

# City of Ryde Submission

**IPART DRAFT - Review of essential works list,  
Nexus, Efficient design, and Benchmark costs for  
Local Infrastructure**

**November 2021**



Before answering the questions provided, the City of Ryde (Council) notes that since this package of information was released by IPART, the Department of Planning Industry and Environment has subsequently released the contributions reform package. Council recommends that IPART review that subsequently released package, revise its draft report taking into consideration the newly released details, and provide an updated draft to stakeholders for comment.

## List of issues for Stakeholder Comments

### 1. Do you think our proposed principles-based approach to EWL, as part of our broader framework incorporating efficient design and delivery and benchmark costs, provides enough certainty? Have we got the balance right between flexibility and certainty?

It is the view of the Council that the changes have significant shortcomings. Council notes that IPART was provided with limited terms of reference, which exclude Community Facilities (not land or strata space) from the EWL, IPART does not appear to have taken or expressed an 'independent' view on this matter. It remains entirely unclear how these changes will improve the efficacy of the system with respect to the efficient and effective delivery of the required infrastructure necessitated by growth. No compelling case has been made for the proposed removal of Community Facilities from the system and it is disappointing that an opportunity to consider the wider interests of the community was not afforded in the terms of reference provided to IPART.

The inability to fund Community Facilities through development contributions is a significant loss for Council and it remains unclear why Community Facility requirements arising from growth are not proposed to be funded appropriately from developer contributions. Council's current s7.11 Plan, which adopts the \$20,000 cap, was adopted to help fund \$121M towards a \$244M program of Community Facilities, appropriately distributing the cost of these facilities between developer contributions and the ratepayers. The plan came into effect on 1 July 2020 and will only see 4 years of its expected 20 years (subject to updates).

Adopting a new plan, with the EWL forced upon Council in 4 years' time creates significant uncertainty in Council's projected forward works and financial plans. According to Council's and NSROC's modelling, even if adopting rate increases proportionate to population growth, Council will not be able to fund Community Facilities for at least a decade until rate funding matches the current annual funding from s7.11, based on the maximum \$20,000 per dwelling cap.

Council notes that the full package of Contribution Reforms has now been released and the cap has been further reduced to \$15,000 maximum per dwelling for local contributions. This cap reduction will further compound the income lost from development contributions and will create more pressure for rate rises and pushing more costs onto homeowners.

For developers, a level of certainty already exists under current the maximum cap that Council can charge per dwelling. Reducing the cap and the proposed refinements to the EWL do not improve certainty. Given the capacity for the market to deliver housing demonstrated over recent decades, it is unclear why these changes are deemed necessary. In many respects the EWL becomes superfluous when such a low cap is introduced, as this low cap will significantly limit the infrastructure delivery capacity such that many infrastructure projects would not be feasible.

The negative impacts of the proposed removal of Community Facilities from the EWL are not limited to the direct loss of funds. Under the proposed framework, it is also less likely for developers to proffer planning agreement offers in respect to development applications that offer more than what can be carried out as works-in-kind; that is, developers currently have some incentive to provide infrastructure that can be directly offset from otherwise payable developer

contributions. This can ensure developers and communities benefit from more efficient delivery of infrastructure by harnessing the delivery opportunities afforded by developments, often allowing earlier delivery of works at lower disruption to the community, and better quality outcomes through synchronized delivery (avoiding issues that arise when public and private work is inefficiently staged). The proposed changes would mean that there is no such incentive for developers to offer Community Facilities that might benefit from such opportunities, as there would be no offset to be gained. Further, Councils capacity to accept offers for land or strata space for Community Facilities will be significantly reduced, as funding to build facilities in these spaces for the next 10 to 15 years will not be available.

In terms of recouping borrowing costs, Council is more likely to borrow funds for types of facilities that have potential to derive a return on investment over facilities that do not. Facilities, not available in the proposed EWL such as Community Halls and Indoor Sports Facilities have some ability to raise funds through hiring and entry fees. By contrast, Council is unlikely to borrow money to fund items that are available on the proposed EWL.

Notwithstanding the above objections that greatly limit their efficacy, Council would welcome:

- Removing the requirement that embellishment of open space be 'base level' and instead to be considered as part of the nexus and efficiency assessments
- Including strata space for community facilities
- Including borrowing costs

**2. Is the proposed evidence to establish nexus for infrastructure in a contributions plan appropriate and reasonable? Is there any other guidance on nexus for local infrastructure that should be included in an updated practice note to assist councils, developers and other stakeholders in preparing and assessing contributions plans?**

The low caps proposed to be placed on s7.11 contributions at a maximum of \$15,000 per dwelling will underfund development contingent and nexus evident infrastructure. A nexus-based plan requires detailed research at significant costs to Council, that must then be recouped under a \$15,000 cap. Council's current plan enjoys a strong nexus as a result of significant investment in the required planning. However, Council's current s7.11 plan already generates a shortfall in funding at \$20,000 per dwelling. Although the reduction in the cap will significantly reduce the amount of infrastructure that a plan can deliver, it will not significantly reduce the amount of planning required for nexus based plans. When compared to the current framework, the proposed nexus requirements are less appropriate and reasonable given the proposed cap reduction.

The Contributions reforms are introducing Regional Infrastructure Contributions that will charge \$12,000 per dwelling and will not be nexus based. The same principle should be applied to Local Contributions. Under such low caps, nexus should be limited to establishing reasonable link between population growth and the facilities required to cater for growth in simple terms, much like is practiced for current s7.12 plans. As discussed under Question 1, increased rates revenue will not make up for the short fall in s7.11 funding for at least 10 years modelled on \$20,000 cap. With lower cap of \$15,000 to be introduced it is likely that funding gap will stretch beyond 15 years.

**3. What further guidance on base level, efficient local infrastructure should be included in an updated practice note to assist councils, developers and other stakeholders in preparing and assessing contributions plans? How definitely should the guidance in an updated practice note specify the standards expected of infrastructure (e.g. legislation and other industry standards)?**

Council should be left to determine what base level infrastructure its community requires, based

upon its needs assessments, studies and community consultation. Under existing Local Government reporting requirements and practices, communities have significant oversight of the design and scheduling of community infrastructure delivery. If Council can establish a demand for a facility through rigorous community consultation and studies, arbitrary practice notes and legislation should not prevent Council from raising funds for such items via s7.11 and s7.12 plans.

Overbearing practice notes/legislation that limit the types of facilities that a Council can provide will most likely stifle innovation and lead to lack of character and points of difference for communities. Items such as indoor sports facilities, BMX tracks, skate parks and 'alike' should not be excluded from base level embellishment. Such restrictions unnecessarily over-write community priorities and desires and limit their engagement and empowerment to shape and invest in their own communities.

The report makes reference to taking into account the future requirements for more climate resilient infrastructure, but does not provide sufficient detail as to how this will be done. In particular, benchmarking should acknowledge that higher standards are likely to be required in the near future in order for infrastructure to adequately withstand the climate extremes expected over their determined life cycle.

For example:

- Future roads will likely have to withstand higher volumes resulting from densification as well as higher temperatures due to climate change. The road will need to be built to a higher standard and/or use more expensive resilient materials.
- Future sea walls will be required to withstand waves generated in extreme storms and protect community land (foreshore parks) from subsidence and flooding.
- In future decades what capacity will the stormwater system need in order to accommodate the future storm events, which are expected to shift upwards in intensity significantly.

The report does acknowledge the need for climate change resilient infrastructure, but does not appear to go any further in making a connection with increased costs of future infrastructure. Some level of forecasting and cost increase relating to the higher specifications and increased design costs related to delivering resilient infrastructure should be incorporated to provide some practical and meaningful improvement with respect to resilience.

Consideration could be given to ensuring the framework encourages and incentivises more environmentally sustainable developments that put less stress on community infrastructure. This could be achieved with limited offsets dependent on the developer being cations and increased design costs related to delivering resilient infrastructure should be incorporated to provide some practical and meaningful improvement with respect to resilience able to demonstrate clearly specified features of their development that minimise the need for future upgrades of infrastructure, e.g. Incorporating stormwater reuse initiatives into the development design to minimise discharge and other measurables that demonstrably reduce a site's impact and reliance on community infrastructure.

Council notes the Cardo report had not been released at the time of writing this submission and due to the limited time afforded for the lodging of submissions it is not possible to review and comment on the details of that report in this submission.

#### **4. Are there any other items we should consider benchmarking?**

Council makes the following comments:

## Transport

- Shared user paths are 2.5 – 3.0m in width (not 1.5m).
- Traffic calming devices should be included – possibly under road safety.
- Multi-Function Poles (MFP) need to be included (Street lighting is under 1.27, but MFPs are quite different to the standard street lighting and are the base standard throughout centres).
- Higher quality finishes, such as granite paving, should be recognised as the base standard for commercial centres and not categorised as ‘nice to have’.
- Street furniture / benches/ seating need to be included.
- Strata vaults, will be required in town centre areas where it will become impossible to plant trees due to volume of services.
- Retaining walls to facilitate new roads levels need to be included as they are often required.
- Sound barrier walls adjacent to new roads as roads are widened and are in closer vicinity to residential dwellings.

## Stormwater

- Seawalls need to be included.
- Flood mitigation strategies should be covered, not just Stormwater.
- Increased specification costs and infrastructure requirements associated with resilience and climate change should be included in benchmarking.

## Open Space and Embellishment

Open Space embellishment needs to be further expanded to include, at a minimum, various types of retaining walls, trees, public art, seawalls, boat ramps, cricket nets and outdoor fitness equipment.

Various changes to the proposed items should also be considered:

- 3.1 should be revised to ‘park buildings’ and then size should be in ranges to allow for small public toilets up to larger amenities buildings of 400m<sup>2</sup>.
- 3.3 should be ‘fencing’ rather than boundary specific.
- 3.5 turf and synthetic should considered.
- 3.7 demolition should be benchmarked at different scales, ranging from minor excavation to removal of larger buildings, remediation and disposal of sensitive waste should also be considered.
- 3.8 & 3.9 playfields should not simply be benchmarked as ‘double playfields’, again there should be a scale ranging from single fields through to larger multi-field facilities.
- 3.14 courts should be benchmarked across a scale ranging from small half-courts, through to larger multi-court facilities.
- 3.16 base level treatments need to be specified for clarity.
- 3.19 as per comments above, residents require a hierarchy of place types. As such, 3.19 will require either a hierarchy approach or be based on \$/m<sup>2</sup>.

The review of the benchmark rates will also need to consider changes in National Construction Codes, evolution in procurement (ESG, climate change, advancements in technology).

Again, Council notes that due to the limited time afforded, at time of writing the associated Cardno report has not been reviewed and it is hoped that some of the above may be addressed therein, however, for the sake of clarity this detail should be contained with the main information rather than in a separate attachment.

**5. Do you agree with our approach to use adjustment factors so that the benchmarks are applicable to a broader range of projects?**

As demonstrated during the COVID pandemic, material costs have risen well beyond forecasts. As such, Council's ability to apply actual expenditure when updating plans is a necessity to cover unforeseen increases and decreases. Further, adjustment factors are only likely to highlight further gaps between the \$15,000 per dwelling cap and the actual costs per dwelling for local infrastructure under a contributions plan rather than enable Council to recover such costs.

**6. What other factors increase the complexity of a project that could be used as an adjustment factor?**

In some case open space areas are built on sites that have been filled in the past and subgrade improvements are required to ensure facilities such as hardcourts remain stable and do not deform due to subsidence. Other factors for consideration are, excavation, disposal of various types (VENM, contaminated materials etc.) and importing of various fills.

Other relevant cost factors include:

- Scale of the overall project.
- Scale of the individual components within the project.

**7. We seek stakeholder views on the approach to project allowances, including the rates and their application?**

Council recommends that the rates identified in Table 7.3 and 7.4 be reviewed and updated annually.

Table 7.4 utilises a contingency of 20% during the planning stage. From experience, this should be increased to 30% for projects estimated beyond 10 years in delivery to cover the higher likelihood such longer term projects will encounter latent conditions and unforeseen cost increases.

**8. We seek stakeholder views on alternative benchmarks for open space. Is there value in a per person benchmark? How would it work?**

We do not believe that a per person benchmark for the embellishment of open space would be appropriate or effective. This is based on the widely varied nature of parks in scale and function and their varied previous land uses. Council supports IPART's view not to pursue this option.

**9. Does 1.5% of the total value of works excluding land broadly reflect the actual cost councils face to administer a contributions plan? If not, what percentage would better reflect the actual cost councils face?**

Given the proposal to reduce the per dwelling cap it is anticipated there will be considerable pressure on administration funding. While the lower cap will reduce Councils capacity to deliver infrastructure, the planning and administrative costs will not be reduced as the relevant evidence bases that must be considered as part of nexus, growth and needs considerations, and the resourcing needs associated with administering a plan will not be reduced by the proposed changes. In essence, the proposal of 1.5% will be drawing from a significantly smaller total works program, thereby reducing the available funds for administration of the plan – despite no proposed reduction in administration work.

The failure to simplify the system, despite reducing the funds available to communities within the system, is such that the proportion of contributions that will need to be spent on administration will

increase, reducing the efficiency of the framework with respect to the finding and delivery of infrastructure. Should the cap be reduced, consideration should be given to reducing the nexus requirements to bring local contributions into line with the proposed Regional Contributions. This would reduce administrative costs making for more a more efficient framework.

Council suggest 3% would be more appropriate, if the nexus requirements were reduced, this could also be reduced to 1.5%. Given Council proposes that works programs should consist of funded and unfunded works (refer to question 14 below) required to support the underlying growth projections, this percentage should be calculated against the total funded and unfunded works on the list.

**10. What other types of information or data would provide a clear evidence based for true costs of plan administration?**

Development Contributions software management costs should be included, as part of the true costs of plan administration. There are few software packages available in the market and some Councils have had to create bespoke systems to manage their contributions. The most comprehensive off-the-shelf package is costly. However, the costs associated with the in-house resources required to develop and maintain a bespoke system or set of processes is higher.

**11. We seek views on our proposed approach to annual escalations and 4 yearly reviews of benchmarks. Including the choice of index and timeframe.**

Council supports the proposed Indices listed in Table 8.1 for each of the proposed categories. The proposed timeframes also appear reasonable and in line with the review cycle of contributions Plan. One consideration maybe to bring forward the first review to 3 years so the results of the review are published in front of the review of contributions plans. This will enable Councils to move forward with some certainty that benchmarks are not going to change soon after their plans are adopted.

**12. We seek views on an appropriate feedback or data collection mechanism to obtain reliable and consistent project information to refine the benchmarks over time.**

IPART should collect data from various Councils over time in respect to benchmark costs adopted for a project vs. actual costs. This should include estimates for projects planned at different stages of the life of the plan, noting contributions plans can adopt 20-year programs. Councils should be grouped and categorised in terms of their locations, i.e. city or regional; coastal; central west; southern slopes, etc. to allow tracking of cost variations across locations.

**13. Are the proposed principles and information requirements for councils using an alternative costing approach adequate? Should councils be required to provide any further information to justify deviations from the standard benchmark costs?**

Council is generally agreeable to the methodology and reasoning provided in Chapter 9. It is recognised that Council will most likely more accurately know costs approximately 12 months out from a project, when detailed briefs, scope of works and plans are developed for internal works teams or for tender. Therefore, actual costs are more likely to be input into a contributions plan when it is reviewed, as recoupment costs. Following such work Council would be in a position to demonstrate costs greater than those provided in the benchmarks. Further, comparisons can then be made to the benchmarks to see where future project variations maybe required, or whether variations were the result of 'one-off' specific site conditions.

**14. Are the proposed principles for reviewing plans and updating costs adequate? Are there any principles that should be removed from or added to this list?**



The principles are generally supported by Council and considered adequate. However, in light of the reform package being released subsequent to the report, Council suggests that the \$15,000 cap will significantly limit Council's works program for reasons discussed in the body of this submission. While Council will have 20-year forecasts, it will only be able to fund the first 5 to 10 years should the cap be reduced to \$15,000 per dwelling.

Council's view is that contributions plans should also list unfunded local infrastructure, which would also need to be updated regularly. Unfunded infrastructure is works/land that has been identified (in Council's adopted plans and strategies) under the nexus provisions, being development contingent, but is further down the timeline in the works program and where it is unfunded due to the cap limit.

This would serve, two purposes:

- I. Identify shortfalls in Council's works program that could be utilised for grant applications
- II. Identify to developers where they could make Planning Agreement offers, over and above the s7.11 liability, especially in cases where the development would impose significant impacts on stormwater, open space and traffic facilities.

**15. Are the proposed information requirements for councils enough? Are there any other pieces of information that should be added to this list?**

Council is of the view that the proposed information requirements are adequate. Further impositions are likely to add to administration costs. With limiting caps per dwelling in place, more requirements could lead to less incentive for a Council to update a Contributions Plan.

**16. Do you support our approach for a threshold to determine which plans must be reviewed?**

Council supports plans being reviewed every 4 years, however IPART should review Draft Decision 12 and Part 10.3 with the proposed reform caps in mind. As stated in Part 10.3,

*"The effort of reviewing the plan also needs to be proportionate with the benefit of doing so."*

With such lower caps to be introduced under the reforms, IPART should reconsider this Part of the Draft report with those caps in mind and provide commentary. In particular, with reduced caps, it is unclear how much benefit there will be each 4 years given there will be limited to no opportunity to increase income, and minimal need to substantially change works plans, such that only minor reviews may be required.

**17. Do you support our proposal for a fixed 4 yearly review of contributions plans?**

Should this requirement envisage complete, 'first-principles' reviews of contributions plans every 4 years, Council does not support such a requirement. However, Council is agreeable to fixed 4 yearly reviews where the expectation is that existing plans are reviewed for opportunities to make minor refinements, or adjustments required due to unforeseen circumstances (such as COVID). This four yearly reviews would enable Council to ensure its works program is targeted where growth is occurring rather than where it may have been predicted. With a limiting contributions cap of \$15,000 per dwelling, Councils will need to produce works programs that are well targeted and efficient. As noted above, it is anticipated that in many cases, these reviews will only result in minor refinements and will, therefore, not be overly burdensome to the community. The minimum requirements for these reviews should be specified more clearly.

**18. Does the annual update and four-yearly review provide an appropriate balance between cost reflectivity and certainty?**

Council currently carries out a targeted annual works program, with a four-year forecast to ensure expenditure does not exceed forecast income, not just for developer contributions plans, but for all works. Therefore, Council raises no issues in terms of the annual update and four-yearly reviews.