



New South Wales

# Environmental Planning and Assessment Amendment (Infrastructure Contributions) Bill 2021

## Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

This Bill is cognate with the *Appropriation Bill 2021*.

## Overview of Bill

The object of this Bill is to amend the *Environmental Planning and Assessment Act 1979* and other instruments as follows—

- (a) to enable a contributions plan to identify land in a land value contributions area for the purpose of requiring a land value contribution for the land,
- (b) to establish a regional infrastructure contributions scheme,
- (c) to make further provision for existing local infrastructure contributions,
- (d) to make other consequential amendments.

## Outline of provisions

**Clause 1** sets out the name, also called the short title, of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

## Schedule 1      **Amendment of Environmental Planning and Assessment Act 1979 No 203**

### **Local infrastructure contributions, including land value contributions**

**Schedule 1[8]** inserts definitions of terms used in the *Environmental Planning and Assessment Act 1979 (the Act)*, Division 7.1, including *land value contribution*.

**Schedule 1[19]** substitutes sections 7.11–7.13.

Proposed section 7.11 enables a consent authority to impose a *local infrastructure condition* on a development consent to require a land value contribution in addition to a contribution for public amenities or public services.

Proposed section 7.12 provides for the imposition of a *local levy condition* on a development consent to require the payment of a monetary levy determined in accordance with the regulations. Proposed section 7.13 makes it clear that a local infrastructure condition and a local levy condition must be authorised by, and determined in accordance with, a contributions plan and imposed in accordance with the regulations and relevant Ministerial directions.

**Schedule 1[22]** inserts proposed section 7.16A and Subdivision 3A.

Subdivision 3A requires a land value contribution be satisfied by an owner of land in a land value contributions area if the land is sold before the contribution has been satisfied.

A vendor or purchaser in the sale of land may apply to the relevant council for a land value contribution certificate, which specifies the contribution, if any, that is required for the land.

An instrument that effects the transfer of the land must be endorsed to indicate that the land value contribution, if required, has been made before the instrument is registered.

**Schedule 1[23]** makes provision for Ministerial directions, including the matters that must be considered when preparing a contributions plan and the circumstances in which a draft contributions plan must accompany a planning proposal. **Schedule 1[24]** enables the Minister for Planning and Public Spaces (the *Minister*) to extend a direction relating to the time at which monetary contributions or levies must be paid to existing development consents in certain circumstances.

**Schedule 1[25]** makes provision for the preparation and approval of contributions plans by councils and for the making, amendment or repeal of contributions plans by the Minister.

**Schedule 1[10]–[12], [15], [20], [21], [26], [28], [31] and [32]** make consequential amendments.

### **Regional infrastructure contributions**

**Schedule 1[27]** substitutes Division 7.1, Subdivisions 4 and 5 to establish a regional infrastructure contributions scheme.

A State environmental planning policy (*SEPP*) may require a regional infrastructure contribution to provide for regional infrastructure. *Regional infrastructure* includes public amenities or public services, affordable housing, transport infrastructure, regional or State roads and measures to conserve or enhance the natural environment.

The SEPP must specify the level and nature of the regional infrastructure contribution, the components of the contribution, including transport project components or strategic biodiversity components, and other matters set out in proposed section 7.25. Before recommending the making of the SEPP, the Minister must obtain the concurrence of the Treasurer.

If a SEPP requires a regional infrastructure contribution in relation to development, a consent authority or certifier must impose a condition on a development consent or a complying development certificate, respectively, for the development to require the contribution.

Proposed sections 7.30–7.31C make provision for the payments relating to regional infrastructure into and out of funds administered by the Planning Secretary and the Secretary of the Treasury.

**Schedule 1[30]** enables the regulations to make provision about fees and charges associated with the administration of the Act and instruments made under the Act.

**Schedule 1[34]** inserts savings and transitional provisions generally and in relation to the continuation of special infrastructure contributions under the substituted provisions of the Act.

**Schedule 1[5]–[7], [9], [13], [14] and [29]** make consequential amendments.

### **Community participation requirements for planning agreements**

**Schedule 1[33]** specifies the minimum public exhibition period for proposed planning agreements in the Act, Schedule 1.

**Schedule 1[1]–[3] and [16]–[18]** make consequential amendments.

### **Review of local strategic planning statement**

**Schedule 1[4]** requires a council to review a local strategic planning statement at least every 5 years, instead of every 7 years.

## **Schedule 2 Other amendments**

**Schedule 2** makes consequential amendments to the *Conveyancing (Sale of Land) Regulation 2017* and the *Valuation of Land Act 1916*.



New South Wales

# Environmental Planning and Assessment Amendment (Infrastructure Contributions) Bill 2021

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New South Wales

# Environmental Planning and Assessment Amendment (Infrastructure Contributions) Bill 2021

No. , 2021

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## **A Bill for**

An Act to amend the *Environmental Planning and Assessment Act 1979* in relation to contributions; and for other purposes.

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**The Legislature of New South Wales enacts—**

1

**1 Name of Act**

2

This Act is the *Environmental Planning and Assessment Amendment (Infrastructure Contributions) Act 2021*.

3

4

**2 Commencement**

5

This Act commences on a day or days to be appointed by proclamation.

6

<b>Schedule 1</b>	<b>Amendment of Environmental Planning and Assessment Act 1979 No 203</b>	1
		2
<b>[1] Section 2.21 Planning authorities and functions subject to community participation requirements</b>		3
		4
Insert after section 2.21(1)(h)—		5
(h1) the Planning Ministerial Corporation,		6
(h2) a development corporation within the meaning of the <i>Growth Centres (Development Corporations) Act 1974</i> ,		7
(h3) a public authority declared by the regulations to be a planning authority for the purposes of Division 7.1,		8
		9
		10
<b>[2] Section 2.21(2)(e1)</b>		11
Insert after section 2.21(2)(e)—		12
(e1) planning agreement functions under Division 7.1,		13
<b>[3] Section 2.23 Community participation plans—preparation</b>		14
Insert after section 2.23(4)—		15
(5) The following planning authorities are not required to prepare a community participation plan relating to the exercise of planning agreement functions under Division 7.1—		16
(a) a council,		17
(b) the Minister,		18
(c) the Planning Ministerial Corporation,		19
(d) a development corporation within the meaning of the <i>Growth Centres (Development Corporations) Act 1974</i> ,		20
(e) a public authority declared by the regulations to be a planning authority for the purposes of Division 7.1.		21
		22
		23
		24
		25
<b>[4] Section 3.9 Local strategic planning statements of councils</b>		26
Omit “7 years” from section 3.9(1). Insert instead “5 years”.		27
<b>[5] Section 4.8 Exercise of consent authority functions on behalf of councils where local planning panel constituted</b>		28
		29
Omit “7.24” from section 4.8(4)(b). Insert instead “7.27”.		30
<b>[6] Section 4.17 Imposition of conditions</b>		31
Omit section 4.17(1)(h). Insert instead—		32
(h) it is authorised to be imposed under—		33
(i) section 4.16(3) or (5), or		34
(ii) subsections (5)–(9) of this section, or		35
(iii) Division 7.1, Subdivision 3 or 4, or		36
(iv) section 7.32.		37
<b>[7] Section 6.5 Functions of certifiers (including principal certifiers)</b>		38
Insert “or Part 7” after “this Part” in section 6.5(5)(a).		39

<b>[8] Section 7.1 Definitions</b>	1
Insert in alphabetical order—	2
<i>contribution</i> , for Subdivisions 3 and 3A, means either or both of the following—	3
(a) the dedication of land free of cost,	4
(b) the payment of a monetary contribution.	5
<i>land value contribution</i> means a contribution required in relation to land in a land value contributions area.	6
<i>land value contribution certificate</i> —see section 7.16D(1).	7
<i>land value contributions area</i> means an area of land identified as a land value contributions area in a contributions plan.	8
<i>local infrastructure condition</i> —see section 7.11(1).	9
<i>local infrastructure contribution</i> means—	10
(a) a contribution required under a local infrastructure condition, and	11
(b) a levy required under a local levy condition, and	12
(c) a land value contribution required under Subdivision 3A.	13
<i>local levy condition</i> —see section 7.12(1).	14
<i>Ministerial direction</i> means a direction given by the Minister under section 7.17 or 7.19(1).	15
<b>[9] Section 7.1, definition of “special contributions area”</b>	16
Omit the definition.	17
<b>[10] Section 7.3</b>	18
Omit the section. Insert instead—	19
<b>7.3 Provisions relating to contributions under this Division, other than Subdivision 4</b>	20
(1) A consent authority or planning authority must—	21
(a) hold a payment in accordance with the conditions of a development consent or a planning agreement for the purpose for which the payment was required, and	22
(b) apply the payment towards the purpose within a reasonable time.	23
(2) Payments required for different purposes may be pooled and applied progressively for the different purposes, including for purposes identified in more than 1 contributions plan applying to the area concerned.	24
(3) Land dedicated in accordance with this Division, other than Subdivision 4, must be made available within a reasonable time by the consent authority or planning authority for the purpose for which the dedication was required.	25
(4) In this section—	26
<i>payment</i> means a monetary contribution or levy paid to a consent authority or planning authority under this Division, other than Subdivision 4, and includes additional amounts, if any, earned from the investment of the contribution or levy.	27
<b>[11] Section 7.4 Planning agreements</b>	28
Omit section 7.4(3)(d). Insert instead—	29



(d)	for development, whether the agreement excludes, wholly or in part, or does not exclude the application of the following provisions—	1
(i)	section 7.11,	2
(ii)	section 7.12,	3
(iii)	Subdivision 3A,	4
(iv)	Subdivision 4,	5
<b>[12]</b>	<b>Section 7.4(3A)</b>	6
	Omit “section 7.11 or 7.12”. Insert instead “Subdivision 3 or 3A”.	7
<b>[13]</b>	<b>Section 7.4(5)</b>	8
	Omit the subsection. Insert instead—	9
(5)	If a planning agreement excludes the application of 1 or more of the following provisions to particular development, a consent authority must not impose a condition of development consent for the development under the excluded provision—	10
(a)	section 7.11,	11
(b)	section 7.12,	12
(c)	Subdivision 3A,	13
(d)	Subdivision 4.	14
<b>[14]</b>	<b>Section 7.4(5A)</b>	15
	Omit the subsection. Insert instead—	16
(5A)	A planning authority, other than the Minister, must not, without the approval of the Minister, enter into a planning agreement excluding the application of Subdivision 4.	17
<b>[15]</b>	<b>Section 7.4(6)</b>	18
	Omit “section 7.11(6) does not apply to any such benefit”.	19
	Insert instead “the benefits must not be taken into consideration under section 7.11(4)”.	20
<b>[16]</b>	<b>Section 7.5 Information about planning agreements</b>	21
	Omit the section.	22
<b>[17]</b>	<b>Section 7.10 Regulations—planning agreements</b>	23
	Omit “and inspection by the public” from section 7.10(c).	24
<b>[18]</b>	<b>Section 7.10(e)</b>	25
	Insert after section 7.10(d)—	26
(e)	annual reporting requirements for planning authorities in relation to compliance with, and the effect of, planning agreements.	27
<b>[19]</b>	<b>Sections 7.11–7.13</b>	28
	Omit the sections. Insert instead—	29
<b>7.11</b>	<b>Contributions towards public amenities and public services</b>	30
(1)	A consent authority may impose a <i>local infrastructure condition</i> on a development consent requiring—	31

- (a) the following contributions if the development will, or is likely to, require the provision of, or result in an increase in the demand for, public amenities and public services in the area—
- (i) a reasonable contribution towards the provision, extension or augmentation of the public amenities and public services,
  - (ii) if the development is on land subject to a requirement for a land value contribution that has not been satisfied under this Subdivision or Subdivision 3A—a land value contribution, determined in the same way as if the land were being sold, or
- (b) a reasonable contribution towards recouping the cost of providing public amenities or public services if—
- (i) the council for the area has provided the public amenities or public services in preparation for, or to facilitate the carrying out of, development, and
  - (ii) the development to which the development consent relates will benefit from the provision of the public amenities or public services.
- (2) The cost of providing public amenities or public services must be calculated in accordance with the regulations and relevant Ministerial directions.
- (3) The consent authority may accept the provision of a material public benefit in part or full satisfaction of a local infrastructure condition, other than a condition requiring a land value contribution.
- (4) Before imposing a local infrastructure condition, the consent authority must take the following into consideration, excluding a benefit provided as a condition of development consent—
- (a) land dedicated free of cost within the area or an adjoining area by the applicant,
  - (b) monetary contributions paid by the applicant to a consent authority in relation to development within the area or an adjoining area,
  - (c) other material public benefits provided free of cost within the area or an adjoining area by the applicant.
- Note—** If a planning agreement excludes a benefit from being taken into consideration under this section, the benefit must not be taken into consideration under this subsection—see section 7.4(6).
- (5) Compliance with a local infrastructure condition is taken to satisfy a requirement in another Act to provide a contribution to a public authority in connection with the development to the extent of the value of the contribution provided in compliance with the condition.
- (6) In this section—  
*area* means the local government area in which the development is being carried out.
- 7.12 Fixed development consent levies**
- (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.

(3)	Subject to the contributions plan, money required to be paid by a local levy condition must be applied towards, or recoup the cost of, the provision, extension or augmentation of public amenities or public services.	1 2 3
(4)	A local levy condition is not invalid only because there is no connection between the development concerned and the object of expenditure of money required to be paid by the condition.	4 5 6
(5)	The regulations may make provision about local levy conditions, including the following—	7 8
(a)	the maximum amount of a levy that may be imposed for specified types of development, including development involving a specified number of dwellings or a specified gross floor area,	9 10 11
(b)	the types of development in relation to which a local levy condition may be imposed,	12 13
(c)	the local government areas in which, or the land on which, a consent authority may impose a local levy condition.	14 15
<b>7.13</b>	<b>Circumstances in which local levy conditions and local infrastructure conditions may be imposed</b>	16 17
(1)	A consent authority may impose a condition under this Subdivision only if the condition is—	18 19
(a)	authorised by a contributions plan, and	20
(b)	determined in accordance with the contributions plan, and	21
(c)	imposed in accordance with the regulations and relevant Ministerial directions.	22 23
(2)	A consent authority, other than a council, may impose a condition under this Subdivision—	24 25
(a)	whether or not the condition is authorised by, or determined in accordance with, a contributions plan, and	26 27
(b)	if the consent authority has considered a contributions plan that applies to the whole or part of the area in which development is proposed to be carried out.	28 29 30
(3)	Subsection (2) does not apply to a condition that imposes a land value contribution.	31 32
(4)	A local infrastructure condition may be disallowed or amended by the Court on appeal because it is unreasonable in the particular circumstances of the case, whether or not it was imposed in accordance with subsection (1).	33 34 35
(5)	A local levy condition imposed in accordance with subsection (1) may not be disallowed or amended by the Court on appeal.	36 37
<b>[20]</b>	<b>Sections 7.14(1) and 7.16(1) and (3)</b>	38
	Omit “section 7.11 or 7.12” wherever occurring. Insert instead “this Subdivision”.	39
<b>[21]</b>	<b>Section 7.16, heading</b>	40
	Omit “Section 7.11 or 7.12 conditions”. Insert instead “Conditions”.	41
<b>[22]</b>	<b>Division 7.1, Subdivisions 3, 3A and 3B</b>	42
	Insert after section 7.16—	43

<b>7.16A</b>	<b>Regulations—local infrastructure contributions</b>	1
	The regulations may make provision about local infrastructure contributions, including the following—	2
		3
	(a) the way in which local infrastructure contributions must be determined,	4
	(b) the indexation of monetary contributions and levies,	5
	(c) when and how monetary contributions and levies must be paid,	6
	(d) reporting on contributions or levies received by consent authorities,	7
	(e) the circumstances in which a consent authority may refuse to consider development applications for development on land for which a land value contribution has not been satisfied.	8
		9
		10
	<b>Subdivision 3A Land value contribution to be satisfied on sale of land</b>	11
		12
<b>7.16B</b>	<b>Definitions</b>	13
	In this Subdivision—	14
	<i>land value contribution assessment number</i> —see section 7.16D(5)(c).	15
	<i>relevant council</i> means the council for the local government area in which the land being sold is located.	16
		17
<b>7.16C</b>	<b>Land value contribution to be satisfied on sale of land in land value contributions area</b>	18
		19
	(1) This section applies to land in a land value contributions area if—	20
	(a) a land value contribution for the land has not been satisfied under this Subdivision or Subdivision 3, and	21
		22
	(b) the land has not been sold since it was included in a land value contributions area.	23
		24
	(2) If the land is being sold, the vendor must satisfy the requirement for the land value contribution on or before completion of the sale.	25
		26
	(3) If there is more than 1 vendor, each vendor is jointly and severally liable to satisfy the requirement for the land value contribution.	27
		28
	(4) A land value contribution is a charge on the land.	29
	(5) On the full satisfaction of the land value contribution for the land, the charge is discharged from the land.	30
		31
<b>7.16D</b>	<b>Issue of land value contribution certificate</b>	32
	(1) A vendor or purchaser in the sale of land in a land value contributions area may apply to the relevant council for a <i>land value contribution certificate</i> for the land.	33
		34
		35
	(2) The application must be—	36
	(a) made in accordance with the regulations, and	37
	(b) accompanied by the fee prescribed by the regulations.	38
	(3) After receiving the application, the relevant council must determine the land value contribution required in accordance with the regulations and the contributions plan concerned.	39
		40
		41
	(4) A land value contribution certificate must be in the form approved by the Planning Secretary.	42
		43

(5)	A land value contribution certificate must include the following information—	1
(a)	if there is a requirement for a land value contribution for the land and if the requirement is satisfied, satisfied in part or not satisfied,	2 3
(b)	if there is a requirement that is satisfied in part or not satisfied—	4
(i)	a description of, and the monetary value of, the part of the land value contribution that is not satisfied, and	5 6
(ii)	the action that may be taken to satisfy the requirement, including the way in which a monetary contribution, if any, may be paid,	7 8
(c)	a unique identifying number, being a <i>land value contribution assessment number</i> for the land,	9 10
(d)	other information prescribed by the regulations.	11
<b>7.16E</b>	<b>Endorsement of transfer of land in land value contributions area</b>	12
(1)	An instrument of transfer must be endorsed on behalf of the vendor by an authorised person with the land value contribution assessment number for the land to indicate that—	13 14 15
(a)	the requirement for the land value contribution is satisfied in relation to the land, or	16 17
(b)	the requirement for the land value contribution is not satisfied in relation to the land, but has been satisfied on or before completion of the sale, or	18 19 20
(c)	the land is not subject to a land value contribution.	21
(2)	In this section—	22
	<i>authorised person</i> means—	23
(a)	a person authorised to endorse an instrument in accordance with an arrangement approved by the Chief Commissioner under the <i>Taxation Administration Act 1996</i> , Part 6, Division 2,	24 25 26
(b)	other persons prescribed by the regulations.	27
	<i>instrument of transfer</i> means an instrument that effects the transfer of land in a land value contributions area after the land has been sold.	28 29
<b>7.16F</b>	<b>Registration of instrument effecting transfer of land within land value contributions area</b>	30 31
	The Registrar-General must not register an instrument that effects the transfer of land in a land value contributions area unless it is endorsed in accordance with section 7.16E.	32 33 34
	<b>Subdivision 3B Ministerial directions and contributions plans</b>	35
<b>[23]</b>	<b>Section 7.17 Directions by Minister</b>	36
	Omit section 7.17(1). Insert instead—	37
(1)	The Minister may, generally or in a particular case or class of cases, direct a consent authority in relation to the following—	38 39
(a)	the public amenities and public services in relation to which a local infrastructure condition, other than a condition requiring a land value contribution, may or may not be imposed,	40 41 42

(b)	for a local infrastructure condition, other than a condition requiring a land value contribution, requiring the payment of a monetary contribution—	1
		2
		3
(i)	the way in which the amount of the contribution may or may not be determined, and	4
		5
(ii)	the maximum amount of the contribution,	6
(c)	the things that may or may not be accepted as a material public benefit for the purposes of a local infrastructure condition,	7
		8
(d)	the matters that must be considered when preparing a contributions plan, including matters relating to the efficient design of infrastructure,	9
		10
(e)	the circumstances in which a draft contributions plan must accompany a planning proposal prepared under section 3.33,	11
		12
(f)	the use of monetary contributions or levies for purposes other than those for which they were paid,	13
		14
(g)	how money paid under this Division for different purposes in accordance with the conditions of development consents is to be pooled and applied progressively for the different purposes,	15
		16
		17
(h)	the time at which a monetary contribution or levy is to be paid.	18
<b>[24]</b>	<b>Section 7.17(1A) and (1B)</b>	19
	Omit the subsections. Insert instead—	20
(1A)	The Minister may extend a direction under subsection (1)(h) to an <i>existing development consent</i> —	21
		22
(a)	that was granted before the direction was given, and	23
(b)	that is subject to a condition imposing a monetary contribution or levy that has not been paid or has not become due.	24
		25
(1B)	An existing development consent to which subsection (1A) applies is taken to be modified to make it consistent with the direction if the direction specifies a later time for payment than is specified in the consent.	26
		27
		28
<b>[25]</b>	<b>Sections 7.18, 7.18A and 7.19</b>	29
	Omit sections 7.18 and 7.19. Insert instead—	30
<b>7.18</b>	<b>Preparation and approval of contributions plans by council</b>	31
(1)	A council, or 2 or more councils, may prepare and approve a contributions plan to impose conditions under this Division, other than Subdivision 4.	32
		33
(2)	A contributions plan must be prepared in accordance with the regulations and Ministerial directions.	34
		35
(3)	A local infrastructure condition must not be imposed on a development consent if a local levy condition is authorised by a contributions plan to be imposed on the development consent.	36
		37
		38
(4)	A contributions plan that authorises the imposition of a local levy condition must specify the type of development or the land in relation to which the condition may be imposed.	39
		40
		41
(5)	A contributions plan must not identify land for which a land value contribution is required unless—	42
		43

- (a) a change to the planning controls that apply to the land will enable more intensive development of the land and, as a result, increase the value of the land, and
    - (b) the intensive development will require land to be provided for a public purpose.
  - (6) A contributions plan that identifies land in a land value contributions area must—
    - (a) identify the land in the land value contributions area that is required for a public purpose, and
    - (b) specify the maximum amount of the land value contribution, including by reference to a maximum percentage of the value of the land, and
    - (c) specify the way in which the owners of land in the land value contributions area will be notified of the land value contribution, and
    - (d) be published on the NSW planning portal.
  - (7) A council must review a contributions plan within the period prescribed by the regulations.
- 7.18A Regulations—contributions plans made by councils**
- The regulations may make provision about the making of contributions plans by councils, including the following—
- (a) the preparation, exhibition and approval of contributions plans,
  - (b) the format, structure and content of contributions plans,
  - (c) the way in which land must be identified in contributions plans,
  - (d) the way in which a land value contribution must be calculated for a land value contributions area or part of a land value contributions area,
  - (e) the way in which the value of land in a land value contributions area must be determined,
  - (f) the maximum percentage of the total amount of land in a land value contributions area that may be required as a land value contribution.
- 7.19 Making, amendment or repeal of contributions plans by Minister**
- (1) The Minister may give a written direction to a council to do the following in a specified time and way—
    - (a) prepare, approve, amend, exhibit or repeal a contributions plan,
    - (b) prepare a joint contributions plan with 1 or more other councils.
  - (2) The Minister may prepare, approve, amend or repeal a contributions plan if—
    - (a) a council fails to prepare, approve, amend, exhibit or repeal a contributions plan in accordance with a direction under subsection (1), or
    - (b) a council gives written consent to the Minister to prepare, approve, amend or repeal the plan.
  - (3) The approval, amendment or repeal of a plan by the Minister—
    - (a) is not subject to the regulations or Schedule 1, and
    - (b) has effect as if it had been prepared and approved by the council under section 7.18.
  - (4) Despite section 7.13(3) or another provision of this Act, a person cannot appeal to the Court under this Act in relation to—

(a)	the approval, amendment or repeal of a contributions plan by, or at the direction of, the Minister under this section, or	1 2
(b)	the reasonableness in the particular circumstances of a condition imposed under this Part in accordance with the contributions plan.	3 4
<b>[26]</b>	<b>Section 7.21 Contributions plans—complying development</b>	5
	Omit “any directions given under section 7.17(1)(a), (b) or (d)” from section 7.21(1A).	6
	Insert instead “directions given under section 7.17(1)”.	7
<b>[27]</b>	<b>Division 7.1, Subdivisions 4 and 5</b>	8
	Omit the Subdivisions. Insert instead—	9
	<b>Subdivision 4 Regional infrastructure contributions</b>	10
<b>7.22</b>	<b>Definitions</b>	11
	In this Subdivision and Subdivision 5—	12
	<i>biodiversity certified land</i> —see section 7.24(2).	13
	<i>region</i> means an area of land identified in a SEPP as a region for the purposes of this Subdivision.	14 15
	<i>regional infrastructure</i> —see section 7.23(1).	16
	<i>regional infrastructure contribution</i> —see section 7.23(3).	17
	<i>RIC Fund</i> —see section 7.31.	18
	<i>strategic biodiversity component</i> —see section 7.25(1)(f)(ii).	19
<b>7.23</b>	<b>Provision of regional infrastructure</b>	20
(1)	This Subdivision facilitates the provision of the following infrastructure or measures ( <i>regional infrastructure</i> ) by the imposition of a regional infrastructure contribution on certain development—	21 22 23
(a)	public amenities or public services, including infrastructure that enhances public open space or the public domain,	24 25
(b)	affordable housing,	26
(c)	transport infrastructure,	27
(d)	regional or State roads,	28
(e)	measures to conserve or enhance the natural environment.	29
(2)	Regional infrastructure may be provided in 1 or more of the following ways—	30
(a)	by providing the regional infrastructure,	31
(b)	by recouping the cost of providing the regional infrastructure,	32
(c)	by funding recurrent expenditure relating to providing the regional infrastructure,	33 34
(d)	by the Minister, the Planning Ministerial Corporation or the Planning Secretary exercising the following functions in the administration of this Part—	35 36 37
(i)	carrying out research or investigation,	38
(ii)	preparing a report or study or an instrument,	39
(iii)	doing another matter or thing in connection with the administration of this Part.	40 41



- (3) A SEPP may require a **regional infrastructure contribution** towards the provision of regional infrastructure. 1  
2
- (4) A regional infrastructure contribution may be imposed to provide regional infrastructure outside the region or the State. 3  
4
- (5) In this section— 5  
**provide** infrastructure includes to extend or augment infrastructure. 6
- 7.24 Measures to conserve or enhance the natural environment** 7
- (1) In this Subdivision, measures to conserve or enhance the natural environment include the following measures implemented by the State or a council— 8  
9
- (a) a measure relating to biodiversity certified land, including the following— 10  
11
- (i) an approved conservation measure specified in the order conferring biodiversity certification on the land, 12  
13
- (ii) other approved measures referred to in the *Biodiversity Conservation Act 2016*, section 8.3(3), 14  
15
- (iii) costs and expenses incurred by the Minister, the Planning Secretary, a council or another prescribed person in making an application for biodiversity certification under that Act, 16  
17  
18
- (b) a measure— 19
- (i) for the purposes of an endorsed policy, plan or program, within the meaning of the *Environment Protection and Biodiversity Conservation Act 1999* of the Commonwealth, section 146A, or 20  
21  
22
- (ii) under the conditions of an approval of the taking of actions or a class of actions under that Act, section 146B. 23  
24
- Note—** The Commonwealth Minister for the Environment may approve the taking of actions or a class of actions in accordance with a policy, plan or program endorsed in accordance with an agreement on strategic assessment—see the *Environment Protection and Biodiversity Conservation Act 1999* of the Commonwealth, Part 10. 25  
26  
27  
28  
29
- (2) In this section— 30  
**biodiversity certified land** means— 31
- (a) land— 32
- (i) the subject of an application declared by the Minister to be a strategic application for biodiversity certification under the *Biodiversity Conservation Act 2016*, section 8.5(2), and 33  
34  
35
- (ii) on which biodiversity certification has been conferred, extended or modified under that Act, Part 8, or 36  
37
- (b) land taken to be biodiversity certified under that Act or otherwise subject to biodiversity certification. 38  
39
- 7.25 Content of SEPPs requiring regional infrastructure contributions** 40
- (1) A SEPP that requires a regional infrastructure contribution must specify the following— 41  
42
- (a) the level and nature of the regional infrastructure contribution, 43
- (b) the classes of development to which the regional infrastructure contribution will apply, 44  
45
- (c) the region, or part of the region, to which the regional infrastructure contribution applies, 46  
47

(d)	the way in which the regional infrastructure contribution must be determined,	1 2
(e)	the time at which the regional infrastructure contribution is required,	3
(f)	the components of the regional infrastructure contribution, including—	4
(i)	the component imposed on development on land identified in the SEPP as an area that benefits, or will benefit, from the provision of specified transport infrastructure (a <i>transport project component</i> ), and	5 6 7 8
(ii)	the component imposed on development on biodiversity certified land as a contribution towards a measure referred to in section 7.24(1) (a <i>strategic biodiversity component</i> ),	9 10 11
(g)	whether or not the regional infrastructure contribution is required when a complying development certificate is issued for development.	12 13
(2)	A SEPP that requires a regional infrastructure contribution may specify the following—	14 15
(a)	requirements relating to the form of the regional infrastructure contribution,	16 17
(b)	conditions that must be imposed by a consent authority as a condition of development consent, including the following—	18 19
(i)	the terms of the conditions,	20
(ii)	conditions requiring the person having the benefit of the development consent to obtain a decision by the Planning Secretary as to whether a contribution is required under the SEPP and of the obligations arising under the SEPP,	21 22 23 24
(c)	exemptions from the regional infrastructure contribution,	25
(d)	the indexation of the regional infrastructure contribution.	26
<b>7.26</b>	<b>Making SEPPs requiring regional infrastructure contributions</b>	27
(1)	Before recommending the making of a SEPP that requires a regional infrastructure contribution, the Minister must obtain the concurrence of the Treasurer.	28 29 30
(2)	Section 3.25 does not apply to the making of a SEPP that requires a regional infrastructure contribution.	31 32
<b>7.27</b>	<b>Regional infrastructure contributions imposed as conditions of development consent or complying development certificate</b>	33 34
(1)	If a SEPP requires a regional infrastructure contribution in relation to development—	35 36
(a)	a consent authority must impose a condition on a development consent for the development requiring the regional infrastructure contribution, or	37 38 39
(b)	for complying development—a certifier must impose a condition on a complying development certificate for the development requiring the regional infrastructure contribution.	40 41 42
(2)	The condition must be imposed in accordance with the SEPP.	43
(3)	If the consent authority or the certifier fails to impose the condition, the condition—	44 45
(a)	is taken to have been imposed in the terms required by the SEPP, and	46

(b)	the condition has effect as if it had been imposed by the consent authority or the certifier.	1 2
(4)	A regional infrastructure contribution may be required in addition to a local infrastructure condition or a local levy condition.	3 4
(5)	If a regional infrastructure contribution is required to be made before a certificate under Part 6 or a strata certificate under the <i>Strata Schemes Development Act 2015</i> is issued for development, the certificate must not be issued until the contribution is made.	5 6 7 8
(6)	A condition imposed under this section must not be modified without the approval of the Minister.	9 10
<b>7.28</b>	<b>No connection required</b>	11
	No connection is required between the development or land to which a regional infrastructure contribution relates and the object of expenditure of money required to be paid.	12 13 14
<b>7.29</b>	<b>No appeals</b>	15
	A person cannot appeal to the Court under this Act in relation to a condition imposed under this Subdivision.	16 17
<b>7.30</b>	<b>SBC Fund</b>	18
(1)	There is established in the Special Deposits Account a fund called the Strategic Biodiversity Component Fund ( <i>SBC Fund</i> ).	19 20
(2)	The SBC Fund must be administered by the Planning Secretary.	21
(3)	The following must be paid into the SBC Fund—	22
(a)	payments relating to a strategic biodiversity component of a regional infrastructure contribution,	23 24
(b)	money appropriated by Parliament for the purposes of the SBC Fund,	25
(c)	the proceeds of the investment of money in the SBC Fund,	26
(d)	other money required to be paid into the SBC Fund by or under this Act, the regulations or other legislation.	27 28
(4)	The assets of the SBC Fund may be applied only for the following purposes—	29
(a)	payments to public authorities for the provision of regional infrastructure that is a measure referred to in section 7.24(1),	30 31
(b)	money required to meet administrative expenses in relation to the SBC Fund,	32 33
(c)	other money directed or authorised to be paid from the SBC Fund by this Act or the regulations.	34 35
(5)	A payment for the provision of regional infrastructure that is an approved conservation measure referred to in section 7.24(1)(a)(i) must be made in accordance with the order specifying the approved conservation measure.	36 37 38
(6)	This section does not limit payments being made out of the RIC Fund to the Planning Secretary under section 7.31B.	39 40
(7)	The money in the SBC Fund may be invested in a way that the Minister is permitted to invest money under the <i>Government Sector Finance Act 2018</i> , Part 6.	41 42 43

<b>Subdivision 5</b>	<b>Establishment of Regional Infrastructure Contributions Fund</b>	1
		2
<b>7.31</b>	<b>Establishment of RIC Fund</b>	3
(1)	There is established in the Special Deposits Account a fund called the Regional Infrastructure Contributions Fund ( <i>RIC Fund</i> ).	4
		5
(2)	Payments relating to the transport project component of regional infrastructure contributions must be administered separately in the RIC Fund.	6
		7
(3)	The RIC Fund must be administered by the Secretary of the Treasury.	8
(4)	In this section—	9
	<i>transport project component</i> —see section 7.25(1)(f)(i).	10
<b>7.31A</b>	<b>Payments into RIC Fund</b>	11
	The following must be paid into the RIC Fund—	12
(a)	regional infrastructure contributions received under Subdivision 4, except as otherwise provided by section 7.30,	13
		14
(b)	money appropriated by Parliament for the purposes of the RIC Fund,	15
(c)	the proceeds of the investment of money in the RIC Fund,	16
(d)	money required to be paid into the RIC Fund by or under this Act, the regulations or other legislation.	17
		18
<b>7.31B</b>	<b>Payments out of RIC Fund</b>	19
(1)	The following are payable from the RIC Fund—	20
(a)	payments to public authorities for the provision of regional infrastructure, including associated administrative expenses,	21
		22
(b)	money required to meet administrative expenses in relation to the RIC Fund,	23
		24
(c)	money directed or authorised to be paid from the RIC Fund by this Act or the regulations.	25
		26
(2)	A payment from the RIC Fund may be made only—	27
(a)	with the approval of the Treasurer, and	28
(b)	after consulting with the Minister.	29
(3)	Priorities for expenditure from the Fund must be decided after having regard to the relevant strategic plans prepared under—	30
		31
(a)	Division 3.1, and	32
(b)	the <i>Infrastructure NSW Act 2011</i> , Part 4.	33
<b>7.31C</b>	<b>Investment of money in Fund</b>	34
	The money in the Fund may be invested in a way that the Treasurer is permitted to invest money under the <i>Government Sector Finance Act 2018</i> , Part 6.	35
		36
		37
<b>[28]</b>	<b>Section 7.32 Conditions requiring land or contributions for affordable housing</b>	38
	Omit “or section 7.11” from section 7.32(3)(c)(iii).	39
	Insert instead “, section 7.11 or Division 7.1, Subdivision 3A”.	40

<b>[29] Section 7.32(6)</b>	1
Omit the subsection.	2
<b>[30] Section 7.44</b>	3
Omit the section. Insert instead—	4
<b>7.44 Fees and charges</b>	5
(1) This section applies to the following fees and charges—	6
(a) the fees payable under the planning legislation by a person who—	7
(i) makes an application for a planning approval, or	8
(ii) seeks the exercise of another function under the planning legislation,	9
	10
(b) fees for services provided in connection with the administration of the planning legislation by the Minister, the Planning Ministerial Corporation, the Planning Secretary, the Independent Planning Commission or a Sydney district or regional planning panel, including—	11
	12
	13
	14
	15
(i) the administrative costs of services provided under the planning legislation, and	16
	17
(ii) the costs associated with the functions of the Minister, the Planning Ministerial Corporation, the Planning Secretary, the Independent Planning Commission or the Sydney district or regional planning panel.	18
	19
	20
	21
(2) The regulations may make provision about fees and charges to which this section applies, including the following—	22
	23
(a) the amount, or the determination of the amount by a specified person, of the fees and charges,	24
	25
(b) the time within which the fees and charges must be paid,	26
(c) the payment and recovery of the fees and charges.	27
(3) In this section—	28
<i>planning approval</i> means the following—	29
(a) a development consent,	30
(b) an approval for State significant infrastructure,	31
(c) a certificate under Part 6, other than a compliance certificate.	32
<i>planning legislation</i> means this Act and the instruments made under this Act.	33
<b>[31] Section 7.46, heading</b>	34
Omit the heading. Insert instead—	35
<b>7.46 Recovery of charges, fees, contributions and money</b>	36
<b>[32] Section 7.46(2)</b>	37
Insert at the end of section 7.46—	38
(2) A monetary contribution required to be paid under this Part may be recovered as a debt in a court of competent jurisdiction by the following—	39
	40
(a) for a local infrastructure contribution within the meaning of Division 7.1—the consent authority concerned or the council for the area concerned,	41
	42
	43

(b)	for a regional infrastructure contribution under Division 7.1, Subdivision 4—the Secretary of the Treasury.	1 2
[33]	<b>Schedule 1 Community participation requirements</b>	3
	Insert after clause 6—	4
<b>6A</b>	<b>Planning agreements—Division 7.1, Subdivision 2</b>	5
	Minimum public exhibition period—	6
(a)	for a proposed planning agreement—28 days, or	7
(b)	for the amendment or revocation of a planning agreement—28 days or another period specified in the community participation plan, if any.	8 9
[34]	<b>Schedule 4</b>	10
	Omit the Schedule. Insert instead—	11
	<b>Schedule 4 Savings, transitional and other provisions</b>	12
	<b>Part 1 Provision consequent on enactment of Environmental Planning and Assessment Amendment (Infrastructure Contributions) Act 2021</b>	13 14 15
<b>1</b>	<b>Continuation of special infrastructure contributions</b>	16
(1)	Subject to subclause (2)(a), the former SIC provisions, including anything done under the provisions, continue to apply to—	17 18
(a)	a determination made under the former section 7.23, and	19
(b)	a direction made under the former section 7.24.	20
(2)	The regulations may make provision about the continued application of the former SIC provisions, including the following—	21 22
(a)	specifying determinations and directions made under the former section 7.23 and the former section 7.24, respectively, to which the former SIC provisions do not apply,	23 24 25
(b)	excluding specified land, being land subject to the former SIC provisions, from the application of Division 7.1, Subdivision 4, as substituted by the amending Act.	26 27 28
(3)	In this clause—	29
	<i>amending Act</i> means the <i>Environmental Planning and Assessment Amendment (Infrastructure Contributions) Act 2021</i> .	30 31
	<i>former section 7.23</i> means section 7.23, as in force immediately before its substitution by the amending Act.	32 33
	<i>former section 7.24</i> means section 7.24, as in force immediately before its substitution by the amending Act.	34 35
	<i>former SIC provisions</i> means Division 7.1, Subdivisions 4 and 5 and Schedule 4, as in force immediately before the substitution of the provisions by the amending Act.	36 37 38

<b>Schedule 2</b>	<b>Other amendments</b>	1
<b>2.1</b>	<b>Conveyancing (Sale of Land) Regulation 2017</b>	2
	<b>Schedule 1 Prescribed documents</b>	3
	Insert at the end of the Schedule—	4
17	If the contract relates to land within a land value contributions area, a land value contribution certificate within the meaning of the <i>Environmental Planning and Assessment Act 1979</i> , Division 7.1.	5 6 7
<b>2.2</b>	<b>Valuation of Land Act 1916 No 2</b>	8
	<b>Section 14A Valuer-General to ascertain land values</b>	9
	Insert after section 14A(2)—	10
(3)	The Valuer-General may, on the application of a council of a local government area under subsection (2)(c), require the payment of a fee determined by the Valuer-General to make the valuation.	11 12 13