

Tweed Shire Council

Response to Draft Report Essential Works list Nexus Efficient design and Benchmarking costs for local infrastructure 29 October 2021 Review

25 November 2021

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?24

Council does not support extending the ban on funding Community Facilities such as community centres and libraries through section 7.11 Plans from the EWL. Such a decision will result in a shortfall of valuable community facilities and / or likely cost shifting from new residential development projects, which create the demand for such facilities (the link between development and demand) onto existing and future ratepayers.

The justification based on NSW Productivity Commission considering community facilities “general costs that are driven by population growth rather than development contingent” requires further clarification because generally if there is no development generating population growth, then there is no demand for additional community facilities, or for that matter any other infrastructure.

Reference to Councils being able to borrow more to fund such facilities based on a possible but unspecified change to rate regulation is a high risk proposal for Councils especially as what is proposed regarding “rate pegging” changes is currently unknown. Further uncertainty exists around developers actual timeframes for delivery of projects which could mean funds have been borrowed too early and facilities constructed too far in advance of any demand which would be an inefficient use of funding.

Further information is requested as to why IPART has recommended the removal of community facilities from the EWL for Plans that do not exceed the contribution thresholds of \$30k and \$20k already in place to ensure developer contributions are reasonable. There also needs to be discussion on how such change will be managed where exiting Plans are already in place, especially if the proposal is to be retrospective, which is not clear from the IPART document.

The inclusion of allowing strata space acquisition to be included is positive but problematic in terms of when a contributions Plan is established how is it known that such space will be created? And in what time frame (no certainty) and how is its value determined?

Community and cultural infrastructure plays a critical role in providing social inclusion spaces for all ages, cultural backgrounds and abilities, sharing knowledge and connections and creating a sense of belonging, as well as promoting and enhancing health and wellbeing for all members of our community. As the population of Tweed Shire continues to grow and change, so too does the community’s demand for and use of infrastructure and facilities.

The population growth and forecast residential development across the Tweed Shire is significant. As identified in the *Tweed Shire Council Community Facilities Plan 2019 – 2036*, indicative gaps are identified in the current supply of local community halls, district community centres and district libraries to service the population growth expected in the coastal and Tweed

urban districts in particular. These additional facilities may comprise individual or multi-purpose or shared spaces, and their planning, funding and delivery will form part of the growth and development of these areas over time.

Whilst the proposed Essential Works List allows a contributions plan to fund land or strata space for community facilities, it does not allow a contributions plan to raise funds for the construction, fit-out or upgrade of these facilities. **This places the cost of constructing community facilities on the existing community, instead of the incoming population, despite demand for these facilities often being generated by new development.** Council should be able to appropriately levy development for the construction and fit-out of these essential facilities.

In the draft report, IPART states that “the NSW Productivity Commission considers community facilities to be ‘general costs’ that are driven by population growth rather than development contingent. As a result, the NSW Productivity Commission considers they should not be funded from infrastructure contributions, but that councils could borrow against future rates revenue to help fund these costs” (p. 25). This conception and application of development contingent costs is flawed as developments can directly contribute to and facilitate increased demand for community facilities, particularly where the costs for construction of community facilities would be avoided in areas where such developments did not occur.

Although community facilities and open space form part of residential development masterplans, they could remain unconstructed due to insufficient funding for their delivery. If councils are unable to fund the capital costs of community facilities through other sources of public funds (which is contrary to the user-pays and nexus principles of the contributions planning framework), significant areas of new residential development could be delivered without sufficient community facility infrastructure.

When a new development increases the population demand for infrastructure such as open space and community facilities, the cost of meeting this development-generated demand should proportionately be provided through development contributions.

It is stated in IPART’s review that Councils engaged in consultation as part of the Review, raised concerns related to excluding community facilities from the Essential Works List. It is acknowledged that the Terms of Reference for IPART’s review specify that the essential works list must not expand beyond the current parameters and community facilities works must not be included. However, Tweed Shire Council considers that there is insufficient evidence and support for this requirement as outlined in the Terms of Reference.

NSW Productivity Commission’s review of the infrastructure contribution system is identified as the impetus for IPART’s review. Both the *Review of Infrastructure Contributions in NSW Issues Paper* and the *Review of Infrastructure Contributions in New South Wales Final Report* identify the essential works list as a major concern for councils as the plans can only fund the land for community facilities, and not the cost of their construction.

A review of the 73 public submissions to the Infrastructure Contributions Review, as available via the website for the Infrastructure Contributions Review, demonstrates that 24 submissions specifically recommended expanding the Essential Works List to include the capital costs of providing community facilities, with an additional seven submissions raising concerns about the current restrictive nature of the Essential Works List. Most of these submissions were provided

by local councils, representative organisations of local councils, and representatives of public facilities.

It is noted that although 42 submissions either did not provide recommendations about the Essential Works List, raise concerns related to the Essential Works List, or supported the Essential Works List, these submissions were overwhelmingly provided by representatives of developers and private sector stakeholders. **Tweed Shire Council raises concerns regarding the transparency, evidence and justification which informed the provided Terms of Reference for IPART's review, specifically related to the exclusion of community facilities on the Essential Works List.**

The exclusion of community facilities from the Essential Works List also creates barriers to the achievement of livability goals and directions as outlined in Regional and District Plans, and Community Strategic Plan and other key plans which constitute council's Integrated Planning and Reporting Framework – both of which include specific actions related to community facilities and open space.

While it is acknowledged that the Essential Works List seeks to limit and place downward pressure on contribution rates and development costs, the application of the list is at the expense of providing adequate infrastructure outcomes that are required to support development. This effectively prioritises the reduction of contribution costs to the developer over the provision of essential infrastructure in the form of community facilities and open space.

Tweed Shire Council recommends that the proposed Essential Works List is reviewed and amended to include the capital costs of providing community facilities.

It is also noted that the provision and embellishment of open space is also affected by changes to the EWL including the potential reduction in the standard supply rate of 2.83ha/1000 additional population by utilizing performance based provision including co-location and suggest using drainage reserve is a viable option. This is opposed on safety and accessibility grounds but until more detail is provided further comment can't be made.

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?34

This is already clearly set out in the current Legislation and Regulations and doesn't contain anything not already considered in establishing a contributions plan. It is interesting to note however the question above refers to "developers and other stakeholders" preparing plans which would be extremely rare as they have no authority to do so?

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)?45

Whilst the IPART document is unclear and reluctant to define standards, efficient local infrastructure will always need to be designed to comply with relevant Australian Standards

,applicable legislation and other specific standards such as Austroads ffNSW Standards ,Fisheries Department standards etc.

This should be clearly specified in any IPART Guideline to assist developers and other stakeholders in understanding how such legal and regulatory requirements and industry standards impact on efficient design in terms of IPARTS definition of base level efficient design.

4.Are there other items that we should consider benchmarking? 52

Benchmarking aims to simplify contributions plans, enabling them to be prepared earlier and exhibited with rezoning proposals resulting in lower admin costs for councils.

Has Cardnos benchmarking been released yet? Document states expected 12 November? It would have been beneficial and more transparent had it been released prior to the closing date for submissions on this document. Noting Benchmarking exercise started by IPART in 2014.

Some clarification required as follows:

Shared pathway 1.5m wide? Doesn't comply with relevant standards that specify 2.5 metres.

What is "road safety" as an infrastructure benchmark?

What are differences between bio filtration basin/filter/area/systems?

What is "basic landscaping"?

IPART is already using Cardnos, the consultants that undertook such benchmarking work in Victoria, which appears detailed and covering a much larger number of items than the IPART proposal (including community facilities).

IPART should model its benchmarking items on the Victorian work which is much more comprehensive. IPART should also include standard plans that clearly demonstrate what the benchmark item rates include. Using the standards set by Cardnos for Victoria will provide more detailed benchmarking data enabling benchmark costs to be more regularly utilized rather than individual project estimates.

This would be beneficial as it would provide greater certainty for all and make project estimating faster and cheaper.

See the Victorian Bench mark Items and Annual Indexation documents at the following link

<https://vpa.vic.gov.au/greenfield/infrastructure-contributions-plans/benchmark-costings/>

If the Benchmarking list is expanded and contains the same level of detail as the Victorian benchmarking it would be considered acceptable.

5.Do you agree with our approach to use adjustment factors so that the benchmarks are applicable to a broader range of projects?52

It may be effective but until detail is provided into what the adjustment factors relate to and their value it is too early to comment in any detail.

6.What other factors increase the complexity of a project that could be used as an adjustment factor?52

- Environmental Area Works

- Compensatory habitat costs
- Climate change costs for low level land projects

7. We seek stakeholder views on the approach to project allowances, including the rates and their application⁵⁴

As per the Benchmarking the details of how the rates have been derived are required but the approach is supported in general. It is noted that for roads the TfNSW use a range of contingency rates depending on the detail in the estimate to reflect levels of certainty so the rates provided by IPART depend greatly on the detail and accuracy of the benchmarking cost items and their adequacy reviewed once these are available.

8. We seek stakeholder views on alternative benchmarks for open space. Is there value in a per person benchmark? How would it work?⁵⁵

Up to IPART to make the case and present a proposal. The existing system is working effectively now for TSC.

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?⁵⁸

No it is unlikely to reflect costs to Council and is based on the existing system. IPART is proposing extensive extra work to be undertaken especially in developing and reviewing project options including determining life cycle costs. Furthermore when Benchmarking costs are not appropriate IPART is requesting significant extra work to document and justify why Benchmark rates are not accurate, the extent to which this occurs will depend on the quality of the Benchmarking. This is time consuming and then having to document reasons for option selection has not been accounted for in the 1.5%. Further extra work is required to adjust all plans regularly with updated cost estimates and 4 yearly reviews, again not current practice for most plans which are usually adjusted annually using an index to adjust contribution rates. Whilst it is difficult to estimate what the increased administration costs are, it is considered that at least 3% would be closer to reflecting all the additional administration costs.

The approach used by IPART to establish the proposed 1.5% does not reflect the costs of what IPART is proposing.

10. What other types of information or data would provide a clear evidence base for the true costs of plan administration?⁵⁸

IPART needs to develop a proposal to collect data if it considers such necessary but allowing for resultant further additional administration costs.

11. We seek views on our proposed approach to annual escalations and 4 yearly reviews of benchmarks, including the choice of index and timeframe.⁶³

Regular review is supported and indexation also takes place now so no concerns with the proposal including using separate land and infrastructure indices such as the road and bridge construction index for NSW as long as administration costs are taken into account as per (9) above.

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. 63

There are many sources of data that could be used including actual project costs and industry journal such as the "Built Environment Economist" However the approach Cardnos used to determine the Benchmarking rates for Victoria should also be considered.

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? 68

It is common practice to undertake estimates as per chapter 9 already. The extent to which Councils will need to use this approach will depend on the quality and availability of suitable items provided in the Benchmarking project.

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? 71

Only concern is with Principle 2 in that this requirement maybe problematic as it is dependent on what information IPART provides around how the particular benchmark rate is established to enable the requested comparison e.g. if benchmark specifies a rate for a metre of road of specific width and doesn't provide data on the component costs such as cost of kerb and gutter, cost of road pavement, cost of subgrade, cost of service relocations etc. how does Council then identify the sub components to undertake a comparison of its component rates that result in a higher project specific rate?. The principle should be reworded to only require council to justify how its equivalent rate was derived.

15. Are the proposed information requirements for councils enough? Are there any other pieces of information that should be added to this list? 71

There is too much complexity and regulation in the overall IPART proposal, which will add to costs of all and introduce inefficiencies something the Government states it wants to reduce.

16. Do you support our approach for a threshold to determine which plans must be reviewed? 72

Supported provided adequate administration costs are included in the contribution plans.

17. Do you support our proposal for a fixed 4 yearly review of contributions plans? 72

Supported provided adequate administration costs are included in the contribution plans.

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

Supported provided adequate administration costs are included in the contribution plans.