



Lane Cove Council

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Independent Pricing and Regulatory Tribunal NSW
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Submitted via IPART website

Dear Sir/Madam

Review of the essential works list, nexus, efficiency and standardised benchmark costs

Council thanks IPART for the opportunity to comment on its review of the Essential Works List and Standardised Benchmark Costs. Council also notes the Submission made by NSROC and supports that response. In particular, the failure of the Benchmark Costs work undertaken by Cardno to adequately differentiate between the infrastructure needs and costs of delivering infrastructure in brownfield vs greenfield areas.

Application of an Essential Works List (EWL) to all Contributions Plans

There is some confusion as to whether the EWL will apply to all 7.11 Contribution Plans, regardless of whether they are IPART assessed or not. Council is opposed to the application of an EWL to all Contributions Plans. Put simply, this will strip many legitimate items from Contributions Plans that both Council and its community consider vital infrastructure in supporting new communities. Through modelling undertaken by GLN Planning, future Contributions Plans will reduce by up to 35%, both in value and item content, going forward (excluding the impact of standardised benchmark costs). The only beneficiary of this proposed reform is Developers, by transferring the financial burden to the broader community, if the same standard of amenity is to be maintained.

If a Contributions Plan is required to support growth and development, and goes through a transparent process with suitable evidence, there is no justification for an EWL.

IPART acknowledges in its report, the appropriate infrastructure for a community differs between councils and should not be a blanket approach through the application of a restricted EWL to all plans. A flexible approach would be consistent with the collection of monies under the proposed Regional Infrastructure Contributions which it is understood would not be subject to the same project justification process or EWL costings. If a flexible approach is legislated for collection of contributions by the State Government, then this ought to be the case for councils as well.

2. Infrastructure that is included on the Essential Works list

Community facilities should be included as they are an essential component of planning for future population growth. Council is unable to identify any compelling case for the proposed removal of community facilities, which are essential to our community and the inability to fund them (proportion to population increases) through development contributions represents a significant loss to both Council and the community it represents.

The essential works list also restricts the provision of public domain improvements which are essential components of creating liveable, connected and accessible communities. This is inconsistent with the draft State Government *Design and Place State Environmental Planning Policy* which includes design principles and controls aimed to facilitate the provision of a high quality and diverse public domain spaces including streets and open spaces in concert with new development. It is essential that the interface between the public and private domain be planned and funded as a component of the development process.

Council's Contributions Plan is largely based on providing additional or expanded infrastructure to cater for the forecast growth within areas rezoned for higher density residential development as part of Council's Housing Strategy to meet State Government targets for housing provision.

To cater for anticipated growth, our Contributions Plan includes a variety of essential road works, open space, recreational and community facilities projects with total costs in excess of \$125 million yet to be levied from development contributions. Such a significant reduction in the types of infrastructure which can be included in a Contributions Plan works schedule would reduce Council's capacity to deliver the extent of planned infrastructure to support population growth.

A restricted EWL would also disincentivise planning agreement offers for works that can be offset from otherwise payable developer contributions. For example, developers can currently offer delivery of community facilities, benefiting the community through more efficient delivery of infrastructure and often allowing earlier delivery of works at lower costs and less disruption to the community.

3. Nexus

The infrastructure items contained within Council's Contributions Plan are all based on a demonstrable increase in the demand for public amenities and services (leading to the requirement for those works or facilities). The strong nexus has always been a requirement of Contributions Plans and is a feature of Council's plans.

However, the Contributions Reform Package includes the introduction of Regional Infrastructure Contributions (RICs) that will not be nexus based. As previously outlined, there needs to be consistency between RICs and local contributions. Council would, however, much prefer to see the RIC funds spent within a smaller catchment (for example, within the GSC Eastern City or local region .i.e. the North District) so that funds collected could be spent to provide tangible benefits to the communities living in the areas where development is occurring in accordance with the strategic planning priorities identified in Local and District Plans.

4. Efficient design and delivery

It is noted that only cost-effective infrastructure that provides the minimum (or base level) of performance or service can be included in a Contributions Plan. This aims to ensure developers only pay for the efficient cost of infrastructure. However, such an approach does not take into consideration the reasonable expectations of the local

community for the quality of infrastructure to be provided, nor does it necessarily align with the quality of the proposed development itself.

The quality of infrastructure would vary between local government areas and the composition and age of the population. It should be the responsibility of each council to determine the design quality of infrastructure in consultation with the local community. IPART's report appropriately acknowledges that it is difficult to define base level embellishment of open space without considering the circumstances and context in which it is being delivered. What one considers 'base level' can differ between communities and their specific characteristics and needs, which can change over time.

Mandating that only base-level infrastructure can be funded through contributions is likely to lead to the following undesirable outcomes:

- disadvantage communities as the facilities may either be overlooked and/or underutilised due to lack of innovation and quality
- an incompatibility between the standard of development and the provision of community amenity, which could lead to delays in their provision due to the gap-funding required to provide the facility at a level which meets community expectations.
- Failure to provide for innovative ways to expand capacity of facilities in Brownfield areas, for example synthetic turf sports fields to increase playing capacity – compared to the greater cost and impact of purchasing land and developing it as a new baseline cost sports field.

5. Standardised benchmark costs

It is understood that the aim of setting benchmark costs for particular items is to simplify the process of contributions plan preparation. Council is concerned the standardisation of benchmark costs set at a base level will lead to a further reduction to the value of Contributions Plans, resulting in under funding of infrastructure.

This will have the undesirable effect of Council having to fund the true costs of facilities over and above the costs set for standardised items. The compounding impact of removing items from the EWL and the application of standardised benchmark costs will mean the value of contributions to be collected will decrease by almost 50% and therefore will no longer be funded from Developer Contributions.

Flexibility to allow councils to identify cases when benchmarks are not likely to provide a reasonable cost estimate is needed and supported. However, the benchmark costs for open space (for example) do not acknowledge that these spaces are often designed and constructed for multi-purpose use. A good example is Playgrounds – council has a Playground Strategy that identifies a hierarchy of playgrounds that does not lend itself to the limitations of benchmark costing. Flexibility is required to encourage consideration of best practice design in the delivery of these spaces which is increasingly required to cater for high use for a range of users, across a wide variety of activities and a broad spectrum of age.

Further, the draft IPART report references requirements for more climate resilient infrastructure but does not appear to acknowledge that higher standards (and therefore costs) are likely to be required for infrastructure to withstand the climate extremes expected over their determined life cycle. Plans should not be subject to the benchmark costs or review where the contributions are below an agreed threshold amount.

The draft IPART report notes that there is often a mismatch between when infrastructure is needed and when it is provided by councils. The report appropriately acknowledges that this is partly because infrastructure contributions are paid by developers late in the development process (exacerbated by the fact that developers now pay contributions at OC stage, not the CC stage) and councils wait to receive

the money before spending it. The recommendation to include benchmark borrowing costs to forward fund infrastructure delivery is considered yet another form of cost shifting and is solely dependent on each Council's financial position, ability and capacity to forward fund the financial obligations that have historically been the responsibility of the developer.

6. Process for updating the benchmark costs over time

The proposal to undertake frequent updates and reviews to maintain the currency of benchmark costings is supported should they be pursued. At a minimum, costs should be reviewed annually as current experience demonstrates that costs are escalating rapidly given restrictions in terms of supply chain and demand on resources (both human capital and domestically/internationally sourced materials). This is having a disproportionate impact on costs and, therefore, Council's budget and long term financial sustainability.

Given the diverse range of infrastructure to be costed, brownfield vs greenfield cost impacts, and differing local conditions and standards, the estimation by firms such as Cardno and any subsequent indexation are unlikely to be accurate. As stated earlier, this unfairly transfers cost risk of new/expanded infrastructure onto the broader community.

Conclusion

In summary, it is unclear and there is little evidence provided of what impact reducing the quality and costs of infrastructure will have on developers in brownfield areas, which appears to be the main outcome of the reforms.

There is no evidence to support that developments in brownfield areas are not proceeding because local infrastructure contributions are too high, ultimately restricting housing supply. Lane Cove has increased in population by more than 30% in the last 10 years, despite the reforms not being present. This is because the local infrastructure contributions still represent a minor cost in the overall value of the development.

Developers simply seek certainty in knowing the cost of local infrastructure contributions when determining the value so they are able to factor them into their development feasibility.

The draft recommendations in the IPART report appear only to reduce the flexibility available to councils who are already restrained by the cap. Councils would be unable to provide the appropriate types of infrastructure at the appropriate levels of service to cater for forecast growth within areas rezoned for higher density residential development as part of Housing Strategies to meet State Government obligations for housing provision.

Council would appreciate the opportunity for more discussions with IPART. Should you require any clarification in relation to any of the matters raised, please do not hesitate to contact me on [REDACTED] or the Executive Manager – Corporate Services, Mr Steve Kludass [REDACTED]

Yours Sincerely

[REDACTED]

Craig Wrightson
General Manager