This historical document is presented as originally created.

It includes an acronym for the Financial Assistance Grant program that is offensive and inappropriate, and which we no longer use.

NSW Treasury apologises for the use of this term and the harm caused by it.

Today, the program is referred to as the 'FA Grant' or the 'Financial Assistance Grant'.

Review of Infrastructure Contributions in New South Wales (2020)

Terms of Reference

No	Issues and Discussion Questions	Comment:
1.1	**Striking the right balance** There can be difficulty in reconciling the competing principles of efficiency, equity, certainty, and simplicity. Failure to strike the right balance can undermine confidence in the planning system. ▪ Is a 'one size fits all' approach appropriate or do parts of the State require a bespoke solution? ▪ What are the advantages and disadvantages of a site-specific calculation based on demand generated, compared with a broader average rate? ▪ Do other jurisdictions have a better approach to infrastructure funding we should explore? ▪ How can a reformed contributions system deliver on certainty for infrastructure contributions while providing flexibility to respond quickly to changing economic circumstances?	A 'one size fits all' approach is not appropriate on the basis that growth rates, levels of service and ability to pay varies widely across the State, as does Infrastructure construction costs and professional skills required to develop and administer developer servicing plans. The advantages of site specific calculations is that only Infrastructure required for the specific LGA is included in the cost calculation, with the timing of delivering infrastructure dictated by locally determined growth rates rather than broader average ones. The disadvantage to this approach comes when population demand exceeds cost recovery and the ability to react quickly is constrained by the ability to fund. Anecdotally QLD has a better approach to Infrastructure funding and development planning where local authorities play a more active role in planning future development, allowing costs and infrastructure planning to be better prepared to react to economic factors that drive development. An approach such as the above provides certainty around contributions and infrastructure required to service development but allows freedom to developers by allowing alternate planning proposals but with a more rigorous and lengthy approval process with increased uncertainty in terms of infrastructure costs.
2.1	**Enable a broader revenue source for the funding of infrastructure** Are there any potential funding avenues that could be explored in addition to those in the current infrastructure funding mix?	Under the Financial Assistance Grant (FAG) arrangements, the same level of funding is provided to councils for a given population size regardless of differences in their socio-economic status and land values within their area. The NSW Independent Review of Local Government (2013) and the Henry Tax Review (2009) are two reports that have called for the removal of the minimum grant principle to enable a higher level of horizontal equalisation and more equitable redistribution of grant funding and Council supports this position.
2.2	**Integrating land use and infrastructure planning** The Greater Sydney Region Plan provides the overarching vision and infrastructure needs, which is translated into separate District Plans and Local Strategic Planning Statements. These are used by councils for land use and infrastructure planning. ▪ How can the infrastructure contributions system better support improved integration of land use planning and infrastructure delivery?	No comment (Gunnedah does not form part of the Greater Sydney Region Plan)
3.1	**Principles for planning agreements are non-binding** The Planning Agreements Practice Note is currently non-binding on councils, although the Ministerial Direction exhibited by the Department aims to change this. There are no equivalent guidelines for use when negotiating planning agreements with the State. Additionally, there is little agreement between stakeholders on what the principles should be for either local or State planning agreements and there is no consensus on the appropriateness of value capture through planning agreements. ▪ What is the role of planning agreements? Do they add value, or do they undermine confidence in the planning system? ▪ Is 'value capture' an appropriate use of planning agreements? ▪ Should planning agreements require a nexus with the development, as for other types of contributions? ▪ Should State planning agreement be subject to guidelines for their use?	Planning agreements do add value locally with minimal concerns about the undermining of confidence in the regional and state planning systems. Typically planning agreements are developed for maintenance of Council infrastructure directly impacted by development or as community offsets for the indirect impacts of development. Both are well utilized and result in a more equitable burden of the cost which otherwise is not compensated elsewhere. The use of planning agreements as a 'value capture' mechanism is considered to be appropriate and Council values it's ability to negotiate same by rejecting the statement that Planning agreements are a fall-back mechanism when unanticipated development occurs. Rather it is Council's position that it's role is to efficiently and effectively manage it's limited resources and as such would prefer to maintain it's autonomy with respect to negotiating planning agreements. The concepts of 'nexus' and 'apportionment' are well established and Council supports the need for nexus to levy contributions. No comment with respect to State Planning Agreements needing guidelines

No	Issues and Discussion Questions	Comment:
3.2	**Transparency and accountability for planning agreements are low** Reporting and accounting requirements for planning agreements are low, although proposed changes to the Regulation may improve this. Differing practices between councils and the State in maintaining separate planning agreement registers and public notice systems is confusing and reduces transparency and accountability. ▪ What could be done to improve the transparency and accountability of planning agreements, without placing an undue burden on councils or the State? ▪ Should councils and State government be required to maintain online planning agreement registers in a centralised system? What barriers might there be to this?	No comment
3.3	**Planning agreements are resource intensive** Planning agreements are a resource intensive mechanism but have potential to deliver unique and innovative outcomes. ▪ Should the practice note make clear when planning agreements are (and are not) an appropriate mechanism?	Council would support the refinement of Practice Notes that more clearly define when agreements are and are not appropriate however Council maintains it's preference towards maintaining its autonomy to decide whether or not to enter into a voluntary planning agreements.
3.4	**Contributions plans are complex and costly to administer** Contributions plans can be opaque, making it hard for developers to calculate a potential contribution liability and the community to know what infrastructure it can expect and when. Many plans are not updated in a timely manner, leading to issues with cost escalation, outdated assumptions, and difficulty meeting community infrastructure needs. Some councils have significant contributions balances, indicating there may be barriers to timely expenditure. ▪ How could the complexity of s7.11 contributions planning be reduced? ▪ What are the trade-offs for, and potential consequences of, reducing complexity? ▪ How can certainty be increased for the development industry and for the community?	S7.11 contributions plans can be complex due to Council's attempting to 'catch all' in an attempt to allow for every possible development outcome within an LGA. This occurs as a result of letting the market and developers determine which development occurs and when. If Councils were to play a more deliberate role in planning future development including zoning, subdivision layouts and infrastructure required, this would enable greater certainty and accuracy attached to contributions plans. The trade off is less flexibility for developers and a reduced ability to react to positive market conditions and growth scenarios if plans are rigidly set. Certainty can be increased by reducing red tape associated with planning proposals, contributions plans and better resources planning departments so that contributions plan can be kept up to date and informed with the most accurate information.
3.5	**Timing of payment of contributions and delivery of infrastructure does not align** Developers want to delay the payment of contributions to the occupation certificate stage to support project financing arrangements. This would delay receipt of funds to councils and, in the absence of borrowing funds, may delay infrastructure delivery. ▪ What are the risks or benefits of deferring payment of infrastructure contributions until prior to the issuing of the occupation certificate, compared the issuing of a construction certificate? Are there options for deferring payment for subdivision? ▪ Would alternatives to financial securities, such as recording the contributions requirement on property title, make deferred payment more viable? ▪ Would support to access borrowing assist councils with delivering infrastructure? What could be done to facilitate this? Are there barriers to councils to accessing the Low Cost Loans Initiative? ▪ What else could be done to ensure infrastructure is delivered in a timely manner and contributions balances are spent?	**Strongly oppose** due to the perceived and observed risk that developers fail to pay developer contributions at all. The issuing of an occupation certificate does not carry the same leverage as a construction certificate or subdivision certificate. Placing covenants on titles has not been shown to be a reliable method of ensuring compliance. Alternatives to financial securities place the burden of risk unacceptably onto Council's and infrastructure authorities. There are greater constraints to delivering infrastructure than funding. Skill shortages, resources and capacity are greater challenges to infrastructure delivery particular in regional and rural areas. Greater flexibility for Council to amend it's contribution plans to react to market forces.

No	Issues and Discussion Questions	Comment:
3.6	**Infrastructure costs and contributions rates are rising** Infrastructure costs are rising—particularly for land acquisition—as are contribution rates. Caps and thresholds introduced to encourage sector activity have, however undermined important market signals for development efficiency and are now likely to be reflected in higher land values. The application of the essential works list can put councils' finances under pressure given their current inability to expand their rate base in line with population growth. ▪ Currently IPART reviews contributions plans based on 'reasonable costs', while some assert the review should be based on 'efficient costs'. What are the risks or benefits of reframing the review in this way? ▪ Should the essential works list be maintained? If it were to be expanded to include more items, what might be done to ensure that infrastructure contributions do not increase unreasonably? ▪ What role is there for an independent review of infrastructure plans at an earlier point in the process to consider options for infrastructure design and selection?	The benefit of contribution plans being based on 'efficient costs' are that they are more indicative of the actual costs to service provision in a particular area. The risk is that if an area is not particular strong at demonstrating their costs they may under valued the costs in their respective contributions plans. It is not unusual for staff in small and rural Councils to wear many hats so the expertise and capacity to demonstrate 'efficient costs' may be challenged. That said, this approach gives Council's more opportunity to control their own source revenue and is generally supported. It is Council's view that often the more significant issue in the overall cost of development is the acquisition of land cost and this is an important area to address. Conversely the risks of differing contribution calculations and methodologies are relatively low. The essential works list should be maintained but there could be a balance struck between rigidity and flexibility. It is considered unlikely that infrastructure contributions would increase to a point that was unreasonable for a long enough period of time to have a long term effect on development viability. Council does not support increasing the independent review process as current levels of review are thought to be sufficient if not slightly onerous.
3.7	**The maximum s7.12 rate is low but balanced with low need for nexus** Section 7.12 local infrastructure levies are low and do not reflect the cost of infrastructure. ▪ Given that the rationale for these low rates reflects the lower nexus to infrastructure requirements, what issues might arise if the maximum percentages were to be increased? ▪ What would be a reasonable rate for s7.12 development consent levies?	There maybe a perception of less transparency with respect to contribution plans and developers may seek to underestimate their development costs. The simplicity of the application of s7.12 however is deemed to negate the need for demonstrating a clear nexus and is thought to provide certainty to both developer and service provider. Remain as is.
3.8	**Limited effectiveness of special infrastructure contributions** Special infrastructure contributions were introduced to strengthen delivery of state infrastructure. They can be an efficient and equitable mechanism for modest infrastructure cost recovery, while helping to ensure that development is serviced in a timely way. Over time, incremental changes and ad hoc decisions have, however, led to inconsistencies in their application, which may have limited their effectiveness. ▪ Is it appropriate that special infrastructure contributions are used to permit out-of-sequence rezoning? ▪ Should special infrastructure contributions be applied more broadly to fund infrastructure? ▪ Should they be aligned to District Plans or other land use planning strategies? ▪ Should the administration of special infrastructure contributions be coordinated by a central Government agency i.e. NSW Treasury?	No comment. (Does not include Gunnedah LGA)
3.9	**Difficulty funding biodiversity through special infrastructure contributions** Biodiversity offsetting is a key part of the plan for developing Greater Sydney and requires a secure source of funding. The application of special infrastructure contributions to support this has been inconsistent. ▪ Should implementation of special infrastructure contributions for biodiversity offsets be subject to a higher level of independent oversight? ▪ Are special infrastructure contributions the appropriate mechanism to collect funds for biodiversity offsetting, or should biodiversity offsets be managed under a separate framework?	No comment. (Does not include Gunnedah LGA)

No	Issues and Discussion Questions	Comment:
3.10	**Affordable housing** Affordable housing contributions are made on top of other infrastructure contributions. The percentages are determined individually, and each scheme must demonstrate the rate does not impact development viability. ▪ Is provision of affordable housing through the contributions system an effective part of the solution to the housing affordability issue? Is the recommended target of 5-10 per cent of new residential floorspace appropriate? ▪ Do affordable housing contributions impact the ability of the planning system to increase housing supply in general?	Council does not currently have a levy for affordable housing at present however is engaged in developing a strategy that may suggest we should. Council is supportive in principal of Council's being able to levy for affordable housing within the limits of the guidelines.
4.1	**Sharing land value uplift** If investment in public infrastructure increases land values, then the benefits are largely captured by private property owners. 'Value capture' mechanisms can return a share of the value created by public investment to the taxpayer. There are several ways a 'value capture' mechanism could be applied, including land tax, council rates, betterment levy, or an infrastructure contribution. ▪ Where land values are lifted as a result of public investment, should taxpayers share in the benefits by broadening value capture mechanisms? What would be the best way to do this?	No comment. (Little opportunity for rural Councils to 'value capture')
4.2	**Land values that consider a future infrastructure charge** When land is rezoned, there is often an increase in land values as a result of the change in development potential. ▪ Should an "infrastructure development charge" be attached to the land title?	No comment
4.3	**Land acquisition for public infrastructure purposes** Requiring the direct dedication of the land that is needed for infrastructure purposes is an option that aims to address the problem of rapidly increasing land values. ▪ If supported, how could direct dedication be implemented? How could this be done for development areas with fragmented land ownership? ▪ Could earlier land acquisition be funded by pooling of contributions, or borrowings? ▪ Are there other options that would address this challenge such as higher indexation of the land component?	Support in principle but dedication of land would need to be identified well in advance through strategies and plans developed by Council and this would require a significant change in approach. Currently developers dictate what land gets developed and where. Long term strategies with a level of rigidity would be required to ensure investment and resources were effectively allocated and dependable. Yes but benefits would need to be demonstrated and based on reliable plans and strategies. No comment
4.4	**Keeping up with property escalation** Land values (particularly within the Sydney metropolitan area) can increase rapidly and often increase on early signs of land being considered for future development; well ahead of the rezoning process. ▪ What approaches would most effectively account for property acquisition costs?	No comment. (Land value is not deemed to be significant inhibitor of development in Gunnedah LGA).
4.5	**Corridor protection** Early identification of corridors has the potential to result in better land use and investment decisions. Without funds available to facilitate their early acquisition, it is likely that being 'identified' would encourage speculation and drive up land values, making the corridor more expensive to provide later. ▪ What options would assist to strike a balance in strategic corridor planning and infrastructure delivery?	No comment. (Not considered to be a significant inhibitor to development in Gunnedah LGA)

No	Issues and Discussion Questions	Comment:
4.6	**Open space** While the seven-acre open space standard is not based on evidence, it nevertheless continues to be relied upon. Open space provision is moving towards a performance-based approach. ▪ How can performance criteria assist to contain the costs of open space? ▪ Should the government mandate open space requirements, or should councils be allowed to decide how much open space will be included, based on demand? ▪ Are infrastructure contributions an appropriate way to fund open public space?	Rising levels of service expectations indicate trends towards less pocket parks and more regional parks. This shift is favorable to Councils where fewer higher standard facilities can be maintained whilst reducing numbers of lower standard facilities. Performance criteria can assist in this regard. Council's should be allowed to decide how much Open Space is included with development to ensure that ongoing maintenance, operations and replacement costs are adequately considered. Infrastructure contributions are an appropriate way to fund public space but the need for a direct nexus for these facilities could be more flexible and align with Community Strategic Planning.
4.7	**Metropolitan water charges** Currently, costs of new and upgraded connections for Sydney Water and Hunter Water are borne by the broader customer base rather than new development. ▪ How important is it to examine this approach? ▪ What it the best way to provide for the funding of potable and recycled water provision?	No comment. (Not serviced by Sydney or Hunter Water)
4.8	**Improving transparency and accountability** There are limited infrastructure contributions reporting requirements. ▪ What would an improved reporting framework look like? Should each council report to a central electronic repository? ▪ What elements should be included? How much has been collected by contributions plan and other mechanisms? How much council has spent, and on what infrastructure items? ▪ Should an improved reporting framework consider the scale of infrastructure contributions collected?	Councils are subject to rigorous auditing processes that negate the need for increased reporting via a central repository. No need to increase reporting procedures further.
4.9	**Shortage of expertise and insufficient scale** The ability of the local government sector to efficiently deliver contributions plans are impaired by shortages of skilled professionals and lack of scale for smaller councils. ▪ What can be done to address this issue? ▪ Should the contributions system be simplified to reduce the resourcing requirement? If so, how would that system be designed?	Investment in training and educational facilities including a greater focus on rotational programmes across rural/regional councils who may not have the budgets/resources to attract suitably qualified professional Increased migration of suitably skilled and qualified personnel Reducing the complexities of the contributions system risks undermining the reliability and accuracy of same. Preference would be to increase capacity and improve skills of resources required to administer same.
4.10	**Current issues with exemptions** Exemptions from contributions are complex as they are set out across a range of planning documents and are inconsistent across contribution mechanisms. ▪ Given that all developments require infrastructure, should there be any exemptions to infrastructure contributions? ▪ Is it reasonable to share the cost of 'exemptions' across all of the new development rather than requiring a taxpayer subsidy? ▪ Are there any comparative neutrality issues in the providing exemptions for one type of development, or owner type, over another?	No. The principle of equality in the planning system means all developers pay regardless of capacity. No. Exemptions are typically adopted due to Community aspirations, values and goals. If exemptions are desired by Community, then community should pay. No.
4.11	**Works-in-kind agreements and special infrastructure contributions** Works-in-kind agreements can realise savings and efficiencies, but they can result in infrastructure being provided out of the planned sequence and prioritise delivery of some infrastructure (such as roads) at the expense of other infrastructure (such as open space and biodiversity offsetting). ▪ Should developers be able to provide works-in-kind, or land, in lieu of infrastructure contributions? ▪ Developers may accrue works-in-kind credits that exceed their monetary contribution. Should works-in-kind credits be tradeable? What would be pros and cons of credits trading scheme? ▪ What are implications of credits being traded to, and from, other contributions areas?	Yes, so long as infrastructure is provided to same standard and with the same useful life as would have been constructed by Council. Yes. Benefits may include improve relationships between developers and authorities through cooperative and more flexible approach to development. Risk is in the leverage and political influence that the developer has to dictate when credits can be utilized which may not be inline with the Council's plans.