

26 May 2023

Mr Scott Chapman
Independent Pricing and Regulatory Tribunal
Via email: scott_chapman@ipart.nsw.gov.au

Our Ref: 2023/274544

Dear Mr Chapman

Frenchs Forest Town Centre Contributions Plan 2022

Thank you for the opportunity to provide a submission on the Independent Pricing and Regulatory Tribunal's (IPART) review of the Frenchs Forest Town Centre Contributions Plan 2022 (Contributions Plan). I am also grateful for the extension of time to allow the elected Council to endorse the submission at its meeting of 23 May 2023.

At this meeting, the Council unanimously resolved:

12.3 Submission to Independent Pricing and Regulatory Tribunal – Frenchs Forest Town Centre Contributions Plan 2022

That Council:

- 1. Make a submission, as provided at Attachment 1 of this report, to the Independent Pricing and Regulatory Tribunal for its consideration ahead of finalisation of its report on the Frenchs Forest Contributions Plan for the Minister for Planning and Public Spaces*
- 2. Write to the NSW Minister for Planning and Public Spaces, Minister for Local Government, and Member for Wakehurst seeking an exemption for Northern Beaches Council to enable the essential infrastructure list to include community facility floorspace, to enable Northern Beaches Council to collect funds for the construction of facilities which benefit the community as part of the Frenchs Forest Town Centre Contributions Plan, and to advocate for the Government's 'essential works' list to be amended to include community facility floorspace in all future contributions plan.*
- 3. Be advised of the NSW Minister for Planning and Public Spaces' final determination on the Frenchs Forest Town Centre Contributions Plan.*

Council supports IPART's role in reviewing the Contributions Plan and generally supports the recommendations in IPART's exhibited Draft Report, dated April 2023. Council's submission is attached and responds to IPART's recommendations and provides several suggestions in relation to the following matters:

- Removal of open space embellishment costs for Rabbett Reserve, and
- Indexation methodology for land costs.

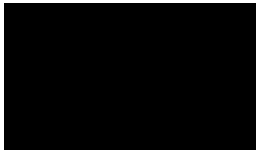
The efficient delivery of local infrastructure is critically important to the liveability and success of the Frenchs Forest Town Centre. If supported by IPART, the Contributions Plan will allow Council to levy for the range of local infrastructure required to address the infrastructure demands of this growing community.

In that regard, Council considers the community hub building in Frenchs Forest to be critical to the new community and has written to the Minister for Planning and Public Spaces, Minister for Local Government, and the Member for Wakehurst seeking their support for Council's request to enable the costs for the Frenchs Forest community facility to be exempt from the NSW Government's essential works list.

Council looks forward to IPART's final assessment report and recommendation to the Minister for Planning and Public Spaces.

Should you wish to discuss these matters or require any further information or assistance, please contact Liza Cordoba on [REDACTED]

Yours faithfully



Phil Jemison
Acting Executive Manager Strategic & Place Planning

Encl: Council Submission to IPART – Frenchs Forest Town Centre Contributions Plan 2022.

Submission to the Independent Pricing and Regulatory Tribunal (IPART)

Northern Beaches Council welcomes the release of IPART's review of the Frenchs Forest Town Centre Contributions Plan (the 'Contributions Plan').

Council appreciates the open dialogue afforded it through the review process thus far and appreciates IPART's support for the Contributions Plan insofar as it demonstrates appropriate nexus and reasonable infrastructure costs.

Council understands IPART has assessed the Contributions Plan in accordance with the Department of Planning & Environment's Practice Note on Local Infrastructure Contributions (January 2019), including the criteria IPART must use to assess a contributions plan. Council accepts that IPART must follow this assessment criteria and consideration of the essential works list provided to it by the NSW Government.

Council however maintains that the floorspace for community facility/library is essential infrastructure offering opportunities for social interactions and inclusiveness. Council contends that community facility/library floorspace meets the NSW Government's own definition of 'development contingent infrastructure':

Development contingent infrastructure means *"infrastructure costs with a causal connection to a development because they would be avoided if the development did not proceed"*.¹

Council is generally supportive of the recommendations proposed by IPART, as detailed in the following table.

	Recommendations	Council comments
1	Council update cost estimates based on designs in subsequent reviews of the contributions plan	Council agrees with this recommendation, ensuring that as the design for infrastructure is further refined, the corresponding costs will be updated accordingly.
2	The contributions plan be updated with the 2022 land valuations.	Council concurs the 2022 land valuations (commissioned in July 2022) and provided to IPART are to replace those currently in the Contributions Plan.
3	Council removes the embellishment costs of Brick Pit Reserve, Akora Reserve and Rabbett Reserve funded by grants	Council supports in part the removal of embellishment costs associated with Brick Pit Reserve and Akora Reserve. The embellishment costs for these two reserves will be funded by a grant from NSW Government, however the grant received is insufficient to account for the embellishment costs for Rabbett Reserve.

¹ Terms of Reference provided to IPART on 22 July 2021 by then NSW Minister for Planning and Public Spaces – Review of the local infrastructure contributions system (essential works list, nexus, efficient design and benchmarking)

		Accordingly, Council requests the embellishment costs for Rabbett Reserve be retained in the Contributions Plan (see details below).
4	Remove the costs for the community hub building from the contributions plan	<p>In principle, Council acknowledges that the costs for the community hub building cannot be funded by the Contributions Plan and will remove it from the Plan.</p> <p>Nonetheless, Council asserts that community facility floorspace is essential infrastructure for its community.</p>
5	Include an administration cost of \$12,000 per land acquisition where the council will have to acquire on a market basis. Council to provide actual costs as part of the next review.	Council welcomes this recommendation (noting this is part of the updated work schedule dated 7 November 2022), acknowledging the cost and resources involved in securing the land required for the commensurate infrastructure to be built upon.
6	The work schedule to be updated as per the version dated 7 November 2022 subject to the Minister's advice on including the recommendations of this report	Based on the recommendations in IPART's report, Council is generally agreeable with updating the work schedule of its contributions plan subject to further consideration of the retention of embellishment cost for Rabbett Reserve (see further commentary below).
7	Council investigates the preparation of a land value index for the proposed land acquisitions and the use of ABS PPI for indexing the cost of works.	<p>Council agrees that a land value index is more appropriate than the Consumer Price Index. Council has presented its preferred land value index below.</p> <p>Council agrees to use the ABS Producer Price Index for works costs.</p>
8	Council reviews the Frenchs Forest Town Centre Contributions Plan within 3 years.	<p>Council concurs that contributions plans should be subject to regular review and Council has a proven track-record in undertaking regular review of its various contributions plans.</p> <p>The adopted contributions plan came into effect on 1 June 2022 however the plan review by IPART means that the contributions rate is yet to be applied. It is prudent for Council to request that the first review of the contributions plan occurs within three years following the IPART-reviewed contributions plan coming into force. This would mean that the review would commence in FY2026/27.</p>

In addition to the above general comments, Council wishes to make the following specific requests:

- a. That the embellishment costs for Rabbett Reserve in the Contributions Plan is retained (*IPART recommendations 3 and 6*).
- b. That IPART supports Council's methodology for indexation for land value costs and incorporates this into an IPART-reviewed contributions plan (*IPART recommendation 7*).
- c. That the first review of the IPART-reviewed contributions plan occurs within 3 years from the date the IPART-reviewed contributions plan comes into effect (*IPART recommendation 8*).

These are discussed below.

a. Council requests that the embellishment costs for Rabbett Reserve be retained in the Contributions Plan (*IPART recommendations 3 and 6*).

The embellishment of Rabbett Reserve is required for the Frenchs Forest Town Centre precinct as part of the open space strategy developed by Council. Council understands IPART considers the nexus provided for delivering the open space strategy to be reasonable and appropriate.

IPART's recommendation 3 (and by inference recommendation 6), to remove the embellishment cost for Rabbett Reserve is based on Council's success in securing a grant from the NSW Government. That grant, amounting to \$6,165,679, was for the embellishment of existing reserves - Brick Pit Reserve, Akora Reserve and Rabbett Reserve – identified by Council to address the open space requirements for this precinct. The grant funding of \$6,165,679 is based on 2018 cost estimates which, at the time, Council believed sufficient to cover the cost of embellishment of all three reserves.

Based on a recent revised cost estimate for the embellishment of Brick Pit Reserve, the cost estimate is now estimated to \$4,108,323 (excluding costs for asbestos removal), up from preliminary probable cost of \$3,136,165 that incorporates contingencies, as well as an allowance for removal of asbestos that is anticipated to be encountered at the site. The current estimate, excluding potential site contamination remediation, represents a cost increase of 31% from the cost estimate prepared in 2018. This is consistent with the general increases seen across the construction industry over this time. Council anticipates that this escalation in costs will be consistent across all three reserves, as tabled below:

Reserve	Cost Estimate Prepared 2018	Applying 31% cost increase for 2023
Brick Pit Reserve	\$3,136,165.00	\$4,108,323.00
Akora Reserve	\$1,261,280.00	\$1,652,276.80
Rabbett Reserve	\$1,768,234.00	\$2,316,386.54
TOTAL	\$6,165,679.00	\$8,076,986.34

The tabled estimates do not include detailed site investigation, design development, community engagement and tender related costs. Detailed site investigations and design development for all three parks are included in the contract with the multi-disciplinary landscape consultant engaged in September 2022. Community engagement and tender related costs are anticipated to be an additional \$3,000 for all three parks.

This month, a quantity surveyor engaged by Council on another project provided the following information on the construction industry during and post pandemic in relation to construction pricing.

'In recent years, and more specifically, while most of the world was in some level of lockdown, the building industry followed a slowing trend brought about by the global pandemic (among other normal market forces and available workloads). This phenomenon affected the construction industry greatly as projects stalled at varying stages, and this also began to affect the cost of construction. At that time, various anecdotal sources pointed to a reduction in construction costs, driven by builders and contractors tendering very competitively to secure future workload from a decreasing number of upcoming projects. At the time however, the published indices suggested a slowdown only and not necessarily a reduction in the cost of construction.'

The reality of the affect that imposed lockdowns had on the building and construction industry, and specifically the 'cost' of building and construction, is that costs have been driven up very sharply. Supply and demand are the main factor behind a steep upward change in the cost of construction. This is across all aspects of material supply and labour across all trades. Following the pandemic, the world re-opened and, as in other countries, the Australian construction industry bounced back with all those projects on hold during lockdown coming back online and putting immense pressure on the supply chain around the world. When there is massive demand and restricted supply there is steep cost increases.

Unfortunately, with some types of projects, which rely heavily on a specific materiality for longevity of lifecycle, such as stainless steel or even timber, we are left with uncertainty and high costs when estimating outturn costs for the project.

There is a labour shortage in the industry which is also adding to the cost of construction. There is a lot of uncertainty in the industry and pricing does not look like settling any time soon.'

Council secured a grant amounting to \$6,165,679. However the grant funding:

- was provided as a lump sum and is not indexed to reflect changing infrastructure delivery costs, and
- is now insufficient to cover all embellishment costs for the three reserves, and
- will only cover the embellishment costs planned for Brick Pit Reserve and Akora Reserve. These reserves have been prioritised for the grant funding as they are closer to the Frenchs Forest Town Centre precinct.

The embellishment cost for Rabbett Reserve is estimated at \$1,893,027 (unindexed and based on essential construction costs prepared by Mitchell Brandtman in the cost

estimate dated 13 December 2021, already provided to IPART on 5 August 2022). This cost is also identified in the essential works calculations of the updated works schedule dated 7 November 2022 and reviewed by IPART.

Rabbett Reserve is an integral part of the open space requirements for the incoming residential population of the Frenchs Forest Town Centre precinct. If the embellishment cost for Rabbett Reserve is not funded by the contributions plan, Council cannot deliver this infrastructure and it will become an unfunded liability for Council. This will result in a shortfall of open space and recreation infrastructure for residents of the Frenchs Forest Town Centre precinct.

Council requests that IPART:

- *review and amend recommendation 3 of its report, and remove Rabbett Reserve from this recommendation, and*
- *review and amend recommendation 6 of its report by including in this recommendation the embellishment costs for Rabbett Reserve in the updated Works Schedule, being \$1,965,836.00 (indexed 7 November 2022).*

b. Council seeks IPART's support to its methodology for indexation for land value costs (IPART recommendation 7).

Council acknowledges that the use of the Consumer Price Index is not an appropriate indexation methodology for land costs and works costs in the Contributions Plan. Council agrees to use the ABS Producer Price Indices for works costs and would seek to amend the contributions plan as soon as practicable to implement the change.

Council recently completed its investigation on indexation methodology for land costs and has prepared a "Discussion Paper – Indexation of Land Values", appended to this submission.

Council considers the most appropriate indexation methodology for an infill/brownfield contributions plan is the annual percentage change identified in the Valuer General's (VG) report on land values in the Northern Beaches. This methodology provides an annual location-specific reflection of residential land cost changes. An analysis of the cost changes between Council's 2020 and 2022 land valuation for the Contributions Plan shows that the VG annual residential percentage change was an accurate indicator over this period.

In contrast, some contribution plans for greenfield release areas have adopted a bespoke location specific land value index, prepared quarterly or annually by a valuer. This approach is not considered appropriate for an infill area where the total acquisition costs are relatively low and plan administration costs are collected from a small development base. The plan administration costs to be collected by the Contributions Plan will be insufficient to cover these annual bespoke valuation costs over the life of the plan.

Council requests that IPART:

- *agree to Council's land value index methodology for implementation in its contributions plan, and,*

- amend recommendation 7 to read as follows:

‘The works costs index is updated to the ABS Producer Price Indices and the land cost index is updated to Council’s land value index methodology subject to the Minister’s advice on including the recommendations of this report.’

- c. **Council requests that the first review of the IPART-reviewed contributions plan occurs within 3 years from the date the IPART-reviewed contributions plan comes into effect (IPART recommendation 8).**

Council already reviews its existing contributions plans on a regular basis, acknowledging that this is integral in its responsibility and financial accountability as a public agency.

Council recognises that reviewing any contributions plan is complex and time consuming, and this is even more so for an IPART-reviewed contributions plan. Any material change to an IPART-reviewed contributions plan requires the plan to be submitted to IPART for consideration and approved by the Minister. The rigour applied to the review of an IPART-reviewed contributions plan extends the review process to a minimum 18-month timeframe before the plan can come into force.

Council requests that IPART amend recommendation 8 to read as follows:

‘Council undertake a review of the IPART-reviewed contributions plan within 3 years from the date the IPART-reviewed contributions plan comes into effect.’

Discussion Paper - Indexation of Land Values

(Case Study - Frenchs Forest Town Centre Contributions Plan)

PURPOSE

To investigate a land value index for proposed land acquisitions in Council's 7.11 contribution plans as the current indexation with the Consumer Price Index does not accurately reflect changes to land costs.

To recommend an appropriate methodology for the indexation of land acquisition costs in Council's 7.11 contribution plans.

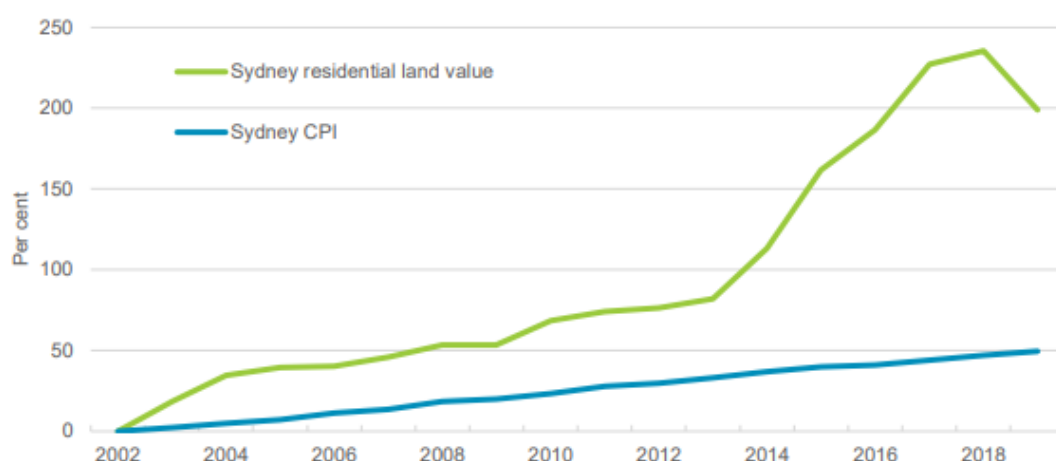
CONTEXT

A statutory requirement of 7.11 contribution plans is the identification of infrastructure costs to be funded by the contributions plan. Infrastructure costs are incurred over the life of a contributions plan and change over time as they are influenced by market factors which are outside of Council's control. It is best practice for 7.11 contribution plans to anticipate future changes to infrastructure costs and account for these changes in the calculation of future contribution rates through indexation.

During the preparation of the Frenchs Forest Town Centre Contributions Plan (the Contributions Plan), Council planned to index land acquisition costs with the Established House Price Index released by the Australian Bureau of Statistics (ABS). Before Council could adopt the Contributions Plan, the ABS discontinued this index. This resulted in land costs in the Contribution Plan currently indexed annually by the Consumer Price Index (All Groups Index) for Sydney (CPI), released by the ABS.

It is recognised that CPI does not accurately reflect the historical change in land values. The below excerpt (titled Figure 4.2: Movement in Sydney residential land value against Sydney CPI) identifies the disparity between CPI and Sydney residential land values over the past 20 years.

Figure 4.2: Movement in Sydney residential land value against Sydney CPI



Source: ABS 6401.0, Valuer General's Report on Long Term Land Value – Trends Residential, DPIE

[Review of Infrastructure Contributions in NSW July 2020](#) - NSW Productivity Commissioner, p50

ASSUMED BASE CASE

Council's most recent 7.11 plan is the Frenchs Forest Town Centre Contributions Plan (the Contributions Plan), which came into force on 1 June 2022 (same date as this land was rezoned). As Council is yet to receive any development contributions under the Contributions Plan and there is land acquisition identified in this plan, it is appropriate to use the Contributions Plan as the test case for investigating options for indexation.

Once the recommended approach is supported by Council's Contributions Panel (the 'Panel'), this can become the adopted approach for indexation of land in all 7.11 contribution plans. This is the adopted approach Council would present to the Independent Pricing and Regulatory Tribunal (IPART) for its consideration.

Land Identified for Acquisition in the Contributions Plan

Seven (7) full properties and 14 partial properties are identified for acquisition in the Contributions Plan for road widening and open space. Excerpts from the Contributions Plan identifying the land to be acquired are shown in Figures 1 and 2.

The following matters must be accounted for:

- a. Only three properties identified for acquisition are within the Frenchs Forest precinct having received the benefit of the upzoning/new planning controls on 1 June 2022.
- b. The remaining properties identified for acquisition are outside of the precinct and retain their existing zoning of R2 Low Density Residential.
- c. Only two properties (both outside of the Frenchs Forest precinct and retaining their existing zoning of R2 Low Density Residential) are identified on the Land Reservation Acquisition Map under the Warringah Local Environmental Plan 2011 (WLEP) and are a consequence of the Frenchs Forest precinct.
- d. Currently, the land acquisition costs in the Contributions Plan are informed by a 2020 valuation report prepared by Cushman & Wakefield.
- e. The timing of land acquisition is dependent on development activity and the availability of required funds.
- f. If the Minister for Planning and Public Spaces supports Council's proposition to acquire the land in the Contributions Plan (subject to IPART recommendation), Council will need to commence the rezoning process to amend WLEP. The rezoning is aimed at providing certainty that the land components commensurate with development of Frenchs Forest precinct are identified for a public purpose, namely:
 - Three full properties adjacent to Akora Reserve and one full property adjacent to Rabbett Reserve are to be rezoned RE1 Public Recreation from R2 Low Density Residential.
 - All properties required under the Contributions Plan for acquisition are identified on the Land Reservation Acquisition Map.

Following the rezoning of the Frenchs Forest precinct on 1 June 2022, Council commissioned an updated valuation to account for recent market movements. The updated land valuation was prepared by Cushman & Wakefield on 22 July 2022 (the 2022 valuation). The 2022 valuation specifically:

- is based on the highest and best use that the current planning controls allow; and
- allows for all additional costs required by the Land Acquisition (Just Terms Compensation) Act 1991.

The 2022 valuation identifies that the total estimated cost of land acquisitions in the Contribution Plan is \$25,113,667.

OPTIONS FOR INDEXATION OF LAND COSTS

Assumptions

The following assumptions have been made:

- a. The indexation attributed to land acquisition costs needs to:
 - be readily accessible, and
 - accurately account for annual changes in land costs between the period of regular plan reviews.

There is a legislative framework governing the preparation of and amending contributions plans. Section 215 of the Environmental Planning and Assessment Regulation 2021 is the relevant provision and in part, reads as follows:

215 Amendment or repeal of contributions plans

- (1) *A council may amend a contributions plan by a subsequent contributions plan...*
- (5) *A council may make the following kinds of amendments to a contributions plan without preparing a new contributions plan —*
 - (a) *minor typographical corrections,*
 - (b) *changes to the rates of development contributions set out in the plan to reflect quarterly or annual variations to —*
 - (i) *readily accessible index figures adopted by the plan, such as the Consumer Price Index, or*
 - (ii) *index figures prepared by or on behalf of the council from time to time that are adopted by the plan,*
 - (c) *the omission of details of works that have been completed.*
- b. A contributions plan is regularly reviewed to account for updated assumptions, revised scope of works and any changes to cost estimates and land valuations.

Any review of a contributions plan legally means preparation of a new contributions plan including public exhibition and formal adoption by Council. If, as part of a review, the residential contribution rate results in exceeding the threshold of \$20,000 per new dwelling/residential allotment then the plan is to be forwarded to IPART for review.

In the case of an IPART-reviewed contributions plan that is the subject of Council's review, Council's new plan will need to be reviewed by IPART.

Option 1 – Annual Land Valuation

Undertaking an annual valuation of all properties identified for acquisition in the Contributions Plan is likely to present the most accurate reflection of changes in land costs. However, incorporating the updated land costs in the Contribution Plan will require the preparation of a new plan that will need to be submitted to IPART for review (at which time it takes 12 months for IPART to complete its review).

Option 1 is not feasible due to statutory timing and administrative requirements for the preparation of a new contributions plan.

Option 2 – Location Specific Land Index

Using the 2022 valuation as the base year, Council could commission a valuer will prepare a location specific land index to reflect annual cost changes. This index could be targeted to reflect changes in the Frenchs Forest suburb. An index figure will be produced by the valuer

annually and can be used to update the contribution rates without the need to prepare a new contributions plan. A full land revaluation will also occur every three years as part of the rolling review.

Pros

- Provides a relatively accurate representation of cost changes due to the location specific nature of the index.
- This approach has been implemented by several other Council's in greenfield release areas.

Cons

- An expensive recurring cost and administrative burden which may be required for up to 20 years depending on the progress of development in the Frenchs Forest precinct.
- Plan administration funds collected under the Contributions Plan are unlikely to be sufficient to cover these anticipated costs.
- This approach is more appropriate for greenfield release areas where total acquisition costs are higher and plan administration costs are collected from a much larger development base.

Option 3 – Valuer General's Annual Report for the Northern Beaches

The 2022 valuation forms the current base year, and a full revaluation will occur every three years as part of the rolling program of review.

To account for cost changes in the years between revaluations, land costs can be indexed using the annual percentage change identified in the Valuer General's (VG) report on land values in the Northern Beaches.

This report identifies the annual change in residential land values across the Northern Beaches and is publicly available on the VG website. An excerpt from the report dated 14 November 2022 is provided below.

Zone	Zone Code	Number of entries	2022 Total Land Value	Prior Annual Valuation (2021)	Change since 2021	Prior Local Government Valuation (2019)	Change since 2019
Residential	B4,C4,R1,R2,R3,R5	62,313	\$132,913,538,638	\$105,796,397,796	25.63%	\$79,010,727,281	68.22%
Commercial	B1,B2,B3,B5,B6,B7	1,333	\$4,659,268,241	\$3,782,003,628	23.20%	\$3,676,962,230	26.72%
Industrial	IN1, IN2, IN4	836	\$2,152,777,322	\$1,695,961,787	26.94%	\$1,594,811,860	34.99%
Other	SP1, SP2, SP3, C1, C2, C3, RE1, RE2, W1, W2	2,941	\$5,129,263,233	\$4,493,818,577	14.14%	\$3,868,946,160	32.58%
Rural	R, RU2, RU4	1,208	\$3,915,196,780	\$3,274,189,200	19.58%	\$2,699,571,190	45.03%
Total		68,631	\$148,770,044,214	\$119,042,370,988	24.97%	\$90,851,018,721	63.75%

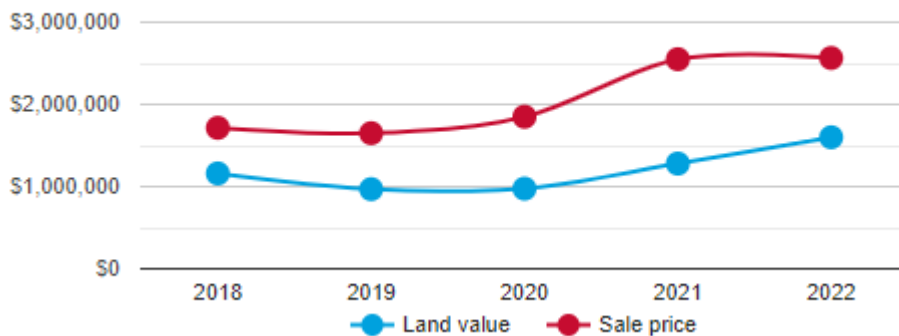
Northern Beaches LGA Final Report, November 2022 – Valuer General

https://www.valuergeneral.nsw.gov.au/land_value_summaries/reports/2022/Northern_Beaches.pdf

An analysis of the cost changes between the 2020 and 2022 valuation reports has identified that the VG annual residential percentage change was accurate over this period. However, it is important to acknowledge that the VG report reflects land values which are not the same to sale prices.

The following graph from the VG website identifies movements in property sales and land values for the Northern Beaches over a five-year period. This graph shows similar movements between the two over this period.

Median land values and sale prices



Source: VG website

https://www.valuergeneral.nsw.gov.au/land_value_summaries/lga.php?lga=271&base_date=01072022

Pros

- The index figure is free, publicly available and released by an independent reputable source.
- Easy to administer and easy for the public to understand.
- The index figure is considered reasonable and defensible.
- The index is only applied to the two years between Council's regular review of 7.11 contribution plans every three years upon which updated land valuation and infrastructure costings are undertaken.

Cons

- May not be as accurate as bespoke annual land valuations.

RECOMMENDED OPTION

Option 3 is the preferred methodology for indexation of land costs in Council's 7.11 contribution plans for the following reasons:

- a. Land identified for acquisition is revalued every three years as part of the rolling review of the Contributions Plan.
- b. Land costs are indexed for the two years between revaluations using the annual change in the Valuer General report on land values in the Northern Beaches.
- c. Indexation will occur annually following the public release of the Valuer General's report.

Image 1 - Land to be acquired for traffic and transport infrastructure

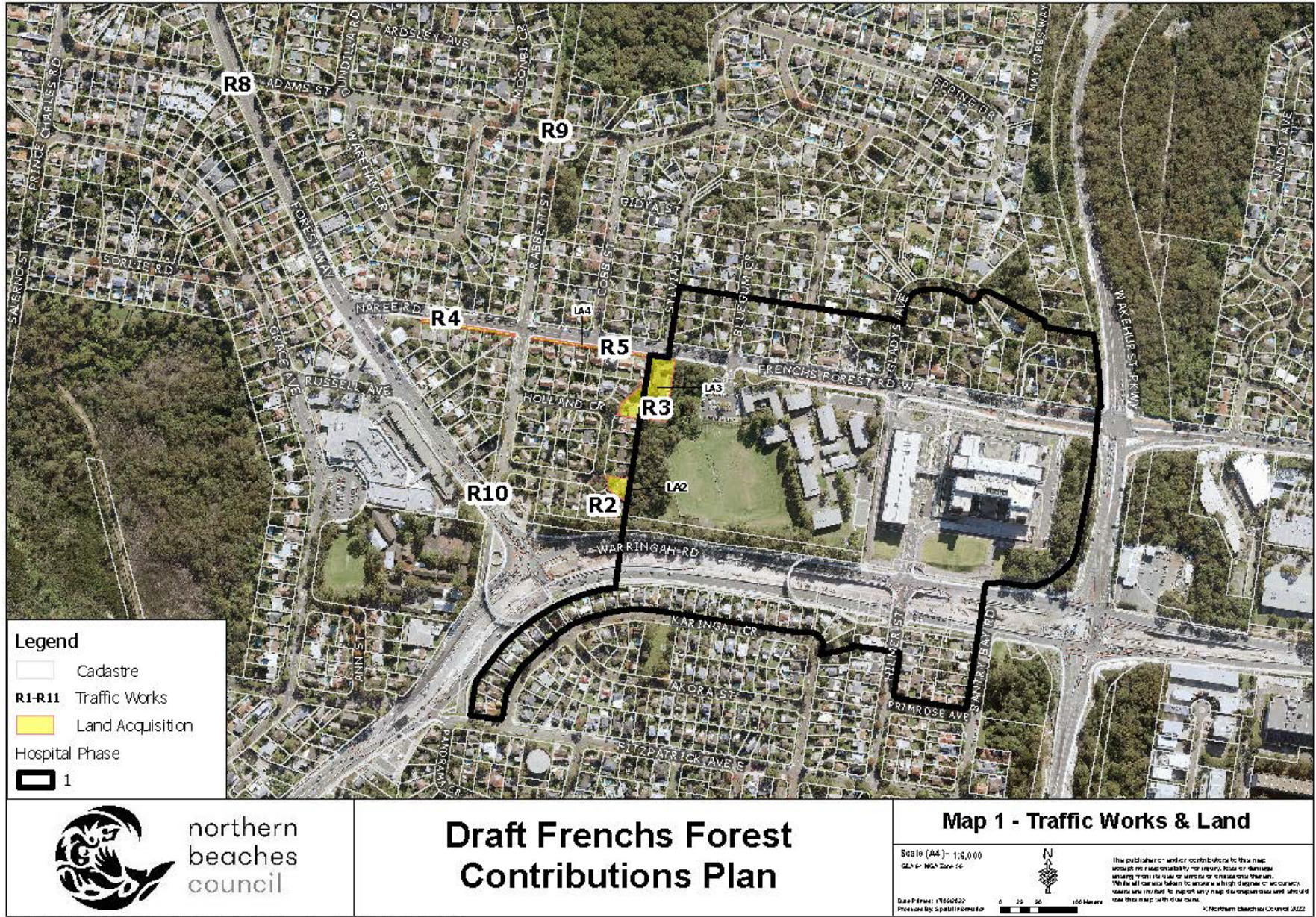


Image 2 - Land to be acquired for open space

