



Assessment of St Leonards South
Precinct Contributions Plan: Technical
Paper

Final Report

December 2021

Local Government >>

Tribunal Members

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Further information on IPART can be obtained from [IPART's website](#).

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 Overview

This Technical Paper presents our detailed assessment of *St Leonards South Section 7.11 Contributions Plan* (SLS CP), submitted by Lane Cove Council (Council). The paper explains how we assessed each category of costs in the plan, cross-category issues, and our recommendations. We conducted our assessment against the criteria in the Department of Planning, Industry and Environment's (DPIE) Practice Note.

This Technical Paper is accompanied by 2 other papers:

- Our Overview report provides a summary of our assessment and recommendations for the reasonable cost of providing local infrastructure to support the development.
- An [Information Paper](#) outlining IPART's general process for reviewing contributions plans. It includes information such as the context, rationale, terms of reference, methodology and timeline.

1.1 Overview of our assessment

We found SLS CP mostly reflects the reasonable costs of local infrastructure required for development in the St Leonards South precinct (precinct).

Our recommendations would reduce the total cost of SLS CP from \$53.8 million to \$52.6 million i.e. a decrease of about \$1.2 million (2%). Our main recommendations are:

- The Council should investigate funding the new local park earlier in the development timeline, before incorporating changes in the next review of SLS CP in 3 years' time.
- To remove shared paths cost from the works schedule (decrease of \$1.2 million), as these costs would be delivered via conditions of consent. Accordingly, recalculate the cost of plan administration (1.5% of works costs) based on the adjusted works costs we have recommended (decrease of \$17,625).

We released a Draft Report and received submissions from the Council and landowners in the precinct. The Council agreed with 3 of our draft recommendations.

In response to the Council's submission to our Draft Report, we agree that nexus has been established for the proposed stormwater upgrades.

We also asked the Council to consider the option of delivering the new local park earlier in the development timeline, which the Council did. The delivery of the park was also a primary concern of submissions from 7 residents whose land would be purchased by the Council for the park. These stakeholders were concerned about the disruption that they would face if the Council delayed land acquisitions.

We consider our final recommendation would allow Council to:

- manage the disruption to existing residents as it receives better information about the timing of development in the precinct, and

- balance the risk to its financial position of delivering the local park, against the risk of increasing land prices creating a contributions shortfall. A contributions shortfall may need to be funded by future incoming residents or potentially by Council's ratepayers.

The impact of our recommendations would reduce the contributions rates in the plan for a typical dwelling (2-bedroom dwelling) from \$29,629 to \$28,972 (decrease of \$657 or 2%).

The remainder of this paper outlines our assessment of SLS CP for each cost category and cross-category issue.

2 Transport

The total cost of transport works in SLS CP is \$9.9 million (17% of total plan costs). SLS CP does not include any transport land costs. It includes most of its proposed stormwater works within the transport works category, instead of a separate stormwater category.

2.1 Overview of transport assessment

Our assessment of transport (including stormwater) works is:

- **Essential works** – Road and stormwater upgrades are consistent with the essential works list (EWL). The shared pedestrian/cyclist paths will be delivered via conditions of consent. Therefore, we recommend shared paths be removed from the SLS CP works schedule, to avoid recovering these costs twice.
- **Nexus** – There is nexus between road and stormwater upgrades and development in the precinct.
- **Reasonable cost** – The costs of road and stormwater upgrades are reasonable.
- **Apportionment** – The apportionment of costs is reasonable.

Our findings and recommended adjustment are summarised in Table 1. Based on our findings, we recommend a decrease of almost \$1.2 million in the cost of transport works in the plan, which reflects the removal of shared paths.

Table 1 IPART-recommended adjustments for transport

Criterion	Finding	Recommendation	Land ^a (\$Mar2021)	Works (\$Mar2021)
Total costs			-	9,877,500
Essential works	Road upgrades are consistent with the EWL. Shared paths will be delivered via conditions of consent.	Remove shared paths from the works schedule.	-	-1,174,968
Nexus	Nexus is established for road and stormwater upgrades.	-	-	-
Reasonable cost - Works	The cost of works is reasonable.	-	-	-
Apportionment	Apportionment is reasonable.	-	-	-
Total IPART-recommended cost adjustment			-	-1,174,968
Total IPART-assessed reasonable cost			-	8,702,532

a. There are no land costs for transport works in SLS CP.
Source: SLS CP works schedule and IPART calculations.

In our Draft Report, we recommended to not include around \$1.4 million of costs for stormwater upgrades. This is because we found that Council's proposal did not provide enough information to establish nexus (to the new development) for these costs. In response, the Council has provided further information to establish nexus. We have accepted this additional analysis and have assessed these costs as reasonable as part of our final assessment.

We did not receive comments on any other aspects of our draft assessment for transport works.

2.2 Transport works included in SLS CP

The SLS CP works schedule includes road and stormwater upgrades, and shared pedestrian/cyclist paths. The majority (74%) of transport works costs are for road upgrades. Stormwater upgrades are 14% of total transport works costs (see Table 2).

Table 2 Transport works costs in SLS CP (\$Mar 2021)

Item	Cost
Road upgrades	7,311,722
Stormwater upgrades	1,390,810
Shared paths	1,174,968
Total	9,877,500

Note: There are no transport land costs in SLS CP.

Source: SLS CP works schedule.

2.3 Criterion 1: Essential works

The road and stormwater upgrades are consistent with the essential works list in the [Practice Note](#). There are no land acquisitions required for road upgrades because the Council will use the existing road network.

During our assessment, the Council clarified the shared paths will be delivered via conditions of consent, and that the shared paths were included in SLS CP to show the cost to developers.¹ We recommend removing shared paths from the SLS CP works schedule to avoid the Council recovering these costs twice.

Recommendation



1. Remove shared paths cost (item g) from the works schedule (decrease costs by about \$1.17 million).

2.4 Criterion 2: Nexus

In assessing whether there is nexus between road and stormwater upgrades and development in the precinct, we considered technical studies, the Council's assessment, and the identified locations and purpose of the upgrades. We found nexus is established for road and stormwater upgrades.

2.4.1 Nexus is established for road upgrades

The upgrade of six roads – Berry Road, Holdsworth Avenue, Canberra Avenue (the portion north of Newlands Park), Duntroon Avenue, Park Road and Marshall Avenue – was reviewed by the Council. The Council identified the existing road network was not built for the traffic load expected from medium/high-density residential developments. It estimates a substantial increase in daily traffic load in the precinct from 1,100 to 8,400 daily vehicle trips.

The Council also expects the existing road network will be extensively damaged by heavy construction vehicles during the precinct's development, including Duntroon Avenue. While Duntroon Avenue is outside the precinct's boundary, once Canberra Avenue is closed, the Council claims it will become a major entry/exit point for the whole precinct and will likely be damaged by construction vehicles accessing sites in the precinct.² Overall, nexus is established for all road upgrades due to the expected increase in traffic load and damage from construction vehicles,

The Berry Road upgrade is the only road upgrade that includes the removal of a roundabout.^a Nexus for this upgrade was established through TEF Consulting's traffic report. The report recommends removing the roundabout and replacing it with a different intersection control. The report's simulation found queues extended to the south from the intersection of Pacific Highway and Berry Road, which consistently blocked the roundabout and prevented vehicles from Marshall Avenue from exiting.

2.4.2 Nexus is established for stormwater upgrades

Each road upgrade also includes the costs to upgrade stormwater drainage lines.

In our Draft Report, we did not include the costs for these upgrades because the Council did not provide sufficient information to establish nexus for these costs. We recommended the Council provide more information to clearly establish nexus for the stormwater upgrades.

The Council's submission confirmed the stormwater upgrades are not part of the Council's current asset management plan or strategy. The Council explained that the stormwater from existing properties (where proposed stormwater upgrades are located) directly discharges to the kerb and gutter, as there is currently no trunk drainage system. The change from low-density dwellings to apartments would require upgrading stormwater management with larger pipes.

^a The roundabout is located at the intersection of Berry Road and Marshall Avenue.

The Council further explained that, if stormwater upgrades are not recovered through the SLS CP, each development application for a multi-unit dwelling (as a condition of consent) would be separately required to construct a new drainage system to connect to the Council's existing trunk drainage. Therefore, the Council considered it more practical (and cost effective) to provide an upgrade for all apartments through the SLS CP.

We accept the Council's additional information and agree that it establishes nexus for the stormwater upgrades.

2.5 Criterion 3: Reasonable cost

The total cost of transport (including stormwater) works in SLS CP is \$9.9 million,^b which is the lowest transport works cost among IPART-assessed plans. Also, on a per person basis the cost is low relative to other plans we assessed. The low transport works costs in SLS CP are due to the precinct's small area and multiple funding mechanisms, so limited works are delivered through SLS CP. The Council would also use the existing road network to avoid land acquisition costs.

We found:

- The Council's approach to estimating the cost of transport works is reasonable; i.e. using quantity surveyor cost estimates.
- The cost estimates for transport works are reasonable.

2.5.1 The Council engaged with a quantity surveyor to produce cost estimates

The Council engaged Mitchell Brandtman to provide quantity surveyor (QS) cost estimates for transport works, dated March 2021. The QS cost estimates for transport works are based on information from the Council and relevant precinct plans. Table 3 provides the unit cost for transport works in SLS CP.

Table 3 Unit cost for transport works in SLS CP (\$Mar 2021)

Transport works	Unit cost (\$, per metre)
Road upgrades	
Berry Road	6,240
Holdsworth Avenue	6,204
Canberra Avenue and Duntroon Avenue (Full width)	2,630
Park Road and Marshall Avenue (Half width)	1,961
Stormwater upgrades	
Stormwater drainage lines	465
Stormwater pit	4450

Note: The unit costs are from base construction costs i.e. before any allowances.
Source: SLS CP and IPART calculations.

^b This includes the shared paths which we recommend be removed from SLS CP.

2.5.2 Costs are reasonable for road upgrades

To assess whether the road upgrade costs in SLS CP are reasonable, we examined the costs of comparable road upgrades in IPART-assessed plans. The average unit cost of comparable road upgrades in other plans is \$4,688 per metre.^c

The Berry Road (including removal of a roundabout) and Holdsworth Avenue road upgrade unit costs are around \$6,200/m, which is 33% higher than the average of comparable road upgrades. However, the QS cost estimates are site-specific and were independently developed by a quantity surveyor. The QS cost estimates are within an acceptable margin of the average cost and we consider them reasonable.

The road upgrades for Canberra Avenue, Duntroon Avenue, Park Road and Marshall Avenue involve less construction work than Berry Road and Holdsworth Avenue, so the unit cost estimates are around \$2000/m and \$2600/m. The quantity surveyor applied the same cost rates for all 6 road upgrades. We found that the cost estimates for the remaining road upgrades are reasonable.

2.5.3 Costs are reasonable for stormwater upgrades

We consider the cost estimates for stormwater upgrades are reasonable. The unit cost of stormwater drainage lines in SLS CP is \$465. In comparison, IPART's 2014 benchmark rate for a comparable stormwater drainage pipe is currently \$483³ (indexed to base period of the plan). In SLS CP, the kerb inlet pit unit price is \$4,450. The IPART 2014 benchmark rate for a similar stormwater pit is currently \$5,020.

2.5.4 Allowances are reasonable

The quantity surveyor proposes allowances for road upgrades to account for additional costs, i.e. indirect construction costs and margin (16%), delivery, design and professional fees (15%) and contingency (15%). We consider the quantity surveyor's allowance estimates in SLS CP are comparable to other IPART-assessed plans, and therefore reasonable.

2.6 Criterion 5: Apportionment

We consider it is appropriate to apportion all costs to residential development, and within the precinct only. The transport works arise from residential development within the precinct and will mostly provide benefits within the precinct.

^c Indexed to SLS CP base period March 2021.

3 Open space

The total cost of open space land and embellishment in SLS CP is \$43.6 million (81% of total costs), including:

- \$37.6 million for land (100% of total land costs)
- \$6.0 million for embellishments (38% of total works costs).

Open space embellishment costs also include a small amount of stormwater upgrades.

3.1 Overview of open space assessment

Our assessment of open space land and embellishment is:

- **Essential works** – All open space land and embellishment is consistent with the EWL.
- **Nexus** – There is nexus between all open space land and embellishment and development in the precinct.
- **Reasonable cost** – The open space embellishment costs are reasonable. Our assessment of open space land costs is in the **Land Costs** section.
- **Apportionment** – The apportionment approach is reasonable.

Our assessment of open space embellishment and land concluded with no recommendations. Our Draft Report removed the cost of stormwater upgrades from open space embellishments. However, nexus has since been established for stormwater upgrades and we have included these costs in our final recommendations.

We address stakeholders comments on Council's acquisition of land for the new local park in **Criterion 4: Timing of infrastructure delivery**.

We did not receive any other comments relating to our draft assessment of open space works costs. We received comments about the closure of Berry Lane for the new local park disrupting residents (i.e. preventing vehicular access to homes and garbage collection). The Council has advised that it will address these concerns with stakeholders to minimise disturbance.

3.2 Open space included in SLS CP

SLS CP includes 0.96 hectares of open space for an expected population of 4,031 people, including:

- a new local park
- two new pocket parks
- an extension to the existing Newlands Park.

Table 4 outlines the costs of open space in SLS CP, and Figure 1 shows the location of open space in the precinct.

Table 4 Open space costs in SLS CP (\$Mar 2021)

Item	Cost of land	Cost of embellishment	Total cost
Local park	37,604,455	3,206,224	40,810,679
Two pocket parks	-	1,436,754	1,436,754
Newlands Park expansion	-	1,398,722	1,398,722
Total	37,604,455	6,041,700	43,646,155

Source: SLS CP works schedule and IPART calculations.

Figure 1 Location of open space in SLS CP



Note: The open space items are highlighted in green by IPART. The label for the local park is **1**, pocket parks are **2a** and **2b**, and the expansion of Newlands Park is **3**.

Source: SLS CP

3.3 Criterion 1: Essential works

The land to be acquired for a local park is consistent with the essential works list in the [Practice Note](#). It is zoned RE1 for public recreation.⁴

The Council does not include land costs for operational land it already owns, which includes the land:

- that is currently a laneway at the location of the new local park
- for two pocket parks
- for Newlands Park expansion.⁵

The Council explained it has not included operational land it already owns because the land was not previously acquired and is not currently providing any benefit to the community. The Council also stated it does not want to increase the already high land costs in the plan. We consider the Council's exclusion of these land acquisitions is reasonable.

The open space embellishment items in SLS CP are listed in Table 5.

Table 5 Open space embellishment items in SLS CP

Open space item	Proposed embellishment items	
Local park	<ul style="list-style-type: none"> • Demolition • Stormwater drainage and pits • Electricity and lighting • Footpath and bike path marking • Playground and informal seating • Informal/natural playground • Picnic area • Shade structure 	<ul style="list-style-type: none"> • BBQ facilities • Bubbler • Bike racks • Turf and topsoil • Plants, raingardens and mature trees • Bins • Signage
Two pocket parks	<ul style="list-style-type: none"> • Demolition • Footpath and footpath lighting • Informal play equipment • Seating 	<ul style="list-style-type: none"> • Turf and topsoil upgrade • Upgrade existing planting area • Mature trees • Bins
Expansion of Newlands Park	<ul style="list-style-type: none"> • Demolition • Stormwater drainage line, kerb inlet pits and other stormwater items • Electricity and lighting to picnic area • Picnic areas, hardstands and shelter • BBQ facilities 	<ul style="list-style-type: none"> • Bubbler • Bike racks • Turf and topsoil • Mature trees • Bins

Source: SLS CP, pp 58–61.

All the open space embellishment items are consistent with the essential works list in the Practice Note.

3.4 Criterion 2: Nexus

SLS CP includes acquiring 0.35 hectares of land for the local park. We consider nexus is established for the land acquisition through the *St Leonards South Landscape Master Plan*, prepared by Oculus (October 2020).

The proposed embellishment of the parks is also informed by the *St Leonards South Landscape Master Plan*, and nexus is established.

We note the development will reduce the rate of open space provision in the precinct.⁶ The rate of provision in the existing precinct is 1.19 hectares per 1,000 residents.⁷ The proposed open space in the new precinct is 0.79 hectares per 1,000 new residents, which is below the existing rate (see Table 6). A common benchmark used in NSW for infill development is a rate of provision of 0.44 ha – 7.51 ha per 1,000 people.⁸

Table 6 Open space provision in the precinct

Open space	Size (ha)
New local park	0.38
Newlands park expansion	0.35
South pocket parks	0.23
North pocket parks ^a	0.17
Green spines ^b	1.72
Total open space in the plan	2.85
Net additional population	3,629 residents
Proposed rate of open space provision	0.79 ha per 1,000 new residents

a. Delivered by bonus floor space and building height incentives.

b. Delivered by conditions of consent.

Source: SLS CP and IPART calculations.

The Council considers the shortfall is justifiable because of the high cost of land, and substantial additional housing opportunities close to public transport.⁹

3.5 Criterion 3: Reasonable cost (embellishment only)

To assess whether the costs of open space embellishment are reasonable, we examined the costing approach and cost estimates.

3.5.1 The Council engaged with a quantity surveyor to produce cost estimates

The Council engaged Mitchell Brandtman to provide quantity surveyor (QS) cost estimates for open space embellishment in SLS CP. The QS cost estimates' scope is based on the *St Leonards South Landscape Master Plan* and information from the Council. The QS report also proposes allowances for the cost estimates. We consider the QS report is a reasonable costing approach.

3.5.2 Cost estimates are reasonable

The open space embellishment cost per person in SLS CP is \$1,665, which is 30% lower than the average per person cost across IPART-assessed plans. This is due to the relatively low quantum of open space provided in SLS CP.

Partially offsetting the lower level of open space, the cost of the parks' embellishments in SLS CP range from \$280 to \$940 per square metre. While the per square metre costs are relatively high compared to other plans, it reflects to the low quantum of open space. Indeed, if the total cost of open space embellishment was applied to the existing rate of open space provision, this would result in a rate of \$97 per square metre, which aligns to rates we have seen in other plans.

When assessing open space costs, we have considered the extent to which the additional embellishments lead to improved amenities in the limited space available. We consider the cost estimates for open space embellishment in SLS CP are reasonable, considering the reduction in per person open space provision.

3.5.3 Allowances are reasonable

The quantity surveyor proposes allowances for open space works to account for additional costs i.e. indirect construction costs and margin (14%), delivery, design and professional fees (15%) and contingency (10%). We consider the quantity surveyor's allowance estimates are reasonable.

3.6 Criterion 5: Apportionment

We consider it is appropriate to apportion all costs to residential development, and within the precinct only. The open space provisions are designed to benefit mostly the incoming residents within the precinct.

4 Plan Administration

SLS CP includes \$238,788 for plan administration. This amount is 1.5% of works costs, which is consistent with the proposed rate in IPART's *Local Infrastructure Benchmark Costs Report* (April 2014).

4.1 Overview of plan administration assessment

Our assessment of plan administration cost is:

- **Essential works** – Plan administration cost is consistent with the EWL.
- **Nexus** – There is nexus between plan administration cost and development in the precinct
- **Reasonable cost** – Plan administration cost is reasonable.
- **Apportionment** – The approach to apportionment is reasonable.

We recommend the Council recalculate the cost of plan administration to ensure it continues to reflect 1.5% of works cost, based on the IPART-assessed reasonable works cost.

Our finding and recommendation for plan administration costs is summarised in Table 7, and discussed in more detail below. Our assessed reasonable costs for plan administration have increased slightly from our Draft Report. This is due to nexus being established for stormwater upgrades and the costs being included in the plan.

In response to our draft assessment, the Council accepted our draft recommendation to recalculate plan administration costs based on our adjusted level of works costs.

Table 7 IPART-recommended adjustments for plan administration

Criterion	Finding	Recommendation	Works (\$Mar2021)
Total costs in plan			238,788
Essential works	Plan administration is on the EWL.	-	-
Nexus	Nexus is established for plan administration.	-	-
Reasonable cost	Calculating costs using IPART's benchmark of 1.5% of works costs is reasonable.	Recalculate plan administration cost to be 1.5% of the adjusted works costs.	-17,625
Apportionment	Apportionment is reasonable.	-	-
Total IPART-recommended cost adjustment			-17,625
Total IPART-assessed reasonable cost			221,163

Source: SLS CP, Table 1 and IPART calculations.

4.2 Criterion 1: Essential works

Plan preparation and administration costs are on the essential works list. The [Practice Note](#) explains:

Plan administration costs are those costs directly associated with the preparation and administration of the contributions plan. These costs represent the costs to a Council of project managing the plan in much the same way as the project management costs are incorporated into the cost estimates for individual infrastructure items within a plan.¹⁰

Plan administration costs may include:

- background studies, concept plans and cost estimates that are required to prepare the plan
- project management costs for preparing and implementing the plan (e.g. employment of someone to co-ordinate the plan).¹¹

4.3 Criterion 2: Nexus

We consider there is nexus between plan administration activities and expected development in the precinct.

4.4 Criterion 3: Reasonable cost

SLS CP includes \$238,788 for plan administration, which is 1.5% of total works costs in the plan. The 1.5% amount is consistent with IPART's benchmark, and therefore a reasonable cost estimate.

Since we recommended adjustments to works costs in SLS CP, we recommend the cost for plan administration be recalculated to 1.5% of our adjusted works costs.

Recommendation

2. Recalculate the costs of plan administration (1.5% of works costs) based on the adjusted works costs we have recommended.

4.5 Criterion 5: Apportionment

The Council proposes to collect plan administration costs solely from residential development. We consider this approach is reasonable, since the demand for SLS CP infrastructure will primarily arise from residential development.

5 Land Costs

SLS CP includes \$37.6 million (70% of total plan costs) for land acquisition.

5.1 Overview of land costs assessment

We found all land costs in the plan are reasonable. We do not recommend any adjustments to land costs, consistent with our draft recommendations. However, in **Criterion 4: Timing of infrastructure delivery**, we explain our recommendation around funding land costs for open space earlier in the development timeline.

5.2 Land costs included in SLS CP

The land costs in SLS CP are only associated with the new local park and are outlined in Table 8. The two pocket parks, Newlands Park expansion and laneway located in the new local park are on already Council-owned and operational land. There are no land costs for transport because the Council would be using the existing road network.

Table 8 Land costs in SLS CP (\$Mar 2021)

Item	Total area (ha)	Total cost
Local park – acquisition cost	0.35	34,495,500
Local park – acquisition administration costs allowance	-	344,955
Local park – acquisition just terms compensation cost	-	2,764,000
Total	0.35	37,604,455

Source: SLS CP Works Schedule.

The Council engaged Hill PDA to provide cost estimates related to land acquisition (see Table 9).

Table 9 Land cost estimate sources in SLS CP

Author	Source	Date
Hill PDA	Letter – St Leonards South Precinct S94 Parkland/Open Space Acquisition Rate Advice	July 2017
	Update of St Leonard's South Masterplan Review	September 2020
	Addendum letter – St Leonards South open space acquisition rate	March 2021

5.2.1 Land acquisition costs are reasonable

Under section 55 of the *Land Acquisition (Just Terms Compensation) Act 1991 (NSW)* (the Land Acquisition Act), a property owner is to be compensated with the market value of their property. Hill PDA's assessment assumes the properties designated as open space would otherwise have the benefit of a proposed floor-space-ratio of 2.6:1. The land costs are therefore based on the highest and best of this land as a potential development site.

The Council estimates the cost of this land by applying an average market value (dollars per square metre) derived from a site-specific valuation, undertaken by Hill PDA's qualified valuer in 2020. The valuation is based on the highest and best use of the land, which amounts to \$9,750/sqm.¹²

Hill PDA recommend this rate be "reviewed periodically as the sales trends rate will vary over time as the precinct is developed". Hill PDA also recommended a formal valuation at the time of acquisition "to establish a fair and equitable value for the landowners affected".¹³

At this stage, we consider Hill PDA's valuation for land acquisition is reasonable. We also advise the Council to review the valuation of land acquisition periodically, and at the time of acquisition as stated by Hill PDA.

5.2.2 Land acquisition allowances are reasonable

The Council has applied a 1.5% plan administration allowance to the total works cost in the plan. But it has also proposed including an additional land cost allowance – of 8% or \$2.8 million – to compensate residents for relocation costs, and to recover the land acquisition administration costs.

In greenfield developments, administration costs are usually low because land is often dedicated to the Council through the development process (such as works-in-kind or planning agreements). For these developments we usually assess that the 1.5% plan administration allowance is reasonable to recover all administration costs, including land acquisition administration costs.

The SLS CP precinct is an infill development, not a greenfield development, and the administration costs for land acquisition will be different. The Council will be required to negotiate with 10 individual homeowners to purchase their land. We expect that this process is likely to incur substantively higher transaction costs for the Council, which would not be recovered through our standard approach (i.e. 1.5% plan administration allowance). We considered the appropriate land acquisition costs for this infill development on an individual basis and concluded that the land cost administration allowance proposed by the Council is reasonable.

We also received submissions to our Draft Report from affected landowners. Their submissions highlighted the additional disturbances from delayed land acquisition e.g. potential loss of rental income from surrounding development, and financial hardship. Under section 23 of the Land Acquisition Act, a landowner who suffers hardship can apply for early acquisition. We discuss this further in **Criterion 4: Timing of infrastructure delivery**. The Council advised they would consider hardship applications from affected landowners.

Just terms compensation costs are reasonable

The SLS CP incurs additional costs for land acquisition relating to the Land Acquisition Act, advised by Hill PDA. Under the Land Acquisition Act, compensation for land that is not available for public sale and is acquired by agreement is calculated considering the matters set out in section 55.¹⁴ Section 55 includes costs such as:

- market value (discussed above)
- stamp duty
- relocation disadvantage
- legal costs
- valuation fees
- financial costs.¹⁵

Hill PDA estimate the typical costs for just terms compensation is \$2,746,000. There are 10 lots of land to be acquired, so just terms compensation is roughly \$274,600 per lot.

Based on the median house price in St Leonards, \$2,673,000,¹⁶ we estimate stamp duty compensation would cost \$131,582 per property.¹⁷ The maximum relocation disadvantage compensation is \$81,762.¹⁸ Combined, these amount to \$213,344 per property, and given the remaining compensation costs, we consider Hill PDA's \$274,600 estimate of just terms compensation cost is reasonable.

A 1% allowance for other land acquisition costs is also reasonable

Mitchell Brandtman are quantity surveyors and estimate a 1% allowance for land acquisition costs (\$344,955) such as:

- Council administration costs
- surveys
- valuations
- negotiations
- legal fees
- and conveyancing costs.¹⁹

In SLS CP, the plan administration costs would not cover these land acquisition administration costs. The plan administration allowance in SLS CP is \$238,788, which is for the entire plan's administration costs. This is significantly less than the quantity surveyor's estimate for land administration costs only.

This is because land costs are the largest component of costs in the plan. In SLS CP, land costs comprise 70% of total costs. Across previous IPART-assessed plans land costs represented 42% of total costs. That is, in SLS CP the application of 1.5% plan administration allowance is on a significantly lower works cost.

Instead, the quantity surveyor's 1% allowance for land administration costs has been included as a separate land costs allowance. Overall, we consider the separate 1% allowance for land acquisition costs, based on the quantity surveyor's estimates, is reasonable in the SLS CP.

6 Cross Category Issues

This chapter discusses our analysis of issues that apply across infrastructure categories, including:

- Criterion 4: Timing of infrastructure delivery
- Criterion 6: Consultation
- Criterion 7: Other matters.

6.1 Overview of cross-category issues assessment

We found:

- The local park would be delivered late in the precinct's development timeline. The Council currently plans to complete land acquisition after collecting enough contributions (about 70% of total contributions). In our view, this is a high threshold, particularly given the low provision of open space in the precinct.
- The Council appropriately exhibited SLS CP for 6 weeks, engaged with relevant stakeholders, and responded to 11 issues raised during exhibition.
- There is a temporary Ministerial direction to defer contributions payments until the occupation certificate stage. Since the direction is not yet legislation, we consider it is reasonable the Council has not included the temporary direction in SLS CP at this stage.

We recommend the Council:

- investigate funding the new local park earlier in the development timeline, before incorporating changes in the next review of SLS CP in 3 years' time.
- Review the plan within 3 years to include updated information on planning assumptions, scope and cost of land and works in the plan.

In response to our Draft Report, the Council analysed the borrowing costs and financial impact of funding the new local park earlier in the development timeline. We also received submissions from landowners in the precinct concerned about the delay of their land acquisitions. We have considered all submissions in making our final recommendation about timing of delivering the park.

The Council agreed with our draft recommendation to review the SLS contributions plan within 3 years.

6.2 Criterion 4: Timing of infrastructure delivery

The Council expects SLS CP will be applied between 2021–2031, with full provision of infrastructure anticipated in the second half of this period. The Council states it places the highest priority on acquiring land for the local park. However, under the Council's plan it would not borrow to complete any works under the plan (i.e., it will wait until it has collected developer contributions before expending funds). On this basis, it anticipates funds to complete acquiring land for the local park will not be available until 70% of contributions are collected (equivalent to development achieving 76% of total dwellings). This is a high threshold before local park embellishment can begin.

The Council plans to conduct road upgrades in the latter stage of the precinct's development i.e. after peak construction activity and movement of heavy vehicles has passed.

6.2.1 Timing of delivering the new local park

The land acquisition costs are high in the precinct, and the Council currently plans to collect 70% of total contributions before delivering the local park. In our [Draft Report](#), we considered it was not reasonable to deliver the park after 70% of total contributions were collected and recommended that Council investigate ways to deliver the park earlier in the development timeline, such as borrowing.

Local residents are concerned about disruptions if the Council delays land acquisitions

We received 7 submissions from owners of the land to be acquired for the park. These stakeholders are concerned about the timing of land acquisition. In particular, that a delayed land acquisition would cause disturbance from surrounding construction, potential loss of rental income, financial hardship and stress.

There are 10 lots of land marked for compulsory acquisition by the Council for the park. Landowners who suffer hardship are able to apply for early acquisition under [section 23 of the Land Acquisition Act](#). If a landowner meets the requirements in the Act and their application is accepted, the acquiring authority (Council) must acquire the property within 90 days (or another period by agreement) or remove the designation on the land. We also considered whether the park could be staged so that some properties could be acquired earlier. However, the small size of the park means that this is not a practical option.

The Council investigated a loan to deliver the park

The Council's submission investigated a \$37 million loan over 20 years at 2.88% interest rate. Council assessed that such a loan would push the Council's financial indicators below their benchmarks. The Council also commented it would be unlikely to secure such a loan due to the uncertainty of contributions payments, and that this uncertainty is exacerbated by the NSW Government's decision to delay payments until occupation certificate stage of any development. The Council estimated that this adds a 2-year lag into the payment of developer contributions, based on average construction times,

The Council also acknowledged the risk of increasing land prices, but its analysis shows that it does not have enough cash reserves to mitigate this risk, and that it does not have other contributions plans from which it could pool contributions funds. A future contributions shortfall would fall upon the Council's ratepayers.

The Council's loan scenario assumed the park would be delivered before development commenced

Council advised that there are currently no development applications for the precinct. The Council has assumed it would take out a loan to build the park now, but contributions payments would only begin around 2026/27.

In effect, this models a situation where the Council delivers the infrastructure well before development commences. Accordingly, the Council incurs the costs of borrowing for 5-6 years without receiving any contributions payments, resulting in a deterioration of its financial performance.

It is reasonable for infrastructure to be delivered at the stage when the demand it serves moves into the community. However, just as we consider it unreasonable to delay delivering infrastructure, it is unreasonable to deliver infrastructure well-before it is needed. The Council's financial indicators under its loan scenario highlight the impact of these costs.

For example, if the Council were to borrow funds when it begins receiving contributions payments, the financial impact on the Council would be significantly less than its loan scenario. In effect, the contributions could be used to finance the loan repayments, and maintain its financial indicators, particularly if the Council adopted a Net Present Value (NPV) approach to calculating contributions rates.

The Council's loan scenario highlights the benefits of an NPV approach to calculating contributions rates

The Council estimated, under its loan scenario, that contributions rates would increase about 20%, or from \$29,636 to \$35,428 for a typical 2-bedroom dwelling.

It appears that the Council has added the nominal costs of the loan to its contributions rates. However, this significantly overstates the costs of borrowing for the Council. It does not account for the offsetting impact of inflation on future contributions rates under its loan scenario, and does not take into account the impact of inflation on the future cost of purchasing land under a no-loan scenario.

The Council's modelling highlights a key drawback of not using an NPV approach to calculate contributions rates. An NPV approach would more accurately reflect the costs of any timing difference between when Council invests in new infrastructure, and when it receives contributions payments. This is important given the Productivity Commission's recommendations to encourage forward funding infrastructure.^d

^d The Productivity Commission (PC) encourages forward funding infrastructure, to reduce costs and enable more timely delivery of infrastructure. The PC recommends amending legislation to allow pooling of contributions as a default

We have previously published guidance to Councils to explain how they could [calculate contributions rates using an NPV approach](#), and publish a [local government discount rate](#) biannually to allow Councils to update the contribution rates under an NPV approach for changes in interest rates.

Existing open space is available as a temporary measure

Council also noted that, for incoming residents, the precinct is bordered on the east by Newlands Park (1 hectare). There is also Gore Hill Oval (3 hectares) nearby past the Pacific Highway and planned private open space within apartment complexes. We consider this open space could serve incoming residents in the short-term, considering the Council's current financial constraints.

Investigate funding the park earlier in the development timeline when there is more information

We maintain our recommendation that the Council should investigate borrowing, but to incorporate changes when the Council next revises the plan in 3 years' time. This recommendation acknowledges that the Council is relatively small, with limited cash reserves to deliver the park at this stage in the contributions plan.

The Council should decide on how to fund the park when it has more certainty about the timing of development (and the timing of developer contributions). This would have several benefits:

- It avoids a situation where the Council purchases land well before development takes place, which would also pose a financial risk. But it provides Council with the option to deliver the infrastructure earlier than a model where it waits until it has collected developer contributions before expending funds.
- When the Council has more certainty about the timing of developer contributions, it can balance the risk to its financial position of delivering the local park against the risk of increasing land prices creating a contributions shortfall, that may need to be funded by future incoming residents or potentially by Council ratepayers.
- It allows the Council to better manage the impacts on existing residents. The Council could fund the park earlier in the development timeline, and purchase land broadly when the majority of development occurs, rather than waiting until development is substantially complete, as is the case if Council waits until it has collected developer contributions.

At this stage, we have not included any costs of funding the local park earlier in SLS CP. However, Council may decide to include borrowing costs for land acquisition when it revises the plan within 3 years' time.

option, and borrowing costs be included in a contributions plan. The PC also recommends establishing a program to provide additional financial incentive when councils borrow to fund infrastructure, and TCorp review their lending criteria to consider contributions payments in debt serviceability calculations.

Recommendation

3. The Council should investigate funding the new local park earlier in the development timeline, before incorporating changes in the next review of SLS CP, in 3 years' time.

6.3 Criterion 6: Consultation

We assessed whether the Council has conducted appropriate community liaison in preparing SLS CP. We consider the Council's consultation process satisfies the consultation criterion.

The Council publicly exhibited SLS CP for 6 weeks, from 14 January to 24 February 2021. The Council received 14 submissions from:

- Nearby residents
- Transport for NSW
- Property Council of Australia
- Greenwich Community Association Inc
- Mecone, on behalf of Top Spring.

The Council addressed 11 issues from the submissions (see Table 10). Following public exhibition, the Council amended the SLS CP to:

- Include an additional land acquisition cost estimate relating to the Land Acquisition Act.
- Update the land acquisition cost estimate (to \$9,750/sqm).

Table 10 Summary of Council's response to issues from public exhibition

Issue	Comment	Council's response
Additional land acquisition cost	Include funds for additional land acquisition cost i.e. just terms compensation.	Plan amended – includes Hill PDA's estimate of just terms compensation.
Land valuation	Concerned about the reasonableness and accuracy of the rate.	Plan amended – Hill PDA conducted a market review and the updated rate (\$9,750/sqm) is included in SLS CP.
Contributions rate	Reduce the provision of amenities/contributions rate since number of dwellings is reduced. Concerned after comparing with nearby LGA contributions rates below \$20,000.	No change – contributions have increased mainly due to a decrease in dwellings. The total cost of infrastructure remains about the same (around \$53 million). It is not appropriate to reduce open space proportionate to the decrease in dwellings. There is a strong need for open space. The nearby LGA plans are LGA-wide, whereas SLS CP is for a specific precinct undergoing an increase in density. The plans are not comparable.

Issue	Comment	Council's response
Justification for increased contributions rate	Need more justification for increased contributions rate.	No change – the increased contributions rate is due to the decreased number of dwellings, indexation, partial road closure of Canberra Avenue and pedestrian/cyclist works.
Special infrastructure contributions (SIC)	Concerned about the SIC levy together with increased contributions rates. Might impact the financial viability of development projects.	No change – the Council also opposes the SIC levy. However, the SIC levy and section 7.11 contributions rates do not collect funds for the same infrastructure items.
Timing of payments	Address the temporary direction to defer contributions payment to the occupation certificate stage.	No change – the Council acknowledges the temporary measure and anticipated permanent amendment. The Council asserts the deferral of contributions delays the provision of local infrastructure.
Indexation	Publish the contributions rate each quarter to increase transparency.	No change – although indexes are published quarterly, the Council publishes section 7.11 contributions rates annually.
Shared pathway	Concerned there is more cycling infrastructure in the precinct compared to other areas in the Lane Cove LGA and other dense precincts, which increases cost.	No change – the shared paths are needed for the increased residential density. The cycleways are part of Council's strategic plans so there is an expectation they will be delivered.
IPART assessment	Need IPART to assess SLS CP and demand more detailed breakdown of the plan. The Council does not use the correct definition of 'compensation' in areas of SLS CP.	No change – SLS CP will be submitted to IPART for assessment.
Canberra Avenue closure	Concerned the closure of Canberra Avenue will take away an access road to two-thirds of the precinct. This means two-thirds of the expected population will use 2 arterial roads to leave and enter the precinct.	No change – the closure of Canberra Avenue is to increase open space. The <i>St Leonards/Crows Nest 2036 Plan</i> also recommends the closure of Canberra Avenue. There will be enough road capacity within the precinct.
	Concerned about the inconsistent approach to funding necessary road upgrades. Perhaps consider an increased floor-space-ratio (FSR) incentive.	The FSR incentive is not suitable to deliver the closure of Canberra Avenue. The built form fronting Canberra Avenue was reduced to 6 storeys.
Funding for local park	Find alternative funding source/s to acquire the land for the local park, to ensure faster infrastructure delivery.	No change – borrowing money would likely double the cost and contributions rates in SLS CP.

Source: Lane Cove Council, SLS CP – Post-consultation Report, 19 April 2021, pp 3-7.

6.4 Criterion 7: Other matters

6.4.1 Timing of contributions payments

In SLS CP, the Council proposes to collect contributions payments before a subdivision or construction certificate is issued. This is consistent with the current provisions of the *Environmental Planning and Assessment Act 1979* (the EP&A Act) and the *Environmental Planning and Assessment Regulation 2000*.²⁰

In June 2020, in response to COVID-19, the Minister for Planning and Public Spaces issued a temporary direction. The direction requires Councils to delay collection of contributions payments until the occupation certificate stage.²¹ This direction will expire in March 2022.

In November 2020, the Productivity Commissioner recommended the temporary measure be extended permanently.²² The NSW Government endorsed this recommendation and we expect it will be reflected in legislative amendments before the temporary measure expires.

At this stage, we consider the timing of contributions payments in SLS CP is reasonable, until impacted by legislative amendment.

6.4.2 Review SLS CP within 3 years

Regular review of a contributions plan ensures contribution rates most accurately reflect the Council's actual costs in delivering the local infrastructure. Generally, we prefer Councils review their contributions plan every 3 to 5 years, depending on the stage and rate of development in the plan's precinct.

SLS CP is a new draft plan and no development has occurred in the precinct. We recommend the Council update the contributions plan within 3 years. Within this timeframe, the Council should have an updated understanding of the cost of land and works in the plan as development occurs. The Council should also review the plan after 3 years if there is updated information on planning assumptions, or the scope and cost of land and works in the plan.

The Council supported this recommendation from our Draft Report. The Council sees it as an opportunity to review any relevant and approved development applications and examine infrastructure costings.

Recommendation



4. The Council should review the plan within 3 years to include updated information on planning assumptions, scope and cost of land and works in the plan.

7 Assessment against requirements in the EP&A regulation

Clause 27 of the *Environmental Planning and Assessment Regulation 2000* requires certain information to be included in a contributions plan. As part of our assessment we have checked SLS CP contains the information required by this clause of the Regulation. A summary of this analysis is provided in the table below.

Subclause		Location in CP
1(a)	Purpose of the plan.	Section 2.4
1(b)	Land to which the plan applies.	Section 2.5, Figure 1.
1(c)	The relationship between the expected types of development in the area to which the plan applies and the demand for additional public amenities and services to meet that development.	Section 3.2
1(d)	The formulas to be used for determining the section 7.11 contributions required for different categories of public amenities and services.	Section 3.2
1(e)	The section 7.11 contribution rates for different types of development, as specified in a schedule in the plan.	Section 2.8
1(g)	The Council's policy concerning the timing of the payment of monetary section 7.11 contributions, section 7.12 levies and the imposition of section 7.11 conditions or section 7.12 conditions that allow deferred or periodic payment.	Sections 5.1 and 5.2.
1(h)	A map showing the specific public amenities and services proposed to be provided by the Council, supported by a works schedule that contains an estimate of their cost and staging (whether by reference to dates or thresholds).	Appendix A, Figure A1 & Table A1. Section 3.4.
1(i)	If the plan authorises monetary section 7.11 contributions or section 7.12 levies paid for different purposes to be pooled and applied progressively for those purposes, the priorities for the expenditure of the contributions or levies, particularised by reference to the works schedule.	Sections 6.4 & 3.4.
1A	Despite subclause (1) (g), a contributions plan made after the commencement of this subclause that makes provision for the imposition of conditions under section 7.11 or 7.12 of the EP&A Act in relation to the issue of a complying development certificate must provide that the payment of monetary section 7.11 contributions and section 7.12 levies in accordance with those conditions is to be made before the commencement of any building work or subdivision work authorised by the certificate.	Section 4.6
2	In determining the section 7.11 contribution rates or section 7.12 levy percentages for different types of development, the Council must take into consideration the conditions that may be imposed under section 4.17 (6)(b) of the EP&A Act or section 97 (1)(b) of the <i>Local Government Act 1993</i> .	Section 4.1
3	A contributions plan must not contain a provision that authorises monetary section 7.11 contributions or section 7.12 levies paid for different purposes to be pooled and applied progressively for those purposes unless the Council is satisfied that the pooling and progressive application of the money paid will not unreasonably prejudice the carrying into effect, within a reasonable time, of the purposes for which the money was originally paid.	Section 6.4

8 References

- ² Lane Cove Council, *Response to Information Request 1*, 2 September 2021, p 1.
- ³ IPART, *Local infrastructure benchmark costs report*, April 2014.
- ⁴ Lane Cove Council, *Lane Cove Council Environmental Plan 2009 – Land zoning map*.
- ⁵ Lane Cove Council/IPART, *Notes from LCC-IPART Meeting – Preliminary discussion on the SLS CP*, 10 June 2021.
- ⁶ Lane Cove Council, *SLS CP*, p 16.
- ⁷ Lane Cove Council, *SLS CP*, p 16.
- ⁸ GHD, *Social Infrastructure Implementation Guidelines*, 2012, Table 3.
- ⁹ Lane Cove Council, *SLS CP*, p 16.
- ¹⁰ Department of Planning and Environment, *Local Infrastructure Contribution Practice Note*, January 2019, p 15.
- ¹¹ Department of Planning and Environment, *Local Infrastructure Contribution Practice Note*, January 2019, p 15.
- ¹² Hill PDA, *Update of St Leonards South Masterplan Review*, September 2020, p 33.
- ¹³ Hill PDA, *Update of St Leonards South Masterplan Review*, September 2020, p 35.
- ¹⁴ Hill PDA, *Addendum letter – St Leonards South open space acquisition rate*, 19 March 2021, p 1.
- ¹⁵ Hill PDA, *Addendum letter – St Leonards South open space acquisition rate*, 19 March 2021, p 1.
- ¹⁶ NSW Government Communities & Justice, *Issue 136 Sales tables March 2021 quarter*, 'Postcode' tab, cell D147.
- ¹⁷ Revenue NSW, *Transfer duty calculator*, 3 September 2021.
- ¹⁸ NSW Government Property Acquisition, *Compensation Types*, 3 September 2021.
- ¹⁹ Mitchell Brandtman/Lane Cove Council, *SLS CP, Table 2 – Indirect Costs*, p 53.
- ²⁰ *Environmental Planning and Assessment Act 1979*, section 6.8 and *Environmental Planning and Assessment Regulation 2000*, clause 146.
- ²¹ Environmental Planning and Assessment (Local Infrastructure Contributions – Timing of Payments) Direction 2020, 25 June 2020.
- ²² NSW Productivity Commissioner, *Review of Infrastructure Contributions in NSW*, Final Report, November 2020, p 71.