Blacktown City Council

File no: F16/694

4 August 2021

Review of the rate peg to include population growth
Independent Pricing and Regulatory Tribunal
PO Box K35
HAYMARKET POST SHOP NSW 1240

Online submission

Dear Sir/Madam

Review of the rate peg to include population growth

Council welcomes the opportunity to make a further submission on the Independent Pricing and Regulatory Tribunal's (IPART) Draft Report on the review of the rate peg to include population growth.

The Draft Report proposes a rate peg methodology that IPART considers:

- will enable councils to maintain per capita general income over time as populations grow
- is founded on existing service levels, represented by the amount of general income per capita, being the best indicator of the future costs of servicing population growth
- includes a population factor based on the % change in residential population that reflects a mostly linear relationship between council costs and population growth.

In summary we submit that the proposed draft methodology:

- does not address the increased capital and operational costs incurred by Blacktown City Council as a result of our growth, which cannot be funded from Section 7.11 developer contributions, grants or fees and charges. This will result in decreased service levels to the community and impact our long-term financial sustainability
- does not address the $525 million unfunded capital costs of community facilities and additional capital and annual operating costs that are attributable to population growth
- will not prevent a continued decrease in Blacktown City's general income on a per capita basis
- incorrectly assumes the current level of rating revenue per capita is sufficient for Blacktown City to continue to address the future operating and capital costs to support our future growth

- is based on an inappropriately simple methodology which will not ensure revenue remains adequate for growth councils such as Blacktown City.

Our submission compares the outcomes that will occur under the draft methodology proposed by IPART, against the actual financial challenges which confront Blacktown City as a consequence of the rapid development occurring in our City.

We also reference the objectives and priority reforms of the NSW Productivity Commission's November 2020 report on the Review of Infrastructure Contributions in New South Wales, which have been adopted by the NSW Government. We note that in the case of Blacktown City, these objectives will not be sufficiently addressed by IPART's proposed approach.

The Commission's first priority reform was to remove the disincentive for councils to accept development and growth by allowing for the local government rate peg to reflect population growth. The proposed IPART reforms fail to achieve the Government's objective in this regard.

The Commission also stated that rate peg reform should not leave any council worse off. Unless the matters raised in this submission are not carefully addressed the IPART reforms will also fail to achieve this Government objective.

The outcomes of IPART's proposals on Blacktown City are set out below. We would welcome the opportunity for further dialogue with IPART's management to aid the creation of solutions which will actually meet all of Government's objectives. In this regard, it is our strong submission that administrative simplicity must not be an overriding goal. The overriding goal must be the attainment of ALL of Government objectives.

1. We will be unable to maintain existing service levels due to a deficit in revenue to fund capital and additional operating costs resulting from our growth

1.1 Current sources of funding do not support the ongoing capital and operational costs of high growth areas

Since 2010, the NSW Government has introduced a number of policy changes to the developer contributions system. In aggregate, these changes have effectively reduced an essential source of funding to councils. Arguably, the most contentious component was the introduction of an 'Essential Works List' (EWL) for contributions plans assessed by IPART that proposed to exceed the Section 7.11 caps of $20,000 per lot/dwelling (infill development) or $30,000 per lot/dwelling (greenfield development).

Illogically these caps, which were introduced in 2010, did not increase until 2018 when the NSW Government announced it would progressively phase out the Local Infrastructure Growth Scheme by 1 July 2020.

The EWL is applied when councils seek:

- funding from the Priority Infrastructure Fund (now Local Infrastructure Growth Scheme), which is administered by the Department of Planning, Industry and Environment (DPIE), with IPART assessing contributions plans against the EWL to determine the 'true levy'
- a special rate variation, which will be assessed through IPART.

IPART’s (new) role was to review:

- new contributions plans above the relevant cap
- development contributions plans above the relevant cap for those councils that are seeking priority infrastructure funding, and
- development contributions plans above the relevant cap for those councils that are seeking a special rate variation.

In addition, IPART was given responsibility for developing and calculating the annual Local Government Cost Index and a productivity factor for council rates, and reviewing councils’ applications for special variations under the *Local Government Act 1993.*

The EWL, as set by the DPIE, currently defines essential works as:

- land for open space (for example, parks and sporting facilities) and base level embellishment
- land for community services (for example, childcare centres and libraries)
- land and facilities for transport (for example, road works, traffic management and pedestrian and cyclist facilities), but not including carparking
- land and facilities for stormwater management
- the costs of plan preparation and administration.

The EWL is currently relevant only to those contributions plans that propose a contribution level above the relevant cap (unless otherwise directed by the Minister for Planning and Public Spaces).

The EWL does not apply to contributions plans currently below the relevant cap or to those contributions plans that are exempt from the relevant cap.

We note that the Productivity Commissioner has recommended that IPART review the EWL and that it will now apply to all contributions plans.

Section 7.11 developer contributions previously funded all baseline essential infrastructure to support population growth. This is no longer the case with contributions capped and limitations imposed on what section 7.11 contributions can be used to fund. This has resulted in a loss of revenue to Blacktown City and consequently a reduction in facilities available to the incoming community of Blacktown City’s growth areas.

We adopted our first Section 7.11 contributions plan for the North West Growth Area in 2010. Since this time, due to their exclusion from the EWL, Blacktown has not been able to levy any Section 7.11 developer contributions for community facility buildings. We estimate the forgone revenue for community facility buildings so far is in excess of $100 million, and assuming the prohibition continues there will be a further $425 million meaning a total of $525 million of unfunded community facility buildings. Table 1 details our estimation of the shortfall.

Table 1

		Catchment 1 Colebee, Marsden Park, Marsden Park North, Shanes Park, West Schofields		**Catchment 2** Alex Avenue, Area 20, Riverstone, Riverstone East, Riverstone West, Schofields	
		Projected population 97,118		**Projected population 151,582**	
Priority		Community facility required	Indicative facility cost	Community facility required	Indicative facility cost
1	Marsden Park community resource and recreation hub, with tier 1 library	10,033 m^2	$62,372,863		
	Marsden Park aquatic and leisure centre	22,680 m^2	$196,470,896		
2	Riverstone community resource and recreation hub, tier 1 library			13,863 m^2	$86,183,096
	Riverstone aquatic and leisure centre			20,000 m^2	$151,914,477
3	Marsden Park (Elara) NC	730 m^2	Funded subject to a VPA		
4	Schofields NC			750 m^2	$4,662,578
5	Area 20 NC			1,000 m^2	$6,216,771
6	West Schofields NC	1,000 m^2	$6,216,771		
7	Riverstone East NC			1,000 m^2	$6,216,771
8	Marsden Park North NC	750 m^2	$4,662,578		
		35,193 m^2	**$269,723,109**	**36,613 m^2**	**$255,193,694**
	Total facility requirement			**71,806 m^2**	
	Total estimated cost				**$524,916,803**

Escalating land values have also impacted on our ability to recover 100% of the land and works costs in our contributions plans. For example, assume a contributions plan at its inception had $900,000,000 worth of works and land costs. If costs increased above CPI, coupled with the delay in time to review a plan to increase contributions to reflect these increased costs, over a 25-year time frame this would result in a 10% shortfall in the total contributions received. When development activity has effectively ceased at the end of the contributions plan, there is a shortfall of $90 million which council would need to fund from its general revenue.

In terms of the rising cost of land, when we first adopted our Section 7.11 Contributions Plan No.20 – Riverstone & Alex Avenue Precincts, land represented around 40% of total cost of the plan and works the remaining 60%. It is now the opposite - land represents around 60% of total costs and works 40% of total costs. This is not due to a reduction in the scale of works but rather significant increases in the value of land.

Prior to the implementation of contributions ‘reforms’ in 2010 that introduced contributions capping and the Essential Works List, a council could review a contributions plan, publicly exhibit it for the required 28 days before adoption and finalise the entire review within 3-4 months. Our experience, having undergone a number of recent reviews, is the time taken to complete a contributions plan review has generally been 18 months or longer.

In an economic environment where land prices can escalate as much as 30% per annum while the applicable CPI rate permitted to use in indexing contributions averages around 2.5% per annum, the significant review time has a considerable negative impact on a contributions plan’s long-term position, and thus on the City’s community.

Table 2, on page 6, shows the process assessment times over 9 years for 9 of Blacktown’s new or revised contributions plans. The process time only accounts for the time from lodgement to IPART, to Council receiving the Minster’s advice. It does not include statutory public consultation, council reporting and contributions plan adoption times, which can add a further 4 months to the review process.

Table 2

Contributions plan	IPART lodgment date	IPART report submitted to Minister for Planning	Date of Minister's (or delegate's) advice	Process time
CP20 – Riverstone & Alex Avenue Precincts	January 2011	October 2011	April 2012	16 months
CP21 – Marsden Park Industrial Precinct	January 2012	September 2012	December 2012	12 months
CP22 – Area 20 Precinct	January 2012	September 2012	December 2012	12 months
CP24 – Schofields Precinct	December 2013	August 2014	March 2015	16 months
Revised CP20 – Riverstone & Alex Avenue Precincts	December 2014	March 2015	May 2015	6 months
Revised CP20 – Riverstone & Alex Avenue Precincts	December 2015	July 2016	January 2019	38 months
Revised CP21- Marsden Park	December 2016	August 2017	January 2019	26 months
Revised CP22- Rouse Hill	May 2018	December 2018	March 2020	23 months
Revised CP24 – Schofields Precinct	December 2018	August 2019	June 2020	18 months

When councils review a contributions plan, they can only use costs applicable at the time of review, i.e. they cannot use predicted future costs. If the process takes, at best 12 months, or at worst 38 months, before the new approved costs can be levied on a development consent, the revised costs are quickly outdated and the community loses significant revenue needed to fund the infrastructure it has the responsibility to provide. It was never the intention of Government that the community subsidise developers in this way.

The current process of independent assessment by IPART aims to give developers confidence that the estimated costs in a contributions plan are reasonable i.e. not gold-plated. However, when the process takes many months or even years to run its course, councils and communities are penalised with a process they have no control over. Developers also have no idea what the ultimate contributions will be for their developments, which affects the feasibility of future projects.

Although changes will be made to the infrastructure contributions systems, it is not known to what extent these changes will improve the shortfall in funding. We anticipate that at the end of a release area we will still need to subsidise this loss through rates revenue.

Blacktown City is experiencing, in real terms, a continued reduction in the amount of the Financial Assistance Grant (FAG) revenue received per capita. This decline is a consequence of the overall amount of FAG paid to council, having not increased since 2012/13, while our population continues to increase. In 2012/13 the amount of FAG received equated to an amount of $59.29 per capita. In 2020/21 this has reduced to $35.96 per capita.

If the amount of FAG paid to Council for 2020/21 was to be increased so that it remained at the 2012/13 amount of $59.29 per capita and then was indexed in line with CPI, the additional amount of FAG to be paid would be an additional $7.53 million. This would have averaged at annual increases from 2013/14 to 2020/21 of $941,000. If Council's annual total FAG allocation continues not to increase then the future annual impact will remain largely the same.

For most if not all councils, the FAG represents one of the largest sources of discretionary revenue after general rates revenue. The method of calculating the allocation of the FAG to each council does not take into account the additional costs borne by growth councils. Therefore, in its review it is important that IPART considers the decline (in real terms) of FAG received per capita to meet the objectives sought by the Productivity Commissioner which, as noted earlier in this submission, have been endorsed by the NSW Government.

1.2 The funding of the required additional capital and operational costs attributable to growth have not been factored into the draft methodology

The draft methodology does not account for all capital and operational costs incurred by councils from population growth. It is presumed that the additional incremental costs of servicing population growth are no greater than the costs of servicing established areas where councils have taken many years to achieve economies of scale.

Over the period from 2010–2021 the population of Blacktown City has increased by 76,230.

In our submission to the issue paper released by IPART on 25 March 2021, we detailed the additional capital and operating costs experienced by Blacktown City.

Our additional capital costs, which cannot be funded from developer contributions, include:

- community facilities - $525 million
- new depot to support our City's growth - $35 million to $45 million
- new SES facility - $2 million to $4 million
- additional office accommodation to support our increase in staff - $80 million to $100 million
- additional plant and equipment - $760,000 per annum
- additional transport and water management infrastructure - around $230 million annually for the next 20 years.

Our additional operational costs per annum attributable to future population growth include (but are not limited to) the following:

- increased open space maintenance costs for an additional 890 hectares of open space - $1.6 million
- increased transport and water management infrastructure space maintenance costs - $1.1 million
- increased information technology costs - $100,000
- increased postage and bank fees - $80,000
- increased Valuer General fees - $30,000
- increased cost of local government elections fees - $77,000
- increased street light cost - $67,000
- increased cost of pensioner rebate - $35,000.

Our additional rates revenue from population growth in Blacktown City is around $4 million per annum. The aggregate of additional operating costs to properly support our population growth is well above this amount, meaning that council needs to compromise on maintenance and service levels to remain within budget.

The NSW Productivity Commissioner's review of the infrastructure contributions systems completed in December 2020, recognised that the rate peg has resulted in declining capita revenue for high growth councils and is a disincentive for councils to accept development.

The Productivity Commission recommended that the rate peg should be adjusted to account for population growth. We understood this meant that IPART's review of the rate peg would propose a methodology that would provide a sufficient funding source for population related infrastructure such as community facility buildings, to provide for the limitations on what Section 7.11 contributions can be used to fund.

There is no provision in the draft methodology to fund community facilities and the capital and additional operational costs referred to above, resulting in a funding deficit for Blacktown City with limited means to recover this revenue.

The Productivity Commission’s first priority reform is to remove the disincentive for councils to accept development and growth by allowing for the local government rate peg to reflect population growth. The Productivity Commission stated in its report that rate peg reform should not leave any council worse off. In the case of Blacktown City, if the funding of the required additional capital and operational costs attributable to growth have not been factored into IPART’s draft methodology, we believe the objectives of the Productivity Commissions have not been met, undermining the overall objective of the package of reforms.

2. **Why the proposed methodology will not prevent a continued decrease in general income on a per capita basis for Blacktown City Council**

The proposed draft methodology is based on the change in population determined using the Australian Bureau of Statistics estimated residential population data, rather than a change in the number of dwellings or rateable dwellings, and projects that councils will maintain general income on a per capita basis. As population density continues to increase it follows that revenue per capita will naturally decrease.

2.1 Our overall operating revenue per capita is reducing as a result of our growth

Blacktown City has significant development still to occur in the North West Growth Area (NWGA), where Blacktown has 12 of the 16 growth precincts in Western Sydney. The NWGA will ultimately have a projected additional 84,648 dwellings and additional population of 256,100 which is higher than the current population of many large councils including Cumberland City Council and Sutherland Shire Council.

Our overall operating revenue per capita is reducing as a result of our growth. An example of this is evidenced in Table 3 below for the Riverstone and Alex Avenue precincts, where rates per capita have reduced:

Table 3

	2008	2015	2021
Annual rates revenue	$4,577,687	$7,922,912	$15,650,131
Number of rateable properties	4,009	6,850	13,815
Estimated population	7,808	13,812	35,013
Average rate per property	**$1,142**	**$1,157**	**$1,133**
Average rate per capita	**$586**	**$574**	**$447**

2.2 Rates revenue v population growth

Attachment 1 to our submission is a table that details our annual percentage movement in rates revenue that is attributable just to growth, and the percentage movement in population growth over the last 10 years.

An extract of this data for the last 5 years is below in Table 4. Using the data in this table, we believe the draft methodology that includes a population factor based on the percentage change in population, will not result in any additional rates revenue for Blacktown City.

Table 4

Income					as at 30 June
	2016/17	**2017/18**	**2018/19**	**2019/20**	**2020/21**
Farmland	417,868	341,556	300,342	285,817	283,975
Residential	109,674,986	115,067,855	120,862,685	131,202,750	134,870,002
Scheduled	295,259	307,652	312,785	375,284	367,540
Business	46,094,378	47,385,999	49,416,434	47,874,209	52,787,489
	156,482,491	**163,103,063**	**170,892,245**	**179,738,060**	**188,309,006**
$ increase (total)	5,523,361	6,620,572	7,789,182	8,845,815	8,570,946
% increase (total)	3.66%	4.23%	4.78%	5.18%	4.77%
less rate peg	1.80%	1.50%	2.30%	2.70%	2.60%
Net % increase from growth	**1.86%**	**2.73%**	**2.48%**	**2.48%**	**2.17%**
Population	357,839	366,078	374,372	382,831	
Growth	9,809	8,239	8,294	8,459	-382,831
% population growth	**2.82%**	**2.30%**	**2.27%**	**2.26%**	
Population growth less rates growth	**0.96%**	**-0.43%**	**-0.21%**	**-0.22%**	

The data in attachment 1 to our submission, demonstrates that our growth has effectively doubled over the last 10 years from mainly residential properties, and our rates revenue is already higher in % terms than our population growth.

A population factor that only considers the % in change of population, with adjustments for any revenue received from supplementary valuations, does not cover the increase in costs incurred by Blacktown City in servicing a growing population or the capital expenditure needed for new essential infrastructure.

Although supplementary valuations increase general income throughout the year as new properties are created, our rates income per capita is reduced as development occurs. For example, prior to development the rate per capita for a 1.6 hectares parcel of land is $4,043.50. Once the land is subdivided into 35 new residential lots the rate per capita reduces to $341.03.

3 Why a unique population growth factor should apply to high growth councils in the rate peg methodology

3.1 NSW Government decisions have caused a significant funding shortfall for growth councils

During the course of IPART's review, we explained to IPART why Blacktown City should have a unique population growth factor that better addresses the cost of servicing growth and revenue shortfalls for capital items, that have resulted as a consequence of previous NSW Government policy changes. This includes the exclusion of community facilities from Section 7.11 contributions plans, and the time taken to review plans meaning contribution rates have not kept pace with actual cost increases.

In the case of Blacktown City the value of unfunded community facilities is around $525 million. None of the reforms intended to improve the contributions system in NSW have addressed this issue.

The significant funding shortfall is also exacerbated by the Government's Local Infrastructure Growth Scheme (LIGS) which was introduced in 2011. The scheme evolved from the Government's Priority Infrastructure Fund and the Housing Acceleration Fund, and subsidised Section 7.11 contributions imposed on development consents which exceeded the Section 7.11 caps of $20,000 per lot/dwelling (infill development) or $30,000 per lot/dwelling (greenfield development). Funding was conditional on the Section 7.11 contributions plan, that applied to a development consent, being an 'IPART reviewed contributions plan'.

When first introduced, the fund was announced by Government as an interim measure until a longer-term solution was found. Later, the Government announced that the fund would continue pending the outcome of the 2012/2013 green and white paper reviews 'A New Planning System for NSW'.

The funding was required to subsidise the lost revenue as a result of the contribution caps and allowed us to principally purchase land required for local infrastructure in the North West Growth Area earlier than anticipated.

To date, Blacktown City has received over $317 million in funding over 31 funding rounds.

However, the scheme has now concluded and we estimate that Blacktown City is still owed over $250 million by the Government. To date, the Government has not provided Council a commitment to pay the outstanding amount of over $250 million. It is noted this amount is in excess of the $525 million related to unfunded community infrastructure noted above.

If these amounts are not otherwise funded, Blacktown City would need to find the equivalent amount through its own sources, to ensure the public amenities and services listed in our North West Growth Area Section 7.11 contributions plans are provided to the community. This could only occur by adversely affecting the level of funding for services and asset renewal across Blacktown City.

The additional costs of growth in population for greenfield councils should be recognised in the rate peg calculation to truly address the shortfall in revenue.

3.2 Growth councils' recurrent costs are increasing at a rate above the rate peg

Our current increase in annual rates revenue attributable only to the increase in the number of rateable properties is currently around $ 4 million per annum. As referred to above, our projected additional dwellings and population exceeds the current total populations of almost all existing Sydney Metropolitan councils.

High growth councils face a number of challenges due to the rate of growth. In the case of greenfield development, there is a rapid sustained increase in operating costs associated with the maintenance of new infrastructure provided to support the increased population.

We have a funding shortfall for community infrastructure of around $525 million and require capital investment in supporting infrastructure such as additional depot capacity and office space. We require approximately $660 million to fund the capital and operating expenses detailed in our submission, which cannot be funded from Section 7.11 developer contributions and are not factored into the draft methodology.

IPART's response to our concerns was that they were outside of the terms of reference set by Government. We have examined the terms of reference and noted that the Government instructed IPART that it should have regard to any other matter that it considered relevant. Clearly and objectively, the cost of servicing growth with community facilities buildings is a cost of growth. Given this, we do not understand why IPART would not consider this matter relevant, particularly for the North West Growth Area, when its origins and current position are intrinsic to population growth.

We are seeking that a unique population growth factor is set for Blacktown City. We appreciate that although this would necessitate additional work for IPART, as it stands the draft methodology proposed by IPART does not address the challenges which confront Blacktown City as a consequence of growth. Our submission dated 3 May 2021 put forward a proposal on how this could be done in our response to questions 5 and 6.

We would also welcome the opportunity to review the components of the Local Government Cost Index and how they could be structured or applied to Blacktown City, to recognise our additional capital and operating costs.

If you would like to discuss this matter further, please contact me on [redacted]

Yours faithfully

[redacted]

Kerry Robinson OAM
Chief Executive Officer

Blacktown City Council

Attachment 1 – Rates growth v population *

Income

	2010/11	2011/12	2012/13	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21
Farmland	858,119	882,564	877,989	665,993	616,260	520,672	417,868	341,556	300,342	285,817	283,975
Residential	80,495,752	83,263,330	87,661,120	92,305,943	99,832,326	105,400,327	109,674,986	115,067,855	120,862,685	131,202,750	134,870,002
Scheduled	214,307	216,866	240,714	249,429	256,956	287,633	295,259	307,652	312,785	375,284	367,540
Business	30,348,306	31,231,786	32,604,109	34,793,483	39,387,653	44,750,498	46,094,378	47,385,999	49,416,434	47,874,209	52,787,489
	111,916,484	**115,594,546**	**121,383,932**	**128,014,847**	**140,093,195**	**150,959,130**	**156,482,491**	**163,103,063**	**170,892,245**	**179,738,060**	**188,309,006**
$ increase (Total)	4,444,049	3,678,062	5,789,386	6,630,915	12,078,348	10,865,935	5,523,361	6,620,572	7,789,182	8,845,815	8,570,946
% increase (Total)	4.14%	**3.29%**	**5.01%**	**5.46%**	**9.44%**	**7.76%**	**3.66%**	**4.23%**	**4.78%**	**5.18%**	**4.77%**
less rate peg	2.60%	**2.80%**	**3.60%**	**3.40%**	**6.70%**	**5.11%**	**1.80%**	**1.50%**	**2.30%**	**2.70%**	**2.60%**
Net % increase from growth	**1.54%**	**0.49%**	**1.41%**	**2.06%**	**2.74%**	**2.65%**	**1.86%**	**2.73%**	**2.48%**	**2.48%**	**2.17%**

Population

as at 30 June

	312,346	**317,735**	**324,797**	**331,825**	**339,449**	**348,030**	**357,839**	**366,078**	**374,372**	**382,831**	**0**

Growth	5,745	5,389	7,062	7,028	7,624	8,581	9,809	8,239	8,294	8,459	-382,831
% population growth	**1.87%**	**1.73%**	**2.22%**	**2.16%**	**2.30%**	**2.53%**	**2.82%**	**2.30%**	**2.27%**	**2.26%**	
Population growth less rates growth	**0.34%**	**1.24%**	**0.81%**	**0.10%**	**-0.44%**	**-0.12%**	**0.96%**	**-0.43%**	**-0.21%**	**-0.22%**	

* Notes: For 2013/14 and 2014/15 Council had a higher increase in rates to fund asset renewal