

IPART assessment of local infrastructure contributions plans

17 September 2021

1 Purpose of this information paper

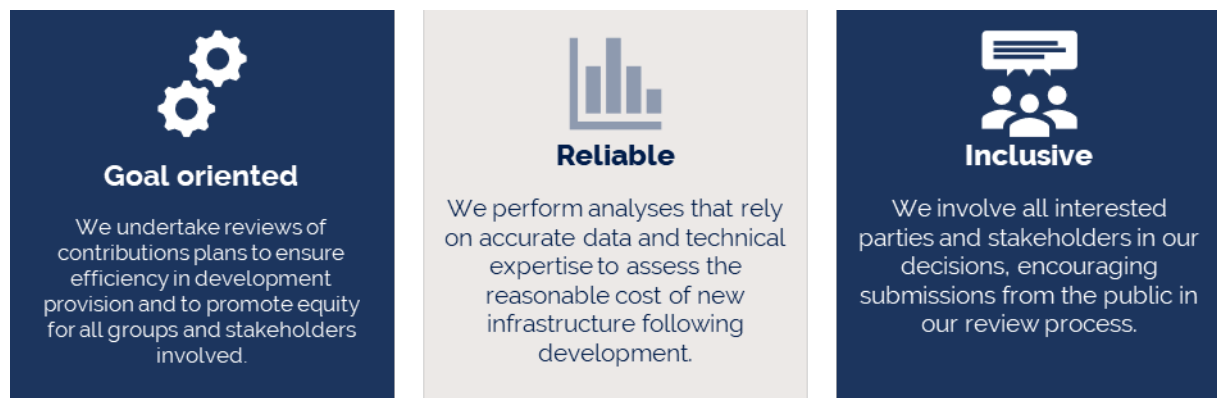
This paper outlines and explains the role of IPART in assessing and reviewing contributions plans for local government infrastructure. Contributions plans are prepared by councils, and set out the new infrastructure that is needed for a new development and the cost to council of delivering that infrastructure. Developers undertaking the development will pay the costs set out in the contribution plan.

IPART reviews higher-value contributions plans and makes recommendations to the Minister for Planning and Public Spaces. We undertake our reviews on a case-by-case basis and engage in consultation with the councils and other interested parties. IPART's reviews apply a common set of principles and processes.

This information paper answers the following questions about this function:

- ▼ **What** is a contributions plan?
- ▼ **Why** do we assess contributions plans?
- ▼ **How** do we assess contributions plans?
- ▼ **What** does the assessment process look like?

Figure 1 Contributions plan assessment qualities



2 What is a contributions plan?

In NSW, local councils are primarily responsible for providing the local or community infrastructure required to meet the additional demand for services and facilities generated by new development. Councils can require developers to fund the costs of providing this infrastructure and include the payment of infrastructure contributions as a condition for development consent.

To do so, a council must prepare a contributions plan which sets out:

- ▼ The local infrastructure required to meet the demand associated with development in a specific area
- ▼ The estimated cost of the land, works and administration required to provide this infrastructure
- ▼ The contribution rates for different types of infrastructure which the council proposes to levy on developers.^a

Councils need to submit their contributions plans to IPART for review if they are proposing contributions above the thresholds of \$30,000 per residential lot or dwelling in identified greenfield areas and \$20,000 per residential lot or dwelling in other areas. For these plans, councils are required to seek IPART's review, which is provided to the Minister. The Minister (or the Minister's nominee) advises the council of any amendments required. Once the council has made any amendments, council may levy the contributions amounts set out in the adopted plan.^b

3 Why do we assess contributions plans?

Our assessments are intended to bring greater transparency and accountability to setting local development contributions, as we make sure that each item of expenditure in a contributions plan is explained and justified.

In conducting the assessment and making our recommendations, we aim **to ensure the plan reflects the reasonable costs of providing necessary local infrastructure to support the new development.**

^a A consent authority may impose a condition under section 7.11 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) only if it is in accordance in with a contributions plan (section 7.13). The EP&A Regulation makes provisions for or with respect to the preparation and approval of contributions plans, including the format, structure and subject-matter of plans.

^b Minister for Planning, *Environmental Planning and Assessment (Local Infrastructure Contributions) Direction 2012*, 21 August 2012 as amended (Direction).

If costs in the contributions plan are too high, developers may pay too much for local infrastructure, discouraging development where it should be provided. On the other hand, if costs in the plan are too low, then the new development will impose costs on the existing community, since council's ratepayers would have to fund any gap with the revenue received from development contributions.



We review contributions plans to ensure they include enough infrastructure at a reasonable cost to support new development. Our assessments ensure that costs are attributed to those who create the need for new infrastructure, in a transparent and consistent way.

If our review results in major amendments to a contributions plan, the Minister can require the council to re-submit the revised plan to IPART for further assessment. Additional reviews can be targeted towards specific items, categories or amendments, if so directed by the Minister. This ensures that reasonable cost estimates are up to date and accurate in the case of substantial changes following our recommendations.

4 How do we assess contributions plans?

In assessing a contributions plan submitted by a council, we consider:

- ▼ The criteria set out by the Department of Planning, Industry and the Environment (DPIE) in its Practice Note^c
- ▼ Information and further advice from the council and DPIE on various aspects of the plan.
- ▼ Submissions and replies by the council and other stakeholders.

4.1.1 We consider the assessment criteria in the Practice Note

As required by our terms of reference^d, we review contributions plans in accordance with these criteria, assessing whether:

01 The public amenities and public services in the plan are on the **essential works list**, which sets out which items are considered necessary to meet the demand for new infrastructure.

02 The proposed public amenities and public services are reasonable in terms of **nexus**, meaning that there is a connection between the land and facilities in a contributions plan and the demand for them arising from the new development.

03 The proposed development contributions is based on a **reasonable estimate of the cost** of the proposed public amenities and public services, meaning that the council's method to calculate prices, including its choice of financial models, benchmarks and/or indexes, and external valuations, is appropriate.

04 The proposed public amenities and public services can be provided within a **reasonable timeframe**.

05 The proposed development contributions is based on a reasonable **apportionment of costs**, meaning that costs are divided equitably between all those who create the need for the infrastructure, including any existing population.

^c Department of Planning and Environment, *Practice Note – Local Infrastructure Contributions*, January 2019.

^d Issued by the Premier on 14 November 2018 under section 9 of the *Independent Pricing and Regulatory Tribunal Act 1992* (NSW).

06 The council has conducted **appropriate community liaison and publicity** in preparing the contributions plan.

07 The plan complies with other matters we consider relevant.

We also assess whether the plan contains all the necessary information.^e

4.1.2 We consult with the council, DPIE, and external advisors

During our assessment, we seek further information from the council to explain how it has determined the infrastructure included in the plan and its estimated costs. If necessary, we meet with council officers for a site visit of the precinct. Moreover, we revise our assessments when the council provides us with updated or amended data.

Further, we usually consult with DPIE on relevant planning and land-zoning matters and the underlying assumptions about proposed development in the precinct.

To assist with our assessments, we may engage specialist consultants and use their advice to inform our decisions against the criteria, for example by reviewing the calculation of reasonable costs in the contributions plan.

4.1.3 We consider further submissions and replies

After publishing a Draft Report, IPART accepts submissions from the council and the public to consider when making its final decisions. Any additional changes in underlying conditions and data, cost estimates, and other relevant information are also considered in preparing the Final Report.

5 What does our assessment process look like?

Councils that plan to levy contribution rates above the thresholds need to submit their contributions plan to IPART, together with an application form and all relevant supporting documents. IPART then formally commences its review process, engaging in early consultation with the council to review the information that has been provided and conduct further inquiries, if needed. While timelines for reviews vary, IPART generally aims to assess plans within six months. Information gaps in the council's application could extend the timeframe for the review.

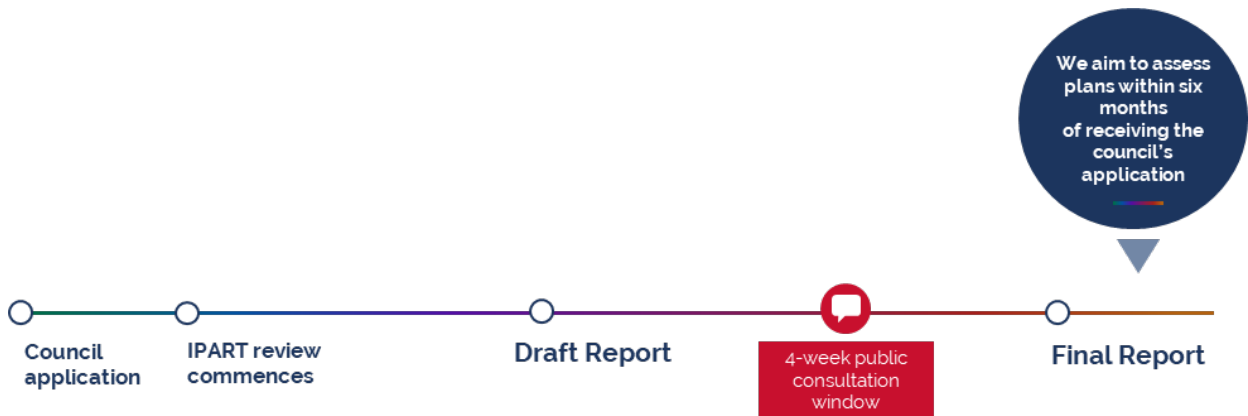
^e As required by clause 27 of the Environmental Planning and Assessment Regulation 2000

IPART then publishes a **Draft Report**, which sets out draft recommendations on the amendments required to ensure that the plan reflects the reasonable costs of providing the necessary infrastructure to accommodate new development.

Following the Draft Report, IPART seeks **submissions** on its recommendations from the public and interested stakeholders, typically for a period of around four weeks.

Consultation with stakeholders is considered in making our final decisions, which are published in the **Final Report**. This will be delivered to the Minister and the council.^f The Minister will consider our assessment and, if appropriate, request the council amend the contributions plan. Once the council has made any amendments requested by the Minister (or the Minister’s nominee) and approved the plan,^g the plan becomes an IPART-reviewed plan and the council may levy contributions in accordance with the plan.

Figure 2 review timeline



IPART encourages regular review of contributions plans during their lifetime, as this allows councils to refine the designs and cost estimates for infrastructure and use up-to-date information such as revised population estimates.

^f As required by the Direction.

^g Under Clause 5(3)(e) of the Direction