee Why Town Centre Contributions Plan 2019 Jun 22 CPI.PDF (nsw.gov.au)
Willoughby	S7.11 S7.12	No	https://www.willoughby.nsw.gov.au/files/share/datasets/public/ecm/willoughby-council-website/publications-reports-master-plans-strategies-action-plans/publications-reports-master-plans-strategies-action-plans/1-wlic_plan_2019_-_all_print.pdf
Blue Mountains	s7.12	Yes	Blue Mountains City-wide Local Infrastructure Contributions Plan 2022
Camden	S7.11	Yes	Camden Contributions Plan 2008 (nsw.gov.au)
Campbelltown	S7.11	Yes	campbelltownlocalinfrastructurecommunityplan2018.pdf (nsw.gov.au)
Fairfield,	S7.11 S7.12	Yes	direct-section-7.11-development-contributions-plan-2011-amendment-no.12-indexed-2023-05-09-march-quarter-2023-pdf.pdf (nsw.gov.au) Fairfield City Council s94A Levy Contributions Plan (nsw.gov.au)
Hawkesbury	S7.11 S7.12	Yes	Contributions Plan (nsw.gov.au) Contributions Plan 94A (nsw.gov.au)
Liverpool	S7.11 S7.12	Yes	https://www.liverpool.nsw.gov.au/trim/documents?RecordNumber=018841.2019-008
Penrith	S7.11	Yes	Mamre Road Precinct Development Contributions Plan 2022.pdf (nsw.gov.au) Contributions Plans St Marys Town Centre.pdf (nsw.gov.au)
Wollondilly	S7.11	Yes	Wollondilly-Contributions-Plan-July-2021.PDF (nsw.gov.au)