

February 2021

Environmental Planning and Assessment Amendment (Development Contributions) Regulation 2021

What changes have been made to the EP&A Regulation?

- The EP&A Regulation has been amended to improve reporting and accounting on infrastructure contributions received under contributions plans and planning agreements by councils and other planning authorities, to make information more readily accessible, and to make minor improvements to the infrastructure contributions system.
- The *Environmental Planning and Assessment Amendment (Development Contributions) Regulation 2021* (amending Regulation):
 - Introduces more detailed reporting requirements on receipt and expenditure of contributions received under local contributions plans and planning agreements. The new reporting requirements will commence on 1 July 2022.
 - Introduces new requirements for councils and planning authorities to make documents related to infrastructure contributions (such as contributions plans, registers and reports) available online on their websites as well as on the NSW Planning Portal.
 - Transfers existing guidance for drafting planning agreement explanatory notes from the Regulation into a [Planning Agreement Practice Note](#) to provide clearer direction for planning authorities when drafting planning agreements. For clarity, this change is accompanied by a new requirement for councils to consider the Planning Agreement Practice Note when drafting planning agreements and for all planning authorities to consider the explanatory note requirements.
 - Amends clause 25K to limit the maximum percentage charge for section 7.12 levies in Gosford City Centre to 1% to align with the introduction of the Gosford SIC on 12 October 2018.
 - Updates outdated references to instruments in clause 25K by:
 - replacing the reference to 'Wollongong City Centre Local Environmental Plan 2007' with 'Wollongong Local Environmental Plan 2009'.
 - replacing the reference to 'Chatswood Central Business District (CBD) Section 94A Development Contributions Plan 2011' with 'Willoughby Local Infrastructure Contributions Plan 2019'.
- More information is available in the [Planning Circular](#).

What changes have been made to requirements for annual financial statements?

- Starting on 1 July 2022, councils are required to report, for each contributions plan, on:
 - Opening and closing balances of money held by the council for the accounting period covered by the report.
 - Value of land contributed.
 - Value of material public benefits (other than land or money) contributed (i.e. works in kind).
- This breakdown is introduced by clauses 35(3)(a) and 35(3)(a1) of the Regulation.

- Annual financial statement information for planning agreements is also required to include a breakdown between money, land and works, as per clauses 25F, 25G and 25H of the Regulation. Reporting requirements for planning agreements apply to all planning authorities.

What was exhibited?

- The amendments were publicly exhibited from 15 April 2020 until 12 June 2020 as part of a package of improvements to the infrastructure contributions system. They included:
 - A policy paper outlining the proposed changes.
 - A draft amending Regulation.
- 89 submissions were received from council, industry and community stakeholders. Submissions have been considered and the department's response is included in a [submissions report](#).
- The majority of submissions supported changes to improve the transparency and efficiency of the infrastructure contributions system and to provide additional guidance and certainty to users of the system.

What has changed as a result of the exhibition?

- As a result of submissions received and stakeholder consultation including with the Office of Local Government and NSW Treasury, the following key changes were made:
 - Implementation of the new requirements will be staged between the commencement of the Regulation and 1 July 2022.
 - Transitional provisions will limit new accounting and reporting requirements for local infrastructure contributions and planning agreements so that they do not apply retrospectively.
 - There will be a requirement for documents to be published on the Planning Portal in addition to being published on the website of the individual council or planning authority in order to improve accessibility of reporting records in one central location.
 - Reporting on local infrastructure contributions will split financial and non-financial information into annual financial statements/reports and annual reports (projects) respectively.
 - Project reporting details have been refined e.g. removing requirement to report on components of projects.
 - A proposed new clause to clarify that councils are not required to re-exhibit a contributions plan following IPART review has not been included. Instead, clarification on this matter is provided by a [Planning Circular](#).

Why is the Government making these changes?

- The changes demonstrate the NSW Government's commitment to fixing the uncertainty in the NSW infrastructure contributions system by implementing the recommendations of the *Kaldas Review of Governance in the NSW Planning System*.
- They are aimed at strengthening the integrity of the planning system by improving the transparency, efficiency and accountability of our infrastructure contributions framework.

How do these changes relate to the Productivity Commission's review?

- The Productivity Commission's [review](#) of the NSW contributions system and progression of system improvements described in these FAQs were undertaken concurrently in 2020.
- In November 2020, the NSW Productivity Commissioner provided his [Final Report](#) on the review to the Minister for consideration, and the Report was publicly released on [3 December 2020](#). The report contains 29 recommendations which will form the foundation of reform to create more certainty about how infrastructure is funded and delivered to support new and existing communities.
- The Government is considering the report's recommendations and will seek the input of stakeholders in developing a roadmap to implement system reform.
- Changes to reporting and publication requirements for infrastructure contributions in the amending Regulation are consistent with recommendations made by the Productivity Commission to improve transparency and accountability in the system. They are a first step towards broader reform of the NSW infrastructure contributions system.

When will the changes be implemented?

- New reporting requirements in the EP&A Regulation have a deferred commencement date to assist councils and planning authorities to meet the new requirements. More information on commencement dates is available in the [Planning Circular](#).

Where can I find more information?

The department will be providing additional information and resources on the implementation of the new reporting requirements as they are rolled out. A series of templates and new Planning Portal capabilities will be introduced in 2021.

To find out more contact:

[Infrastructure Funding Policy Team](#)

Tel: 1300 305 695

Email: infrastructure.contributions@planning.nsw.gov.au