

<b>Circular</b>	PS 21-002
<b>Issued</b>	12 February 2021
<b>Related</b>	nil

## Reporting and accounting requirements for infrastructure contributions

This circular provides guidance on reporting, accounting and publication requirements for infrastructure contributions and planning agreements under the *Environmental Planning and Assessment Regulation 2000* (EP&A Regulation). It also clarifies exhibition requirements for IPART-reviewed contributions plans and requirements for councils to consider relevant practice notes when drafting planning agreements.

### Background

New reporting and accounting requirements for infrastructure contributions and planning agreements were introduced into the EP&A Regulation on 12 February 2021 through the *Environmental Planning and Assessment Amendment (Development Contributions) Regulation 2021 (amending Regulation)*.

These changes implement recommendations outlined in the 'Review of Governance in the NSW Planning System' (Kaldas review) which called for greater transparency and accountability in the way infrastructure contributions are collected and spent.

The Regulation amendments are part of a package of improvements to the contributions system exhibited from April to June 2020. They contribute to the NSW Government's commitment to fix the uncertainty in the infrastructure contributions system to boost investment. They are consistent with recommendations in the [NSW Productivity Commission's report](#) on the review of the infrastructure contributions system in NSW to increase transparency and accountability.

### Overview of reporting requirements

The reporting and online publication requirements apply to:

- local councils, in relation to contributions under sections 7.11 and 7.12 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) (local infrastructure contributions) and local planning agreements,
- other planning authorities in relation to planning agreements.

The purpose of the new requirements is to improve transparency and accountability in the way infrastructure contributions are collected and spent and to make reporting on contributions and planning agreements more accessible online. Accounting and

reporting requirements will commence in on 1 July 2022 (refer to deferred commencement table below).

### Requirements for councils

By 1 July 2022 councils will be required to publish the following information on their individual websites and on the NSW Planning Portal:

- Copies of all planning agreements (including amendments and variations to the agreements).
- Copies of the explanatory notes relating to those agreements or amendments.
- Planning agreement registers with additional information required in the amending Regulation.
- Local contributions (s7.11 and s7.12) registers with additional information required in the amending Regulation.
- Annual financial statements for planning agreements and local infrastructure contributions showing aggregate totals of money, land, and works/works-in-kind received (also referred to as 'material public benefit') (see below).
- Copies of all current contributions plans and current contribution rates under each plan.
- Annual report information related to contributions expenditure, including a detailed breakdown of contributions expenditure by project.

To allow for regular updates, Councils are able to keep up-to-date planning agreement and local contributions registers on their individual websites and include a link to these on the NSW Planning Portal.

### Requirements for planning authorities

By 1 July 2022 all planning authorities who enter into planning agreements under the EP&A Act will be required to publish the following information on their individual websites and on the NSW Planning Portal:

- Copies of all planning agreements (including amendments and variations to the agreements).

- Copies of the explanatory notes relating to those agreements or amendments.
- Planning agreement registers with additional information required in amending Regulation.
- Annual financial statements for planning agreements showing aggregate totals of money, land, and works received (see below).

To allow for regular updates, planning authorities are able to keep up-to-date planning agreement registers on their individual websites and include a link to these on the NSW Planning Portal.

## Deferred commencement

The Regulation will be in effect from the date it is published in the NSW Government Gazette. However, some provisions will have a deferred commencement to allow councils and planning authorities to make incremental changes to their systems and processes to adjust to the new requirements.

The Planning Portal will be updated to allow non-mandatory compliance ahead of the requirements becoming mandatory.

**Table 1 – Deferred commencement of new requirements for planning agreements (all planning authorities)**

Date	Requirement
<b>Date of amendment</b>	Planning agreements register to contain description of development.
<b>1 July 2021 (opt-in)</b>	Non-mandatory online publication of reporting documents.
<b>1 July 2022</b>	<p><b>Mandatory</b> online publication of planning agreement registers, copies of all planning agreements and explanatory notes.</p> <p><b>Mandatory</b> online publication of annual financial statements for planning agreements with a breakdown of money, land, and works received.</p>

**Table 2 – Deferred commencement of new requirements for local infrastructure contributions (councils)**

Date	Requirement
<b>1 July 2021 (opt-in)</b>	<p>Non-mandatory online publication of local contributions registers, contributions plans, and annual statements.</p> <p>Non-mandatory reporting on money, land, and works-in-kind in annual statements.</p> <p>Non-mandatory publication of current s7.11 contributions rates.</p> <p>Non-mandatory detailed contributions breakdown in annual reports.</p>
<b>1 July 2022</b>	<p><b>Mandatory</b> online publication of contributions registers, contributions plans, and annual statements.</p> <p><b>Mandatory</b> reporting on money, land, and works-in-kind received in s7.11 and s7.12 contributions in annual statements.</p> <p><b>Mandatory</b> inclusion of additional details in contributions registers including but not limited to description of development and DA information.</p>

Date	Requirement
	<p><b>Mandatory</b> online publication of current s7.11 contributions rates.</p> <p><b>Mandatory</b> detailed contributions expenditure breakdown by project published in annual reports.</p>

## Online publication requirements

Councils and planning authorities are required to make reporting documents available on their websites and the Planning Portal. Early adopters will be able to voluntarily upload documents onto the Planning Portal in 2021, ahead of the commencement of some of the requirements.

It is the responsibility of each council and planning authority to keep reporting documents and links up to date on the Planning Portal / individual websites.

Recommended frequency of publication of documents is provided below.

**Table 3 – Planning Portal publication frequency**

Document	Publication frequency
Planning agreement registers	<b>Up to date on planning authority's website</b>
Copies of planning agreements and explanatory notes	<b>Whenever an agreement is made or amended/varied</b>
Annual financial statements with money, land, and works received as contributions	<b>Once per year</b>
Current contribution rates under each contributions plan (councils only)	<b>Whenever the new contributions rates apply</b>
Detailed breakdown of contributions expenditure by project within annual reports (councils only)	<b>Once per year</b>
Copies of all current contributions plans (councils only)	<b>Whenever a plan is made or amended</b>
s7.11 and s7.12 contributions registers (councils only)	<b>Up to date at on councils' website</b>

Additional guidance and resources on the use of the Planning Portal for reporting on contributions will be available on the [Planning Portal](#) before the requirements take effect.

## What should each reporting document contain?

The Department will make templates available on the Planning Portal to guide councils and planning authorities regarding the format and requirements for each of the reporting documents. The requirements for each of the required reporting documents can be found in the relevant clauses of the EP&A Regulation, as outlined in the table below.

**Table 4 – Reporting document requirements**

Document	Regulation clause
Annual statements/financial reports and registers for planning agreements	<b>CI 25F, 25G, 25H</b>

Document	Regulation clause
Explanatory notes for planning agreements	CI 25E and Practice Note
Local contributions registers (councils only)	CI 34
Financial reporting on money, land, and works in kind for local contributions in annual financial statements (councils only)	CI 35(3) and 36
Annual report requirements (councils only)	CI 35A

## New requirements for annual financial statements

Starting on 1 July 2022, councils are required to report, for each contributions plan, on:

- the opening and closing balances of money held by the council for the accounting period covered by the report,
- the value of land contributed
- the 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 land, money and works, as per clauses 25F, 25G and 25H of the Regulation. Reporting requirements for planning agreements apply to all planning authorities.

## Transitional arrangements

Reporting and online publication requirements do not apply retrospectively. Councils and planning authorities are only required to report on contributions received under planning agreements entered after the new provisions are in force.

Transitional arrangements for the new reporting requirements are in Part 6 of the *Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017*.

## Exhibition requirements for IPART-reviewed contributions plans following receipt of the Minister's (or Minister's nominee) advice.

The EP&A Regulation provides no formal legal obligation to re-exhibit IPART-reviewed contributions plans following receipt of advice by the Minister or the Minister's nominee. Councils can adopt an IPART-reviewed plan following receipt of and compliance with the Minister's (or Minister's nominee) advice without the need to re-exhibit the plan.

Councils are required to publicly exhibit a contributions plan for a minimum of 28 days and consider any submissions received prior to submitting the draft plan to IPART for review, as required under the EP&A Act.

## Guidance for planning agreement explanatory notes

Planning authorities must draft explanatory notes when they wish to enter planning agreements. These are written statements that summarise the aims, nature, effect, and merits of planning agreements and they must be exhibited alongside proposed agreements.

The amending Regulation has simplified guidance for planning agreements by removing prescriptive explanatory note requirements under clause 25E of the EP&A Regulation and transferring requirements under this clause into a [Planning Agreements Practice Note](#). All planning authorities are required by the EP&A Regulation to consider the Practice Note when drafting explanatory notes. Councils are required to consider the Practice Note when drafting planning agreements.

This change applies from the date the Regulation is made. Planning agreements that were publicly notified under s7.5 of the EP&A Act but not finalised before this date are not required to have regard to the Practice Note. However, planning authorities may consider the Practice Note when finalising these planning agreements.

## Further information

The amending Regulation is available at the [NSW Legislation website](#).

For further information please contact Service NSW on 13 77 18.

Department of Planning, Industry and Environment circulars are available at: [planning.nsw.gov.au/circulars](http://planning.nsw.gov.au/circulars)

## Authorised by:

**Marcus Ray**  
Group Deputy Secretary

**Important note:** This circular does not constitute legal advice. Users are advised to seek professional advice and refer to the relevant legislation, as necessary, before taking action in relation to any matters covered by this circular.

© State of New South Wales through the Department of Planning, Industry and Environment [planning.nsw.gov.au](http://planning.nsw.gov.au)

**Disclaimer:** While every reasonable effort has been made to ensure that this document is correct at the time of publication, the State of New South Wales, its agencies and employees, disclaim any and all liability to any person in respect of anything or the consequences of anything done or omitted to be done in reliance upon the whole or any part of this document.