

Assessment of The Hills Shire Council's Contributions Plan No 13

North Kellyville Precinct

Local Government — Assessment
October 2011

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ACP03

The Committee members for this review are:

Mr James Cox PSM, Acting Chairman and Chief Executive Officer

Mr Stuart McDonald, Planning Consultant

Mr Stephen Lyndon, IPART Secretariat

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

Michael Seery (02) 9290 8421

Nadja Daellenbach (02) 9290 8407

Independent Pricing and Regulatory Tribunal of New South Wales

PO Box Q290, QVB Post Office NSW 1230

Level 8, 1 Market Street, Sydney NSW 2000

T (02) 9290 8400 F (02) 9290 2061

www.ipart.nsw.gov.au

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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 *Contributions Plan No 13 – North Kellyville Precinct* (CP13). The North Kellyville Precinct is a proposed residential development in Sydney's North West Growth Centre, located next to the established areas of Kellyville, Beaumont Hills and Rouse Hill.

The indicative developer contribution for this contributions plan is around \$45,000 per lot (dwelling house or dual occupancy in a subdivision), which is above the maximum contribution of \$30,000 per dwelling or residential lot applicable to CP13 according to the Minister for Planning's Direction of 15 September 2010.¹

We have assessed CP13 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 CP13 to the Minister for Planning and Infrastructure, and to the council.

¹ See Minister for Planning, *Direction Section 94E under the Environmental Planning and Assessment Act 1979*, 15 September 2010, 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 NSW Government introduced a number of amendments to the framework for contributions plans.³ These changes included:

- ▼ imposing caps on the amount that councils can levy developers – the cap is \$20,000 for established areas and \$30,000 for greenfield⁴ areas
- ▼ limiting the public amenities and services for which councils can seek a contribution to key infrastructure which the Government has specified in an Essential Works List (see section 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.⁵

IPART is required to assess the plans against the criteria in the *Practice Note for the assessment of Local 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.⁶

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 Fund⁷ or through a special rate variation under the *Local Government Act 1993*⁸

³ Premier of New South Wales, *Significant reform to local council infrastructure charges*, Media 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 A greenfield area is a yet undeveloped site needing significant infrastructure to support residential development.

⁵ See Minister for Planning, *Environmental Planning and Assessment (Local Infrastructure Contributions) Direction 2011*, 3 March 2011, Schedule 2.

⁶ Department of Planning, *Practice Note for the assessment of Local Government Contributions by IPART*, November 2010, p 4.

⁷ The Priority Infrastructure Fund is a \$50m fund established by the Minister for Planning in 2010 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.

⁸ 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*.

- ▼ contributions plans referred by the Minister for Planning and Infrastructure.⁹

1.2 Summary of The Hills Shire Council's CP13

CP13 is the contributions plan associated with development in the North Kellyville Precinct, which is a proposed residential development in Sydney's North West Growth Centre.

The council estimates that 16,300 people will live in the precinct when development is complete. This means that an additional 15,500 people will need to be supported by the infrastructure in the plan, which is expected to be completed by 2025. The contribution rate in CP13 per dwelling house or dual occupancy in a subdivision is \$45,086, which is significantly above the section 94 contributions cap per dwelling or residential lot in a greenfields site of \$30,000.¹⁰

The contributions plan was completed prior to the policy changes in June 2010 and did not consider the Essential Works List. The council has revised the plan to assist IPART's review and has excluded the items that it considers are not on the Essential Works List. The council has prioritised land acquisition and construction of capital works to align with the 3 stages of Sydney Water's servicing plan.¹¹ However, some land designated for use for community purposes has been acquired ahead of the delivery program in response to requests by landowners.

Table 1.1 summarises the revised infrastructure items and costs in CP13 listed in The Hills Shire Council's application to IPART for review.

⁹ Department of Planning, *Planning Circular PS 10-025 Development Contributions*, 23 November 2010.

¹⁰ The Hills Shire Council, *Contributions Plan No 13 – North Kellyville Precinct*, February 2010, pp 5 and 18.

¹¹ The Hills Shire Council, email to IPART, 31 March 2011.

Table 1.1 Infrastructure items in The Hills Shire Council's Contributions Plan 13 – North Kellyville Precinct (2007/08 dollars)

Works program	Description	Cost in Plan
Open space and recreation facilities	Land acquisition	72,006,194
	Capital works such as landscaping, seating, playgrounds, sporting grounds and facilities	13,203,266
Community facilities	Land acquisition (strata space)	2,260,913
Traffic and transport management	Land acquisition	5,497,665
	Facilities including arterial and collector roads, guttering, intersection work, bridges, cycleways and footpaths	49,230,077
Water cycle management facilities	Land acquisition	10,343,231
	Facilities for storm water management including constructed wetlands and gross pollutant traps	5,464,940
Administration costs	Forward planning, technical services and corporate strategist and plan preparation costs	707,785
Total		158,714,070

Source: The Hills Shire Council, *Section 94 Contributions Plan 13 – North Kellyville Precinct, Revised application form pp 4-9*, and IPART calculations.

The table shows that the major contributors to the total cost of CP13 are the costs of purchase of land for open space and recreation facilities, and the capital cost of facilities for traffic and transport management.

1.3 How we assessed CP13

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 SGS Economics and Planning to review the plan and the net present value financial model underlying the plan (SGS Economics and Planning's report is Appendix A)
- ▼ providing The Hills Shire Council with a copy of SGS Economics and Planning'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, SGS Economics and Planning'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 in relation to CP13 to the council. We have also made recommendations to the Minister in relation to issues that have arisen during our assessment of CP13 and other contributions plans.¹²

1.4.1 In relation to CP13

This section summarises our assessment of CP13. Our findings against the criteria in the Practice Note are set out in Table 1.2, our indicative assessment of the reasonable cost of CP13 is in Table 1.3 and our recommendations follow.

We consider that CP13 satisfactorily addresses the criteria in the Practice Note with the following exceptions:

- ▼ administration costs do not comply with the Essential Works List and should be removed from the cost of Essential Works in the plan
- ▼ while most base cost estimates are reasonably derived, capital cost estimates have been inflated by large contingency allowances which should be reduced
- ▼ apportionment of the cost of the Rouse Hill Regional library expansion and the Northern Bridge connection should be revised to take sufficient account of the demand which will arise from outside the area covered by CP13.

The council has used the net present value (NPV) financial 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.

¹² These are, Blacktown City Council, *Section 94 Contributions Plan No 20 – Riverstone and Alex Avenue Precincts*, December 2010; and The Hills Shire Council, *Section 94 CP12 – Balmoral Road Release Area*, September 2006.

Table 1.2 Summary of IPART's findings against the assessment criteria

Criteria	Findings
1. The public amenities and public services in the plan are on the Essential Works List	With the exception of administration costs totalling \$707,785, all works in the revised CP13 works list are consistent with the Essential Works List.
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	There is nexus between items in CP13 and the demand arising from the expected development in the North Kellyville Precinct. Provisions in CP13 for land acquisition for some recreation facilities do not align with the plan's supporting documents.
3. The proposed development contribution is based on a reasonable estimate of the cost of the proposed public amenities and public services	The costs in the plan are derived using an appropriate methodology, and base costs under the plan are reasonable, however these have been inflated an excessive contingency allowances for capital works. There may be an opportunity for the council to reduce contributions by providing some bus shelters under commercial arrangements. The cost escalation rates used in the NPV model for CP13 are high and the nominal discount rate used is low.
4. The proposed public amenities and public services can be provided within a reasonable timeframe	The proposed timing of infrastructure delivery is reasonable.
5. The proposed development contribution is based on a reasonable apportionment between existing demand and new demand for the public amenities and public services	Apportionment in the plan is reasonable for all items other than for the Rouse Hill Regional library and the Northern Bridge connection which do not take sufficient account of the demand which will arise from outside the area covered by CP13.
6. The council has conducted appropriate community liaison and publicity in preparing the contributions plan	The council has conducted appropriate community liaison and publicity in developing CP13.
7. The plan complies with other matters IPART considers relevant	N/A

Table 1.3 sets out the cost of items in CP13 and our indicative assessment of the total reasonable cost of Essential Works. As a result of our assessment we have reduced the total cost of works in CP13 by \$7,179,854 and concluded that the total reasonable cost of Essential Works in CP13 is \$151,534,216.

Table 1.3 IPART's indicative assessment of the reasonable cost of infrastructure items included in the North Kellyville Precinct Contributions Plan (2007/08 dollars)

Works program	Cost in Plan	IPART adjustment	IPART assessment
Open space and recreation facilities land	72,006,194	0	72,006,194
Open space and recreation facilities capital	13,203,266	-1,056,261 (contingency allowance reduced from 25% to 15%)	12,147,003
Community facilities land	2,260,913	0	2,260,913 ^a
Traffic and transport management land	5,497,665	-1,040,205 (re-apportionment of Northern Bridge)	4,457,460 ^b
Traffic and transport management capital	49,230,077	-3,938,406 (contingency allowance reduced from 25% to 15%).	45,291,671 ^c
Water cycle management facilities land	10,343,230	0	10,343,231
Water cycle management facilities capital	5,464,940	-437,195 (contingency allowance reduced from 25% to 15%)	5,027,744
Administration costs	707,785	-707,785 (removed as inconsistent with Essential Works List)	0
Total	158,714,070		151,534,216

^a Subject to updated population estimates for Balmoral Road Release Area which might affect the apportionment factor for the library costs.

^b Subject to the potential to apportion costs for the Northern Bridge connection on the Box Hill Industrial area.

^c Subject to the potential to apportion costs for the Northern Bridge connection on the Box Hill Industrial area and potential to arrange commercial agreements to fund bus shelters.

Note: The council has identified a number of errors and savings that will need to be updated. The net outcome will reduce the total cost of CP13 by \$0.6m.

Source: The Hills Shire Council, *Contributions Plan 13 – North Kellyville Precinct, Revised application form* and IPART calculations.

Recommendations

- 1 The council should deduct an amount of \$707,785 representing administration costs from the total costs of essential works in CP13. 27
- 2 The council should prepare an additional document (or Appendix for the plan) that describes and justifies where provisions in the plan do not correspond with the supporting documentation. 30
- 3 The council should correct the errors in works costs prior to applying for any funding for forgone contributions above the cap and, in any instance, prior to 1 January 2012. 32

- 4 The council should, where possible, continue to pursue commercial arrangements to provide bus shelters in lieu of development contributions for CP13. 32
- 5 The council should revise the allowance for contingencies for all capital works to a maximum of 15%. 34
- 6 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. 39
- 7 The council should update the apportionment factor for the Rouse Hill Regional Library expansion using the latest population estimates for CP13 and CP12. 46
- 8 The council should revise the apportionment of the land and capital costs for the Northern Bridge connection. The calculation should take into account that a significant amount of the traffic using the bridge will be generated by the Box Hill Precinct. 46

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.¹³ To date, IPART has reviewed 3 plans in 2 council areas:

- ▼ Blacktown City Council's Section 94 Contributions Plan 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 CP13, councils in general, and to the Minister for Planning and Infrastructure regarding the policy framework.

¹³ See Minister for Planning, *Environmental Planning and Assessment (Local Infrastructure Contributions) Direction 2011*, 3 March 2011, Schedule 1.

Recommendations

- 9 Councils should review their contributions plans at least every 5 years, unless a significant change in circumstances prompts an earlier review. 50
- 10 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. 51
- 11 Administration costs should be defined to include: 51
 - the costs that councils incur in preparing the contributions plan, including preparation of studies to identify the needs of the proposed development 51
 - the costs that councils incur in reviewing and updating contributions plans and managing contributions receipts and expenditures. 51
- 12 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. 53
- 13 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. 53
- 14 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. 54
- 15 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). 54
- 16 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. 55
- 17 A whole-of-government review of the requirements for open space and other land uses that sterilise land for development should be undertaken. 56
- 18 The system of recouping the cost of stormwater management works should be given further consideration in light of potential inequities between different areas. 56

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 CP13
- ▼ Chapter 4 explains our assessment of CP13 against the criteria in the Practice Note
- ▼ Chapter 5 discusses issues arising from our reviews of the contributions plans
- ▼ Appendix A is SGS Economics and Planning's report on CP13
- ▼ Appendix B contains The Hills Shire Council's response to SGS Economics and Planning'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 EP&A Act and the *Environmental Planning and Assessment Regulation 2000* (EP&A Regulation) set out how the development contributions system in New South Wales works.¹⁴ 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 the new framework by reviewing councils' 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. Before they can levy these contributions, councils are required to prepare a contributions plan.¹⁵ 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.

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.

¹⁴ *Environmental Planning and Assessment Act 1979* Division 6, ss 93C - 94EM; *Environmental Planning and Assessment Regulation 2000* Part 4, cl 25A - 38.

¹⁵ *Environmental Planning and Assessment Act 1979* s 94B.

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.¹⁶

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 included 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).

¹⁶ 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 the 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 in the contributions plans comply with the Essential Works List
- ▼ the costs of the items in the plans 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 Fund¹⁷ or funding through a special rate variation¹⁸ under the *Local Government Act 1993*
- ▼ contributions plans as otherwise determined by the Minister for Planning and Infrastructure.¹⁹

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 and Infrastructure.

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.

¹⁷ The Priority Infrastructure Fund is a \$50m fund established by the Minister for Planning and Infrastructure to enable Councils to recover the difference (from the State Government) between the contributions amount contained in a contributions plan (that is assessed as being reasonable by IPART) and the relevant cap.

¹⁸ 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*.

¹⁹ Department of Planning, *Planning Circular PS 10-025 Development Contributions*, 23 November 2010, p 2.

- 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.

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.²⁰

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 the assessment of Local Contributions Plans by IPART*, November 2010, p 6.

²⁰ 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's CP13

The Hills Shire Council has submitted its *Section 94 Contributions Plan No 13 – North Kellyville Precinct*, February 2010 (CP13) for review by IPART.

North Kellyville Precinct is a new release area of 706 ha within the North West Growth Centre,²¹ and has a net developable area of 470 ha. It is adjacent to existing developments of Kellyville, Beaumont Hills and Rouse Hill (see Figure 3.1) and is expected to provide around 5000 residential dwellings for around 15,500 new residents. Development is anticipated to be completed by 2025.

CP13 came into force on 6 July 2010. This was after the announcement of the changes to development contributions, but before the Minister's Direction and the Practice Note were issued. No contributions have been levied and the council has advised us that 99% of the development is yet to be undertaken.²²

In calculating the contributions rate in CP13, The Hills Shire Council used the net present value (NPV) model to determine today's value of future expenditures that it expects to incur.

The Minister for Planning classified the North Kellyville Precinct as a greenfield development area.²³ CP13 is therefore subject to the contributions cap of \$30,000 per lot. CP13 proposes a section 94 contribution of around \$45,000 (2007/08 dollars) per dwelling house or dual occupancy in a subdivision, significantly higher than the cap.

²¹ 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.

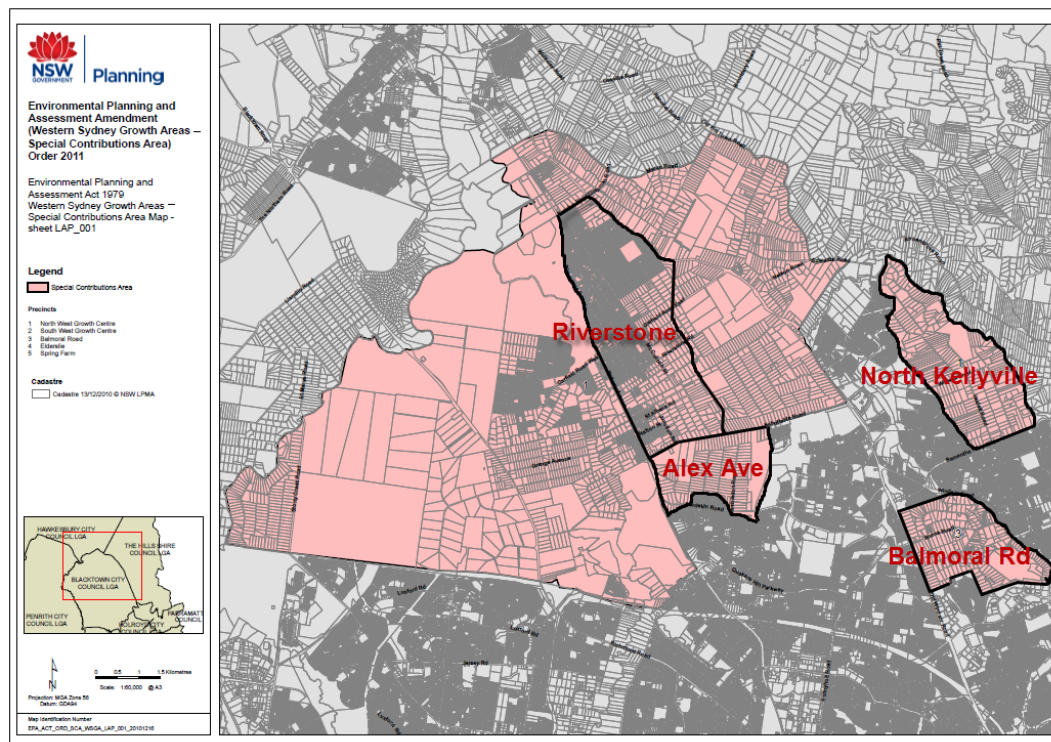
²² The Hills Shire Council, *Application for Assessment of Contributions Plan No 13 – North Kellyville Precinct*, p 10.

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

3.1 Land to which CP13 applies

The North West Growth Centre covers about 10,000 hectares located to the North West of Sydney. The North Kellyville Precinct is one of 16 precincts in the North West Growth Centre which will be progressively released for development over the next 30 years. Figure 3.1 shows the precinct in the context of the surrounding areas, highlighting other recent release areas.

Figure 3.1 Location of North Kellyville Precinct



Source: Growth Centres Commission, <http://www.gcc.nsw.gov.au/>

Figure 3.2 North Kellyville Precinct



Source: The Growth Centres Commission website, <http://www.gcc.nsw.gov.au/northkellyville-40.html>, viewed 9 August 2011.

3.2 Contribution rates in CP13

To calculate the contribution rate for each of the different types of residential development expected in North Kellyville, The Hills Shire Council used population estimates and occupancy rate statistics.

The council's consultants used preliminary population estimates that 14,300 new residents would live in the area to inform reports about the quantity of new facilities that would be required. The estimated number of new residents was subsequently updated to 15,500 by taking into account population projections for similar development areas in The Hills Shire Council area. This estimate was used for CP13. Planning and cost consultants were engaged to assist the council. The total value of the plan was estimated to be \$165,557,975.²⁴

²⁴ The Hills Shire Council, *Contributions Plan No 13 – North Kellyville Precinct*, February 2010, p 4.

Contributions have been calculated by first determining a 'per person rate' (based on expected population). The council's per capita contribution rate is \$13,261.²⁵ Together with average occupancy rates data from the Australian Bureau of Statistics (ABS), this was used to inform 'per development' rates.

The various contributions rates for different dwelling types to be levied under CP13 are shown in Table 3.1.

Table 3.1 Contributions rates for dwelling types in CP13

Category		Rate per dwelling (\$)
Subdivision, dwelling houses, dual occupancy		45,086
Integrated housing		35,804
Senior housing		17,239
Multi-unit housing	4 Bedroom	40,764
	3 Bedroom	32,446
	2 Bedroom	22,106
	1 Bedroom	12,629

Source: The Hills Shire Council, *Contributions Plan No 13 – North Kellyville Precinct*, February 2010, p 5.

No contributions have been levied so far under CP13; however, the council has already incurred some costs. IPART understands that the majority of the council's expenditure was for early land acquisitions.²⁶ As at 30 September 2010, the balance of contributions for CP13 was -\$8,023,000.²⁷

3.3 Public amenities and services in CP13

CP13 was prepared before the policy changes in June 2010, and therefore did not consider the Essential Works List. The council has revised the plan to assist IPART's assessment and has excluded the items that it considers are not on the Essential Works List.

The application that The Hills Shire Council submitted to IPART for assessment included essential works that had a total value of \$158,714,070 (2007/08 dollars).

Table 3.2 shows the types of works included in CP13, and Table 3.3 provides a summary of the cost estimates in the council's application of essential infrastructure in CP13.

²⁵ The Hills Shire Council, *Contributions Plan No 13 – North Kellyville Precinct*, February 2010, p 5.

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 The Hills Shire Council, *Application for assessment of contributions plan No 13 – North Kellyville Precinct*, p 12.

Table 3.2 Public amenities and services included in CP13

Works Category	Specifics
Open space and recreation	Land, local park embellishment, landscaping, sporting fields and amenities
Community services	Provision of a library (extension of existing library), a community centre, netball courts, an indoor sports court ^a
Traffic and transport management	Land, roads, bridge crossings, traffic signals, roundabouts, paths and cycle ways, and bus shelters
Water cycle management	Land, constructed wetlands, gross pollutant traps
Administration costs	Planning, services delivery, community development

^a The council recognises that the community centre and indoor sports court are not on the Essential Works List.

Source: The Hills Shire Council, *Contributions Plan No 13 – North Kellyville Precinct*, February 2010, pp 25-35.

Table 3.3 Estimated costs of land and works for essential infrastructure in CP13 (2007/08 dollars)

	Land acquisition	Capital works	Total
Open space	72,006,194	13,203,266	85,209,460
Community facilities	2,260,913	0	2,260,913
Traffic facilities	5,497,665	49,230,077	54,727,742
Stormwater management	10,343,231	5,464,940	15,808,170
Administration costs			707,785
Total costs	90,108,002	67,898,283	158,714,070

Source: The Hills Shire Council, *Application for assessment of contributions plan No 13 – North Kellyville Precinct* (revised).

The council has prioritised the land acquisition and capital works to align with the 3 stages of the Sydney Water servicing plan, although some land acquisition to date has been in response to requests from landowners under compulsory acquisition provisions.

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 the calculating contributions. A net present value (NPV) model can assist councils in minimising the gap between costs and funding over time

The NPV model used by The Hills Shire Council uses nominal values and adopts the following cost indices:

- ▼ The average of the annual percentage change in the 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% is applied to administration costs.

The model uses a nominal discount rate of 5.51% and assumes that the annual escalation rate for the revenues under the plan is 2.5%, the mid-point of the RBA's inflation target.

4 Assessment of The Hills Shire Council's application for CP13

IPART has assessed The Hills Shire Council's application for CP13 against the assessment criteria in the Practice Note. As part of our review, we also examined the net present value (NPV) cost model used by The Hills Shire Council to update the plan. We engaged SGS Economics and Planning to help us assess the council's application. A copy of SGS'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 the assessment made by SGS Economics and Planning, the council's response to SGS'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 development 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 have assessed the council's application for CP13 and found that it satisfies the criteria with the following exceptions:

- ▼ administration costs do not comply with the Essential Works List and should be removed from the cost of Essential Works
- ▼ while most base cost estimates are reasonably derived, capital cost estimates have been inflated by large contingency allowances which should be reduced
- ▼ apportionment for expansion of the Rouse Hill Regional Centre library and the Northern Bridge connection should be revised to take sufficient account of the demand which will arise from outside the area covered by CP13.

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 sets out IPART's indicative assessment of the reasonable cost of items in CP13.

Table 4.1 IPART's assessment of the reasonable cost of infrastructure items included in the North Kellyville Precinct Contributions Plan (2007/08 dollars)

Works program	Cost in Plan	IPART adjustment	IPART assessment
Open space and recreation facilities land	72,006,194	0	72,006,194
Open space and recreation facilities capital	13,203,266	-1,056,261 (contingency allowance reduced from 25% to 15%)	12,147,003
Community facilities, land	2,260,913	0	2,260,913 ^a
Traffic and transport management land	5,497,665	-1,040,205 (re-apportionment of Northern Bridge)	4,457,460 ^b
Traffic and transport management capital	49,230,077	-3,938,406 (contingency allowance reduced from 25% to 15%).	45,291,671 ^c
Water cycle management facilities land	10,343,230	0	10,343,231
Water cycle management facilities capital	5,464,940	-437,195 (contingency allowance reduced from 25% to 15%)	5,027,744
Administration costs	707,785	-707,785 (removed as inconsistent with Essential Works List)	0
Total	158,714,070		151,534,216

^a Subject to updated population estimates for Balmoral Road Release Area which might affect the apportionment factor for the library costs.

^b Subject to the potential to apportion costs for the Northern Bridge connection on the Box Hill Industrial area.

^c Subject to the potential to apportion costs for the Northern Bridge connection on the Box Hill Industrial area and potential to arrange commercial agreements to fund bus shelters.

Note: The council has identified a number of errors and savings that will need to be updated. The net outcome will reduce the total cost of CP13 by \$0.6m.

Source: The Hills Shire Council, *Contributions Plan 13 – North Kellyville Precinct, Revised application form* 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.²⁸ 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.²⁹

We have assessed the items in CP13 against the Essential Works List as set out in the Practice Note and the definition of base level embellishment (see Box 2.2).³⁰ The items in CP13 and their costs are in Table 3.3, and our assessment of the reasonable cost of CP13 is set out in Table 4.1 above.

With the exception of administration costs, all public amenities and services in CP13 are consistent with the Essential Works List. Table 4.2 summarises our assessment.

Table 4.2 IPART's assessment of CP13 public works and amenities against the Essential Works List^a

Works Category	Specifics	Essential Works List
Open space and recreation	Land	Yes
	Local park embellishment, landscaping, sporting fields and amenities	Yes
Community services	Land (strata space) for the extension of a library	Yes
Traffic and transport management	Land	Yes
	Roads, bridge crossings, traffic signals, roundabouts, paths and cycle ways, and bus shelters	Yes
Water cycle management	Land	Yes
	Facilities for stormwater management, including constructed wetlands, gross pollutant traps, retaining walls	Yes
Administration costs	Preparation, review and implementation of CP13	No

^a As submitted on the application form to IPART.

Source: The Hills Shire Council, *Application for assessment of contributions plan No 13 – North Kellyville Precinct* (revised), pp 4-7.

²⁸ Department of Planning, *Planning Circular PS 10-022 Reforms to Local Development Contributions*, 16 September 2010.

²⁹ Department of Planning, *Practice Note for assessment of Local Contributions Plans by IPART*, November 2010, p 7.

³⁰ The revised definition of base level embellishment has not been updated in the Practice Note. IPART has relied on a document from the Department of Planning and Infrastructure.

Because CP13 was prepared before the Essential Works List was drawn up, it includes the cost of facilities that are not on the Essential Works List. SGS has assessed the cost of all items in CP13, whether or not they are on the Essential Works List. For completeness we have included all of SGS's findings under Criterion 1. However the council included only the cost of facilities on the Essential Works List in its application. Under Criteria 2 to 5 we consider only items on the Essential Works List.

4.2.1 Cost of community facilities

SGS Economics and Planning's report

The following community facilities included in CP13 are not on the Essential Works List:

- ▼ Rouse Hill Regional Centre library (fit-out of expansion)
- ▼ Community Centre - Local Centre
- ▼ Kellyville Complex Netball Reserve
- ▼ an additional indoor court within the Bernie Mullane Sport Centre.

Removal of these facilities from the works list would result in \$960 (7.2%) being deducted from the per person contribution rate of \$13,261.

Purchase of land for open space is on the Essential Works List. However, SGS noted that the following facilities may not be on the Essential Works List:

- ▼ picnic and barbecue facilities
- ▼ one shared-use clubroom
- ▼ fencing to support natural vegetation
- ▼ appealing water management feature linked to water feature
- ▼ civic space.³¹

The Hills Shire Council's response

The council understands that some community facilities are not on the Essential Works List and should not be included in calculations relating to the \$30,000 cap. However, the council considers that these facilities should remain in the plan since they are an integral part of providing services to local communities.

³¹ SGS Economics and Planning, *Review of The Hills Shire Council CP No 13 North Kellyville Precinct Final Report*, April 2011, p 8.

The council also indicated that:

- ▼ 'picnic facilities' (seating and benches) and barbecues are consistent with 'basic park structures and equipment'
- ▼ 'one share clubroom' is a change facility that is consistent with basic park structures
- ▼ 'fencing to protect natural vegetation' is considered basic landscaping
- ▼ 'appealing water management feature' relates to providing constructed wetlands for stormwater management (drainage)
- ▼ 'civic space' relates to passive open space.³²

IPART's assessment

We agree that picnic facilities, a clubroom, fencing, appealing water management feature and civic space are included in the Essential Works List.

The revised definition of base level embellishment explicitly includes netball courts. Therefore, these facilities are on the Essential Works List.³³ The following community facilities, however, are not on the Essential Works List:

- ▼ fit-out of the expansion of Rouse Hill Regional Centre library (capital cost \$806,405)
- ▼ Community Centre - Local Centre (capital cost \$4,312,500)
- ▼ additional indoor court within the Bernie Mullane Sports Centre (capital cost \$1,725,000).³⁴

We discuss whether these items should remain in the contributions plan in section 5.7.

Other capital items in the plan are consistent with the Essential Works List.

4.2.2 Administration costs

Administration costs relate to the preparation, on-going review and implementation of a contributions plan. In CP13 these include costs for forward planning, services delivery and community development staff. Total estimated administration costs amount to \$707,785.³⁵

³² The Hills Shire Council, *Response to draft consultants reports for CP Nos 12 and 13*, p 10.

³³ The netball courts are provided for in the plan but not in the financial modelling.

³⁴ The Hills Shire Council, *Contributions Plan No 13 North Kellyville Precinct*, February 2010, p 44.

³⁵ The Hills Shire Council, *Contributions Plan No 13 North Kellyville Precinct*, February 2010, p 38.

SGS Economics and Planning's report

The administration costs included in the plan are inconsistent with the Essential Works List. SGS advised that they should be removed from the plan. This would reduce the \$13,261 per capita contribution rate by \$48 (0.4%).³⁶

The Hills Shire Council's response

The council submits that administration costs are essential works. They are reasonable since they represent approximately 4% of the total value of works (base cost). The council cites a consultant's report prepared for IPART³⁷ that refers to a legal precedent for inclusion of a minimal amount of administration costs.³⁸

IPART's assessment

Administration costs are not on the Essential Works List. We consider whether such costs should be included on the Essential Works List in future in section 5.3.

IPART's findings

- 1 All works in the revised CP13 works list are consistent with the Essential Works List, with the exception of administration costs. Administration costs in CP13 total \$707,785.

Recommendation

- 1 The council should deduct an amount of \$707,785 representing administration costs from the total costs of essential works in CP13.

³⁶ The Hills Shire Council, *Contributions Plan No 13 North Kellyville Precinct*, February 2010, p 9.

³⁷ Newplan, *Review of The Hills Shire Council CP No 12 Balmoral Road Release Area Final Report*, April 2011, p 8. See IPART, *Assessment of The Hills Shire Council's Contributions Plan CP12 – Balmoral Road Release Area*, section 4.2.

³⁸ The Hills Shire Council, *THSC Response to draft consultants reports for CP Nos 12 and 13*, p 10.

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

Nexus ensures that there is a link in contributions plans between the development and increased demand for amenities and services from the incoming population.

The Hills Shire Council estimated the future population in the North Kellyville Precinct by assessing 5 similar developments in the area. These developments are near or fully completed. The analysis took into account:

- ▼ the proportion of different types of dwellings (separate houses, townhouses and villas, flats, and seniors housing) in these areas using the 2006 census
- ▼ the average occupancy rates for each dwelling type
- ▼ the average age structure of the population
- ▼ the average family type.

The total estimated future population of the North Kellyville Precinct is 16,328 residents. As there were 765 residents in the area at 19 December 2008, an additional 15,563 residents are expected.³⁹ CP13 allocates the cost of the new facilities only to the additional 15,563 residents (see section 4.6.1 below).

The Hills Shire Council indicated that nexus for public amenities and public services contained in CP13 is based on the following planning reports:⁴⁰

- ▼ North Kellyville Community Facilities and Open Space Assessment (by Elton Consulting, prepared March 2008)⁴¹
- ▼ Baulkham Hills Council Library report (Rouse Hill Library and Community Centre Report, by AEC group, prepared 2004)⁴²
- ▼ North Kellyville Traffic and Transport Assessment (by Maunsell, prepared January 2008)⁴³
- ▼ Water Cycle Management Strategy (by Worley Parsons, prepared December 2008).⁴⁴

SGS Economics and Planning's report

SGS considers that these reports demonstrate nexus between the relevant development in the area to which the plan applies, and the public amenities and public services in CP13.

³⁹ The Hills Shire Council, *Contributions Plan No 13 North Kellyville Precinct*, February 2010, p 16.

⁴⁰ With the exception of the Library report, these were commissioned by the Growth Centres Commission. These reports considered a precinct Layout Plan, and the Elton Consulting and Maunsell reports used an initial projected population of 14,300.

⁴¹ The Hills Shire Council, *Contributions Plan No 13 North Kellyville Precinct*, February 2010, p 24.

⁴² *ibid*, p 28.

⁴³ *ibid*, p 31.

⁴⁴ *ibid*, p 35.

SGS accepted the council's future population estimate. They noted that the provision of open space and facilities (based on Elton Consulting's report) was based on a total population estimate of 14,300, which was made in 2008. However, the total population estimate has subsequently increased to 16,327 (15,563 additional residents). This may require additional facilities to be provided.⁴⁵

The recommendations of the North Kellyville Traffic and Transport Assessment and the Water Cycle Management Strategy were adopted by the council for CP13. However, SGS observed that the amounts of land to be acquired for some sports facilities in CP13 were not consistent with the indicative land requirements in the supporting document (the Elton Consulting report). SGS recommended that CP13 should be revised to align with the supporting studies. The work should be done either by the council or as a supplement to the consultant's report.⁴⁶

The Hills Shire Council's response

The council has no objection to preparing an addendum to the Elton Consulting study in order to align the contributions plan with the report's recommendations.⁴⁷

IPART's assessment

Nexus between items in CP13 and the demand arising from the expected development in the North Kellyville Precinct has been demonstrated by the consultants' reports prepared for the council.

We note the disparity in the total population figures which have been used for CP13. The Elton Consulting report considered that a revised total population of 15,200 (an increase from 14,300) would not warrant any facilities or open space than above the amounts already recommended.⁴⁸

We agree with SGS that, in the interests of transparency and accountability, the council should reconcile the provision of facilities in CP13 with the supporting documents.

The SGS report suggests that the total population, and not just the additional residents of the area, should be considered in the development of demand estimates. However, the council has stated there are currently facilities available to the existing population in the area or nearby.⁴⁹ We accept the council's position that the existing population will not create more demand for the facilities in the plan.

⁴⁵ SGS Economics and Planning, *Review of The Hills Shire Council CP No 13 North Kellyville Precinct Final Report*, April 2011, p 20.

⁴⁶ SGS Economics and Planning, *Review of The Hills Shire Council CP No 13 North Kellyville Precinct Final Report*, April 2011, p 22.

⁴⁷ The Hills Shire Council, *THSC Response to draft consultants reports for CP Nos 12 and 13*, p 14.

⁴⁸ Elton Consulting, *North Kellyville Community Facilities and Open Space Assessment Final Report*, March 2008, p 2.

⁴⁹ The Hills Shire Council, *THSC Response to draft consultants reports for CP Nos 12 and 13*, p 14.

IPART's findings

- 2 There is nexus between items in CP13 and the demand arising from the expected development in the North Kellyville Precinct.
- 3 Provisions in CP13 for land acquisition for some recreation facilities do not align with the plan's supporting documents.

Recommendation

- 2 The council should prepare an additional document (or Appendix for the plan) that describes and justifies where provisions in the plan do not correspond with the supporting documentation.

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 CP13, 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:

1. contributions plans for greenfield sites will usually include concept design and broad cost estimates with more precise costs estimates being developed before construction starts
2. 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 council engaged expert consultants to provide it with costs estimates for land acquisition and capital works. To determine future costs the council used cost indexation. To derive the final per capita and per lot contribution rates it used an NPV method.

Table 4.3 provides a summary of the cost estimates of essential infrastructure in CP13.

Table 4.3 Estimated costs of land and works for essential infrastructure in CP13 (2007/08 dollars)

	Land acquisition	Capital works	Total
Open space	72,006,194	13,203,226	85,209,460
Community facilities	2,260,913	0	2,260,913
Traffic facilities	5,497,665	49,230,077	54,727,742
Stormwater management	10,343,231	5,464,940	15,808,170

Source: The Hills Shire Council, *Application for assessment of contributions plan No.13 – North Kellyville Precinct* (revised).

We examined the cost estimates for CP13 and also the assumptions on which these cost estimates were based. We also reviewed the NPV model used in CP13 to calculate contributions on a per lot basis.

We are satisfied that the base costs in CP13 are reasonable. However, we consider that the contingency amounts are excessive and should be reduced. As well, the financial modelling would be improved by being undertaken in real terms with contributions rates escalated annually by CPI.

4.4.1 Land acquisition and capital costs are independently provided

The council engaged RG Furney Projects Pty Ltd to provide estimates of land acquisition costs. It engaged Worley Parsons to provide estimates of the costs of infrastructure works.⁵⁰ Worley Parsons based its costs estimates on previous experience and Rawlinson's *Australian Construction Handbook*. They consulted with the council, which supplied some alternative unit rates that it had derived from its recent experience in other developing areas.

SGS Economics and Planning's report

SGS reviewed the council's cost estimates and agreed with them.⁵¹

During the course of SGS's review, the council identified some calculation errors that it intends to correct when it next reviews the plan. Costs in the plan were understated by \$3.3m.

⁵⁰ The Hills Shire Council, *THSC Response to draft consultants reports for CP Nos 12 and 13*, p 16.

⁵¹ SGS Economics and Planning, *Review of The Hills Shire Council CP No 13 North Kellyville Precinct Final Report*, April 2011, pp 10-11.

The Hills Shire Council's response

The council will correct CP13 to address the errors identified. The amended plan will need to be re-exhibited and adopted. The council argues that it cannot postpone issuing developer consents during this period. Developer impacts from the errors will be mitigated, however, by the \$30,000 cap.⁵² In other words, the errors will have no effect on developers because of the \$30,000 cap.

IPART's assessment

The costs in the plan have been obtained using an appropriate methodology.

We note that the council has made some errors in calculating costs under the plan. They have also told us that they have made cost savings. We encourage the council to pass on those savings to developers as soon as possible.

We understand that it is common practice for bus shelters to be provided by street furniture providers in return for advertising revenue.⁵³ The council is negotiating contracts for bus shelters throughout the local government area and may be able to exclude the costs of some bus shelters from the contributions plan. If the council pursued commercial arrangements for the bus shelters, development contributions could be reduced.

IPART's finding

- 4 The costs in the plan are derived using an appropriate methodology, and base costs are reasonable.
- 5 There may be an opportunity for the council to reduce contributions by providing some bus shelters under commercial arrangements.

Recommendation

- 3 The council should correct the errors in works costs prior to applying for any funding for forgone contributions above the cap and, in any instance, prior to 1 January 2012.
- 4 The council should, where possible, continue to pursue commercial arrangements to provide bus shelters in lieu of development contributions for CP13.

4.4.2 The contingency allowance is excessive

The council incorporated design and project management costs of 7.5% each (a total of 15%) into the total works costs. It then added a further 25% contingency allowance.⁵⁴

⁵² The Hills Shire Council, *THSC Response to draft consultants reports for CP Nos 12 and 13*, p 11.

⁵³ Newplan, *Review of The Hills Shire Council CP No 12 Balmoral Road Release Area Final Report*, April 2011, p 52.

⁵⁴ WorleyParsons EcoNomics resources & energy, *Revised s94 Infrastructure Cost estimate*, October 2008, p 8.

SGS Economics and Planning's report

SGS observed that a 25% contingency on estimates of capital costs is high compared with industry standards. They suggested that the council should be asked to justify the inclusion of such high contingency costs and suggested that a value of 10% to 15% for contingency is typical for construction projects.⁵⁵

The Hills Shire Council's response

The council agrees that a contingency allowance of 10% to 15% is appropriate when a detailed concept design has been prepared. The 25% contingency allowance, however, is consistent with industry practice and is needed because the plan was developed in the absence of detailed concept plans.⁵⁶

The council refers to a publication which specifies various allowances for risk. These are based on project phases supporting the application of a 25% allowance.⁵⁷ As the council advances from concept design to pre-tender and contract phases, the actual cost of work will become more certain. The council is agreeable to documenting within the contributions plan a process that outlines the project phase and contingency allowance that it has applied.⁵⁸

IPART's assessment

We consider that a reasonable amount for capital works contingencies is 15% of base costs. This is consistent with recommendations by SGS, and benchmarking work undertaken for our assessment of CP12.

The Hills Shire Council refers to a publication which supports a 25% contingency allowance for major road and rail construction projects. The report notes that although its 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.⁵⁹ Contributions plans for greenfield sites in Camden, Penrith, Blacktown and Liverpool have applied contingency allowances of 5 - 16% (see Table 4.4).⁶⁰ On the basis of this analysis we consider that an allowance of 15% for contingencies would be reasonable. The council's inclusion of 15% on-costs for combined design and project management purposes is considered reasonable.

⁵⁵ SGS Economics and Planning, *Review of The Hills Shire Council CP No 13 North Kellyville Precinct Final Report*, April 2011, p 12.

⁵⁶ A detailed concept plan for the works will not be developed until sufficient contributions have been received to fund the work.

⁵⁷ Department of Infrastructure, Transport, Regional Development and Local Government, *Best Practice Cost estimation for Publicly Funded Road and Rail Construction*, June 2008.

⁵⁸ The Hills Shire Council, *THSC Response to draft consultants reports for CP Nos 12 and 13*, p 12.

⁵⁹ 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.

⁶⁰ Newplan, *Review of The Hills Shire Council CP No 12 Balmoral Road Release Area Final Report*, April 2011, pp 37-38.

Table 4.4 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.

IPART's finding

6 The contingency allowance of 25% for capital works is excessive.

Recommendations

5 The council should revise the allowance for contingencies for all capital works to a maximum of 15%.

4.4.3 The net present value (NPV) model

This section considers matters regarding the NPV model used by The Hills Shire Council in CP13. In Chapter 5 we discuss issues about the use of the NPV model generally.

Our assessment draws on both SGS's review of CP13 and the review of CP12 by Newplan Urban Planning (Newplan)⁶¹

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.

⁶¹ Newplan, *Review of The Hills Shire Council CP No 12 Balmoral Road Release Area Final Report*, April 2011.

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.⁶²

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
- ▼ 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.⁶³

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.⁶⁴

⁶² SGS Economics and Planning, *Review of The Hills Shire Council CP No 13 North Kellyville Precinct Final Report*, April 2011, p 12.

⁶³ *ibid*, p 13.

⁶⁴ SGS Economics and Planning, *Review of The Hills Shire Council CP No 13 North Kellyville Precinct Final Report*, April 2011, p 14.

Newplan's report

Discount rate

In CP13, the council has used a nominal discount rate of 5.51% (10 year government bond rate) to calculate the present value of future expenditures. In CP12, the council used a slightly higher rate of 5.71% (3.13% real discount rate). Newplan considers this figure is low compared with the NSW Treasury's benchmark of a 7% real discount rate. While it might reflect current low real interest rates, Newplan notes that it would be overly optimistic to assume that financing costs will consistently remain at low levels until June 2025.⁶⁵

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 1990–2005.⁶⁶

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.⁶⁷

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.⁶⁸ 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.⁶⁹

⁶⁵ Newplan, *Review of The Hills Shire Council CP No 12 Balmoral Road Release Area Final Report*, April 2011, pp 40-46.

⁶⁶ *ibid.*

⁶⁷ *ibid*, p 42.

⁶⁸ The Hills Shire Council *THSC Response to draft consultants reports for CP Nos 12 and 13*, p 12.

⁶⁹ The Hills Shire Council *THSC Response to draft consultants reports for CP Nos 12 and 13*, p 12.

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.⁷⁰

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.⁷¹

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.⁷²

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.⁷³

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 CP13 (and CP12) 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 agree that nominal and real models will deliver the same contributions rate in the first year of the plan if equivalent assumptions are used. However, we note that nominal models require councils to select indices with estimates of cost inflation.

⁷⁰ The Hills Shire Council, *THSC Response to draft consultants reports for CP Nos 12 and 13*, pp 8–9.

⁷¹ *ibid*, p 9.

⁷² *ibid*, pp 9–10.

⁷³ The Hills Shire Council *THSC Response to draft consultants reports for CP Nos 12 and 13*, pp 13–14.

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.⁷⁴ 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). 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 CP13 uses a nominal discount rate of 5.51%. 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 CP13.

⁷⁴ 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.

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 is for nominal indices if the council continues to use this approach are shown in Table 4.5.

Table 4.5 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.13 – North Kellyville Precinct*

IPART's findings

- 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.

Recommendations

- 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.

4.5 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 land acquisition and capital works to align with the 3 stages of the Sydney Water servicing plan.⁷⁵ The timing of land acquisition was in addition influenced by purchases of land that were initiated by the landowners.⁷⁶

SGS Economics and Planning's report

The principles that the council has used to plan the acquisition of land and capital expenditure are reasonable.⁷⁷

The Hills Shire Council's response to the SGS Economics and Planning report

The council has not responded on this issue.

IPART's assessment

IPART agrees that the proposed timing of the delivery of infrastructure is reasonable.

IPART's finding

8 The proposed timing of infrastructure delivery in CP13 is reasonable.

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

⁷⁵ Sydney Water provides the water, wastewater and recycled water infrastructure in urban growth centres.

⁷⁶ SGS Economics and Planning, *Review of The Hills Shire Council CP No 13 North Kellyville Precinct Final Report*, April 2011, p 27.

⁷⁷ Ibid.

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.

Particular attention has been paid to the apportionment in CP13 of:

- ▼ the expansion of the Rouse Hill Regional Library
- ▼ the Northern Bridge connection
- ▼ Samantha Riley Drive.

The Hills Shire Council has apportioned 100% of the costs of other works to CP13.

With 2 exceptions, we agree that 100% of the costs associated with open space facilities, water management facilities and the traffic works should be apportioned to the new residents of North Kellyville. After considering further the information provided by the council about the Samantha Riley Drive upgrade, we accept that the approach taken by the council to its apportionment is reasonable. We consider revision is required to the apportionment of the land costs of the library expansion and the Northern Bridge Connection.

4.6.1 Consideration of existing residents

CP13 apportions the costs of providing public amenities and services only to the new population. The existing population represents 4.7% of the total expected population when development is completed.

SGS Economics and Planning's report

SGS considers that most of the current population who presently occupy rural-sized lots will move away from the precinct. Therefore, the total population will be almost entirely 'new', with each person contributing to the demand for facilities.

The value of the plan should be divided by the total population (not the incoming population) to reach the per capita amount.⁷⁸

⁷⁸ SGS Economics and Planning, *Review of The Hills Shire Council CP No 13 North Kellyville Precinct Final Report*, April 2011, p 18.

The Hills Shire Council's response to the SGS Economics and Planning report

The council has not apportioned costs to the existing population because they are already served by existing facilities. This is consistent with the relevant Development Contributions Practice Notes July 2005.⁷⁹

IPART's assessment

IPART agrees that some of the existing residents will leave the area.⁸⁰

We consider that the new population should pay the costs of the new facilities. This is because the existing facilities already serve the existing population.

4.6.2 Land costs of the library expansion

The costs of expanding the library which is located within the Rouse Hill Regional Centre have been included in CP12 and CP13. The council has apportioned the costs of the library expansion between the two plans on the basis of forecast population. However CP12 and CP13, which were prepared at different times, include differing population estimates. As a result, the council has over-recovered the land costs. Table 4.6 shows the apportionment used in the 2 plans.⁸¹

Table 4.6 Apportionment of land costs for expansion of branch library

Development area	Anticipated population	Apportionment (%)	Apportionment (\$)
CP13 North Kellyville Precinct			
North Kellyville	15,563	54.5	2,260,912.50
Balmoral Road	13,012	45.5	1,925,962.50
Total expected population	28,575		
CP12 Balmoral Road Release Area			
North Kellyville	12,600	49.2	2,059,762.03
Balmoral Road	13,012	50.8	2,127,112.97
Total expected population	25,602		

Source: The Hills Shire Council, *Contributions Plan No 13 North Kellyville Precinct*, February 2010, p 30, and The Hills Shire Council, *Section 94 Contributions Plan No 12 Balmoral Road Release Area*, September 2006, p 25.

⁷⁹ The Hills Shire Council, *THSC Response to draft consultants reports for CP Nos 12 and 13*, p 14.

⁸⁰ This is supported by the *Community Facilities and Open Space Study* by Elton Consulting, p 13.

⁸¹ The Hills Shire Council, *Contributions Plan No 13 North Kellyville Precinct*, February 2010, p 30, and The Hills Shire Council *Section 94 Contributions Plan No 12 Balmoral Road Release Area*, September 2006, p 41.

SGS Economics and Planning's Report

The apportionment of the land component of the library between CP12 and CP13 should be revised in line with the most recent population estimates for each area.⁸²

The Hills Shire Council's response to the SGS Economics and Planning report

The council will update the apportionment of the land component of the Rouse Hill Library to reflect the most recent population forecasts. This will require a report to council, and re-exhibition and adoption of the revised plan.⁸³

IPART's assessment

The land costs of expansion of the library in Rouse Hill Regional Centre should be apportioned between CP12 and CP13, using the latest population estimates.

Additional population rather than total population should be used for apportionment because the existing demand is already satisfied by the existing library.

4.6.3 Northern Bridge Connection

The costs in the plan of the Northern Bridge connection (Annangrove Road to Ross Road) will be shared between the North Kellyville Precinct and the Box Hill Industrial and Residential Precincts. Based on current population estimates of the 2 areas, CP13 will be responsible for 34% of the capital costs (for 15,563 of a total 45,563 people). The land acquisition component will be 100% attributable to CP13.⁸⁴ This will provide funds for the purchase of the land as early as possible, before prices increase. Development of the Box Hill precinct was expected to start later.⁸⁵

SGS Economics and Planning's report

The SGS report found 2 issues with the apportionment of the costs associated with the Northern Bridge connection. First, an unfair burden is placed on the North Kellyville and Box Hill residential precincts by excluding the Box Hill Industrial Precinct from the apportionment of costs. Secondly, the allocation of all land acquisition costs to CP13 puts an unfair burden on the North Kellyville residents.

⁸² SGS Economics and Planning, *Review of The Hills Shire Council CP No 13 North Kellyville Precinct Final Report*, April 2011, p 24.

⁸³ The Hills Shire Council, *THSC Response to draft consultants reports for CP Nos 12 and 13*, p 14.

⁸⁴ The Hills Shire Council, *Contributions Plan No 13 North Kellyville Precinct*, February 2010, p 34.

⁸⁵ Meeting with IPART, 4 March 2011.

SGS suggests that an alternative apportionment of costs should be derived. This would take into account the demand from the Box Hill Industrial Precinct as well as the residential precincts.⁸⁶

The Hills Shire Council's response to the SGS Economics and Planning report

The council disagrees with the SGS report. The contributions plan proposes a heavy vehicle weight limit for the bridge to reduce the amount of traffic generated by the industrial areas. Therefore, there is insufficient nexus to apportion some costs to industrial development.⁸⁷

IPART's assessment

CP13 states that:

...In the long term, the bridge connection to Annangrove Road would support the Box Hill Industrial (weight limited) and Box Hill Residential Precincts.⁸⁸

We acknowledge that a bridge weight limit will prevent heavy traffic from using the bridge. However, the plan does not state what the weight limit will be, nor do we know what type of industry will be located at the Box Hill Industrial Precinct. If light/small industry does not use heavy trucks, they are unlikely to be deterred from using the bridge. Non-resident employees might also use the bridge.

One option is for the council to investigate the potential for contributions to be levied on industrial developments (through a section 94A plan),⁸⁹ and determine what portion they should contribute to the Northern Bridge connection.

We agree that The Hills Shire Council has purchased land early and has reduced costs by doing so. However, in the interests of equity, this cost should still be apportioned to all users.

The Maunsell Traffic and Transport Assessment assumes that 20% of traffic generated by Box Hill might use the Northern Bridge connection.⁹⁰

⁸⁶ SGS Economics and Planning, *Review of The Hills Shire Council CP No 13 North Kellyville Precinct Final Report*, April 2011, pp 25-26.

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

⁸⁸ The Hills Shire Council, *Contributions Plan No 13 North Kellyville Precinct*, February 2010, p 34.

⁸⁹ Under s 94A of the EP&A Act, Councils are allowed to charge a developer a levy as a condition of development consent. The amount charged would be based on a percentage of the total cost of the development.

⁹⁰ Maunsell Australia Pty Ltd, *North Kellyville Precinct Planning* (prepared for the Growth Centres Commission), 18 January 2008, p 12.

4.6.4 Samantha Riley Drive upgrade

Samantha Riley Drive (formerly Poole Road) is to be upgraded to 2 lanes in each direction to accommodate the populations of North Kellyville and the adjacent development area, Kellyville/Rouse Hill. The capital costs are to be shared (50% each) between CP13 and Kellyville Rouse Hill (CP8). The land acquisition costs will be wholly recovered in CP13.⁹¹

SGS Economics and Planning's report

If both the Kellyville/Rouse Hill and North Kellyville Precincts stand to benefit from the works to upgrade Samantha Riley Drive, then the cost of land and capital should be shared by both precincts.⁹²

The Hills Shire Council's response to the SGS Economics and Planning report

Part of the land acquisition (southern side) for Samantha Riley Drive was funded by CP8 for the Kellyville Rouse Hill Release Area. Therefore, the rest of the costs of land acquisition should be funded through CP13.⁹³

Additional information provided by The Hills Shire Council

At IPART's request, council provided further information on the apportionment of costs to CP8 as follows:

- ▼ CP8 provides for land acquisition valued at \$525,306 for land on the southern side of Samantha Riley Drive. Land values were estimated using englobo land values applicable at the time.
- ▼ CP8 provides for capital expenditure of \$4,680,624. Costs were determined by council engineers based on similar completed projects at the time.
- ▼ Costs estimates prepared to support the North Kellyville release have updated the capital cost of constructing the full carriageway of Samantha Riley Drive between Smalls Creek and Green Road to \$11,089,467. This cost is apportioned equally between CP8 and CP13 (\$5,544,763.6 to each). As this cost exceeds the adopted value of work in CP8 it is reasonable that no additional apportionment of costs to CP8 is required.⁹⁴

⁹¹ The Hills Shire Council, *Contributions Plan No 13 North Kellyville Precinct*, February 2010, p 34.

⁹² SGS Economics and Planning, *Review of The Hills Shire Council CP No 13 North Kellyville Precinct Final Report*, April 2011, p 25.

⁹³ The Hills Shire Council *THSC Response to draft consultants reports for CP Nos 12 and 13*, p 15.

⁹⁴ The Hills Shire Council, Meeting with IPART, 30 September 2011.

IPART's assessment

We consider that the council's approach to the apportionment of the costs of upgrading Samantha Riley Drive is reasonable.

CP13 apportions 50% of the revised capital costs for the Samantha Riley Drive upgrade to the North Kellyville Precinct.⁹⁵

CP13 states that 100% of land acquisition costs for the Samantha Riley Drive upgrade have been apportioned to the North Kellyville Precinct.⁹⁶ However, half of the land required for the upgrade has been already purchased with funds from CP8. As such, the apportionment of land acquisition costs is consistent with the apportionment of capital costs.

IPART's findings

- 9 Apportionment of most of the items on the Essential Works List in CP13 is reasonable.
- 10 Costs for the Rouse Hill Regional library and the Northern Bridge connection do not take sufficient account of the demand which will arise from outside the area covered by CP13.

Recommendations

- 7 The council should update the apportionment factor for the Rouse Hill Regional Library expansion using the latest population estimates for CP13 and CP12.
- 8 The council should revise the apportionment of the land and capital costs for the Northern Bridge connection. The calculation should take into account that a significant amount of the traffic using the bridge will be generated by the Box Hill Precinct.

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

During a plan's development, the council needs to consult with the existing community. The EP&A Regulation requires councils to publicly exhibit draft contributions plans and seek submissions from the public.⁹⁷

The Draft CP13 was exhibited twice (once in 2008 and again in 2009) and the council received a total of 35 submissions. The council addressed these submissions and incorporated some suggestions into the plan. A summary of the submissions and The Hills Shire Council's responses can be found in the Report to Ordinary Meeting of the council 23 February 2010.⁹⁸

⁹⁵ The Hills Shire Council, *Contributions Plan No 13 North Kellyville Precinct*, February 2010, p 42.

⁹⁶ The Hills Shire Council, *Contributions Plan No 13 North Kellyville Precinct*, February 2010, p 42.

⁹⁷ *Environmental Planning and Assessment Regulation 2000* cl 28.

⁹⁸ The Hills Shire Council, *Report to Ordinary Meeting of Council 23 February 2010 Attachment 3 – Summary Sheet of Individual Submissions*, 23 February 2010, pp 279-297.

We are satisfied that CP13 was publicised in accordance with the requirements of the EP&A Regulation and the Practice Note.

IPART's findings

- 11 The council has conducted appropriate community liaison and publicity.

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 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 the application on receipt. Where a council does not provide the information required and to the detail required, we will send the application back to the council.

IPART's finding

- 12 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,⁹⁹ 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

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

⁹⁹ Department of Infrastructure, Planning and Natural Resources, *Development contributions Practice notes – July 2005*, July 2005.

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.¹⁰⁰ 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.¹⁰¹

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 a council incurs should be included in the Essential Works List.

Recommendations

- 10 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.
- 11 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.

¹⁰⁰ The Hills Shire Council, *Response to draft consultants reports for CP12 and 13*, p 10.

¹⁰¹ Blacktown City Council, *Works and Finance Report*, 16 June 2010, pp 11, 12.

The 2005 Development Contributions Practice Note¹⁰² 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.

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.

¹⁰² Department of Infrastructure, Planning and Natural Resources, *Development contributions Practice notes – July 2005*, 'Financial management of development contributions', July 2005, p 3.

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.¹⁰³ 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).

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

- 12 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.
- 13 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.

¹⁰³ 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.

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

- 14 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 contributions.¹⁰⁴ 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, CP12 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

- 15 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).

¹⁰⁴ Department of Infrastructure, Planning and Natural Resources, 'Determining rates for different types of development', *Development Contributions Practice Notes – July 2005*, July 2005, p 1.

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.

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

- 16 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.¹⁰⁵ 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.

¹⁰⁵ 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 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.

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

- 17 A whole-of-government review of the requirements for open space and other land uses that sterilise land for development should be undertaken.
- 18 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 | SGS Economics and Planning's Review of CP13

Review of The Hills Shire Council CP No 13 North Kellyville Precinct Final Report
April 2011

Review of The Hills Shire Council CP No. 13 North Kellyville Precinct

Final Report

Independent Pricing and Regulatory Tribunal (IPART)

April 2011

Independent Pricing and Regulatory Tribunal (IPART)

SGS Economics and Planning Pty Ltd

ACN 007 437 729

12/50 Reservoir Street
Surry Hills NSW 2010

P: + 61 2 8307 0121

F: + 61 2 8307 0126

E: sgsnsw@sgsep.com.au

W: www.sgsep.com.au

Offices in Brisbane, Canberra, Hobart, Melbourne, Perth, Sydney

Disclaimer:

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Executive summary

The Independent Pricing and Regulatory Tribunal (IPART) has a responsibility to review local government contribution plans in certain circumstances. SGS Economics and Planning Pty Ltd (SGS) has been commissioned to undertake a review of The Hills Shire Council (Council) *CP No. 13 North Kellyville Precinct* (the Contributions Plan) on behalf IPART.

This report presents the findings of the review. These are summarised below under the broad task headings included in the *Specification of Services* document.

Are public amenities and public services included in the Contributions Plan on the 'Essential Works List' as defined in the *Practice Note for the assessment of Local Contributions Plans by IPART*?

The inclusion in the Contributions Plan of capital costs for community facilities and administration costs is inconsistent with the Essential Works List. Removing these items would reduce the per capita contributions by \$960 (7.2 percent) and \$48 (0.4 percent) respectively.

There are also a number of open space embellishments that are included in the Open Space Capital Schedule that are not specifically identified in the Essential Works List or the further advice from IPART. It is recommended that IPART seek further advice from the NSW Department of Planning regarding the appropriateness of inclusion in the Contributions Plan of the following embellishments:

- picnic facilities
- BBQ facilities
- 'one share clubroom'
- 'fencing to protect natural vegetation'
- 'appealing water management feature linked to water feature'
- 'civic space'.

Is there a nexus between the development in the area to which the plan applies and the public amenities and public services identified in the plan?

SGS considers that the supporting documentation used in the development of the Contributions Plan demonstrates a nexus between development in the area to which the plan applies and the public amenities and public services Contributions Plan.

Are the contributions for public amenities and public services based on a reasonable apportionment between new and existing demand for those amenities and services?

The payment of contributions is applicable to any residential development in North Kellyville which will increase the population over and above that which existed on the 19 December 2008 and which will create a demand for the provision of such infrastructure. However, the Contributions Plan assumes that 765 existing residents will remain in the precinct. SGS considers that this is unlikely and that the per capita contribution rate should be based on a population of 16,327 new residents.

With regards to particular facilities it is noted that:

- There is an inconsistency in the apportionment of the library costs between *Contributions Plan No.12 - Balmoral Road Release* and *Contributions Plan No.13 - North Kellyville Precinct*.
- If both the Kellyville Rouse Hill and North 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.
- 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.

Can Council provide the public amenities and public services in a reasonable timeframe?

The Contributions Plan contains high-level information on the time when costs will be incurred and revenue will be received.

SGS has not interrogated the exact location of parcels of land that are planned to be acquired and the timing of acquisition. However, we consider the principles that Council has used to derive the timing of acquisition (that is, consistency with the Sydney Water servicing plan and likelihood of land owner initiated acquisition claims) are appropriate.

With regards to capital expenditure, the method of using thresholds is appropriate. However the link between the facility demand analyses and timing of expenditure could be more explicit.

Are the estimates of costs of the public amenities and public services reasonable?

While the indexation assumptions that have been used are acceptable, a more accurate approach to the NPV modelling could be adopted. It is possible to construct a discounted cash flow model using real values. This reduces the number of estimates and potential inaccuracies as only changes in the real cost of items listed in the Contributions Plan need to be considered. Inflation could be taken into consideration, so as not to erode the real value of contributions, by applying the actual inflation rate each year to resultant contribution rate per person. This method removes the need to apply the annual escalation rate of 2.5 percent in the existing model. Additionally, the contribution rate should be quoted in 2011 dollars.

With regard to the calculation of capital costs in the Contributions Plan, the contracting by Council of WorleyParsons to conduct an independent assessment is appropriate. However, the independence of the WorleyParsons report is potentially compromised by amendments to the contingency allowance at the request of Council. 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.

Council has noted some errors in the calculation of capitals costs. These should be corrected prior to any contributions revenue being collected.

Summary of Recommendations

Recommendation 1

IPART should seek further advice from the NSW Department of Planning regarding the appropriateness of inclusion in the Contributions Plan of the following embellishments:

- picnic facilities
- BBQ facilities
- 'one share clubroom'
- 'fencing to protect natural vegetation'
- 'appealing water management feature linked to water feature'
- 'civic space'.

The impact on the per capita contribution rate of deducting any of the above listed open space embellishments would be very minor.

Recommendation 2

The capital cost of community facilities should be removed from the Contributions Plan. The capital cost of community facilities accounts for \$960 (7.2 percent) of the \$13,261 per capita contribution.

Recommendation 3

Administration costs should be removed from the Contributions Plan. Administration costs account for \$48 (0.4 percent) of the \$13,261 per capita contribution.

Recommendation 4

The calculation errors identified by Council should be corrected prior to any contributions revenue being collected.

Recommendation 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.

Recommendation 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.

Recommendation 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.

Recommendation 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.

Recommendation 9

Changes to the Contributions Plan should be minimised so as to reduce development uncertainty and inequity.

Recommendation 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).

Recommendation 11

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.

Recommendation 12

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.

Recommendation 13

The apportionment of the library cost in *Contributions Plan No.12 - Balmoral Road Release* and *Contributions Plan No.13 - North Kellyville Precinct* 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.

Recommendation 14

If both the Kellyville Rouse Hill and North 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.

Recommendation 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.

1 Introduction

1.1 Development contributions

In New South Wales, Section 94 of the *Environmental Planning and Assessment (EP&A) Act 1979* provides the basis for the levying of development contributions towards 'the provision or improvement of amenities or services'.

The 2005 *Development Contributions Practice Notes* (the 2005 Practice Notes) make reference to the following underlying principles with regards to the levying of development contributions:

1. **Reasonableness:** A degree of reasonableness must be exercised in the determination of a contribution. This relates to fairness, and equity in project identification and charge amounts.
2. **Nexus:** There must be a reasonable nexus between the development and the demonstrated need for additional or upgraded facilities.
3. **Apportionment:** The levy must be a reasonable apportionment of the cost of delivering the infrastructure item to the development in question. The charge must only reflect the anticipated share of usage of the infrastructure item in question with allowances made for external demand where required.
4. **Accountability:** Councils should implement procedures to ensure that funds collected are set aside for their specific purpose and funds should be set aside in a separate account and accounted for through transparent financial records.

1.2 The review

The Independent Pricing and Regulatory Tribunal (IPART) has a responsibility to review local government contribution plans in certain circumstances. Guidance on how and against which criteria IPART will assess contributions plans is provided in the 2010 *Local Development Contributions Practice Note* (the 2010 Practice Note) prepared by the Department of Planning and IPART.

SGS Economics and Planning Pty Ltd (SGS) has been commissioned to undertake a review of The Hills Shire Council (Council) *CP No. 13 North Kellyville Precinct* (the Contributions Plan) on behalf IPART.

The requirements of the review are as follows:

'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 Note
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
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.’

2 Essential Works List

2.1 Essential Works List

Section 3.4.2 of the 2010 Practice Note provides a list of amenities or public services which are considered essential works. These are:

- '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;
- land and facilities for stormwater management.'

Section 3.4.2.1 of the 2010 Practice Note expands on what is considered base level embellishment:

'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 recreation.

This may include:

- site regrading
- utilities servicing
- basic landscaping (turfing, planting, paths)
- drainage
- basic park structures and equipment (park furniture, toilet facilities and play equipment)

but does not include structures and equipment such as lighting, shade structures and the like.'

Subsequent to the publication of 2010 Practice Note, IPART advised SGS of a revised definition for base level embellishment, as follows:

'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.'

This revised list is used for the assessment in the following subsection of compliance of the open space embellishment included in the Contributions Plan with the Essential Works List.

2.2 Compliance with the Essential Works List

Open space land and facilities

The inclusion of land for open space is consistent with the Essential Works List.

The inclusion of capital expenditure on land open space facilities is also consistent with the Essential Works List. There are, however, a number of open space embellishments that are included in the Open Space Capital Schedule (within the Excel file linked to the financial model) that are not specifically identified in the Essential Works List or the further advice from IPART. These include:

- picnic facilities
- BBQ facilities
- 'one share clubroom'
- 'fencing to protect natural vegetation'
- 'appealing water management feature linked to water feature'
- 'civic space'.

Recommendation 1

IPART should seek further advice from the NSW Department of Planning regarding the appropriateness of inclusion in the Contributions Plan of the following embellishments:

- picnic facilities
- BBQ facilities
- 'one share clubroom'
- 'fencing to protect natural vegetation'
- 'appealing water management feature linked to water feature'
- 'civic space'.

The impact on the per capita contribution rate of deducting any of the above listed open space embellishments would be very minor.

Community facilities

The inclusion of land for community facilities in the Contributions Plan is consistent with the Essential Works List. Only the library has land acquisition costs listed in the schedule. The land for the other items does not need to be purchased.

The inclusion of capital expenditure on community services is inconsistent with the Essential Works List. There is a capital component to each of the proposed community facilities. These are:

- Fit out and expansion of Rouse Hill Regional Centre library
- Community Centre - Local Centre
- Kellyville Complex Netball Reserve
- Additional indoor court within the Burnie Mullane Sport

Recommendation 2

The capital cost of community facilities should be removed from the Contributions Plan. The capital cost of community facilities accounts for \$960 (7.2 percent) of the \$13,261 per capita contribution.

Traffic and transport

Land and facilities for traffic and transport included in the Contributions Plan are consistent with the Essential Works List.

Water management

Land and facilities water management included in the Contributions Plan are consistent with the Essential Works List.

Administration

The Contributions Plan levies for administration costs. The inclusion of administration costs is inconsistent with the Essential Works List.

Recommendation 3

Administration costs should be removed from the Contributions Plan. Administration costs account for \$48 (0.4 percent) of the \$13,261 per capita contribution.

3 Estimates of costs

3.1 Itemised cost estimates

3.1.1 Land acquisition costs

In response to SGS's request for additional information, Council has provided the following explanation of how cost estimates for land acquisition were derived:

'The process used for deriving cost estimates for land acquisition involved the mapping of land to be acquired using a geographic information system. The land area including constraints such as riparian corridors and area below the 1 in 100 year ARI flood level was calculated. Zoning was also recorded based on the adjoining zone. The results from this process were exported to a Microsoft Excel worksheet where a value was applied based on the zoning of the property and area of land to be acquired.

The land acquisition estimates provided within the Worley Parsons report were based on valuation estimates provided by Robert Furney dated 25 January 2008. In addition, costs were based on the land area to be acquired based on the exhibited version of the draft Precinct Plan for North Kellyville.

Post exhibition amendments to the Precinct Plan and an updated valuation report by Robert Furney dated 29 September 2008 resulted in final values different to the Worley Parsons report.'

The contracting by Council of Robert Furney to conduct an independent valuation assessment is appropriate for the calculation of land acquisition costs in the Contributions Plan, although it is unclear why 'zoning was also recorded based on the adjoining land' for some parcels of land, rather than the actual zoning of the land.

The costs in the valuation assessment were current at the time the Contributions Plan was prepared.

Council has included within the model a 1.5 percent allowance for 'fees' in addition to the purchase cost of land. Council has advised that this allowance provides for the cost of purchasing the land which can vary for each acquisition. SGS considers this is appropriate for the calculation of land acquisition costs in the Contributions Plan as it appears that the valuation report did not include these costs.

3.1.2 Capital costs

WorleyParsons in conjunction with Council prepared preliminary cost estimates for the North Kellyville precinct. WorleyParsons submitted their cost estimates for review by Council in March 2008. The costs were subsequently revised by WorleyParsons and provided to Council in a letter dated in October 2008.

In response to SGS's request for additional information, Council has provided the following explanation of how capital cost estimates were derived

'The Worley Parsons report was commissioned and funded by the Department of Planning. The cost estimates provided within the Worley Parsons report were based on the pre exhibition version of the North Kellyville Precinct Plan. Post exhibition amendments to the Precinct Plan resulted in variations that were not updated in the Worley Parsons Report.

Council is responsible for the preparation of the Contributions Plan independent of the Department's (sic) with respect to precinct planning. Based on the final amended Precinct Plan, Council updated the relevant quantities (such as area or length) to account for the final plan. Council did not amend the unit rates provided by Worley Parsons.'

Further to the above advice, Council advised by telephone on 27 April 2011 that:

- There were no changes to the per-unit costs between the Worley Parsons work and publication of the Contributions Plan.
- Any changes to the total cost of capital works between the Worley Parsons work and publication of the Contributions Plan are due to differences in the quantity (for example, size of area) of work required. Revisions to quantities are based on more detailed plans available subsequent to the expiry of the Worley Parsons contract.
- Council has noted some calculation errors made by either Worley Parsons or Council. The intention is that these would be incorporated in any revision of the Contributions Plan.

Recommendation 4

The calculation errors identified by Council should be corrected prior to any contributions revenue being collected.

The contracting by Council of WorleyParsons to conduct an independent assessment is appropriate for the calculation of capital costs in the Contributions Plan. These costs were current at the time the Contributions Plan was prepared.

The independence of the WorleyParsons report is however compromised by amendments to the contingency allowance at the request of Council. The supporting studies prepared by WorleyParsons included a contingency of 25 per cent of the total cost, as requested by Council. This is high compared to industry standards. A typical construction project would allow a contingency of around 10- 15 percent of total costs.

Recommendation 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.

SGS reiterate that the levies for capital expenditure on community facilities are inconsistent with the Essential Works List and, as per Recommendation 3, the capital cost of communities facilities should be removed from the Contributions Plan.

3.2 Changes in costs over time

3.2.1 NPV methodology and discount rate

A discounted cash flow model was used to calculate the contribution rate per person. The model, constructed by Price Waterhouse Coopers covers a period of 15 years (the life of the Contributions Plan).

The contribution rate per person is determined on the basis that the Net Present Value (NPV) of costs and the NPV of revenue at the given discount rate are equal over the life of the Contributions Plan. As noted in the Contributions Plan, the discount rate used in the NPV model is the ten-year government bond rate (quoted as a percentage) as published in the Australian Financial Review newspaper on 10 February 2010. This is a nominal discount rate.

SGS considers that a more accurate approach to the NPV modelling could be adopted.

Embedded in the indexation rates used to calculate the nominal values in the model are estimates of:

- price inflation over the life of the Contributions Plan
- any change in the real (that is, relative to inflation) cost of items listed in the Contributions Plan.

These estimates lead to potential inaccuracies.

It is possible to construct a discounted cash flow model using real values. This reduces the number of estimates and potential inaccuracies as only changes in the real cost of items listed in the Contributions Plan need to be considered.

Adopting this approach would require the application a discount rate equivalent to the risk free rate of return, less inflation. That is, a real discount rate.

Recommendation 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.

As explained below, contributions should be indexed to CPI to maintain their real value.

3.2.2 Cost indexation

To reiterate, there are two reasons why costs may change over time. Either:

- costs may change in-line with inflation or
- the real (that is relative to inflation) value of costs may change as specific items become relatively less or more expensive.

As per the discussion above, SGS considers that it is appropriate to include estimates of any real change in cost components. The inflation component of any nominal indices should be removed to reduce inaccuracies.

Comments on the specific indices indicated that have been applied in the contributions calculation are shown in Table 1.

Table 1. Cost indices

	Index	Explanation	SGS comment
Land Acquisition Index	6.97%	Land acquisition costs will be indexed based upon an 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 1994 to December 2009.	A land-only index should be applied. This should be derived with consideration of local circumstances as these are likely to be different to the entire metropolitan area.
Capital Expenditure Index	4.00%	Capital expenditure will be indexed upon an average of the annual percentage change in the Tender Price Index (TPI) published by Rider Levett Bucknall (formerly Rider Hunt) in their Construction Cost Commentary available on the Rider Levett Bucknall website http://www.oceania.rlb.com/cost-research_ccc.html . At the time of Contributions Plan preparation, the forecasts were available for 2009 and 2010. Forecasts required beyond 2010 will adopt the 2010 figures.	A public source for capital indexation, such as the Australian Bureau of Statistic Producers Price Index would be preferable.
Administrative Costs Index	2.50%	Costs will be indexed at 2.5% which represents the midpoint of the Reserve Bank of Australia's inflation target of 2-3 per cent, on average over the cycle.	Administrative costs are largely comprised of wages. Hence, a more accurate index would be the Australian Bureau of Statistics Labour Price Index.

Source: Contributions Plan

3.2.3 Revenue indexation

It is necessary that the nominal value of contribution rates change over time so as not to erode the real value of the contribution.

With regards to escalation of contribution rates, the 2005 Practice Notes state that:

'A development contributions plan needs to specify the type of indexation factor applied and when indexing is to occur being quarterly, six monthly or annually. It is valid for a different, but otherwise appropriate, method of indexation to apply to land values and another to the cost of works.'

To maintain the real value of contributions over time, the financial model used to determine the contribution rate, constructed by Price Waterhouse Coopers¹, applies an annual escalation rate of 2.5 percent. The escalation of contribution payments is acknowledged on page 12 of the Contributions Plan:

'Revenue projections will be calculated by multiplying the estimated additional population (see Table 4) by the contribution rate per person, and will be indexed at 2.5% which represents the midpoint of the Reserve Bank of Australia's inflation target of 2-3 per cent, on average over the cycle'.

SGS considers that, consistent with the discussion in sub-section 3.2.1, the indexation of contributions should be based on actual inflation over a specified interval (for example, each year), not a fixed estimate. For example, if actual inflation was 4.5 percent while the plan has 'locked-in' 2.5 percent, the value of contributions would fall short at a time when the costs are rising.

Further, while the 2.5 percent per annum indexation is assumed in the model, it is not clear in the Contributions Plan when the index is to be applied.

Recommendation 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.

Recommendation 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.

¹ North Kellyville - Contributions Plan 13 Financial Model

3.2.4 Review of Contributions Plan

In response to SGS's request for additional information, Council has advised that it is their intention to review the plan annually. Annual reviews are not necessary if the appropriate instructions for indexation of contributions are provided in the Contributions Plan. Reviews may open the door to major changes in the contributions rate could create development uncertainty and inequity.

A contributions plan should only be applied to an area where the nature of development and the required infrastructure can be estimated with a reasonable level of certainty. Any foreseeable changes in 'real' costs must be factored into cash flow forecasts. The risk that there may be changes beyond these should generally be borne by Council.

If it is found that costs have been under-estimated part way through the scheme and future development is charged at a higher rate this is inequitable as the additional costs will incurred by future development whereas the existing development would have paid a lower contribution.

Marginal changes early in the life of the Contributions Plan may be acceptable.

Recommendation 9

Changes to the Contributions Plan should be minimised so as to reduce development uncertainty and inequity.

3.2.5 2008 dollars

SGS also note that the contribution rate quoted in the Contributions Plan is in 2008 dollars.

In response to SGS's request for additional information, Council has advised:

The base costs provided on page 4 of the Contributions Plan are based on 2008 values.

However, as the plan applies a Net Present Value methodology, the values presented in Table 16 represent the total indexed values and present value for each facility category

The adoption of a NPV methodology does not remove the need to update the plan in the presentence of known changes in the real value of cost components.

Recommendation 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).

3.1 Contributions for different development types

The Contributions Plan provides a per capita contribution rate and takes account of the demand generated by different development types by multiplying the per capita rate by the anticipated occupancy rate for each different type of dwelling. The method is consistent with the 2005 Practice Notes (refer to *Determining rates for different types of development*).

It is however noted that the average occupancy rate of a one bedroom unit is 0.95 persons. This implies that in some instance the occupancy rate would be less than one which is not technically possible without very high vacancy rates. The implied occupancy rates are shown in the table below.

Table 2. Occupancy rates used in calculation of per capita

	Dwelling Houses	Integrated Housing Development	Senior Housing	Multi Unit Housing*			
				4 bed	3 bed	2 bed	1 bed
Occupancy Rates	3.40	2.70	1.30	3.07	2.45	1.67	0.95

Source: SGS Calculation based on table 17 of the Contributions Plan

While not an issue for the Contribution Plan under review, it is also noted in this context that in a system of capped contributions, there may be an incentive for councils to unduly shift costs to smaller dwellings in order to maximise the amount of revenue. Unless costs can be shown to relate specifically to a dwelling unit rather than the size of the dwelling unit and number of likely inhabitants, this should not be permitted.

Although the 2005 Practice Notes permits the calculation of charges on a per capita or per dwelling basis it may also be worth considering the cost components that relate to a parcel of land as distinct from the number of potential inhabitants of that parcel of land. For example, the cost of local roads is not likely to be impacted greatly by the number of people living on a particular parcel of land.

4 Nexus and apportionment

4.1 Reasonableness

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 land and 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 are only paying for the portion of demand that results from their development.

4.2 Apportionment to existing residents

Section 3.1 of the Contributions Plan describes the anticipated demographic characteristics of the North Kellyville Precinct.

The anticipated demographic profile of the North Kellyville Precinct was developed by Council by: 'analysing five similar, but now almost fully developed areas, in The Hills Shire and with slight adjustments taking the averages for:

- dwelling profile or mix;
- occupancy rates for dwelling types;
- age structure; and
- anticipated family type.'

Table 2 of the Contributions Plan sets out the estimated dwelling yield when the North Kellyville Precinct is fully developed. Table 3 of the Contributions Plan sets out the average occupancy rates for the four different types of residential developments anticipated. Table 4 of the Contributions Plan sets out the total estimated population at full development based on assumed dwelling yield and occupancy rates. This table is reproduced below.

Table 3. Estimated Population Based On Dwelling Mix And Occupancy

	Number of Estimated Dwellings	Average Occupancy rate	Total Estimated Population
Dwelling House	3,182.4	3.40	10,819.8
Environmental Living Lots	746.6	3.40	2,538.8
Integrated Housing	708.0	2.70	1,911.5
Senior Housing	160.0	1.30	208.0
Multi Dwelling Housing / Attached Dwellings	243.9	2.55	621.3
Residential Flat Buildings	143.6	1.59	228.2
Totals	5,184.5		16,327
<i>Less existing residents</i>			<i>765</i>
<i>Expected additional population of the North Kellyville Precinct</i>			<i>15,563</i>

The payment of contributions is applicable to any residential development in North Kellyville which will increase the population over and above that which existed on the 19 December 2008² and which will create a demand for the provision of such infrastructure. Section 2.16 of the Contributions Plan provides for credits to be made available for any existing lot with an approved dwelling that existed on or before 19 December 2008.

The existing residents of North Kellyville generally occupy rural sized lots. The majority of these lots will be subdivided to create the new urban area. It is likely that most existing residents will move away from the precinct. Therefore, the total population will be almost fully comprised of new residents. The assumption that 765 existing residents will remain in the precinct appears overstated, implying that the per-person contribution has been overestimated.

Recommendation 11

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 (see section 4.3).

² The total population used in the calculation of per capita contributions in the the North Kellyville - Contributions Plan 13 Financial Model is 15,562.7 persons (see 'Assump_TD_A')

4.3 Demographic information

Consistent with the 2005 practice note, the Contributions Plan details the anticipated population change over the planning period and the associated demographic characteristics of the population. However, there are inconsistencies between the figures detailed in the Contributions Plan and the *North Kellyville Community Facilities and Open Space Assessment* which was used as an input to the Contributions Plan. In response to SGS's request for additional information, Council has advised that:

'The demographic forecasts that are provided within the Contributions Plan are the final forecasts. The post exhibition Planning Report prepared by the Department of Planning (September 2008) referenced these forecasts on the grounds that they were considered the most relevant.

The Elton data was prepared by Informed Decisions (ID) who provide demographic forecasts based on their proprietary software and methodology. As with other technical studies prepared to inform the North Kellyville Precinct Plan, the Department of Planning managed the budget and contract associated with the Elton Report.

At the time that the ID forecasts were provided, assumptions on net developable area and dwelling mix were preliminary and therefore only used as a guide to assessing demand for open space and community facilities. The forecasts prepared by ID were never updated based on the final published Precinct Plan.

These results were also considered unsuitable for s94 purposes on the grounds that the ID model did not provide outputs such as occupancy rate and forecast population for different types of residential development.

The demographics prepared by Council (with the assistance of Cite Urban Planning who were engaged by the Department of Planning) were based on the 2006 census and demographic profile of five similar and almost complete development areas within the Hills Shire. The final outputs from this work were published in the adopted Contributions Plan and provided the necessary information to provide a contribution rate on a per-person or dwelling type based on occupancy.'

Further, Council advised that:

'The final Elton study concluded that the recommended provision of open space and facilities was appropriate for a preliminary forecast population of 14,300 persons (pp.2). The final estimated population of 15,563 persons did not result in further adjustments to open space facilities on the grounds that service levels were considered sufficient and any further increase would have resulted in an unsustainable contribution rate.'

In summary,

- Elton estimated population = 14,300 people
- Council estimate total population = 16,327 people
- Council estimate additional population = 15,563 people

The difference in population between the Elton study and the Contributions plan is either 2,027 people (Council estimate total population. i.e. 16,327 people) or 1,236 people (using Council's estimate additional population, i.e. 15,563 people). A change in the population of this magnitude may trip the threshold for additional facilities. For example, additional lighting of recreation areas may be required to extend the period over which facilities can be used. However, any impact on the contribution rate is likely to be minor.

4.4 Contribution Plan items

4.4.1 Nexus and apportionment of land and facilities for active recreation open space

The demand for active recreation facilities resulting from development at North Kellyville was assessed in the *North Kellyville Community Facilities and Open Space Assessment*, prepared by Elton Consulting in March 2008.

The availability of existing facilities is considered in the *North Kellyville Community Facilities and Open Space Assessment* but the study concludes that there are no existing facilities within the precinct or adjacent areas that will be able to meet the local needs of the new population.

In summary, the following new facilities are proposed:

- Sportsground 1
 - One rugby league field
 - One rugby union field
 - One field for rugby codes (shared)
 - One multi purpose field
 - Clubroom, amenities, car park
 - Surrounding land
- Sportsground 2
 - Five soccer fields
 - Outdoor courts and amenity
 - clubroom/ amenities/ car park
 - Surrounding land
 - Two netball courts

The *North Kellyville Community Facilities and Open Space Assessment* is based upon analysis of projected demographic mix and recreation demand using participation rates rather than the standard 2.83 hectares of open space per 1000 people contained within the *Growth Centres Development Code*.

The 'non-2.83 hectare standard approach' is consentient with the *Recreation and Open Space Planning Guidelines for Local Government* (2011) document prepared by SGS and published by the Department of Planning which states that:

'...standards should only be a starting reference point; over reliance on such standards in lieu of rigorous and consultative research into the community's requirements may produce unsatisfactory results in terms of rates of provision and the location of open space.' (p27)

The *North Kellyville Community Facilities and Open Space Assessment* does make a comparison between benchmark provisions included with the *Baulkham Hills Shire Recreation Strategy* (2007) and the participation analysis. It concludes that the analysis using participation data is appropriate compared to broader benchmarks. The benchmarks are reproduced below.

SGS considers the benchmark comparison demonstrates consistency between the Contributions Plan and past local policy. However, in accordance with the *Recreation and Open Space Planning Guidelines for Local Government* (2011), if a benchmark approach was to be adopted then the most appropriate standard would be a catchment access based standard (the service area radius or maximum distances which residents should have to travel), rather than a per capita standard.

Table 4. Benchmark provision of selected sports facilities

Facility	Benchmark
Rugby League / Union Field	1:7000
Cricket Oval	1:4000
Indoor sports (# of courts)	1:10000
Netball (# of outdoor courts)	1:3000
Soccer Field	1:3000
Tennis Courts	1:2000

Source: Baulkham Hills Shire Recreation Strategy (2007)

Indicative land requirements for the active recreation facilities are provided in the *North Kellyville Community Facilities and Open Space Assessment*. These are based on a document titled *Dimensions for Playing Areas*. The *North Kellyville Community Facilities and Open Space Assessment* also notes that Council requires all sportsgrounds to be flexible in design and, as such, the size of areas required could vary slightly.

The amount of land to be acquired for active recreation in the Contributions Plan is as follows.

- Sportsground 1 (NKPF01) 9.15 hectares.
 - This compared to 7.79 hectares suggested in the *North Kellyville Community Facilities and Open Space Assessment* (p43) and 8.89 hectares designated in the Indicative Layout Plan as per the *North Kellyville Community Facilities and Open Space Assessment* (p58)
- Sportsground 2 (NKPF02) 9.24 hectares.
 - This compared to 8.05 hectares suggested in the *North Kellyville Community Facilities and Open Space Assessment* (p43) and 8.77 hectares designated in the Indicative Layout Plan as per the *North Kellyville Community Facilities and Open Space Assessment* (p58)

Recommendation 12

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.

With regards to apportionment, the Contributions Plan states that the:

'need to provide the open space identified in this part of the plan is generated by the residential development of the North Kellyville Precinct. It is therefore appropriate that residential development within the North Kellyville Precinct be subject to the full cost of providing these open space facilities.'

SGS considers that the 100 per cent apportionment of the land and capital costs for active recreation facilities to the new development is appropriate.

4.4.2 Nexus and apportionment of land and facilities for local open space and linear open space

The appropriate provision of land and facilities for local open space and linear space within North Kellyville was assessed in the *North Kellyville Community Facilities and Open Space Assessment*, prepared by Elton Consulting in March 2008.

The *North Kellyville Community Facilities and Open Space Assessment* concludes that:

'A mix of strategically located recreation open space, including connections to Smalls Creek, neighbourhood and local parks, recreation areas linked to the sportsgrounds and other linear connections. The provision of around 30 ha of usable recreation open space would normally be justified based on a benchmark of 2ha per 1,000 people. However, due to the character of the area and the potential for open space along Smalls Creek, the level of provision is likely to be considerably higher. The preliminary Indicative Layout Plan (ILP) recommends 30.37 ha of linear open space along Smalls Creek alone. Chapter 9 outlines the proposed open space in the ILP which is consistent with the requirements for a spread of different types of open space.' (p53)

Land acquisition costs for local open space and linear open space account for \$32,819,666 (20 percent) of the \$165,557,975 base cost of the Work Schedule (page 4 of the Contributions Plan). Given the significance of these cost items, it is prudent that Council consider any possible costs saving measures such as minimising the purchase of land for open space through planning for dual-use of open space.

In response to SGS's request for additional information, Council has provided the following information about cost saving measures:

'The dual use of open space is provided where linear open space and water management is proposed. The total provision of open space in North Kellyville is 45ha. Of this area 21ha is attributed to land required for linear open space that aligns with selected internal tributaries and contains land (5ha) for the provision of constructed wetlands. Riparian and

drainage land are usually excluded from the open space 2.83 calculation as the basis upon which it was developed in the early 1900's in Britain did not consider this type of activity.

However, the land does provide a dual use as it provides for connected corridors that support recreation such as walking and cycling. The total provision of open space based on the population of 15,563 is 2.86ha per 1000 persons. If land identified for linear open space and water management was excluded from the open space calculation a provision of 1.5ha per 1000 persons would apply. Page 27 of the North Kellyville Contributions Plan provides the relevant nexus statement for the provision of linear open space.'

The cost of the land and facilities for local open space and linear open space is 100 per cent apportioned to development in North Kellyville. SGS considers this is appropriate.

4.4.3 Nexus and apportionment of land for community facilities

The *North Kellyville Community Facilities and Open Space Assessment* identifies that the majority of district level facilities required by the future North Kellyville population are proposed to be provided within the Rouse Hill Regional Centre. New facilities that will need to be provided within North Kellyville include:

- neighbourhood shops and commercial services
- a primary school
- a multi-purpose community centre incorporating space for youth activities
- childcare centres
- places of worship (subject to demand).

Of these items, *North Kellyville Community Facilities and Open Space Assessment* states that section 94 contributions are only required for the community centre.

The *North Kellyville Community Facilities and Open Space Assessment* also identifies the need for the augmentation of the branch library within the Rouse Hill Regional Centre, proportional to projected population growth in North Kellyville.

Additionally, the *North Kellyville Community Facilities and Open Space Assessment* identifies the need for

- Five netball courts (recommended to be located the existing Commercial Road Netball Complex)
- One additional indoor (recommended to be located at the Bernie Mullane Sports Centre as single court facilities are not considered to be viable and the Bernie Mullane Sports Centre is close to North Kellyville).

Of the above listed items classified as community facilities in the Contributions Plan, only the library has an associated land acquisition cost.

Although the Rouse Hill Regional Centre library is outside of the North Kellyville Precinct, and the existing facility is owned by Council, Council has advised in response to SGS's request for

additional information that land acquisition for the expansion of this facility relates to strata space that Council has an option purchase pursuant to a separate planning agreement for the Rouse Hill Regional Centre.

The Contributions Plan states that the cost of the library will be shared between residential development in the North Kellyville Precinct and the Balmoral Road Release Area. The cost is apportioned on the basis of anticipated population within each of these areas.

However, the anticipated population within each of these areas is not consistent between the Contributions Plan (North Kellyville) and the contributions plan for Balmoral Road Release Area. The different estimates are shown in Table 5.

Table 5. Apportionment of library cost

Plan	Precinct	Anticipated population	Apportionment
Contributions Plan No.12 - Balmoral Road Release Area	North Kellyville	12,600	49.2%
	Balmoral Road	13,012	50.8%
	Total	25,602	
Contributions Plan No.13 - North Kellyville Precinct	North Kellyville	15,563	54.5%
	Balmoral Road	13,012	45.5%
	Total	28,575	

Source: *Contributions Plan No.12 - Balmoral Road Release Area, Contributions Plan No.13 - North Kellyville Precinct*

Recommendation 13

The apportionment of the library cost in *Contributions Plan No.12 - Balmoral Road Release* and *Contributions Plan No.13 - North Kellyville Precinct* 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.

4.4.4 Nexus and apportionment of land and facilities for traffic and transport facilities

The need for traffic and transport facilities in the North Kellyville precinct is assessed in the *North Kellyville Traffic and Transport Assessment*, prepared by Maunsell (AECOM) in January 2008. The recommendations of this assessment were adopted in the Contributions Plan.

The traffic and transport facilities included in the Contributions Plan are as follows:

- 3 four lane upgrades
- 1 construction of proposed town bypass
- 1 four lane treatment
- 2 bridge crossings
- 2 signalisation of intersections
- 4 roundabouts
- 12 cycleway elements
- 9 bus stops.

Costs associated with the Samantha Riley Drive upgrade capital works and the northern bridge connection to Annangrove Road are apportioned between residential development within the North Kellyville precinct and elsewhere.

With regards to the Samantha Riley Drive upgrade capital works, it is proposed that the capital costs are equally apportioned between new residential development in the North Kellyville Precinct and the Kellyville Rouse Hill Precinct but that the land acquisition component remains 100 percent attributable to North Kellyville. The Contributions Plan explains that the land acquisition cost apportionment is because the 'remaining widening program relates to the northern side of Samantha Riley Drive only'.

Recommendation 14

If both the Kellyville Rouse Hill and North 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 Contributions Plan explains that the northern bridge connection to Annangrove Road will, in the long term, support the Box Hill Industrial (weight limited) and Box Hill Residential Precincts (as well as the North Kellyville Precinct). The capital costs have been apportioned based on the number of anticipated residents in Box Hill and North Kellyville. No costs have been apportioned to the planned industrial precinct. This places an unfair burden on residents of North Kellyville and Box Hill precincts.

The full cost of land acquisition for the connection is attributed to North Kellyville. Council has explained that this is to enable them to secure the land as early as possible and therefore reduce costs. While this approach is prudent from a financial perspective, it places an unfair burden on residents of North Kellyville.

Recommendation 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.

The entire cost of the other road and bridge facilities, intersections, pedestrian paths and cycleways and bus shelters are apportioned to the residential development within the North Kellyville precinct. SGS considers this to be appropriate.

4.4.5 Nexus and apportionment of land and facilities for water management facilities

A Water Cycle Management Strategy for the North Kellyville Precinct was prepared by WorleyParsons. The Water Cycle Management Strategy addresses the water quality targets which form part of the Development Code published by the Growth Centres Commission in November 2006. The recommendations of this strategy are adopted in the Contributions Plan.

The Contributions Plan requires that the full costs of providing the water management facilities are met by the residential development within the North Kellyville precinct. SGS considers this to be appropriate.

5 Timing

The Contributions Plan contains high-level information on the time when costs will be incurred and revenue will be received.

In response to SGS's request for additional information, Council has provided SGS with a soft copy of the financial model used in the development of the Contributions Plan and have advised that:

Thresholds have been generally applied by assessing the rate of development and servicing of land.

A GIS map layer based on Sydney Water's servicing plan (contained with a report prepared by Hyder Consulting Attachment 4) was used to estimate the timing of capital works and land acquisition. Timing of land acquisition was also influenced by the likelihood of land owner initiated acquisition claims pursuant to the *Land Acquisition (Just Terms Compensation) Act 1991*.

SGS has not interrogated the exact location of parcels of land that are planned to be acquired and the timing of acquisition. However, we consider the principles that Council has used to derive the timing of acquisition (that is, consistency with the Sydney Water servicing plan and likelihood of land owner initiated acquisition claims) are appropriate.

With regards to capital expenditure, the method of using thresholds is appropriate. However the link between the facility demand analyses and timing of expenditure could be more explicit.

Brisbane
Level 9
269 Wickham Street
Fortitude Valley QLD 4006
PO Box 1177
Fortitude Valley QLD 4006
P: +61 7 3124 9026
F: +61 7 3124 9031
E: sgsqld@sgsep.com.au

Canberra
Level 1
55 Woolley Street
Dickson ACT 2602
PO Box 788
Dickson ACT 2602
P: +61 2 6262 7603
F: +61 2 6262 7564
E: sgsact@sgsep.com.au

Hobart
P: 0439 941 934
F: +61 3 6244 4154
E: sgstas@sgsep.com.au

Melbourne
Level 5
171 La Trobe Street
Melbourne VIC 3000
P: +61 3 8616 0331
F: +61 3 8616 0332
E: sgsvic@sgsep.com.au

Perth
Suite 4
1327 Hay Street
West Perth WA 6005
P: +61 8 9254 9962
F: +61 8 9254 9965
E: sgswa@sgsep.com.au

Sydney
Suite 12
50 Reservoir Street
Surry Hills NSW 2010
P: +61 2 8307 0121
F: +61 2 8307 0126
E: sgsnsw@sgsep.com.au

B The Hills Shire Council's response to consultants' reviews of CP12 and CP13

THSC Response to draft consultants reports for CP Nos 12 and 13

THE HILLS SHIRE COUNCIL

129 Showground Road, Castle Hill NSW 2154
PO Box 75, Castle Hill NSW 1765

Telephone 02 9843 0555
Facsimile 02 9843 0409

Email council@thehills.nsw.gov.au
www.thehills.nsw.gov.au

DX 8455 Castle Hill

ABN No. 25 034 494 656

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 BRRA 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 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.	<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</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 Plans 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)