

## Terms of Reference

I, Rob Stokes MP, Minister for Planning and Public Spaces, with the approval of the Premier, have entered into an arrangement for the provision of services by the Independent Pricing and Regulatory Tribunal (IPART) under section 9 of the *Independent Pricing and Regulatory Tribunal Act 1992* in accordance with these Terms of Reference.

### Background

The NSW Productivity Commissioner undertook a review of the infrastructure contributions system in NSW in 2020 and made findings and recommendations for reform that were outlined in a Final Report released on 3 December 2020.

On 5 March 2021, the Treasurer and I announced that the NSW Government had accepted and is implementing all 29 of the NSW Productivity Commissioner's infrastructure contributions reform recommendations.

#### **Recommendation 4.6: Contributions plans reflect development-contingent costs only**

- i. Apply the essential works list to all section 7.11 contributions plans.
- ii. Independent Pricing and Regulatory Tribunal to review the essential works list and provide advice on the approach to considering efficient infrastructure design and application of nexus.
- iii. Subject to review by the Independent Pricing and Regulatory Tribunal, issue a revised practice note.

These recommendations included that local infrastructure contributions plans under section 7.11 of the *Environmental Planning and Assessment Act 1979* should reflect development-contingent costs only. To help achieve this, the NSW Productivity Commissioner recommended that IPART review the essential works list and provide advice on the approach to consider efficient infrastructure design and application of nexus. The objective is to ensure that new development pays the capital costs of efficiently designed local infrastructure needed to service the new population.

### Matters for Consideration

I am requesting IPART deliver:

- A review of the essential works list for efficiently designed development-contingent cost to determine the contents of the essential works list. This would apply to all section 7.11 contributions plans.
- A report providing advice on the approach councils should use to determine the most efficient local infrastructure to meet the needs of new development, applying the principle of nexus.

The report should include the evidence and documentation required to demonstrate that local infrastructure included in a contributions plan is:

- contingent on development, and
- efficient in design.



In delivering the report, IPART must have regard to the following:

- The NSW Productivity Commissioner's recommendations in relation to:
  - the principle that local contributions are cost-reflective charges on impactors, applied through a consistent framework but with some flexibility for adaptation to local circumstances
  - infrastructure planning as part of the strategic planning process to encourage early identification of infrastructure needs and optimisation of infrastructure costs.
- IPART's review of the local government rate peg to allow councils' general income to increase with population and provides the flexibility for additional rate revenue being used to fund the general costs from population growth.
- The essential works list must not expand beyond the current parameters and community facilities works must not be included.
- Differential infrastructure needs to reflect geographic issues (i.e. metropolitan versus regional areas) and development typologies (infill versus greenfield).

In this section—

**development-contingent costs** means infrastructure costs with a causal connection to a development because they would be avoided if the development did not proceed, and includes:

- within-development open space, some roads, and pedestrian facilities
- network connections for water facilities (potable, waste, and stormwater) (*NOTE: only stormwater facilities are to be included as water and wastewater connections are dealt with under separate legislation*).
- facilities shared between multiple developments, e.g. open space and some collector roads.

Where nexus is shared between multiple developments, the relative demand each development places on infrastructure can be quantified through apportionment (being the equitable sharing of benefiting developments based on the level of demand they generate).

**efficient costs** means the most cost-effective means of creating assets that provide the minimum acceptable level of service.

## Local Government Rating Reform – population growth factor

The NSW Government response to the IPART review of the local government rating system in NSW includes allowing for the better alignment of council income growth with population growth.

This Government policy is being implemented by:

- Terms of Reference issued to IPART to review the local government rate peg to allow councils' general income to increase with population, and
- The Local Government Amendment Act 2021 assented on 24 May 2021, which will give effect to the review.

Councils will have a reliable and sustainable revenue stream to provide key infrastructure for growing communities into the future.

Allowing for the local government rate peg to reflect population growth is highlighted as one of the key components underpinning a reformed contributions system in the Productivity Commission Review of Infrastructure Contributions. The rate peg reform enables general population costs to be removed from local infrastructure contributions.

## Consultation

The reformed infrastructure contribution system will commence from 1 July 2022.

As the issues the subject of this review have previously been canvassed through the work of the NSW Productivity Commissioner, and noting the Government response, an issues paper is not required for this review.

IPART will conduct targeted consultation as part of its review including forums established to support the implementation of the NSW Productivity Commissioner's recommendations which include an External Advisory Group (comprised of peak industry and council representative bodies), an Agency Reference Group and the Department's Internal Working Group.

In October 2021, IPART will publish a draft report and conduct public consultation.

## Reporting

IPART should submit its final report to the Minister for Planning and Public Spaces by 31 December 2021.