



Assessment of St Leonards South Precinct
Contributions Plan: Technical Paper

Draft Report

October 2021

Local Government >>

Tribunal Members

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Invitation for submissions

IPART invites comment on this document and encourages all interested parties to provide submissions addressing the matters discussed.

Submissions are due by Sunday, 14 November 2021

We prefer to receive them electronically via our [online submission form](#).

You can also send comments by mail to:

SLS CP Assessment
Independent Pricing and Regulatory Tribunal
PO Box K35
Haymarket Post Shop, Sydney NSW 1240

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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.

Contents

1	Overview	1
1.1	Overview of our assessment	1
2	Transport	2
2.1	Overview of transport assessment	2
2.2	Transport works included in SLS CP	3
2.3	Criterion 1: Essential works	3
2.4	Criterion 2: Nexus	3
2.5	Criterion 3: Reasonable cost	5
2.6	Criterion 5: Apportionment	6
3	Open Space	7
3.1	Overview of open space assessment	7
3.2	Open space included in SLS CP	8
3.3	Criterion 1: Essential works	9
3.4	Criterion 2: Nexus	10
3.5	Criterion 3: Reasonable cost (embellishment only)	11
3.6	Criterion 5: Apportionment	12
4	Plan Administration	13
4.1	Overview of plan administration assessment	13
4.2	Criterion 1: Essential works	13
4.3	Criterion 2: Nexus	14
4.4	Criterion 3: Reasonable cost	14
4.5	Criterion 5: Apportionment	14
5	Land Costs	15
5.1	Overview of land costs assessment	15
5.2	Land costs included in SLS CP	15
6	Cross Category Issues	18
6.1	Overview of cross-category issues assessment	18
6.2	Criterion 4: Timing of infrastructure delivery	18
6.3	Criterion 6: Consultation	19
6.4	Criterion 7: Other matters	21
7	Assessment against requirements in the EP&A regulation	23
8	References	24

1 Overview

This 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, issues relating across the entire plan, and our draft 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 draft recommendations would reduce the total cost of SLS CP from \$53.8 million to \$51.1 million i.e. a decrease of about \$2.7 million (5%). Our draft recommendations that impact costs are to:

- Remove shared paths cost from the works schedule (decrease of \$1.2 million), as these costs would be delivered via conditions of consent
- Not include the cost of stormwater upgrades in the plan (decrease of \$1.48 million) at this stage, as we require further information and justification from Council to establish nexus for stormwater upgrades
- Recalculate the cost of plan administration (1.5% of works costs) based on the adjusted works costs we have recommended (decrease of \$39,852).

We also recommend the council investigate how to deliver the local park earlier. It could investigate borrowing funds for land costs, and whether to include an interest cost allowance in the plan to reflect borrowing costs.

The impact of our draft recommendations would reduce the contributions rates in the plan for a typical dwelling (2-bedroom dwelling) from \$29,629 to \$28,143 (decrease of \$1,486 or 5%).

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

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 land costs for transport. It includes most of its proposed stormwater works within its transport works, instead of a separate stormwater category.

2.1 Overview of transport assessment

Our assessment of transport 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.
- **Nexus** – There is nexus between road upgrades and development in the precinct. At this stage, nexus is not established for stormwater upgrades.
- **Reasonable cost** – The cost of road upgrades is 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 \$2.6 million in the cost of transport works in the plan, which reflects the removal of shared paths and stormwater upgrades.

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 upgrades.	-	-	-
	We require more information and justification to establish nexus for stormwater upgrades.	At this stage, we have not included stormwater upgrade costs in the plan.	-	-1,390,810
Reasonable cost - Works	The cost of works is reasonable.	-	-	-
Apportionment	Apportionment is reasonable.	-	-	-
Total IPART-recommended cost adjustment			-	-2,565,778
Total IPART-assessed reasonable cost			-	7,311,722

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

2.2 Transport works included in SLS CP

There are two main transport works proposed to be delivered through SLS CP – road upgrades and shared pedestrian/cyclist paths.

The plan proposes to upgrade six roads. The road upgrades are planned to accommodate an increase in daily traffic loads, owing to the precinct's significant increase in residential density. Road upgrades also include upgrades to associated stormwater drainage lines.

Shared pedestrian/cyclist paths are planned to encourage walkability, public transport use and social interaction, considering the proximity of the precinct to St Leonards station and establishing access to open space.

The majority (74%) of transport works costs are for road upgrades. Stormwater works associated with road 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.¹ The intention was to include the shared paths in SLS CP to show its cost. We recommend removing shared paths from the SLS CP works schedule.

Draft recommendation

1. Remove shared paths cost (item g) from the works schedule. This would reduce 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 upgrades only in the plan.

2.4.1 Nexus is established for road upgrades only

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, 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.^a 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.

Each road upgrade also includes upgrades to its associated stormwater drainage lines. At this stage, we consider that nexus for the stormwater upgrades has not been established and therefore we have not included these costs in the plan.

The council advises the existing stormwater drainage lines are around 150 years old and not adequate to manage the current flows.^b Irrespective of the precinct's development, an upgrade to the stormwater drainage lines would be necessary, i.e. typically nexus would not be established for the new development.

We agree with the council that it would be efficient to upgrade the stormwater drainage lines alongside the road upgrades. This will allow the council to save costs by adding new stormwater connections and decommissioning old connections.

We note the total cost of the stormwater works in the plan is relatively low (\$1.48 million or 2.6% of total plan costs).

To establish nexus for the stormwater upgrades, we would require further information and justification from the council that the costs of the stormwater upgrade are being driven by the needs of the development. To do so, we request the council provide further information, which could include:

- Is the stormwater upgrade part of the council's current asset management plan or strategy?

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

^b The council does not expect impervious area in the precinct to increase as a result of development.

- To what extent is the council bringing forward the stormwater upgrade by including it in the contributions plan for St Leonards South?
- What would the standalone cost of the stormwater upgrade cost be, if it was not in SLS CP?

Draft recommendation



2. The council provide further information and justification to establish nexus for stormwater upgrades. At this stage, we have not included the cost of stormwater upgrades in the plan (about \$1.48 million).

2.5 Criterion 3: Reasonable cost

The total cost of transport works in SLS CP is \$9.9 million,^c 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 is 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 road upgrades 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 road upgrades, dated March 2021. The QS cost estimates for road upgrades are based on information from the council and relevant precinct plans. Table 3 provides the unit cost for road upgrades in SLS CP.

Table 3 Unit cost for road upgrades 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

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

^c 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.^d

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 they are 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 also found that the cost estimates for the remaining road upgrades are reasonable.

2.5.3 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 similar 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 road upgrades arise from development within the precinct, and mostly benefit residents within the precinct.

^d Indexed to SLS CP base period March 2021. IQA ref: D21/12574, SLS CP – Transport workbook, Transport analysis tab, cell E75].

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. However, at this stage nexus is not established for stormwater upgrades.
- **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 findings and recommended adjustment are summarised in Table 4. Based on our findings, we recommend a decrease of about \$91,000 in the cost of open space embellishment, as we have not included stormwater upgrades.

Table 4 IPART-recommended adjustments for open space

Criterion	Finding	Recommendation	Land (\$Mar2021)	Works (\$Mar2021)
Total costs			37,604,455	6,041,700
Essential works	All open space land and embellishment is consistent with the EWL.	-	-	-
Nexus	Nexus is established for all open space land and embellishment, except for stormwater upgrades. We require more information and justification to establish nexus for stormwater upgrades.	At this stage, stormwater upgrade costs are not included in the plan.	-	-91,030
Reasonable cost - Embellishment	The cost of embellishment is reasonable.	-	-	-
Apportionment	Apportionment is reasonable.	-	-	-
Total IPART-recommended cost adjustment			-	-91,030
Total IPART-assessed reasonable cost			-	5,950,670

Source: SLS CP works schedule and IPART calculations.

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

Table 5 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.³

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.⁴

The council does not include 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 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 6.

Table 6 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 • 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 • 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 • 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 excluding stormwater upgrades.

As discussed in section 2.4.1, we require more information and justification to establish nexus for stormwater upgrades. At this stage we have not included the cost of stormwater upgrades in the plan. We also request the council provide additional information to establish nexus for stormwater open space costs.

We note the development will reduce the rate of open space provision in the precinct.⁵ The rate of provision in the existing precinct is 1.19 hectares per 1,000 residents.⁶ 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 7).

Table 7 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
Increase in rate of 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.⁷

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 low quantum of open space provided in SLS CP (discussed in the section above).

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 also considered the extent to which the additional embellishments lead to improved amenities in the limited space available. Overall, 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 cost is summarised in Table 8, and discussed in more detail below.

Table 8 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.	-39,852
Apportionment	Apportionment is reasonable.	-	-
Total IPART-recommended cost adjustment			-39,852
Total IPART-assessed reasonable cost			198,936

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.⁸

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).⁹

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.

Draft recommendation

3. Recalculate the cost of plan administration (1.5% of the cost of works) based on our recommended works costs.

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. However, we consider forward funding land costs in 'Criterion 4: Timing of infrastructure delivery'.

5.2 Land costs included in SLS CP

The land costs in SLS CP are only associated with the local park and are outlined in Table 9.

The two pocket parks, Newlands Park expansion and laneway located in the new local park area are on already council-owned and operational land. There are no land costs for transport because the council is using the existing road network.

Table 9 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 10).

Table 10 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

The council estimates the cost of land for the local park 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.¹⁰

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 recommend a formal valuation at the time of acquisition "to establish a fair and equitable value for the landowners affected".¹¹

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 works costs. 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.

5.2.3 Just terms compensation costs are reasonable

The SLS CP incurs additional costs for land acquisition relating to the *Land Acquisition (Just Terms Compensation) Act 1991 (NSW)* (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 55.¹² Section 55 includes costs such as:

- stamp duty
- relocation disadvantage
- legal costs
- valuation fees
- financial costs.¹³

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, \$2,673,000,¹⁴ we estimate stamp duty compensation would cost \$131,582 per property.¹⁵ The maximum relocation disadvantage compensation is \$81,762.¹⁶ 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.

5.2.4 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.¹⁷

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 76% of total dwellings). 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 how the local park could be delivered earlier in the plan to provide services to the community. This could include borrowing for a period of time (5-10 years).
- Review the plan within 3 years to include updated information on planning assumptions, and the scope and cost of land and works in the plan.

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. The sale and amalgamation of development sites in the precinct will likely occur at different times, which means the collection of contributions payments is uncertain. So, the timing for infrastructure delivery in SLS CP is difficult to determine.

The council 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 the funding to acquire land for the local park will not be available until development has achieved 76% of total dwellings (1,500 dwellings). This is a high threshold before local park embellishment can begin, consistent with land costs being 70% of total plan costs. The council also 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.

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. This will likely result in a delayed delivery of services for incoming residents.

We do not consider it reasonable to deliver the local park after 70% of total contributions are collected. We recommend the council explore ways to forward fund the infrastructure, such as borrowing or pooling contribution funds. It could consider whether to include an interest cost allowance to recover the costs of borrowing funds for land costs.

Borrowing funds involves some risks for the council. If there are delays or a default of contributions payments (to repay the loan), the shortfall would have to be met by the ratepayer. In addition, our understanding is that the revenue from contributions is not considered as income when Treasury Corporation determine a council's borrowing capacity, which can affect the council's capacity to borrow for other projects. The NSW Government accepted the Productivity Commission's recommendation for the Treasury Corporation to review their lending criteria to consider contributions as income in debt serviceability calculations.

However, we note that waiting to purchase the land after contributions have been collected also creates risk for council. Future land costs could be different to council's current forecast, creating the risk of a funding shortfall if they are higher than forecast.

Draft recommendation



4. The council should investigate how the local park could be delivered earlier in the plan, to provide benefits to the community as residents move into the precinct. It could consider whether to borrow funds for land costs and include an allowance to recover the interest costs.

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 11). 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 11 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	<p>Reduce the provision of amenities/contributions rate since number of dwellings is reduced.</p> <p>Concerned after comparing with nearby LGA contributions rates below \$20,000.</p>	<p>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.</p> <p>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.</p>
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.

Issue	Comment	Council's response
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*.¹⁸

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.¹⁹ This direction will expire in March 2022.

In November 2020, the Productivity Commissioner recommended the temporary measure be extended permanently.²⁰ 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 3 years, 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.

Draft recommendation

- 5.  The council should review the plan within 3 years to include updated information on planning assumptions, and the 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.

Assessment against information requirements in the EP&A Regulation

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

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