

10 December 2021

Jessica Hanna and Ineke Ogilvy
Independent Pricing and Regulatory Tribunal
Provided via online submission portal

Our Ref:2021/836227

Dear Ms Hanna and Ms Ogilvy

Submission to the Independent Pricing and Regulatory Tribunal (IPART)

Northern Beaches Council successfully utilises development contributions to fund the provision of local infrastructure for our community. Council welcomes the opportunity to provide comments on these draft reports and generally supports the NSW Government undertaking a review of the existing infrastructure funding framework, recognising that it is long overdue.

However, it is disappointing to see that the Terms of Reference provided to IPART do not allow a comprehensive review of the essential works list. In fact, the Terms of Reference expressly prohibit the inclusion of construction costs of community facilities despite the fact that this infrastructure meets the Department of Planning, Industry and Environment's own definition of development-contingent costs.

There are opportunities to implement amendments to IPART's exhibited reports to ensure a transparent and fair funding framework that allows appropriate infrastructure costs to be collected by councils.

Council's responses to the specific questions posed by IPART in the exhibited reports are provided below.

Review of Essential Works List, Nexus, Efficient Design and Benchmark Costs for Local Infrastructure

- 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?*

Council generally supports the principles based approach to the essential works list (EWL) and the inclusion of borrowing costs on the EWL. Council also supports inclusion of community facility strata space on the EWL which should include the associated parking requirements. Guidance is required on how this infrastructure should be costed, in particular, is it likely to include the purchase cost for the stratum in the future building?

It is disappointing the Terms of Reference explicitly stated that there will not be an expand EWL to include the construction cost of a community facility. Council disagrees with the Productivity Commission's statement that community facilities

are not development contingent infrastructure. These facilities meet the Government's own definition of development contingent infrastructure within the Terms of Reference provided to IPART - *"infrastructure costs with a casual connection to a development because they would be avoided if the development did not proceed"*. Community facilities are deemed essential by all communities. They foster a sense of community inclusiveness and interaction. The importance of these facilities (for example libraries) is only going to grow as technology evolves. The recent pandemic has highlighted the importance and reliance on these facilities by people of all ages and socioeconomic backgrounds. There is clear evidence and industry experience to demonstrate a nexus between increased development and the need for community facility floorspace. Industry benchmarks for floorspace are used to fund the provision of community facility land in IPART reviewed plans. How can land costs for community facilities be considered development contingent yet works cost cannot?

Council urges IPART to request that NSW Government reconsider the construction cost of a community facility for inclusion in the EWL.

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 requirement to establish nexus is a fundamental premise for contribution plans being prepared under Section 7.11 of the Environmental Planning and Assessment Act.

Council requests additional guidance be included to the following exhibited draft Practice Notes, namely:

- Practice Note entitled *"Making a Section 7.11 Contributions Plan"*, needs to expressly state that development-contingent infrastructure is not necessarily confined to "within the catchment area of a Contributions Plan" particularly traffic improvements and utilising opportunities for co-location or embellishment of existing open space facilities where the alternative would be the costly acquisition of new land within a precinct

For example, the Frenchs Forest Place Strategy includes traffic improvements to the local road network outside of the precinct to facilitate traffic to enter and exit safely and efficiently to/from the precinct.

- Practice Note entitled *"What can be funded in Section 7.11 and 7.12 Contributions Plan"*, should clearly identify the benchmarks for open space provision rather than relying on a reference in the still-to-be introduced Design and Place SEPP.
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)?*

Council contends that base level infrastructure must include costs associated with future proofing. Infrastructure needs to consider resilience and climate change.

Council supports IPART's comment that base level embellishment is not just the lowest upfront cost. This is particularly relevant to the provision of synthetic sportsfields that provide increased hours of use. These statements should be included in an updated practice note.

Council supports investigations of whole of catchment stormwater planning. The investigation of alternative precinct servicing arrangements should also be encouraged. It is noted that fewer but larger stormwater basins may be more cost effective to construct but may trigger onerous ongoing maintenance and reporting requirements for councils if the basins are large enough to be classified as a dam.

The draft Practice Note, "*What can be funded in Section 7.11 and 7.12 Contributions Plan*", should inform the benchmarks and should include examples of infrastructure types that IPART had previously considered appropriate and why would be an informative guide for councils.

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

Council requests that IPART provide benchmark costs for the following:

- Single sportsfield
- Single sportsfield with lighting
- Single and double sportsfields on former landfills
- Regional, district, neighbourhood and local playgrounds
- Synthetic sportsfields

Council requests guidance on how councils should cost strata space for community facilities.

Confirmation is also sought on demolition benchmark costs to other infrastructure types (where appropriate). Currently, demolition is only identified in Item 4.07 for Open Space Embellishment.

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

Yes. The use of adjustment factors are vital to minimise the onerous and time-consuming methodology that councils must use to deviate from the benchmark costs.

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

Land contamination and its remediation including the removal and appropriate disposal of asbestos or other contaminated material; and acid sulfate soils.

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

No response provided

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

A per person benchmark for open space is simple and easy to understand. However, Council agrees that the provision of open space should be a performance based approach that will allow councils to tailor the provision of open space for the specific precinct. This must be balanced to ensure that adequate land for open space is still prioritised and is not completely replaced by a higher level of embellishment to reduce development costs and improve feasibility.

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?*

No, 1.5% is insufficient particularly when land costs are excluded from the total value of the infrastructure works. Ongoing costs associated with the land costs component includes:

- Regular updates to land valuations associated with regular review of the contributions plan. As identified in IPART's report, it will also become more expensive for councils to prepare cost estimates that deviate from the benchmark costs.
- Negotiation costs incurred with land acquisition.

Councils will require significant changes to internal processes and software systems to respond to the recently exhibited reforms and updated reporting requirements that are funded from plan administration.

Council recommends that the total value of work includes land costs and the costs attributable for Land Value Contribution.

If this is unfavourable, the percentage should be increased to up to 3%.

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

Data that provides evidence on the true costs of plan administration includes Council-commissioned studies or tasks; Council employee costs specific to administering contributions plans.

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 generally supports the annual adjustment of benchmark costs using ABS Producer Price Indexes however for land value it would be prudent to adopt a specific Land value index produced by the NSW Valuer-General which provides a far more accurate reflection of changing costs of land as opposed to CPI or PPI.

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.*

Changes to benchmark costs that are not drawn from a metro-wide catchment will not reflect the higher costs of construction on the Northern Beaches. For example, concrete costs more on the Northern Beaches due to there only being two batching plants, whereas there is much more availability in other metro locations.

It is suggested that IPART could review the tender panel costs of a large representation of councils. This may give an accurate and relatively easy comparison of cost changes across the sample.

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?*

The methodology identified by IPART seems time consuming and onerous.

Council strongly disagrees that councils should be required to provide any further information to justify deviations from the standard benchmark costs.

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?*

IPART recommends that Council's update their plans with actual costs. Principle 6 states that "future development should not pay to fund any under-recovery arising from the actual costs of providing infrastructure for earlier development being greater than initially forecast".

Where infrastructure delivery costs are less than originally expected, council will be required to update their plans resulting in slightly lower contribution rates. However, where infrastructure costs are greater than originally expected, principle 6 prevents councils from amending their plan to reflect accurate contribution rates. This seems inequitable. If councils are required to update their 7.11 plans with actual infrastructure costs it shouldn't matter if those costs were less or greater than originally anticipated.

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

Yes, the information requirements are adequate and provides guidance for councils to, if they choose, deviate from the benchmark costs.

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

Generally, contributions plans above a threshold should be reviewed by IPART however Council contends that the current threshold is too low. Council requests that the threshold be increased to \$45,000, as per Council's submission to DPIE's Discussion Paper on development contributions in April 2020. This figure

generally reflects increases to infrastructure delivery and land costs since thresholds were originally introduced in 2010.

Typical Scopes and Benchmark Costs of Local Infrastructure

1. Are there other items that we should benchmark?

Council requests that IPART provide benchmark costs for the following:

- Single sportsfield
- Single sportsfield with lighting
- Single and double sportsfields on former landfills
- Regional, district, neighbourhood and local playgrounds
- Synthetic sportsfields

It is also noted that demolition is only identified in Item 4.07 under open space embellishment. Council seeks confirmation that councils can apply these demolition benchmark costs to other infrastructure types where appropriate.

2. Are the inclusions, exclusions and typical scopes appropriate and clear?

The inclusions/exclusions may become problematic where infrastructure is not being delivered in a greenfield area and work is occurring within the traffic lanes of existing roads and adjustments to existing infrastructure. Councils may be required to deviate from the benchmark costs more often in these circumstances. Council is also concerned that there has been no consideration of costs to prepare as-built documentation.

Council raises the concerns with the following benchmark costs:

- Item 1.14 Roundabout Single Lane – Council's standard design specifies 225mm island thickness. 150mm is unlikely to adequately slow vehicles or deter them from driving over the roundabout and should not be the considered the base level design.
- Item 1.16 Shared Pathway – the shared path in this item is only 1.5m wide. Transport for NSW has prepared a Cycleway Design Toolbox. This policy identifies that the minimum desired shared path width is 4m. This should form the minimum industry standard for this infrastructure item.
- Item 2.13 Stormwater Pipe – Council's panel rates for stormwater pipes are approximately double the benchmark costs. For example, Cardno suggest 375mm RCP at \$180/m. An average of Council's 5 panel rates is \$390/m. Additionally, Council's rates do not include excavation and backfill whereas the Cardno rate does. This represents a significant discrepancy that should be reviewed by Cardno.

- Item 2.15 Stormwater Pit - Council's panel rates for stormwater pits are significantly higher than the benchmark costs. For example, Cardno suggest 600mm at \$3,850 each. Council's panel rates are between \$4,000-\$6,000 each.

3. *Do the base costs reflect efficient costs?*

Council contends that base level infrastructure must include costs associated with future proofing. Infrastructure needs to consider resilience to climate change.

4. *Do the sub items and adjustments appropriately deal with project variability?*

No response is provided.

5. *Do the project allowances for on-costs and contingency reflect efficient practice?*

No, the project allowance for on-costs does not accurately reflect the cost of project management and design of local infrastructure in many cases. Cardno have provided no evidence to support the identification of the on-cost percentages in Table 2-7 of IPART's report.

All councils incur costs associated with managing contracts for design and construction, regardless of total contract value. Council requests that IPART review the on-costs allowance.

Should you require any further information or assistance in this matter, please contact my office on Ph: [REDACTED].

Yours faithfully

[REDACTED]

Andrew Pigott
Executive Manager Strategic & Place Planning