

Review of the essential works list, nexus, efficient design and benchmark costs for local infrastructure

Draft Report – October 2021

Submission to IPART by Ku-ring-gai Council
Due date: 10 December 2021

Preamble

Ku-ring-gai Council welcomes the opportunity to contribute to the papers supporting the review of the essential works life, nexus, efficient design and benchmark costs for local infrastructure. This submission is one of two and should be read in conjunction with the submission on Typical Scopes and Benchmarked Costs of Local Infrastructure.

It must be emphasised that, like the concurrent DPIE exhibition, the submission deadlines of 10 December 2021 for documents that were placed on public exhibition concurrent with the commencement of the caretaker period and concluding before the declaration of the 4 December 2021 Local Government elections, means that this submission has been made by council officers acting in their capacity to support and defend existing adopted policies of the council and their potential for future review. It is the intention to present the submissions to the first ordinary meeting of council (OMC) for 2022, however the scheduled date of that OMC, being the first meeting where ordinary business will be discussed, is Tuesday 15 February 2022. We note this date after the deadline for the final report to be submitted by IPART to the NSW State Government.

Overview

Ku-ring-gai Local Government Area is an established area of approximately 8,540 hectares including parts of the Ku-ring-gai Chase, Garigal and Lane Cove National Parks. Earlier development followed the northern railway line along the ridgeline. Successive suburban expansions from the inter-war period, post-WWII and through to the 1980s expanded suburbia to the edges of the National Parks. Currently, intensive redevelopment and densification is occurring in the railway / Pacific Highway corridor and in St Ives together with on-going urban renewal throughout the suburban areas, including provision of medium density on selected sites outside the local centres as well SEPP Seniors housing, also outside the core centres.

Ku-ring-gai's current s7.11 contributions plan provides for a variety of works to support on-going densification and urban renewal including:

- Provision of additional new parks in areas that currently have poor access to local parks, and which are in or adjoining areas of intensive redevelopment on a pro rata per capita basis. These parks serve the needs of residents of new multi-unit developments who have limited private and shared open space.
- Provision of additional works to existing parks and sportsfields to increase their carrying capacity and extend their hours of use, with an emphasis on parks in the intensively redeveloping areas near the railway stations.
- Provision of new roads where the studies for the initial up-zonings indicated poor transport circulation and access.
- Provision of intersection upgrades and works where the studies indicated the level of service would be reduced to unacceptable levels as a direct result of the concentration of new development.
- Provision of public domain works to facilitate pedestrian and cycling access to local centres and to enhance the street as an area of recreation as well as transport.
- Provision of community floorspace on a pro rata per capita basis apportioned as applicable.

- Delivery of some works in the above list as major projects that combine civic open space, public domain works, road upgrades and community floorspace.

Where the whole of the demand cannot be attributed to development, the works programme is duly apportioned. Council bears a significant proportion of the cost of community facilities works and works in existing parks.

As a consequence of being a redeveloping established area, each work is a bespoke project, although the current contributions plan utilised benchmarked costs for open space embellishment work and standardised costs prepared by quantity surveyors for the public domain works. In this context, our comments on the current benchmarking exercise are below.

General Comments

Ku-ring-gai Council notes the restrictive terms of reference provided to IPART with respect to the scope and content of the Essential Works List and appreciates that the IPART reports have, as far as is possible, attempted to find a workable ground for both established and greenfield areas. Notwithstanding, the lack of recognition given to community facilities as essential social infrastructure undermines over 40 years of development contributions under the *Environmental Planning and Assessment Act, 1979* which recognised from its inception – and for the first time – that social infrastructure was as critical as roads and parks in building communities, and that this demand does arise as a direct consequence of development.

With respect to community facilities, in particular the inclusion of stratum space alongside land for community facilities, is a welcome addition providing some flexibility, particularly to a redeveloping established area like Ku-ring-gai with densifying local centres.

It is in the area of the public domain where there is a notable omission – to the extent that the aim of efficient provision is circumvented. In redeveloping established areas, where there is limited opportunity for the acquisition of suitable land for additional parks (due to both availability and cost) and where current rates of provision are well below accepted benchmarks, the role of the street as a dual accessibility and recreational space is paramount. The omission of public domain works from the Essential Works List inhibits their inclusion in contribution plans and has precluded the provision of benchmarked costs for these works. It is counter-productive for a council to identify more efficient means of addressing an identified need if that means is denied access to funding.

With respect to borrowing costs, to provide certainty to councils, it should be permissible to recoup internal and external borrowing costs on works that have been delivered but are no longer permitted to be levied, for example, community facility works in cases where plans below the threshold (or exempted) were permitted to include such works. If these internal borrowings are not repaid, the categories of works from which they were borrowed will not be able to deliver the full suite of infrastructure proposed. Changing goalposts are a disincentive for councils to take financial risks where future cashflow cannot be relied upon.

We note a specific issue-type question has not been included in the document. Ku-ring-gai supports access to early borrowing to deliver infrastructure. Early delivery of infrastructure, particularly early acquisition of land/property is an opportunity to reduce cost and risks, however other mechanisms are necessary to cover the risk that the full amount to service the loan may not be recovered through the contribution plans. Low-Cost Loan Initiatives to subsidise loan costs are welcome, however the process for application and accessing funds should be streamlined, so that timing to access funds coincides with occurrence of infrastructure costs. IPART should provide clear guidelines in terms of the benchmark costs of debt and regular updates to the cost of debt in the light of market changes are also supported. Clarity is required in circumstances where the actual cost of debt is higher than the benchmarked borrowing costs and whether this cost can be recouped through the contributions system (through regular reviews) or must be funded from the general fund.

List of issues for stakeholder comment

Issue 1: Do you think our proposed principles-based approach to the 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?

Response by Ku-ring-gai Council:

Ku-ring-gai Council appreciates IPART's acknowledgement that each LGA is different and that a flexible approach is needed, within overall guidelines to bring some standardisation to the process and the resulting contributions plans across NSW, particularly in Sydney where many businesses operate in multiple LGAs. Rigid benchmarks, especially those designed for greenfield areas, would have had limited application in redeveloping areas which may be directed to the IPART process as a result of the costs of acquiring land.

The added clarification of the land "and/or" facilities for open spaces and other infrastructure categories supports the capacity for the efficient delivery of works that address an identified need by including works to existing parks to support more intensive usage, where no additional land needs to be acquired and by allowing works on open space that may be leased to the council such as land under the NSW Crown.

Ku-ring-gai appreciates that part of the core requirements of a s7.11 contributions plan is to demonstrate nexus. It is less clear how efficiency is to be demonstrated through a demonstration of the examination of alternatives that were not selected for inclusion – and whether this reasoning should be part of the contributions plan itself or a supporting document for the purposes of IPART review.

Issue 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?

Response by Ku-ring-gai Council

The principles expressed are not, in essence, new. What is essential is clearer guidelines on how they are to be demonstrated within a contributions plan, as appendices to the contributions plan or as supporting documents to the contributions plan and the level of detail required. In this context, the level of documentation that will be required does not suggest that contributions plans will become any less complex. In particular the third item "that the proposed facilities consider the extent to which existing facilities have capacity to meet that demand" may need to present greater detail than appears in many current contributions plans. Councils will need guidelines concerning the level of detail that is expected and appropriate.

In respect of nexus for stormwater works, in established areas, the link between impervious areas and nexus is not absolute. For example, in southern Sydney, redevelopment of industrial areas into multi-unit mixed use areas actually had the effect of decreasing the total amount of impervious area. However, while known and expected regular surface flooding of at-grade industrial areas was not an unmanageable issue, for a residential area, even a much smaller degree of flooding is still unacceptable, especially where every development has basement car parks. In Ku-ring-gai, new developments are required to provide on-site stormwater detention so that stormwater can be released gradually and not overwhelm the drainage system or the natural riparian corridors, mitigating the impact and eliminating the nexus. However, should significant storm events intensify further, last longer and become more frequent, reliance on this option may no longer be practical and more stormwater mitigation works may be necessary to enable future uplift.

There also appears to be a lack of recognition that land can address multiple purposes. Public domain works in the road reserve can address both an accessibility and a recreation need as well as address stormwater issues. The Cardno report provides examples of raingardens and retention basins that cannot be readily used in urban environments, however systems such as strata cells for tree planting pits beneath paved footpaths and urban plazas can assist in mitigating flood issues by acting as below

pavement raingardens. Stormwater from street gutters and down pipes from adjoining buildings can be diverted to tree pits constructed by strata cells to slow and reduce stormwater entering the stormwater system. This is a form of passive irrigation for street trees. The IPART report states that contributions plans need to take account of changes in design standards, accessibility and community needs for infrastructure over time including resilience to climate change – yet the EWL inhibits this. In densely redeveloping areas, the street acts as a linear park and is an important addition to traditional park spaces.

Ku-ring-gai emphasises that the absence of the recognition of the roles of the broader public domain as multi-purpose public infrastructure directly inhibits the demonstration of efficient provision. The exclusion of public domain works, especially those which result in improvements to the pedestrian environment through upgrades to pavements to meet access standards and provide for increased pedestrian traffic, improvements to the quality of the local centre as recreation space and increased tree planting to mitigate the heat island effect in intensively redeveloping built up areas, plus stormwater mitigation are not considered in the essential works list. This inhibits efficient delivery of infrastructure that addresses multiple identified needs arising directly from dense redevelopment.

Issue 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 definitively should the guidance in an updated practice note specify the standards expected of infrastructure (e.g. legislation and other industry standards)?

Response by Ku-ring-gai Council

Council appreciates that IPART recognises that it is not reasonably possible to determine a suitable base level for infrastructure without considering the circumstances in which it is being delivered. In this context, the base standard of new infrastructure should not be lower than the currently prevailing standard of comparable infrastructure in that local government area. To do so would skew demand and usage patterns encouraging people to travel – frequently by car – to different facilities that may not be as close by. This is particularly true of local parks and playgrounds and community facilities, and also, to some extent, of the public domain in local centres.

More guidance should be provided for items of infrastructure that may provide for multiple needs. For example, the role of the street for both accessibility and passive recreation. The Department of Planning, Industry and Environment (DPIE) in recent years have been promoting design excellence for public spaces and the Movement and Place Framework that delivers on NSW policy and strategy directions to create successful streets and roads by balancing the movement of people and goods with the amenity and quality of places. The EWL that provides only for the funding of base level infrastructure does not allow for 'quality' to be included in the infrastructure works for new or infill sites and creates a new gap funding requirement which inhibit and delay the delivery of supporting infrastructure for densification.

Ku-ring-gai Council also acknowledges the recognition of the impacts of climate change on determining what constitutes base level infrastructure standards and rates of provision. This is a fast-moving area of growth in innovation. It should remain open to councils to be able to demonstrate resilience as a factor in designing for future infrastructure to be funded from contributions and for additions and changes to benchmarked costs.

Finally, it is noted that this section includes a reference to removing works from a plan. Where internal borrowing has been utilised to fund the delivery of work, this process inhibits its removal from the works programme until that internal borrowing has been repaid. Essentially, a contributions plan funds a list of works from anticipated growth, where all the growth funds all the works. As works are delivered, they borrow part of their budget from works scheduled further into the future. They then transition from "proposed" to "recoupment" until they have repaid the internal borrowing that was necessary to prioritise them over other works. Without that recoupment, later works could not be funded and later developers would contribute less in real terms than earlier developers.

Issue 4: Are there other items that we should consider benchmarking?

Response by Ku-ring-gai Council

Again, it must be emphasised, that the omission of public domain works is a serious concern and stands in direct opposition to the principle of comprehensively considering the efficient delivery of infrastructure to meet identified needs. The impact of the inability to even maintain current per capita levels of provision of local open space due to the costs involved in acquiring land, can be mitigated by the provision of a high quality public domain including dual use of pedestrian space as passive recreation space.

The following example is given in the *Review of the essential works list, nexus, efficient design and benchmark costs for local infrastructure* addressing the first key principle of efficient design and planning:

"For example, the objective for a road should account for the speed and volume of additional cars generated by the development (for example, wider lanes and shoulders are usually used for roads with higher speeds and higher traffic volumes). For the purpose of determining what share of the costs developers should pay, infrastructure should meet but not exceed the purpose for which it is intended."

In Ku-ring-gai, where intensive redevelopment is centred on the railway / highway corridor, we have a different view of the role of the road reserve as a whole – meaning the public domain between the boundaries of private properties.

"For example, the objective for a road should account for the additional pedestrian traffic generated by the development both residential and commercial (for example, wider footpath areas, street furniture such as seating, and structural separation from the road carriageway - especially on main roads with higher traffic volumes and higher speeds in order to enhance the safety and amenity of the pedestrian area and encourage walking for shorter journeys, to access goods & services and for passive recreation). For the purpose of determining what share of the costs developers should pay, infrastructure should meet but not exceed the purpose for which it is intended."

A key principle of encouraging densification around railway stations was a reduction in the use and reliance on private vehicles, and an increase in the use of public transport, walking and cycling. The essential infrastructure to support this type of redevelopment seems to be entirely absent from the Essential Works List. Given the present pandemic, it is surprising that the impact of developments that increase crowding in pedestrian areas, especially around transport nodes, has not been considered in terms of the essential infrastructure needed to mitigate the impact.

The Department of Planning, Industry and Environment's Movement and Place Framework promotes the creation of successful streets and roads by balancing the movement of people and goods with the amenity and quality of places. The IPART report seems to be in concert with this in its words, however not in its benchmark considerations. There is no provision for street furniture, tree planting or pavement quality better than concrete in its infill development benchmark costing. Quality streets for pedestrians cannot be delivered using the benchmark costings provided.

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

Response by Ku-ring-gai Council

It is noted that the included adjustment factors are: congestion, location and ground conditions. Another key adjustment factor for redeveloping areas is site contamination arising from past usages that may require site remediation or increase the costs of demolition. Ground conditions may include not only natural features such as topography and geology but also previous development such as concrete swimming pools that need to be removed or filled in.

Risk of site-contamination is a major concern for an established area such as Ku-ring-gai. In 9.1, the draft report indicates contaminated land as a circumstance that may precipitate a site-specific cost estimate. The issue is that the contamination may not be known about during the estimation at project planning

stage, let alone at plan drafting stage – even if soil testing has been undertaken or asbestos registers exist for proposed demolitions. This has been the actual outcome at numerous sites where testing has been undertaken in Ku-ring-gai – including sites previously used simply as private dwelling houses. Can IPART provide guidance on an allowance factor for contamination risk that council could use as a benchmark against its direct experience to include an adjustment factor? What is IPART's position on including actual costs for decontamination as a project moves into the recoupment phase?

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

Response by Ku-ring-gai Council

As mentioned above, with respect to costing demolition, the types of existing dwellings acquired for the delivery of new open space frequently include the removal or in-fill of concrete swimming pools. In an established area, asbestos contamination is a standard occurrence – not just in the context of the immediate demolition but in the context of earlier demolitions, for example of fibro garages, that may not have been demolished to modern standards or wholly removed from the site resulting in widespread site contamination.

Generally speaking, the adjustment factors indicated appear reasoned and applicable to most projects. From an operational perspective the issue we have with delivering infrastructure budgeted under contribution plans is usually that constraints such as congested services within an urban setting that would, for example, instigate the need for service diversion to accommodate infrastructure works, or the identification of contaminated soil, may not have been identified when the project was/is costed – examples being the Princes Street Turramurra Neighbourhood Centre Upgrade where the diversion of a high voltage electricity cable blew the project budget by 100%, or the identification of contaminated soil at Boyds Orchard Park following the demolition of property acquired to make way for the park and an area of soft-fill missed from soil-testing at intervals that needed to be removed and replaced by hard fill underneath the new road link of Bean Farms Road between Dumaresq and McIntyre Streets.

Tree protection works for retention of significant trees on a constrained site being redeveloped as an urban park may require excavation by hand, arborist works and monitoring of the tree to ensure its longevity.

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

Response by Ku-ring-gai Council

In terms of transport infrastructure, the project allowances and their rates are a reasonable starting point, particularly for smaller, lower impact infrastructure. However, particularly in the situation where the works are larger scale and located on regional/state roads in brownfield urban areas, the suggested adjustment factors for constraints/on-costs and contingencies appear to underestimate the strategic project costs. Utility adjustments and night works could be additional factors affecting brownfields sites that should be included separately. Perhaps a constraint factor of 50%, on-cost factor of 25% and a contingency factor of 50% should be contemplated specifically for works on regional or state/arterial roads in urban areas due to their complexity, to provide a more realistic adjusted benchmark cost.

Cost analysis using the proposed project allowances against similar open space projects undertaken at Council found that the figures are largely reflective of what Council would expect to pay. There are naturally instances where there are unforeseen site constraints that led to significantly increased project delivery costs however it would be difficult to account for these at the contributions planning stage of infrastructure delivery. An efficient method/avenue for Council to either modify project scope or to recoup over expenditure is essential.

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

Response by Ku-ring-gai Council

Council appreciates the recognition that there are many different types of open space. Whereas the typical grassy park with a playground, BBQ area, seating, pedestrian / cycle paths and the like is a core component of the infrastructure that addresses local recreation needs, these are not the complete picture. Intensive use areas such as civic spaces and station forecourts do require a higher standard of embellishment, larger hard-surface areas and more structured design of natural features such as planter boxes and paving elements around trees to allow for growth. It is also true that such areas vary in size considerably and tend to require more detailed design work to provide an appropriate cost estimate. These probably need to remain a bespoke cost estimate, though individual aspects could be the subject of benchmarked costs.

A more difficult challenge for areas like Ku-ring-gai where intensive redevelopment is occurring in highly pedestrianised centres around transport nodes, is the disjoint between where the civic space ends and the street begins. Where, for example, in the essential works list, would a shared zone fit – where a pedestrian access and passive recreation area is also used by vehicles, rather than the other way around?

As part of the preparation of Ku-ring-gai's current s7.11 contributions plan, council categorised its open space land holdings based on the nature and type of use. With respect to local open space – relatively small local parks within a reasonable walking distance of 400 metres – there were glaring gaps in the accessibility of people to a local park. This was particularly the case in the areas subject to intense densification along the railway line / highway corridor due to historic development patterns of the late 19th and early 20th centuries.

Council is levying on a per capita basis for the delivery of new open space with the embellishment of that space on a standardised per square metre rate based on the cost of inclusions for a generic 3,000sqm local park. This enabled a basic budget to be determined for any size of future park acquired within which the landscape architects worked to design the particular park for that area based on community surveys and council's own needs analysis. It would be impractical to pre-empt the detailed design of future new parks when the exact land to be acquired is not certain, just so that a bespoke budget could be included in a contributions plan. As such, rates per square metre have their place in determining a reasonable contribution rate and the framing the initial budget – with adjustment factors for uncertainty. However, this is more practical in Ku-ring-gai where we are explicitly targeting new parks of an average of 3,000sqm. A broader range of park sizes and scales would render an average rate much less reasonable or practical – and this is already the case for civic spaces and village greens in the hearts of the local centres.

It must be emphasised that the rate of provision for new parks in Ku-ring-gai is substantially less than the actual rate of provision and will only mitigate, not preclude, a steady reduction in the per capita provision of local open space in Ku-ring-gai. No benchmark provision should be mandated for delivery but a standardised benchmark for provision could be a useful demonstration of how far below expected standards are the provision rates of local parks in inner and middle ring areas. This further emphasises the importance of the role of the public domain in mitigating the impact of low rates of local parkland provision when combined with population growth and demographic change.

Currently, Ku-ring-gai Council, inflates land by the Established House Price Index. It must be emphasised that council is specifically acquiring established houses for the purposes of demolition and delivery of new parks and roads. We have found that this index has kept pace adequately with the actual costs of acquisition over the life of the contributions plan. The prospect of having another inflation methodology mandated is deeply concerning to Ku-ring-gai Council particularly one that is new and unproven.

Issue 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?

Response by Ku-ring-gai Council

Ku-ring-gai currently uses a figure of 1% however this chiefly funds reviews, access to statistical information, and part-time planning and financial management staff but does not provide for additional administrative support that would be appropriate to support the collection and maintenance of additional supporting data. Noting the probability that staff will be required to support a third plan in the future (an affordable housing contributions plan), cost sharing amounting to 1.5% would be worth further investigation.

Additionally, it is possible that the frequency of both annual updates and four-yearly re-costing and re-benchmarking updates, as distinct from the application of standardised inflation, required may necessitate additional staff to be employed to manage as well as review the contributions plans.

Should council be able to justify a higher percentage based on a more detailed assessment of the work of managing the contributions system as part of the process of preparing plans under the new system, then a higher percentage should be able to be levied.

Issue 10: What other types of information or data would provide a clear evidence base for the true costs of plan administration?

Response by Ku-ring-gai Council

The proposed methodology seems reasonable.

Issue 11: We seek views on our proposed approach to annual escalations and 4 yearly reviews of benchmarks, including the choice of index and timeframe.

Response by Ku-ring-gai Council

Ku-ring-gai's response to Q17 below suggests a five year review of contributions plans scheduled to align with the census cycle. This is particularly important in an area like Ku-ring-gai where development is predominantly housing of a different design and density to the current dominant form of housing which is generating a shift in the demography, revealed at each census. As such, a four yearly review of benchmark costs by IPART could be problematic unless councils were only required to address them at the next review.

Ku-ring-gai's response to Q18 below relates to the resumption that the purposes of annual escalations and 4 yearly reviews is to ensure councils have current figures available for assistance in preparing work programmes. This approach seems reasonable.

Issue 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.

Response by Ku-ring-gai Council

The generic benchmarks should be tested against real projects in the field on a regular basis. The knowledge pool should be updated accordingly.

Issue 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?

Response by Ku-ring-gai Council

Ku-ring-gai notes that the framework allows Local Government to utilise actual costs. Given that KMC has delivered two new roads and seven new parks (with more in the pipeline), multiple upgrades to existing parks for more intensive use and multi-use active recreation, it is considered that an evidence base for any departure from benchmarked costs can be demonstrated, however site-specific risks are more difficult to assess with accuracy at the planning stage.

It is considered that the process would be slightly more onerous in the estimation for new urban parks in particular when considering the acquisition and subsequent demolition of property to accommodate. For example, the delivery of a new urban park in Turramurra - Boyd's Orchard Park (completed 2020) - spanned a number of years and property acquisition and subsequent demolition costs would have been difficult to assess with accuracy at the planning stage. Further cost blow outs were encountered due to soil contamination on the site – and it should be noted that this site was previously occupied by four dwelling houses. Site contamination is an issue with all previously developed land.

It should be noted that the opportunity for evidence-based costs does not address the prospect of under-funding part of the delivery of the infrastructure as a whole to a baseline level below the prevailing standard established in the recent past – or delaying delivery – because there is a new gap to fund where there was no gap in the past.

Even with respect of smaller scale works, Council utilises a Minor Works Schedule (MWS) of rates for the delivery of a significant proportion of capital works in particular for transport and stormwater infrastructure. The MWS schedule would enable an efficient and accurate top down estimation approach.

However, this does not address the issue of efficient provision to address an identified need which is compromised by constraints on other works in the public domain. As a direct result of the absence of public domain works from the Essential Works List, benchmarked costs have not been undertaken for such works. In Ku-ring-gai, and most intensively redeveloping urban areas, the distinction between “park” and “road” is blurred by the intensive use of the pedestrian space for both accessibility and recreation.

Issue 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?

Response by Ku-ring-gai Council

The principles seem reasonable. A contributions plan that is only updating costs based on published benchmarks or in accordance with the mandated inflationary mechanisms should not be required to resubmit the plan to IPART for review unless the amendment also includes additional infrastructure.

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

Response by Ku-ring-gai Council

The information requirements for councils are significant and the Department of Planning will need to provide further guidance as to how much data – and in what format – is to be provided within contribution plans, as appendices to contributions plans or as supporting documents. The suite of documents supporting the contributions system is significant. While they may well be essential, they may not make the resulting plans simple or streamlined.

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

Response by Ku-ring-gai Council

There needs to be greater clarity concerning which plans will be reviewed in order to ensure that liaison with IPART commences early in the process, particularly in the case of a council to whom this process is new.

The thresholds of \$20,000 for redeveloping areas and \$30,000 for greenfield areas were established in 2009 and remain expressed in 2009 dollars. Twelve years of inflation continues to be ignored. For so long as an outdated threshold continues to have so much weight, an increasing number of contributions plans will trigger that threshold. In Ku-ring-gai, in the period since 2009, the cost of acquiring land for the delivery of new parks and roads has more than doubled. While our contributions have kept pace with this increase as a result of using the Established House Price Index to inflate land, the disparity between the threshold and our actual contribution rates continues to grow. This has increased our reliance on the exemption and inhibited review.

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

Response by Ku-ring-gai Council

If there is to be a fixed review period, it should be no more frequently than every five years aligned to the most recent census. It would make little sense to be locked in to undertaking a review at the four year mark only months before the release of updated demographic data. This is particularly true of established areas where intensive unit development is providing a greater range of housing options and contributing to actively changing the demographic profile of the area.

Contributions Plans should not cease to operate prior to a new contributions plan coming into effect if it is clear that efforts have been made to comply with the review schedule. This is particularly relevant to IPART reviewed plans which require an extended and uncertain timeline.

A reasonable explanation for a delay in reviewing a contributions plan would include the intention to incorporate prospective development arising from a draft Planning Proposal for the area that would up-zone further land for which inadequate detail is available at the exact time of the review schedule.

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

Response by Ku-ring-gai Council

It is presumed that the updates and reviews are proposed as a means of ensuring that wherever a council is preparing a contributions plans, the reference costs are current as of that period, enabling a fixed inflation point for the various aspects of the contributions plan to be established and applied until that contributions plan is reviewed. In this context, the proposal seems reasonable. It would be onerous to require councils to update their works programmes annually.

For the last 10 or so years, the Road and Bridge Construction Index for NSW has effectively mirrored the All Groups CPI for Sydney, yet the cost escalations of traffic and transport works in Sydney appears to be well beyond that. Perhaps index number 30 (Building construction New South Wales) may be better reflective of the higher cost escalations in this sector.

Additional Commentary

Commentary on the pitfalls of funding “base level” infrastructure below the prevailing standard of provision

Determining what constitutes “base level” should be relevant to the Local Government Area in which it is to be delivered. Funding an item of infrastructure to a level of service below the prevailing level of service leads to funding gaps that will delay actual delivery. This is counter-productive to the intent of the broader reforms.

For example, Ku-ring-gai has a rolling delivery programme of new parks and embellishment works to existing parks. New parks are fully funded by s7.11 development contributions on a pro rata per capita basis (at a contribution rate that is below the rate necessary to maintain the current per capita provision of local parks resulting in a slower decline in that rate than would otherwise have occurred as a direct result of development). Embellishments to existing parks are apportioned to varying degrees depending on the proximity of the park to the intensively redeveloping local centres and the nature of the work. Some works to existing parks receive no s7.11 funding but do receive s7.12 funding, especially those remote from the local centres in areas where smaller scale urban renewal is occurring. Council also undertakes extensive work that receives no contributions funding at all.

From this experience, we note that the prospect of delivering a new park to a “base level” that is below the prevailing base level, would be inappropriate. It is highly probable that, to do so, would give rise to accusations of treating new residents of multi-unit areas as deserving of a lower standard of provision compared to established residents in adjoining suburbs. It would also potentially fail to alter established patterns for residents of new apartments driving to access a different park further away, prior to the establishment of the local park. Apart from the environmental impact, this would entrench the impact on existing residents of increased demand on existing infrastructure arising from new development.

Being required to seek additional top-up funding to deliver the new park to the appropriate prevailing standard, would inevitably delay the project. Currently new parks are 100% funded by contributions but involve the acquisition of several adjoining properties. While this can take several years to achieve, council has now been successful in bringing this process to fruition in several locations. Having the embellishment of these parks funded to only 80% or even 90% of the expected standard rather than 100%, will delay delivery.

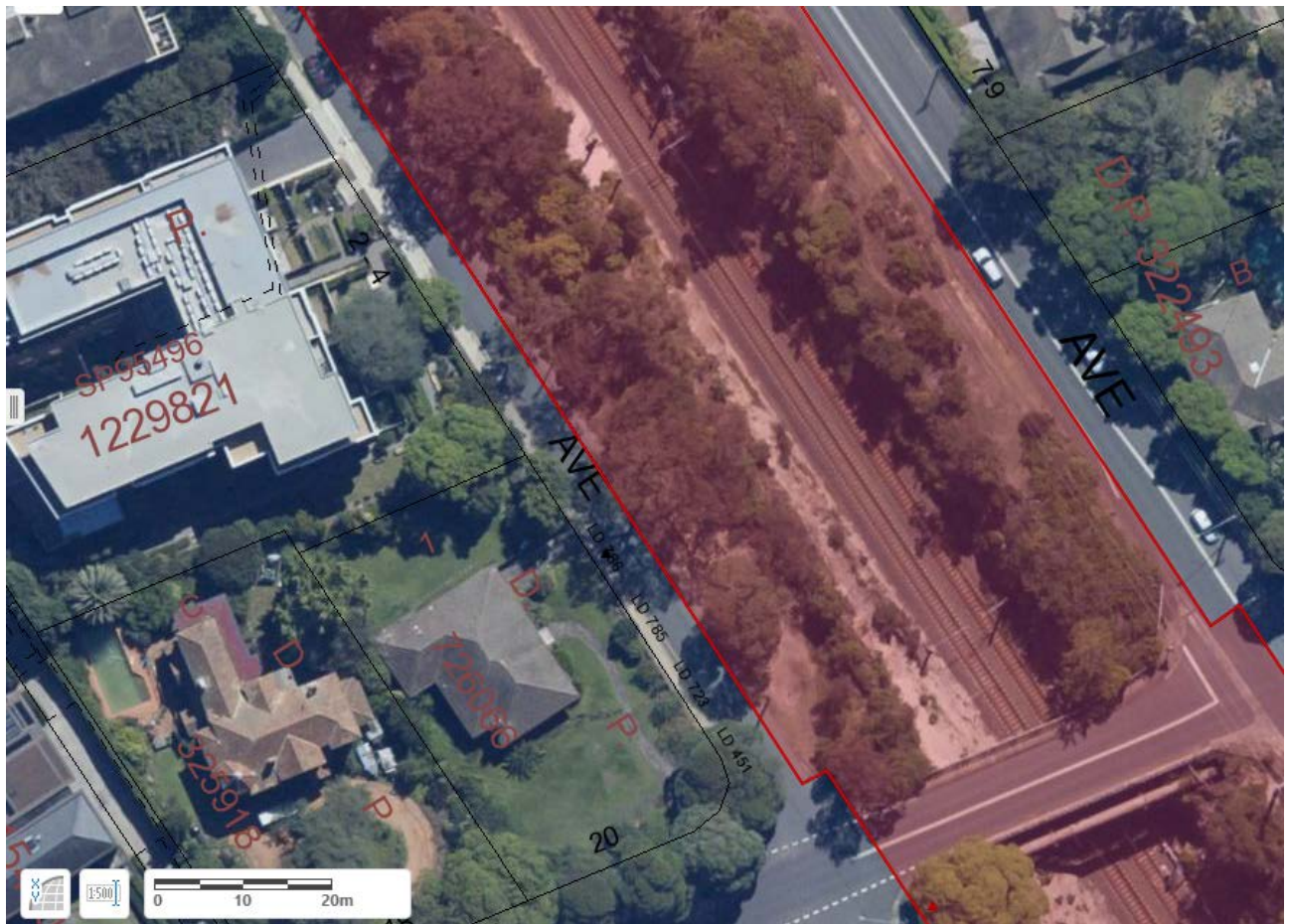
This also introduces a new funding component whereby the existing population is to be expected to subsidise provision of infrastructure that is directly required as a result of new development while still experiencing a reduced per capita rate of access to local parks in the context that the actual rate of provision of new local parks in Ku-ring-gai is approximately half the prevailing rates of provision of local parks.

Recommendation: That councils be allowed to utilise local infrastructure contributions to fund a “base level” of provision that is comparable to and not below the prevailing standard of infrastructure delivered in the recent past, under the current contributions plans.

Commentary on the challenges of demonstrating efficient design and efficient delivery

Ku-ring-gai Council anticipates that there may be many complex factors involved in the demonstration of efficient design. For example, the possibility of addressing need by the provision of infrastructure on land the council does not own, specifically Crown Land in the rail corridor or dual use of school properties for joint ventures delivering community infrastructure.

By way of illustration, Culworth Avenue in Killara narrows significantly between Selkirk Park and Stanhope Road. There is no prospect of widening this road without utilising Crown land.



At present the road ends at a soft shoulder on the boundary of Ku-ring-gai's road reserve. The existing location of the fence line protecting the rail corridor provides a considerable setback (see photo overleaf). This width would allow not only road widening but also, potentially, a footpath, a cycleway, a linear park and/or intermittent additional commuter car parking.

In this particular case, the opportunity for funding a road widening from local infrastructure contributions has largely passed as most of the potential unit development has already occurred, however it is presented as an illustration of the type of issue that may arise, remembering that the drafting of contributions plans occurs relatively early in the land release / upzoning process.

If it is not possible to come to a timely agreement with the landholder in the case of Crown Land, consideration needs to be given to how efficient – but not yet possible – works would be considered at the draft plan assessment stage.

In this context, Ku-ring-gai Council recommends that the NSW State Government devise a standard template agreement for the use of school property and for the use of land in the rail corridor to facilitate the provision of additional infrastructure on land owned by the Crown and that IPART publishes guidelines on what level of detail or advancement of any such intention is required to determine if the use of Crown Land is viable and should – or should not – be included in a Contribution's Plan under assessment for embellishment utilising local infrastructure contributions (or part local and part regional).



Recommendation: That the NSW State Government develops a standard template agreement (that can be modified for bespoke projects but serves as solid basis) for the use of Crown land for local infrastructure, especially recreational and open space facilities in Educational Establishments and cycleways, pedestrian access, road-widening, local open space, bushland & gardens and commuter car parking in railway corridors. A similar concept could also be considered as a supporting factor in the future drafting of Affordable Housing Contributions Plans.

Recommendation: That IPART develops clear principles about the level of detail required to be demonstrated in local infrastructure funding plans in the interests of demonstrating efficiency.

Conclusion

Within the constraints of the exhibition timeline, Ku-ring-gai Council has presented a submission that addresses our primary concerns and issues. We would welcome any opportunity for further engagement with IPART concerning the challenges of efficient infrastructure delivery within densifying established urban areas.