

26 November 2021

Independent Pricing and Regulatory Tribunal
PO Box K35
Haymarket Post Shop NSW 1240

Dear Sir/Madam

DRAFT REPORT - REVIEW OF THE ESSENTIAL WORKS LIST, NEXUS AND EFFICIENT INFRASTRUCTURE DESIGN

Thank you for providing Queanbeyan-Palerang Regional Council (QPRC) with the opportunity to comment on the recent draft report prepared by the Independent Pricing and Regulatory Tribunal (IPART) into the review of the essential works list, nexus and efficient infrastructure design. Council agrees to this submission being made publicly available or published if requested.

Please also note that in view of the IPART's draft findings being made available at the Public Hearing QPRC may be making a supplementary submission to this one.

Also, it is understood from a joint media recently released by the Minister for Planning and Public Spaces and the LGNSW President that further changes are to be made to the infrastructure reform package. At the time of writing the details of these are unknown and so the comments in this submission are based on the knowledge at time of this submission.

Council acknowledges IPART's review has been limited to those matters directed by the Minister for Planning when requesting the review. However, where QPRC is of the view certain matters are important to the broader administration and collection of developer contributions it has also raised these issues in this submission for further consideration by the State Government.

As IPART would be aware, the Department of Planning, Industry and Environment (DPIE) is also currently consulting on a range of matters relevant to the broader development contributions system. From QPRC's perspective it would have been much less confusing had the State consulted with local councils on a single package of proposed changes, and that any policies or documents that fundamentally inform these changes (such as the proposed 'Place SEPP') are also available for consideration.

The consultation approach on the changes at this time also appears somewhat disjointed. For example, it is understood there will now be a Public Hearing (with no details being initially provided) into the draft report with submissions also being extended to 10 December 2021 and councils being notified of these changes well into the exhibition period. As such, Council will have little opportunity to consider any elements of the public hearing and probably no opportunity to consider its findings at the time that it is required to make a submission. On the whole, this is a less than ideal

OFFICES

144 Wallace St, Braidwood
10 Majara St, Bungendore
256 Crawford St, Queanbeyan

POSTAL

PO Box 348, Bungendore NSW 2621
PO Box 90, Queanbeyan NSW 2620

PHONE/FAX

Bungendore/Braidwood
P: 02 6238 8111
Queanbeyan
P: 02 6285 6000 F: 02 6285 6666

EMAIL/WEB

W: www.qprc.nsw.gov.au
E: council@qprc.nsw.gov.au

ABN 95 933 070 982

approach to communication around the proposed changes and creates confusion and uncertainty at a local government level.

Regardless, Council has reviewed the draft documentation provided by IPART and provides the following comments as feedback.

Value of Contributions

QPRC is of the view any analysis of the arrangements for collecting Section 7.11 developer contributions needs to be informed by an accurate and objective assessment of the current system. At this time, there is no discussion in IPART's review as to how the real value of developer contributions throughout the State has changed over time, and, to what effect that has impacted on the delivery of infrastructure in different communities.

It appears one of the overt objectives for the review of contributions by the State Government in this instance is to address a concern from the development industry that contributions are excessively high. It is one of the key features of the current contribution system in NSW that the real value of section 7.11 contributions have continued to fall significantly since the Minister initially introduced the direction capping developer contributions to \$20,000 per lot (or \$30,000 per lot in greenfield areas). In reality, the value of developer contributions is significantly lower today as a percentage of the overall costs of a new home than was the case when the caps were introduced given the changes in relative property prices over the last decade. In reality, restricting developer contributions has also had little impact on housing affordability.

In addition, there is also no analysis as to how communities' expectations about the level of local infrastructure provision have evolved during that time, particularly given the State's expressed focus on promoting high quality urban environments that provide for the services and facilities residents require. It appears the review is primarily driven by how costs can be reduced as opposed to what facilities are actually needed and expected by residents, and how is that delivered in a certain and cost-effective manner. It is disappointing that a number of elements of the review are tied to DPIE's proposed 'Place SEPP' (such as standards for open space and embellishment), however this document is not available for consideration when commenting on IPART's specific review in this instance.

Essential Works List

In theory, QPRC supports the development of an essential works list (EWL) to guide what infrastructure is included in local contribution plans. This will help create greater certainty for planners, the community and development industry when preparing and reviewing contribution plans. The principles-based approach to the EWL set out in the review are generally reasonable.

However, Council remains fundamentally opposed to any proposal to not allow for the collection of contributions to fund community facilities. It is not logical that the need for land for community facilities is recognised by the EWL but the subsequent facility on that land is not. That is not to suggest that local councils should be able to collect for any types of facilities, but rather core facilities such as community centres should be able to be collected. QPRC's experience in land release areas (such as Jerrabomberra

and Googong) is that such facilities provide an important and much used space for various community events and meetings (crisis support, counselling, alcoholics anonymous, elderly services, social events and health services). It seems an option of still allowing for the collection of community facilities where a plan does not exceed the cap has not been considered, however would be a reasonable approach to ensuring contributions for such facilities are not excessive in individual plans. Alternatively, a provision that sets a maximum value percentage that community facilities may contribute to a contributions plan, for example, that the costs for such facilities may never exceed 10% of all costs in a plan, would have been another option.

It is unclear how the State sees such facilities being funded in the future if they are not funded by local developer contributions. There is no capacity to provide such facilities from rates, and none of the potential changes to rate pegging are likely to change this.

QPRC generally supports borrowing costs for infrastructure being included in new contribution plans as this may encourage councils to have a greater role in funding local infrastructure upfront where there is identified growth that will fund that work.

In respect of other facilities (such as embellishment of open space) it is noted one of the expressed objectives is to ensure only the most basic infrastructure is delivered under a contribution plan. These seems likely to ensure new communities do not have quality facilities and infrastructure available when developed. Again, this seems to be inconsistent with the State's expressed desire to create high quality living environments for its residents.

QPRC also supports the concept of having a fixed percentage cost to cover the future administration and preparation of the plans. However, one matter that needs further consideration by the State is that the additional reporting requirements, reviews and nexus requirements will fundamentally increase the workload on local councils. QPRC would argue 1.5% covers a council's current preparation, implementation and preparation costs for a plan. These additional requirements will likely require QPRC to have to engage private consultancies with associated costs well above the 1.5% value of a contribution plan.

This also raises the issue of the proposed transitional period. Given the lack of suitably trained staff (as acknowledged in the Productivity Commission's original review), the lack of resources in local government to attract qualified staff, and the time it will take to train new planning staff if available, it is suggested the transitional period should be extended to at least 1 July 2025.

Council has identified two types of infrastructure for which it currently collects contributions that are not included on the proposed EWL. These are road maintenance for extractive industry developments, and, bushfire infrastructure.

For example, QPRC currently has a Section 7.11 Contribution Plan for Extractive Industries that requires the Holcim Quarry south of Queanbeyan to make contributions towards a number of local roads it uses. The State Significant development approval for the site requires the quarry to make contributions to Council under this contribution plan. This use clearly creates additional infrastructure costs for Council and community. The principle of seeking a payment of contributions for road maintenance was initially established by case law. In the Land and Environment Court case of Collin C Donges

& Associates Pty Ltd -v- Baulkham Hills Shire Council (1989) it was established that council's may levy S94 (no s7.11) contributions towards the "cost of maintenance, repair and reconstruction of classified main roads under the *Roads Act, 1986.*" make contributions to local road improvements and is found in a number of contribution plans throughout the State. In the absence of this ability it cannot be assumed councils will enter into local planning agreements and the like to cover these costs.

QPRC also collects for bushfire infrastructure in the former Tallaganda Shire LGA. New rural and rural residential developments create an additional need for new rural fire sheds and accompanying infrastructure. It is appropriate these communities contribute to this infrastructure and those costs are not subsidised by the broader community, particularly those in urban areas who do not necessarily benefit from that infrastructure.

Benchmark Costs

In theory, Council is supportive of the concept of benchmark costs. These have to potential to significantly reduce the complexity in producing costs for contribution plans and represent an efficiency for local government when preparing contribution plans.

However, benchmarks costs need to be reasonable and based on likely actual costs. IPART has previously published benchmark costs for contribution plans, however it is generally recognised those costs lacked accuracy and were outdated within a short period of being published.

It is noted the proposed benchmark costs for the EWL have only been made available as of 12 November 202. As such, Council staff have had not had the opportunity to review the suitability of these proposed costs at this time. Council has been advised by DPIE that it is unclear if the benchmark costs will be implemented in the next three years given the deferral in introducing the proposed EWL.

Again, benchmark costs potentially have some value for smaller and less well-resourced councils. However, given Council has not had the time to review these costs it cannot commit to the proposed benchmark costs at this time.

Proposed Contingency, Land Valuation Guidelines and Benchmark Borrowing Costs

A standard contingency fee is considered reasonable however it should be made clear how previous and future contributions are to be rationalised in the event a contingency becomes either unnecessary or lower than escalated costs after a review.

Council supports land valuation guidelines from Valuer-General and the proposed standardisation of land valuation indices in contribution plans.

Benchmark borrowing costs are also supported however should be regularly reviewed to ensure they remain current.

Review Periods

Council agrees plans should be reviewed on occasion, however, would argue that the concept of every plan being reviewed every 4 years is excessive and will create significant and potentially unnecessary work for local councils. It is an ongoing concern

of the Council that the Department does not provide due weight to the cost and resourcing implications for local government when it proposes such significant changes.

Council understands that if a plan is using cost estimates rather than benchmark costs then a plan should be reviewed to test the accuracy of those costs. However, if a plan only contains items on an EWL, is using benchmark costs, and, is below the relative cap, there should be no requirement to review the plan.

Where plans do require a review, Council would suggest every 5 years is a more logical review period.

The draft report is also silent as to how contributions are to be rationalised when a plan is reviewed in a manner that results in contribution rates being either increased or decreased as an outcome of that review. If costs decrease, do previous contributions have to be remitted? Conversely if costs are shown to escalate, to those that have already paid have to pay more again? It seems some of these aspects of reviewing plans have not necessarily been considered.

Workload Impacts

Council notes there is little discussion or consideration of the potential workload implications on local councils associated with the Department making such significant changes. In reality, the proposed changes significantly increase the workloads around reporting and reviewing of plans. It is an ongoing concern of the Council that little weight is given by the State Government to the cost and resourcing implications for local government when it proposes such significant changes.

The State Government should be aware that where scarce local planning resources are required to be allocated to additional reporting and review requirements, they will be distracted from undertaking strategic planning to facilitate new development.

Again, thank you for the opportunity to make a submission.

If you have any enquiries in respect of this letter, please contact Martin Brown in the first instance on [REDACTED].

Yours sincerely

[REDACTED]

David Carswell
Service Manager
Land Use Planning
Queanbeyan-Palerang Regional Council