

A Better Growth Infrastructure Deal: End the uncertainty, restore the trust



The problem	The evidence	What happens if we do nothing?
<p>INFRASTRUCTURE DELIVERY IS UNCERTAIN</p> <p>Communities and developers have little idea if or when the infrastructure needed to support growth will be provided.</p>	<p>Growth infrastructure has not kept pace with development - the so-called 'infrastructure lag'. Evidence of the lag can be seen in over-enrolment in schools, increased congestion on roads, overcrowding on public transport, competition for space at parks.</p> <p>Many councils and the State government have been slow to spend developer contributions on infrastructure.</p> <p>There has for many years been a 'silo' approach to infrastructure planning among agencies. There is little incentive for agencies with disparate interests to align their planning to achieve coordinated sequencing of infrastructure and growth, despite recent focused attempts at better collaboration. Indecision and delay creates a riskier investment environment than if sequencing was coordinated.</p> <p>Developers often deliver infrastructure more efficiently than government and councils, but the rules around developers providing 'works in kind' are inconsistent and not always clear. Some councils do not encourage developer offers of works.</p>	<p>Development will likely continue to outpace the delivery of infrastructure, cause further congestion, and thus further undermine the public's trust in the government's growth agenda.</p> <p>Successful implementation of key government policies to increase housing starts – e.g. the planned precincts and the 'missing middle' – remain at risk while ever the public has doubts about the supporting infrastructure being delivered.</p> <p>Missed opportunities to have more infrastructure delivered by developers.</p>
<p>DEVELOPER CONTRIBUTIONS ARE UNCERTAIN</p> <p>Developers either do not know what their contributions obligations are, or cannot easily calculate them.</p>	<p>Uncertainty is the No.1 enemy of mobile capital looking to invest. The State and local infrastructure contributions that apply to developments are not usually known at the time land is rezoned for urban purposes.</p> <p>Draft SICs are announced but many remain unfinalised. For instance, the Hunter and Illawarra SICs have been in one draft form or another since 2011.</p> <p>Practically all Sydney greenfield area s7.11 contributions plans have rates that are above the cap and have to be reviewed and determined by both IPART and the Minister – a process that can take more than 2 years.</p> <p>As a result, developers often have to guess the contributions obligations, which makes investment decisions riskier than they need to be.</p>	<p>NSW will keep its reputation as having Australia's most complex planning system.</p> <p>Developments remain more costly than they need be because of the risk priced into site acquisitions due to cost uncertainties surrounding planning processes and contributions.</p> <p>VPAs will continue to be used as a 'band aid' to deal with the failures of the contributions plan approval process.</p>

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	<p>Developers who wish to accelerate development while contributions plans are reviewed and approved can only do so via VPAs, which can take many months to negotiate. Using VPAs to deal with contributions plans that take year to complete is strong evidence of a failing system.</p>	
<p>INADEQUATE ACCOUNTABILITY</p> <p>Reporting requirements for collection and spending of contributions are basic at best, and usually the contributors and the community have no idea what the money has been spent on.</p>	<p>Despite there being regulations to enable it, developers and the general public cannot easily access accounting records and contributions registers for contributions made to councils. There are no equivalent requirements for State contributions, so these are even harder to monitor.</p> <p>Despite it being a regulatory requirement, some councils do not even have contributions registers.</p> <p>What information is available is not easy to find or interpret. It is limited to accumulated financial information and it is rare that completed or committed projects are described in a reader-friendly format.</p> <p>Council staff are under pressure to allow contributions funds to be spent on councillors' 'wish list' items. This is particularly the case with funds held under repealed contributions plans.</p> <p>Current minimal reporting makes it difficult for the public to know whether funds are being spent responsibly.</p>	<p>Without updated accountability measures that are enforced:</p> <ul style="list-style-type: none"> (a) Councils will continue to seek ways to use development contributions for wish-list infrastructure, rather than priority growth infrastructure (b) The public will remain disengaged and cynical about the likelihood of infrastructure being sequenced with development (c) Developers will, in the absence of contrary evidence, continue to be critical that councils and State government are hoarding money or spending it on gold-plated infrastructure
<p>CONTRIBUTIONS SYSTEM IS MULTI-LAYERED, FRAGMENTED, OPAQUE, COMPLEX & UNSTABLE</p> <p>Contributions plans are often difficult for the public to understand. Other methods of funding infrastructure have been added as layers to create a system that is incoherent to and not trusted by many stakeholders.</p>	<p>The contributions system has evolved from a single section of the EP&A Act in 1980 containing 550 words to today being a chapter containing over 9,000 words. This massive increase in regulation has not resulted in better sequencing or timely growth infrastructure delivery.</p> <p>A common complaint about contributions plans is that it is difficult to work out the charge that applies to a particular development.</p> <p>Satisfactory arrangements clauses in LEPs act as de facto SICs, but there is no publicly available information as to how the developer charge is arrived at (as distinct from an actual SIC). The usual way for</p>	<p>Continuing very low confidence in the infrastructure contributions system's ability to achieve what it's supposed to achieve.</p> <p>Developers, armed with 'evidence' that excessive contributions are a major cause of a slow-down in housing construction, will continue to demand a complete rethink of the whole contributions system. If the slow-down extends they will increase the pressure on the government to act by reducing so-called 'excessive taxes'</p>

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	<p>developers to secure satisfactory arrangements is to negotiate a VPA with the Minister, which is costly and time consuming. A situation where VPAs are used solely to formalise a contribution rate for the most minor developments is clear evidence of a failed system.</p> <p>In 2010 the State Government introduced a s7.11 contributions cap as an emergency measure to kick-start housing development after a prolonged slump. Many councils have introduced 'value sharing' schemes to get around the s7.11 cap. These schemes operate in a policy vacuum, where councils use higher contributions as a bargaining chip to let rezoning proposals proceed.</p> <p>The guidelines and regulations around infrastructure contributions are complex, out of date, or non-existent. For example:</p> <ul style="list-style-type: none"> • There has been no comprehensive update of the contributions plans practice notes since 2005. • There is no formal guidance as to how a council can implement a simpler fixed rate levy with rate that exceeds the standard 1% of development cost. <p>There is anecdotal evidence that government and councils are missing out on contributions through errors at the consent stage, and lack of policing of third party players (i.e. certifiers).</p>	<p>Wasteful use of resources on unproductive activities, such as negotiating VPAs for minor developments subject to satisfactory arrangements clauses.</p> <p>Ongoing public perception that VPAs are a means of legitimatising the buying of development rights from public officials.</p>