

**Submission
No 91**

**INQUIRY INTO ENVIRONMENTAL PLANNING AND
ASSESSMENT AMENDMENT (INFRASTRUCTURE
CONTRIBUTIONS) BILL 2021**

Organisation: NSW Minerals Council

Date Received: 12 July 2021



NSW Minerals Council Submission

Legislative Council Portfolio Committee No.7 - Planning and Environment

Inquiry into the Environmental Planning and Assessment Amendment (Infrastructure Contributions) Bill 2021

The NSW Minerals Council and its members appreciate the opportunity to provide feedback on the implications for the mining industry of relevant amendments under the Environmental Planning and Assessment Amendment (Infrastructure Contributions) Bill 2021 (the Bill).

Many of the changes in the Bill are unlikely to affect the NSW mining industry.

There are also a number of positive changes to increase transparency and accountability in Voluntary Planning Agreements (VPA) (eg annual reporting requirements for planning authorities in relation to compliance with and effect of VPAs (s7.10(e)) and a mandatory 28 day exhibition period for VPAs (Sch 1, clause 6A)) which are supported.

NSWMC is concerned about potential implications associated with proposed revisions to s7.12 (fixed development consent levies).

The Bill proposes that s7.12 be re-made in an amended form. Section 7.12(1) and (2) would now provide:

- (1) A consent authority may impose a local levy condition on a development consent requiring an applicant to pay a monetary levy if a local infrastructure condition is not imposed on the development.*
- (2) The amount of the levy must be determined in accordance with the regulations.*

The new s7.12(5) would provide that:

- (5) The regulations may make provision about local levy conditions, including the following-*
 - (a) the maximum amount of a levy that may be imposed for specified types of development, including development involving a specific number of dwellings or a specified gross floor area.*
 - (b) the types of development in relation to which a local levy condition may be imposed.*
 - (c) The local government areas in which, or the land on which, a consent authority may impose a local levy condition.*

This differs from the existing s7.12 which refers to 'a levy of the percentage... of the proposed cost of carrying out the development'.

The concern is the new provision has the potential to be broader, and potentially require higher contributions for some types of development than the existing provision given the provision no longer links the levy to a percentage of the development cost.

In the absence of the proposed regulations, there may be indirect impacts associated with mining projects that occur if mining related councils use the calculated existing s7.12 contribution (currently

1% of the cost of carrying out the development) as a benchmark or guide for the appropriate contribution to be made under a VPA for a mining project. To the extent that fixed levies may increase under the new s7.12, this may result in some councils expecting higher contributions from mining companies when negotiating VPAs for mining projects.

Until the regulations are made available it is impossible to know what impact, if any, the new s7.12 may have on fixed development consent levies.

NSWMC and its members request that any regulations associated with the Environmental Planning and Assessment Amendment (Infrastructure Contributions) Bill 2021 be made available for comment prior to being finalised.