

Direct Telephone: [REDACTED]
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14 December 2021

Attn: Ms Jessica Hanna
Independent Pricing and Regulatory Tribunal
PO Box K35 Haymarket Post Shop NSW 1240

Jessica_hanna@ipart.nsw.gov.au

Dear Ms Hanna

IPART's draft report *Review of the essential work list, nexus, efficient design and benchmark costs for local infrastructure*:

I refer to IPART's draft report Review of the essential work list, nexus, efficient design and benchmark costs for local infrastructure. IPART has been asked to:

- provide advice to inform an essential works list that would apply to all section 7.11 contributions plans
- provide advice on an approach councils should use to determine the most efficient local infrastructure to meet the needs of new development, applying the principle of nexus. This review is to support the NSW Government's proposed reform of the infrastructure contributions system in NSW.
- develop and maintain standardised benchmark costs for local infrastructure that reflect the efficient costs of provision.

The draft report will negative impact Council's ability to deliver essential infrastructure for future population. While Council supports some of the components of the report, the final result will be that plans prepared in line with provisions in this report will collect insufficient contributions to provide for future population. These plans will also require far more administration, and are more open to challenge with the increased requirements for demonstrating nexus, efficient design and delivery, and detailed costing to support variations from benchmark costs.



Council raises the following concerns with the draft report released by IPART on 29 October 2021:

Comments - Essential works list (EWL)

Council has a portfolio of \$1.5 billion in community infrastructure. The portfolio is made up of buildings, footpaths, stormwater, roads, open space, and other recreational structures. Each year Council develops a capital works program to fund the construction of new assets and renew those nearing the end of their useful life.

Developer contributions fund up to 40% of this program and complement other sources such as State and Federal grants. It is estimated that over \$60 million would be lost from Council's Section 7.11 contributions over the 15-year life of the plan to provide additional community facilities, as well as other recreation facilities not covered by the essential works list.

While the proposed increase to local levy conditions would make up some of this shortfall, it does leave Council short on funding for local infrastructure facilities which the community both expects and needs. An alternative source of revenue for these facilities is not identified, as the removal of the rate peg would not cover these losses.

This represents an unfair shift in the cost of provision of infrastructure from developers to existing communities. The rates reform addressed in the Productivity Commission report should be uncoupled from the review of development contributions to ensure the cost of providing new facilities to meet the needs of a growing population is not shifted to the existing community.

The essential works list should include provision for S7.11 plans to fund community services. Community services such as community centres, libraries, child-care facilities are key services that address the demand on the new population. The current proposal that S7.11 contributions can only be used to fund land for community facilities will result in a disconnect in the provision of the community facilities and potential delays in constructing the facilities. To ensure community facilities are planned and programmed to align with projected development it is important that both the land and construction components are included in the S7.11 plans. Given the additional detail and rigour required to prove nexus for each project, it is unreasonable to exclude community facilities where a clear nexus can be shown.

The requirement for essential works to be cost effective may not allow for some of the variables that influence the construction costs. For example, drainage issues differ from site to site.

The planning and design of future essential works should incorporate public art and good design into the construction costs. Base level infrastructure such as amenities



blocks and play equipment should integrate public art and local elements at the initial design stages and therefore be included into the cost schedules.

In terms of the EWL not being changed for 3 years, uncertainty is created in respect to drafting new plans to meet the 1 July 2024 deadline. Councils will need certainty as to what they should or shouldn't be including in a new Plan to meet the new plan deadline. Will the IPART review of EWL for brownfield sites also provide clarity on what constitutes "open space"? For infill councils such as Georges River, active open space required for new population is likely to be provided through indoor recreation facilities. Will that be considered as open space by IPART?

Comments - Nexus

In general, Council supports the principles of providing greater transparency and accountability for section 7.11 contributions. However, the additional requirements are likely to impact the complexity of preparing a Section 7.11 Plan, which will make it more time consuming, more difficult and more expensive to prepare. Not only does this cause a cost to Councils, the alternative option is a Section 7.12 Plan, which also incurs a financial cost to Councils as the total amount of contributions received is lower.

Comments - Efficient design and delivery principles

For Councils to meet each of the criteria for efficient design on each project at the 20-year forward planning stage is not feasible. Assessing a reasonable number of options for each of the items included in a Plan is particularly onerous and would require considerable additional resources to complete. Additional administration costs would be incurred which are likely far beyond the current 1.5% of apportioned costs, and Councils would seek to include those in their plans.

The 'efficient' design and delivery principles are directly opposed to both community expectation as well as State Government requirements for better public spaces. The report indicates that the base level of infrastructure is that which provides the minimum service level to meet the performance outcome for which demand is generated. This service level will often be below what the community currently enjoys, and it is therefore not reasonable to shift the funding source for maintaining the current provision of service level from the new population on to the current population. As Councils cannot fund the gap between the minimum service and the current provision rates, the end result will be a decline in service level for future populations. It is reasonable to expect that the incoming population provides for these facilities, and the base level requirement should be redefined to allow Councils to continue to provide the facilities which the community demands.

Further, little guidance is provided on whether Councils should favour low up-front costs with high ongoing maintenance, or higher up-front costs with lower



maintenance. Allowing Council's to factor in maintenance cost for a set number of years will make comparisons between the two methods simpler and easier to justify.

Providing infrastructure at the base level as referenced in the report could result in higher income areas have higher quality facilities than lower income areas as the base level may be very different; thus increasing social inequalities.

Questions that have not been addressed are:

- What is the method for preparing contributions plan with a base level of performance for infrastructure?
- How do you demonstrate the most cost-effective way of delivering services? Is there a clear template available? What are the thresholds which require a comparison of the different methods of servicing the need generated by development, and how many methods need to be assessed? Performing this analysis will increase the costs of preparing a S7.11 Contributions Plan.

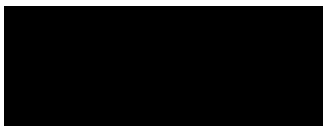
Comments - Benchmark costs for base level infrastructure

Council supports the principles in applying the benchmarks; however Councils have to have the ability to cost the local standards or variations on a project. The benchmarks will not be useful in some areas where the local conditions require additional costs at a greater level than is account for with the adjustment factors. This is especially prevalent for infill Councils which are limited in choice for the location of infrastructure and must use what space they have.

Using the alternate method of costing will be expensive and time-consuming for Councils to implement for each project and will likely increase the amount of administration funding required from the plan. It is also not clear what level of analysis needs to be demonstrated, and in what form, to support cost estimates prepared in this way. This lack of guidance will result in less consistency across Councils, and less certainty in the contributions system.

Should you require any further information, please contact Council's Manager Strategic Planning Ms Catherine McMahon on [REDACTED].

Yours sincerely



Meryl Bishop
Director Environment and Planning

