



Review of the EWL, nexus, efficient design and benchmark costs for local infrastructure

Public Hearing Transcript

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Local Government >>

Tribunal Members

The Tribunal members for this review are:

Carmel Donnelly, Chair
Deborah Cope
Sandra Gamble

Members of the Secretariat for this review are:

Ineke Ogilvy, Jessica Hanna, Stephanie Biesaga, Brett Everett, Edward Jenkins and Shannon OHara-Smith.

Enquiries regarding this document should be directed to a staff member:

Jessica Hanna (02) 9113 7715
Ineke Ogilvy (02) 9290 8473

The Independent Pricing and Regulatory Tribunal (IPART)

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Acknowledgment of Country

IPART acknowledges the Traditional Custodians of the lands where we work and live. We pay respect to Elders, past, present and emerging.

We recognise the unique cultural and spiritual relationship and celebrate the contributions of First Nations peoples.

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1 Review of the EWL, nexus, efficient design and benchmark costs for local infrastructure

1.1 Introduction – Ms Livingstone CEO

Ms Livingstone: Well thank you everybody for your interest in our review of the essential works list, nexus and efficient design and benchmark costs for local infrastructure. We're really delighted that you've joined us today. My name is Liz Livingstone I'm the CEO of IPART and I'll be your MC today.

I'm just going to start with a few housekeeping notes so that we can run this session as smoothly as possible. As we're all used to, it'd be great if you could keep your microphone muted when you're not speaking, and also remember to unmute yourself when you do want to speak up. We do encourage you to keep your cameras on if you can, and your internet connection is up to it, and that that helps us see you, and connect a bit better, while we're still working virtually.

So that we've got an accurate record of the feedback we get from you today, we are recording this hearing we'll place a link to a YouTube recording of it in a couple of days, as well as a transcript of everything that's said today. So, it's being recorded now, but it won't be available in our website for a couple of days.

It would also help us if you include your name and organisation or council in your Zoom description, and there's some directions in the chat, that explain how to do that if you're not sure. That helps us to know who's speaking and where you're from.

Because this is a public hearing, anybody is free to join us that includes the media and everybody's free to publish and refer to what is said during this event, so have that in mind but having said that we're really interested in your feedback on our Draft Report and I'm looking forward to some good engagement and discussion about your views on our draft methodology.

Now if there are phone callers on the Zoom call, we will make sure to include them and at various times in the session if we've noticed that people have joined by phone, I'll give instructions about how they might alert us to wanting to speak given it's harder to use a chat box or raise your hand via phone.

Now for today's agenda, we're breaking the session up into 2 parts. The first part includes a short presentation from DPIE on the government's overall infrastructure contributions reforms which are currently on exhibition. We'll then have a short time for questions to DPIE.

We will then have a presentation from the IPART review team on the review of the essential works list, nexus and efficient design. Then we'll open up and this will be most of our time, a Q&A discussion, to give you the opportunity to ask us questions. This is also an opportunity to provide comments or feedback generally on the reviews, and everyone is encouraged to share views or ask questions.

We have our 3 Tribunal Members with us, so they may well want to ask you questions, to help them get a better understanding of your issues and concerns.

We will then have a 10-minute break before moving on to a second presentation from the IPART review team on the review of benchmark costs for local infrastructure. And that again will be followed by a Q&A session.

Once we've finished on the questions and comments, we're aiming to close the public hearing at 12 pm, which is a nice time to break for lunch and so we will aim to keep to that schedule and allow you to get on with the rest of your day. But now I'll hand you over to IPART's Chair Carmel Donnelly for her welcome, thanks Carmel.

1.2 Welcome - Carmel Donnelly IPART Chair

Ms Donnelly: Thank you Liz, and good morning everyone and thank you for joining us today. My name is Carmel Donnelly, I'm the Chair of IPART. I'm joined today by fellow Tribunal Members Deborah Cope and Sandra Gamble, as well as obviously Liz Livingstone, who you've met already our CEO, and quite a few members of the IPART Secretariat, some of whom will be presenting today. And all of us will be very eagerly listening to your input on these important reviews.

I'd like to just start by acknowledging the traditional custodians of the land of NSW and I know that we'll have people joining us from all over NSW, and we pay our respects to Elders, past present and emerging. And we also extend that respect to all of our Aboriginal colleagues and customers and stakeholders.

So, I particularly want to welcome you this is the important public hearing into 2 reviews related to the developer contribution system in NSW. We thank you very much for making the time to participate today. We are looking forward to, and we will be valuing your input, it's a very important part of the consultation on these reviews.

Now if I can just make a few opening remarks about these particular reviews. We have been asked by NSW Government to undertake 2 reviews that support reform of the developer contribution system. And these reviews cover, this consultation-public hearing, covers both of those reviews.

We know that developer contributions are a key part of the funding mix to provide infrastructure to new and growing communities, and we know that getting the right infrastructure at the right cost for new communities or growing communities is important to meet those communities needs with both equity and efficiency.

So, the first review we've been asked to provide advice to inform an essential works list that would apply to all section 7.11 contributions plans. And we've also been asked to provide advice on the approach that councils should use to determine the most efficient local infrastructure to meet the needs arising from a new development and applying the principle of nexus. The second review we've been asked to develop and maintain standardised benchmark costs for local infrastructure that councils may use to prepare local contribution plans.

So, obviously this hearing is important as part of the consultation for both of those. I will just say also we have had some feedback around the terms of reference, and while we'll be listening to everything today, we're very keen to hear and hoping to use the time to focus on the proposed principles and processes and benchmarks that we put forward in our Draft Report. We want to make sure that our recommendations to Government within the terms of reference of those reviews are thoroughly tested. While we're listening to all input, that's really our primary task today.

We are looking forward to hearing your views and questions on the key issues, and our preferred approach that we've included in the Draft Report, and that will most definitely inform our final recommendations to Government.

So just to refresh on the timing, as you're probably aware we released a Draft Report on the 29th of October and then we released on the 12th of November a report containing benchmark costs for local infrastructure. As you know we were planning to have submissions close today, but in recognition of the fact that there may be matters raised today that you would want to reflect on and perhaps add further content to submissions, we've formally extended our submissions to close of business the 14th of December, so next Tuesday, so we will give you a few more days to hopefully be able to get the benefit from the consultation today.

We will consider all the views that you provide today, and in the written submissions when making our final recommendations, and we are due to give that Final Report to Government on the 18th of February, so that's the time frame we're working to. So, I look forward to today. Thank you again for participating, and I'll hand you back to Liz.

1.3 DPIE Presentation

Ms Livingstone: Thanks Carmel. I'd now like to welcome Jonathan Schipp from the Department of Planning, Industry and the Environment (DPIE), he's going to give us a short presentation on the broader NSW Government infrastructure reforms that are currently on exhibition. Before we have a brief Q & A on that, and then move on to the IPART review specifically. Thank you, Jonathan, for joining us and I'll hand over to you.

Mr Schipp: Thanks Liz and thank you Chair and other Tribunal Members for the opportunity to speak to you this morning about I suppose a bit of the context and where this review that we've asked IPART to undertake fits in with a broader infrastructure contributions reform agenda and time frame. Could I get the next slide?

I would just like to first acknowledge or extend the acknowledgement that the Chair offered this morning and say that I'm on Gadigal land this morning in Sydney's inner west. And I'd like to also acknowledge the traditional owners of the lands upon which we're all meeting this morning.

So, on the next slide we have a timeline of where we're up to with the government's infrastructure contributions reform package. I've spoken to the Tribunal before and probably many people on the call this morning about the importance of this review, and how much we are committed to getting it right. Shown here though is an end-to-end time frame of where we are.

This is a process that began at the end of last year with the Productivity Commissioner's report which had 29 recommendations, which in March of this year the NSW Government accepted. In the intervening period, we've done quite a lot of policy work on the detail, we've prepared some draft legislation that was introduced into the Parliament.

That legislation was referred to a Committee for review and the portfolio community at the upper house recommended that the government not make any further progress on the legislation that was before the parliament until detailed policy settings, regulations, directions and other material had been released, so that people could understand the full impact of the reforms.

So, in October we released that detail like we said we would, there's a significant package of policy settings currently on public exhibition concluding today. That includes a draft regulation, a series of practice notes, a discussion paper about a proposed SEPP for a regional infrastructure contribution, as well as a bunch of explanatory material to tell you what those things mean and some financial analysis and economic modelling to support some of the decisions we've made.

So once the exhibition period closes, we'll be then looking to review those submissions through to early 2022. After we've taken that on, we will then consider progressing the legislation so that we can have a system in place by the committed date from Government of 1 July 2022, with the transition to the new system then occurring in the sort of 2 years that would follow, through to 1 July 2024. The next slide please.

On this slide, there's a couple of things that I think are relevant to both this public hearing today, and to the broader context, because in listening to stakeholders across the local government sector, the development sector, and our other interest groups, we heard a lot of concerns with some of the things that were proposed and the terms in which they were proposed by the Productivity Commissioner in his review.

So, we have made some changes that were part of the package of both the package of exhibition material that was released in October, but also a commitment that was made by the Minister after speaking very closely with Local Government NSW on behalf of NSW councils.

And the most relevant one for this forum is that the Minister has agreed not to make any changes to the Essential Works List for 3 years. The Productivity Commissioner recommended that the Essential Works List, as it is currently composed or in whatever form it takes after an IPART review, be universally applied to all section 7.11 contributions plans.

We heard that that would affect a range of councils in a range of different ways and threaten the ability of some councils to continue providing the community facilities that they do now. So, at the beginning of the public exhibition period in October, our material committed to not making any changes to that essential works list for 3 years.

In having a discussion with Linda Scott, then President of Local Government NSW the Minister considered the need to make sure that the sector had some certainty that that would occur beyond a commitment.

So we have tabled some amendments to the legislation currently before the Parliament which would prevent the Minister from making, amending or repealing either an existing or a future direction under the applicable section in Part 7 of the Environmental Planning and Assessment Act which enables the essential works list to be set.

Following that expiry of that 3-year period, we'll then revisit how the settings have landed from the other components of the reform, there are a range of other sort of factors that are going to influence the way those decisions may be made in 3 years' time. But for at least 3 years, the Government's commitment, and backed in through changes to the legislation, is that there won't be any changes.

That means both to the composition of the essential works list, but it also means that things like the \$20 and \$30,000 thresholds, which trigger our review of the plan by IPART, will also stay where they are because those are part of the same direction. I'll get the next slide please.

This slide is just showing a couple of the metrics from our consultation period so far since the October release of the exhibition package, and also some of the key questions that have come out and that might intersect with the contents of this review.

So on the left you'll see we've extensively engaged with a range of stakeholders, there's been engagement held by the Department, we've had Q&A sessions and webinars, we've had formal engagements with a range of different interest and representative groups, but also we've had a fairly broad reach with our newsletters, outlooks and bulletins which are tailored communications relating to this reform.

But we have in all of those forums received a lot of questions about this review, and you'll see there's kind of 4 key themes. One is how plans are prepared after 1 July 2024, and how they relate to the essential works list as it's currently composed and will be locked in for the next 3 years. How will the essential works just apply, how the essential works list has been composed, or how the Government has requested that or any constraints that the Government has put on its request to IPART to look at the essential works list, and what's going to happen after the 1 July 2024 date.

So, they're things we're considering as I mentioned, after that 1 July 2024 date we anticipate that there'll be a review of some kind, we haven't thought about what that might look like, but we'd happily take suggestions.

But I think there are a number of factors we would want to consider. One is any known or at least resolved or firmed up economic impacts that come out of the COVID-19 pandemic and the recovery which we expect over the next few years.

The way local government finances have been affected by things like the IPART's recommended reform to the rate peg. Councils will also have some time between now and then to decide whether or not section 7.12 plans might be an attractive alternative to the section 7.11 plans they might currently be on.

One of the other changes that the Government's made to the contributions reform package through the public exhibition material is a more nuanced set of rates for section 7.12 contributions plans. So, where previously the Productivity Commissioner recommended a flat rate for residential, industrial, commercial and retail development that reflected both, an expression or an articulation of 3% of residential construction cost, and 1% of construction costs for other development types.

We heard and we found that the one-size-fits-all approach wasn't necessarily the right one and didn't reflect the varying construction costs across the state. So, we have undertaken some economic analysis which resulted in a differential or a different set of rates for different parts of Sydney, based on the 3 cities model. And that, we think will hopefully mean that councils are not worse off, which is the commitment that the Minister's made, that as a result of the reform, councils won't be financially worse off than they are now. If I get the next slide, please.

So, this I suppose is a slide that just quickly shows what the impact of the 3-year deferral is and very clearly that is for the essential works list there is no change to the contents of that list or how it currently applies.

Also continuing will be the requirement for IPART to review any plan that exceeds the monetary thresholds of \$20,000 per lot or dwelling or \$30,000 per lot or dwelling in currently identified greenfield areas.

And if contributions plans under section 7.11 are below those thresholds, they can contain infrastructure that is not on the essential works list, so is not constrained by that list, in those circumstances.

What's also worth noting is that the Productivity Commissioner also recommended an IPART review of contributions plans on a more focused by exception basis, and that was a complementary recommendation to the recommendation that the essential work should be applied universally.

So, as well as saying that we will not be and if those amendments are successful in the Parliament when the legislation's progressed, will be legally prevented from making any changes to the that direction. Similarly, we're not going to go forward at this stage with the recommendation relating to by exception reviews of contributions plans. I can just get the next slide please.

In terms of what this means for councils, as Liz mentioned in some of her opening remarks and the Chair, we have this review of essential works list and benchmark costs. Those reviews are due to the Minister, we've asked for them by the 18th of February. We'll consider those and I think that will definitely be part of the mix when we are progressing the legislation through.

I certainly don't think that by requiring or by preventing any changes to the essential works list arrangements for 3 years, it doesn't mean that we can't at least consider and see where they see where those recommendations fit in.

But also, I could say that those amendments being successful are not a certainty. It's a show of commitment by the Minister that he doesn't want to make any changes to the essential works list to show good faith in that regard. But I think we will be making decisions, but we'll also have to make decisions in 2022, based on the outcome of this review, both on essential works list and benchmark costs. Can I get the next slide please?

So today is the last day of the public exhibition period of our detailed policy settings. We are mindful of the fact that as a result of the recent local government elections, councils and councillors won't be sort of bedded down, and able to respond or engage with the material until they have been sworn in, and until the necessary procedures have taken place for the establishment of those councils.

So, we have therefore informed all of councils very early in the exhibition period that we have asked for technical submissions from council staff, before or during the period that concludes today. But council endorsed submissions, we will accept within a week of the first meeting where those decisions are able to be made by the council.

So, we're expecting early March 2022 and those submissions appear to confirm the technical submissions of the council staff or add any other additional information that newly elected councillors want by resolution to add to those submissions.

Also shown there because I think that we're going to make these slides available are some links to the parts of the website where you can find information generally about the reforms, or about the local contributions stream, the regional contributions stream, or the land use planning stream. That was about all I wanted to go through this morning but Liz I'm happy to move on to the next phase of the agenda.

1.4 Q&A session

Ms Livingstone: Thanks Jonathan, and we do just want to allow a few minutes while Jonathan's with us for you to ask him questions about what he's presented there, but obviously the focus is on the reviews that we're doing.

So, any points of clarification about the broader context that he's provided that's going to help you and us with our discussions about our reviews for the rest of the session. We're very open to questions on that. You can raise your hand or pop a note in the chat that you'd like to ask a question or have a comment and we'll come to you for that. I don't think we've got anybody so far who's indicated but I'll just allow a bit of a pause so that you can take that opportunity while we've got Jonathan here.

Ms Montgomery: It's Meg from NSROC. Sorry I have got my hand up, but you might not be able to see me on your screen.

Ms Livingstone: Thanks Meg.

Ms Montgomery: Thanks just a quick question Jonathan. You just flagged that we'll need to make decisions about the essential works list and benchmarks costs in 2022. I guess I'm keen to understand how that might happen.

Mr Schipp: What I was referring to Meg was that when the government will receive the report from IPART and of course we have indicated through amendments to the legislation before the Parliament that we want to lock in the current settings, because that was part of the agreement that the Minister struck with the President of Local Government NSW, and indeed showing a guarantee.

It is a delegated power to set the essential works list, so and indeed any benchmark costs that go along with it so that Ministerial discretion wasn't guaranteed, and of course the Minister's making a new commitment.

So that obligation of course then creates some friction with our Government's ability to implement should it take the recommendations of IPART. So those are the decisions I was referring to, and that as it's fairly clear that there's going to need to be some consideration of that in 2022, I think.

Ms Montgomery: Okay so what you're saying is if is that there is likely to be decisions made about the essential works list and benchmark costs that will apply 2024 onwards, but the decision will be made in 2022.

Mr Schipp: The decision will be made when we have IPART's recommendations.

Ms Montgomery: Okay thanks.

Ms Livingstone: Thanks Meg. Deb, you've got your hand up.

Ms Cope: Thank you, thanks very much Liz and thanks Jonathan for your presentation, that was really useful. We've currently got benchmark costs, but they're very out of date and I was wondering whether from a policy perspective, you've given any thought to what role if any the benchmark costs might play in helping to test them, or inform the processes between now and when the formal changes are made to the system.

Mr Schipp: I think that'd be very helpful. I personally haven't given it a great deal of consideration at this stage, but I think it's something we'd certainly welcome some thought on. We have looked at indexing across a range of the contributions that we set, and that we've currently exhibited, so I think that's probably a you know a fair consideration for any of the other aspects of the system too.

Ms Cope: Thank you.

Ms Livingstone: Thanks Deb, and Dennis.

Mr Bagnall: Thank you. This is for Jonathan; you mentioned the 3-year extension of the essential works list. I probably should know this but does that mean that the \$20,000 and \$30,000 thresholds for referring your plans to IPART are also extended for 3 years, so that if you have a contribution plan that's in excess of those thresholds which we were doing away with now, have to go to IPART.

Mr Schipp: Nothing should change is the is the principle there Dennis. So, the \$20 and \$30,000 thresholds will stay, they're part of the direction. So, I think everything would continue as it does now.

Mr Bagnall: Thank you.

Ms Livingstone: Thanks Dennis and Julia Kaul, you've popped a question in the chat would you like to speak to that?

Ms Kaul: Yeah, it's a really quick and slightly technical question.

Mr Schipp: It is a technical one Julia and it is one that has cropped up because, without getting too much into the technical detail in this forum and I'm happy to talk to you about it offline, the direction power is relatively generic, and is a little bit difficult for us to unpick and if we did, it might also permit changes to these essential works which would be outside of the government's commitment.

But you're right after you know, if the Bill is passed and commences on its committed days, after that date, we won't be able to add anything but that's something I think we have to explore because if it is, if there is a you know a series of those plans that might want to apply for the \$30,000, instead of the \$20,000 threshold, that is something we're going to have to look closely at, because I think it could be a potential problem, but I'm happy to have that conversation with you offline.

Ms Kaul: Not a problem at all, thank you.

Ms Livingstone: Okay thank you and thank you Jonathan. We don't appear to have any more questions for you at this time so thanks for providing that broader context.

We'll now move on to more specifically look at the reviews and Draft Report that IPART has completed and I'd like to invite Stephanie Biesaga to present to us now. She she'll be talking about the essential works list, nexus and efficient design, thanks Steph.

1.5 IPART presentation – EWL, nexus and efficient design (session 1)

Ms Biesaga: Thanks Liz. So, as Carmel mentioned we've been asked to report under 2 separate terms of reference. One is for advice on an essential works list that would apply to all of the 7.11 contribution plans, and also the approach to considering efficient infrastructure design and the application of nexus, and the second asks us to develop efficient benchmark costs that councils can use in preparing those 7.11 plans.

I think it's important to note that these reviews are not about telling councils what infrastructure their communities need. They're about the contributions that councils should recover from developers, for development contingent base level infrastructure.

So, our approach to the 2 reviews has been to develop a principles-based framework that councils can use to assess what infrastructure can be included in a contributions plan, and at what cost. So, this is consistent with the Productivity Commissioner's recommendation for a principles-based approach to infrastructure contributions in general.

And by principles based, what we mean here is an approach that isn't prescriptive and in particular, doesn't include or exclude specific infrastructure items. We think using a principles-based approach, it can be applied across all development contexts, including for metro, regional areas as well as infill and greenfield developments.

So, the framework is made up of basically 5 criteria for including infrastructure in the contributions plan. Firstly, it should fall within a category on the essential works list. It should be development contingent, it should reflect efficient design and delivery principles. It should or its cost should reflect the benchmark that we've set unless, the unless a benchmark isn't available or wouldn't be appropriate, and its costs can be updated to reflect actual costs or an updated cost estimate as more cost certainty arises.

So, we see our proposed framework as building on processes that councils would already have in place, and it does very much draw on our experience in assessing contributions plans above the current thresholds. We think it's flexible enough to be applied to all plans across the board, but we're obviously interested in stakeholder feedback on that particular issue. So that's how the 2 reviews fit together.

For today's hearing, we're going to cover one review, take a break, cover the second review. So, the first session today is about essential works list, nexus and efficient design. As everyone knows, currently the essential works list only applies to those high value plans that IPART reviews.

But we've been asked to provide advice on a list that can apply to all plans, noting that the terms of reference for this review do not allow us to expand beyond the existing list. So, the current essential works list is provided in a practice note from DPIE and it outlines at quite a high level the types of land and works that can be included in the contributions plan. It also provides some guidance about what is considered base level embellishment for open space.

So, the revised essential works list that we've recommended in our Draft Report is also a high-level list, so similar to the current list and it would act in a similar way. However, we've proposed a couple of changes.

First of all, we've included the opportunity for councils to recover the cost of strata space or buildings for community facilities, and we've also included explicit allowance for borrowing costs to forward fund the infrastructure within a plan.

Secondly, we've moved the requirement for base level embellishment of open space out of the essential works list itself, and into the category of efficient design. We think this is consistent with the adoption of a principles-based approach that can be applied across all development contexts.

It recognises that the concept of base level applies to more than just open space embellishment, and it's also not possible to determine what base level infrastructure is, without first considering the circumstances within which it's being delivered. So that infrastructure is within a category on the essential works list in itself, is not sufficient for inclusion in the contributions plan. You know and further justification has always been required.

Our recommended essential work list is supported by a set of principles that provide guidance on how to demonstrate that the proposed infrastructure has nexus to the development, and a set of principles on how to demonstrate that the proposed infrastructure is efficient.

So, moving on to nexus. Nexus is the term we use to refer to the relationship between the expected types of development, and the demand for additional public facilities created by that development. So, you know a new development may create a need or a nexus for a series of new local roads, additional stormwater infrastructure, a new local park.

The requirement to establish nexus between development and infrastructure in a contributions plan will continue to be a central part of a reformed developer contributions system. And ultimately, the key component in establishing and demonstrating nexus is that it's underpinned by evidence. There'll need to be enough information, enough transparency to show industry, the community, all stakeholders, why developers should pay for infrastructure, and under a reformed contribution system this should help avoid or at least minimise disputes.

So, as we said out in the Draft Report, we see 3 overarching principles guiding decision making in contributions planning as it relates to nexus. And these are that the expected development creates a demonstrable increase in the demand for public amenities and services, that the types of public facilities being proposed in the contributions plan are needed to address that demand, and that the proposed facilities consider the extent to which any existing facilities have any capacity to meet that demand. That said we're recognise in practice that the approach councils might take to establishing nexus for new or upgraded infrastructure, may vary by the infrastructure category.

For open space we think the councils should demonstrate that the proposed land and embellishment meets the needs of the anticipated population of the new development, and we think that this should take account of any statutory policies for infrastructure provisions. So, for example, any benchmarks that are set under the Design and Place SEPP, and it should also be supported by technical studies or the council's own policies as appropriate for that development context.

For transport and stormwater infrastructure, we think councils should demonstrate that additional transport infrastructure is needed, or the changes to impervious surface area are driving a need for new or upgraded stormwater infrastructure, and this will generally be identified as part of the broader planning processes that go on, and supported by those associated technical studies. Deviations are clearly reasonable, but again council should be providing supporting evidence or explanation. I'll now hand over Brett to talk about efficient design.

Mr Everett: Thanks very much Steph. As Steph mentioned earlier, we were asked to provide advice on an approach for considering efficient infrastructure design. Enhancing the efficiency of infrastructure contributions was a key recommendation of the NSW Productivity Commission to better support growth and development.

We've proposed that 2 overarching principles should guide decision making on the efficient design of local infrastructure. Firstly, infrastructure in contribution plans should provide a minimum or base level of performance, which is determined by relevant government regulations, industry standards, and community needs, including the need for resilience to climate change.

Secondly, we think that infrastructure in contribution plans should be the most cost-effective option for delivering the base level of performance, not necessarily the option with the lowest upfront cost.

We think that these principles will provide a flexible and future-proof approach to ensuring that infrastructure in contributions plans is efficiently designed and delivered. I'll now expand a little on each of these principles.

In our Draft Report, we outlined 3 key areas that we think should inform the minimum or base level of performance of infrastructure in contributions plans. Firstly, community needs. So, we're proposing that the need that is being met by the infrastructure in a contribution's plans, should be defined by reference to the outcome that it's delivering.

We think it's important that councils can identify the outcome that the infrastructure needs to deliver and differentiate this from the means by which the need may be met. For example, a council should identify a need for a water crossing, rather than the need for a bridge. So, we'd expect the council to consider the specific circumstances in which the need is arisen, such as the size of the water course and suitable locations for the crossing, so they can then assess different options, such as say for example culverts, before deciding whether a bridge is the base level of infrastructure that's required to meet the need.

Secondly, design standards and other technical specifications are also important. There's a range of guidelines, legislative requirements, technical standards and specifications, that inform the scope, or the design of infrastructure items. These standards can change overtime, and so our approach is flexible enough to be able to take account of any of these types of changes.

Thirdly, and very importantly, resilience to climate change. As the frequency of extreme weather events increases and population continues to grow, there's going to be an increasing need to improve the resilience of infrastructure, particularly for councils that support essential community services. And so, providing base level performance, we think should include providing land and works that are resilient to climate change, such as bridges or roads that are flood proof.

The second key principle of efficient design is that infrastructure should provide value for money. We've set out some information on this in our report where we say that infrastructure that provides value for money, represents the most cost-effective way of delivering services to meet the base level performance outcome. So, this doesn't necessarily mean the outcome with the lowest upfront cost.

Contributions plans should outline the options that have been considered for meeting base level performance and show that the option selected is the most cost-effective option. There's a range of factors that impact on value for money and our Draft Report provides further information on the areas that are shown on this slide.

In developing contributions plans, we'd expect councils to assess a reasonable number of options for meeting the performance outcomes to adopt an operating and capital cost mix that minimises the cost over the infrastructure's life cycle, and also to consider whether upgrades or improvements to its existing infrastructure are the most cost-effective option.

In some instances, for example, where there's an expert technical report that indicates that one option clearly meets a performance outcome, we wouldn't expect councils to present an analysis of a wide range of options. However, in other cases, there might be different types of investment that can deliver an outcome with different costs and different benefits, and so we'd expect to see that councils have considered these in developing their contributions plans. Okay thank you. I'll pass back to Liz now.

1.6 Q&A session

Ms Livingstone: Thanks very much Steph and Brett. So now we've got time for questions, and we've allowed a good amount of time to make sure that you can get the answers to the questions and make the comments that you'd like to. So, if you do have a question or comment that you'd like to make, please raise your hand in Zoom or let us know via the chat box and we'll come to you in turn.

Yeah, but I do encourage you to make the most of this chance, we've got the Tribunal Members here, we've also got Local Government NSW here and UDIA representatives, it'd be great to hear from all of you about this first part of the two IPART reviews.

So, I'll allow a few moments for the questions to start coming through, I'm sure there must be some but I'd also suggest to the IPART team, if we could take the slide down, it might enable us to see each other a bit better for this section as well. Dennis Bagnall from Blacktown Council, you've got your hand up first thanks.

Mr Bagnall: Okay thank you. This is for Steph, this is talking about the essential works list, we talked about a principles-based approach and using nexus, which is fine. This is what we've been doing you know as long as I've been doing contributions.

When you come to the essential works list and you talk about community facilities and what's development contingent and what's not. So, the essential works list has land and strata space for community facilities as being development contingent, yet the community facility buildings themselves are precluded from that list. Does IPART have a view on why the community facility buildings are not development contingent?

Ms Cope: Do you want me to take that one? So, thanks very much for the question Dennis, and we have heard that point quite a number of times. Our current terms of reference specifically exclude community facilities, so we've been told that at this stage they shouldn't be in the list.

We are however really interested in hearing the broader views from people and we have reflected those views in our current report, so at this stage it's a matter for the Department and Government, not us, but yeah we have taken that on board and I think there are parts of our report where we've talked about the importance that people have put on community facilities, as well as the land for community facilities.

Mr Bagnall: All I'm really asking, I understand that they've been excluded from the essential works list, I was just wondering whether IPART had a view, whether they considered that those buildings were development contingent.

Ms Cope: We haven't formally turned our mind to look at that question, given the current times of reference at this point. I don't know Carmel whether you wanted to add anything to that.

Ms Donnelly: Well really just to reinforce that certainly we're not in a situation where I can say that IPART, the tribunal, has a formal view. The other thing though that I would say is, we haven't got a final view on these reviews, in any other regard either at this point.

So obviously this public hearing and the consultation and the submissions, we will consider absolutely everything that's raised there, so we do from time to time, you know make sure that we reflect on what we hear through our consultation and that I think it would be unusual for the Tribunal to make you know suggestions and form a view, in sort of I guess direct opposition to a specific guidance in our terms of reference to exclude something. But that said, we'll consider everything, and we are we're going to make our final decisions and final recommendations and produce the Final Report in a formal way as a Tribunal, once we've actually heard everyone's feedback.

So, I guess the short answer is no we don't have a position. We have very clear guidance that that particular area of community facilities works is not to be included, but this is still a review that's an ongoing review and the Tribunal will independently make its final decisions at the right time when we've heard from everybody.

Mr Bagnall: Thanks Carmel. Just one more thing if you'll indulge me. So, the terms of reference said that IPART couldn't I guess add things to the essential works list, but you've added borrowing costs, and you've added strata space for community facilities. So, if IPART takes that interpretation as it can add things to your essential works list, why wouldn't it be open to adding other things.

Ms Donnelly: Well that particular term in the essential works list is you know, not to expand it beyond current parameters, but specifically says that community facility works must not be included. We've also taken into account the Productivity Commissioner's very strong recommendations and directions about it being principles based, so we're trying to get the balance there.

Ms Cope: Strata space has been included in current contributions plans, so we don't consider that to be, basically stating what was the current practice, rather than extending the essential works list and we've always considered that borrowing costs, while they are less common in current plans, were within the scope of the current list. So, we don't consider those 2 things to be extensions, they're more clarifications when we were thinking about them, although somebody may have a counter view.

Mr Bagnall: Okay thank you.

Ms Livingstone: Thank you and I'll just note Norma, we've seen your comment on the same issue, we note that as well, and would have the same response there. Neal McCarry, you've got your hand up would you like to ask a question or make a comment.

Mr McCarry: Thanks Liz. I've got a question and a comment if I may. Neal McCarry North Sydney Council. The first one is just a little bit unclear on the process by which plans can be updated to reflect actual costs. Is that something, so if you've got items in your essential works list and then there there's not overruns, but they become in delivery more expensive than anticipated.

Say for example, you know discovered contamination, or there were some other site costs or circumstances. How readily I suppose, what autonomy would council have to update or correct those figures in its plan? I just was a bit unclear from the report on that.

Ms Cope: So, this is a really important question and something that we're interested in feedback on because there is a balance that we need to strike between being able to get good cost reflective numbers in the plans, without having to review them too often.

So, the principle that we've been looking at is that early on, that the plans would be based on benchmark costs, and that periodically they would be updated as the benchmarks are updated, or as actual costs become evident.

Now in practice actual costs can go up or down, and particularly there are times when things are discovered that will increase the cost. But in a lot of cases, we've found that overtime actual costs are actually lower than the costs that were originally in the plan, because the costs originally in the plan can include contingencies, so unless you draw on the whole extent of the contingency then the actuals could be less than what was in the early plans.

So, one of the key principles is that they should be updated for both overs and unders. So that if you're updating a plan, you don't just pick up the areas where costs have gone up, you also need to pick up the areas where costs have gone down. But we do think that there is benefit in regularly reviewing them. In the report, we talk about every 4 years which is consistent with the timeframes that we were talking about updating benchmarks. But exactly how that process would work best within council processes, love to hear your ideas about that, to know what's likely to work best.

Mr McCarry: Okay, thanks. My other one is a sort of comment and it's really in relation to, and thanks for an explanation both this morning. It's really in relation to this, I suppose principle or this benchmarking challenge, and I know every council is unique and you've recognised that council should have the ability to determine what facilities best serve their communities need.

If I use the example of open space in North Sydney. So, North Sydney has one of the highest densities, we've got over 550 people per hectare of open space, and a percentage of that open space, notwithstanding the few hectares which are being carved away because of the western harbour tunnel, but I'll leave that to the side.

A percentage of that space is not you know a traditional, you know it's challenging by way of topography, environmental sensitivity, and the like, so the open space is highly contested both existing and future populations. We also have this unusual concentration of independent schools in North Sydney, where you've got over 10,000 school students coming into the into the LGA per day, as well as our worker accommodation.

On top of that, you've got the sort of general tourist visitation to some of these prime foreshore parks and the like, so the point I'm making is the standardisation, and I appreciate you've got a challenge before you to try and set up a system, that's you know not one size fits all, but that can be readily implemented.

The standardisation, I think my point is that, I would welcome your thoughts on how you can deal with those really unique site circumstances, where we're not trying to attribute all those costs to the incoming development, we're just recognising that the reality of our expenditure, to make those spaces fit for demand and community expectation, is multiples of the suggested figures in some instances.

I don't like to use the word bespoke, but you know some of our projects for making that open space really work efficiently and harder come with significant costs. And I would class though, some of those costs whilst they're not eye watering, but they may be surprising that they're still efficient design, in that they're meeting such demand, that rather than having to replace them every 2 or 3 years, there's big upfront costs.

So yeah look I suppose that ties in a little bit to my question about what autonomy council would have in updating its plans as it rolls out. Do they have to come back on a on a 4 yearly or yearly basis to IPART or they just have to be publicly shared and updated as a matter for the record, because I'm also curious as to how this ties back into certainty for developers?

If you've got an evolving and we do our best in projecting our costs and in our work schedule as we've got a fairly new plan but if it's about certainty for developers, my overall suggestion which we'll put in our submission is that you know, if a threshold were to be applied that, you know and the council was meeting that, not seeking to exceed it, that there should be a level of ability for council to respond to its to its own circumstances and it provides that consistency and developers that's what they crave. At the upfront stage, is to work into their feasibility models, so that was a bit of a comment and a question so.

Ms Cope: An enormous question, so I'll try and unpick it a little bit, and if you can indulge me, we may throw a little bit of that question to the following session, because it was more about the benchmark cost.

Mr McCarry: Sure.

Ms Cope: But in terms of things around the plan review and the standards and what's in the essential works list. So, we have seen particularly an infill development, that absolutely that question that you raise about how you make open space work in an infill context, is very live and it's one of the reasons why we talk about the flexibility of being able to look at things on a case-by-case basis and the efficient design.

I think your question goes to some to the policy level, some to the process level and some to the detail of what we're doing here. I think part of what we're talking about with the essential works list and the way it's applied is around the standards that are set by the state. And to some extent some of the things you're talking about, what are the state standards for different areas and what should they look like in different types of councils. So that might need to be addressed at that level.

In terms of the review of the plans and I'd be really interested in hearing from some of the developer groups later on that actual trade-off between certainty and cost reflectivity, because it is something that we've turned our mind to quite a lot.

Now you said, would plans need to be re-reviewed by IPART, and I think we probably need to think about that both from what the current situation is, and what the future situation is, because at the moment we've got a policy that said that the government will basically hold on the current process for 3 years.

Now currently we review the plans, the timing of considering when plans are remade and re-reviewed is a question that sits with the council. We encourage councils to do that regularly because we have found that there are problems for both the industries and the councils if plans get too stale. Because the amount of change that results can be quite large and that can result in shock both to the industry on the amount of developer charges they collect, but also can create problems for councils, that if costs have gone down for some reason, they can have over collected. And now the contributions go down quite a lot, we've seen examples of that.

So renewing plans, you need to get that balance between doing it regularly enough that things aren't too different, to being able not to do it too often, and everybody has to go through a whole lot of process.

One of the big things that we found probably drives jumps in plan costs more which is actually outside what we're doing here is land value, and it is in infill areas there are some issues around that particularly in greenfield areas, as the development goes on, the land values go up quite a lot, and that can result in a lot of shock in the cost of plans.

So, in the world after the reforms have been implemented, we've suggested that plans should be reviewed every 4 years, but that doesn't mean that they will be reviewed by IPART every 4 years because under the new system, the plans are reviewed and exhibited, and IPART, the way the system's currently being talked about is IPART's review would only be by exception, so if there was concern or complaint.

So that means that your review process will be a process between you and your community and the developers in your area. And if the evidence is clear and well justified, we don't envisage that we would even be looking at the plans as part of that process, but we will be providing as clear guidance as we can about what our expectations are, to help councils through that process. But also, to provide some understanding of what our position would be, if the plan did come to us for review. Does that answer enough of that?

Mr McCarry: I think so, it was about 6 questions so thank you for that Deborah, thank you.

Ms Cope: Is there anything else that the team wanted to add that I left out?

Ms Donnelly: Deb, look I think you did pretty well with that. I'm not going to add too much except to probably say that we are as a Tribunal interested in feedback about given the principles based approach that we're proposing, have we got the balance right between the flexibility that would enable, particularly in Neal's example for instance a council to meet the needs taking into account different challenges for infill and greenfield.

Giving the flexibility, the principles around value-based solutions to meet community needs. Have we got the balance right in that flexibility and principles-based approach, and that issue of certainty? So, we are interested in really hearing views about that and we'll be considering that further depending on your feedback both here and in submissions.

Ms Livingstone: Thank you. And as Deb alluded to, we will look at the benchmark costs and the processes around that in a bit more detail in the next session. Robert Cologna, you've got your hand up and I'm not sure where you're from sorry Robert, because it's not in the title, so you might want to introduce yourself and let us know, thanks.

Mr Cologna: Yeah, my apologies. It's Robert Cologna from the City of Parramatta.

Ms Livingstone: Great.

Mr Cologna: Our review of the documentation provided by IPART in terms of the description of how the principles would be applied, it sort of leads us to the conclusion that the review relied heavily on greenfield examples, rather than infill examples. And that might be because the application those principles in a greenfield scenario is probably easier to explain and illustrate. But in that instance, it doesn't give council very much guidance on how it would be applied.

So, my first question is can you talk to the case studies that you might have done in preparing the study, and in terms of what material was reviewed in preparing the material, in order to establish the principles and the documentation, and what infill areas were looked at, and what sort of principles and were the principles applied in those contexts, even though it's not indicated in the document. And if you don't mind, I just might have a response to that question, and I'll ask one next one to avoid asking questions and having to come back and forward is that okay?

Ms Cope: Yeah absolutely fine. So yes, we definitely did look at infill, as well as greenfield, and I might throw to the team in a minute just to give you the specific examples. We did hear at our previous public hearing some of the councils that were involved in infill talking about specific issues, and we went back to them and asked for more detail about what they could provide.

But we do recognise that while we'd have done work on infill councils in the current plans that we assess, and there have been several that have come through, and we've tried to reflect our experience from those. A lot of our experience has been in the greenfield area.

But as I said, we have consulted specifically with infill councils, we had a specific workshop with infill councils to work through the issues with them prior to preparing the Draft Report and we want to be able to fill out those examples more as we go forward.

And I asked the Department the question about whether they thought there was benefit in trialling and testing some of this during that 3 year interim, and I could see that as being a good way to actually build up some of those examples, and a greater range of examples to help when the rubber actually hits the road in 3 years' time. But did the team want to go in any more about the specifics of from what we've looked at?

Ms Donnelly: I'm not going to speak to that, and I'm not sure if the team want to, but I am going to jump in and just Robert, thank you for raising this. It is something that has been on our mind and could I just ask certainly there's room after this public hearing for any of the participants to get in touch with the IPART Secretariat and to make contact, and I'll be just reminding you at the end obviously, their contact details are in the Draft Report and on our website.

We'd really love to hear if there are some particular examples that you would like us to be specifically considering, and I do invite you to let us know about that, so I think that would be enormously helpful as well. So I'll stop there and just see whether the team want to talk about some of the specific examples, but we had we did we did invite input and I can assure you that we really turned our mind to some of the challenges in the really densely populated infill areas, and that is partly what informed us adding strata space for community facilities, as well as just land and really thinking about ways of providing for community needs in both regional and metro and some of the real infill councils.

Mr Everett: I'll just speak in terms of some of the specifics that are in our report and look, Robert as you were asking the question, I was making a list of things that I wanted to address and Deborah and Carmel have actually addressed all of the sort of high level points that I was going to make in response to your question.

I suppose what I would just reiterate, there are some examples that we set out in our report. I think it's a fair comment that a lot of those weighted in the report, in sort of boxes within the report are weighted more towards some of the greenfield examples. But as both Carmel and Deborah said, we're keen to get any further feedback and I think that's something we can we can definitely work on between our draft and final report, and testing as much as possible through as many as examples as can be provided by stakeholders and councils to test the framework and take that into account in our Final Report.

Ms Livingstone: You're on mute Robert.

Mr Cologne: Sorry there's a lot of background noise here, I was trying to save everybody from that, so I apologise. In terms of the second part of my question, I just wanted then to explore one of those as an example to maybe start that conversation, and that is, so let's take the example of the application of the base level of infrastructure in a context where community already has an expectation about a service level.

And so let's go to an example of an open space, where you've got a piece of open space it's got a sporting field and an amenities centre, with increasing population you're probably going to need to accommodate two or three clubs on that, we currently might have one. And there's already a service level in terms of what that provides to the community.

How do you then reconcile the continuation of that service level, and the application of a base level in that and so, I just wanted to share whether there'd been any thinking in that example as just one particular case study of the sorts of issues that we have with the application of the principles. So, I just thought if there was any commentary on that as an issue.

Ms Cope: So that is, and thank you very much for the question, because again it is, you've kind of nailed on one of the really tricky things that we've been trying to grapple with, with this report. We do have a government policy that the contributions reflect base level, and they've got some definition already in their existing documentation about what the state government considered base level means.

Now the first point is that doesn't preclude councils from doing something different from that but does mean that different funding mechanisms may be needed other than development contributions to fund that, whether it's voluntary contributions, sometimes it's grants and sometimes it's some rate revenue. And we have heard that that's problematic for councils, so I understand the issue very much.

But I think what your point goes to more is, how to define the base. Now I might throw to Brett again if I may, Brett just to go, because I've the exact details of how that's currently defined it's not right at the top of my fingertips at the moment.

Mr Everett: Yeah thanks Deborah.

Ms Cope: And we've basically tried to base it on what's the current guidance provided by government.

Mr Everett: Yeah thanks Deborah. So, the way that we've talked about it in our report and keen to get your views, further views on this, is that the base level is the sort of is the minimum level you would need to meet a certain performance outcome. So, in that example, I think you're talking about there, the outcome would be providing open space for residents in some way. You talked about some sporting fields that would need to be provided, which is essentially about providing open space and recreational or active open space I think in the example that you're talking about there.

So, what would be looking for councils to do is to articulate that that's the outcome that they're looking to achieve, and then from there what under base level embellishment, or base level, base performance, or the base performance outcome we're looking at, is the minimum level that you need to meet that performance outcome.

And so as Deborah said, that doesn't mean that you can't go above and beyond that, but in some cases, what it will mean is that there's a base level, and as we've said that base level is considered with regards to the sort of any technical specifications, any sort of requirements that are in place for the design of that, as well as community needs. So, there is the option for you to consider community needs and consider the extent to which your community needs the particular facilities that you're talking about.

The other element in terms of in addition to sort of efficient design and the base level of performance is that there needs to be a nexus, and I know that Steph talked about what needs to be demonstrated in terms of nexus as well, so all of those elements would need to be demonstrated by a council. In the context of your particular development, so in the context of the infill development that you're proposing.

Mr Bologna: Again, thank you. If you'll indulge me, I just might then make a statement which is probably more aimed at the Department of Planning than IPART, if you'll again give me the indulgence and that is, real concerns about the fact that, that sort of approach where the development industry are coming along and not paying for their share of the cost of maintaining the existing service level, really undermines the contract that I think, we as planners want to achieve with the community, about getting them to accept the growth in their area.

If the growth comes in at an impact, and the impact is a decrease in the service levels of the of the facilities and services that they get, then it becomes a much greater task, much greater challenge to get that contract with the community, to accept and manage that growth. So, just want to make that as a statement as an implication of what I perceive to be the flow on effects of applying this approach really stringently. But again, thank you all for your time and your responses.

Ms Cope: Thank you Robert.

Ms Livingstone: Thanks Robert. I note that there's some comments and questions to that in the chat, and we'll come to those shortly, but Kim Woodbury from City of Sydney Council, I'd like to invite you to speak. I can see you've got your hand raised.

Mr Woodbury: Thank you and thanks for the opportunity. I just wanted to cover off on nexus and community facilities. So, in the discussion paper, it seems to imply that for community facilities, the construction of community facilities, that's really the nexus is with an increased population, and not with development. I don't know how you can get an increase in population without development.

Occupation levels of dwellings generally are relatively static, you get minor variations over time, very small component so you can't really get a substantial population increase without development, so I think that goes contrary to what's actually stated in your paper.

To give an example, Green Square, in the year 2000 there was 3,000 people in Green Square. There's currently 45,000 people in Green Square. By 2030 there'll be about 70,000 people in Green Square. We've constructed new community facilities in existing plans not 100% for development, but a high percentage contributed to development.

You can't argue that increased population is not development related, and that there's a nexus a strong nexus with development, which allows that population to come in, and the need for that population, 70,000 greater than the size of Wagga. If you asked Wagga to have no library, I don't think you'd get much of a reaction from the community. If you ask library [Wagga] to have no swimming pool, I don't think you get much of a reaction, or you get a bigger reaction from that community. But what's been proposed under the essential work list is basically, that the existing ratepayers should fund and not the development should fund those facilities. I'll leave it there for comment.

Ms Cope: Yeah, thanks for that Kim. As Carmel said earlier in the session, we've had community facilities explicitly excluded from our terms of reference, and it says that they should not be included in the essential works list. So, there is as Carmel also said, we are very interested in hearing people's views, we are still finalising off our report, but at this stage we've been given a direction from government about how they want those facilities treated.

I'm not sure I completely understand your point about population versus development though and I'm wondering whether it goes to the fact that we've got two bits of work that we've been doing at similar times. One looking at how to make sure that we increase the amount of money that councils can collect through rates to reflect population growth, by increasing the rate peg to reflect growing populations.

And then we've got contributions, which are linked to areas which are either infill development or greenfield development, both of which we see do increase the need for facilities within local government areas, and therefore need to collect the money in order to facilitate those facilities.

Mr Woodbury: I just want to respond probably to the last bit first. The increase in rates with population is for providing additional services in providing and maintaining assets, it's not for new assets, it never was, you know proposed by Productivity Commission or by IPART.

It was always around, once you've got those new services, or those for new services, additional services, which are quite substantial in the example I gave, but also maintaining the new assets so we'll have \$1.3 billion in new public assets in Green Square we'll have to maintain. So, any increase in rates will cover the maintenance of it, it won't cover the construction. I totally disagree with your comment on increasing rates or allowing rates, the population increase to be taken into account. It's really ongoing, it's not for the capital.

Ms Cope: Okay so I think then your question fundamentally goes to your view that the essential works list should include community facilities, and that they are development contingent infrastructure, and I think if we did a poll around the councils here, you'd get pretty strong agreement with that view. So, yes, we have definitely heard that.

Mr Woodbury: So that is the case, but to not include it basically makes a furphy of nexus, when you're using nexus as fundamental for everything else. So, either you're using nexus or you're not using nexus, the government can't pick and choose. You know, either it's developmental related and it's required because of development, or it's not. That's our strong view, thanks.

Ms Cope: Okay, thank you.

Ms Livingstone: Thanks Kim, and I'm just turning to the comments and questions in the chat for a moment. Martin Brown, we think your question is probably better answered in our next session when we look at that topic explicitly about reviewing plans and the benchmark, so we might hold that over for the moment.

Kerry Robinson, you've made a couple of comments as topics have been talked about, did you want to speak to those or just happy for us to note those as comments, if you could let me know. Okay I'll take that as you're happy to leave them there as comments, but please let us know if you'd like to speak to them. But we might go to Jason Cooke now, about ongoing maintenance of infrastructure, Jason would you like to speak to your question?

Mr Cooke: Sorry I'll just call up my question. Yeah obviously ongoing maintenance is a big issue for councils. So, we get all these assets and then we've got to maintain them, so it's good the paper mentions the life cycle cost of infrastructure in contributions plans, so does this mean that the contributions will now cover the full lifecycle cost of an asset, or is it still only going to cover the upfront capital portion, in which case how do we reconcile the developers need for lower upfront costs, and our need for lower ongoing maintenance?

Ms Cope: So, the reference to life cycle cost doesn't say that you can collect the ongoing maintenance cost through developer contributions, but it does say that you want to pick the type of infrastructure that will have the lowest cost overall to the community. So, it's not necessarily the infrastructure with the lowest upfront investment cost that you would put in the development plan.

The ongoing costs I think as we were talking with Kim from the City of Sydney is really what we were thinking about when we were developing up the changes to the rate peg, to allow the additional rates to be collected going forward, based on a population growth. So that if you've got a new development, in addition to the developer charges, if that's growing the population, you'll also get potentially get a factor uplift in your rate peg going forward to reflect that and that's being illustrated for the first time this year when we're releasing the rate pegs, which will have a range of uplifts for different councils based on population growth.

Where we've heard that councils have remaining issues is if their current rate base is insufficient to be able to manage that ongoing maintenance going forward, and that is a difficult issue and we expect that special variations are going to need to be the mechanism that some councils use in order to be able to rebase in a way that allows those two systems to work together going forward.

Ms Livingstone: Thanks Deb. David Johnson, we will come to you now.

Mr Johnson: Thanks. I was just going to pick up on the matter of the community facilities and whether there excluded from the essential works list, and I'm not necessarily arguing that they should be included.

But one of the things that's occurring is when some lead developers who may not control a whole estate, or a whole precinct that needs to be rezoned, are being asked for community facilities to be provided, or partly funded through a VPA with the council to achieve that, either partly funded and if they don't control the whole sequence of the land, or all the portions of the land being rezoned, which they often don't.

You create a significant inequity in what's being provided. Partly funded facilities or completely funded facilities for the benefit of a lot of other developers that in the area that are just sitting back and waiting. So, I'm not necessarily arguing but the exclusion of it creates an inequity in the development market for that. The lead developer might also be providing all of the funding for the studies that are needed to progress the rezoning of a site, a large portion or a large rezoning area. Just want to make that comment as a consideration for IPART as well, in that pointing out that inequity that arises.

Ms Cope: Thanks David.

Ms Donnelly: Thanks.

Ms Livingstone: Kerry, you do have your hand up now, so we'll come to you, Kerry's from Blacktown Council.

Mr Robinson: Thank you so much. I've had some big issues with my questions, sorry if my questions are repeated, I have two questions.

Ms Livingstone: Kerry we're having trouble hearing you, so I wonder if maybe turning off your video while you ask the question might make it easier for us to hear the audio, do you want to try it?

Mr Robinson: I'll try again, is that any better?

Ms Livingstone: Much better thanks.

Mr Robinson: Thank you so much. First question relates to a blending of capital costs and maintenance costs. When traffic signals are installed, Transport for NSW requires that the initial 5 years of maintenance of those signals is included as part of the capital costs. Is it acceptable that council will be able to allow 5 years' worth of all maintenance of its facilities as part of its capital costs?

Ms Cope: That's actually the first time that I'd heard that particular point. I'm not sure if it's been raised with us before. So, I'm not sure that I can respond off the cuff to it, because it's not something that I've considered. But if you think it's an important issue, please put it in a submission to us because we'd like to think about it.

Mr Robinson: Thank you. My second question goes to community facilities, which I've heard your comments. The consequence of your comments and the consequence of the government's decision is that the only way that we can fund for 250,000 people moving into the northwest growth area, a population which is larger than every council in NSW bar 3, is through an increase in rates.

In order to provide those facilities, the rates in those growth areas will need to go up by 40% [40 percent] over a period of 30 years. That is to say under the strictures of the Local Government Act at the moment, it would need to be a permanent SRV. Would IPART, I'm sorry I'll put it differently, I presume therefore that IPART would support such an SRV?

Ms Cope: I can't sit here off the cuff without actually having look at the detail to say whether we would or would not support it. But I think in the context of this review, we have heard very loud and clear the views around community facilities. We understand the point, I'm not sure I can add much at this stage to what we've said before, except to reiterate what Carmel said, that we will consider all of the feedback that we've got when we're preparing our final report.

Mr Robinson: Noted.

Ms Livingstone: Thank you. Now at this point, before we head for a break I might just check if anyone who's dialled in by phone wanted to ask a question, and you can take yourself off mute by pressing star 6, so if there is I think we have at least 1 or 2 people on the phone, if you haven't had a chance to speak and you'd like to, let us know now. Okay.

Thank you, and we do note the comments that people have made in the chat, some of those are likely to be addressed in the next session, so we'll hold those over. But we'll take a 10-minute break now and come back to look at benchmarking in a bit more detail. So, if you're back by 5 past 11, sorry it's only 9 minutes but hopefully enough time to grab a cup of tea and have a bathroom break, we'll see you at 5 past 11, thanks.

[BREAK – 10 minutes]

1.7 IPART presentation – Benchmark costs (session 2)

Ms Livingstone: Okay we'll get started on session 2 now, and I do have to apologise I think I mentioned earlier that we'd be finishing by 12 pm. The real deadline or finish time is 12:15 pm. It's possible we'll finish earlier but it is 12:15 pm, so apologies if I cause any confusion there, and I hope that hasn't disrupted your planning for the day.

But for this session we're going to kick off again with a presentation from IPART on the review of benchmark costs the local infrastructure. But then again, most of the time we've got will be devoted to your questions and comments, and I know we're carrying some over from the earlier session, and we do have people with their hands up already for this session as well. We'll do the presentation first, but then we'll have plenty of time for questions and answers. So, I will hand over to Jessica from the IPART team to talk us through the benchmark costs, thanks Jess.

Ms Hanna: Thanks Liz. So, coming now to our second review. Our terms of reference asked us to address another of the Productivity Commissioner's recommendations that IPART develop and maintain a system of standardised benchmark costs, that reflect the efficient costs of provision of local infrastructure.

So, in developing these benchmarks, we were to include allowances for contingency, project management and design components of local infrastructure delivery, make recommendations for differences in costs where relevant, and consider what alternative costing approaches should be used when councils don't use the benchmarks.

So, considering the review of the essential works list, we set out to develop benchmark costs for items on the revised essential works list. So, starting with infrastructure benchmarks our consultant Cardno developed benchmarks for approximately 50 infrastructure items across the categories of open space, transport and stormwater. Cardno developed a typical scope for each item, and the typical scope describes the base level inclusions, and it clearly outlines what was excluded from the costing.

And there are 2 types of exclusions and I just noticed a few comments in the chat from the earlier sessions about lighting for example. So lighting is one of those exclusions that has been categorised as may reasonably be required for base level. So, it hasn't been included in the costing, but it has been costed separately, and if relevant to a particular project it can be added on to the cost of the playing field for example.

So, the typical scope also includes various risks and the applicable standards. The typical risks covered by the contingency allowance and the applicable standards, and it sometimes also includes sub items that allow for variations in size, or configuration. Based on the typical scopes, the consultant prepared base costs for each item.

And then we've developed a number of adjustments that can be made to the base costs to account for local differences that that may increase the cost of delivering infrastructure.

And some of these allowances include an annual indexation using ABS issued PPI's or producer price index. Constrained sites, typically for infill developments, that may require service relocations, night work or traffic control for example. The distance from raw materials for roads and for stormwater and open space projects are location factor, and ground conditions and that's primarily for road projects.

On-costs and contingencies as a percentage of the adjusted base cost are then added to determine the final project cost. And so, to illustrate the process, we have prepared 2 worked examples, drawing from previous contribution plans that we had prepared. Apologies I've just lost my slides, so I am trying to find them, bear with me okay.

So, the first example comes from the West Dapto CP20, which identified a need for a package of 54 gross pollutant traps. Using the base cost from the benchmarking report using the largest size, we start with a base cost of a \$150,000 per unit and in \$2020-21, so no need for indexation.

We've assumed minimal site constraints for a newer development area such as West Dapto. We've used the Wollongong location factor, which is slightly higher than Sydney at 1.01. The project is not a road, so raw resources and ground condition factors are not expected to apply.

And this gives us an adjusted baseline cost of just under \$8.2 million. Large programs, those greater than \$5 million, attract the lowest percentage on-cost of 12% and we've assumed that the CP is prepared at a planning stage with a 20% contingency. So, our final cost for the package of gross pollutant traps works out to be just under \$10.8 million.

So how does that compare with what was allowed at the time. Sorry. In May 2020 we issued our final report indexed to 2021 rates, we allowed \$8.9 million which is about 17% lower than the new benchmark and that even included a 30% contingency allowance, rather than the 20% that we've assumed in this example.

There are a couple of challenges of course with completing this type of analysis after the fact. In this example, we selected the largest benchmark unit size, and we applied that to all 54 units. However, in reality we know that that package included different sized units. We expect if we had a more detailed breakdown of unit sizes, this gap would reduce further.

And one additional challenge of doing this analysis after the fact is that the unit sizes were classified at the time by flow rate. But in the new benchmark report, the Cardno Report classifies by outlet size, and so it's difficult to match up the previous benchmark report, which presented 4 different unit sizes, where our new benchmarks present 3 sized units. We think taking this into account it would really close that gap a fair bit.

The next example is that of a package of wetland basins, based on a total of approximately 51,000 square meter basins from the North Kellyville CP13 from July 2020. As for before, we started with a unit rate of \$130 per meter squared and again, we applied our adjustments. In this case the only one applied is the constrained site, which we assumed was moderately constrained.

This is also a large program so the lowest on-cost allowance applies, and we've assumed design stage level of contingency, so the final cost works out to be about \$10.2 million, and in comparison, with what was allowed at the time, there is very little difference. Estimation using the benchmarks is within 2% of the estimates allowed for when reviewing the contributions plan.

We've also developed benchmarks for the non-infrastructure items on the essential works list. These are for plan administration, and for benchmark borrowing costs. For plan administration, we have kept the benchmark cost to 1.5% of the total value of works funded by the contributions plan. This allowance should cover plan preparation, management and administration, but should not include design or construction, project management, which are already allowed for in the on-cost allowance of the infrastructure benchmarks.

We've also developed a benchmark borrowing costs that would allow councils to levy the cost of interest on debt used to forward fund the infrastructure in a contributions plan. We estimate the cost of debt at a point in time by taking the nominal risk-free rate, and adding a debt margin, and an allowance for borrowing costs.

The borrowing cost benchmark is the midpoint of the current and long-term trailing average cost of debt, and the trailing average calculates the average cost of debt over time by first sampling the cost of debt at a sample point in the year, for each year in the trail. Then by taking the average of those sampled points, the current estimate is the 5-year average and the long-term estimate is the 10-year trailing average.

Finally, we've recommended that the benchmarks are updated over time, and we've proposed 2 types of benchmarks. An annual escalation with the relevant producer price index, and a more comprehensive review every 4 years. I'll now hand over to Shannon to discuss the alternative costing approach.

Ms OHara-Smith: Thanks Jess. So, we have developed these benchmarks to provide both flexibility and complexity, and we think that councils will be able to use them in most cases. However, we do acknowledge that there will be some circumstances where they may not be appropriate, and in those situations a principles-based site-specific costing approach may be used.

When a council uses a site-specific costing approach rather than the benchmarks, the council should follow 3 principles. Firstly, contributions plans should include benchmark costs unless the benchmark would not provide a reasonable estimate of the efficient costs of base level development contingent infrastructure.

If the council intends to use an alternative cost estimate, the scope and performance outcomes of the infrastructure item should be the same as the benchmarked estimate, unless the council can demonstrate that the altered scope or outcome is consistent with base level infrastructure.

And lastly, councils should take a symmetric and proportionate approach to replacing benchmarks with alternative costings. This means that where an alternative approach would lead to a more accurate cost estimate than the benchmark, the estimate should be used whether it is higher or lower than the benchmarks.

When using a site-specific costing approach, councils will need to show that they have correctly followed these principles by explaining how the costing method and information used produces a more accurate estimate than the benchmark, how the performance outcomes and scope of the estimate are consistent with base level infrastructure, the differences between the council's estimate and the benchmark, showing that the difference in the cost estimate is material and how the council has assured itself that its estimated costs are efficient and reflect market-tested outcomes.

Once a contributions plan has been prepared using the benchmarks, or alternative costing cost estimates, it will require updating over its lifetime to make sure the costs in the plan remain cost reflective. We recommend that all higher value plans that charge a contribution above \$20,000 per dwelling or \$30,000 per greenfield dwelling, be reviewed at a fixed 4-year period.

We recommend a process where councils rely more on benchmark cost estimates in the early years of a plan, councils then update contributions plans to incorporate updates to benchmarks at appropriate intervals, and councils gradually replace these benchmarks with more accurate site-specific cost estimates or actual costs at each 4-year review of their contribution plan.

When updating contributions plans, we recommend that councils apply the following principles. Updated costs should only reflect the efficient costs of meeting the required performance outcome. Actual costs should reflect the optimal design of infrastructure required to meet the appropriate performance outcomes, and the outcomes of best practice competitive processes.

Council should provide proportionate explanation and justification for any increases to their costs as a result of a plan review. Updates to plans should reflect both cost increases and decreases relative to the initial estimates or benchmarks used. Any contingency allowance for an infrastructure item should be adjusted to reflect the stage of project planning. And development should not pay for more than its share of efficient costs based on nexus and apportionment principles. And councils should not over recover their efficient costs over the life of a plan.

And lastly, when a plan is updated, any material changes to costs should be backed up by evidence. Councils should be able to explain: how the performance outcomes and scope of infrastructure underpinning the specific estimates or actual costs relate to benchmarks, and the reasons for any differences, how the components of their cost estimates and actual costs relate to the components of benchmark costs that were originally used, how they have accounted for risk or uncertainty in their specific cost estimates, given their stage of infrastructure planning or delivery, the process they followed to generate their specific cost estimates and how they have ensured these estimates are efficient, the process they followed to ensure their actual costs are efficient including being based on efficient design and lastly, whether the council has specific estimates or actual costs for any infrastructure items in a contributions plan, that they have not replaced benchmarks with, and the reasons why. Thank you, I'll now hand back to Liz.

1.8 Q&A session

Ms Livingstone: Thanks very much Shannon. So we now will return to questions and answers and comments that people might have, I do want to go back to one that Martin Brown asked in the earlier session, and I wonder Martin if you're on the line, and would like to speak to that to kick us off for this session. Not there or can't hear you.

I can ask it given it is written out in the chat, and others might have similar interest and it was really about when you do review the costs in the plan, and find that costs are subsequently identified as being less overall. Martin's question was, are the collected contributions expected to be returned, and conversely where costs are more expensive, can council ask for additional contributions. Deb?

Ms Cope: Yep, so historically the way that it's worked for those plans that we currently review is that the contributions going forward are adjusted to reflect any change that's needed. So, that if the plan's under recovered, then the contributions go up for the future, the rest of the plan. If the plan has over recovered, then the contributions go down, and that was one of the reasons why I mentioned earlier that we think it is important that plans are regularly reviewed, so that you don't get big swings because they get outdated and the actual, what's actually happening on the ground, starts to diverge from what was written on the pieces of paper.

Ms Livingstone: Thanks Deb. We'll now go, there's a few people with their hand up, and hopefully I've got them in order, but Tom Forrest, I think you had yours up first, so we'll go to you now thanks.

Mr Forrest: Thank you and thank you to Jessica for hearing me through this discussion a few days ago. It really follows on from the from the previous question that you just raised, and that is how do you manage contingency, and because 0.2 or even 0.15 of a contingency, who owns that contingency? If the contingency is not spent for example, does that just go to the council's bottom line? Is that reasonable?

It seems to me that if there's a contingency there, and you've already got an escalation cost built in, then what's the contingency for, an expectation of a hopeless planning system adding an extra 20% to the cost. Are we seriously factoring that in?

Well if we are factoring it in, why don't we just factor it into the base price. The question I've got is, if you deliver, if you're establishing an efficient cost, then the developer who is making the contribution at the end of the day, should have access to that contingency where it is not spent. They are the project owner, it shouldn't be left to be a basically a windfall gain, and if it's expected that you're going to need that contingency, because then the base the base cost should be adjusted.

My real issue is where is the incentive to reduce, to put downward pressure on prices. Where is the incentive for any project manager not to spend their contingency, not to just factor it into their cost going forward, you know doesn't matter if we're inefficient here, we'll get another 20%.

In my experience managing a railway capital budget that was in the billions of dollars, having the project sponsor own the contingency, and only release it where it could be properly justified was critical to putting downward pressure on the cost of delivery of projects.

And our experience very much was, wherever you allow the asset deliverer to own the contingency, you lost that contingency, it just went straight to the bottom line, and often you then ended up having to pay escalation costs on top of the contingency ironically.

I understand that it is a sliding scale of contingency, where you're going from 20% to 15% reflecting the development stage in the project, but I still say, if there's a serious expectation, as much as a contingency should go up, it should also go down, it's an unknown at a particular point.

Let's say it goes down, who gets that, does the developer get it back or does the council get to keep it, so that's my question, I know that that's it's almost a question also for Cardno, it's just more I'm raising that as something to think about as you progress forward without any expectation that I necessarily get a comprehensive answer today.

Ms Cope: I'd actually like to throw the question to some of the councils because contingencies have been a part of the system for quite some time, and it's something that's strongly supported by the council. So, I think it might be useful and I think Kim from City of Sydney's suggested that he might have a response.

Mr Woodbury: Yeah, so I appreciate the report, and the detail of the report, however it's very impractical to do a bottom up. Just because of timing, at the time and I will get back to Tom's question.

At the time that you're putting a plan together, you haven't got, you can't do a detailed estimate. There's no way, no way you can do a detail estimate, you can do a strategic estimate, because we don't have access to the land half the time. It depends on staging the costs, so I'll come back to that.

But Tom's thing about most of our plans are \$20,000 for any new dwelling that's built. There's international benchmarks, the cost to government, all levels of government is about \$250,000 per dwelling, so to talk about penny pinching on \$20,000 is just an absolute furphy.

So, the contingency, so most plans don't have a 100% to the developer. They have the ratepayer pitching in. In Green Square we're having about \$200 million of ratepayer pitching in, for an area that's all new. So, if anything, it should go the other way. That's my answer to Tom. You're on a pretty good wicket at the moment, okay a very good wicket okay.

I'm happy to cover off just my other comments or questions if, unless Tom wanted to reply.

Ms Cope: Liz did how did you want to...

Ms Livingstone: Yeah, the only other, there's also been some comments in the chat on this same issue, so perhaps we'd go to them and I might read them out and again give Tom any right of reply.

Mr Forrest: But just quickly if I may, I'll be very quick, it almost, the response always goes to in part why it is that the costs of infrastructure are blowing out for everyone. Maybe that's a subject for a future IPART inquiry at a time, but the fact that there is almost all of the aspects of it have to be owned and understood, and it will vary between different councils and indeed the treatment of the list and what's on the essential infrastructure list itself, will have an impact on all of those things, and how much the community contributes these, and that's sub germane to the whole debate we had in the previous session. But I do say that, just ignoring the ownership of a contingency when it's 20% of the total charge, is a little bit flippant, and I won't debate it further.

Ms Livingstone: Sure, I'll just also note that Robert Platt's made a point that any remaining contingency must be spent on local infrastructure under that plan. I know it doesn't answer the question directly about the contingency for specific items, but it does quarantine essentially the money for infrastructure in that plan.

So, I think we're now going back to Robert, if you want to speak to your question now, and Kim will come back to you after that. Robert Cologna, did you had your hand up? Kim will come back to you and hopefully can reconnect with Robert in a moment.

Mr Woodbury: Okay thanks very much. So, I just want to reiterate that the timing to do the bottom up. So effectively, while we're developing a plan, we would have to work out the estimated project costs for all items. We'd need to have detailed drawings to work out in the detail Cardno's proposed.

We wouldn't even have a concept drawing at that stage, we might have a very high-level master plan. We'd need to have remediation action plans approved, because you wouldn't know the cost of remediation. And I do note, and I do support those additional ones, however I don't think it's been appreciated, what those other ones that aren't including the base costs actually are, because often they're half of the total project or two-thirds of the total project in brownfield sites.

So, we need geo-tech, often we don't have access to the site, because we don't own the site so how can you get a remediation action plan and develop up those costs. We need to have it, approved utility plans particularly in brownfield.

State government owned utilities are required to be relocated, you know if you're changing levels anywhere because of flooding, then they might have to be redone, and their requirements. We can't get any approvals, except from state agencies, unless we do the work that they require us to do.

And again yeah we've got like one set of traffic lights, I think you're saying it's about \$400,000, we can't do in our high density area, with brownfield sites, where you've got existing services that need to be relocated, must do night work pretty much most of the time. We've got an example where it's next to a state road, development on either side, state's not pitching in for anything, but lumping it on us it's \$2.5 million, to do a set of traffic lights. And we've just completed it, so it's actual cost. So, we welcome the top down, because we've got plenty of examples to justify the costs. But I think many councils will be using the top down approach, because the bottom up approach just isn't feasible just because of the timing, that only information at the time.

The other thing that I'd also like to say is, your reports talks about standards so for base level, it complies with certain standards, but it's got one standard missing. It's council standards and tech specs, most councils have developed up their own tech specs, because they're not covered, the details not covered by the Australian Standards.

And we require all our developers when they're doing works in-kind or any all of our works to build to that standard. And they are different standards for different councils, because different council areas are different. So, that needs to be incorporated and that gives a fundamental difference.

I mean would you expect a developer here to do, well we take money in the CBD and we built smart poles in the CBD and across our local government area. Do you expect us to build dumb poles, you know a pole which you can't fit any other signage on, you can't accommodate wi-fi or small cells for these things?

The cost of your pole actually, our submission will be quite detailed in this regard, but all your stuff that it's nowhere near the ballpark, you know for the centre of Sydney. So where as a smart pole is \$40,000 in the CBD and a minimum \$20,000 in the suburbs.

So more a comment than a question, but we do welcome the top down approach, and if you listen to that, we'll certainly be using that, but I think it'll be problematic for councils who try and do the bottom up, because they'll get caught out.

And there's many examples we can show another one, Green Square. So \$140 million worth of trunk drainage that's just the trunk drain itself. We did a deal, so its state-owned infrastructure, the existing infrastructure, State wouldn't pitch in. We're going to go about half, we're going actually more than half, we've put in \$80 million to enable 70,000 people to move into Green Square. Blacktown can tell you a similar story with their drainage. So that stuff is just contamination, high ground water levels, high ground water levels can almost go into costs.

Ms Cope: And that's precisely the reasons why we've incorporated the alternative costings approach in, because those examples do exist, and we need to be able to accommodate that with we're doing.

And I do welcome very much, you said you're going to put in a detailed submission, please do because we want to be able to run through all of those sorts of things in detail between the Draft and the Final.

Mr Woodbury: Thank you.

Ms Livingstone: Thank you. Robert, I can see you're there now, you've had your hand up for a little while did you have a question or comment you'd like to speak to.

Mr Cologna: I have. Thank you again for allowing me to speak again. I guess my initially Kim has stolen some of my thunder. I pretty much agree with everything that Kim has put forward. In our submission, we will be detailing case studies where the costs compared to projects that we're currently undertaking are out by a factor of 10 sometimes 15. So, they're nowhere near and so the conclusion that Kim reached that councils will be forced to use the alternate methodology, certainly in infill areas is correct.

And what I'd add to that argument is that it then raises questions about the 1.5% plan administration costs being suitable, because the level of work and rigor that is required under that methodology, because the benchmarks are potentially not fit for purpose, means the council has a much greater administrative burden.

And so, we would argue that if we're forced to then use the alternate methodology, with the more significant resource implications, we should then be able to recoup the costs of the administration of that plan in those particular circumstances. Yeah and so that's it for me. It wasn't a question, more a statement in terms of the implications of what we think are benchmarks that don't meet our needs.

Ms Cope: So is the issue that everything, particularly when you're talking about infill, every component is so site-specific and bespoke to this particular area, that it's not possible to get an efficient benchmark, because the things that vary between sites are very different.

Or that what you're saying is that if you wanted to use benchmarks, you would need to have a different benchmark for infill development than you have for greenfield development.

Mr Cologna: I'd go back to the examples, and you know, if I'm repeating a comment from earlier today, even the examples that are provided are all related to greenfield cases not infill developments. So yeah, we think there needs to be work on either a more suitable set of benchmarks that are suitable for infill and reflect our actual costs. In that instance, the methodology where you apply a benchmark is valid, but where the benchmarks are so far out of whack, it becomes unworkable for us, and we have to go to the alternative methodology.

And just to give you a practical example as it was explained to me by one of our technical people. They've got a costing in there for a roundabout. The assumption is that it's a roundabout on a new road that's been built to, sorry not a roundabout, a pedestrian crossing. The assumption is that it's on a new road in a greenfield area, and the cost is somewhere near \$15,000.

In an infill situation you've got a circumstance where you have to provide upgrades to lighting, you have to redo all the all of the kerbs, so it's not just a matter of \$15,000 to do some painting on a new road surface. You're actually having to retrofit, you're actually having to retrofit a new environment around that pedestrian crossing to make it work, and that's just not reflected in any costings. They're just with this, with all due respect it's just not relevant to our context.

Ms Cope: Jessica, did you have anything that you wanted to add around sort of some of the consideration of how we can pull in brownfields into the, you know was their discussion in the development of the benchmarks about these particular issues.

Ms Hanna: Sure, so certainly and I will invite the Cardno team who are on the line to also jump in. Certainly, we considered infill development when developing those constrained site factors, where the most constrained site may have an adjustment factor of 30% to 40% and sliding scale down to a moderately constrained, or unconstrained site. So that was one of the ways that we tried to take into account the differences between greenfield and infill development.

As for some of those examples such as roundabouts or crossings, I will invite the Cardno team to jump in, but my understanding is that you would have to put together the benchmark for the intersection plus the crossing, or you know the road plus the roundabout to come up with your final benchmark cost and Cardno did you want to jump in and explain the development of the benchmarks.

Mr Moy: Peter Moy here from Cardno. I understand the comments that are coming back particularly from councils that are in the CBD, or in you know Sydney whether it's infill. Yeah, we struggled with that, how we made it real for you.

We were using, as Jess mentioned a factor, depending on the constrained type of land scenario that you're in. I'm really hopeful to get some good feedback on that, so we can try and get the right answer for this.

But we're doing this for the whole of the state, so we're walking a tightrope here, and trying to get the right outcomes for every council. Some councils aren't going to get the right outcome here, and therefore there's an alternative approach.

But I'd like to think we can maybe come up with something that avoids that, so the feedback that you send in will be great. A lot of the stuff like the traffic signals and the roundabouts, typically that's additional to the road works, and the intersection is already having to be constructed as well.

So, it's not necessarily \$400,000 traffic signals it could be \$400,000 plus all the roadworks etc that go with that. As you mentioned, things like large trunk infrastructure, we really haven't included large trunk infrastructure, we've tried to minimise that to reticulation services, if it's bigger than that I mean, it's just trying to understand like everyone's got a horror story, everyone's got this project that cost a lot more than something else that you know.

So, if there are outliers well they have to be priced a different way, but we're trying to review the additional percentage increase and it's so variable for an infill site it could be double, it could be three times, or it could be 50% more, so it's just that area that where I guess everyone would struggle with if you haven't come up with these benchmark costs. I'm not sure if I've answered your question, I'm just sort of elaborating on the process that we tried to go through, knowing that we'd get some feedback on this and then trying to react to that.

Ms Cope: Thanks Peter.

Ms Donnelly: I might jump in and just say I'm really appreciative Robert, and others who've raised these issues particularly about the infill challenges. So just want to assure you we are listening, we would certainly welcome detailed submissions, and we'll take this into account.

Notwithstanding the challenges as Peter has outlined, we're up for it in trying to work out how we can improve the proposal in the Draft to reflect some of those challenges. So, I just want to assure you we're listening, and we'll be giving that act of consideration.

Ms Livingstone: Thanks, and I notice there's a couple of comments in the chat that reinforce that point that we'll take note of as well. Sarah Blackwell from Landcom, would you like to speak now?

Ms Blackwell: Sure, thanks Liz. One of the things that Landcom is quite interested in seeing come out of this review process is a standard costing template or a spreadsheet and notably you might need to have one for roads, and one for parks etcetera, and obviously the benchmark costs would have to be set out in those spreadsheets, but it would also be a tool potentially for councils to use when deriving their own bottom up cost estimates.

And the benefits of having that standardised include making it clear on how the cost contingency allowances and the on-costs are to be applied to the other cost components in the costing. It would also allow interested stakeholders to interrogate the costs and notably at the beginning, Jonathan clarified that the IPART review process as it is at the moment will continue for several years, and so you know I imagine that would be particularly beneficial for IPART in interrogating costs.

And in doing so, it would help stakeholders help to identify what's driving the deviations for many benchmarks and particularly relevant to Landcom, include an avenue for developers to see where the costs might be higher or lower than expected, and that's relevant to the seeking credits, where developers might be undertaking works in-kind, instead of paying the monetary contributions. And finally, the benefit would potentially enable the collation of cost data that could be used in the future to refine benchmarks or to develop new benchmark costs.

Ms Cope: Thanks for that idea Sarah. I suppose we've had some of the councils talking about how sort of bespoke and specific a lot of these costings are, I was wondering if anybody had any view on that sort of proposal, about whether they thought that would be useful from a council perspective or whether it would add cost and complexity to the process?

Ms Blackwell: Can I just clarify Deborah, that it would be quite similar to the process that councils currently use where they go and seek a cost estimate from a QS, it's just that they would be specifying the format in which that cost estimate would be provided.

Ms Cope: Yeah, thanks Sarah.

Ms Livingstone: Thank you, so if people do have thoughts on that, please let us know either now if you've got an immediate response, or also feel free to include that in submissions. I might just go to one question in the chat from Claire Scott, which takes us to a different topic about the 1.5% administration fee. Claire are you able to talk to that question you've got?

Ms Scott: Hello everyone our question is just mainly around the resourcing of specialised skills in our regional-rural areas. The 1.5% levy, if you're just looking at managing and administering the contribution plan, but ours is actually trying to obtain those skills to do those design work for us.

It may just be a one-off project, we're not going to have an internal resource for that, we have to go out and engage consultant, usually those consultants are in and around Sydney or Melbourne or other areas. For them to come out here and either do the design work, the project management work, it is an extraordinary cost for council. It's not like they can just pop in next door, it's usually a 4- or 5-hour travel time. So, it's about accessing that 1.5% levy for our rural and regional areas to assist us in that design and project management work. So, we do get a true and accurate cost in our contribution plans.

The other process around that is that our growth is probably slightly slower than Sydney, so it is about making sure that our detailed plan that we have, can be reviewed ongoing every 4 years and that we are shovel ready.

Ms Cope: So, Claire I might just sort of check in with one of the team because I think my understanding is that there are 2 components to that sort of expertise that you're talking about. Within the particular cost areas, there's a component that allows to cover the cost of the design of the particular infrastructure and the on-costs of that process, plus there's an additional 1.5% over the top of the whole plan to cover the administration of the plan. Jessica, are you the best one to?

Ms Hanna: Yeah, I'm happy to respond to that so, as Deborah mentioned design and project management are certainly part of the on-cost allowance that's applied to the base cost of the infrastructure benchmark. And that would be applied regardless of whether you're using the benchmarks to estimate or whether you're using a different costing methodology top down or bottom up.

The plan administration similarly is a benchmark to be used in cases where the standard approach is used, but of course there is always the alternative costing approach that can be applied to plan administration, where for example smaller councils may have these challenges or consultants are required, so the benchmarks are just one way of estimating costs, both for infrastructure and the non-infrastructure items. There is the alternative methodology that is also available to councils when circumstances are unique or don't conform to a benchmark.

Ms Cope: We did have a fair bit of discussion internally about the 1.5% for plan administration because we were trying to see whether there was any evidence we could find that the cost of administering the plans was higher or lower than that and what we found when we looked at the plans that we'd seen was, they all came up with 1.5% which was probably because that's the number that they thought we were looking for in the plans, to cover the cost of plan administration.

So, where we kind of got to on that one was, we didn't have evidence that it was a different number from that, so there is a question in the report asking for views on what's the appropriate amount of money to cover plan administration.

Ms Livingstone: Thanks Deb. And I noticed a few councils have also responded to that earlier suggestion from Sarah at Landcom about the templates, indicating that they do think they'd be useful. Neal McCarry from North Sydney Council we'll come to you next.

Mr McCarry: Thank you, excuse me, thank you Liz. My question relates to the alternative costing approach process and Shannon outlined some of the criteria there, and one of those was around the scope and performance being consistent with the benchmarks. Has there been any thought to how you might have a more qualitative element in that and how you would deal with something which is a bit cross-functional?

So an example that comes to mind is in our CBD, our fairly ambitious public domain works program envisages you know spaces that are created, not just frontage works for developments but they're all these spaces in between, and they serve a function right which isn't just a benchmark of being able to safely move from a to b.

It's more about you know building better places. We've got the design and place SEP out on exhibition just now from the Department, which really reinforces that notion and the role that those spaces play.

So, in that example, it's almost like those public domain spaces take on not an almost an open space function, as well as an actual practical engineering function. So, I'm just, I suppose a little bit concerned, my question is, has there been any thought to another parameter whereby you could better allow for some of those infill or unique scenarios in the major centres. I imagine City of Sydney may have some similar examples as well.

Ms Cope: So that is to some extent I think already accommodated in the way that we think about the design, so before you get to the benchmarks and the costings, you need to have been, are you on the essential works list, do you meet the principles around efficient design and meeting the standards, and the community standards, all that sort of stuff in that initial assessment, and then you're costing. So that really sets the performance that the particular piece of infrastructure needs in your setting, and then you're costing that.

So, I think that to some extent conceptually, it's in there, but I do take that you know, this is all at the moment us sort of using, not having actually been able to apply this on a case-by-case basis to be able to demonstrate how all these nuances will work in practice.

Which is why my earlier comments and my question to the Department about having some processes to be able to potentially test and trial some of this in practice, going through is starting to feel like it might actually help a lot of these questions, about the what-ifs.

Ms Livingstone: Thank you. Dennis from Blacktown City Council, would you like to speak now?

Mr Bagnall: Yeah, thanks Liz. And this is just touching on what Deborah was talking about before about the 1.5% admin levy. So, the 1.5% admin levy's been around for about 7 or 8 years now, since it was introduced by IPART as a benchmark, we've used that admin levy in our contribution plans that have been through IPART.

The problem we have now is that we're moving into a new system of developer contributions, with the package of the reforms and what they've done in trying to be transparent and certain and having a system that works better is, that they've put more regulations on councils that we have to comply with now through the administration of our plans. The administration of our 7.12 plans is a different way we have to do that now.

If you go through the package of reforms, with the regulations, and what we have to comply with for accounting and things like that, it's all changed, so it's very hard to quantify exactly what that change is, but it's not hard to see that it's definitely more.

So, I think in our submission, we're saying that the 1.5% is probably outdated now because of the new regulatory requirements that we have to comply with, that the state government doesn't have to comply with, its own RIC, so just making that comment.

Ms Livingstone: Thanks Dennis. Kerry Robinson, you've made a comment in the chat about DPIE and the public spaces new policies etc would you like to speak to that?

Mr Robinson: So, if one looks at DPIE's and the Minister's statements about quality planning and the nature of public spaces, that the Department of Minister expects are required by the community and are to be delivered. There is a strong emphasis on quality and an address on dealing with issues such as urban heat. So, my question is, I'm very unclear on what efficient actually means. I note the emphasis by IPART on the word efficient, it seems to me that is somehow ascribed a magic standard or the box in the bottom of the spreadsheet, without reference to what the community's expectations are or indeed ignores government's expectation in terms of the quality of spaces that we are to deliver.

Now if I take the example of just one of our plans in the North West Growth Area for the Scofield's and Riverstone area, the quality of that open space that we're allowed to deliver is effectively turf with the odd planting of tree, and we call that a park. It has very little quality in terms of the outcome and doesn't go anywhere near mitigating the urban heat challenge that Western Sydney has. So, I'll leave my comments there and simply ask the question, how does efficient relate to quality?

Ms Cope: So, in the report in the benchmarks we've got a list of things that and again like all things we're consulting on whether we've got everything in there, but the things that we've set out that we think should be taken into account, in thinking about what's the base level, and what's consistent with good design principles, is industry standards, life cycle cost, climate change, accessibility, and health and addressing the impact of development on the community, including urban heat effects. So yeah, welcome whether we've got all of those things in there or are there other things that are contemporary issues that we need to also pick up in that list.

Mr Robinson: So, in response, I just suggest that you have a look at for amenities buildings in new playing fields. The ability to actually accommodate female change facilities, and female referee facilities, within this the minimum size that you've mandated for those facilities. It is our community's expectation, not unreasonably that women ought to be able to play sport.

Ms Donnelly: Kerry, if I could just clarify. I mean, we certainly, the intention in what we've proposed in the Draft Report, and you know I just speak for myself, is not that base level means the minimum you can do. Its base level is the base level to meet the outcomes required and with regard to formal standards and other policies etc around that are a signal for community expectations.

So, what is what is required and thinking about inclusive society, climate change, public strategies around public spaces, so that is factored into in our proposed approach to what is determined to be the base level for this particular piece of infrastructure.

And then the costing side of things is part of the thinking about what is the most efficient of the options for delivering that. So I just want to stress that we are very aware of those issues and we may need to spell it out a little bit more, and articulate it a bit more clearly, but most certainly the base level should be what is needed to deliver on the community needs, and meet expectations.

Mr Robinson: Well Carmel, we welcome the opportunity to show you around the North West Growth Area and show the difference between what you are currently permitting and what is reasonable.

Ms Donnelly: Well we may well take you up on that, but I'm also just want to reassure you that we have heard your input, and certainly welcome you giving us examples in your submissions as well.

Ms Livingstone: Thank you. Kim Woodbury, you've raised a question that potentially goes to scope of what's covered in local contribution plans, versus other ways of collecting contributions, but did you want to speak to that now.

Mr Woodbury: I just thought I'd just put in; it'll be part of our submission. So, we appreciate the list that's been put in there already that covers things that aren't covered in the kind of the detailed base cost if you like.

But I just I did touch on it briefly, but I thought I'd just put a bit more in there, but it will be in our submission, when we do new streets, particularly in brownfield, it may be the case in greenfield as well, but state agencies and telco's require us to do certain stuff at least conduits to put in there, otherwise we're coming back to rip them up.

And they often mandate that, because they can actually stop us from actually constructing until we've got their approval. So, we're bound by the costs, and it needs to be in there, so that we can recover the cost. Because it is part of the development, only anywhere it's for the development, but it needs to be recovered.

Ms Cope: Okay so can I just clarify what you're referring to their Kim, because you talk about the cost of new sewer and water supply, well part of this announcement was that there would be new developer charges charged by Sydney Water, to cover the cost of that actual infrastructure.

But it seems to me what you're talking about is the costs that local government are paying to facilitate the laying of that infrastructure within your own, the infrastructure you're delivering is that what you are talking about?

Mr Woodbury: We actually lay it. We have to get approval from Sydney Water for that, in that example. And we can't do the works until we get their approval, so the devil is always in the detail.

Sydney Water's guidelines are if the sewer pipe that's required is over 450 millimetres in diameter, then they will pay for it. If it's under 450mm, which is most of them, it has to be paid by either the developer, or by the council, and it's through the developer contributions.

We need to get it in the developer contributions, because if it's done as works in-kind, it's offset against the developer contributions, and councils will be short-changed again, as they usually are.

Ms Cope: Okay, thank you.

Mr Woodbury: So, the devil is in the detail in all of this stuff, there's rules and regulations from all the state agencies, that impost and provide a cost impost, and cost shift, state's been cost shifting for decades, it's just not right.

Ms Cope: Thanks Kim.

Ms Livingstone: Thank you. I can't see anybody else with their hand up or more questions in the chat, if I have missed anyone please speak up now, and or if Tribunal Members or anybody here has questions that they'd still like to ask, let me know so we can go to those.

It looks like we don't have any, I'll keep my eye on that but I can't see any signals, so in that case I just want to thank you for that discussion that's been really useful for us, but we'll hand over to our Chair Carmel to, oops I've just spotted something. It's about the submissions process, and that's a good question to ask Adam to do you want to speak to that?

Mr Ovenden: Sure, just seeking clarification on whether IPART will accept a council endorsed submission, following the first meeting in 2022.

Ms Cope: So, our deadline for the government requiring us to produce our Final Report has been moved from the 31st of December to the 28th of February. So, we've extended our submission process for as long as we can, but unless there's new news since I've since I was last told about that, then at this stage we're going to need to finalise by the 28th of February.

Ms Livingstone: It's a bit earlier than that Deb. It's the 18th of February.

Ms Cope: It's the 18th of February. Sorry about that.

Ms Livingstone: So, we don't have much time in the new year Adam unfortunately. Carmel did you want to speak to that.

Ms Donnelly: Oh I just, you know without getting ahead of what Tribunal might formally decide as we get you know we're obviously working to have our Final Report handed in by that 18th of February, I think it's fair to say we're very alive to the fact that you know there's the parallel exhibition process, there have been some indications from government about changing the timing of the reforms already, and also obviously the timing of local governmental elections.

So look what I can say is that we may give some consideration to what might be useful, if there's a further you know a couple of years, 2 or 3 years before things are implemented, and how we might as Deborah alluded earlier, how we might use that time to further refine, update before implementation and so on.

So, look not getting ahead of ourselves but we will take that on board and there may be some views that IPART does indeed put forward about how in that intervening time we could consider, can continue to refine the proposed new approach.

So, I think we can confidently sound like we're alive to that and we would be looking for a way of not just delivering something and then having it sort of sit on the shelf, and then be dusted off in 2 years' time. There might be some ways that we can continue to refine, which of course we would if IPART does do any work in that space, we would always consult, so that's more a general comment. I'm just going to ask Liz whether we've got any other questions that have popped up, we don't think so.

Ms Livingstone: No, so please close the meeting.

1.9 Closing remarks

Ms Cope: Can I just thank everybody for all of their input. I've just found this extraordinarily valuable, so thank you very much.

Ms Donnelly: Yes, and really that's from all of us at IPART and the Tribunal Members. I just wanted to also in closing, thank all the presenters and everyone for participating, we really appreciate your input has been very beneficial.

We will consider everything that's been said today and of course in the submissions, and you have raised some interesting challenges for us to turn our mind to. We will do our best with those, so it's still a work in progress and can I also invite you as I mentioned earlier, you may wish to get in touch and talk with our IPART secretariat, we would welcome examples and detail that makes it easier for us to really understand the situation, that you want us to understand.

And perhaps also to help us to be very clear in the Final Report about you know the recommendations and what it would mean in a practical sense. So, some of those examples might be well helpful for us in in finalising our report.

We've taken note today of all the questions, particularly we're just keeping an eye on things that might need us to engage with the Department, with DPIE, so we'll go through the questions that are being raised, and see whether there's anything that needs to be referred over, noting that the DPIE representative needed to leave.

Now I'm going to ask you to help us, we are going to have a quick poll with 3 questions that will pop up on your screen, that we appreciate your feedback, it helps us to continue to improve the way that we consult. So, I'm going to ask you to complete those questions when they pop up, and again just reminding you that we are looking to have your submission in by close of business next Tuesday the 14th.

We do welcome you getting in touch with the IPART people who are the contacts in the Draft Report and on our website if you want to have informal discussion, and so I will close now with just finally reiterating our thanks, we've really appreciated you participating today, so thank you very much.