



empowering
independent
education

The Association of
Independent Schools of
New South Wales Limited



30 September 2020



Infrastructure Contributions Review

NSW Commissioner for Productivity

ICReview@productivity.nsw.gov.au

Dear [REDACTED],

Thank you for the opportunity to provide this submission to the NSW Commissioner for Productivity's Infrastructure Contributions Review.

Context

The Association of Independent Schools of New South Wales (AISNSW) is the peak body representing non-government and non-Catholic systemic schools in this state.

The independent school sector in NSW is a diverse group of some 500 schools educating almost 209,000 students, or one in every six students in the state.

Independent schools provide Australian families with the widest choice of education options:

- two-thirds (65%) of schools and campuses are in lower socio-economic status communities
- more than 25% are in regional and remote areas
- almost 20% are special schools for students with disabilities or special assistance schools for students at risk of disengaging with education
- over 10% offer boarding as an option to students, and
- many are small schools, with almost half (45%) educating fewer than 200 students

The sector is characterised by its diversity, being made up of:

- Christian schools and schools of Christian denominations, such as Anglican, Catholic, Greek Orthodox, Coptic, Lutheran, Maronite, Presbyterian, Seventh-day Adventist and Uniting Church schools
- Islamic schools
- Jewish schools
- Schools of other religious beliefs
- Non-faith schools such as Montessori and Rudolf Steiner schools
- Schools constituted under specific Acts of Parliament, such as Grammar schools



- Schools specialising in meeting the needs of students with disabilities
- Schools for students at risk of disengaging with education
- Trade schools
- Community schools, including in Aboriginal communities, and
- Boarding schools

The median fee paid by parents in NSW independent schools is \$5,169 per student.

All NSW independent schools are registered with the NSW Education Standards Authority.

Background

The NSW planning system's impact on schools has raised several concerns for the independent sector for much of the previous decade. This became more apparent as the sector sought to accommodate the increased demand from parents for places in a range of independent schools. The table below shows the rapid and growing increases in enrolments over the past five years.

Year	Enrolments	Change	Percentage
2015	191,424	+3610 (on 2014)	+1.92% (on 2014)
2016	195,307	+3883	+2.03%
2017	199,359	+4052	+2.07%
2018	203,862	+4503	+2.26%
2019	208,855	+4993	+2.45%

This growth is significantly faster than that of the government and Catholic school systems. It continues a trend recorded over the past 30 years in which independent schools have increased their share of enrolments in NSW.

As the table below demonstrates, more than half of the approximately 200,000 additional students in NSW schools since 1990 have been enrolled in independent schools.

	Government	Catholic	Independent	Total
1990	743,186 (72.1%)	184,182 (17.9%)	103,255 (10%)	1,030,623
2000	759,623 (69.4%)	195,591 (17.9%)	139,102 (12.7%)	1,094,316
2010	741,061 (66.2%)	205,295 (18.4%)	172,733 (15.4%)	1,119,089
2019	805,673 (65.4%)	217,137 (17.6%)	208,855 (17%)	1,231,665

Much of this growth has been accommodated by expanding capacity at existing independent schools, although many new schools and campuses have also been established over this time. Schools also upgrade their teaching and learning facilities and infrastructure, which also requires interaction with consent authorities.

To facilitate timely and efficient growth, AISNSW presented a range of schools-related planning issues to the NSW Planning Minister in 2015. These included concerns about planning pathways and the levying of infrastructure contributions on not-for-profit, non-government schools for their capital projects.

In 2017, the Minister streamlined planning pathways under a new, dedicated State Environmental Planning Policy.

The issue of infrastructure contributions, however, remained unresolved. We hope that it will be addressed by the NSW Productivity Commission's review.

Issues of concern

Non-government schools have raised several concerns about the cost of local infrastructure contributions required for developments under Sections 7.11 and 7.12 of the *Environmental Planning and Assessment Act 1979* (formerly Section 94 and 94a contributions).

The concerns are summarised as follows:

1. Infrastructure contributions are being levied on not-for-profit providers of social infrastructure

Infrastructure contributions were originally introduced to ensure (for-profit) greenfield and infill housing developers helped fund the delivery of new or upgraded state and/or local infrastructure facilities, needed to service the new residents their developments would attract.

Many council "contributions plans" do not address developments such as schools, assessing them as though they were housing developers. This fails to recognise the significant difference between housing developers and school owners (almost all of whom are registered charities). A housing developer's connection to a community ends when all its properties are sold. A new school becomes *part* of the fabric of a local community, helping to shape a community's character and future citizens for generations to come.

As Table 4.3 of the NSW Productivity Commission's *Issues Paper* makes clear (p54), non-government schools are fully exempt from State Infrastructure Contributions. This reflects their nature as not-for-profit providers of social infrastructure, helping the State Government deliver a mandatory service (school education) to the community (this is also recognised under the land rating regime, which exempts not-for-profit schools from council rates).

However, no such exemption exists for non-government schools in relation to Section 7.11 and 7.12 contributions which are collected by local councils.

Non-government schools educate one in three NSW students and provide parents with choice. Schools are therefore vital infrastructure for their communities, and as communities grow, need to create more student places.

It is therefore contradictory and illogical to levy infrastructure contributions on providers of social infrastructure who help the NSW Government to meet its task of educating students.

2. Contributions can represent up to 10% of the estimated cost of a school project

According to the *Issues Paper*, infrastructure contributions on housing developments comprise an average of 1-4% of total development costs (p31, Table 3.1).

However, recent examples show that local infrastructure contributions levied on new non-government schools have comprised almost 10% of the final school cost.

Catholic Education Diocese of Parramatta was required to pay contributions of - or provide local infrastructure works costing - \$4 million to \$4.8 million for two new schools in northwest Sydney, each with a capital investment value (CIV) of almost \$50 million.

More recently, a council in southwest Sydney approved a new 300m² building with a CIV of approximately \$1 million for a new Anglican school site in Leppington. A contributions amount of

\$339,000 was requested from The Anglican Schools Corporation (TASC). Council advised TASC that the calculation was based on a Net Developable Area of 4893m². As the entire site is approximately 60,000m², a pro-rata contributions amount applied across the site would require TASC to pay \$4.16 million or some 10 per cent of the final CIV of the school to the council – well above the level charged to housing developers.

3. The calculation of contributions lacks transparency and distorts school planning decisions

School owners complain of a lack of transparency and engagement by councils in relation to infrastructure contributions.

While some councils have in the past opted not to levy infrastructure contributions on schools, others engage in a combative approach with regard to the assessment of contribution amounts, failing to appreciate the not-for-profit nature of the school owner or the social benefit schools provide to communities.

This approach makes it difficult for school owners to predict the likely cost of a new school and to confirm timelines and budgets. It also leads to ‘council-shopping’ by school systems, distorting planning decisions about where to locate new schools and which schools to prioritise for expansion.

Concerns were also raised about the lack of accountability in relation to how councils expend the contributions paid by schools. This is also recognised in the *Issues Paper* (Issue 4.8).

4. Infrastructure contributions on schools are ultimately paid by parents

Consent authorities appear not to recognise that some 90 per cent of capital works in non-government schools are funded by the school community, ie parents. Media coverage of school funding has created a false impression that governments generously fund ‘private’ schools, which are assumed to be profit-making businesses.

All non-government schools that receive government funding in Australia are not-for-profit.

The vast majority of government funding provided is for *recurrent* expenditure, not capital works. In fact, just \$16.7 million in State and Federal capital grants was distributed in 2019 between 26 projects in NSW independent schools. To put that in perspective, one new K-12 school costs around \$50 million to construct.

School owners borrow much of the funding needed for capital projects, which is then repaid over time by parents through building levies and other private fund-raising.

Consent authorities therefore need to recognise that infrastructure contributions are ultimately paid by parents, who are effectively paying local councils twice because the cost of the infrastructure contributions levied on their homes has already been built into the purchase price (or rental).

Conclusion

The independent schools sector acknowledges that the development of new and expanded schools impacts local infrastructure demand, often requiring councils to upgrade roads, recreational facilities and other community amenities.

However, we believe our contribution and benefit to the local community is not reflected in the current infrastructure contributions regime.

We look forward to the Productivity Commission recommending a new infrastructure contributions system that is based upon the principles of efficiency, equity, certainty, and simplicity.

Kind regards,

[Redacted signature block]

AISNSW

[Redacted contact information]



[Redacted footer text]