

Assessment of The Hills Shire Council's Contributions Plan No 12

Balmoral Road Release Area

Local Government — Assessment
October 2011

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1 Executive summary

The Independent Pricing and Regulatory Tribunal (IPART) is responsible for reviewing certain contributions plans that have been prepared by councils under section 94 of the *Environmental Planning and Assessment Act 1979* (EP&A Act). The plans outline the infrastructure to be provided, its cost and how it relates to existing infrastructure and services within the development area. Based on these plans, councils calculate the amount they will levy developers for the cost of providing services within a development area.

This report is our assessment of The Hills Shire Council's Contributions Plan No 12 (CP12) for the Balmoral Road Release Area (BRRA) – a new development area located between Windsor Road and Old Windsor Road in north west Sydney.

The indicative developer contribution for this contributions plan is between \$53,000 and \$53,800 per lot for a subdivision or dual occupancy, and is therefore above the maximum contribution under the Minister for Planning's Direction of 3 March 2011 of \$30,000 per residential lot or dwelling in greenfield areas.¹

We have assessed CP12 against the criteria set out in the Department of Planning's *Practice Note for the assessment of Local Contributions Plans by IPART*, November 2010 (Practice Note).² We have made recommendations on CP12 to the Minister for Planning and Infrastructure and to the council.

¹ See Minister for Planning, *Environmental Planning and Assessment (Local Infrastructure Contributions) Direction 2011*, 3 March 2011, Schedule 2.

² Department of Planning, *Practice Note for the assessment of Local Contributions Plans by IPART*, November 2010.

1.1 Background

During 2010 the Government introduced a number of amendments to the framework for contributions plans.³ The key changes were:

- ▼ imposing caps on the amount that councils can levy developers – the cap is \$20,000 for established sites and \$30,000 for greenfield sites
- ▼ limiting the public amenities and services for which councils can seek a contribution to key infrastructure that the Government has specified in an Essential Works List (see Box 2.2)
- ▼ requiring councils to submit to IPART for review any contributions plans that have a contribution above the cap and for which the council is seeking additional funding, either from the government or from rate payers
- ▼ exempting a number of existing developments from the cap and the requirement for review by IPART⁴.

IPART is required to assess the plans against the criteria in the *Local Development Contributions Practice Note for the assessment of contributions plans by IPART*.

Our main purpose is to assess whether:

- ▼ the public amenities and services included in the contributions plans comply with the NSW Government's Essential Works List
- ▼ the costs of the items in the plans are reasonable.

IPART reviews the following types of contributions plans:

- ▼ new contributions plans which propose a developer contribution level above the relevant cap
- ▼ existing contributions plans above the relevant cap, which have not otherwise been excluded from the framework, for which a council seeks funding from the Priority Infrastructure Fund⁵ or through a special rate variation⁶ under the *Local Government Act 1993*
- ▼ contributions plans referred by the Minister for Planning and Infrastructure.⁷

³ Premier of New South Wales, *Significant reform to local council infrastructure charges*, News Release, 4 June 2010 and Minister for Planning, *Direction Section 94E under the Environmental Planning and Assessment Act 1979*, 4 June 2010 and *Direction Section 94E under the Environmental Planning and Assessment Act 1979*, 15 September 2010.

⁴ See Minister for Planning, *Environmental Planning and Assessment (Local Infrastructure Contributions) Direction 2011*, 3 March 2011, Schedule 2.

⁵ The Priority Infrastructure Fund is a \$50m fund set up by the Minister for Planning and Infrastructure to enable councils to recover the difference (from the Department of Planning and Infrastructure) between the contributions amount contained in a contributions plan (which IPART assesses as reasonable) and the relevant cap.

⁶ Councils may apply to IPART for a special rate variation to their general income under either section 508A or 508(2) of the *Local Government Act 1993*.

⁷ Department of Planning, *Planning Circular PS 10-025 Development Contributions*, 23 November 2010.

1.2 Summary of The Hills Shire Council's CP12

CP12 is the contributions plan for development in the Balmoral Road Release Area (BRRA), a greenfield development between Windsor Road and Old Windsor Road in north west Sydney.

When CP12 was prepared in 2006, the council estimated that the Balmoral Road Release Area would eventually have around 6000 residential dwellings housing 13,000 new residents. About \$177m worth of infrastructure and services was planned for the Balmoral Road Release Area and included in CP12. The contributions rates in the plan are approximately \$53,000 to \$53,800 per lot for a subdivision or dual occupancy, which is significantly above the section 94 contributions cap of \$30,000 per dwelling or lot for greenfield sites.⁸

Recently, The Hills Shire Council has informally revised the population estimates to a total of 12,263 additional residents,⁹ and also revised the infrastructure and services in CP12 in light of the Practice Note and the Essential Works List.

Table 1.1 sets out the revised infrastructure and services and their costs (in 2010/11 dollars) as in the council's application. The major difference from the works in CP12 as originally adopted by The Hills Shire Council is the removal of capital works/facilities relating to community infrastructure, which has reduced the total cost of infrastructure in CP12 by about \$14m.

Table 1.1 The Hills Shire Council's CP12 Application – Public amenities and services (2010/11 dollars)

Works	Items	Capital costs	Land costs	Total costs
Traffic	Roundabouts, bus shelters, bridges, signals and cycleways	23,284,683	N/A	23,284,683
Open space and recreation	Land and facilities for district parks, local open space, greenway links and similar facilities	34,316,443	86,024,341	120,340,784
Stormwater drainage	Facilities for wetland basins	2,198,630	N/A	2,198,630
Community facilities	Stratum space for library expansion	Removed	2,127,113	2,127,113
Administration	Preparation, review and implementation of CP12	1,899,569	N/A	1,899,569
Total				149,850,780

Source: The Hills Shire Council, *Application for assessment of contributions plan No 12 – BRRA* and IPART calculations.

⁸ *Environmental Planning and Assessment (Local Infrastructure Contributions) Direction 2011*, 3 March 2011, p 7.

⁹ See Chapter 3.

The table shows that the major contributors to the total cost of CP12 are the cost of purchase of land for open space and recreation, and the cost of constructing traffic infrastructure and facilities for open space and recreation. Unlike Blacktown City Council's CP20 (also reviewed by IPART), the costs of stormwater drainage facilities is a minor cost item for CP12 as Sydney Water is providing it.

Expenditure in CP12, which was adopted in 2006, is projected to occur over 3 stages in the 20 years to 2025. Some expenditure on land acquisition has already occurred.

1.3 How we assessed CP12

We received from The Hills Shire Council an application form, the contributions plan and consultants' documents that were used by the council in preparing the contributions plan. The application form included the council's revision of the plan against the Practice Note and the Essential Works List. We have assessed the contributions plan using the revised data and further information provided by the council.

Our assessment involved the following steps:

- ▼ engaging Newplan Urban Planning (Newplan) to review the plan and the net present value (NPV) financial model underlying the plan (Newplan's report is Appendix A)
- ▼ providing The Hills Shire Council with a copy of Newplan's report to allow it to respond to the findings and issues raised (the council's response is in Appendix B)
- ▼ consulting the Department of Planning and Infrastructure in relation to the plan, Newplan's assessment and the council's response.

As permitted under the *Independent Pricing and Regulatory Tribunal Act 1992*, IPART delegated its functions of reviewing contributions plans to a committee comprising Mr James Cox, Mr Stuart McDonald and Mr Stephen Lyndon.

1.4 Our findings and recommendations

We have made findings and recommendations to both the Minister for Planning and Infrastructure and to the council in relation to CP12. We have also made recommendations to the Minister in relation to issues that have arisen during our assessment of CP12 and the other contributions plans.¹⁰

¹⁰ The Hills Shire Council, *Contributions Plan No 13 North Kellyville Precinct*, February 2010 (adopted July 2010); Blacktown City Council, *Section 94 Contributions Plan No 20 – Riverstone and Alex Avenue*, December 2010.

1.4.1 In relation to CP12

This section summarises our assessment of CP12. Our findings against the criteria in the Practice Note are set out in Table 1.2, our assessment of the indicative reasonable costs of the Essential Works in CP12 is in Table 1.3, and our recommendations follow.

We consider that CP12 satisfactorily addresses the criteria in the Practice Note. However some aspects of the plan should be revised or updated.

We assessed the council's application for CP12 and found that:

- ▼ With the exception of administration costs, all works in the revised CP12 work list are consistent with the Essential Works List.
- ▼ There is nexus between the increased demand arising from the development and the proposed public amenities and services in CP12, although there is potentially an overprovision of open space.
- ▼ Land and capital costs are mostly reasonable, however:
 - most capital on-costs, including the allowance for contingencies, design and project management fees, are high
 - some estimates of transport capital costs appear to be high, and some bus shelters may be able to be provided under commercial arrangements
 - stratum cost estimates for the library expansion use out-of date valuation research.
- ▼ The cost escalation rates that the council uses in the NPV model are high and the nominal discount rate used is low.
- ▼ The timeframes for provision of public amenities and services are not reasonable, as they do not reflect actual expenditures to date or the latest forecasting data, and should be updated.
- ▼ The apportionment of amenities and services is reasonable except to the extent that it does not adequately consider:
 - the demand from commercial development for transport and drainage works
 - the demand from the entire council area for transport works
 - the relative demand between CP12 and CP13 for the stratum costs of expanding the library.
- ▼ The council has undertaken appropriate community liaison and publicity in preparing the contributions plan.

Table 1.2 IPART's findings in relation to each criterion

Criteria	Findings
1. The public amenities and public services in the plan are on the "Essential Works List"	With the exception of administration costs, all works in the revised CP12 work list are consistent with the Essential Works List. Administration costs in CP12 are \$1,899,569.
2. There is nexus between the development in the area to which the plan applies and the kinds of public amenities and public services in the plan	<p>There is nexus between the increased demand arising from the development and the provision in CP12 of public amenities and services for all types of works.</p> <p>There is potentially an overprovision of open space and recreation land based on the lower population estimates for the Balmoral Road Release Area, and the potential for drainage land to be used for passive recreation.</p>
3. The proposed development contribution is based on a reasonable estimate of the cost of the proposed public amenities and public services	<p>The cost of land acquired for land for open space in CP12 is reasonable.</p> <p>Stratum cost estimates for the library expansion use out-of-date valuation research.</p> <p>The cost of capital works for open space, recreation and drainage facilities is reasonable compared with comparable greenfield developments.</p> <p>The approach to estimating the capital costs of transport amenities and services is reasonable, however some estimates appear to be high.</p> <p>Some bus shelters may be able to be provided under commercial arrangements.</p> <p>Most capital on-costs in CP12, including contingencies, project management and design fees and allowances are high compared with those in comparable greenfield contributions plans.</p> <p>The cost escalation rates used in the NPV model for CP12 are high and the nominal discount rate used in the NPV model for CP12 is low.</p>
4. The proposed public amenities and public services can be provided within a reasonable time	The timeframe for the provision of the proposed public amenities and services is not reasonable as it does not reflect actual expenditure to date or the latest forecasting data.
5. The proposed development contribution is based on a reasonable apportionment between existing demand and new demand for the public amenities and public services	<p>Cost of most open space and recreation public amenities and services has been apportioned reasonably, however:</p> <ul style="list-style-type: none"> ▼ all transport works have not been apportioned reasonably to reflect demand from commercial development and from the entire council area ▼ drainage works in the eastern precinct have not been apportioned reasonably to reflect demand from commercial development ▼ apportionment for the Rouse Hill Regional Centre library expansion is based on outdated population forecasts and is inconsistent with that in CP13 North Kellyville Precinct.
6. The council has conducted appropriate community liaison and publicity in preparing the contributions plan	The council undertook appropriate community liaison and publicity when preparing CP12 in 2006.

Criteria	Findings
7. The plan complies with other matters IPART considers relevant	N/A

Table 1.3 presents our indicative assessment of the reasonable cost of the Essential Works in CP12.¹¹ We have calculated our assessment of costs using the costs contained in the council's *Balmoral Road Release Area Contributions Plan 12 Financial Model*, June 2011, and not the costs as stated in the council's application to IPART. We found that the total reasonable cost of Essential Works in CP12 (as at June 2011) of \$167,045,942 should be reduced by at least \$11,305,734.

We note that the impact of several of our recommendations is not quantifiable at this stage.

Table 1.3 IPART's indicative assessment of the reasonable cost of infrastructure included in the Balmoral Road Release Area Contributions Plan (2010/11 dollars)

Works program	Cost in June 2011 CP12 Financial Model	IPART adjustment	IPART assessment
Open space and recreation land and facilities	135,193,230	– 2,519,947 (remove some open space)	128,280,204
		– 4,393,080 (reduce contingency %)	
Community facilities – stratum cost for library ^a	2,127,113	– 222,084 (revise apportionment to CP12 to 45.5%)	1,905,028
Traffic and transport management facilities	25,559,463	– 2,170,766 (reduce contingency %)	23,388,697
Stormwater drainage facilities	2,332,916	– 166,637 (reduce contingency %)	2,166,279
Administration costs	1,833,220	–1,833,220 (remove as inconsistent with Essential Works List)	0
Total	167,045,942	–11,305,734	155,740,208

^a Costs are apportioned between CP12 (50.8%) and CP13 North Kellyville Precinct (48.2%).

Source: The Hills Shire Council, *Balmoral Road Release Area – Contributions Plan 12 Financial Model*, June 2011 and IPART calculations.

¹¹ The council's application stated the total costs in CP12 as \$150,769,293 (2010/11 dollars). IPART calculated that the total cost of the items in the application was, in fact, \$149,850,780. The council subsequently provided IPART with an updated Financial Model, dated June 2011, which states that the current total cost of items in CP12 is \$167,045,942 (2010/11 dollars). We have used the June 2011 Financial Model to calculate our assessment of the reasonable cost of items in CP12.

Recommendations

- 1 The council should deduct an amount of \$1,833,220, representing administration costs, from the total costs of essential works in CP12. 27
- 2 The council should remove the land and facilities for part of Greenway Link 1 and all of Greenway Link 2 from the provision for open space and recreation land in CP12. The current total land and capital costs for these works is \$2,519,947. 32
- 3 The council should re-evaluate its land acquisition schedules to determine whether it can reduce the amount of land yet to be acquired for open space and recreation to more reasonable levels. 32
- 4 The council should revise its stratum costs for the Rouse Hill Regional Centre library expansion, using the latest data. 35
- 5 Where possible, the council should pursue commercial provision of bus shelters in lieu of development contributions for CP12. 38
- 6 The council should review CP12's capital costs for transport amenities and services using up-to-date cost estimates. 38
- 7 The council should revise the allowance for contingencies for all capital works down to 15%. A total of \$6,730,482 should be removed from the cost of works in CP12. 41
- 8 The council should revise the project management and design fees for all capital works to 15% combined. 41
- 9 The Hills Shire Council should consider using a real NPV model with a real discount rate which reflects the council's risk related rate of return. 46
- 10 The council should review and improve the readability of the NPV model used in CP12, in particular, by articulating the assumptions used in the model and providing a summary of the outputs. 47
- 11 The council should revise its infrastructure priorities and timeframes using actual expenditure and the latest forecasting data. 49
- 12 The council should pursue alternative funding to ensure that the Rouse Hill Regional Centre library expansion is completed within a reasonable time after acquisition of the stratum space. 49
- 13 The council should update the apportionment factor for the library expansion using the additional population approach based on the latest population estimates for CP12 and CP13. 52

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|----|---|----|
| 14 | The council should review its apportioning of transport costs to reflect demand from the non-residential development in BRR and reduce the residential contributions accordingly. | 54 |
| 15 | The council should review its apportioning of stormwater management costs to reflect demand from the non-residential development in BRR and reduce the residential contributions accordingly. | 55 |

1.4.2 In relation to other issues arising from our review of contributions plans

The Minister for Planning directed that a large number of contributions plans were excluded from the cap and the requirement for review by IPART.¹² To date, IPART has reviewed 3 plans in 2 council areas:

- ▼ Blacktown City Council's Section 94 Contributions Plan No 20 – Riverstone and Alex Avenue Precincts (CP20).
- ▼ The Hills Shire Council's Contributions Plan No 12 – Balmoral Road Release Area (CP12).
- ▼ The Hills Shire Council's Contributions Plan No 13 – North Kellyville (CP13).

The initial submissions that we received for the 3 contributions plans did not have enough information and supporting documentation to enable us to satisfy the requirements of our terms of reference.

We note that this has been a new process. However, for future reviews we expect that councils will provide all the necessary information for the review with the initial submission. This will be more efficient for councils and IPART.

We have made recommendations which relate to CP12, councils in general and to the Minister for Planning and Infrastructure regarding the policy framework.

Recommendations

- | | | |
|----|---|----|
| 16 | Councils should review their contributions plans at least every 5 years, unless a significant change in circumstances prompts an earlier review. | 58 |
| 17 | The Minister for Planning and Infrastructure should consider amending the Practice Note to allow development contributions to be levied to recoup administration costs incidental to items on the Essential Works List. | 59 |
| 18 | Administration costs should be defined to include: | 59 |
| | – the costs that councils incur in preparing the contributions plan, including preparation of studies to identify the needs of the proposed development | 59 |

¹² See Minister for Planning, *Environmental Planning and Assessment (Local Infrastructure Contributions) Direction 2011*, 3 March 2011, Schedule 1.

- the costs that councils incur in reviewing and updating contributions plans and managing contributions receipts and expenditures. 59
- 19 When councils choose to use an NPV model to calculate development contributions, the modelling should be done using real figures and a discount rate which reflects the council's risk related rate of return. 61
- 20 Further consultation should be undertaken on a discount rate that could be applied consistently. Consultation should involve IPART, Treasury, Department of Planning and Infrastructure, councils and developers. 61
- 21 Contribution rates should be indexed by the CPI (All Groups Index) for Sydney, as published by the Australian Bureau of Statistics. The contributions plan should specify whether the index is to be applied quarterly or annually. 61
- 22 The Minister for Planning and Infrastructure should consider clarifying the policy with regard to contributions rates for different types of development (eg, single dwellings versus multi-unit dwellings). 62
- 23 The Minister for Planning and Infrastructure should consider clarifying the policy so that the total cost of items on the Essential Works List is able to be clearly distinguished in a contributions plan. Further, the policy should require that contributions plans must include a contributions rate which recovers only the cost of items on the Essential Works List. 63
- 24 A whole-of-government review of the requirements for open space and other land uses that sterilise land for development should be undertaken. 64
- 25 The system of recouping the cost of stormwater management works should be given further consideration in light of potential inequities between different areas. 64

1.5 Structure of this report

The rest of this report explains our assessment in more detail:

- ▼ Chapter 2 provides background information
- ▼ Chapter 3 summarises CP12
- ▼ Chapter 4 explains our assessment of CP12 against the criteria in the Practice Note
- ▼ Chapter 5 discusses issues arising from our reviews of the contributions plans
- ▼ Appendix A is Newplan's report on CP12
- ▼ Appendix B contains The Hills Shire Council's response to Newplan's report.

2 Background

2.1 Introduction

The NSW development contributions system helps to provide new and growing communities with the infrastructure that they require. The *Environmental Planning and Assessment 1979* (EP&A Act) and the *Environmental Planning and Assessment Regulation 2000* (EP&A Regulation) set out how the development contribution system in New South Wales works.¹³ Under the provisions of section 94 of the EP&A Act, councils are able to levy developers for contributions to the cost, and/or the provision, of a reasonable level of local public facilities and infrastructure required as a result of the new development.

In 2010 the Premier asked IPART to assist the Minister for Planning in the implementation of a new framework by reviewing councils' contributions plans.

This chapter outlines the contributions system in NSW, the changes to the contributions system introduced in 2010 and IPART's role in assessing contributions plans.

2.2 Contributions plans

Councils may seek a contribution from developers under section 94 of the EP&A Act to help fund the cost of providing facilities, infrastructure and/or services associated with the proposed development. In order to determine the contributions levy, councils are required to prepare a contributions plan.¹⁴ The plan outlines the expected types of development in an area and the public amenities and services that will be needed to meet demand arising from that development.

¹³ *Environmental Planning and Assessment Act 1979* Division 6, ss 93C - 94EM; *Environmental Planning and Assessment Regulation 2000* Part 4, cl 25A - 38.

¹⁴ *Environmental Planning and Assessment Act 1979* s 94B.

Generally, contributions from developers under section 94 can be sought for:

- ▼ capital costs, including land acquisitions
- ▼ public facilities that a council reasonably has to provide
- ▼ public facilities that are needed as a consequence of, or to facilitate, new development.

Section 94 contributions must be reasonable and meet requirements for accountability. In addition, the Minister for Planning issued a Direction under section 94E of the EP&A Act on 15 September 2010 that limits the development contributions that councils can charge.¹⁵

This Direction introduced changes to the development contributions framework. It set out maximum development contributions that could be levied on developers and outlined the facilities, infrastructure and/or services that may be included in contributions plans. The major policy changes are outlined in Box 2.1.

Contributions can be levied for essential works. This includes 'base level embellishment' of open space. Base level embellishments are works that are required to bring open space to a level where the site is secure and suitable for passive and active recreation. (See Box 2.2).

Box 2.1 Major changes to planning policy

The major changes to the development contributions framework announced in 2010 include:

New 'hard caps' on development contributions. These set maximum development contributions that councils can levy:

- ▼ \$30,000 per dwelling or residential lot in greenfield areas
- ▼ \$20,000 per dwelling or residential lot in all other areas.

Exemptions to the relevant cap. These apply to areas where development applications have been lodged for more than 25% of the expected dwelling yield under existing contributions plans or where the Minister directs that the development is excluded.

An Essential Works List. This applies when councils are seeking priority infrastructure funding or a special rate variation for the costs of amenities and services which exceed the relevant cap.

A \$50 million Priority Infrastructure Fund. This is a 2-year arrangement to assist councils (where the caps apply).

Contributions can be levied for essential works. This includes 'base level embellishment' of open space. Base level embellishments are works that are required to bring open space to a level where the site is secure and suitable for passive and active recreation.

¹⁵ Minister for Planning, *Direction Section 94E under the Environmental Planning and Assessment Act 1979*, 15 September 2010.

Box 2.2 Essential Works List and base level embellishment

Essential works list

The Minister for Planning issued the following Essential Works List on 16 September 2010

Description	Component	Essential works
Open space	Land ^a	✓
	Facilities	X
Community services	Land	✓
	Facilities	X
Emergency services	Land	X
	Facilities	X
Transport		
Eg, roadworks, traffic management, pedestrian and cycle facilities	Land	✓
	Facilities	✓
Car parks	Land	X
	Facilities	X
Stormwater management	Land	✓
	Facilities	✓

^a Land for open space can include base level embellishment (see definition below).

Source: Department of Planning, *PS 10-22 Reforms to Local Development Contributions*, 16 September 2010.

Base level embellishment

Base level embellishment may include:

- ▼ site regrading
- ▼ utilities servicing (water, sewer, electricity and gas supply)
- ▼ basic landscaping (turfing, asphalt and other synthetic playing surfaces, planting, paths and cycle ways)
- ▼ drainage and irrigation
- ▼ basic park structures and equipment (park furniture, toilet facilities and change rooms, shade structures and play equipment)
- ▼ security lighting and local sports field floodlighting
- ▼ sports fields, tennis courts, netball courts and basketball courts.

Base level embellishment does not include skate parks, BMX tracks and the like.

In correspondence dated 23 March 2011, the Department of Planning advised us that asphalt includes car parks to the extent that they service the recreation area only and does not include multi-storey car parks – that is, they are to be at ground level.

Source: Department of Planning, *Practice Note for assessment of Local Contributions Plans by IPART*, November 2010, p 6 and letter to IPART dated 23 March 2011.

2.3 Role of IPART

The main purpose of IPART's assessment is to determine whether:

- ▼ the public amenities and services comply with the Essential Works List
- ▼ the costs of the items in the plan are reasonable.

IPART reviews:

- ▼ new contributions plans that propose a contribution level above the relevant cap
- ▼ existing contributions plans above the relevant cap for which a council seeks funding from the Priority Infrastructure Fund,¹⁶ or funding through a special rate variation¹⁷ under the *Local Government Act 1993*
- ▼ contributions plans as otherwise determined by the Minister for Planning and Infrastructure.¹⁸

IPART will report its assessment to the Minister for Planning and Infrastructure and the local council. The Minister may consider IPART's findings and recommendations in determining a council's application for funding under the Priority Infrastructure Fund (PIF).

IPART will consider the assessment when reviewing a council's application for a special rate variation. The assessment also helps to inform councils about how their plans comply with the Practice Note issued by the Department of Planning in 2010.

IPART assesses contributions plans against the criteria in the Practice Note as listed in Box 2.3.

These criteria are based on the key concepts of reasonableness and accountability:

- ▼ Reasonableness relates to nexus and apportionment:
 - Nexus refers to the connection between the development and the demand created. The requirement to satisfy nexus is based on ensuring that there is a link between the development and increased demand for facilities. In addition, the infrastructure needs to be provided within a timeframe that meets the demand.
 - Apportionment refers to the share borne by the future development. The concept of apportionment is based on ensuring that developers pay only for the portion of demand that results from their development.

¹⁶ The Priority Infrastructure Fund is a \$50m fund set up by the Minister for Planning and Infrastructure to enable councils to recover the difference (from the Department of Planning and Infrastructure) between the contributions amount (which IPART assesses as reasonable), and the relevant cap.

¹⁷ Councils may apply to IPART for a special rate variation to their general income under either section 508A or 508(2) of the *Local Government Act 1993*.

¹⁸ Department of Planning, *Planning Circular PS 10-025 Development Contributions*, 23 November 2010, p 2.

While nexus is about establishing a relationship between the development and demand for infrastructure, apportionment is about quantifying the extent of the relationship.

- ▼ Accountability relates to both public and financial accountability:
 - Accountability is a basic requirement of section 94. Public accountability may be sought through open decision making, maintenance of appropriate financial records and community involvement. Financial accountability may be sought through the works schedule to the contributions plan, annual reports and a contributions register.
 - A key issue with accountability is the completion of the works program within the contributions plan and that the infrastructure is provided within a timeframe that meets the need of the development.¹⁹

Box 2.3 Assessment criteria

The following criteria will be used in the assessment of contributions plans by IPART:

1. The public amenities and public services in the plan are on the “Essential Works List” as identified within the Practice Note.
2. There is nexus between the development in the area to which the plan applies and the kinds of public amenities and public services identified in the plan.
3. The proposed development contribution is based on a reasonable estimate of the cost of the proposed public amenities and public services.
4. The proposed public amenities and public services can be provided within a reasonable timeframe.
5. The proposed development contribution is based on a reasonable apportionment between existing demand and new demand for the public amenities and public services.
6. The council has conducted appropriate community liaison and publicity in preparing the contributions plan.
7. The plan complies with other matters IPART considers relevant.

Source: Department of Planning, Practice Note for assessment of Local Contributions Plans by IPART, November 2010, p 6.

¹⁹ Department of Planning, *Practice Note for the assessment of Local Contributions Plans by IPART*, November 2010, p 3.

3 Summary of The Hills Shire Council – CP12

Balmoral Road Release Area (BRRRA) is a development area in north west Sydney. Currently it comprises mostly rural and rural residential land uses.

In 2006 the population of the BRRRA was approximately 685. CP12 forecasts that around 6000 residential dwellings will be built, which will accommodate just over 13,000 new residents (ie, a total population of approximately 13,700).²⁰ In March 2011 the council advised Newplan (consultants to IPART), that the most recent review of future population, which is based on approved development, reduces the number of new residents from 13,012 to 12,263 (ie, a total population of 12,948).²¹

The Hills Shire Council has submitted its contributions plan for the BRRRA, *Section 94 Contributions Plan No 12 – Balmoral Road Release Area*, September 2006 for review by IPART.²² In September 2010 the Minister for Planning directed that land identified as the Balmoral Road Release Area in CP12 is subject to a maximum contribution of \$30,000 per lot or dwelling.²³

CP12 proposes to levy a section 94 contribution of \$53,000 to \$53,800 per lot for a subdivision or dual occupancy. This is significantly higher than the cap. The council has elected to levy a different contribution rate for dwellings located in a section of the BRRRA, known as the Eastern Drainage Precinct (estimated population of 9,220) to reflect expected higher costs associated with water quality measures servicing that area.

The council originally included about \$177 million worth of infrastructure in CP12.²⁴ The council has since informally revised CP12 in accordance with the Essential Works List. In particular, the council has removed capital works and facilities for the proposed community centre. The council has also adjusted the cost estimates and some of the works schedule, based on actual expenditure to date (see section 3.3).

²⁰ The Hills Shire Council, *Section 94 CP12 – Balmoral Road Release Area*, September 2006, p 13.

²¹ Newplan, *Review of The Hills Shire Council CP No 12 Balmoral Road Release Area – Final Report*, April 2011, p 12. Newplan noted that preliminary planning for the BRRRA projected a total population of around 16,000, which was used to assess the infrastructure needs that underpin CP12 assumptions (see below section 4.3).

²² The Hills Shire Council, *Section 94 CP12 – Balmoral Road Release Area*, September 2006.

²³ Minister for Planning, *Direction Section 94E under the Environmental Planning and Assessment Act 1979*, 15 September 2010, Schedule 2.

²⁴ The Hills Shire Council, *Section 94 CP12 – Balmoral Road Release Area*, September 2006, p 40.

In calculating the contribution rates in CP12, The Hills Shire Council used a net present value (NPV) model.

There has already been some development in the BRRA, but 78% is yet to occur.²⁵ The balance of the plan at 30 September 2010 was –\$50,380,000. Expenditure to date relates to land acquisition arising from landowner-initiated claims under the *Land Acquisition (Just Terms Compensation) Act 1991*.²⁶

3.1 Land to which CP12 applies

Balmoral Road Release Area lies between Windsor Road and Old Windsor Road in north west Sydney (see Figure 3.1), and has a net developable area of 247.34 ha. Although in the vicinity of the North West Growth Centre, the Balmoral Road Release Area is not subject to the planning regime adopted by the Government for those areas.²⁷

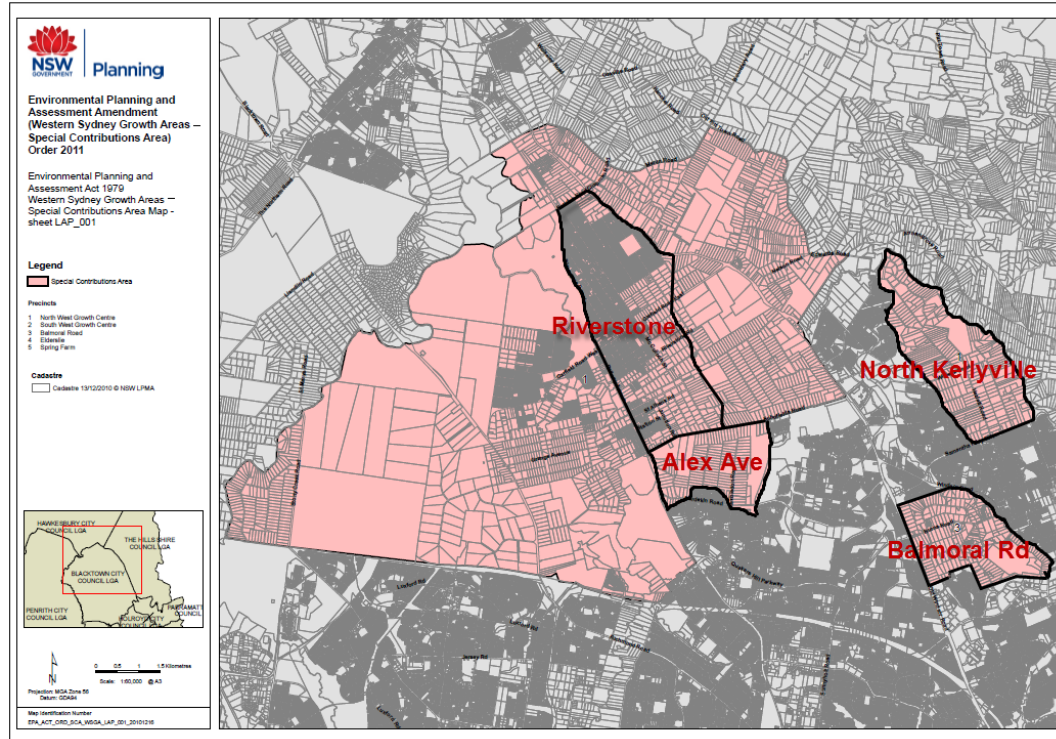
The development is mainly zoned for residential development, in single and multi-unit dwellings. There is a small amount of non-residential development (a total of about 150,000m²) comprising 2 neighbourhood centres, 1 local centre and some employment land.

²⁵ The Minister's Directions (15 September 2010 and 3 March 2011) exempted existing contributions plans from the contributions cap in areas where development applications have been lodged for more than 25% of the expected yield from the development area.

²⁶ Under the *Land Acquisition (Just Terms Compensation) Act 1991*, an owner of land may require that a council acquires the land if the land is designated for acquisition by the council for a public purpose, and the owner considers that he or she will suffer hardship if there is any delay in the acquisition of the land.

²⁷ In 2005 the NSW Government identified the North West and South West Growth Centres to accommodate 500,000 people over the next 30 years. It established the Growth Centres Commission to be responsible for streamlining the release and planning of greenfield land for urban development and coordinating the delivery of infrastructure. The functions of the Growth Centres Commission are now undertaken by the Department of Planning and Infrastructure.

Figure 3.1 Location of Balmoral Road Release Area



Data source: Department of Planning and Infrastructure.

Figure 3.2 Map of the Balmoral Road Release Area



Source: The Hills Shire Council, *Section 94 Contributions Plan No. 12 – Balmoral Road Release Area*, September 2006, p 4.

3.2 Contributions rates in CP12

Table 3.1 shows a breakdown of the contributions rates by dwelling type and bedroom numbers as set out in the original CP12. The council has identified that because of the topography of the Eastern Precinct of the BRRRA, additional drainage and stormwater works will be needed to address the impact of development in this area. The cost of these water quality measures will be levied only on development in that area.

Table 3.1 Contributions rates in CP12 (2006 dollars)

Category		Contribution rates in BRRRA (outside the Eastern Precinct)	Contribution rates in Eastern Precinct of the BRRRA ^a
Per capita ^b		15,607.12	15,817.61
Per lot/unit			
Subdivision and dual occupancy		53,064.21	53,779.88
Multi-unit dwelling	4 Bedroom	43,699.95	44,289.32
	3 Bedroom	39,017.82	39,544.05
	2 Bedroom	28,092.83	28,471.71
	1 Bedroom	20,289.26	20,562.90

^a Costs of \$2.13m for drainage facilities allocated only to of 9,220 forecast additional population the BRRRA Eastern Precinct.

^b CP12 originally projected an additional population of 13,012.

Source: The Hills Shire Council, *Contributions Plan No 12 – Balmoral Road Release Area*, September 2006, p 40.

The non-residential development has not been factored in to the calculation of contribution rates.

3.3 Public amenities and services in CP12

As noted, the council's application to IPART contained a revised list of public works and amenities which included only those items which the council considered complied with the Essential Works List. The total value of items on the council's application is \$149,850,780 (2010/11 dollars).²⁸ The council subsequently provided IPART with an updated Financial Model, dated June 2011, which we have used to calculate our assessment of reasonable costs in the plan. The current total cost of items in CP12 in the June 2011 model is \$167,045,942 (2010/11 dollars).

Table 3.2 shows the types of works included in the plan.

²⁸ The council's application stated the total as \$150,769,293. IPART calculated that the total cost of the items in the application was, in fact, \$149,850,780.

Table 3.2 Public amenities and services for CP12 as revised by the council for the application to IPART for review (2010/11 dollars)

Works	Items	Capital costs	Land costs	Total costs
Traffic	Roundabouts, bus shelters, bridges, signals and cycleways	23,284,683	N/A	23,284,683
Open space and recreation	Land and facilities for district parks, local open space, greenway links and similar facilities	34,316,443	86,024,341	120,340,784
Stormwater drainage	Facilities for wetland basins	2,198,630	N/A	2,198,630
Community facilities	Stratum space for library expansion	Removed	2,135,306	2,135,306
Administration	Preparation, review and implementation of CP12	1,899,569	N/A	1,899,569
Total				149,850,780

Source: The Hills Shire Council, *Section 94 CP12 – Balmoral Road Release Area, Financial Model CP12*, and IPART calculations.

CP12 originally prioritised the timing of infrastructure delivery to the BRRRA based on development reaching 3 population thresholds, ie, up to 4,600 residents (expected to be by 2010), 4,600 to 9,400 residents (expected to be by 2013), and more than 9,400 residents (expected to be by 2020).

3.4 Use of the net present value (NPV) model

As permitted under the Department of Planning's 2005 Practice Note, The Hills Shire Council has used a net present value (NPV) methodology as the basis for calculating contributions. A net present value (NPV) model can assist councils in minimising the gap between costs and funding over time.

This method allows the council to forecast costs over the life of the plan and calculate contributions which recover the costs of the plan in a manner which is equitable to developers irrespective of when they make their contributions.

The NPV model uses dollars of the day to calculate the contributions rate, and uses the following cost indices to update cost estimates:

- ▼ The average of the annual percentage change in the Australian Bureau of Statistics (ABS) Established House Price Index over the 15 years to December 2009 is applied to land costs.
- ▼ The Tender Price Index published by Rider Levitt Bucknall in its *Constructions Cost Commentary* is used to estimate changes in capital costs. The 2010 forecast was the latest available and was applied to forecasts required beyond 2010.
- ▼ The mid-point of the Reserve Bank of Australia's inflation target of 2.5% will be applied to administration costs.

The council's application stated that an updated methodology is applied in CP13 for North Kellyville Precinct and would be applied in CP12 at the next review.

4 Assessment of The Hills Shire Council's application for CP12

We have assessed The Hills Shire Council's application for CP12 against the criteria in the Practice Note. As part of our review we also examined the net present value (NPV) cost model the council has used to update the plan. We engaged Newplan Urban Planning (Newplan) to help us assess the council's application. A copy of Newplan's report is Appendix A and the council's response is in Appendix B.

This chapter summarises IPART's assessment of the plan and discusses it against each of the criteria. For each criterion, we have summarised Newplan's assessment, the council's response to Newplan's findings and our overall assessment, findings, and recommendations.

We also make some recommendations about the council's use of the NPV model. The Hills Shire Council is one of the few councils to use an NPV model for its contributions plans. An NPV model allows costs and revenues to be reconciled to a single value by discounting them to today's dollars. This approach recognises that expenditure generally occurs in the early years of development, while revenue from developments contributions is received over the life of the plan. An NPV approach does not affect the reasonable costs of the works, rather its main impact is on the per lot/dwelling contribution over time.

4.1 Summary of IPART's assessment

We consider that while CP12 meets the criteria in the Practice Note, some aspects of the plan should be revised or updated.

We assessed the council's application for CP12 and found that:

- ▼ With the exception of administration costs, all works in the revised CP12 work list are on the Essential Works List.
- ▼ There is nexus between the increased demand arising from the development and the proposed public amenities and services in CP12 although there is potentially an overprovision of open space.
- ▼ Land and capital costs are mostly reasonable, however:
 - most capital on-costs, including the allowance for contingencies, design and project management fees, are high

- some estimates of transport capital costs appear to be high, and some bus shelters may be able to be provided under commercial arrangements
- stratum cost estimates for the library expansion use out-of date valuation research.
- ▼ The timeframes for provision of public amenities and services are not reasonable, as they do not reflect actual expenditures to date or the latest forecasting data, and should be updated.
- ▼ The apportionment of amenities and services is reasonable except to the extent that it does not adequately consider the demand from commercial development for transport and drainage works, or from the entire council area for transport works, or the latest population forecasts for the stratum costs of expanding the library.
- ▼ The council has undertaken appropriate community liaison and publicity in preparing the contributions plan.

The council has used an NPV model as the basis for the calculation of contributions. We found that the cost escalation rates that the Hills Shire Council uses in the NPV model for CP13 are high and the nominal discount rate used is low.

Table 4.1 shows our indicative assessment of the reasonable cost of essential works in CP12. We note that the impact of several of our recommendations is not quantifiable at this stage, including those to pursue the commercial provision of bus shelters (Recommendation 5) and to review the apportioning of transport and stormwater management costs (Recommendations 14 and 15).

We have calculated our assessment of costs using the costs contained in the council's *Balmoral Road Release Area – Contributions Plan 12 Financial Model*, June 2011, and not the costs as stated in the council's application to IPART. We found that the total reasonable cost of essential works in CP12 of \$167,045,942 should be reduced by at least \$11,305,734.

Table 4.1 IPART's indicative assessment of the reasonable cost of infrastructure included in the Balmoral Road Release Area Contributions Plan (2010/11 dollars)

Works program	Cost in June 2011 CP12 Financial Model	IPART adjustment	IPART assessment
Open space and recreation land and facilities	135,193,230	– 2,519,947 (remove some open space)	128,280,204
		– 4,393,080 (reduce contingency %)	
Community facilities – stratum cost for library ^a	2,127,113	– 222,084 (revise apportionment to CP12 to 45.5%)	1,905,028
Traffic and transport management facilities	25,559,463	– 2,170,766 (reduce contingency %)	23,388,697
Stormwater drainage facilities	2,332,916	– 166,637 (reduce contingency %)	2,166,279
Administration costs	1,833,220	–1,833,220 (remove as inconsistent with Essential Works List)	0
Total	167,045,942	–11,305,734	155,740,208

^a Costs are apportioned between CP12 (50.8%) and CP13 North Kellyville Precinct (48.2%).

Source: The Hills Shire Council, *Balmoral Road Release Area – Contributions Plan 12 Financial Model*, June 2011 and IPART calculations.

4.2 Criterion 1 – The public amenities and services are on the Essential Works List

Under the changes to the development contributions framework that were introduced in 2010, the Essential Works List will be applied if a council wishes to seek funding from either the Priority Infrastructure Fund or through a special rate variation.²⁹ The Practice Note states that the Essential Works List is relevant only to those contributions plans that propose a contribution level above the relevant cap (unless the Minister for Planning and Infrastructure directs otherwise).³⁰

We have assessed the items in CP12 against the Essential Works List as set out in the Practice Note and the definition of base level embellishment (see Box 2.2).³¹ The items in CP12 and their costs are set out in Table 3.2. Our assessment of them is set out in Table 4.2 below.

²⁹ Department of Planning, *Planning Circular PS 10-022 Reforms to Local Development Contributions*, 16 September 2010.

³⁰ Department of Planning, *Practice Note for the assessment of Local Contributions Plans by IPART*, November 2010, p 7.

³¹ The revised definition of base level embellishment has not been updated in the Practice Note. IPART has relied on advice from the Department of Planning and Infrastructure.

We found that, with the exception of administration costs, all public amenities and services in CP12 are consistent with the Essential Works List and the definition of base level embellishment.

Newplan's report

Newplan found most of the infrastructure items listed in the revised works list for CP12 meet the Essential Works List and the definition of base level embellishment. Newplan identified 2 items which do not unequivocally meet the Essential Works list – the acquisition of a stratum lot for the expansion of the Rouse Hill Regional Centre library and administration costs. Newplan did not explore whether the expenditure for the acquisition of the stratum lot constituted “land” acquisition.

With regard to administration costs, Newplan notes that there is conflicting evidence as to whether development contributions can be levied for administrations costs:³²

- ▼ It has been common practice to authorise the levying of contributions for administration costs of preparing, maintenance and review of contributions plan.
- ▼ The Department of Planning's 2005 Practice Note³³ is unclear as to whether administration costs can be recouped:
 - a template for a section 94 plan within the Practice Notes includes “Administration” in the works program, but
 - the principles in the 2005 Practice Note state that section 94 contributions “generally cannot be used for ongoing administrative costs” but can be included for the costs of preparing the contributions plan.

Newplan recommended that, given the ambiguity, the 2010 Practice Note should be updated to clarify whether administration costs are ‘essential works’ to be recouped by development contributions.³⁴

The Hills Shire Council's response

The council stated that it considers stratum space “land” as defined by the *Strata Schemes (Freehold Development) Act 1973*.³⁵ Further, the council considers that administration costs should be included, as they are a “true cost” of preparing the plan. The council indicated that its administration costs³⁶ are essential works and reasonable because they represent about 4% of the total value of works (base cost).³⁷

³² Section 94 Contributions Plan No 12 – Balmoral Road Release Area, September 2006, pp 7-8.

³³ Department of Infrastructure, Planning and Natural Resources, *Development Contributions Practice Notes – July 2005*, July 2005.

³⁴ Newplan, *Review of The Hills Shire Council CP No 12 Balmoral Road Release Area – Final Report*, April 2011, p 44.

³⁵ The Hills Shire Council, *THSC Response to draft consultants reports for CP12 and 13*, p 2.

³⁶ Costs associated with preparing, reviewing and implementing CP12, including forward planning, services and community development staff as well as professional fees.

³⁷ The Hills Shire Council, *THSC Response to draft consultants reports for CP12 and 13*, p 11.

IPART's assessment

The council has revised the items in CP12 so that, with the exception of administration costs, they are all consistent with the Essential Works List and the definition of base level embellishments.

Table 4.2 IPART's assessment of whether public amenities and services in CP12 are essential works

Works	Public amenities and services	On Essential Works List
Traffic	Roundabouts, bus shelters, bridges, signals and cycleways	Yes
Open space and Recreation	Land and facilities for district parks, local open space, greenway links and similar facilities	Yes
Stormwater drainage	Facilities for wetland basins	Yes
Community facilities	Stratum space for library expansion	Yes
Administration	Prepare, review and implement CP12	No

Source: Application for Assessment of CP12 – Balmoral Road Release Area, 2011, pp 3–8.

We consider that the stratum space is within the statutory definition of “land”. We note that, in general, acquiring stratum space is not materially different from acquiring land for development. It should be considered as land for the purposes of the Essential Works List.

The Practice Note does not define administration costs as an Essential Work. Therefore, administration costs in CP12 of \$1.83m do not comply with the Essential Works List. We have considered in section 5.3 whether the Essential Works List should include administrative costs.

IPART finding

- 1 All works in the revised CP12 work list are consistent with the Essential Works List, with the exception of administration costs. Administration costs in CP12 are \$1,833,220.

Recommendation

- 1 The council should deduct an amount of \$1,833,220, representing administration costs, from the total costs of essential works in CP12.

4.3 Criterion 2 – There is nexus between the development area and the public amenities and services

This criterion ensures that there is a connection between the development and increased demand for amenities and services from the incoming population.

The council indicates in CP12 that planning studies for the development of the BRRA have identified nexus between the infrastructure items and population. The studies include:

- ▼ Recreation Needs Analysis and Public Open Space Provision for BRRA (October 2003)³⁸
- ▼ Balmoral Release Area Traffic and Transport Report (May 2006)³⁹
- ▼ Rouse Hill Library and Community Centre Report (July 2004), and Addendum (August 2006)⁴⁰
- ▼ Human Services Local Environmental Study for BRRA Kellyville (November 2002)⁴¹.

In December 2006 the council reviewed the recommendations for open space and recreation facilities. They considered the impact of the lower population assumption of 13,000 which was adopted in CP12, compared with an initial estimate of 16,000 which was used in the recreation needs analysis in 2003. No change was recommended.⁴²

We are satisfied that there is nexus between the expected development in the Balmoral Road Release Area and public amenities and services for all works, with one exception. There is a potential overprovision of open space and recreation land in CP12, because of the lower population forecasts and the potential for overlap of drainage and greenway links. The council should remove part of Greenway Link 1 and all of Greenway Link 2 from its open space provision, and also re-evaluate its land acquisition schedules to reduce the level of provision attributed to the plan. This is discussed further in section 4.3.2.

³⁸ The Hills Shire Council, *Section 94 CP12 – Balmoral Road Release Area*, September 2006, p 15.

³⁹ *ibid*, p 9.

⁴⁰ *ibid*, p 23 and *Application for assessment of contributions plan No 12 – BRRA*, p 459.

⁴¹ The Hills Shire Council, *Section 94 CP12 – Balmoral Road Release Area*, September 2006, p 19.

⁴² The Hills Shire Council, *Addendum to the Recreation Needs Analysis and Public Open Space Provision for BRRA, Application for assessment of contributions plan No 12 – BRRA*, p 395.

Table 4.3 Summary of IPART's assessment for nexus

Works	Public amenities and services	Nexus?	Comments
Open space and recreation	Land and facilities for district parks, local open space, greenway links and similar facilities	Not entirely	There is a potential overprovision of open space and recreation land.
Transport	Roundabouts, bus shelters, bridges, signals and cycleways	Yes	The nexus for transport, drainage and community public amenities and services is reasonable.
Drainage	Facilities for wetland basins	Yes	
Community	Stratum space for library expansion	Yes	

4.3.1 Nexus between the anticipated development and the public amenities and services

Newplan's report

The planning studies for BRRRA adequately justified the level of provision of essential works in CP12 to accommodate demand arising from residential development.⁴³ The range of public amenities and services included in CP12 is what would be expected to meet the needs of a typical urban release area in a metropolitan fringe area.⁴⁴ The anticipated non-residential development will also generate demand for new infrastructure and facilities. However, this has not been factored into the calculation of contribution rates in CP12 (see discussion in sections 4.6.3 and 4.6.4).⁴⁵

Newplan examined whether existing facilities in Kellyville Park have spare capacity to accommodate demand for open space arising from the development of BRRRA, concluding that any spare capacity would be marginal and would not reduce the need for further open space facilities.⁴⁶

IPART's assessment

We agree with Newplan's findings. For transport, drainage and community public amenities and services, there is reasonable nexus between the needs of the development and the provision of Essential Works.

⁴³ Newplan, *Review of The Hills Shire Council CP No 12 Balmoral Road Release Area – Final Report*, April 2011, p 12.

⁴⁴ *ibid*, p 19.

⁴⁵ *ibid*, pp 13 and 25-27.

⁴⁶ *ibid*, p 19.

4.3.2 Provision for open space and recreation facilities

Newplan's report

Newplan considered several aspects of the provision of open space and recreation facilities in CP12.

They examined whether the reduced population estimates for the BRRA would reduce the need for open space and recreation facilities. Using the council's latest population estimate of 12,200, Newplan calculated the rate of provision for open space to be 2.86 ha per 1000 people. The rate of provision of recreation facilities is 1 rectangular sports field per 1,742 people. Even with the lower population, the proposed open space in CP12 is not unreasonable. They noted that:

- ▼ a rate of 2.86 ha of open space per 1000 people is comparable with the standard used by the Growth Centres Commission for precinct planning (2.8 ha per 1000)
- ▼ the rate for rectangular sports fields is comparable with the standards adopted in plans for Camden, Edmondson Park and Lake Macquarie development areas (1 field per 1200–3000 people).⁴⁷

Newplan also discussed whether the substantial amount of drainage land and riparian areas, which are found in most greenfield areas, can also be used for passive recreation. This proposal was raised in the context of the new framework applying to development contributions in NSW and the policy objectives of improving housing affordability and increasing supply.

Newplan considered that the proposed provision of open space in the BRRA is reasonable. However, Newplan noted that even though The Hills Shire Council considers that the majority of drainage lands are unsuitable for active or passive recreation, CP12 includes cycleways in these areas. This indicates that there is some potential for passive recreation use on such land.

If one quarter of drainage lands can be used for passive recreation, Newplan estimated that the provision of open space in CP12 would increase from 35.8 ha to 45.2 ha.⁴⁸ Factoring in the lower population forecasts, CP12's rate of provision of open space would then amount to 3.47 ha of open space per 1000 people. This is significantly higher than the Growth Centres Commission's rate of 2.86 ha of open space per 1000 people.

Newplan suggested that sections of the greenway links and a local park could be removed from CP12 without significantly reducing access to open space for passive recreation. Table 4.4 sets out the works Newplan identified, and their capital and land acquisition costs as in the CP12 Works List.

⁴⁷ *ibid.*

⁴⁸ *ibid*, p 16.

Table 4.4 Newplan's recommendation for open space and recreation works to be excluded from CP12 (2010/11 dollars)

Public amenities and services	Capital cost	Land cost	Total cost
Local Park 4 – Arnold Avenue East	554,971	2,981,631	3,536,601
Greenway Link 1	248,970	2,283,426	2,532,396
Greenway Link 2	503,531	1,434,098	1,937,629
Greenway Link 3	409,769	224,814	634,582
Total			8,641,208

Source: Newplan, *Review of The Hills Shire Council CP No 12 Balmoral Road Release Area – Final Report*, April 2011, p 17 and The Hills Shire Council CP12 Financial Model, June 2011.

Newplan recommended cycleways should be provided on drainage land east of the greenway links. Excluding the works identified by Newplan would reduce the amount of open space needed under CP12, and would reduce the total value of the essential works by around \$8.64m (see Table 4.4).

The Hills Shire Council's response

The council accepts the removal of part of Greenway Link 1 and all of Greenway Link 2. The council notes that it has already acquired Greenway Link 3 and 43% of the land for Local Park 4. The council submitted that it would be difficult to sell this land for a number of reasons, including that subdivision layouts adjoining the land have already been approved, and land has been purchased privately in the expectation that there would be a local park nearby.⁴⁹

IPART's assessment

We found that there is insufficient nexus between the proposed amount of open space and recreation amenities and the expected demand arising from the development of the BRRRA. This is because the level of proposed open space and recreation amenities does not reflect the reduced population estimates and the potential dual use of drainage land for passive recreation.

Newplan has identified a number of potential reductions in the amount of open space that would need to be provided in the BRRRA. We consider that it would be appropriate for the council to review the amount of open space in the plan. However, we do not support the exclusion from CP12 of all 4 parcels of land nominated by Newplan. In reaching this view, we accept the council's submission that it is constrained in selling land already acquired because of dealings in lots next to the parcels of land identified for exclusion. The decisions to purchase parcels of land for Greenway Link 3 and Local Park 4 when available were based on the precinct plan and contributions plan that had been adopted. We consider that this was reasonable at the time, given that the council was following a pro-active land acquisition strategy to reduce the risk of higher land acquisition costs in future.

⁴⁹ The Hills Shire Council, *THSC Response to draft consultants reports for CP Nos 12 and 13*, p 2.

We therefore consider that it would be unreasonable to recommend excluding the land for Greenway Link 3 and Local Park 4, but agree that part of Greenway Link 1 and all of Greenway Link 2 should be excluded. The total cost (land and capital) for the links to be excluded is about \$2.52m.⁵⁰

Although removing part of Greenway Link 1 and all of Greenway Link 2 will reduce the amount of open space and recreation land, the rate of provision is still relatively high. We further recommend that The Hills Shire Council re-evaluate the lands yet to be acquired so that the provision of open space and recreation land is at a more reasonable level.

We acknowledge that in reviewing the requirements, the provision of open space should be based on population estimates and land use assumptions that are applicable at the time of the review.

IPART finding

- 2 Other than for open space and recreation land, there is nexus between the increased demand arising from the development and the provision in CP12 of public amenities and services for all types of works.
- 3 There is potentially an overprovision of open space and recreation land based on the lower population estimates for the Balmoral Road Release Area, and the potential for drainage land to be used for passive recreation. We acknowledge that in reviewing the requirements, the provision of open space should be based on population estimates and land use assumptions that are applicable at the time of the review.

Recommendation

- 2 The council should remove the land and facilities for part of Greenway Link 1 and all of Greenway Link 2 from the provision for open space and recreation land in CP12. The current total land and capital costs for these works is \$2,519,947.
- 3 The council should re-evaluate its land acquisition schedules to determine whether it can reduce the amount of land yet to be acquired for open space and recreation to more reasonable levels.

⁵⁰ The Hills Shire Council, Meeting with IPART, 30 September 2011.

4.4 Criterion 3 – The development contribution is based on a reasonable estimate of the cost of the public amenities and services

We have assessed the reasonableness of council's costs included in CP12, not the efficient costs. We considered the possibility of establishing the efficient costs of providing facilities in the contributions plans. However, this is not practical for 2 reasons:

- ▼ contributions plans for greenfield sites will usually include concept design and broad cost estimates with more precise costs estimates being developed before construction starts
- ▼ engineering judgements require a trade-off between reduced risk and increased costs and therefore estimates within a range may all be reasonable.

Reasonable costs may be based on estimates that have been provided by consultants or the council's experience. They should be comparable to the costs required to deliver similar items in other areas.

The Hills Shire Council indicated that the costs of land acquisition were based on values prepared by the consultants RG Furney Projects.⁵¹ The council also provided worksheets containing capital cost estimates for the different types of works and embellishments in the plan.⁵² These are based on work by quantity surveyors who used recent contract values which have been adjusted, where necessary, for cost escalation.

We examined the cost estimates for CP12 as adopted in the 2006 model, and the assumptions on which these cost estimates were based. We also reviewed the NPV model used in CP12 to calculate contributions on a per lot basis.

We identified a number of issues with the calculation of costs in CP12 relating to:

- ▼ land acquisition costs
- ▼ capital embellishments and on-costs
- ▼ assumptions within the NPV model.

We found that some costs should be revised to more reasonable levels – in particular some land and capital costs, and all on-costs. Table 4.5 summarises IPART's findings.

⁵¹ Newplan, *Review of The Hills Shire Council CP No 12 Balmoral Road Release Area – Final Report*, April 2011, p 32.

⁵² *ibid*, p 34.

Table 4.5 Summary of IPART's assessment of the reasonableness of cost estimates in CP12

Works	Are costs for land, capital and on-costs reasonable?	Comments
Open space and recreation	Land – Yes Embellishments – Yes On-costs – No	Land acquisition costs have been below forecasts. Embellishment unit rates are comparable with those in other greenfield development sites. On-costs are high and should be revised.
Transport	Land – N/A Capital – No On-costs – No	Approach to estimating capital cost is reasonable, but costs should be revised to reflect latest estimates. Potential for some bus shelters to be provided under commercial arrangements. On-costs are high and should be revised.
Drainage	Land – N/A Capital – Yes On-costs – No	Cost of wetland basins is comparable with other development sites. On-costs are high and should be revised.
Community	Land – No Capital costs – N/A On-costs – N/A	The cost of stratum space should be revised using the latest market data for a reasonable estimate.

We have some concerns about the assumptions used in the council's NPV model, and we have suggested some amendments.

4.4.1 Land acquisition costs

Newplan's report

Land for open space

Approximately 60% (\$104m in 2005/06 dollars) of the total cost of CP12 (\$177m) relates to acquisition of land, mainly to accommodate new parks. The open space acquisition program is extensive, with a total of 35.8 ha required for district, local and greenway open space links. The Hills Shire Council has been pro-actively acquiring land in the BRRA, largely using pooled funds collected from development under other contributions plans. As at March 2011, the council had locked in around two thirds of total land costs – saving about \$15m from the original cost estimates.⁵³

Newplan advised that the council had acquired the land at a total cost significantly less than that forecasted by the valuers. The council has adopted the optimum approach for greenfield areas where there are significant land acquisitions, and should be commended, provided there is a strategy in place to replenish the borrowed funds.

⁵³ *ibid*, pp 32-33.

Stratum space for community facilities

CP12 includes \$2.1m (2005/06 dollars) for the acquisition of part of a strata lot at Rouse Hill Regional Centre for expansion of the Rouse Hill Regional Centre library. Newplan found that the stratum cost is based on valuation research, however the research is 7 years out of date. Newplan advised that the council should make a fresh valuation of stratum costs using the latest rental and valuation data.⁵⁴

The Hills Shire Council's response

The council agrees with Newplan's recommendation to update the stratum cost estimates for the library expansion, and will include an updated valuation of the library stratum space in the next amendment of the contributions plan.⁵⁵

IPART's assessment

The Hills Shire Council has made significant savings on land acquisition costs through its strategy of acquiring land before it is needed, including by compulsory acquisition. The estimated saving of \$15m compared with the original cost estimates is significant, and indicates that the council has reduced the risk of escalating land costs for a significant portion of the land to be acquired.

The assumed cost of stratum space to expand the library is based on sales and rental data from 2004. We consider that using current data would result in a more reasonable estimate.

IPART finding

- 4 The cost of land acquired for land for open space in CP12 is reasonable.
- 5 Stratum cost estimates for the library expansion use out-of date valuation research.

Recommendation

- 4 The council should revise its stratum costs for the Rouse Hill Regional Centre library expansion, using the latest data.

4.4.2 Capital and base level embellishment costs

The council advised IPART that it had provided only preliminary estimates of costs. These are based on estimates by council quantity surveyors who used recent contract values for similar projects.⁵⁶

⁵⁴ *ibid.*

⁵⁵ The Hills Shire Council, *THSC Response to draft consultants reports for CP Nos 12 and 13*, p 5.

⁵⁶ Newplan, *Review of The Hills Shire Council CP No 12 Balmoral Road Release Area – Final Report*, April 2011, pp 34 and 46.

Newplan's report

Newplan concluded that the capital costs of open space embellishments (eg, basic park equipment and landscaping) are reasonable on a dollar per square metre basis when compared with Blacktown City Council's CP20 Riverstone and Alex Avenue Precincts, and Camden Council's Oran Park CP. Newplan noted that in making such comparisons, higher costs do not indicate unreasonableness, as different areas contain different site conditions.

Table 4.6 compares the average cost rates in CP12, and those in the plans for Oran Park and Blacktown's Riverstone and Alex Avenue Precincts.

Table 4.6 Comparison of average cost rates for open space facilities (\$/m²)

Open space facility	District parks	Local parks
Blacktown CP20 (2010)	75	42
Oran Park CP (2008)	104	61
The Hills Shire Council CP12 (2006)	87	70

Source: Newplan, *Review of The Hills Shire Council CP No 12 Balmoral Road Release Area – Final Report*, April 2011, pp 34–35.

Based on costs for similar facilities in comparable contributions plans set out in Table 4.7, Newplan found that the capital costs in CP12 for the 5 wetland basins which will provide stormwater drainage are reasonable.⁵⁷

Table 4.7 Wetland basins cost comparisons

Contributions plan	Facility	\$/hectare
The Hills Shire Council CP12 (2006)	Wetland basins	500,000
Camden Oran Park and Turner Road CP (2008)	Wetlands	450,000
Penrith Werrington Enterprise Living and Learning (WELL) Precinct CP (2008)	Wetlands	600,000
Liverpool Edmondson Park (2008)	Rain gardens	828,000

Source: Newplan, *Review of The Hills Shire Council CP No 12 Balmoral Road Release Area – Final Report*, April 2011, pp 36–37.

Transport works cost a total of \$23.4m (2005/06 dollars), or 13% of CP12's original total value. Newplan was unable to comment on the cost estimates for proposed bridges, traffic signals and cycleways because the council advised that calculations of transport facilities costs were not available.

⁵⁷ *ibid*, pp 36–37.

Newplan has, however, suggested that bus shelters could be provided through commercial arrangements, rather than development contributions.⁵⁸ Newplan noted that it is common practice for councils to negotiate for street furniture companies to provide these facilities free, in exchange for shelter signage and advertising rights and revenue. Excluding all the bus shelters would save \$0.97m from CP12.⁵⁹

The Hills Shire Council's response

The council advised that it is negotiating contracts to provide 244 bus shelters. However, based on experience with its current contractor, only shelters on prominent roads are likely to attract advertising revenue. Accordingly, the council indicated that it may reduce the number of bus shelters in CP12, and exclude only those located on arterial roads.

IPART's assessment

We found that capital works for open space embellishments and wetland basins are reasonable. The unit costs for the works in CP12 are reasonably similar to costs in contributions plans for other greenfield sites.

If the council pursued commercial arrangements for the bus shelters, development contributions could be reduced. However, we accept the council's submission that not all shelters are likely to be provided in this way.

We note that the costs of roundabouts, traffic signals and bridges are based on quantity surveyors' reports and the value of contracts when CP12 was first drawn up. We consider that this is a reasonable approach to estimating the capital costs.

The costs in CP12 for some transport capital works appear to be high. In particular, we note that the base capital cost for a bus shelter is currently about \$20,200 in CP12,⁶⁰ whereas it is \$15,000 in CP13, which was adopted in 2010.⁶¹ We consider that there is scope to revise the costs of transport capital works in CP12 using more recent data.

⁵⁸ Newplan, *Review of The Hills Shire Council CP No 12 Balmoral Road Release Area – Final report*, April 2011, p 36.

⁵⁹ The Hills Shire Council, *Balmoral Road Release Area – Contributions Plan 12 Financial Model*, June 2011.

⁶⁰ The Hills Shire Council, *Balmoral Road Release Area – Contributions Plan 12 Financial Model*, June 2011.

⁶¹ The Hills Shire Council, *Contributions Plan No 13 North Kellyville Precinct*, February 2010 Financial Model.

IPART finding

- 6 The cost of capital works for open space, recreation and drainage facilities is reasonable compared with comparable greenfield developments.
- 7 The approach to estimating the capital costs of transport amenities and services is reasonable, however some estimates appear to be high.
- 8 Some bus shelters may be able to be provided under commercial arrangements.

Recommendation

- 5 Where possible, the council should pursue commercial provision of bus shelters in lieu of development contributions for CP12.
- 6 The council should review CP12's capital costs for transport amenities and services using up-to-date cost estimates.

4.4.3 On-costs for capital works

The total on-costs of capital works in CP12 amount to 40% to 45% of the capital base cost. On-costs include project management fees, contingencies and design fees (see Table 4.8).

Table 4.8 Comparison of on-costs for works (% of capital base cost)

Works	Design	Project management	Contingency	Total
Open space and recreation	10	10	25	45
Transport	10	10	25	45
Community	10	10	25	45
Stormwater drainage	10	5	25	40

Source: Newplan, *Review of The Hills Shire Council CP No 12 Balmoral Road Release Area – Final Report*, April 2011, pp 37–38.

Newplan's report

Total on-costs in CP12 are significantly higher than those in contributions plan for greenfield sites prepared by Camden, Penrith, Blacktown and Liverpool Councils (see Table 4.9).

Table 4.9 Comparison of on-costs with other contributions plans (% of base cost)

Contributions plan	Total on-cost rate	Design	Project management	Contingency
CP12 (2006)	40 or 45	10 or 25	5 or 10	10 or 25
Camden Oran Park and Turner Road (2008)	34.35 – 38.35	12 ^a	3	7
Penrith Werrington Enterprise Living and Learning (WELL) Precinct (2008)	27.35 – 29.35	12 ^a	3	N/A
Blacktown CP20 (2010)	15 – 25	5 or 10	N/A	5 – 16
Liverpool Edmondson Park (2008)	10 or 19	9	N/A	10

^a Professional service fees.

Note: Total on-costs include design, management and contingency fees as well as other contingencies and on-costs.

Source: Newplan, *Review of The Hills Shire Council CP No 12 Balmoral Road Release Area – Final Report*, April 2011, pp 37–38.

Newplan also noted that high design and contingency rates are common for specialist infrastructure items, but that most of CP12's infrastructure is not in this category. Furthermore, as council staff have long experience in parks and traffic facility design and construction, contingency and design allocations could reasonably be lower for many items. In particular, Newplan noted that:

- ▼ Each of the roundabouts and bus shelters appears identical, but a 10% design component is attributed to each one, rather than a one-off design component.
- ▼ Rail Corp and NSW Public Works use a 10% contingency component for complex engineering projects. The nature of works in CP12 does not justify a 25% contingency for all transport works.⁶²

The Hills Shire Council's response

Facility design and construction for open space and traffic works are usually contracted out and the council's ability to reduce on-costs is limited. The council also submitted that it could review further on-costs for simple items such as footpaths and bus stops.⁶³

⁶² Newplan, *Review of The Hills Shire Council CP No 12 Balmoral Road Release Area – Final Report*, April 2011, pp 37–39.

⁶³ The Hills Shire Council, *THSC Response to draft consultants reports for CP Nos 12 and 13*, pp 6–7.

The council referred to best practice guidelines⁶⁴ to support a contingency allowance of 25% for capital works, and noted:

- ▼ the contingency allowance of 25% reflects the absence of detailed concept plans that consider design and site allowances
- ▼ a contingency of 10% to 15% is reasonable when a full concept design is available
- ▼ as funding is not available until receipt of contributions, the contingency allowances are consistent with industry practice.⁶⁵

To ensure greater transparency in costing works, the council indicated that it would agree to document the project phase and the relevant contingency allowance in the contributions plan.⁶⁶

IPART's assessment

Contingency allowance

We do not consider that the council is justified in using a contingency of 25% in CP12. More recent contributions plans for other greenfield sites have provided a lower contingency allowance of 5% to 16%. It is likely that capital works in these plans are also at a pre-design and concept phase.

The contingency allowance for capital works is higher than used by Rail Corp and NSW Public Works. The best practice report that the council refers to is aimed at improving the management of federal government road and rail funding for major projects. This report states that the standard contingency allowances for project scoping should be about 25% to 40%. The report also notes that although the principles apply to projects of all sizes, contingencies in the report are designed to apply to major projects, rather than all categories of capital works.⁶⁷ We consider that it is not reasonable to apply the allowances in the report to the works in CP12.

IPART's indicative calculations show that applying this reduction to the base rate of capital works in CP12 would reduce costs by approximately \$6.73m, comprising:

- ▼ \$4.39m or 12.16% of open space and recreation capital works costs (accounting for the removal of GL1 and GL2)
- ▼ \$2.17m or 8.5% of traffic capital works costs
- ▼ \$0.17m or 7.14% of stormwater drainage capital works costs.

⁶⁴ Department of Infrastructure, Transport, Regional Development and Local Government, *Best Practice Cost Estimation for Publically Funded Road and Rail Construction*, 2008.

⁶⁵ The Hills Shire Council, *THSC Response to draft consultants reports for CP Nos 12 and 13*, pp 12–13.

⁶⁶ *ibid.*

⁶⁷ Department of Infrastructure, Transport, Regional Development and Local Government, *Best Practice Cost estimation for Publicly Funded Road and Rail Construction*, June 2008, pp 6–7.

Design and project management allowances

We do not accept the council's submission that the design and project management allowances are reasonable on the basis of common practice.

We compared CP12 with the plans for Oran Park and Turner Road and Penrith's Werrington Enterprise Living and Learning (WELL) Precinct. These allowed for a combined 15% allowance for both design and project management. The council's own CP13 for the North Kellyville Precinct allows for 15% allowance, split equally between design and project management across all capital works. We consider that if the council can apply a 15% allowance for design and management fees in CP13, there is scope to reduce the combined design and project management fees in CP12 to this amount. IPART is not able to quantify the reduction in costs in CP12 that would result from this recommendation.

IPART finding

- 9 Most capital on-costs in CP12, including contingencies, project management and design fees and allowances are high compared with those in comparable greenfield contributions plans.

Recommendation

- 7 The council should revise the allowance for contingencies for all capital works down to 15%. A total of \$6,730,482 should be removed from the cost of works in CP12.
- 8 The council should revise the project management and design fees for all capital works to 15% combined.

4.4.4 The net present value (NPV) model

The next 2 sections consider matters regarding the NPV model used by The Hills Shire Council in CP12. In Chapter 5 we discuss issues about the use of the NPV model generally.

Our assessment draws on both Newplan's review of CP12 and the review of CP13 by SGS Economics and Planning (SGS).⁶⁸

Important assumptions in the application of an NPV model include:

- ▼ the use of real or nominal values
- ▼ the choice of discount rate.

If a nominal approach is used, the model requires additional assumptions about cost and revenue escalation.

⁶⁸ SGS Economics and Planning, *Review of The Hills Shire Council CP No 13 North Kellyville Precinct Final Report*, April 2011.

Newplan's report

Discount rate

In CP12, the council has used a nominal discount rate of 5.71% (10-year government bond rate) to calculate the present value of future expenditures. This is equivalent to a 3.13% real discount rate, which is low compared with the NSW Treasury's benchmark of a 7% real discount rate. Newplan notes that a 3.13% real discount rate is overly optimistic, and that financing costs may not consistently remain at low levels until June 2025. The contributions amounts generated by the financial model may be significantly understated. If market forces move to raise real interest rates or costs, the council will face a shortfall in funds towards the end of the plan.⁶⁹

Cost escalation

Newplan considers that the assumption in the financial model for CP12 that land prices will increase by 7.09% a year is excessive. They note that actual land acquisition costs up to 2010 have been lower than expected. As well, the ABS Established House Price Index, on which the escalation assumption is based, showed lower growth in 2002–2010 than in 1990–2005.⁷⁰

The assumption that the cost of capital items in CP12 will increase by 4% a year is also excessive. There are likely to be many local suppliers competing for work to construct these relatively common and low complexity assets.⁷¹

SGS Economics and Planning's report

Real versus nominal values

SGS suggests that the council consider using real values in the discounted cash flow model rather than nominal values. This would improve the accuracy of the estimates.⁷²

Cost escalation

SGS observed shortcomings in the indices currently used by the council in CP13, and suggests that if the council continues to use nominal values in their modelling, then:

- ▼ a land-only index, rather than a housing index, should be found to apply to land acquisition costs
- ▼ a public source for capital indexation, such as the ABS Producers Price Index would be preferable to the Tender Price Index published by Rider Levett Bucknall

⁶⁹ Newplan, *Review of The Hills Shire Council CP No 2 Balmoral Road Release Area – Final Report*, April 2011, pp 40–41.

⁷⁰ *ibid.*

⁷¹ *ibid.*, p 42.

⁷² SGS Economics and Planning, *Review of The Hills Shire Council CP No 13 North Kellyville Precinct Final Report*, April 2011, p 12.

- ▼ the ABS Labour Price Index should be used as it is a more accurate escalator of administration costs than the mid-point of the Reserve Bank of Australia's inflation target (2.5%), which is currently used.⁷³

Revenue escalation

SGS notes that the growth of revenue is fixed in the CP13 model at 2.5% and does not vary if actual inflation varies.

SGS suggests that:

- ▼ The contributions should be indexed annually based on actual (rather than forecasted) consumer price index (CPI) to maintain their real value. This methodology should be made explicit in the plan.
- ▼ Guidance should be issued by the Department of Planning and Infrastructure on how the contribution caps per dwelling/lot should be indexed.⁷⁴

The Hills Shire Council's response

Real versus nominal values

The council prefers to use nominal values in the NPV model. It has received advice that:

- ▼ the nominal NPV method calculates contributions on a whole-of-life basis, thus providing certainty to developers
- ▼ the real method requires CPI indexation to be applied annually after the first year.

The council argued that its model provides the same answer using both the real or nominal method where all expenditure is indexed by the CPI.⁷⁵ However, the council is concerned that using real values will limit its ability to fund expenditures because CPI movements are not relevant to land and capital works expenditure.⁷⁶

Discount rate

The council submitted that the discount rate for both CP12 and CP13 was developed in 2010 in consultation with PricewaterhouseCoopers and the Department of Planning. It is based on the 10-year bond rate, as published in the *Australian Financial Review*. It considers the 10-year bond rate to be the most appropriate to use as a discount rate, as it reflects the yield required by investors, inflation expectations and the likelihood that the debt will be repaid.⁷⁷

⁷³ *ibid*, p 13.

⁷⁴ SGS Economics and Planning, *Review of The Hills Shire Council CP No 13 North Kellyville Precinct Final Report*, April 2011, p 14.

⁷⁵ The Hills Shire Council *THSC Response to draft consultants reports for CP Nos 12 and 13*, p 12.

⁷⁶ The Hills Shire Council *THSC Response to draft consultants reports for CP Nos 12 and 13*, p 12.

⁷⁷ The Hills Shire Council, *THSC Response to draft consultants reports for CP Nos 12 and 13*, pp 8–9.

Cost escalation

The council disagrees that its assumption for land escalation is excessive. The rate was developed following advice from PricewaterhouseCoopers and the Department of Planning.⁷⁸

The council disagrees that its assumption for the escalation of capital costs is excessive. The council argues that it has used a standard construction index and that using different indices for the various capital works would result in a more complex financial model. However, it is willing to use a 15-year rolling average of a public source for capital indexation, such as the ABS Producers Price Index, to adjust the cost of capital items.⁷⁹

Revenue escalation

Contributions should be indexed annually, and the council's financial model does this. The council has indicated that it is prepared to update the rates schedule of the contributions plan and add a new section in the written plan addressing the adjustment of contributions at the time of payment.⁸⁰

IPART's assessment

Real versus nominal values

When using an NPV model, councils have various options for structuring the model. An NPV model may be prepared in either nominal terms or in real terms. The NPV models for CP12 (and CP13) are prepared in nominal terms.

In a nominal model, the monetary values (ie, costs and revenues) take into account future cost increases that would include the effects of inflation. In a real model, the effects of inflation are removed from the costs and revenues.

We note that nominal models require councils to select indices with estimates of cost inflation. These inflators must be applied over long periods of time, which can lead to forecasting errors.

Discount rates

The discount rate is used to calculate the present value of future expenditure and contributions as received. This rate can represent the time preference for money (ie, funds received today are worth more than the same funds received at some future time), the social opportunity cost of capital, or the cost of funds.⁸¹ We note that the

⁷⁸ *ibid*, p 9.

⁷⁹ *ibid*, pp 9–10.

⁸⁰ The Hills Shire Council *THSC Response to draft consultants reports for CP Nos 12 and 13*, pp 13–14.

⁸¹ NSW Treasury, Office of Financial Management, *tpp 07-5 NSW Government Guidelines for Economic Appraisal*, July 2007, pp 51–52. NSW Treasury, Office of Financial Management, *tpp 07-4 NSW Government Guidelines for Financial Appraisal*, July 2007.

NSW Treasury's Guidelines for Economic Appraisal recommend the use of a real discount rate of 7% while the Guidelines for Financial Appraisal refer to a nominal rate of return based on the weighted average cost of capital (WACC). The Hills Shire Council raised some concerns with the use of a real discount rate of 7% as suggested in the NSW Treasury's economic appraisal guidelines. They suggested that this was not a published index and could be subject to legal challenge in the Land and Environment Court.

In our view the discount rate that is used in the modelling of contributions rates should not be derived from an index but rather from an estimate of the return expected over time. An appropriate discount rate should be based on market interest rates and include an adjustment for risk. The NPV model for CP12 uses a nominal discount rate of 5.71%. We consider that this discount rate does not reflect the risk to councils and may be too low.

The discount rate chosen by the council is much lower than both a real discount rate of 7% and the WACC used for determining prices in other industries that IPART regulates.

We consider that councils might need further guidance in selecting an appropriate discount rate. Therefore we propose to initiate further consultation with interested parties, such as the Department of Planning and Infrastructure, NSW Treasury, selected councils and bodies representing developers. This would enable us to determine a consistent rate that could be adopted by all councils if they choose to use an NPV model (see recommendation in chapter 5).

We note that the contributions rate calculated using an NPV model is sensitive to the choice of discount rate. An increase in the discount rate results in an increase in the contributions rate. This may impact the affordability of contributions.

Escalation rates

We do not consider that the most reasonable assumptions regarding the increase in land and capital costs have been adopted for the NPV model applied to CP12.

The council has used the ABS's Established House Price Index as the escalation factor for land acquisition costs. As the development area is a greenfield site – largely undeveloped land rather than houses – we consider an index based on house prices should not be used.

For the capital escalation rate, we consider that the rate the council used is high, and that the index is not reasonable. Newplan finds that the low complexity of the public amenities and services and the likely use by the council of competitive tendering warrants a rate below 4%.

We acknowledge that there is no 'correct' rate that will accurately predict future cost increases. We therefore suggest that the council use real values for costs when using a NPV model to calculate development contributions. Modelling in real terms

removes the complexity of selecting an appropriate escalation rate for each cost category (eg, land and capital). This would also remove the need to make assumptions in the model about the escalation rate for contributions (see section 5.5).

Our recommendation for nominal indices if council continues to use this approach are shown in Table 4.10.

Table 4.10 Escalation assumptions

	Existing CP12 model, using nominal values	IPART recommendation, using nominal values	IPART recommendation, using real values (preferred option)
Land cost index	6.97%	NSW Land and Property Information - Sydney Metropolitan Area Representative Land Values	0%
Capital cost index	4.00%	ABS - Producers Price Index	0%
Administration cost index	2.5%	n/a	0%
Revenue index	2.5%	ABS CPI (All Groups Index)	0%

Source: IPART and The Hills Shire Council, *Contributions plan No.12 –Balmoral Road Release Area*.

IPART finding

- 10 The escalation rates used in the NPV model for CP12 are high and the nominal discount rate used in the NPV model for CP12 is low.

Recommendation

- 9 The Hills Shire Council should consider using a real NPV model with a real discount rate which reflects the council's risk related rate of return.

4.4.5 Transparency of the NPV model and CP12

Newplan's report

Newplan found that reviewing the operation and integrity of the NPV model was difficult. They considered that a layperson would not be able to decipher how the various infrastructure costs are made up, or whether the calculation of the contribution rate is accurate.

Newplan considers that the model should be able to be read and understood by members of the general public. This is because contributions plans should be available for scrutiny by interested stakeholders including developers and local residents.

The Hills Shire Council's response

The council noted that the model is currently structured to assist it in undertaking investigation work. It will consider restructuring the model when this has been completed.

The council referred us to the 2005 Practice Note, which endorses the use of the NPV method. The 2005 Practice Note requires that the written plan should be accessible, and contain all relevant information to determine how the contribution was calculated. The council considers it unreasonable to expect a layperson to understand the complexities of calculating contributions in a plan with a value of around \$160m. The council considers that developers would seek professional advice to understand methods such as NPV calculations.⁸²

IPART's assessment

Councils should be publicly accountable for their assessments and administration of contributions plans. The NPV model is complex and could be made more readily understandable. Information should be publicly available to allow stakeholders to more readily understand how the contributions are calculated. The plan itself should set out the council's final assumptions and a summary of the outputs.

IPART finding

- 11 The NPV model is complex and it is hard for stakeholders to understand how the council uses the NPV model to calculate contribution rates.

Recommendation

- 10 The council should review and improve the readability of the NPV model used in CP12, in particular, by articulating the assumptions used in the model and providing a summary of the outputs.

4.5 Criterion 4 – The public amenities and services can be provided within a reasonable timeframe

The proposed public amenities and public services included in the contributions plan should be provided at a time required by those demanding the infrastructure. This should be based on expected development and population trends.

The council has prioritised delivery of its works based on development in the BRRA reaching various population thresholds. Table 4.11 shows the thresholds for the different types of infrastructure.

⁸² The Hills Shire Council, *THSC Response to draft consultants reports for CP Nos 12 and 13*, pp 6-7.

Table 4.11 Summary of CP12 priorities for delivery of infrastructure

Works	Priority 1 To be provided by the time there are 4,600 residents (Year 5, 2010)	Priority 2 To be provided by the time there are 9,400 residents (Year 8, 2013)	Priority 3 To be provided some time after the 9,400 threshold is reached (Year 15, 2020)
Open space land	District parks at Fairway Drive and Arnold Avenue	Burns Rd district park; Kellyville Park extension All local parks and greenways	
Open space capital	Nil	Fairway Drive Park and Kellyville Park extension	All other parks
Transport facilities capital	Signals at Burns Rd/Arnold Ave; roundabout at Solent Cct/ Fairway Dr	Signals at Bridge, Wrights Rd/Windsor Rd and Memorial Ave/Arnold Ave All roundabouts on local roads	Bus shelters, signals at Norwest Bvd/Solent Cct; key cycleways
Community facilities land	Nil	Nil	Rouse Hill Regional Centre library expansion
Drainage facilities capital	Nil	Nil	All wetlands and inlet/outlet treatments

Source: Review of The Hills Shire Council CP No 12 Balmoral Road Release Area – Final Report, Newplan, April 2011, p 29.

We found that the timeframes for providing all the infrastructure in CP12 are not reasonable because they are not based on actual expenditures and the most recent updated data for forecasting. The council should update CP12 using actual expenditures and the most recent data.

The council should pursue alternative funding to ensure that the Rouse Hill Regional Centre library expansion can be completed within a reasonable time after the stratum space is acquired.

Newplan's report

Newplan made 3 findings on this criterion:

1. The priorities for the works in CP12 need to be updated to reflect actual works completed or land acquired. Newplan notes that the council has not followed the original timetable for providing infrastructure because it has re-prioritised land acquisitions, but does not express any concern about this policy.
2. The population yield of the BRRA is inconsistent with expenditure of works during the lifetime of CP12. The final year of planned expenditure is 2020, when development of the 5,990 dwellings is expected to be only 85% complete. The plan should therefore clarify the timeframe for delivery of all the facilities identified in CP12.

3. The timeframe for the library expansion is unclear. While the stratum purchase has been planned, the timeframe for the actual fitting out and completion of the library has not yet been planned. Newplan notes that land acquisition does not result in the facility being provided. Although not part of the Essential Works List, fit-out and completion is important to the timing for provision of the infrastructure.⁸³

The Hills Shire Council's response

The council agrees with Newplan's findings. The council notes that its financial model, population and cash flow forecasts have been revised for the period 2010 to 2025, but CP12 itself has not been revised.⁸⁴

IPART's assessment

The current timeframe in CP12 is not reasonable, as it uses outdated forecasts and does not reflect actual expenditures. We note that the council has completed updating its financial model, population and cash flow forecasts. Once CP12 has been updated to include this recent information, the timing of provision of infrastructure will better align with the demand for public amenities and facilities in the BRRA development.

The capital works for the library cannot be funded by development contributions as they do not comply with the Essential Works List.

IPART finding

- 12 The timeframe for the provision of the proposed public amenities and services is not reasonable as it does not reflect actual expenditure to date or the latest forecasting data.

Recommendation

- 11 The council should revise its infrastructure priorities and timeframes using actual expenditure and the latest forecasting data.
- 12 The council should pursue alternative funding to ensure that the Rouse Hill Regional Centre library expansion is completed within a reasonable time after acquisition of the stratum space.

⁸³ Newplan, *Review of The Hills Shire Council CP No 12 Balmoral Road Release Area – Final Report*, April 2011, pp 29–31. Newplan raises the broader issue of the current definition of the Essential Works List, stating that the timeframe for providing community facilities included in contributions plans cannot be assessed without clarity on the complementary funding for the works components of these facilities.

⁸⁴ The Hills Shire Council, *THSC Response to draft consultants reports for CP Nos 12 and 13*, p 4.

4.6 Criterion 5 – The development contribution is based on a reasonable apportionment between existing and new demand

Apportionment refers to the share of the relevant costs of public amenities and services that is borne by the future development. The concept of apportionment is based on ensuring that developers pay only for the portion of demand that results from their new development.

Apportionment should take into account and quantify:

- ▼ the demand generated by different types of development covered by a contributions plan, including residents in new dwellings, workers in new employment floor space and visitors in tourist accommodation
- ▼ the capacity of existing infrastructure
- ▼ the proportional needs of the existing population, if any
- ▼ demand for infrastructure in the plan arising from existing or expected development outside the development area.

We found that most costs for works within the development area have been reasonably apportioned to CP12. We found that apportionment of costs of the proposed facilities in CP12 was not reasonable in relation to:

- ▼ potential demand from non-residential development within the BRRRA for transport works
- ▼ potential demand from non-residential development within the BRRRA for stormwater management works
- ▼ population forecasts used in apportioning the stratum costs for the library expansion between CP12 and CP13.

Table 4.12 summarises our assessment of the way CP12 apportions costs of the new amenities and infrastructure to reflect demand.

Table 4.12 Summary of IPART's assessment of the reasonableness of apportionment of demand works in CP12

Works	Is apportionment reasonable?	Comments
Open space and recreation	Yes	Cost of open space and recreation public amenities and services has been apportioned reasonably.
Transport	No	Apportionment of the costs of transport works does not reflect demand from non-residential development within the BRRA.
Stormwater management	No	Apportionment of the costs of stormwater management works does not reflect demand from non-residential development within the BRRA.
Community services	No	Apportionment of the land acquisition costs for the library expansion does not reflect the relative additional population forecasts for CP12 and CP13 North Kellyville Precinct.

4.6.1 Open space

The council has apportioned 100% of the cost of open space and recreation works to the new residential development in the BRRA.

Newplan found this approach to be reasonable since the open space and recreation works:

- ▼ are to meet demand generated by new development only and there is no spare capacity available in the area,
- ▼ appear to satisfy the demand arising from the BRRA and not regional demand or non-residential demand, and
- ▼ would not make up for some existing deficiency.⁸⁵

We agree with Newplan.

IPART finding

13 The 100% apportionment factor for open space and recreation works is reasonable.

4.6.2 Rouse Hill Regional Centre Library expansion

The stratum cost for the Rouse Hill Regional Centre Library expansion is apportioned between for CP12 and CP13 North Kellyville Precinct based on the population projections. The apportionment of costs is 50.8% to CP12 and 49.2% to CP13.

⁸⁵ Newplan, *Review of The Hills Shire Council CP No 12 Balmoral Road Release Area – Final Report*, April 2011, pp 25-26.

Newplan's report

The revised population estimates for the North Kellyville Precinct (contained in CP13) require the apportionment of the cost of stratum space for the library expansion between CP12 and CP13 to be updated. The share of the total cost for the stratum acquisition that is apportioned to CP12 should be revised from 50.8% to 45.5%.⁸⁶

The Hills Shire Council's response

The council will revise the apportionment factors for the Rouse Hill Regional Centre library expansion to reflect the updated population figures in CP12 and CP13.⁸⁷

IPART's assessment

We agree that the apportionment of the costs of stratum space for the library expansion between CP12 and CP13 should be revised to take the latest population data into account. IPART's indicative assessment of the apportionment of the costs is that the amount to be allocated to CP12 should be \$1.91m, a reduction of around \$0.22m to reflect CP12's latest population revision.

IPART finding

- 14 The apportionment factor for the Rouse Hill Regional Centre Library expansion is based on outdated population forecasts and is inconsistent with CP13.

Recommendation

- 13 The council should update the apportionment factor for the library expansion using the additional population approach based on the latest population estimates for CP12 and CP13.

4.6.3 Transport

With 2 exceptions, the cost of transport works in CP12 has been fully apportioned to residential development in the BRRA. The costs of both the traffic signals at the Northwest Boulevard/Solent Circuit intersection and the roundabout at the Solent Circuit/Fairway Drive intersection are apportioned at 75% to residential development in the BRRA.

⁸⁶ Newplan, *Review of The Hills Shire Council CP No 12 Balmoral Road Release Area – Final Report*, April 2011, p 18.

⁸⁷ The Hills Shire Council, *THSC Response to draft consultants reports for CP Nos 12 and 13*, p 15.

Newplan's report

Newplan raised 2 concerns about the apportionment of transport costs in CP12:

- ▼ It is not clear whether development in the BRRRA generates any need for the proposed Solent Circuit/Norwest Boulevard traffic signals, as it appears that the need is generated by current and future demands external to the BRRRA.
- ▼ The plan does not apportion any costs for transport works to reflect non-residential development.

Newplan recommended that 15% of the cost of transport works should be apportioned to non-residential development to reflect the floor space ratio and the extra trips by non-residential users.

Newplan also advised that the council could include non-residential development in the BRRRA in a section 94A contributions plan⁸⁸ to ensure that council-wide, non-residential developments also contribute to the cost of CP12's transport infrastructure.⁸⁹ This would apportion transport to the entire council area through a fixed percentage levy.

The Hills Shire Council's response

The council contends that as the apportionment for the Solent Circuit/Norwest Boulevard signals is consistent with the 2006 Traffic and Transport Report on which its infrastructure requirements are based, the apportionment rate is reasonable.

The council noted that the resources to review commercial trip generation and traffic impacts are no longer available to test the nexus of the non-residential floor space apportionment proposal. The council is considering the most effective way of apportioning cost, such as a fixed rate levy, or amending CP12 to levy traffic facilities on a net developable hectare basis.⁹⁰

The council supports apportioning some traffic costs to employment and retail land in the BRRRA through a section 94A contributions plan, and has completed the public exhibition of a draft section 94A contributions plan which includes non-residential land on the BRRRA. No decision has been made on this plan. The council advised that the Minister would need to approve a section 94A fixed rate levy in the BRRRA, and that it is already seeking approval to apply a 3% levy on commercial centres in North Kellyville Precinct.⁹¹

⁸⁸ Section 94A allows a council to draw up a contributions plan providing for a levy on development based on the proposed cost of carrying out the development. The maximum is 1% unless the Minister approves a higher percentage (EP&A Regulation 2000 cl 25K).

⁸⁹ Newplan, *Review of The Hills Shire Council CP No 12 Balmoral Road Release Area – Final Report*, April 2011, pp 26-27.

⁹⁰ The Hills Shire Council, *THSC Response to draft consultants reports for CP Nos 12 and 13*, p 4.

⁹¹ The Hills Shire Council, *THSC Response to draft consultants reports for CP Nos 12 and 13*, p 3.

IPART's assessment

The 2006 Traffic and Transport Report, though ambiguous, notes that the Solent Circuit/Norwest Boulevard intersection gives primary access into the BRRRA, and that a significant level of costs should be apportioned to CP12.⁹² Without strong evidence to the contrary, we consider that the apportionment is not unreasonable.

We accept and agree with the council's approach in applying a section 94A levy to account for demand for non-residential uses across the Shire, and that this could apply to commercial development in the BRRRA.

For the apportionment of the BRRRA's commercial development, we consider that the council be given the discretion to select the most appropriate and efficient approach to recognise the demand arising from development of its town centres.

IPART finding

- 15 Apportionment of transport works does not reflect demand from non-residential development.

Recommendation

- 14 The council should review its apportioning of transport costs to reflect demand from the non-residential development in BRRRA and reduce the residential contributions accordingly.

4.6.4 Stormwater management

CP12 apportions 100% of the cost of stormwater management works to residential development in the Eastern Precinct of the BRRRA. This reflects the fact that the works will only benefit development in that part of the BRRRA. There is no apportionment to the small amount of non-residential development in the Eastern Precinct.

Newplan's report

To reflect non-residential demand in the BRRRA, some of the cost of stormwater management should be apportioned to non-residential development. Newplan recommended the apportionment factor should be calculated using the ratio of non-residential to residential floor space.⁹³

⁹² The Hills Shire Council, *Application for assessment of contributions plan No 12 – BRRRA*, p 141.

⁹³ Newplan, *Review of The Hills Shire Council CP No 12 Balmoral Road Release Area – Final Report*, April 2011, pp 25–27.

Newplan also advised that the council could also include non-residential development in the BRRA in a section 94A contributions plan to ensure that council-wide, non-residential developments also contribute to stormwater management costs.⁹⁴

IPART's assessment

We accept and agree with the council's approach in applying a section 94A levy to account for demand for non-residential uses across the Shire, and that this could apply to commercial development in the BRRA.

For the apportionment of the stormwater management costs to non-residential development, we consider that the council should have the discretion to select the most appropriate and efficient approach. However, the apportionment factor should reflect demand for stormwater management services arising from non-residential development in the eastern precinct of the BRRA.

IPART finding

- 16 Apportionment of drainage works in the eastern precinct of the BRRA does not reflect demand from non-residential development.

Recommendation

- 15 The council should review its apportioning of stormwater management costs to reflect demand from the non-residential development in BRRA and reduce the residential contributions accordingly.

4.7 Criterion 6 – The council has conducted appropriate community liaison and publicity

We have examined whether The Hills Shire Council has conducted appropriate community liaison and publicity in preparing CP12. The council's public exhibition and consultation process for CP12 is outlined in the minutes from the council's ordinary meeting of 19 September 2006.

The consultation process involved public exhibition of CP12 for 28 days during July and August 2006.⁹⁵ The council received 36 submissions from landowners and/or interested members of the public, and as a result, modified the plan. We are satisfied that the council responded reasonably to these submissions by making changes to CP12.

IPART finding

- 17 The council has undertaken appropriate community liaison and publicity.

⁹⁴ Newplan, *Review of The Hills Shire Council CP No 12 Balmoral Road Release Area – Final Report*, April 2011, pp 26-27.

⁹⁵ The Hills Shire Council, *Application for assessment of contributions plan No 12 – BRRA*, p 583.

5 Issues arising from IPART's assessment of contributions plans

To date, IPART has reviewed 3 plans in 2 council areas:

- ▼ Blacktown City Council's Section 94 Contributions Plan No 20 – Riverstone and Alex Avenue Precincts (CP20)
- ▼ The Hills Shire Council's Contributions Plan No 12 – Balmoral Road Release Area (CP12)
- ▼ The Hills Shire Council's Contributions Plan No 13 – North Kellyville Precinct (CP13).

During our review of these plans, we identified issues that relate more widely to the review of contributions plans. These issues are:

- ▼ provision of information
- ▼ regular review of plans
- ▼ the levying of administration costs under contributions plans
- ▼ net present value model
- ▼ escalation of contributions
- ▼ determining rates for different types of development
- ▼ the treatment of non-essential works in the plan
- ▼ major cost items.

This chapter discusses the issues more fully and recommends actions to address them.

5.1 Provision of information

Since the policy announcement in June 2010 we have received 3 contributions plans for review before councils apply for alternative funding. Our application form asked for information about the contributions plans such as:

- ▼ maps or plans showing the geographical areas covered by the contributions plan
- ▼ statements regarding:
 - land acquisition including size, cost, quality and open space strategy
 - design and construction standards

- how costs have been derived and when these costs estimates were prepared
- ▼ full costs of each item of infrastructure
- ▼ infrastructure studies, census data, flood modelling demonstrating demand and nexus.

In all our reviews we found, that the initial submission we received included insufficient information and supporting documentation to satisfy the requirements of our terms of reference.

We note that this has been a new process. For future reviews we expect that councils will provide all the necessary information for the review with the initial submission. This will be more efficient for both councils and IPART.

Necessary information includes, but is not limited to:

- ▼ supporting studies for the demand, nexus and apportionment figures
- ▼ supporting reports for the costs included in the plan, including any expert or legal advice received
- ▼ detailed cost calculations for a sample of the items within the plan
- ▼ financial models and/or spreadsheets upon which the plan is based
- ▼ council meeting minutes demonstrating key decision points in the development of the plan
- ▼ design evolution documents that are fully auditable for any major items of infrastructure
- ▼ fully auditable calculations that reconcile any differences in infrastructure cost assumptions used in the plan, any current financial models and the template prepared for the submission.

IPART will undertake a preliminary assessment of any application it receives. Where a council does not provide the information required and the detail required, we will send the application back to the council.

IPART Finding

- 18 Councils' initial submissions have included insufficient information and supporting documentation to enable us to adequately assess the plans against the criteria.

5.2 Regular review of plans

Our consultants placed different emphases on the need for the review of contributions plans:

- ▼ Newplan considers that the council should review CP12 to reflect changes since the plan was made (eg, staging, population estimates and land use). Newplan also considers that the council should review the plan on a regular basis to reflect significant changes in assumptions underlying the plan.
- ▼ SGS Economics and Planning considers that annual reviews, as suggested by one council, are not necessary if the plan gives appropriate instructions for indexing contributions.

While we expect a council to strive for plans based on the most accurate current information, we find that it is unrealistic to expect that the estimated costs and revenues for long development periods will remain the same during the life of the plan.

There is some merit in updating contributions plans on a regular basis. This is supported by the 2005 Practice Note,⁹⁶ which states that plans quite often adopt a horizon of 10 to 15 years, with a commitment to review at least every 5 years. The Practice Note also acknowledges that if an area is growing rapidly, there may be a need for more regular reviews.

We consider it appropriate that councils review contributions plans on at least a 5-yearly basis, unless a significant change in circumstances prompts an earlier review. This reduces unnecessary fluctuations in the contributions and the potential for large losses and gains in councils' administration of the plans.

Recommendation

- 16 Councils should review their contributions plans at least every 5 years, unless a significant change in circumstances prompts an earlier review.

5.3 Administration costs

The Hills Shire Council included administration costs in both CP12 and CP13 as submitted to IPART for review. The council indicated that it considered that administration costs should be included in contributions plans as they are a part of the "true cost" of preparing plans.⁹⁷ We note that Blacktown Council removed administrative costs of about \$4.3m from CP20 post-exhibition in an effort to make the costs in CP20 more affordable.⁹⁸

⁹⁶ Department of Infrastructure, Planning and Natural Resources, *Development contributions Practice notes – July 2005*, July 2005.

⁹⁷ The Hills Shire Council, *Response to draft consultants reports for CP12 and 13*, p 10.

⁹⁸ Blacktown City Council, *Works and Finance Report*, 16 June 2010, pp 11, 12.

Since administration costs are not specified on the Essential Works List we did not incorporate these costs in our assessment of the total reasonable cost for The Hills Shire Council's contributions plans.

We consider that various administrative activities are important to ensure that contributions plans are well managed, current and responsive to any changes which might arise over the course of development. On this basis, we consider these activities to be best practice for contributions plans and that administration costs that council incurs should be included in the Essential Works List.

Recommendations

- 17 The Minister for Planning and Infrastructure should consider amending the Practice Note to allow development contributions to be levied to recoup administration costs incidental to items on the Essential Works List.
- 18 Administration costs should be defined to include:
 - the costs that councils incur in preparing the contributions plan, including preparation of studies to identify the needs of the proposed development
 - the costs that councils incur in reviewing and updating contributions plans and managing contributions receipts and expenditures.

If the Minister agrees with these recommendations, Blacktown Council should amend CP20 to include administration costs.

5.4 Net present value model

In a new development area expenditure on infrastructure (particularly land acquisition) generally occurs early in the development process, whereas the revenue from developers is not received until much later. This creates a risk for councils that they may not recoup the cost of their expenditure on infrastructure and land. Council expenditure also generally occurs much later than when plans are initially finalised. This can create risks for councils if actual land or infrastructure costs increase significantly over time and deviate from planned expenditures.

The 2005 Development Contributions Practice Note⁹⁹ allows the use of an NPV model to calculate development contributions. A net present value (NPV) model can assist councils in minimising the gap between costs and funding over time.

The Hills Shire Council is one of only a few councils in NSW that uses an NPV model to calculate contributions. Blacktown City Council does not use an NPV model to calculate contributions for CP20.

⁹⁹ Department of Infrastructure, Planning and Natural Resources, *Development contributions Practice notes – July 2005*, 'Financial management of development contributions', July 2005, p 3.

Advantages of using an NPV model

We consider that there are advantages of councils using an NPV model, however, the maintenance and use of a model requires councils to have staff with the necessary financial skills.

The primary advantage is that the model may help to ensure that the contributions plan is fully funded over the life of the plan. Councils will incur a funding cost in providing the infrastructure in advance of receiving contributions. If they do not use an NPV approach this cost may not be recovered.

Important assumptions in the application of an NPV model include:

- ▼ the use of real or nominal values
- ▼ the choice of discount rate.

Neither the 2005 Practice Note nor the 2010 Practice Note is prescriptive regarding the preferred model assumptions.

Real versus nominal values

When using an NPV model, councils have various options for structuring the model. An NPV model may be prepared in either nominal terms or in real terms. The NPV models for CP12 and CP13 are prepared in nominal terms.

In a nominal model, the monetary values (ie costs and revenues) take into account future cost increases that would include the effects of inflation. In a real model, the effects of inflation are removed from the costs and revenues.

Nominal models require councils to select indices with estimates of cost inflation. These inflators must be applied over long periods of time, which can lead to forecasting errors.

Discount rate

The **discount rate** is used to calculate the present value of future expenditure and contributions as received. This rate can represent the time preference for money (ie, funds received today are worth more than the same funds received at some future time), the social opportunity cost of capital, or the cost of funds.¹⁰⁰ We note that the NSW Treasury's Guidelines for Economic Appraisal recommend the use of a real discount rate of 7% while the Guidelines for Financial Appraisal refer to a nominal rate of return based on the weighted average cost of capital (WACC).

¹⁰⁰ NSW Treasury, Office of Financial Management, *tpp 07-5 NSW Government Guidelines for Economic Appraisal*, July 2007, pp 51-52. NSW Treasury, Office of Financial Management, *tpp 07-4 NSW Government Guidelines for Financial Appraisal*, July 2007.

In our view the discount rate that is used in the modelling of contributions rates should not be derived from an index but rather from an estimate of the return expected over time. An appropriate discount rate should be based on market interest rates and include an adjustment for risk.

We note that the discount rate chosen by The Hills Shire Council is much lower than both a real discount rate of 7% and the WACC used for determining prices in other industries that IPART regulates.

We consider that councils might need further guidance in selecting an appropriate discount rate. Therefore we propose to initiate further consultation with interested parties, such as the Department of Planning and Infrastructure, NSW Treasury, selected councils and bodies representing developers. This would enable us to determine a consistent rate that could be adopted by all councils if they choose to use an NPV model.

Recommendation

- 19 When councils choose to use an NPV model to calculate development contributions, the modelling should be done using real figures and a discount rate which reflects the council's risk related rate of return.
- 20 Further consultation should be undertaken on a discount rate that could be applied consistently. Consultation should involve IPART, Treasury, Department of Planning and Infrastructure, councils and developers.

5.5 Escalation of contributions

As mentioned above, it is not possible to forecast accurate changes in the cost of items at the time of preparing a contributions plan. However, once a contributions plan has been made, costs *will* change as a result of inflation. Therefore the contributions rates need to be adjusted at regular intervals to ensure that the revenue received by councils moves in line with the changes in the costs of their expenditure. That is, so that the real value of contributions does not erode.

The *Environmental Planning and Assessment Regulation 2000* requires that contributions rates be indexed by the CPI (All Groups Index) for Sydney, as published by the ABS.

Recommendation

- 21 Contribution rates should be indexed by the CPI (All Groups Index) for Sydney, as published by the Australian Bureau of Statistics. The contributions plan should specify whether the index is to be applied quarterly or annually.

5.6 Determining rates for different types of development

Councils are given the flexibility of deciding the 'base' upon which to levy development contributions¹⁰¹. The 'base' refers to a particular demand unit or units. For example, plans may contain:

- ▼ a per dwelling contribution rate
- ▼ a per person contribution rate
- ▼ a per lot contribution rate
- ▼ a per square metre of floorspace
- ▼ a per worker contribution rate.

There may also be subcategories of demand units. For example, CP13 and CP13 set different contribution rates depending on whether the proposed development is a detached dwelling or an apartment. It also distinguishes between different sizes of apartments. This approach recognises that the demand for services depends to a large degree on the number of people in each dwelling.

The 2010 Practice Note only specifies that caps apply per dwelling or per residential lot. It does not provide any detail on how the costs should be shared amongst subcategories of demand units.

Contributions caps may create an incentive for councils to 'load up' the contributions rate for smaller groupings of demand units. For example, under the current policy, it appears permissible for councils to reduce the maximum contributions rate without a commensurate reduction of all contributions rates. One council also suggested that it could include the costs of items not on the Essential Works List in instances where the contributions rate for a subcategory of the demand unit was below the cap.

Recommendation

- 22 The Minister for Planning and Infrastructure should consider clarifying the policy with regard to contributions rates for different types of development (eg, single dwellings versus multi-unit dwellings).

5.7 Non-essential works in the plan

Through our reviews of both The Hills Shire Council's and Blacktown City Council's plans we have found the councils intend to leave in the plan the items that are not on the Essential Works List. We consider that this is reasonable as the plan should reflect all of the infrastructure needed to service the development. However, the plan needs to clearly identify the Essential Works and their costs.

¹⁰¹ Department of Infrastructure, Planning and Natural Resources, 'Determining rates for different types of development', *Development Contributions Practice Notes – July 2005*, July 2005, p 1.

Councils may apply to IPART for a special rate variation to meet the cost of local infrastructure that is not on the Essential Works List.

Recommendation

- 23 The Minister for Planning and Infrastructure should consider clarifying the policy so that the total cost of items on the Essential Works List is able to be clearly distinguished in a contributions plan. Further, the policy should require that contributions plans must include a contributions rate which recovers only the cost of items on the Essential Works List.

5.8 Major cost items

Land acquisition is a major component of costs in each of the contributions plans we reviewed. The majority of land that must be acquired is for open space and recreation, including riparian corridors.

We note that work commissioned by the NSW Land and Housing Supply Coordination Taskforce showed that requirements for the provision of riparian corridors and other uses that sterilise land for development impact the total cost of development.

We also found that there were inconsistencies in how the stormwater management costs were treated across the contributions Plans. We found that the costs for stormwater management in CP20 were particularly high, compared to the other plans we reviewed. As Blacktown Council is responsible for stormwater management works in the Riverstone and Alex Avenue Precincts, it has included the cost of stormwater management works in CP20. In contrast, Sydney Water is responsible for stormwater management in the Rouse Hill Development Area, including the North Kellyville Precinct and the Balmoral Road Release Area.

We note that in 2008, the government set development contributions levied by Sydney Water to zero.¹⁰² Consequently, Blacktown Council has to fund the majority of the cost of stormwater management in CP20 while Sydney Water (or ultimately Sydney Water customers) funds the stormwater management costs for CP12 and CP13.

We note that much stormwater expenditure provides benefits not only to the local community but also the wider Sydney community through improvements in water quality in the Hawkesbury-Nepean River. The benefit principle of public finance suggests that contributions should be levied in proportion to the benefits received. This suggests that a degree of cost-sharing between local residents and the wider Sydney community may be reasonable.

¹⁰² Sydney Water is still able to levy charges to recover the costs of providing recycled water services to new development in the Rouse Hill Project Area.

We consider that the development contributions could potentially be lower if the amount of non-developable land was reduced. This would require a review of the regulatory and environmental requirements. Similarly a consistent approach to stormwater management could lead to lower development contributions. These matters may warrant a whole-of-government review of these requirements.

Recommendation

- 24 A whole-of-government review of the requirements for open space and other land uses that sterilise land for development should be undertaken.
- 25 The system of recouping the cost of stormwater management works should be given further consideration in light of potential inequities between different areas.



Appendices

A | Newplan's Final Report on CP12

Review of The Hills Shire Council CP No 12 Balmoral Road Release Area – Final Report, Newplan, April 2011.

Review of The Hills Shire Council CP No. 12 Balmoral Road Release Area

Final Report

April 2011

Prepared for



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Attachments

Attachment A	Specification of Services
Attachment B	Advice from the Minister for Planning to THSC
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Executive summary

This report documents an independent review of The Hills Shire Council's Contributions Plan No. 12 Balmoral Road Release Area.

The review has been carried out for the Independent Pricing and Regulatory Tribunal and addressed the matters included in the specification included as Attachment A.

Section 1 of the report discusses the background, purpose, scope and material relied upon for the review. Section 2 of the report contains details of the review. Section 3 of the report includes conclusions and recommendations.

Matters, conclusions and recommendations canvassed by the report include the following:

- The contributions plan's compliance with the 'Essential Works List'.
- Recommended adjustments to the 'Essential Works List'.
- Whether the type and extent of infrastructure included in the contributions plan matches the anticipated development.
- The type, extent and unit cost of infrastructure when compared to contributions schemes in other Sydney urban release areas.
- Whether there is spare capacity available in existing infrastructure that can offset the need for some of the contributions plan infrastructure.
- Whether the contribution rates in the contributions plan have adequately accounted for all the sources of infrastructure demand, including demand from existing users and demand from non residential development.
- The further review or adjustment to the infrastructure cost apportionment rates included in the contributions plan.
- The recommended preparation of a section 94A levy plan to address the infrastructure demands generated by non residential development.
- The need to regularly review the contributions plan's assumptions so that it remains financially sustainable.
- The proposed timing of infrastructure delivery and recommendations to update the plan and its supporting financial model to address unclear timings and to reflect changes to the staging schedule that have already occurred.
- The conundrum of delivering essential works in a reasonable time when part of the funding source (e.g. the building component of community facilities) is not known at the outset of the plan.
- The appropriateness of the contributions plan's infrastructure costs, including land, works, and works on-costs.
- The financial model's methodology and usability.

- Actions that may be carried out to achieve a more accurate and reasonable contribution rate including, for example:
 - removal of bus shelters from the works schedule;
 - adjustment of the greenway and local parks works schedule;
 - use of a more appropriate works on-costs rate;
 - adjustment of the financial model assumptions;
 - correction of errors and inconsistencies in the financial model spreadsheets; and
 - updated land valuations.

1. Introduction

1.1 Background to this review

On 4 June 2010, the Minister for Planning issued a Direction under section 94E of the Environmental Planning and Assessment Act 1979 limiting the section 94 contributions amount that councils as consent authorities may impose on residential development to \$20,000 per dwelling or lot.

Fresh Directions were issued by the Minister on 16 September 2010 and again on 4 March 2011 that, among other things:

- established a differential cap regime of \$30,000 per lot for 'greenfield areas' and \$20,000 per lot for all other areas; and
- exempted caps for development areas where applications for more than 25 per cent of the expected dwelling yield have been lodged.

As part of these changes the NSW Government announced that the Independent Pricing and Regulatory Tribunal (**IPART**) would have the role of reviewing council development contributions plans.

IPART has been given responsibility to review contributions plans:

- that propose a contribution above the relevant cap, where the council that prepared the plan is seeking Priority Infrastructure Funding or a special variation to rates revenue to meet the residual infrastructure cost above the cap; or
- that have been referred to IPART by the Minister for Planning.

On 23 November 2010, the then Department of Planning issued a planning circular and 'Local Development Contributions Practice Note for the assessment of Local Contributions Plans by IPART'. These documents articulate a framework and general criteria for the assessment of section 94 contributions plans by IPART.

In December 2010 all NSW councils were advised that where a council intended to seek approval from IPART of a special variation to rate income application for the 2011/12 financial year to help fund the costs of essential works in its contributions plans, that the contributions plans were to be submitted to IPART in January 2011.

In early 2011, IPART invited suitably qualified consultants to assist it in the review of these contributions plans.

Newplan is one of the consultants that have been selected by IPART to assist in its 2011 review of contributions plans.

1.2 Purpose of this review

The purpose of this review is to assist IPART in its consideration of Contributions Plan No. 12 Balmoral Road Release Area prepared by The Hills Shire Council (**THSC**).

1.3 Scope and structure of this report

This report addresses the matters included in the 'Specification of services for the review of The Hills Shire Council (THSC) CP No. 12 Balmoral Road Release Area', included as Attachment A.

The main part of this report (Section 2 - Assessment) is structured on the basis of the matters included in the specification, namely:

- Are the public amenities and public services on the "Essential Works List"? (Section 2.1)
- Are the public amenities and public services reasonable in terms of nexus? (Section 2.2)
- Is the development contribution based on a reasonable apportionment between existing demand and new demand for the public amenities and public services? (Section 2.3)
- Can the public amenities and public services be provided within a reasonable timeframe? (Section 2.4)
- Is the development contribution based on a reasonable estimate of the cost of the public amenities and public services? (Section 2.5)

Section 3 contains summaries of conclusions we have reached in relation to the matters assessed in Section 2.

1.4 Key concepts

Key concepts that are relevant to the carrying out of the review are explained at the commencement of each sub section (as appropriate) in Section 2 of this report.

1.5 Documents relied upon

Documents that Newplan has relied upon in undertaking the review of Contributions Plan No. 12 Balmoral Road Release Area included the following:

- Environmental Planning and Assessment Act 1979 (**EP&A Act**)
- Environmental Planning and Assessment Regulation 2000 (**EP&A Regulation**)
- Practice Note for the assessment of Local Contributions Plans by IPART (**2010 Practice Note**)
- Development Contributions Practice Notes 2005 issued by the then Department of Urban Affairs and Planning (**2005 Practice Notes**)

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- Section 94 Contributions Plan No. 12 – Balmoral Road Release Area (**CP12**), prepared by The Hills Shire Council
- Contributions Plan No.13 – North Kellyville Precinct, prepared by The Hills Shire Council
- THSC Response to Information Request for Contributions Plan No. 12 Balmoral Road Release Area, received 4 March 2011
- THSC Response to questions dated 6 April 2011 in relation to Contributions Plan No. 12 - Balmoral Road Release Area, received 20 April 2011
- Baulkham Hills Development Control Plan – Part E Section 17 – Balmoral Road Release Area
- Human Services Local Environmental Study for Balmoral Road Release Area Kellyville, prepared by BBC Consulting Planners, November 2002
- Recreation Needs Analysis and Public Open Space Provision for Balmoral Road Release Area, prepared by RMP & Associates Pty. Ltd., October 2003
- Addendum to the Recreation Needs Analysis and Public Open Space Provision for Balmoral Road Release Area, prepared by Baulkham Hills Shire Council, December 2006
- Rouse Hill Library and Community Centre Report, prepared by AEC Group, July 2004 (including addendum, August 2006)
- Traffic Impact Report, Balmoral Road Release Area, prepared by Baulkham Hills Shire Council, June 2006 (Volumes 1 and 2)
- Section 94 Review of Land Value Estimates, prepared by RG Furney Real Estate Consultants, December 2005
- Proposed Library Community Centre, Rouse Hill Regional Centre, prepared by RG Furney Real Estate Consultants, 26 October 2004
- Report to Ordinary Meeting of Baulkham Hills Shire Council on 19 September 2006
- Development Contributions Assessment - The Hills Shire Council, 5 May 2009, prepared for the NSW Department of Planning by Aurecon Australia Pty Ltd
- Draft Local Development Contributions Guidelines, Consultation draft, Department of Planning, November 2009
- Oran Park and Turner Road Precincts Section 94 Contributions Plan, adopted in 2008 by Camden Council
- Blacktown Contributions Plan No.20 - Alex Avenue and Riverstone Precincts, adopted by Blacktown City Council in 2010
- Werrington Enterprise Living and Learning Precinct Development Contributions Plan, adopted by Penrith City Council in 2008
- Liverpool Contributions Plan 2008 Edmondson Park adopted by Liverpool City Council in 2008

1.6 Local Contributions Review (2009)

CP12 and other THSC contributions plans were reviewed by the Local Contributions Review Panel appointed by the then Department of Planning in 2009. That review canvassed many of the matters that IPART has requested Newplan review, namely infrastructure demands, nexus, and costs. It is therefore appropriate here to call up key outcomes of that review.

As a result of the Panel's deliberations, the then Minister for Planning issued formal advice to the General Manager of THSC on 10 July 2009.

The Minister on the same date issued a Direction under section 94E of the Environmental Planning and Assessment Act 1979 which allowed, for the time being, contributions on residential development to be imposed by the consent authority at the levels authorised in CP12, and revoked a previous Direction that restricted such contributions to no more than \$20,000 per lot.

A copy of the advice and accompanying Direction is included as Attachment B.

Relevant excerpts from the advice that mention CP12 follow:

It is considered that the funding of the acquisition of land and the underlying high land values in the Council's area are the reasons for the comparatively large contributions that are required under the Council's contribution plans. However, it appears that the discounting model used by Council exacerbates the cost of contributions, as the model is heavily influenced by a number of assumptions. In particular, it is considered that contributions required under Contributions Plan No. 12 - Balmoral Road Release Area (CP12 Balmoral Road) have been significantly affected by the use of that model.

Relevant excerpts from notes to the Direction that mention CP12 follow:

2. *The Council is to undertake a review of CP12 Balmoral Road and amend the Plan consequent upon that review by the end of 2009 and a progress report is to be provided to the Department of Planning within three (3) months of the date of this Direction. The review, amongst other things, is to address:*
 - a. *the proper basis under s94 of the Act for apportioning the cost of public amenities and public services between residential and commercial development;*
 - b. *the method by which land required for public open space purposes is valued; and*
 - c. *whether land required by Sydney Water Corporation for drainage purposes serves to reduce the demand for land for public open space purposes.*

3. *The details of any proposal by the Council to use a discounting model as the basis of calculating contributions for the purposes of the amended CP12 Balmoral Road must be notified to the Department of Planning by the end of August 2009 and be approved by the Department.*

Matters raised in the Panel's review and by the then Minister for Planning, including land values, cost apportionment and use of drainage land for open space purposes are considered in Section 2 of this report.

THSC was requested to provide details of what it has done in response to the Panel's findings and the Minister's letter of July 2009. A copy of THSC's response to this request is included as Attachment C.

1.7 Matters excluded from analysis

1.7.1 2010 Practice Note

The 2010 Practice Note (Section 3.4.1) contains assessment criteria for IPART's review of contributions plans.

Those criteria generally correlate to the criteria included in the specification of services provided to Newplan (Attachment A), except in regard to the following:

6. *The council has conducted appropriate community liaison and publicity in preparing the contributions plan*

Consistent with the specification, Newplan has not examined the issue of community consultation as part of this review.

1.7.2 Items not on the Essential Works List

This report does not examine in any detail nexus and demand apportionment in relation to infrastructure items included in the CP12 works program that are not on the Essential Works List.

2. Assessment

2.1 Essential Works List

Matters requested by IPART to be covered in this review include the following:

- Assess THSC's contributions plan and any other information that THSC has provided to IPART to determine whether the public amenities and public services included in the contributions plan are on the "Essential Works List" as defined in the Practice Note for the assessment of Local Contributions Plans by IPART.

2.1.1 Key concepts

Essential Works List

The 2010 Practice Note identifies the following public amenities or public services as 'essential works':

- land for open space (for example, parks and sporting facilities) including 'base level embellishment';
- land for community services (for example, childcare centres and libraries);
- land and facilities for transport (for example, road works, traffic management and pedestrian and cyclist facilities), not including carparking; and
- land and facilities for stormwater management.

Base level embellishment

The 2010 Practice Note contains a definition of 'base level embellishment' of open space.

Newplan received advice from IPART by email on 3 March 2011 as follows:

We have ... received advice from the Department of Planning that the definition of "Base Embellishment" has been revised to clarify queries regarding the inclusions.

We have not yet received a formal copy of the Minister's Direction but the revised definition is as below (changes from the current definition are underlined)

Base level embellishment of open space is considered to be those works required to bring the open space up to a level where the site is secure and suitable for passive and active recreation. This may include:

- *site regrading*
- *utilities servicing*
- *basic landscaping (turfing, asphalt and other synthetic playing surfaces, planting, paths and cycleways)*

- drainage and irrigation
- basic park structures and equipment (park furniture, toilet facilities and change rooms, shade structures and play equipment)
- security lighting and local sports field floodlighting
- sports fields, tennis courts, netball courts, basketball courts

but does not include skate parks, BMX tracks and the like.

Whilst it does not explicitly include carparks DoP have indicated that "asphalt" means that carparks are included to the extent that they service the recreation area ONLY. That is, we must be satisfied that the carpark isn't being built to satisfy some other demand. We will seek confirmation of this.

This revised list is to be used from this date forward to review the contributions plans.

Plan administration costs

It has been common practice for many years that council contributions plans have authorised the levying of monetary contributions for the administration and management of development contributions.

We are not aware of any analysis having been done on the extent of this practice. We estimate from our experience in preparing and reviewing many contributions plans that probably over 90 percent of plans authorise administration and management contributions.

The plans vary in the specific administration and management activities that the monetary contribution is applied to. Some of the more common activities levied for include the following:

- The costs of consultants and/or staff in preparing the contributions plan, including the preparation of needs studies that directly result in the preparation of the contributions plan.
- The costs of council staff time for reviewing and updating contributions plans, managing contributions receipts and expenditure.
- The costs of engaging consultants to review the plan and/or its assumptions (e.g. land valuer examines land values on a annual basis, resulting in a change to the plan).

The matter of whether plan administration and management costs should or should not be funded via development contributions has been the subject of debate in recent times.

The 2005 Practice Notes are not clear on this matter. While 'Template for a section 94 development contributions plan' includes 'Administration' as a 'facility' in the example summary works program, the practice note 'Principles underlying development

contributions’ states that section 94 ‘generally cannot be used for ongoing administrative costs’.

IPART advised Newplan by email on 14 March 2011 that the then Department of Planning advised that:

there is legal precedent for a minimal amount of administration costs to be included – for example, the costs of staff such as a S94 officer or planners and studies particularly undertaken to prepare the contributions plan. Department of Planning noted that costs of approximately 2-3% of the cost of the contributions plan may be considered acceptable.

Whether plan administration and management costs are essential works, and the scope of legitimate plan administration and management activities in a contributions plan, are matters that should be clarified in an update to the 2010 Practice Note. We have not dealt with this matter further in the review.

2.1.2 Infrastructure list

Table 2.1 provides a summary assessment of whether the infrastructure types included in the council submission meet the definition of essential works.

Note that only infrastructure items listed in THSC’s submission are included in the analysis. Other CP12 infrastructure items that THSC deemed not to be essential works were not included in THSC’s submission to IPART and therefore were not assessed by Newplan.

Table 2.1 CP12 essential works assessment

Infrastructure type		Essential works?	Comment
Works			
Transport Facilities	Roundabouts	yes	
	Bus shelters	yes	
	Bridges	yes	
	Signals	yes	
	Cycleways	yes	
Open Space Facilities	District parks	yes	Example worksheets show that proposed open space works include only base level embellishment
	Local open space	yes	
	Greenway links	yes	
	Other open space	yes	
Drainage Facilities	Water quality measures	yes	
Administration	Administration	yes	See comments in Section 2.1.1

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Infrastructure type		Essential works?	Comment
Land			
Open Space	District parks	yes	
	Local open space	yes	
	Greenway links	yes	
	Other open space	yes	
Community Facilities	Library expansion	yes	The 'land' involved is the acquisition of land in stratum at the Rouse Hill Regional Centre.

2.2 Nexus

Matters requested by IPART to be covered in this review include the following:

- Assess THSC's contributions plan and any other information that THSC has provided to IPART to determine whether there is nexus between the development in the area to which the plan applies and the public amenities and public services identified in the plan.

2.2.1 Key concepts

Nexus

Nexus is described in the 2005 Practice Notes as follows:

Nexus is the relationship between the expected types of development in the area and the demonstrated need for additional public facilities created by those developments.¹

The nexus (or link) between development and infrastructure demand is often discussed in terms of:

- causal nexus (or, does the development itself generate a demand for an item of infrastructure?),
- spatial nexus (or, is the planned location of the infrastructure item appropriate to the development that generates a need for it?), and
- temporal nexus (or, will the infrastructure item be provided at a time when the development will need that item?).

The 2005 Practice Notes reinforce this view of nexus when it states that nexus should be discussed in terms of:

- whether the anticipated development actually creates a need or increases the demand for a particular public facility;
- what types of facilities will be required to address that demand;
- whether existing facilities are suited to providing for that demand (or a component of it); and
- when they are provided to meet the demand of the development (i.e. thresholds or timing).

These descriptions of nexus are the basis for our assessment of CP12 and are discussed in turn below, except for the last aspect (timing) which is addressed in Section 2.4.

¹ Development Contributions Practice Note - *Principles underlying development contributions*, issued July 2005, Department of Infrastructure Planning and Natural Resources

2.2.2 Does the anticipated development actually create a need or increase the demand for the CP12 infrastructure?

Part 4 of CP12 includes an assessment of development potential and population growth. Before assessing whether the anticipated development creates the need or demand for infrastructure, it is necessary to confirm what the anticipated development will be.

The anticipated development

Table 2.2 includes a summary of the development anticipated in the Balmoral Road Release Area (or **BRRA**) and the consequential population growth.

Table 2.2 Anticipated development and population in the BRRA

Land use	Total dwellings	Occupancy rate (persons per dwelling)	Population
Residential – 2(b1)	1,360	3.4	4,624
Medium Density – 2(a2)	2,170	2.3	4,991
High Density – 2(a1)	1,460	1.7	2,482
Transit Centre	1,000	1.6	1,600
TOTAL	5,990		13,697
		Less existing residents	685
Expected additional population of the Balmoral Road Release Area			13,012
		Eastern Drainage Precinct	9,740
		Less existing residents	520
Expected additional population of the Eastern Drainage Precinct			9,220

Source: CP12, p13

Note: Occupancy rate assume a 30/70 mix of 2 and 3 bedroom dwellings

CP12 states that the “assumptions have been made on the likely mix of dwelling types based on approvals for medium density housing and apartments in the established parts of the Council area from 1 July 2002 to 1 November 2005.”² Separate assessments of population growth have been made in the reports and studies that support this plan and identified in the references, including the Human Services Study³ and the Recreation Needs Analysis⁴.

The majority of houses in The Hills LGA are separate houses (88.7%, cf. Sydney Statistical Division 63.1%, 2001 census). The expected development outlined above projects that less than 23% of dwellings in the CP12 area will be separate houses. If realised, the area’s development would represent an altogether different character

² CP12, p13

³ Human Services Local Environmental Study for Balmoral Road Release Area, BBC Consulting Planner, November 2002.

⁴ Recreation Needs Analysis and Open Space Provision for Balmoral Road Release Area, RMP & Associates, October 2003

compared to the broader LGA with a greater emphasis on higher density living. The DCP⁵ refers, in its objectives, to “the creation of sustainable residential neighbourhoods with a mix of housing types” but this does not appear to sufficiently distinguish it from the character of the remainder of the LGA to the degree expressed by the projected split in housing types shown in Table 2.2.

The BRRA's zoning permits higher density housing forms. Whether the market responds with providing higher density housing to the extent THSC envisages remains to be seen. It is true that the BRRA development is in its early stages, and the forecast development mix and yield may yet be achieved.

How this plays out in terms of the ultimate BRRA population is similarly difficult to predict. Early planning exercises for the BRRA (prior to CP12 being made) projected a total population of around 16,000 for the area. Infrastructure needs assessments that underpin CP12 assumptions were also based on this figure. However, CP12 contribution rates assume a net increase in population of just over 13,000. THSC stated in March 2011 that “the most recent review of future population based on approved development is a reduction from 13,012 to 12,263 persons.”⁶

Regular revision of population assumptions is an important part of managing a contributions plan over its life. Councils should regularly update the expected final development outcome to ensure that infrastructure in a contributions plan is not over or undersized, and that the legitimate costs of infrastructure attributable to development can be met by the amount of contributions received.

Does this development create a need for the infrastructure?

CP12 states that an additional residential population of approximately 13,000 is expected in the BRRA. This scale of population increase generates significant demand for public infrastructure. THSC commissioned a number of supporting studies to determine the infrastructure requirements for the area. These include:

- Human Services Local Environmental Study for Balmoral Road Release Area, BBC Consulting Planner, November 2002.
- Recreation Needs Analysis and Open Space Provision for Balmoral Road Release Area, RMP & Associates, October 2003.
- Rouse Hill Library and Community Centre Report, AEC Group, July 2004
- Traffic Impact Report, Balmoral Road Release Area, prepared by Baulkham Hills Shire Council 2006.
- Addendum to the Recreation Needs Analysis and Public Open Space Provision for Balmoral Road Release Area, December 2006.

These studies provide adequate justification that the proposed development will generate a demand for the essential works identified in CP12 and THSC submission to IPART.

⁵ Baulkham Hills Development Control Plan – Part E Section 17 – Balmoral Road Release Area

⁶ THSC Response to Information Request for Contributions Plan No. 12 Balmoral Road Release Area, received 4 March 2011

It is the extent of BRRA-generated demand for that infrastructure that warrants further comment. Such demand is dependent on the actual population that materialises. The consequential scale of infrastructure required as a result of the expected population growth is discussed in the next section (Section 2.2.3).

Does non-residential development create a need for the infrastructure?

This issue was raised in the previous review of CP12 for the Local Contributions Review Panel in 2009 prepared by Aurecon Australia Pty Ltd.⁷

In general terms, where an expected development area mainly constitutes a residential suburb, the demand for the local infrastructure that is needed in that area principally arises from its future residents.

The BRRA is planned to accommodate a mix of uses however, and so some of the demand for the BRRA infrastructure is likely to be generated from the expected non-residential uses. Two (2) neighbourhood centres, a local centre and some employment land (total of around 150,000 square metres of floor area) are expected in the BRRA. THSC has advised that it is reviewing the planning for transit stop in the western part of BRRA. Presumably this review would affirm and even propose expansion of planned non residential land uses.

The workers and patrons of non residential uses will use infrastructure (including local infrastructure included in CP12) provided to serve the BRRA. This likelihood has not been factored into the calculation of contribution rates in CP12.

The approach of excluding non residential development from cost apportionment is appropriate in some circumstances. For example, where the users of a town centre principally come from the surrounding residential areas (as might be the case in a regional city) the user demand is ultimately attributable back to the resident population.

This approach is not reasonable in this case in that:

- the BRRA is part of a metropolitan area and the users of its non residential uses would be drawn from a wide area well beyond the boundaries of the BRRA (including potentially from neighbouring local government areas);
- it is unlikely that the non residential uses would be self-contained in terms of their user catchments.

While there would be some demand for CP12 facilities attributable to BRRA non residential development, and that demand should be accounted for in the calculation of CP12 contribution rates, the demand for those facilities would vary according to the category of facility.

Section 2.3.4 of this report documents our views on the likely extent of the relationship between non residential development and BRRA infrastructure and, where relevant, recommends an appropriate level of cost apportionment to such development.

⁷ Development Contributions Assessment - The Hills Shire Council, 5 May 2009, prepared for the NSW Department of Planning by Aurecon Australia Pty Ltd

2.2.3 What types of facilities will be required to address BRRR development demand?

CP12 provides that the types of facilities that will be required to address the demands arising from BRRR development in the area include local infrastructure in the following categories:

- Open Space and Recreation Facilities;
- Transport Facilities;
- Community Facilities; and
- Drainage Facilities.

Justification for each of the infrastructure categories is provided below:

Open Space, Community Facilities and Transport

Justification for the particular scheduled works in the first three categories (open space, community facilities and transport) is provided in the supporting studies referred to in the previous section (2.2.2).

The current projected population for BRRR is around 12,200, this represents a reduction of around 23% from the level that was assumed when the infrastructure assessments for CP12 were carried out.

This may have a flow-on impact in terms of a lesser range or scale of certain infrastructure being required for BRRR development.

In terms of transport facilities, a different level of works may be required if the development is generating less traffic. In terms of community facilities, a lesser amount of facility floor space may be the outcome of a reduced population. For open space, a lesser amount of land and facility provision may be the outcome.

CP12 caters for a net increase in population of around 13,000 persons in the BRRR.

It appears that only open space and recreation facility impacts of the reduced population have been dealt with by THSC in striking the contribution rates included in CP12. The impacts are addressed in the report Addendum to the Recreation Needs Analysis and Public Open Space Provision for Balmoral Road Release Area, December 2006, undertaken by THSC's Recreation Planner at the time.

The Addendum report states that there should be no reduction in the proposed open space provision of 35.8 hectares on the following grounds:

- There will be a higher proportion of persons living in higher density housing than was the case under the 16,000 population scenario.
- There is an appropriate and not excessive number of sports fields and amenities for the BRRR population.

- The provision of local open space (including that within district parks) is based on the criteria of location within 400 metres of residences.
- The few areas outside the 400 metre radius of local parks will use the greenway links to access open space areas.

Provision of 35.8 hectares of open space would result in the rate of open space provision increasing from 2.24 ha / 1,000 persons for a 16,000 population, to 2.86 ha / 1,000 persons for a 12,200 population.

Although much higher, the latter figure is comparable to the overall quantum standard provided for in Sydney Growth Centres planning (i.e. 2.8 ha / 1,000 persons) and in our experience is generally consistent with the level of open space being achieved in other new greenfield areas located on Sydney's fringe.

It appears from concept plans submitted by THSC that acquisition of the district parks in BRRA will result in seven new rectangular sports fields being created.

The rate of provision of rectangular sports fields for the different estimated future BRRA populations is as follows:

- For 16,000 population: 1 per 2,285 residents
- For 13,000 population: 1 per 1,857 residents
- For 12,200 population: 1 per 1,742 residents

In our experience these rates of provision of sports fields are comparable with standards adopted in contemporary plans and studies for other release areas (refer Table 2.3).

Table 2.3 Selected rectangular sports fields provision standards

Standard	Source
1 per 1,850 residents	Camden Council (2002), Camden Contributions Plan
1 per 2,000-3,000 residents	Clouston Associates (2003), Edmondson Park Release Area Revised Community Planning Study Part 2 - Open Space and Recreation Plan, prepared for AAP
1 per 1,200 residents	Lake Macquarie City Council (2004). Lake Macquarie Section 94 Contributions Plan No. 1 – Citywide

Using only the two broad comparisons above it would seem that, notwithstanding a potential lower population, the proposed open space provision in CP12 is not unreasonable.

However, we maintain that those parts of the drainage reserves in the BRRA not taken up by wetland basins will serve a local and district passive recreation role. If such was recognised in the CP12 then reductions in planned open space provision would be reasonable.

It is the case that most greenfield development areas include substantial drainage land and riparian areas, and that such lands are usually excluded from the open space

calculations. If their part passive recreation function was recognised and they were (at least partly) included in open space calculations then you would find open space provision in all greenfield areas would be well in excess of the 2.8 hectares per 1,000 standard (like the BRRA).

We have not received any information that clarifies how the drainage lands will be embellished. THSC has indicated that 11.3 of the 37.5 hectares of these lands will comprise constructed basins, and that “a majority of the land is comprised of constructed basins for water management or is graded and planted (watercourse) such that it is unsuitable for active or passive recreation.” Yet the plan includes cycleway works in these areas.

In our view there must be a component of this land that will serve a passive recreation function. For the sake of the discussion (and in the absence of specific advice from THSC) if it was assumed that one quarter of the drainage lands (or 9.4 hectares) is deemed to serve a passive recreation function then this would result in the effective open space serving the BRRA increasing from 35.8 hectares to 45.2 hectares. Taking CP12's estimated population of 13,012, this translates to a provision rate of 3.47 hectares per 1,000 population.

By way of comparison, Table 2.4 shows the rate of provision of parkland and sportsground open space provided in the Hills LGA as a whole and in the adjacent and nearby Hills Shire precincts of Kellyville, Castle Hill and Bella Vista.

Table 2.4 Developed open space provision rates - The Hills LGA and areas surrounding BRRA - 2006

Area	Sports grounds (ha / 1,000 population)	Parks (ha / 1,000 population)	Total (ha / 1,000 population)
Bella Vista	1.79	1.48 ⁸	3.27
Kellyville	2.40	1.49	3.89
Castle Hill	3.38	1.43	4.81
The Hills LGA	2.04	1.39	3.43

Source: data provided by THSC 20 April 2011

The above analysis shows that open space provision rates in the broader area are generally comparable to the rate proposed in the BRRA, assuming that the broader area figures include parks that form part of some drainage corridors.

Viewed in the context of other Hills Shire areas, it could be concluded that the proposed provision of open space in the BRRA is reasonable and not excessive.

However, viewed in the context of the current State Government policy of limiting developer costs and to achieve flow-on effects of improved housing affordability and increased housing supply, we see two instances where the open space provision under

⁸ Excludes Bella Vista Farm Park classed as a 'cultural significance' park that would arguably have a significant regional recreation role

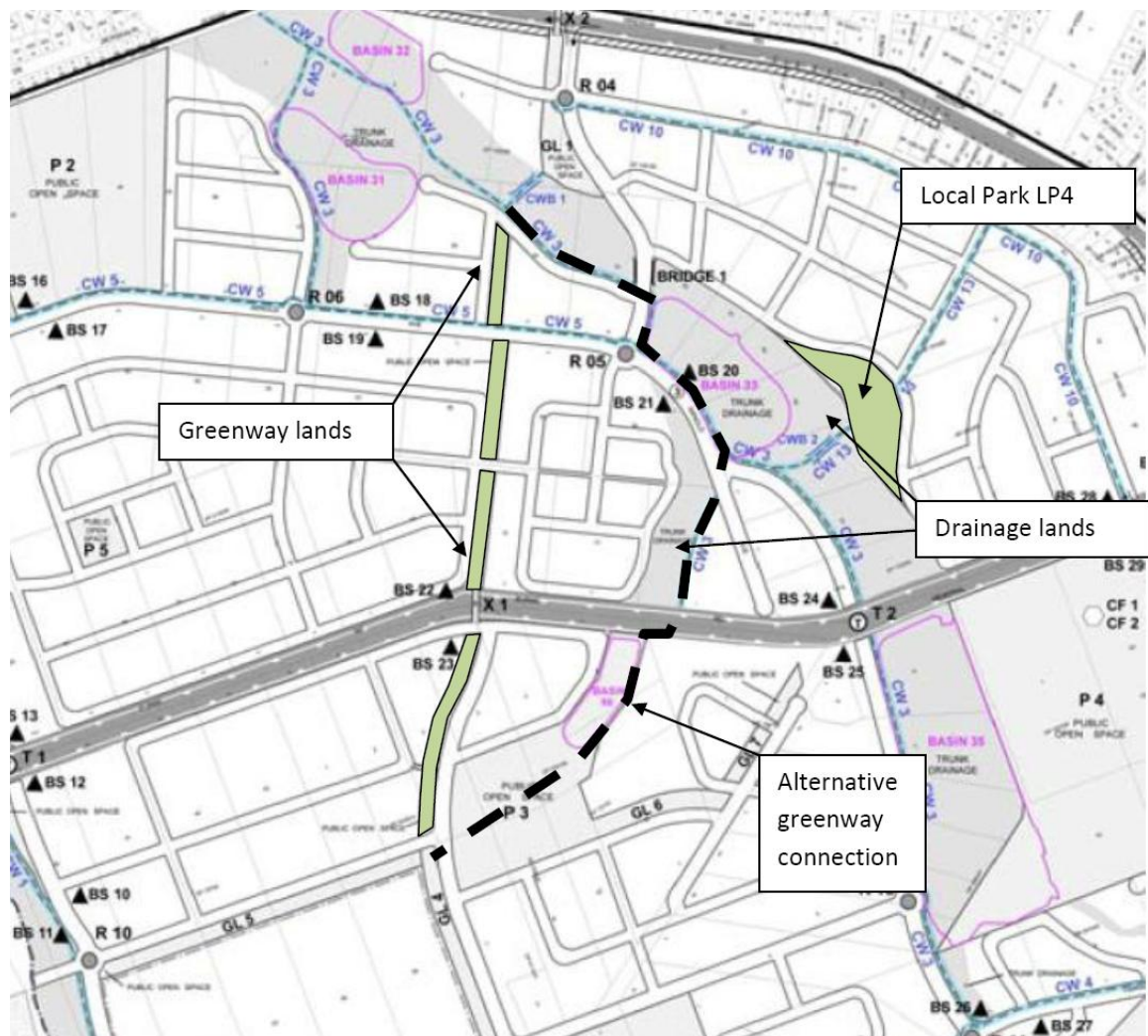
CP12 could potentially be cut back and plan costs reduced without any significant diminution of access to local (passive) open space:

- Certain sections of greenway links (GL1, GL2, GL3) could be removed with an alternative north-south access link instead provided by the cycleway traversing through the drainage lands immediately to the east.
- The local park LP4 appears as if it may double-up on potential passive open space lands within the drainage lands immediately to the west.

The location of these lands is shown in the map on the following page.

If some or all of these land components were removed from CP12 there would be saving in the amount of open space needing to be provided for BRRA development, and a consequent reduction in the contribution rate for essential works.

THSC submits that some of the greenway links have already been acquired however. We haven't been provided with information that the completed acquisitions include land identified in the map above.



Drainage facilities

Drainage infrastructure needs for the BRRA have been assessed according to the publication by Engineers Australia, Australian Runoff Quality – A Guide to Water Sensitive Design. Only certain drainage works are included in CP12 schedule, being water quality basins for the ‘Eastern Precinct’ catchment.

According to advice received from THSC on 20 April 2011 “the size of water management facilities are based on the existing basin network constructed by Sydney Water”.⁹

The urbanization of the precinct, which includes a significant increase in paved areas, will also generate a demand for devices to manage stormwater quantity. CP12 states that Sydney Water Corporation will be constructing detention basins along Strangers Creek so the costs of these works are not incurred by THSC. Stormwater quantity management will also be carried out along public roads and on private property as part of subdivision works. Both of these can therefore be incorporated into the conditions of various development consents and appropriate provisions have been incorporated into the DCP.

Sydney Water’s involvement in requiring land and facilities for stormwater management in the BRRA represents a significant cost not having to be met via section 94 contributions.

2.2.4 Are existing facilities suited to providing for CP12 development demand (or a component of it)?

This question relates to whether there are existing facilities that can cater for the demands generated by the expected development in the CP12.

Generally, the expected development in the BRRA will be a range of residential and non-residential urban uses (at a range of development densities) that will replace a range of rural and rural residential land uses (or ‘pre-urban’ uses).

The vast majority of the local infrastructure that currently exists in the BRRA (e.g. roads, drainage systems) has either characteristics or a specification that enables the infrastructure only to serve the pre-urban uses. For example, local roads have a centre seal and swale drains, which is generally appropriate only for rural residential uses. Urban roads cater for higher volumes of traffic, include kerb and guttering for drainage management, include footpaths, street trees, some street furniture and lighting, greater capacity for utilities and so on. Such roads will be provided mainly by the developers of land, with only the costs of intersection works being met by contributions collected under CP12.

The precinct layout appears to be maximizing efficiencies by utilising the existing road layout and avoids the need to acquire land for new roads.

⁹ THSC Response to questions dated 6 April 2011 in relation to Contributions Plan No. 12 - Balmoral Road Release Area, received 20 April 2011

Our understanding of the general approach taken in each of the supporting studies is to determine firstly the additional expected population and then to assess how the existing infrastructure should be upgraded, or new infrastructure provided, to accommodate the sum of the existing and likely future populations. This ensures that any existing capacity of local infrastructure is fully absorbed and so the costs of providing new infrastructure are kept to a minimum.

It is our view that the range of local infrastructure included in CP12 is that which you would expect to be included in a contemporary section 94 contributions plan to meet the needs of a typical urban release area on the fringe of the Sydney metropolitan area.

Open space spare capacity considerations

Newplan requested information from THSC on whether there was any spare capacity associated with the facility known as Kellyville Park. Kellyville Park is located in the east of the BRRA. Kellyville Park is a significant open space area serving a district active recreation role. Despite its size, recreation significance and planned incorporation into the CP12 area development, it is not allowed for in calculations of open space area needed to serve the development. This may or may not be reasonable depending on whether the park has any capacity to absorb recreation demands from new development in the BRRA.

THSC responded that park bookings information establishes that the park does not have spare capacity. Whether or not this true, park bookings are only one measure of whether a park can accommodate more use. It would be useful to know however whether the facilities could be upgraded to cater for additional use (for example, through flood lighting, better drainage, more efficient field configuration). Additional use of an existing land resource is usually more cost-effective than acquiring and developing a new area of open space.

It is noted that acquisition and embellishment of land adjoining Kellyville Park is included in CP12. It is not clear whether this extra land is necessary or whether the same facilities can be accommodated within the existing boundaries of an internally-reconfigured Kellyville Park.

Admittedly, any spare capacity that is utilised at Kellyville Park would only marginally offset the need to acquire and develop open space elsewhere in the BRRA. However, this does not remove the need for the spare capacity question to be properly addressed in the contributions plan.

2.3 Apportionment

Matters requested by IPART to be covered in this review include the following:

- The kinds of public amenities and services that the development will create a demand for.
- Whether the information on demand is reliable and up to date.
- Whether the location of the services is appropriate for the development.
- Whether the estimates of population change are realistic.
- Whether the amenities and public services are to serve only the new development or the new development and the existing community.
- Whether the new demand could be accommodated within existing public amenities and services and, if so, how costs have been apportioned.
- Whether the public amenities and public services would be required if the development did not proceed.

As 'nexus' and 'apportionment' are interrelated concepts, many of these matters have been dealt with in Section 2.2 of this report.

This section therefore focuses on matters not already addressed, specifically:

- the components of demand for the different types of essential works in CP12; and
- whether the costs of infrastructure have been fairly apportioned to BRRA development in accordance with that demand relationship.

2.3.1 Key concepts

Apportionment

Apportionment is described in the 2005 Practice Notes as follows:

Apportionment is a tool to arrive at the correct nexus to ensure that a charge under s94 only ever reflects the demands of development and not other demands.

While nexus is about establishing a relationship between the development and demand for infrastructure, apportionment is about quantifying the extent of that relationship.

The Draft Local Development Contributions Guidelines (2009) in our view puts the concept in a clearer way:

The concept of apportionment:

- *is concerned with segmenting the demand and cost of community infrastructure that is attributable to expected development;*
- *is applied to ensure that a direct [section 94] contribution only ever reflects the demands of development and not other demands; and*

- *is considered in determining and accounting for different demands for infrastructure generated by different types of development covered by a contributions plan (e.g. residents in new dwellings, workers in new employment floor space, visitors in tourist accommodation, etc.).*

In practical terms, the section 94 contribution calculations in a contributions plan relating to infrastructure in that plan must account for:

- Demand for the plan infrastructure arising from the different types of development in the plan area.
- Demand for the plan infrastructure arising from existing development in the plan area.
- Demand for the plan infrastructure arising from existing or expected development outside the plan area.

2.3.2 Apportioned land and works costs

The majority of the essential works identified in CP12 is situated within or immediately adjacent to the BRRA.

Essential works included in CP12 and situated outside of the BRRA are as follows:

- Norwest Boulevard and Solent Circuit traffic signals
- Solent Circuit and Fairway Drive extension roundabout
- Rouse Hill Regional Library land

CP12 assigns the following demand component / cost apportionment rates for BRRA development in respect to these facilities:

- Norwest Boulevard and Solent Circuit traffic signals (75%)
- Solent Circuit and Fairway Drive extension roundabout (75%)
- Rouse Hill Regional Library land (50.8%)

Transport facilities

The proposed intersections are located to the south of the BRRA and are partly needed to manage traffic between the BRRA and Norwest Boulevard and beyond.

Considering firstly the proposed signalised intersection at Solent Circuit / Norwest Boulevard, the supporting traffic report¹⁰ (p13) states that the intersection had in 2005 a level of service of 'C' in the AM Peak and 'B' in the PM Peak. The report further states (at p46) four (4) options were assessed for the upgrade of this intersection. These are assessed using a 'base case', that is, assuming a 2016 scenario **without** the BRRA development and these options are then assessed **with** the BRRA development.

¹⁰ Traffic Impact Report, Balmoral Road Release Area, prepared by Baulkham Hills Shire Council, June 2006

Table 12 of the report (at p47), the level of service of this intersection is reduced to 'F' in the base case scenario. Our interpretation of this is that if the proposed intersection works are carried out, including signalling the intersection, then the intersection would fail to operate (that is, retain a level of service 'F') even without the BRRA development.

The "three lane circulating roundabout which is needed under the 2016 base case analysis" as referred to on p70 is an option that fails as an intersection. The signalised intersection is needed as a base case and even this fails.

On p49 the comparison between base case and the 'base case + the impacts of BRRA' is illustrated in table 13. Obviously, with the addition of BRRA development traffic, the intersection performance remains at 'F'.

However, in the discussion and recommendations the report states (on p68) that the subject intersection provides "primary access to the BRRA and a significant proportion of the cost of upgrading these intersections is therefore justifiably included in the Contributions Plan."

Newplan has not been engaged to assess, nor do we have expertise, in traffic engineering practice. Yet on the evidence provided it is difficult for us to reconcile how this conclusion can be drawn as the occupants of the BRRA development would likely avoid an intersection that has such a poor level of service prior to their arrival.

In respect to this matter the report (on p69) concludes that 75% of the cost of the facility should be met by BRRA development, on the basis of:

- the extra traffic movements anticipated to be generated by the BRRA development entirely generates the need to provide signals intersection (instead of a 3 lane roundabout required with the base case) at this intersection; and
- the difference in cost between these two strategies is \$1.8 million, or 75% of the cost of the signals option (being \$2.4 million).

This is a reasonable approach to calculating apportionment, but only if it is held that all that is needed to address the base case is delivery of a three lane roundabout. As we have stated above, both roundabout and signals options were tested at the intersection for the base case and in all cases a level of service 'F' was the result. How can it be argued that a roundabout is all that is needed when it appears on the evidence executing that strategy does not meet the anticipated base case deficiency?

In conclusion, in regard to the off-site intersections that are 75% apportioned to BRRA residential development we find the following:

- On the evidence provided to us, it is not clear whether BRRA development generates any need for the proposed Solent Circuit / Norwest Boulevard signals, as it appears that that need is generated by current and future demands external to the BRRA.

- The 75% apportionment rate for Solent Circuit and Fairway Drive extension intersection is based on relative proportion of extra traffic generated by BRRRA and the 'Solent Circuit Residential Development', and appears reasonable.

Community facilities

This relates to the acquisition of floor space for the library expansion at Rouse Hill Regional Centre.

Approximately \$2.1 million is proposed to be collected under CP12 to fund 50.8 percent of the cost of the floor space.

The completed library is also intended to service the Kellyville/ Rouse Hill, North Kellyville and Balmoral Road Release Areas. The time-frames for the delivery of this project are outlined in the Rouse Hill Library and Community Centre Report, AEC Group 2004.

Utilising service-based and population-based benchmarks developed by the State Library of NSW, the report argues for a staged growth of this facility. The strategy can be summarised as follows:

- 1,319 square metres of floor space in the 10 years from the report (to 2014) to service the Kellyville Rouse Hill Area; and
- expand by approximately 600 square metres to 1,932 square metres in the "longer term 11-20 year time-frame" for the Balmoral Road and North Kellyville Release Areas, which are approximately the same size.

CP12 includes the planned populations of these two release areas, as shown in Table 2.5 below.

Table 2.5 Regional library upgrade apportionment

Contributions plan area	Expected population	Apportionment rate
North Kellyville	12,600	49.2
BRRRA	13,012	50.8
Total	25,612	100.0

Source: CP12, page 25

However, the contributions plan approved for North Kellyville area by THSC in 2010 (i.e. a more recent and more reliable source) identifies a net additional resident population for that area of 15,563 persons.¹¹

Instead of the apportionment factor for this facility being 50.8% payable by BRRRA development, the apportioned factor should be 45.5% (i.e. $13,012 / (13,012 + 15,565)$).

¹¹ Contributions Plan No.13 – North Kellyville Precinct, page 18

2.3.3 Land and works costs to be fully met by CP12 contributions

The remaining works are to be provided to service the demand generated by the conversion of the area from a rural residential to an urban area.

Drainage works costs are to be met by a specific catchment within the BRRR (the 'Eastern Precinct').

The 2005 Practice Notes makes the following important point about full cost recovery under contributions plans:

Full cost recovering (i.e. 100% apportionment to new development) can only be used where the public facility is provided to meet the level of demand anticipated by new development only and there is no facility or spare capacity available in the area. If the proposed public facility satisfies not only the demand of new development, but also some regional demand, demand by people from outside the area, or makes up for some existing deficiency, only the portion of demand created by new development can be charged.

Table 2.6 compares the fully apportioned infrastructure categories against these principles.

Table 2.6 Fully apportioned infrastructure

Infrastructure category	Items included	Comments
Open space land and works	District parks, local parks and greenway parks	All works located within BRRR. Recreation Study specifies the extent of land and works required for 16,000 BRRR residents. Recreation Study addendum asserts that this extent of open space is still required for 13,000 residents. Assuming these findings are correct then the need for the facilities is entirely generated by BRRR development.
Transport facilities capital	Roundabouts (15)	Roundabouts are to be located at the junction of existing and new local roads in the BRRR. These intersection controls are needed to manage the traffic emanating from BRRR development.
	Bus shelters (33)	Shelters will be distributed along bus routes within the development. Need for the facility is entirely generated from BRRR development.
	Bridges (1)	Bridge required to enable a local road to cross a drainage channel. Facility included in contributions plan because it would be unreasonable for developer to be required to provide the facility via a condition of consent. Need for the facility is entirely generated from BRRR development.
	Signals (3)	The signals will be provided at intersections of existing and new roads that will serve the BRRR development. While the Arnold Avenue intersection works could be said to be primarily driven by anticipated BRRR

Infrastructure category	Items included	Comments
		development, the proposed Wrights Road / Windsor Road signals will, in part, meet an existing deficiency. The supporting traffic report (on p69) states as follows: <i>The RTA have advised that although the existing T intersection is subject to extensive delays for right turns, there is no warrant to provide improved access conditions at this location. However, the Authority has approved traffic signal control at the intersection, in conjunction with a new fourth leg, provided the full cost of the work is included in the Contribution Plan.</i> CP12 therefore relies on the RTA's advice in justifying the 100% apportionment for this intersection.
	Cycleways (19)	Cycleway works are a mix of full width (2.5m) cycleways and extra width (1m) works adding to footpaths that would be provided by developers as part of their subdivisions. All of the facilities are located within BRRR and can be deemed to be entirely generated by BRRR development. <u><i>General comment on transport facilities: as indicated previously, there is likely to be demand for these facilities from the BRRR non residential development. Some apportionment of cost to these developments should therefore be incorporated into rate calculations. Refer to Section 2.3.4 below.</i></u>
Drainage facilities capital	Wetland basins	The facilities will cater for runoff generated by BRRR Eastern Precinct urban development. The basins would also handle water received from upstream developments (e.g. Norwest). Assuming that upstream development discharges are handled by separate facilities before arriving on the BRRR site, then full cost apportionment to BRRR development is reasonable.

Based on the evidence provided to us, the full apportionment of the above essential works in CP12 is reasonable in that the facilities:

- are to meet the level of demand anticipated by new development only and there is no facility or spare capacity available in the area;
- appear to satisfy the demand of new development, and not any regional demand, or demand by people from outside the area; and
- would not make up for some existing deficiency.

2.3.4 Relationship between BRRR infrastructure and BRRR non residential development

Table 2.7 documents our view on the relationship between BRRR infrastructure and BRRR non residential development, and recommends an apportionment rate to that development, where relevant.

Table 2.7 Notes on relationship between CP12 infrastructure and BRR non residential development

Infrastructure type		Relationship between BRR non residential development and CP12 infrastructure demand
Transport Facilities	Roundabouts	<p>Traffic generated by non residential development will use the traffic facilities. Level of use compared to BRR non residential development difficult to quantify. Some facilities will be more used by non residential development than others.</p> <p>One measure of anticipated traffic from the 'Balmoral Rd Transit Centre' (comprising both residential and non residential uses) anticipated 30% of total BRR peak traffic would be from this area.</p> <p>On a crude estimated floor area basis (150,000m² v 1,200,000m² non residential / residential split), non residential uses might contribute to 10% of the total demand for transport facilities.</p> <p>However this approach would likely understate the non residential traffic contribution because many non residential uses have higher trip generation characteristics compared to residential uses.</p> <p>Suggested cost apportionment to non residential development: 15%</p>
	Bus shelters	
	Bridges	
	Signals	
	Cycleways	
Open Space Facilities	District parks	<p>Having regard to the location of most of the planned non residential development (along the western boundary) and the provision of linear (albeit drainage) open space in that area, likely worker demand for these recreation facilities would be negligible.</p> <p>Suggested cost apportionment to non residential development: nil</p>
	Local open space	
	Greenway links	
	Other open space	
Community Facilities	Rouse Hill library	<p>Facility demand by workers likely to be negligible.</p> <p>Suggested cost apportionment to non residential development: nil</p>
Drainage Facilities	Water quality measures	<p>The neighbourhood centre sites are located in the drainage contribution catchment. These developments will generate a demand for the facilities generally equivalent to the amount of land occupied by these developments.</p> <p>Suggested cost apportionment to non residential development: to be based on relative area of neighbourhood centre zoned land to total developable area in Eastern Precinct.</p>

We recommend that the residential development contribution rate in CP12 be adjusted to account for estimated use of the facilities by non residential development in terms described in Table 2.7.

THSC advised it is preparing a draft section 94A contributions plan that would in the future apply to various developments across the Shire, including non residential developments.

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This proposed plan, or another section 94A plan, could be made to apply to expected BRRA non residential development so that those developments may contribute toward the cost of CP12 transport and drainage facilities.

2.4 Infrastructure timing

Matters requested by IPART to be covered in this review include the following:

- Whether the timeframe for the provision of the amenities and services is relevant for those kinds of amenities and services.
- Whether the public amenities and services will be provided at a time that those demanding the services require them.

2.4.1 Council's approach to staging of infrastructure

Against each item of infrastructure identified in the works schedule, THSC indicates its priority by reference to the threshold of development. Items are allocated a priority of 1, 2 or 3. Priority 1 works relate to an "approximate population threshold" of 4,600. The threshold for priority 2 works is between 4,600 and 9,400 people, while the priority 3 threshold is 9,400+ residents.

According to the 'Expenditure Projections' spreadsheet submitted by THSC, 4,600 persons are achieved at the end of year 5 of the plan (2010); 9,400 persons are achieved at the end of year 8 of the plan (2013); with the remaining residents anticipated by year 15 (2020).

From the same spreadsheet, cash flow fluctuates between -\$18.3 million in year 8 and +\$19.1 million in year 4. It is noteworthy that at mid 2010, or around year 5 of the plan, the cash position of the plan was -\$51.1 million.

The early years of land and works implementation have not tracked with the plan's timing statements. For example, some priority 1 items have been completed or partially completed (e.g. acquisition of District Parks 1 and 2) while others have not (e.g. Solent Circuit roundabout, Burns Road signals). As well, many priority 2 and 3 items have been brought forward to be priority 1 works (that is, various open space acquisitions), presumably at the expense of completing the plan's nominated priority 1 items.

This re-prioritisation is not unusual in contributions plans and is often necessary to take advantage of changed circumstances or facility procurement opportunities. In the case of CP12 it appears that THSC has made a policy decision to focus on land acquisitions in lieu of certain works, perhaps because of the risk associated with cost escalation if these acquisitions are deferred to later in the plan's life.

This is acceptable provided the plan is amended to show the re-prioritisation.

If because of development lag CP12 infrastructure is to be significantly delayed beyond the time of completion of the development, then perhaps an additional 'priority 4' category should be included.

In light of the above, the plan should be amended to show:

- updated year by year demand projections;
- updated priorities descriptions; and

- the current and updated future cash position.

2.4.2 Is the timeframe for the provision of the amenities and services relevant for those kinds of amenities and services?

Developers would directly provide local roads and local (non trunk) drainage associated with their developments. These are works delivered by the developer and are not usually funded by section 94 contributions.

Section 94 contributions address the next level of infrastructure - that is, the local infrastructure that connects and completes the functionality of the developer-provided roads and drains.

Table 2.8 summarises the priorities assigned to the different classes of infrastructure included in CP12.

Table 2.8 Summary of CP12 priorities by infrastructure type

	Priority 1 (provided by the time there are 4,600 persons in BRR)	Priority 2 (provided by the time there are 9,400 persons in BRR)	Priority 3 (provided some time after the 9,400 persons threshold)
Open space land	Fairway Drive and Arnold Avenue district parks	Burns Rd district park; Kellyville Park extension Priority '2, 3': Various local parks and greenways	
Open space capital	Nil	Fairway Drive park and Kellyville Park extension	All other parks
Transport facilities capital	Burns Rd / Arnold Ave signals; Solent Cct / Fairway Dr roundabout	Bridge; Wrights Rd / Windsor Rd and Memorial Ave / Arnold Ave signals Priority '2, 3': roundabouts on local roads	Bus shelters; Norwest Bvd / Solent Cct signals; key cycleways
Community facilities land	Nil	Nil	Rouse Hill library expansion
Drainage facilities capital	Nil	Nil	all wetlands and inlet/outlet treatments

We have identified the following issues with this assignment of priorities:

- As stated previously, actual expenditures have already altered the priorities. The greater focus in priority 1 on open space land acquisition in lieu of transport facilities should be reflected in amendment of the plan.
- CP12 assigns priority '2, 3' to a number of individual items of infrastructure. For example, all local road roundabouts have this designation. It is not clear how this information translates to the cash flow assessment. With early development already having been approved, THSC should now be in a clearer position on the priority of

items to the extent that a single priority description can be applied to individual items. Again this should be reflected in an amendment to the plan.

- CP12 assigns no priority to the provision of many of the cycleways included in the plan. The plan schedule has a note that states that such works are likely to be “implemented concurrent with surrounding subdivisions”. We have no objection to this approach. Indeed it could be said that the assumption for the provision roundabouts on local roads could be the same. However, as for the priority 2,3 items, it is not clear how this information translates to the cash flow assessment.

2.4.3 Will the public amenities and services be provided at a time that those demanding the services require them?

It is usually impossible for a contributions plan to deliver all of the infrastructure that is required by each development at the time when that development is first occupied. This is due to many practical factors including the time lag between development approval and receipt of contributions; or the council needing to source borrowings.

What more often happens is that a council will, in its contributions plan, assign priorities to the provision of infrastructure based on various factors including the location of early developments; and employment of strategies to minimise cost escalation (such as assigning preference to land acquisitions rather than works in the development’s early years).

This has been done with CP12. However, the infrastructure priorities established in the contributions plan have already evolved, as discussed in Sections 2.4.1 and 2.4.2.

THSC expects that approximately 85% of the total BRRA yield of 5,990 dwellings will be delivered in the 15-year timeframe of the plan. Spreadsheets provided by THSC indicate that final year expenditure on items included in CP12 occurs in 2020.

If the plan commenced in 2006 and THSC expects 85% of the development (or 5,092 of the 5,990 dwellings) by 2021, it is unclear how the plan could be cost neutral by 2022. It cannot be cost neutral until all of the anticipated development has been approved and has contributed towards CP12 services and amenities.

The plan should therefore clarify what is the timeframe for delivery of all the facilities identified in CP12.

Rouse Hill Regional Library

The component of the proposed library that is to meet BRRA demands is to be provided between 2015 and 2024.

This program would appear to coincide with the ‘priority 3’ time-frame referred to in the plan.

However, if the particular strata lot that will accommodate this facility (and its value) is known, then we question how it is that the timing of its acquisition is so far into the future.

Another concern with regard to the timing of delivery of this facility, will relate to the funding of the facility itself (i.e. it's fit out). The acquisition of the land alone, while an important necessary step, does not result in the facility being able to be accessed by those needing it.

This raises a broader issue of the operation of the essential works list as currently defined. The essential works list only includes community facilities land. A complete community facility cannot be provided at the time that those demanding the facility require it unless the timing of the works component is also known. Reasonable time for provision of community facilities included in contributions plans cannot be assessed without clarity on the complementary funding for the works components of these facilities.

2.5 Infrastructure costs and financial model

Matters requested by IPART to be covered in this review include the following:

- How the cost estimates within the plan were developed, and whether the costs are up-to-date.
- Whether the cost estimates include all of the costs required to bring the public amenities and services into operation.
- Whether council has engaged relevant professionals to provide an independent assessment of the costs of providing the public amenities and services.
- Whether council has taken CPI or other measures of cost inflation into account and the assumptions and calculations made.
- Whether council has used an NPV methodology and, if so, whether the discount rate is reasonable.

2.5.1 Appropriateness of land acquisition costs

Open space

CP12 provides the basis for THSC to receive section 94 contributions from BRR development totalling approximately \$175 million (in 2006 dollars). Approximately 59% of this amount (\$104 million in 2006 dollars) relates to acquisition of land in the BRR mainly to accommodate new parks.

The CP12 open space acquisition program is extensive and involves a total of 35.8 hectares of land for district, local and greenway open space links.

The basis for the land acquisition costs included in CP12 was a report on land values prepared by RG Furney Projects Pty Ltd.¹²

According to information supplied by THSC, as at March 2011 approximately 23 hectares of land had been or was in the process of being acquired (or around 64% of the acquisition program). Purchases that were completed or in the process of being completed totalled \$52.5 million (or around 50% of the planned acquisition spend). We understand THSC has executed these purchases in a relatively brief period from 2007 to the present, largely using pooled funds collected from development under other contributions plans.

THSC's actions in proactively acquiring land in the BRR have had the following implications:

- Land costs for close to two thirds of the acquisition program have been locked in. That is, these costs are actual rather than projected. Being actually incurred costs means that they are absolute (i.e. reasonable), and that the contributions plan is in a recoupment phase insofar as these items are concerned.

¹² Section 94 Review of Land Value Estimates, prepared by RG Furney Real Estate Consultants, December 2005

- THSC has secured the acquisitions for a total cost which is significantly less than forecasted by RG Furney valuers. The average cost of land assumed by CP12 is around \$290 per square metre, whereas the actual average rate so far achieved has been around \$229 per square metre. This represents a notional saving to the plan in the order of \$15 million.

This is the optimum approach to the implementation of urban release area contributions plans that contain significant land acquisitions. That is, where funds can be obtained, land should be obtained at an early stage to minimise the risk of cost escalation and minimise the costs to both the council and developers.

Early and significant action in acquiring land is one of the most effective strategies in minimising financial risks in these types of contributions plans. Land values can change enormously throughout a contributions plan's life, as land changes from unserviced to serviced and then developed. Regular plan reviews and inbuilt land value indexes can only do so much to ensure contributions remain on track with providing facilities. But early acquisition locking in land prices tackles this risk head-on.

Despite the obvious advantages, strategic acquisition of infrastructure land is not commonly carried out by councils involved in providing infrastructure to urban release areas. THSC has chosen to internally borrow from other contributions plan funds so as to fund significant land acquisitions. Such funds must be paid back to those plans. Provided there is a strategy in place to replenish the borrowed funds, THSC should be commended for its initiative.

Community facilities

A total of \$2.1 million (2006 dollars) is included in CP12 for the acquisition of part of a strata lot at Rouse Hill Regional Centre for expansion of the Rouse Hill Regional Library. The extent of floor space required to meet the combined BRRA and North Kellyville populations is approximately 600 square metres.¹³

The acquisition cost for the strata lot is based on a report prepared in October 2004.¹⁴

The report indicates that ground floor purchase values for floor space in the (then planned) Rouse Hill Regional Centre would be \$7,500 per m² ex GST and upper floor values would be \$6,875 per m² ex GST (in 2004 dollars).

It is not clear which of these values is used for the total \$4.2 million cost for 600 square metres included in CP12, but it would appear to be the upper floor rate indexed in some way from the date of the assessment (October 2004) to the date of the plan (2006). That is, the cost rate is \$6,978 per m² ex GST.

The cost of the facility therefore is based on valuation research, albeit research that is 7 years old. It would be reasonable for THSC to carry out a fresh valuation given that the existing valuation was prepared for a development site that at the time had not yet materialised. The Rouse Hill Centre has since been built, is now occupied, and there is

¹³ CP12, pp24, 25

¹⁴ Proposed Library Community Centre, Rouse Hill Regional Centre, prepared by RG Furney Real Estate Consultants, 26 October 2004

likely to be ample hard evidence (in terms of rental data) that could support a more accurate assessment of the acquisition cost.

2.5.2 Appropriateness of capital costs

THSC advised in its submission to IPART that works costs 'have been based on preliminary estimates only'; and 'cost estimates were prepared by THSC quantity surveyors using recent contract values for similar projects.'

THSC also confirmed that no grant funding has been obtained for any works items.

Open Space embellishment

Open space embellishment costs total \$33.3 million (2006 dollars) in CP12, or 19% of the plan's total value.

THSC's submission included a copy of CP12 which contains 2006 costs for the district, local and greenway parks in the plan.

Range and average unit rates for the different park types based on this information are shown in Table 2.9.

Table 2.9 Open space embellishment costs - CP12

Park type	Range in unit rates (\$ per m²)	Average unit rate (\$ per m²)
District parks	\$79 to \$192	\$87
Local parks	\$46 to \$94	\$61
Greenway parks	\$24 to \$118	\$65

THSC additionally provided worksheets for individual parks. The worksheets are dated November 2005. We assume those worksheets relate to the portion of the parks that are to be developed for recreation facilities, as the costs between the worksheets and the CP12 item cost entries are not the same (the latter being 10 to 20% more than the former).

The worksheet costs are shown in Table 2.10.

Table 2.10 Open space embellishment costs - THSC worksheets

Park	Estimated cost
District parks	
Park No. 1 – Double Neighbourhood Sports Field	\$8,753,689
Park No. 2 – Neighbourhood Sports Field	\$5,626,070
Park No. 3 – Neighbourhood Park – Passive Rec.	\$2,650,478
Park No. 4 – Neighbourhood Baseball Fields and Local Park	\$3,377,646
Local parks	
Local Park No. 1	\$634,601

Park	Estimated cost
Local Park No. 2	\$357,810
Local Park No. 3	\$357,810
Local Park No. 4	\$471,794
Local Park No. 5	\$356,834
Local Park No. 6	\$296,156

The worksheet costs are useful in showing what the component costs are. A check of these sheets shows that they contain, in our opinion, the types of inclusions that one would expect in a release area recreation facility.

In all the facilities the largest cost components were often the 'on-costs' (refer Section 2.5.4). That is, contingencies (25%), design fees and on costs (10%), and works supervision (10%).

Apart from these, bulk earthworks, demolition, and amenities buildings were among the highest component cost items for district parks.

Newplan has compared the average costs from above with similar type facilities found in two other contemporary, urban release area contributions plans that we have reviewed in the past, namely:

- Oran Park and Turner Road Precincts Section 94 Contributions Plan, adopted in 2008 by Camden Council; and
- Draft Blacktown Contributions Plan No.20 - Alex Avenue and Riverstone Precincts, prepared and publicly exhibited by Blacktown City Council in 2009.

The comparison is shown in Table 2.11.

Table 2.11 Cost rates comparison

	Average cost rates for facilities (in \$ / m²)		
	Blacktown CP20	Oran Park CP	THSC CP12
District parks	\$75	\$104	\$87
Neighbourhood parks	\$169	\$111	NA
Local parks	Between \$37 and \$46	\$70	\$61

The comparison shows a broad range of costs. Results of the comparison should be treated with caution as different areas contain different site conditions, such that a higher cost in one area can never be construed (without more detailed analysis) as meaning that the specification of the facilities or the cost of the facilities (or both) is unreasonably high.

With this limitation in mind, it is apparent that the estimated cost of open space embellishments in CP12 are comparable to costs included in similar plans for similar facilities and may be considered to be reasonable.

Transport

Transport works costs total \$23.4 million (2006 dollars) in CP12, or 13% of the plan's total value.

Newplan requested THSC to provide example calculations of transport facilities costs but it was stated by THSC that these were not available.

The different categories of transport works costs are as follows:

- Roundabouts (16 projects) total cost \$2.36 million
- Bus shelters (33) total cost \$0.89 million
- Bridges (1) total cost \$6.35 million
- Traffic signals (4) total cost \$9.78 million
- Cycleways (17) total cost \$5.0 million

The proposed bridges and signals are relatively high cost items. Without the worksheet calculations that underpin the total costs we can make no comment on the veracity of the cost estimates. Similarly with cycleways we have not been provided with the lengths of these routes and so cannot provide any advice on the cycleway costs.

We note the cost of bus shelters average \$27,000 per shelter. Our understanding of the 2010 Practice Note is that these facilities are essential works. Notwithstanding, we are aware that it is common practice that many Sydney councils have entered into commercial arrangements with street furniture providers that allow these facilities to be provided free of cost in exchange for the provider receiving shelter signage advertising revenue. This has been a common practice for at least the last ten years.

In the contemporary context of the contributions cap, and that there is more scrutiny than ever before that development contributions receipts go towards provision of facilities that cannot be secured by other funding means, we think consideration should be given to the exclusion of bus shelters from CP12.

Stormwater drainage

Five wetland basins to be provided under CP12 are anticipated to cost \$2.1 million (2006 dollars).

Costs are based on:

- a rate of \$500,000 (2003 dollars) per hectare of surface areas of wetlands indexed to 2006 dollars using Rawlinsons Construction Handbook (i.e. \$550,500 per hectare base cost); and
- applying on-costs of 25% for contingency, 10% for design, and 5% for project management.

These base costs are within the range of costs identified for trunk basin facilities in other contemporary greenfield contributions plans that we are aware of:

- Oran Park and Turner Road Precincts Section 94 Contributions Plan: \$450,000 per hectare for wetlands;
- Werrington Enterprise Living and Learning Precinct Development Contributions Plan: \$600,000 per hectare for wetlands; and
- Liverpool Contributions Plan 2008 Edmondson Park: \$828,000 per hectare for 'rain gardens'.

2.5.3 Appropriateness of the on-costs

Comparison with other greenfield contributions plans

CP12 infrastructure base costs are subject to a standard 45% works on-cost allocation for combined design, project management and contingency regardless of the infrastructure type. An exception is stormwater drainage works where a lower allocation (40%) is applied.

Newplan reviewed comparable, contemporary contributions plans to understand how CP12's assumptions compared. The analysis is included in Table 2.12.

Table 2.12 On-costs comparison

Contributions plan	Total on-cost rate (as a % of base cost)	On-costs composition
Contributions Plan No. 12 Balmoral Road Release Area (this plan)	40 or 45% ¹⁵	<ul style="list-style-type: none"> ▪ Project management 10% ▪ Contingency either 10% or 25% ▪ Design either 10% or 25%
Oran Park and Turner Road Section 94 Contributions Plan (2008) (Camden LGA)	34.35% to 38.35%	<ul style="list-style-type: none"> ▪ Preliminaries 6% ▪ Margin 5% ▪ Long service leave levy 0.35% ▪ Professional fees 12% ▪ Plan of Management (open space only) 1% ▪ ESD initiatives 3% ▪ Planning approvals 1% ▪ Contingency 7% ▪ Project management 3%
Werrington Enterprise Living and Learning Precinct Development Contributions Plan (2008) (Penrith LGA)	27.35% to 29.35%	<ul style="list-style-type: none"> ▪ Preliminaries 6% ▪ Margin 5% ▪ Long service leave levy 0.35% ▪ Professional fees 12%

¹⁵ Only drainage items appear to have been assigned 40% on-costs rate; all other CP12 facilities are subject to the 45% rate

Contributions plan	Total on-cost rate (as a % of base cost)	On-costs composition
		<ul style="list-style-type: none"> ▪ Plan of Management (open space only) 1% ▪ Public art contribution 1% ▪ Planning approvals 1% ▪ Project management 3%
Blacktown Contributions Plan No.20 - Alex Avenue and Riverstone Precincts (2010) (Blacktown LGA)	15% to 25% (except leisure centre ¹⁶)	<ul style="list-style-type: none"> ▪ Design 5 or 10% ▪ Contingency between 5 and 16%
Liverpool Contributions Plan 2008 Edmondson Park (Liverpool LGA)	10 or 19% ¹⁷	<ul style="list-style-type: none"> ▪ Design 9% ▪ Contingency 10%

As can be seen from the analysis the standard on-cost rate applied to CP12 facilities is at the higher end of the spectrum when compared to other contributions plans. The only comparable on-cost rate observed in the comparison was that applied to the proposed Riverstone Leisure Centre in the Alex Avenue / Riverstone contributions plan. The application of relatively high design and contingency rates to specialist or one-off infrastructure items is common practice; however the majority of CP12 infrastructure would not be in this category.

Open space and recreation works on-costs

The open space capital cost component in the financial model is derived from the 'open space' worksheet in the Hills Shire Council's CP12 Works (March 2011) spreadsheet of the financial plan. Costs for parks and open space in this worksheet are made up of direct capital costs plus:

- contingency – 10%; plus
- design - 25%; plus
- project management – 10%.

The design component of these land-related capital costs seem particularly high, given that THSC staff would likely have had many years' experience in parks design and construction and there is likely to be a limited degree of technical difficulty or precision work required in the design and production of local parks.

In the costing of the 'greenway links' section of this worksheet, the on-cost components of contingency and design are reversed, with contingency becoming 25% and design 10%. As the greenway links will comprise walking tracks and cycleways, a 25%

¹⁶ A single item - Riverstone Leisure Centre - applied total on-costs of 46.5% made up of Preliminaries (15%); Margin (5%); Design (11%); Authority Fees Allowance (3%); Design Contingency (7.5%); Construction Contingency (5%). The costs were prepared by Rider Levett Bucknall in September 2008.

¹⁷ Some facilities only include contingency amounts while others include both design and contingency

contingency component is excessive, compared to the 10% charged against all other open space components of the plan.

Transport works on-costs

The 'Traffic' worksheets in the CP12 Works (March 2011) spreadsheet contain a number of asset classes including:

- roundabouts;
- bus shelters;
- bridges;
- traffic signals; and
- cycleways

In each case, the total budgeted costs for each of the assets included in these categories are calculated using direct capital costs plus:

- design of 10%; plus
- project management of 10%; plus
- contingency of 25%

These on-costs appear overly high for the following reasons:

- In the 'roundabouts' section, there are 16 roundabouts with a direct capital cost of \$99,557 each. This standard costing indicates that these roundabouts are identical and as such would all be based on a common design. If that is so, then why is an individual 10% design component of \$9,996 included for each and every roundabout, when the one design could suffice?

Similarly in the 'bus shelters' section, there are 33 shelters with an identical individual direct capital cost of \$19,892. Again, this is apparently a standard item with an identical cost and logically, exactly the same design.

- There is no explanation of the standard 25% contingency component included for each asset in the listing. As a comparative State Government example, at RailCorp and Public Works, final business case approvals for complex engineering projects, have a 10% contingency factor included. The items included in the Traffic worksheet are common, well known items which Council staff and supervisors should be well experienced with. They are not new technology.

In our experience with other NSW local government authorities, over a broad program of similar works projects, individual projects tend to become cheaper over time as works crews become more experienced in their construction and more efficient in their approach to the jobs.

Community facilities works on-costs

Like transport facilities, the community facilities total capital costs are calculated using direct capital costs plus:

- design of 10%; plus
- project management of 10%; plus
- contingency of 25%.

Land on-costs

Land costs are based on parcel size in hectares multiplied by values set out in the CP12 Master March 2011 'Master cost sheet' Sheet C – land values. The per hectare land values in this sheet have been manually entered into the spreadsheet, without any supporting detail or reference. These direct costs then have a fees allocation added, calculated at 1.5% direct land cost. There is also an additional allowance included for 'improvements' in the overall land cost estimate.

The only sections of land where improvements are included are Lots 44 and 45 at 29 Arnold Avenue and 27 Arnold Avenue. Each lot has a manually entered value of \$400,000 added for improvements but there is no supporting detail or explanation of what these 'improvements' comprise.

2.5.4 Appropriateness of the financial model assumptions

Discount rate

The discount rate used in CP12 is nominal 5.71%, with a 2.5% CPI component. The real rate of discount used is thus equal to $(1.0571 / 1.025) = 1.0313$ or 3.13%. In the financial model, this chosen discount rate is described as based on the 10 year Australian Government bond rate. There appears to be no risk component included.

This choice of discount rate indicates that THSC implicitly regards the 'security' of the expenditure and revenue flows included in this model as equivalent to that of Australian Government 10 year bonds, which are regarded by the investment market as effectively risk free investments.

The CP12 discount rate is considered low when compared to NSW Treasury's benchmark 7% real discount rate which is applied to all NSW Government agency investment planning decisions. NSW Treasury also advises the use of 4% and 10% real as sensitivity test discount rates for decision making.

THSC's choice of a 5.71% nominal rate, or 3.13% real rate, is lower than the lowest sensitivity testing rate recommended by NSW Treasury and is less than half the real benchmark discount rate endorsed by NSW Treasury. This means that future term expenditures and revenues have a greater weighting in the calculation of net present values in THSC's financial plan than in NSW Government agency modelling based on NSW Treasury's 7% real rate.

In a net present value model, the higher the discount rate used, the less are the present values of costs and revenues. Conversely, the lower the discount rate, the higher the present values.

The CP12 financial model uses an extremely low discount rate that does not reflect the likelihood that funding costs would significantly increase at least once during the life of the plan. The implications of this low discount rate are that the contributions amounts generated by the financial model could be significantly understated if market forces move to raise real interest rates or costs. If THSC's funding costs rise, with the low 5.71% discount rate used, then it could face a shortfall in funds towards the end of the plan because it has under-recovered in developer contributions during the early years.

Cost escalation rates

The financial model uses the following annual escalation factors:

- CPI - 2.5%;
- land - 7.09%;
- capital - 4.0%;
- revenue – 2.5%; and
- cost of debt – 5.51%

(i) Land

As land cost is the major component of this plan, it is pertinent here to consider the worksheet "Status of Balmoral Rd acquisitions – acquisitions of land designated open space within the Balmoral Road release area" (undated).

This status sheet indicates that some \$52,283,240 has been expended to June 2010 on land purchases. Expenditure has thus already occurred for two thirds of the total land required under this plan.

This expenditure of \$52 million has been included in the 2010-11 year in the model and does not appear to be escalated by the model over time.

The land escalation rate value is the "average of the annual percentage change in the Australian Bureau of Statistics Established House Price index for Sydney over the past 15 years from December 1990 to December 2005".¹⁸

However it is noteworthy that both:

- the estimated cost of future land purchases when the plan was prepared has proven to be significantly inflated when compared to actual amounts paid for acquired land up to 2010; and
- movements in the Established House Price Index have tracked much lower in the 2002-2010 period than the 1990-2005 period.¹⁹

¹⁸ CP12, p10

The land escalation rate (7.1% per annum) applied to the remaining land to be acquired under the plan is therefore probably excessive in our opinion.

(ii) Capital

The financial model uses an annual escalation factor of 4.0% for capital items. By way of comparison NSW RailCorp in its planning uses a 4.0% annual capital asset cost increase factor, but this factor relates to the relative shortage in availability of rail construction supply inputs expected over the next few years, given the strong demand for rail construction in the mineral rich states of Western Australia and Queensland.

This cost factor used by RailCorp is considered reasonable in its context, given the limited number of construction service suppliers to the rail industry and the specialised and expensive nature of supporting equipment needed in that industry.

A 4.0% annual increase in capital costs for the assets included in CP12 however, given there would likely be a considerable number of local Sydney suppliers competing for contract work to construct these relatively common and low complexity assets, is considered excessive.

(iii) Cost of debt

In the 'deficit' worksheet, 'cost of debt' for annual interest calculations is shown at a standard 5.51% for the entire life of the plan. This appears to be an overly optimistic view on Council's part that its financing costs for this plan will stay consistently at present low levels until June 2025.

2.5.5 Financial model transparency and efficacy

Model readability

The financial model appears most convoluted, with reference cells located on different worksheets and often on other spreadsheets. Trying to ascertain what makes up a particular number in a cell in the model is not at all straightforward. Tracking numbers in the financial model and associated spreadsheets is exceedingly difficult. A layperson would have no chance of deciphering how the various infrastructure costs are made up, or whether the calculation of the contribution rate is accurate.

As contributions plans and supporting information to those plans are public documents and available for scrutiny by interested stakeholders including developers, local residents and indeed Council staff, the financial model does not in our view pass the minimum transparency test.

The model should be written / constructed in a much simpler way to allow easy checking and so as to enable the reader to follow how certain numbers within the model are generated. The plan and model are essentially cost budgets and should be able to be read and understood by members of the general public with normal educational backgrounds. This is not the case now.

¹⁹ For the 8 year period to December 2010 (the longest most recent period using the current ABS methodology for the Established House Price Index) the average annual percentage movement in the index was 3.75%.

Circular references

In the CP12 Works (March 2011) spreadsheet in the section 'Open space summary', there are a series of circular references in Column P, 'Actual total costs'.

This means that the formulas in a number of cells in the spreadsheet are incorrect and as a result the correct totals have not been properly set out in the spreadsheets.

As the 'open space summary' spreadsheet is a critical reference component of the financial model and other worksheets, this is a flaw that should be corrected.

Unreferenced numbers in the Hills Shire CP12 Works (March 2011) plan

In the 'indexed costs' worksheet of the CP12 Works (March 2011) spreadsheet there are a series of costs for 'open space', 'transport', 'community facilities', 'administration' and 'water management' just entered in, without any explanation or reference.

The totals of these costs vary between \$40,262,688 and \$199,981,535 so they are not insignificant numbers. It is not clear they come from.

Similarly in the 'outputs' worksheet of the Financial Model CP12 (March 2011) spreadsheet, the numbers shown each year for total costs and revenues in the 'scenario summary' for each different scenario modelled have been manually entered in, are not calculated by formula and are not derived from any other cell in either supporting worksheets or the financial model.

3. Conclusions

3.1 Essential works list

The infrastructure items listed in THSC's submission to IPART in our opinion meet the definition of 'essential works'.

The item 'Expansion of Rouse Hill Regional Centre library' (item BRCF4) is unusual in that it constitutes acquisition of land in stratum (that is, within a building). If IPART accepts the view that a strata lot is considered to be 'land' then the item would be essential works.

Plan administration activities are not included as essential works in the 2010 Practice Note, however the Department of Planning and Infrastructure has advised IPART that these may be regarded as essential works.

The 2010 Practice Note should be consequently amended to clarify these definitional matters.

3.2 Nexus

Studies have been undertaken to substantiate the range and type of infrastructure likely to be demanded by BRRA development. The studies confirm a need for a range of new and upgraded local infrastructure to serve the development, most of which is entirely generated by the development.

Population projections for the BRRA have fluctuated but have generally been revised downwards by about 20% since when the infrastructure studies were first carried out. It is likely, and indeed appropriate, that further revisions are made based on latest information so that CP12 infrastructure scope remains relevant and does not become under- or over-sized. To ensure that infrastructure needs and contributions receipts remain on track during the life of BRRA development, THSC should undertake regular reviews of the plan (as required under Part 12 of CP12).

A key concern with any further downward revisions of development population is that, without commensurate contraction of the infrastructure schedule, contributions receipts will not meet plan's financial obligations.

THSC did, in late 2006, reconsider open space and recreation needs in light of a downward revision of 3,000 residents in the BRRA population projections and found that the open space schedule should not be altered as a result. This review was absorbed into the draft plan which was then publicly exhibited and adopted by THSC.

Using limited comparison criteria it appears to us that the open space provision is reasonable despite the now-anticipated lower population. We consider however that there must be a component of drainage land that will serve a passive recreation function in the BRRA, and some limited adjustment of the open space acquisition schedule could be undertaken to achieve a reduction in the contribution rate without, in our view, any material loss of resident amenity.

The review also examined potential spare capacity in existing facilities, particularly in relation to Kellyville Park. We have not been provided with sufficient information to determine whether that parkland could be more efficiently developed and therefore offset some need for recreation facilities elsewhere in BRRRA. It is likely given the park's current usage level however that any offset would be minor.

The contribution rates in CP12 have not in our opinion taken adequate account of the planned non residential development and its demand for the CP12 infrastructure.

3.3 Apportionment

Infrastructure costs in section 94 contributions plans must be fairly apportioned to ensure that a charge under section 94 only ever reflects the demands of development and not other demands.

Infrastructure costs in CP12 have been either apportioned fully or partially to BRRRA development.

Most items have been deemed by CP12 to be entirely generated by anticipated BRRRA development and their full cost is assumed to be met by that development. On the evidence provided, we do not dispute this conclusion.

Essential works costs in CP12 to be partially met between BRRRA development and THSC are items situated outside the development area. In respect to these items we find:

- insufficient evidence has been provided to justify such a large apportionment rate for the proposed Norwest Boulevard / Solent Circuit traffic signals;
- the apportionment rate for the Solent Circuit / Fairway Drive roundabout as reasonable; and
- the apportionment rate for the regional library land needs to be adjusted downwards to reflect the updated BRRRA and North Kellyville shares of additional population occasioning the need for the facility.

With regard to apportionment of infrastructure demands and costs to planned BRRRA non residential development, we recommend that the residential development contribution rates in CP12 for transport and drainage facilities be adjusted to account for this. Suggested apportionment rates are described in Table 2.7.

We note THSC's intention to prepare a section 94A levy plan to apply to other non residential developments in the LGA, and suggest that such mechanism could be used to address BRRRA non residential development impacts on CP12 infrastructure.

3.4 Infrastructure timing

CP12 assumes three timing thresholds for the provision of infrastructure: up to 4,600 residents, 4,600 to 9,400 residents, and after 9,400 residents.

The early years of land and works implementation have not tracked with the plan's infrastructure timing statements. In fact, THSC has focused entirely on land acquisition and no works so far have been delivered. This plan re-prioritisation is not unusual but the plan should be amended to show the changed priorities.

Our review has also found that the life of the plan will likely extend well beyond 2021.

The plan should be amended to show:

- updated year by year demand projections;
- updated and clearer priorities descriptions; and
- the current and updated future cash position of the plan, including the extended plan delivery timeframe.

The issue of whether any community facilities in a contributions plan can be delivered in a reasonable time has also emerged from our review. The essential works list only includes community facilities land. A complete community facility cannot be provided at the time that those demanding the facility require it unless the timing of the funding of the works component is also known. This effects one essential works item in CP12: the Rouse Hill Regional Library enlargement.

3.5 Infrastructure costing

Costs for land required under CP12 were compiled by land valuers appointed by THSC.

There is now much more certainty around land costs than when the plan commenced. This is due to THSC's proactive policy of initiating land acquisition early in the development timeframe. As a result, a majority of the required land has now been, or is being, purchased at a cost that is less than that envisaged by the appointed valuer.

Despite the obvious advantages, strategic acquisition of infrastructure land is not commonly carried out by councils involved in providing infrastructure to urban release areas. THSC has chosen to internally borrow from other contributions plan funds so as to fund significant land acquisitions. Such funds must be paid back to those plans. Provided there is a strategy in place to replenish the borrowed funds, THSC should be commended for its initiative.

In the case of the stratum land for the Rouse Hill Library expansion, we understand that that acquisition is yet to be made. The date of the most recent valuation for that land is October 2004 at a time when the surrounding land was not yet developed. A fresh valuation should be undertaken to reflect the fact that the Rouse Hill Centre has now been operating for several years and relevant data are likely to be available to inform an updated and more accurate acquisition cost.

Costs for works required under CP12 were compiled by THSC quantity surveyors or by THSC staff.

Detailed cost worksheets were provided for open space embellishments. No costs details apart from totals in the CP12 were provided for any of the other works categories (although some breakdowns were provided for drainage basins very late in the review).

As a result we were able to undertake an examination of only the open space works. The estimated costs of the open space essential works are comparable to costs included in similar plans for similar facilities elsewhere. While the results of a comparison should be treated with caution, in our view they are sufficient to conclude the costs as being reasonable.

It has been common practice for councils over the last decade to enter into commercial arrangements with street furniture providers that allow bus shelters to be provided free of cost in exchange for the provider receiving shelter signage advertising revenue. We recommend that consideration should be given to the exclusion of bus shelters from CP12 on the basis that their provision may be achieved by other means.

We reviewed the on-costs THSC has applied to the works included in CP12. On-costs include design, management and contingency amounts added to base infrastructure costs.

A standard 45% rate of on-costs is applied to infrastructure works in CP12, except for the relatively minor drainage works program (where the rate is 40%). This level of on-costs:

- is at the higher end of the spectrum when compared to other Sydney greenfield contributions plans;
- is high when considering many of the works items are not unusual, one-off or specialised facilities; and
- is high given that THSC staff would have had many years' experience in parks and traffic facility design and construction, meaning that contingency and design allocations could reasonably be less on many items.

3.6 Financial model

CP12 is based on the use of a net present value financial model prepared for THSC by consultants Price Waterhouse Coopers.

We found reviewing the operation and overall integrity of the model difficult, evidenced by the difficulty in tracking formulas between the linked spreadsheets and worksheets; there being circular references between worksheets; and there being unreferenced numbers. The model should be able to be read and understood by members of the general public with normal educational backgrounds. This is not the case now.

The CP12 financial model uses an extremely low discount rate that does not reflect the likelihood that funding costs would significantly increase at least once during the life of the plan. If THSC's funding costs rise, with the low 5.71% nominal discount rate used, then it could face a shortfall in funds towards the end of the plan because it has under-recovered during the early years.

The model utilises various cost escalation rates. Our review concluded the following:

- The annual land escalation rate (7.1%) applied to the remaining land to be acquired under the plan is probably excessive.
- A capital costs escalation factor (4%), given there would likely be a considerable competition to construct low complexity assets, is considered excessive.
- The cost of debt assigned by the model for annual interest calculations is shown at a standard 5.51% for the entire life of the plan, which appears to be overly optimistic view as it assumes financing costs will stay consistently at present low levels until the mid 2020s.

Attachment A

Specification of Services

Specification of services for the review of The Hills Shire Council (THSC)

CP No.12 Balmoral Road Release Area

Background

On 4 June 2010 the NSW Government announced a package of measures to increase land supply. The Government also announced a number of new functions for IPART in regulating local government in NSW. These functions include IPART reviewing councils' Contributions Plans.

Late in 2010 the Department of Planning and the Division of Local Government released a number of documents to provide guidance to local councils. These include:

- ▼ Department of Planning, Practice note for assessment of contributions plans by IPART, November 2010
- ▼ Division of Local Government, Guidelines for the preparation of an application for a special variation to income in 2011/2012, December 2010
- ▼ Department of Planning, Priority Infrastructure Fund, Funding Guidelines, December 2010

These documents assist councils in preparing developer contributions plans and applying for special rate variations and priority infrastructure funding (PIF). They require councils to submit plans to IPART for review if:

- ▼ it is a new plan which proposes a contribution level above the relevant cap
- ▼ it is an existing development contributions plan that proposes a contribution level above the relevant cap for those councils that are seeking PIF, or
- ▼ it is an existing development contributions plan that proposes a contribution level above the relevant cap for those councils that are seeking a special variation to general income.

IPART's review is to determine whether the infrastructure included in the plan is consistent with the Essential Works List, whether the costs of that infrastructure are reasonable and whether the contributions plan complies with the Practice Notes and the Regulations.

IPART will evaluate contributions plans against the following main criteria and advise whether:

1. The public amenities and public services in the plan are on the "Essential Works List" as identified within the Practice Note¹
2. The proposed public amenities and public services are reasonable in terms of nexus (the connection between development and the demand created)
3. The proposed development contribution is based on a reasonable estimate of the cost of the proposed public amenities and public services
4. The proposed public amenities and public services can be provided within a reasonable timeframe
5. The proposed development contribution is based on a reasonable apportionment between existing demand and new demand for the public amenities and public services

¹ Department of Planning, *Local Development Contributions Practice Note - for the assessment of local contributions plans by IPART, November 2010*, section 3.4.2.

6. The council has conducted appropriate community liaison and publicity in preparing the contributions plan
7. The plan complies with other matters IPART considers relevant.

The services

The consultant is to assist IPART by assessing specific aspects of The Hills Shire Council's Contributions Plan 12 (Balmoral Road Release Area) and report to IPART. The consultant is to assess the information provided by THSC against the above criteria including any additional information THSC may provide in response to the questions listed in Appendix A of the *Local Development Contributions Practice Note - for the assessment of local contributions plans by IPART*.

Specifically, the consultant will be required to perform the following tasks:

1. Assess THSC's contributions plan and any other information that THSC has provided to IPART to determine whether the public amenities and public services included in the contributions plan are on the "Essential Works List" as defined in the *Practice Note for the assessment of Local Contributions Plans by IPART*.
2. Assess THSC's contributions plan and any other information that THSC has provided to IPART to determine whether there is nexus between the development in the area to which the plan applies and the public amenities and public services identified in the plan.
3. Assess THSC's contributions plan and any other information THSC has provided to IPART to determine whether the contributions for public amenities and public services is based on a reasonable apportionment between new and existing demand for those amenities and services. In doing so, the consultant will need to consider, amongst other things:
 - a) The kinds of public amenities and services that the development will create a demand for
 - b) Whether the information on demand is reliable and up to date
 - c) Whether the location of the services is appropriate for the development
 - d) Whether the estimates of population change are realistic
 - e) Whether the amenities and public services are to serve only the new development or the new development and the existing community
 - f) Whether the new demand could be accommodated within existing public amenities and services and, if so, how costs have been apportioned
 - g) Whether the public amenities and public services would be required if the development did not proceed.
4. Assess THSC's contributions plan and any other information that THSC has provided to IPART to determine whether THSC can provide those services in a reasonable timeframe. In doing so, the consultant will need to consider, amongst other things:
 - a) whether the timeframe for the provision of the amenities and services is relevant for those kinds of amenities and services
 - b) whether the public amenities and services will be provided at a time that those demanding the services require them

5. Review the public amenities and public services included within THSC's contributions plan and assess whether the estimate of costs of those services is reasonable. In doing so, the consultant will need to consider, amongst other things:
 - a) How the cost estimates within the plan were developed, and whether the costs are up-to-date
 - b) Whether the cost estimates include all of the costs required to bring the public amenities and services into operation
 - c) Whether council has engaged relevant professionals to provide an independent assessment of the costs of providing the public amenities and services
 - d) Whether council has taken CPI or other measures of cost inflation into account and the assumptions and calculations made
 - e) Whether council has used an NPV methodology and, if so, whether the discount rate is reasonable

Activities required

In order to complete the services the consultant will be required to undertake, as a minimum, the following activities:

1. Review the information provided by THSC
2. Identify any additional information required from THSC to complete the review
3. Liaise with IPART Secretariat and council officers to obtain any additional information
4. Meet with IPART Secretariat to outline the findings, and
5. Prepare a report that addresses all the items in 'The Services' above and any other issues that have arisen throughout the review

The Consultant will meet the following timing requirements for the identified Activities:

Table 1 Project timeline

Month	Date	Activity
February 2011	14	Begin review
February 2011	18	Identify further information required
February 2011	28	Meet with IPART Secretariat to outline findings
March 2011	4	Final report to be provided

The consultant will be required to provide two printed copies of the final report, as well as in PDF format suitable for web publication.

The consultant's report should clearly state the consultant's assessment against each of the criteria and should explain why the consultant has come to that view. Where the consultant believes that the plan does not satisfy a particular criterion the consultant must provide full and detailed reasons to justify the findings.

Attachment B

Advice from the Minister for Planning to
THSC

Mr Dave Walker
General Manager
The Hills Shire Council
PO Box 75
CASTLE HILL NSW 1765

Y09/1910

Attention: Stewart Seale

Dear Mr Walker

I refer to Council's letter dated 27 February 2009 containing an application for an approval under clause 4 of my direction under s94E of the Environmental Planning and Assessment Act 1979 (Act) dated 13 January 2009 (Direction).

I have considered the Council's application and the recommendations of the Local Contributions Review Panel and have decided to give the Council the attached further directions under s94E and s94EAA of the Act (Further Directions).

I may decide to revoke or substitute the Further Directions at any time. In that regard, the Council should be aware that I would consider doing so if the administrative arrangements set out in the Notes in the Further Directions are not complied with to the satisfaction of my Department.

My summary reasons for issuing the Further Direction applying include:

- The development of the areas to which *Contributions Plan No. 2 - West Pennant Hills Valley* and *Contributions Plan No. 3 - Crestwood* apply is almost complete. It is therefore considered appropriate that Council develop a strategy to repeal those plans and incorporate the matters covered by those plans into a new contributions plan applying to established urban areas. This provides an opportunity for Council to consider the efficacy of the use of s94A of the Act using various fixed rates as an alternative in respect of that land. It is considered that while Council completes this task, it is reasonable for Council to be exempted from the maximum amount set out in the Direction in relation to section 94 monetary contributions for residential development on land to which these Plans apply.
- The *Kellyville/Rouse Hill Contributions Plan No. 8A - Open Space and Recreation* has a significant financial deficit arising from the application and administration of the plan, which Council is working to address (effectively expanding councils contribution to the provision of infrastructure). It is noted that a significant Planning Agreement has been entered in respect of land within the area to which that plan applies. Furthermore, it is noted that only 15% of the original development potential of the land to which that plan applies remains. Accordingly, it is considered

reasonable for Council to be exempted from the maximum amount set out in the Direction in relation to development consents requiring monetary contributions for residential development on land to which that plan applies.

- It is considered that the funding of the acquisition of land and the underlying high land values in the Council's area are the reasons for the comparatively large contributions that are required under the Council's contribution plans. However, it appears that the discounting model used by Council exacerbates the cost of contributions, as the model is heavily influenced by a number of assumptions. In particular, it is considered that contributions required under *Contributions Plan No. 12 – Balmoral Road Release Area (CP12 Balmoral Road)* have been significantly affected by the use of that model. It is therefore considered appropriate that the Council undertake a review of CP12 Balmoral Road including consideration of the proper basis under s94 of the Act for apportioning the cost of public amenities and public services between residential and commercial development, the method by which land required for open space is valued, and whether land required by Sydney Water for drainage purposes serves to reduce to the demand for land for open space purposes. While the review of CP12 Balmoral Road is completed it is considered reasonable for Council to be exempted from the maximum amount in the Direction in relation to development consents requiring monetary contributions for residential development on land to which that Plan applies.
- As the land to which *Contributions Plan No. 10 – Roadworks (Bannerman Road)(CP10 Bannerman Road)* applies serves a through traffic function, it is not appropriate to levy 100% of the costs of the road to future development. Further, it is considered that development on the land to which CP10 Bannerman Road applies is unlikely to occur. Accordingly, it is appropriate that CP10 Bannerman Road be repealed.

Should you have any further enquiries about this matter, I have arranged for Mr Brett Whitworth, Local Contributions Review Panel Secretariat, to assist you. Mr Whitworth may be contacted on telephone number (02) 4224 9455.

Yours sincerely



The Hon Kristina Keneally MP

10 JUL 2009

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

DIRECTIONS UNDER SECTION 94E AND SECTION 94EAA

PART 1 – DIRECTION UNDER SECTION 94E

1. INTRODUCTION

- 1.1. I, the Minister for Planning (**Minister**), being the Minister administering the *Environmental Planning and Assessment Act 1979 (Act)*, having considered an application from the Council under clause 4 of the Existing Direction, pursuant to section 94E of that Act:
- (a) direct the Council to comply with the requirements set out in this Direction;
 - (b) revoke any previous direction under section 94E to the extent of any inconsistency with this Direction.
- 1.2. This Direction takes effect seven (7) days after the date of this Direction.
- 1.3. Notes do not form part of this Direction.

2. DEFINITIONS

- 2.1. Words and expressions used in this Direction have the same meaning as in the Act except where otherwise indicated.
- 2.2. The following definitions apply in this Direction:
- 'Contributions Plan'** means a contributions plan referred to in section 94EA of the Act.
- 'CP2 West Pennant Hills'** means the Contributions Plan titled *Contributions Plan No. 2 – West Pennant Hills Valley* dated August 2002 as in force at the date of this Direction.
- 'CP3 Crestwood'** means the Contributions Plan titled *Contributions Plan No. 3 - Crestwood* as in force at the date of this Direction.
- 'CP8 Kellyville-Rouse Hill'** means the Contributions Plan titled *Kellyville/Rouse Hill Contributions Plan No. 8A – Open Space and Recreation* dated December 2001 as in force at the date of this Direction.
- 'CP10 Bannerman Road'** means the Contributions Plan titled *Contributions Plan No. 10 – Roadworks, (Bannerman Road)* dated April 1999 as in force at the date of this Direction.
- 'CP12 Balmoral Road'** means the Contributions Plan titled *Contributions Plan No. 12 – Balmoral Road Release Area* dated September 2006 as in force at the date of this Direction..
- 'Council'** means The Hills Shire Council in its capacity as a *consent authority* as defined in section 4(1) of the Act.
- 'Development Consent'** means consent under Part 4 of the Act to carry out development and includes a complying development certificate.

'Dwelling' means a room or suite of rooms occupied or used or so constructed or adapted as to be capable of being occupied or used as a separate domicile.

'Exempt Contributions Plans' means Crestwood Contributions Plan, Balmoral Contributions Plan, Kellyville Contributions Plan, and West Pennant Hills Contributions Plan.

'Existing Direction' means my direction under section 94E of the Act dated 13 January 2009.

'Interim Exemption Direction' means my direction under section 94E of the Act dated 28 April 2009.

'Monetary Contribution' means a monetary contribution required by a condition of Development Consent imposed under s94(1) or s94(3) of the Act, excluding any indexation provided for in the condition.

'Residential Development' means development, or any part of development, for the purpose of one or more Dwellings.

Note:

1. Development is defined in section 4(1) of the Act to include, amongst other things, *the subdivision of land* as defined in s4B of the Act.

'The Hills CPs Land' means the land to which the following Contributions Plans apply:

CP2 West Pennant Hills
CP3 Crestwood
CP8 Kellyville-Rouse Hill
CP12 Balmoral Road

3. INTERIM EXEMPTION DIRECTION DOES NOT APPLY TO THE COUNCIL

- 3.1. The Interim Exemption Direction ceases to apply to the Council.

4. DIRECTIONS TO THE COUNCIL

- 4.1. The Existing Direction does not apply to a Development Consent requiring Monetary Contributions in respect of Residential Development on The Hills CP Land.
- 4.2. There are no public amenities or public services in respect of which contributions under s94 of the Act may be imposed under CP10 Bannerman Road.

Notes:

1. This Direction may be revoked or substituted at any time by the making of a further direction under s94E of the Act.
2. The Council is to undertake a review of CP12 Balmoral Road and amend the Plan consequent upon that review by the end of 2009 and a progress report is to be provided to the Department of Planning within three (3) months of the date of this Direction. The review, amongst other things, is to address:
 - a. the proper basis under s94 of the Act for apportioning the cost of public amenities and public services between residential and commercial development;
 - b. the method by which land required for public open space purposes is valued; and
 - c. whether land required by Sydney Water Corporation for drainage purposes serves to reduce the demand for land for public open space purposes.
3. The details of any proposal by the Council to use a discounting model as the basis of calculating contributions for the purposes of the amended CP12 Balmoral Road must be notified to the Department of Planning by the end of August 2009 and be approved by the Department.

4. The Council is to develop a strategy to repeal CP2 West Pennant Hills and CP 3 Crestwood and incorporate the matters covered by those plans into a new Contributions Plan applying to established urban areas. In that regard, it is strongly recommended that the new Contributions Plan authorises contributions under s94A of the Act, with a levy to be struck at a level appropriate to the circumstance and justified in a submission to the Department. The strategy is to be submitted to the Department of Planning for consideration by the end of 2009 and a progress report is to be provided to the Department of Planning within three (3) months of the date of this Direction.

PART 2 - DIRECTION UNDER SECTION 94EAA

1. INTRODUCTION

- 1.1. I, the Minister for Planning (Minister), being the Minister administering the *Environmental Planning and Assessment Act 1979 (Act)*, pursuant to section 94EAA of that Act:
- (a) direct the Council to comply with the requirements set out in this Direction;
 - (b) revoke any previous direction under section 94EAA to the extent of any inconsistency with this Direction.
- 1.2. This Direction takes effect seven (7) days after the date of this Direction.
- 1.3. Notes do not form part of this Direction.

2. DEFINITIONS

- 2.1. Words and expressions used in this Direction have the same meaning as in the Act except where otherwise indicated.
- 2.2. The definitions used in Part 1 of this instrument apply in this Part.

3. DIRECTION TO COUNCIL

- 3.1. The Council is directed to repeal CP 10 Bannerman Road with effect on or before 31 August 2009 by publication of a notice in accordance with clause 32 of the *Environmental Planning and Assessment Regulation 2000*.


MINISTER FOR PLANNING

DATE: 10/7/09

Notes:

1. This Direction may be revoked or substituted at any time by the making of a further direction under s94EAA of the Act.
2. Clause 33 of the *Environmental Planning and Assessment Regulation 2000* sets out the following procedure relating to the repeal of a contributions plan under clause 32:
 - 33 *Procedure for repealing a contributions plan by public notice*
 - (1) *Before repealing a contributions plan by public notice, the council must give public notice in a local newspaper:*
 - (a) *of its intention to repeal the contributions plan, and*
 - (b) *of its reasons for doing so.*
 - (2) *Publication of the notice of intention must take place at least 14 days before publication of the notice of repeal.*

- (3) *The repeal of a contributions plan by public notice in a local newspaper takes effect on the date of publication of the notice.*
-

Attachment C

THSC response to Minister's advice

5. Data / calculations / worksheets to justify the sizing and costing of the stormwater drainage facilities included in CP12.

Council Response: Refer to item 4 above.

6. What has Council done, if anything, in response to the Review Panel findings and Minister's letter of July 2009?

Council Response: The findings of the Review Panel and Minister's Direction dated July 2009 required the following to be met:

- *Council to advise of its strategy to repeal CP 2 and CP3 with the incorporation of matters covered by these plans within a S94A fixed rate levy.*

Action: Council has notified its intention to repeal these plans and replace with a fixed rate S94A Contributions Plan. Exhibition of the draft S94A plan occurred from the 15 March to 15 April 2011.

- *Council repeal CP 10 Bannerman Road with effect by end August 2009.*

Action: Council have repealed this plan effective from 29 September 2009.

- *The Council is to undertake a review of CP12 Balmoral Road and amend the Plan consequent upon that review by the end of 2009 and a progress report is to be provided to the Department of Planning within three (3) months of the date of this Direction. The review, amongst other things is to address:*

- a) The proper basis under S94 of the Act for apportioning the cost of public amenities and public services between residential and commercial development.*

Action: For the reasons outlined in Council's earlier response to IPART, the apportionment of costs of public amenities and services between residential and commercial development was not envisaged when CP12 was prepared. The proportion of land zoned for retail or employment use is approximately 7.5% of the total land area. As traffic works represent approximately 15% of the total works program, the savings to be achieved by apportioning costs to commercial development would be minimal and increase timing risk to Council.

Council considered applying a levy to commercial development when preparing the Contributions Plan for the North Kellyville Precinct. Following exhibition, Council resolved not to proceed with a levy on commercial development on the following grounds:

- Complexity of apportioning demand between commercial and residential development;
- Practical use of a common unit to establish nexus and demand, particularly for open space and community facilities;
- Timing risk of revenue versus planned expenditure; and
- Impact on the feasibility of both residential and commercial development.

As an alternative to a traditional Contributions Plan, Council resolved on 22 February 2011 to exhibit a shire wide S94A Contributions Plan that will apply to the employment lands and transit centre within the BRRA. Exhibition of this plan commenced on 15 March 2011 and concluded on 15 April 2011. A report detailing the outcomes of the exhibition and recommendation has not been scheduled.

b) The method by which land required for public open space is valued.

Action: The method by which land is valued was detailed within a letter issued to the Minister for Planning dated 22 December 2009 as provided in Attachment 3. No response was received.

c) Whether land required by Sydney Water Corporation for drainage purposes serves to reduce the demand for land for open space purposes"

Action: A response to the utility of drainage land for open space purposes was detailed within a letter issued to the Minister for Planning dated 22 December 2009 as provided in Attachment 3. No response was received.

3. The details of any proposal by the Council to use a discounting model as the basis of calculating contributions for the purpose of the amended CP12 Balmoral Road must be notified to the Department of Planning by the end of August 2009 and be approved by the Department of Planning.

Action: Council formally notified the Department of Planning on 31 August 2009 of Council's intention to apply the NPV methodology. This resulted in Council engaging the services of PricewaterhouseCoopers to review the NPV model applied to CP12. The outcome of this process was the development of an updated financial model and guidance note intended to ensure that the assumptions and calculations applied were more transparent.

A letter to the Department of Planning outlining Council's progress in accordance with the three month timeframe is provided in Attachment 3. Whilst the Department of Planning were involved in workshop meetings with PricewaterhouseCoopers, a formal approval by the Department never occurred.

Council is of the opinion that the updated model addressed concerns regarding the application of NPV model. In particular, the model demonstrates that present value of costs and revenue are neutral irrespective of whether or not the model is based on real or nominal values.

7. Information on the rate of open space provision in areas neighbouring the BRRA.

Council response: Please refer to the spreadsheets provided in Attachment 4 that breaks down the active / passive provision per suburb. Population figures are based on the 2006 census.

Attachments

1. Valuation report 2004
2. Water management cost assessment and study
3. Copy of Council's letter to Minister for Planning
4. Open space provision

B The Hills Shire Council's response to consultants' review of CP12 and CP13

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23 May 2011

Mr Michael Seery
Local Government Independent
Pricing and Regulatory Tribunal
PO Box Q290
QVB Post Office
Sydney NSW 1230

Dear Mr Seery

RE: DRAFT IPART CONSULTANT REVIEW OF CONTRIBUTIONS PLAN NOS.12 and 13

I refer to the draft consultant reports for Contributions Plan Nos.12 and 13 and request for Council's comment.

Please find enclosed a table outlining our response to issues raised. To enable IPART to determine an appropriate rate, Council will submit updated financial models that address the issues raised in the consultants reports.

Should you have any questions in relation to Council's response, please contact me on 9843 0105.

Yours faithfully



Michael Edgar
GROUP MANAGER STRATEGIC PLANNING

Attachments

1. THSC Response to draft consultants reports for CP Nos.12 and 13

Contributions Plan No.12 – Balmoral Road Release Area (Reviewed by NewPlan Urban Planning Solutions)		
Item	Issue	Comment
1	The item Expansion of Rouse Hill Regional Centre library (item BRCF4) is unusual in that it constitutes acquisition of land in stratum (that is, within a building). If IPART accepts the view that a strata lot is considered to be land then the item would be essential works.	We hold the view that stratum space is considered land in the same way that land is defined by the Strata Schemes (Freehold Development) Act 1973.
2	To ensure that infrastructure needs and contributions receipts remain on track during the life of BRRR development, THSC should undertake regular reviews of the plan (as required under Part 12 of CP12).	<p>Agree.</p> <p>The SGS review of CP13 recommends that changes to the Contributions Plan be minimised. This recommendation is inconsistent with the review by NewPlan that endorses an annual review.</p> <p>As the Council applies a Nominal NPV methodology it is our intention to closely monitor the changes in the indexes and the timing of income and expenditure, applied and if they vary significantly, we would amend the plans.</p>
3	We consider however that there must be a component of drainage land that will serve a passive recreation function in the BRRR, and some limited adjustment of the open space acquisition schedule could be undertaken to achieve a reduction in the contribution rate without, in our view, any material loss of resident amenity.	<p>Agree.</p> <p>The recommendation to remove GL1, GL2 is accepted. However, GL3 was acquired in the 2006 / 2007 financial year with the adjoining land subject to an approved DA. Council has already acquired 43% of LP4 and is currently negotiating the remaining portions. The disposal of this land is constrained by the existing approved subdivision layouts that adjoin the land, community land status of the acquired open space and disadvantaged market position as only one buyer of the land exists should council be required to sell the land. Furthermore, private land dealings based on the expectation of park frontage with respect to LP4 would be affected.</p> <p>Modification to the proposed greenway link will require an amendment to the Council's LEP and DCP to redirect the cycleway as shown on page 17 of the report. A route feasibility assessment will be required prior to Council</p>

		accepting this recommendation.
4	We have not been provided with sufficient information to determine whether Kellyville Park could be more efficiently developed and therefore offset some need for recreation facilities elsewhere in BRRRA. It is likely given the parks current usage level however that any offset would be minor.	Existing playing fields at Kellyville Park service existing demand in the area. The proposal to include an additional baseball diamond at the park involves the acquisition of an additional 1.8ha of open space. As demonstrated in the concept drawings provided to IPART for this facility, there is limited opportunity to reconfigure the park.
5	The contribution rates in CP12 have not in our opinion taken adequate account of the planned non residential development and its demand for the CP12 infrastructure.	<p>Agree.</p> <p>There is no supporting discussion within Section 2.2 (Nexus) of the report to justify this conclusion. Notwithstanding, we are supportive of investigating the feasibility of allocating some traffic costs to a s94A Contributions Plan for employment and retail land in the BRRRA.</p> <p>Council recently completed the exhibition of a draft S94A Contributions Plan (CP) that applies to Contributions Plans CPs Nos. 1–4, Industrial, Employment and Rural lands. With respect to employment / commercial land in the BRRRA, separate approval from the Minister for Planning is required to apply a fixed rate levy due to the area being within a special contributions area. This process requires that a business plan be prepared for approval. Council is currently seeking approval for a fixed rate levy of 3% to be applied to the commercial centres of the North Kellyville Precinct.</p>
6	Insufficient evidence has been provided to justify such a large apportionment rate for the proposed Norwest Boulevard / Solent Circuit traffic signals.	<p>Disagree.</p> <p>Section 4.1.3 (Norwest Boulevard and Solent Circuit intersections) of the BRRRA Traffic Assessment sets out nexus and apportionment for this facility. On the grounds that Section 6 of CP12 is consistent with the traffic assessment, no further action is considered necessary.</p>
7	The apportionment rate for the regional library land needs to be adjusted downwards to reflect the updated BRRRA and North Kellyville shares of additional population occasioning the need for the facility.	<p>Agree.</p> <p>The apportionment rate will be updated as part of the current review process to reflect the updated population of CP12 and CP13.</p>
8	With regard to apportionment of infrastructure	Disagree.


	<p>demands and costs to planned BRRR non residential development, we recommend that the residential development contribution rates in CP12 for transport and drainage facilities be adjusted to account for this. Suggested apportionment rates are described in Table 2.7.</p> <p>We note THSC's intention to prepare a section 94A levy plan to apply to other non residential developments in the LGA, and suggest that such mechanism could be used to address BRRR non residential development impacts on CP12 infrastructure.</p>	<p>There is insufficient evidence to support the suggested apportionment rates. To meet the tests of nexus and reasonableness, the existing traffic report will require review to apportion trip generation between commercial and residential uses. Resources to update the previous traffic report are no longer available within Council.</p> <p>Whilst Council has indicated that a s94A plan could be applied to commercial development in the BRRR, Council would need to reconsider the most effective way of apportioning costs. This may involve a fixed rate levy or amending CP12 to levy traffic facilities on a net developable hectare basis.</p>
9	<p>The early years of land and works implementation have not tracked with the plan's infrastructure timing statements. In fact, THSC has focused entirely on land acquisition and no works so far have been delivered. This plan re-prioritisation is not unusual but the plan should be amended to show the changed priorities.</p> <p>Our review has also found that the life of the plan will likely extend well beyond 2021. The plan should be amended to show:</p> <ul style="list-style-type: none"> ▪ updated year by year demand projections; ▪ updated and clearer priorities descriptions; and ▪ the current and updated future cash position of the plan, including the extended plan delivery timeframe. 	<p>Agree.</p> <p>Council had no option as to the acquisition of Land, as the Just Terms Compensation Act directs us to buy the land, if a sale is requested, whether Contributions have been received or not.</p> <p>The amended financial model provided to IPART included actual costs and revenues to 2010/2011 and updated population and cash flow forecast based on a revised fifteen year forecast from 2010 to 2025.</p> <p>The year by year demand projections were updated to be consistent with the average rate of development in two recent release areas.</p> <p>Further amendments to reflect priorities are still required and will be made in the written plan upon review.</p>
10	<p>The issue of whether any community facilities in a contributions plan can be delivered in a reasonable time has also emerged from</p>	<p>We await advice from IPART on this matter.</p>

	our review. The essential works list only includes community facilities land. A complete community facility cannot be provided at the time that those demanding the facility require it unless the timing of the funding of the works component is also known. This effects one essential works item in CP12: the Rouse Hill Regional Library enlargement.	
11	In the case of the stratum land for the Rouse Hill Library expansion, we understand that that acquisition is yet to be made. The date of the most recent valuation for that land is October 2004 at a time when the surrounding land was not yet developed. A fresh valuation should be undertaken to reflect the fact that the Rouse Hill Centre has now been operating for several years and relevant data are likely to be available to inform an updated and more accurate acquisition cost.	<p>Agree.</p> <p>Council will incorporate the results from an updated valuation of the library strata space in the next amendment of the Contributions Plan.</p>
12	It has been common practice for councils over the last decade to enter into commercial arrangements with street furniture providers that allow bus shelters to be provided free of cost in exchange for the provider receiving shelter signage advertising revenue. We recommend that consideration should be given to the exclusion of bus shelters from CP12 on the basis that their provision may be achieved by other means.	Council is in the process of negotiating contracts for the provision of 244 bus shelters within the Hills LGA. Based on recent experience, our existing provider will only locate shelters on prominent roads that attract advertising revenue. Accordingly, Council may agree to the reduction of total shelters to exclude those on arterial roads only. This will be reflected in the updated Model that will be provided.
13	We reviewed the on-costs THSC has applied to the works included in CP12. On-costs include design, management and contingency amounts added to base infrastructure costs.	<p>Disagree, please see response to issue 5 above.</p> <p>Further to this advice, Council's recent experience in facility design and construction for open space and traffic works has been that external contracts are let for their design and construction. In this context, the cost of delivering facilities is not mitigated by Council's experience. We are</p>

	<p>A standard 45% rate of on-costs is applied to infrastructure works in CP12, except for the relatively minor drainage works program (where the rate is 40%). This level of oncosts:</p> <ul style="list-style-type: none"> ▪ is at the higher end of the spectrum when compared to other Sydney Greenfield contributions plans; ▪ is high when considering many of the works items are not unusual, one-off or specialised facilities; and ▪ is high given that THSC staff would have had many years' experience in parks and traffic facility design and construction, meaning that contingency and design allocations could reasonably be less on many items. 	<p>subject to the same market resources as the private sector and therefore on-cost assumptions should remain in-line with common practice.</p> <p>On-costs for simple items such as footpaths and bus-stops may be reviewed.</p>
14	<p>The financial model appears most convoluted, with reference cells located on different worksheets and often on other spread sheets.</p>	<p>The model was prepared by PricewaterhouseCoopers in 2010 who are highly regarded in this field. All values contained within the NPV model are contained within separate worksheets within the same file.</p> <p>The structure of the NPV model is clearly defined with input cells coloured 'blue'.</p> <p>Concern regarding the location of reference cells on different work sheets and hard codes numbers relates to the structure of the model being capable of running up to five separate contributions scenarios based on a single cashflow using the goal seek function.</p> <p>We may consider updating this model in the future, when all this investigation work has ceased.</p>
15	<p>A layperson would have no chance of deciphering how the various infrastructure costs are made up, or whether the calculation of the contribution rate is accurate.</p>	<p>Disagree.</p> <p>The model clearly demonstrates that the Contribution rate has been struck where the present value of costs equals the present values of revenues.</p>

		<p>The cash flow analysis on worksheet 'Project_CF_A' demonstrates that by using that Contribution Rate, end of plan balance of \$0 indicating that the model has solved correctly.</p> <p>The Department of Planning's Development Contributions Practice Note (July 2005) requires only that Council make the written plan available for public access. Contained within the written plan is all the relevant information required to determine how the contribution rate was calculated (ie.formula), indexes used, development profile and cash flow.</p> <p>Furthermore, the Department's Practice Note endorses the use of NPV method. The practice note does not specify whether real or nominal method is to be applied. The practice notes state that <i>"While some councils use NPV methods it requires a sophisticated understanding of NPV and cash flow modelling, and having staff with a full understanding of the model is essential."</i></p> <p>It should also be noted that this is a Plan that delivers works in the order of \$160 Million, and it is unreasonable to expect a lay person to understand all the intricacies that are involved in such complex matters. It is assumed that a Developer may need to seek professional help to understand such methods as Net Present Value calculations.</p>
16	<p>The model should be written / constructed in a much simpler way to allow easy checking and so as to enable the reader to follow how certain numbers within the model are generated. The plan and model are essentially cost budgets and should be able to be read and understood by members of the general public with normal educational backgrounds. This is not the case now.</p>	<p>The model was prepared in close consultation between Council, PricewaterhouseCoopers and the Department of Planning via Andrew Jackson (Executive Director - Strategy & Infrastructure Planning) who has previous experience in discounted cash flow modeling in setting rates at Sydney Water.</p> <p>To automate the use of the goal seek tool, the execution of formula using macros simplifies the use of the model which otherwise is a manual process.</p> <p>As stated in Issue 14 we will consider rewriting the model in the future.</p>

17	In the CP12 Works (March 2011) spreadsheet in the section "Open space summary", there are a series of circular references in Column P, "Actual total costs". This means that the formulas in a number of cells in the spreadsheet are incorrect and as a result the correct totals have not been properly set out in the spreadsheets. As the "open space summary" spreadsheet is a critical reference component of the financial model and other worksheets, this is a flaw that should be corrected.	The purpose of the "Open space summary" worksheet is to summarise the value of works by facility type for publication purposes in the written Contributions Plan. This worksheet is not referenced by the financial model and was not updated as part of the March 2011 update. This sheet will be updated prior to publishing an updated Contributions Plan.
18	In the "indexed costs" worksheet of the CP12 Works (March 2011) spreadsheet there are a series of costs for "open space", "transport", "community facilities", "administration" and "water management" just entered in, without any explanation or reference.	This worksheet may be disregarded and has no relevance to the financial model. The updated model will not include this worksheet.
20	The CP12 financial model uses an extremely low discount rate that does not reflect the likelihood that funding costs would significantly increase at least once during the life of the plan. If THSC's funding costs rise, with the low 5.71% nominal discount rate used, then it could face a shortfall in funds towards the end of the plan because it has under recovered during the early years.	<p>These indexes were developed in conjunction with PWC and The Department Of Planning (Executive Director - Strategy & Infrastructure Planning- Andrew Jackson).</p> <p>As we have applied a Nominal NPV model and various expenditure types indexed by different indexes, it was decided that the 10 year bond rate was the most appropriate rate to use as a discount rate.</p> <p>The contributions plan uses the ten year government bond rate as published in the Australian Financial Review. This rate reflects the yield required by investors to loan funds to governments and reflects inflation expectations and the likelihood that the debt will be repaid.</p> <p>Figure 1 below shows the change in the 10 year bond yield from January 2001 to January 2010. Regular review of the contributions plan will ensure that discount rate is updated to reflect published rates from time to time.</p>

		 <p>The review by SGS of CP13 raised no concern with respect to utilizing the ten year government bond rate. The suggested real discount rate of 7% (which is derived from the <i>NSW Government Guidelines for Economic Appraisal</i> July 2007) does not meet the relevant test of being a readily available index.</p>
21	The annual land escalation rate (7.1%) applied to the remaining land to be acquired under the plan is probably excessive.	<p>Disagree.</p> <p>These indexes were developed in conjunction with PWC and The Department Of Planning (Executive Director - Strategy & Infrastructure Planning- Andrew Jackson).</p> <p>It is appropriate that a suitable land index be applied to future costs in a nominal cash flow model. We have examined the utility of a land index tailored specifically for The Hills by Residex and compared it with the ABS Established House Price Index and Council's own acquisition records. A comparison of rates is provided in Attachment X demonstrates that the average annual growth in land values is higher in the Hills LGA than for Sydney.</p>
22	A capital costs escalation factor (4%), given there would likely be a considerable competition to construct low complexity assets, is considered excessive.	<p>Disagree.</p> <p>This recommendation is inconsistent with issue 14 above. The application of a standard construction index is applied across all capital works. Different indexes for various capital works items would result in a more complex financial model.</p>

		Rather, we would be happy to accept the recommendation put by SGS that a public source for capital indexation, such as the Australian Bureau of Statistics Producers Price Index would be preferable. Similar to land, a fifteen year average could be applied.
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Contributions Plan No.13 – North Kellyville Precinct (Reviewed by SGS Economics and Planning)		
Item	Issue	Comment
1	<p>IPART should seek further advice from the NSW Department of Planning regarding the appropriateness of inclusion in the Contributions Plan of the following embellishments:</p> <ul style="list-style-type: none"> ▪ picnic facilities ▪ BBQ facilities ▪ one share clubroom ▪ fencing to protect natural vegetation ▪ appealing water management feature linked to water feature ▪ civic space. 	<p>Agree.</p> <p>The provision of these facilities is consistent with the revised definition of base level embellishment as set out below:</p> <ul style="list-style-type: none"> ▪ Picnic facilities being seating and benches is consistent with basic park structures and equipment (park furniture) ▪ BBQ facilities is consistent with basic park structures and equipment. ▪ One shared clubroom being a change facility is consistent with basic park structures. ▪ Fencing to protect natural vegetation is considered basic landscaping. ▪ Appealing water management feature relates to the provision of constructed wetlands for the purpose of stormwater management (drainage). ▪ Civic space relates to passive open space.
2	<p>The capital cost of community facilities should be removed from the Contributions Plan. The capital cost of community facilities accounts for \$960 (7.2%) of the \$13,261 per capita contribution.</p>	<p>Disagree.</p> <p>Community Facilities are an integral part of providing services to the local communities. However we understand that these works are not considered 'essential works' as set out by the Department Of Planning, and all calculations provided will not include Community Facilities for testing the \$ 30000 cap.</p>
3	<p>Administration costs should be removed from the Contributions Plan. Administration costs account for \$48 (0.4%) of the \$13,261 per capita contribution.</p>	<p>Disagree.</p> <p>Administration costs needs to be included as it is a true cost. This recommendation is also inconsistent with the findings of the Newplan review of Contributions Plan No.12. Newplan have referenced advice from IPART dated 14 March 2011 that there is a legal precedent for a minimal amount of administration costs to be included. Council submits that administration costs are essential works and are reasonable on the grounds that they represent approximately 4% of the total value of works (base cost).</p>
4	<p>The calculation errors identified by Council</p>	<p>Agree.</p>

	should be corrected prior to any contributions revenue being collected.	<p>Financial Model will be corrected to address the value of works and an updated copy will be provided.</p> <p>The correction of the contributions plan requires Council to exhibit and adopt an amended plan. Council cannot suspend the issuing of development consents during this period. Any impact to developers arising from the calculation errors (which has not been quantified) is mitigated by the \$30,000 cap currently in force.</p>
5	Capital costs contingency should be based on an assessment of project uncertainty and risk. Council should be required to justify the adoption of 25 percent of total costs which is high by industry standards.	<p>Disagree.</p> <p>The estimation and identification of works in the Contributions Plan is based on strategic level assessment of the facility required. The assessment of site suitability is limited only to basic desktop assessment and does not consider constraints such as utilities adjustment, contamination, soil suitability, labor and materials constraints etc.</p> <p>The contingency allowance of 25% is based on the absence of detailed concept plans that consider design and site allowances. Council agrees that a contingency of 10-15% is appropriate where a full concept design has been prepared. However, as funding for this work is not available until the receipt of sufficient contributions, Council submits that the existing contingency allowance is consistent with industry practice.</p> <p>Reference is made to the publication released by the Department of Infrastructure, Transport, Regional Development and Local Government entitled "<i>Best Practice Cost estimation for Publically Funded Road and Rail Construction</i>". This publication specifies the relevant allowance for risk based on project phase as below:</p> <p>Project identification: 40% to 60% Project scoping: 25% to 40% Project development: 5 to 15% Project Delivery: Actual Cost</p> <p>In practice, as Council advances from concept design to pre-tender and contract phases the actual cost of work will become more certain. Council</p>

		would be agreeable to documenting within the Contributions Plan a process that outlines the project phase and contingency allowance applied. This would provide a more transparent process with respect to the costing of works and could be updated upon regular review of the Contributions Plan.
6	Consideration should be given to using real values in the discounted cash flow model used to calculate the contribution rate. Although using real values in the discounted cash flow model will not impact the per capita contribution rate in the first year of the Contributions Plan, it will impact on the rate in the future years.	<p>Disagree.</p> <p>Council officers have previously sought advice from PricewaterhouseCoopers (PWC), who assisted with the preparation of CP12 and CP13 regarding the merits of a real versus nominal NPV plan. PWC have advised that:</p> <ul style="list-style-type: none"> ▪ The nominal method calculates the value of contributions on a whole of life basis providing certainty to developers of the applicable rate. ▪ The real method calculates the value of Contributions as at Year 1 of the CP and requires CPI indexation to be applied to the calculated value (and development consents) on an annual basis. <p>The NPV prepared by PricewaterhouseCoopers provides the ability to compare both nominal and real methodology using the same assumptions. A copy of the Model demonstrating this will be provided. The model demonstrates no difference between using real or nominal method where all types of expenditure indexation is limited to CPI only.</p> <p>We are also concerned that the use of real values will impact on Council's ability to fund land and capital expenditure over time. Movements in CPI is not relevant to land and capital works expenditure. Therefore we would consider it more appropriate to use a nominal method.</p>
7	Contributions should be indexed annually (say 1st July) based on the Consumer Price Index at that time. This should be made explicit in the Contributions Plan.	<p>Agree.</p> <p>Revenue escalation in the Nominal Method is addressed in the PricewaterhouseCoopers NPV model in worksheet "Project_CF_A" by escalating revenue by 2.5% on an annual basis. In practice, this requires the annual contribution rate to increase by CPI as provided in the output worksheet of the model in row 37.</p>

		<p>To reflect this escalation over time, the rates schedule of the contribution plan may be updated to show future year rates (as calculated by the model) and a new section in the written plan addressing the adjustment of contributions at time of payment.</p> <p>The recommendation from SGS to apply indexation using actual inflation relies on using the real NPV method. As discussed in the previous comment, the EP&A Regulation limits indexation on issued consents to CPI only. The nominal method applied by Council calculates the value of contributions on a whole of life basis basis.</p>
8	It is also noted in this context that the Department of Planning has not provided any guidance on how the contribution caps per dwelling or per dwelling lot should be indexed. Guidance should be issued.	<p>Agree.</p> <p>Council recommends that contributions required as a condition of development consent that are capped at \$30,000 be subject to indexation.</p>
9	Changes to the Contributions Plan should be minimised so as to reduce development uncertainty and inequity.	<p>Agree.</p> <p>The Draft local development contributions guidelines (November 2009) prepared by the Department of Planning outlines in Section 7.5.2 <i>'Review and repeal of a contributions plan'</i> that best practice for plan review is approximately 3-5 years. However, plans focused on provision of infrastructure in urban release areas may require more frequent review.</p> <p>The nominal NPV method applied by Council aims to address Councils experience in other release areas where rapid escalation of costs due to inflation has caused significant funding shortfalls. We agree that an underestimation of costs due to inflation or design cost should not be incurred by future development.</p>
10	The contributions rate quoted in the Contributions Plan should be updated to 2011 dollars by using the relevant real cost indices (as discussed above).	<p>Agree.</p> <p>Council acknowledges that the value of works provided on page 4 of the Contributions Plan is based on 2008 dollars. The value of these works will be updated to 2011/2012 dollars upon the next review of the plan with additional notation to confirm the year of valuation.</p>

11	<p>The per capita contribution rate should be based on a population of 16,327 new residents rather than 15,563 new residents. This would reduce the per capita contribution. This may be offset by an increase in the cost of any additional facilities required.</p>	<p>Disagree.</p> <p>The premise for this recommendation is based on the assumption that 765 existing residents will not remain in the precinct at full development. Therefore, the total population should include the existing population for the purpose of calculation the contribution rate.</p> <p>Council has applied the methodology of discounting the existing population from the future population on the grounds a basic level of service already exists (either within or in proximity to the release area). The method is supported by the issuing of a credit for the existing lot consistent with the Development Contributions Practice Notes July 2005.</p> <p>If this is to be considered, we may need to re-evaluate the service provision which might then increase capital costs, resulting in no further savings in the Contribution rate.</p> <p>This issue is not raised in the assessment of Contributions Plan No.12 by NewPlan.</p>
12	<p>In the interests of transparency and accountability the provisions of the Contributions Plan should align with the supporting studies. This can be done in-house by Council or it can be done as a supplement to a consultant report.</p>	<p>Agree.</p> <p>No objection is raised to the preparation of an addendum to the Elton study to align its recommendations with the final adopted Contributions Plan. This work would only be undertaken in-house by Council.</p>
13	<p>The apportionment of the library cost in <i>Contributions Plan No.12 - Balmoral Road Release</i> and <i>Contributions Plan No.13 - North Kellyville Precinct</i> should be revised in line with the most recent population estimates for each area. This applies to the land component of the library cost only. As noted earlier, levies for capital expenditure on community facilities are inconsistent with the Essential Works List.</p>	<p>Agreed.</p> <p>The apportionment of the land component for the expansion of the Rouse Hill Library to reflect the most recent population forecast will be updated. A copy of the amended financial model will be provided, however will require a report to Council, exhibition and adoption to become final.</p>
14	<p>If both the Kellyville Rouse Hill and North</p>	<p>Disagree.</p>

	Kellyville precincts stand to benefit from the Samantha Riley Drive upgrade capital works, the cost of land and capital should be apportioned to each precinct.	The acquisition of land (completed) for the southern side of Samantha Riley Drive was funded by Contributions Plan No.8 – Kellyville Rouse Hill Release Area and therefore has already been apportioned.
15	An alternative apportionment of costs for the northern bridge connection to Annangrove Road should be derived. This should take account of the demand derived from the Box Hill industrial precinct as well as the residential precincts.	<p>Disagree.</p> <p>Section 3.5.4 (Proposed Transport Facilities) of the North Kellyville Contributions Plan sets out the nexus statement for the provision of bridge crossings. With respect to the bridge crossing between Ross Pace and Annangrove Road, the plan identifies that:</p> <p><i>“Demand for a northern bridge connection between Ross Place and Annangrove Road is also identified by the Traffic Report to facilitate local traffic movements and public transport provision. The traffic report recommends a two lane treatment to a collector road standard with a heavy vehicle weight limit to reduce the amount of through traffic and heavy goods vehicles generated by the Annangrove Rd Light Industrial Precinct and Box Hill Industrial and Residential Precincts.”</i></p> <p>As the connection will be weight limited, an insufficient nexus exists to apply a levy to industrial development for the provision of this facility as heavy vehicle traffic from the industrial area will use alternate routes.</p>

Attachment 1 – Comparison of change in land values in The Shills Shire Council

	ABS Index Old	ABS Index New	Growth	ABS Index Combined	Residex Hills Land Index	THSC Average Price Per Square Metre
Mar-1993	106.6			106.60	182.72	
Jun-1993	106.3	-0.28%		106.30	191.43	
Sep-1993	107.4	1.03%		107.40	190.00	
Dec-1993	107.1	-0.28%		107.10	186.06	96.20
Mar-1994	109.3	2.05%		109.30	187.28	99.67
Jun-1994	111.4	1.92%		111.40	195.09	14.52
Sep-1994	114.3	2.60%		114.30	202.70	48.71
Dec-1994	112.4	-1.66%		112.40	205.73	34.08
Mar-1995	114.9	2.22%		114.90	209.68	73.35
Jun-1995	113.2	-1.48%		113.20	210.40	75.45
Sep-1995	115.8	2.30%		115.80	218.41	0.00
Dec-1995	115.2	-0.52%		115.20	214.60	71.02
Mar-1996	115.4	0.17%		115.40	212.86	70.48
Jun-1996	116.7	1.13%		116.70	213.95	131.46
Sep-1996	117.5	0.69%		117.50	217.12	129.40
Dec-1996	118	0.43%		118.00	220.80	58.28
Mar-1997	119.4	1.19%		119.40	222.01	138.34
Jun-1997	120.5	0.92%		120.50	222.63	148.65
Sep-1997	123.6	2.57%		123.60	223.91	46.18
Dec-1997	125	1.13%		125.00	226.73	99.23
Mar-1998	130.9	4.72%		130.90	231.21	48.32
Jun-1998	134.4	2.67%		134.40	238.97	71.28
Sep-1998	133.2	-0.89%		133.20	245.69	68.58
Dec-1998	136.8	2.70%		136.80	253.33	75.09
Mar-1999	138.9	1.54%		138.90	267.86	113.42
Jun-1999	142.6	2.66%		142.60	274.04	111.77
Sep-1999	145.8	2.24%		145.80	288.61	102.12
Dec-1999	151.5	3.91%		151.50	297.61	90.73
Mar-2000	156.5	3.30%		156.50	306.67	98.87
Jun-2000	158.4	1.21%		158.40	315.47	120.05
Sep-2000	162.3	2.46%		162.30	321.35	29.45
Dec-2000	160.4	-1.17%		160.40	327.93	106.21
Mar-2001	163.9	2.18%		163.90	326.23	123.19
Jun-2001	168.4	2.75%		168.40	338.89	164.72
Sep-2001	179.1	6.35%		179.10	360.00	144.45
Dec-2001	188	4.97%		188.00	380.00	140.62
Mar-2002	196.7	75.9		196.70	386.67	105.33
Jun-2002	204.9	81.6	7.51%	211.47	386.67	120.86
Sep-2002	216.7	85.4	4.66%	221.32	396.77	126.08
Dec-2002	230.2	88.5	3.63%	229.35	421.63	287.81
Mar-2003	237.8	89.7	1.36%	232.46	457.36	181.72
Jun-2003	247.1	93.7	4.46%	242.83	487.50	215.57
Sep-2003	252.5	98.4	5.02%	255.01	565.09	291.87
Dec-2003	265.9	102.4	4.07%	265.38	607.28	253.41
Mar-2004	275.3	101.5	-0.88%	263.04	631.36	164.99
Jun-2004	271.5	97.7	-3.74%	253.20	658.32	285.06
Sep-2004	266.2	97.1	-0.61%	251.64	671.08	198.82
Dec-2004	265.9	97.6	0.51%	252.94	664.61	241.36
Mar-2005	266	95.5	-2.15%	247.49	658.33	335.00
Jun-2005	257.8	94.2	-1.36%	244.13	646.77	336.38
Sep-2005		92.7	-1.59%	240.24	633.39	433.68
Dec-2005		93.5	0.86%	242.31	634.39	344.47
Mar-2006		92.5	-1.07%	239.72	624.01	341.60
Jun-2006		94.3	1.95%	244.38	626.25	258.02
Sep-2006		94.4	0.11%	244.64	631.02	413.65
Dec-2006		94.8	0.42%	245.68	641.62	0.00
Mar-2007		94.6	-0.21%	245.16	636.75	237.87
Jun-2007		98.2	3.81%	254.49	631.67	268.92
Sep-2007		100.7	2.55%	260.97	616.74	246.79
Dec-2007		103.1	2.38%	267.19	614.24	0.00
Mar-2008		102.5	-0.58%	265.64	629.23	226.76
Jun-2008		101.1	-1.37%	262.01	655.38	0.00
Sep-2008		98.8	-2.27%	256.05	705.56	0.00
Dec-2008		97.2	-1.62%	251.90	694.58	0.00
Mar-2009		95.6	-1.65%	247.75	661.91	0.00
Jun-2009		100.3	4.92%	259.93		
Sep-2009		104.4	4.09%	270.56		
Dec-2009		109.6	4.98%	284.04		
Starting March 04						
Ending March 09						
Total Growth in 15 Years				127%	236%	128%
Average Annual Growth in 15 Years				6.02%	9.04%	6.05%

Glossary

ABS	Australian Bureau of Statistics
Contributions plan	A plan that a council uses to impose a contribution on new development to help fund the cost of providing new public infrastructure and services to support that development
CPI	Consumer Price Index
CP12	<i>The Hills Shire Council's Contributions Plan No 12 – Balmoral Road Release Area</i>
CP13	<i>The Hills Shire Council's Contributions Plan No 13 – North Kellyville Precinct</i>
CP20	<i>Blacktown City Council's Contributions Plan No 20 – Riverstone and Alex Avenue Precincts</i>
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	<i>Environmental Planning and Assessment Regulation 2000</i>
Greenfield	Undeveloped land that is suitable for urban development, usually located in the fringe areas of existing urban development and requiring significant provision of new infrastructure and services to facilitate development
IPART	Independent Pricing and Regulatory Tribunal
Nexus	The connection between the demand created by the new development, and the public facilities provided, which is assessed to ensure that equity exists for those funding the facilities
Practice Note	<i>Practice Note for the assessment of Local Contributions Plan by IPART, November 2010 (supplemented by advice from the Department of Planning regarding base embellishment)</i>

Priority Infrastructure Fund	A \$50m fund established by the Minister for Planning in 2011 to enable Councils to recover the difference (from the NSW Government) between the contributions amount contained in a contributions plan (that is assessed as being reasonable by IPART) and the relevant cap
Special rate variation	The percentage amount by which a council is granted approval to increase its maximum general income in a single year (under section 508(2) of the <i>Local Government Act 1993</i>) and for 2 to 7 years (under section 508A of the Act)