

## Guidelines for State Planning Agreements

*This document explains how State Planning Agreements will operate in the Regional Infrastructure Contributions Framework as part of infrastructure contributions reform.*

### Purpose of this document

This document outlines:

- the use and benefits of State Planning Agreements (SPAs)
- the role of SPAs within the Regional Infrastructure Contributions Framework (RIC Framework)
- draft principles and criteria for SPAs within the RIC Framework
- the difference between Infrastructure Delivery Agreements and SPAs
- the operation of existing SPAs within the RIC regions
- the use of SPAs outside of RIC regions
- next steps in refining the application and assessment process.

Read these draft guidelines in conjunction with the associated:

- RIC discussion paper
- RIC SEPP explanation of intended effects
- guidelines for State Planning Agreements
- guidelines for prioritising RIC Fund investment.

### About State Planning Agreements

SPAs are a legal agreement that a developer and a state planning authority (mainly the Minister for Planning and Public Spaces) enter into under the *Environmental Planning and Assessment Act 1979*. They support development through the provision of public benefits including infrastructure works, land, or monetary contributions.

SPAs provide flexibility in the delivery and funding of infrastructure assets to support growth, including growth that a change in an environmental planning instrument makes possible. This flexibility ensures that growth opportunities are supported with more delivery options for infrastructure when these are not identified through the RIC Fund Growth Infrastructure Needs Assessment framework. SPAs will therefore offer place-making opportunities exceeding those possible under Infrastructure Delivery Agreements.

### The benefits of State Planning Agreements

SPAs allow a developer to plan for and commit to the delivery of infrastructure in circumstances where the proposed development is out of sequence with government infrastructure planning. This delivers benefits including:

- enabling developers to deliver critical enabling infrastructure to support development proposals for which infrastructure is not funded
- greater flexibility in funding and delivery options for essential infrastructure
- earlier delivery of infrastructure assets through direct works or land contributions
- cost efficiencies achieved through the concurrent delivery of infrastructure works with development
- direct alignment of contributions with the infrastructure demand created by a development
- the ability to support variations in growth by unlocking new development in high-demand areas.

Between 1 July 2017 and 30 June 2021, \$1.04 billion of contributions were secured under executed SPAs. 71% of these secured contributions are direct land and works contributions for future roads, schools, environmental protection or open space. These include:

- Road and transport infrastructure within the Western Sydney Employment Area, Menangle Park, and Mount Gilead.
- Education land in areas of metropolitan Sydney including Marsden Park and Lidcombe, and regional NSW including within the Huntlee New Town Development and Calderwood Urban Development Project.
- Open space including over 3ha of central open space and a village plaza within the Carter Street Precinct.

## The role of SPAs under the RIC Framework

Developers can present proposals to enter into a SPA within a RIC region when the RIC State Environmental Planning Policy comes into effect. Under the RIC Framework, SPAs will focus on:

- proposals that deliver beneficial place-making outcomes, but that may not have been identified under the RIC Fund Growth Infrastructure Needs Assessment framework
- proposals that deliver infrastructure that is identified within the RIC Fund Growth Infrastructure Needs Assessment framework, however unique requirements place the proposal outside the scope of an Infrastructure Delivery Agreement (Refer to 'Difference between IDAs and SPAs').

SPAs give the government the flexibility to bring forward development opportunities that otherwise meet all other planning requirements and deliver unique community benefits but require supporting infrastructure. Where possible, the Department of Planning, Industry and Environment will seek to secure infrastructure under a SPA before a change in environmental planning instrument (including for a rezoning).

An interagency steering committee consisting of Infrastructure NSW, Treasury and the Department of Planning, Industry and Environment will consider SPA proposals. The steering committee will consider this guidance when deciding whether to accept a proposal to enter into a SPA.

## Guidance for SPA offers in the RIC Framework

Although SPAs provide unique opportunities and flexibility in delivery options, SPA offers must demonstrate increased public benefits for consideration, including:

- supporting a scale of development that delivers benefits for the region or supports broader NSW Government objectives, including housing supply and employment

growth

- providing contributions that meet or exceed the notional RIC obligation
- providing for infrastructure demands created by a development to be met in a timely and cost-efficient manner through the direct provision of infrastructure assets
- serving a broad regional benefit beyond a single development.

To ensure these benefits are achieved, the department will seek to secure infrastructure under a SPA before a change in the relevant environmental planning instrument (including for a rezoning).

Table 1 below provides guidance on how to demonstrate public benefit in SPA offers.

Guiding principle	Criteria
Regionally significant scale of development	<ul style="list-style-type: none"> <li>• Supports development that offers a substantial boost to housing or employment in demonstrably high-demand areas</li> <li>• Meets the criteria of regionally significant development under Schedule 7 of the <i>State Environmental Planning Policy (State and Regional Development) 2011</i>, including development with a capital investment value (CIV) over \$30 million</li> </ul>
Achieves time and/or cost delivery efficiencies	<ul style="list-style-type: none"> <li>• Land required for state or regional infrastructure, offered at or below market value and is provided early in the planning and development phase</li> <li>• Achieves better cost and/or time outcomes than if the infrastructure was delivered by the NSW Government</li> <li>• Consolidated landholdings by major landowners enables the efficient delivery of enabling infrastructure</li> </ul>
Has a broad public benefit	<ul style="list-style-type: none"> <li>• Infrastructure serves a regional purpose, with benefits beyond the development</li> </ul>

**Table 1. Demonstrating public benefit for SPA offers**

Should a developer wish to enter into a SPA, an offer can be submitted to the Department of Planning, Industry and Environment (the Department). The Department will consider the public benefits of the SPA offer, work with Treasury and the relevant infrastructure provider on consistency with capital programs and, if it is considered acceptable, draft a SPA for the proponent to sign.

SPAs are notified for public comment for 28 days. Before executing the SPA, the Department will consider public submissions, ensure all pre-execution obligations have been met and ensure the obligations have been secured.

If infrastructure contributions under the SPA are not provided upfront, to enable development to commence, the Department will generally secure the future contributions by registering the SPA on the relevant title and/or through provision of bank guarantees from the proponent. The SPA process is outlined below.



Figure 1. State Planning Agreement pathway

### Exemptions from the RIC charge for SPAs

Where SPAs are deemed appropriate, development may be exempt from a RIC charge to ensure there is no double-charging of state infrastructure contributions. This aligns with the exclusion of Special Infrastructure Contributions in most SPAs within the current legislation.

However, monetary contributions under a SPA can still be made and/or required to meet additional contributions requirements including the Transport Project Component or a Strategic Biodiversity Component.

### Difference between Infrastructure Delivery Agreements and SPAs

When the RIC State Environmental Planning Policy comes into effect, Infrastructure Delivery Agreements will enable developers to act as delivery partners for infrastructure identified under the RIC Fund Growth Infrastructure Needs Assessment framework. As Infrastructure Delivery Agreements provide an alternative delivery pathway to planned infrastructure, the cost of delivering this infrastructure may be set off against the RIC for the associated development (Refer to the draft *Guidelines for Infrastructure Delivery Agreements*).

In contrast, SPAs will allow developers to bring forward infrastructure that has not been anticipated under the RIC Fund Growth Infrastructure Needs Assessment framework. SPAs may also be used in instances where infrastructure is identified under the RIC Fund Growth Infrastructure Needs Assessment framework, however unique requirements place it outside the scope of an IDA. These may include bespoke terms around security, offsets, triggers for contributions, and delivery

mechanisms. This provides flexibility in facilitating development opportunities, including those enabled through a rezoning, that could be supported in the planning process if the necessary infrastructure is secured. Where a SPA is entered into, the RIC will not apply.

Below is a summary of the key differences between Infrastructure Delivery Agreements and SPAs.



Figure 2. Summary of the differences between Infrastructure Delivery Agreements (IDAs) and SPAs

## Existing SPAs within RIC regions

SPAs that have been executed within a RIC region before the introduction of the RIC State Environmental Planning Policy will continue to operate and apply to the development defined within the SPA.

To ensure there is no double-charging of state contributions, we propose that development inside a RIC region that is excluded from the application of Special Infrastructure Contributions under a SPA should also be exempt from a RIC charge.

## SPAs outside of RIC regions

Where contributions towards state or regional infrastructure are required outside of a RIC region, including through satisfactory arrangements provisions, SPAs can be used to provide state and regional infrastructure contributions.

## Assessment process and next steps

To ensure SPAs in RIC regions are underpinned by strong controls and governance, and to make the SPA process clear for the community, the department will:

- publish final guidelines outlining the SPA processes with the introduction of the RIC State Environmental Planning Policy, including pathways, principles, and criteria, following the exhibition period and consideration of feedback; and
- publish guidance on land valuation for SPAs.

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