

## FACT SHEET

# Summary of Section 94 contributions plans reviewed by IPART

Based on IPART's review of section 94 contribution plans submitted by Blacktown City Council (CP 20) and The Hills Shire Council (CP 12 and CP 13) for assessment - October 2011

### Background

Under Section 94 of the *Environmental Planning and Assessment Act 1979* (EP&A Act), councils can obtain contributions from developers to fund local infrastructure required for new development. Councils seeking contributions under section 94 must prepare a contributions plan. A contributions plan is a public document which displays the council's policy for the assessment, collection, expenditure and administration of contributions.

During 2010 the NSW Government made a number of amendments to the framework for contributions plans.<sup>1</sup> These changes include:

- ▼ imposing caps on the amount that councils can levy developers - the cap is \$20,000 for established areas and \$30,000 for 'greenfield' areas<sup>2</sup>
- ▼ requiring councils to levy contributions only for essential infrastructure which the government has specified in an Essential Works List
- ▼ requiring councils to submit to IPART for review any contributions plans that have a contribution rate above the cap and for which the council is seeking additional funding, either from the government or from ratepayers
- ▼ exempting a number of existing developments from the cap and the requirement for review by IPART
- ▼ providing for councils to seek funding through the Priority Infrastructure Fund<sup>3</sup> or through special rate variations for reasonable costs above the cap.

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<sup>1</sup> 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.

<sup>2</sup> A greenfield area is a yet undeveloped site needing significant infrastructure to support residential development.

<sup>3</sup> The Priority Infrastructure Fund is a \$50m fund established in 2010 by the Minister for Planning to enable councils to recover (from the NSW Government) the difference between the contributions amount contained in a contributions plan (that is assessed as being reasonable by IPART) and the relevant cap.

IPART does not review all of the plans. IPART only reviews:

- ▼ new contributions plans which propose a developer contribution level above the relevant cap
- ▼ existing contributions plans above the relevant cap for which a council seeks funding from the Priority Infrastructure Fund or through a special rate variation under the *Local Government Act 1993*<sup>4</sup>
- ▼ contributions plans referred by the Minister for Planning and Infrastructure.<sup>5</sup>

To date IPART has assessed three Section 94 contributions plans:

- ▼ The Hills Shire Council - Contributions Plan No 12 for Balmoral Road Release Area
- ▼ The Hills Shire Council - Contributions Plan No 13 for North Kellyville Release Area
- ▼ Blacktown City Council - Contributions Plan No 20 for Riverstone and Alex Avenue Precincts.

The developer contributions calculated from the plans exceed the \$30,000 cap for greenfield sites set by the Minister for Planning in September 2010. The maximum contribution rate per lot is:

- ▼ \$58,000 or \$60,000 (\$2010) within Contributions Plan No 20 for Riverstone & Alex Avenue Precincts
- ▼ \$53,064 or \$53,780 (\$2006) within Contributions Plan No 12 for Balmoral Road Release Area
- ▼ \$45,068 (\$2008) within Contributions Plan No 13 for North Kellyville Release Area.

IPART has reviewed these plans and has submitted its reports to the Minister for Planning and Infrastructure and the respective councils.

We assessed each of the plans against the criteria set out in the Practice Note:

- ▼ The public amenities and public services in the plan are on the 'Essential Works List' as identified within the Practice Note.
- ▼ There is a 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.
- ▼ The proposed development contribution is based on a reasonable estimate of the costs of the proposed public amenities and public services.

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<sup>4</sup> Councils may apply to IPART for a special variation to their general income under either section 508A or 508(2) of the *Local Government Act 1993*.

<sup>5</sup> Department of Planning, *Planning Circular PS 10-025 Development Contributions*, 23 November 2010.

- ▼ The proposed public amenities and public services can be provided within a reasonable timeframe.
- ▼ The proposed development contribution is based on a reasonable apportionment between existing demand and new demand for the public amenities and public services.
- ▼ The council has conducted appropriate community liaison and publicity in preparing the contributions plan.
- ▼ The plan complies with other matters IPART considers relevant.<sup>6</sup>

### Summary of IPART's findings against the assessment criteria

Our reviews to date show that the cost of providing infrastructure in north west Sydney is significant and can be well above the relevant caps. The acquisition of land for services and facilities, particularly for open space, is a major contributor to the total cost in each of the plans. This is in part due to the high cost of land throughout Sydney, compared to other major cities in Australia.

We found that while it is possible to reduce costs by relatively modest percentage amounts by adjusting or removing some items, the overall costs are still large in dollar terms. In particular, high costs were found to be associated with:

- ▼ the acquisition of land and capital works for stormwater management in the Riverstone and Alex Road Release Area (CP 20)
- ▼ the acquisition of land for open space for all plans reviewed.

Our amendments to the plans reduce the total cost of works by:

- ▼ \$45.1 million for the Riverstone and Alex Avenue Contributions Plan (total cost of \$700.1 million after recommended reductions)
- ▼ \$11.3 million for the Balmoral Road Contributions Plan (total cost of \$155.7 million after recommended reductions)
- ▼ \$7.2 million for the North Kellyville Contributions Plan (total cost of \$151.5 million after recommended reductions)

These amendments reduce the value of the plans by amounts ranging from 4% to 7%.

In relation to the planned timing of infrastructure provision, we considered that the timeframe for:

- ▼ North Kellyville Release Area was reasonable.
- ▼ Balmoral Road Release Area needed to be updated to reflect changes current forecasts (eg population) and actual expenditures not being included in the costing model.

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<sup>6</sup> NSW Department of Planning *Local Development Contributions Practice Note- For the assessment of Local Contribution Plans by IPART*, November 2010.

For Riverstone and Alex Avenue, the council can provide only a broad indication at this early stage of when they can deliver the stormwater management facilities. The council did not provide a timeframe for the delivery of other facilities.

IPART considered that the councils had conducted appropriate community liaison and publicity in the preparation of the three contributions plans assessed.

A more detailed summary of findings is at Appendix 1.

## Other issues arising from IPART's reviews

During IPART's review of the 3 contributions plans, we identified issues that relate more widely to the review of contributions plans. These issues are:

- ▼ provision of information by councils to IPART
- ▼ regular review of plans
- ▼ inclusion of administration costs
- ▼ use of a net present value model
- ▼ escalation of contributions
- ▼ determining rates for different types of development
- ▼ inclusion of non-essential works in the plan
- ▼ ways of reducing major costs items.

Our recommendations to councils in general and to the Minister for Planning regarding these issues are as follows:

- ▼ Councils should review their contributions plans at least every five years, unless a significant change in circumstances prompts an earlier review.
- ▼ 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.
- ▼ 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 of contributions plans and managing contributions receipts and expenditures.
- ▼ 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.
- ▼ 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.

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- ▼ 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.
  - ▼ The Minister for Planning and Infrastructure should consider clarifying the policy with regards to contributions rates for different types of development (eg, single dwellings versus multi-unit dwellings).
  - ▼ 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.
  - ▼ A whole-of-government review of the requirements for open space and other land uses that sterilise land for development should be undertaken.
  - ▼ The system of recouping the cost of stormwater management works should be given further consideration in light of potential inequities between different areas.

## Appendix 1 Summary of IPART’s findings against assessment criteria

IPART’s assessment criteria	Findings - CP12 - Balmoral Road Release Area	Findings - CP13 - North Kellyville Precinct	Findings - CP20- Riverstone and Alex Avenue Precincts
The public amenities and public Services in the plan are on the “Essential Works List” as identified within the Practice Note	With the exception of administration costs, all works in the plan submitted to IPART are on the Essential Works List.	With the exception of administration costs, all works in the plan submitted to IPART are on the Essential Works List.	With the exception of the skate park, capital works for the community resources hub and upgrades to the aquatic facility, all works in the plan submitted to IPART are on the Essential Works List.
There is a 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 a nexus between the items in CP12 and the expected development in Balmoral Road Release Area although there is potentially an overprovision of open space.	There is a nexus between items in CP 13 and the expected development in North Kellyville Precinct.	There is a nexus between items in CP 20 and the expected development in Riverstone and Alex Avenue Precincts.
The proposed development contribution is based on a reasonable estimate of the cost of the proposed public amenities and public services	<p>The total reasonable cost for items in CP 12 that are on the Essential Works list is \$156m.</p> <p>In the plan submitted to IPART, stratum costs estimates for the library expansion are out of date.</p> <p>Capital cost contingencies in the plan submitted to IPART were found to be too high.</p> <p>Cost savings could be made by providing some bus shelters under commercial arrangements.</p>	<p>The total reasonable cost for items in CP 13 that are on the Essential Works list is \$152m.</p> <p>Capital cost contingencies in the plan submitted to IPART were found to be too high.</p> <p>Cost savings could be made by providing some bus shelters under commercial arrangements.</p>	<p>The total reasonable cost for items in CP 20 that are on the Essential Works list is \$700m.</p> <p>The cost of stormwater management works is high but not unreasonable.</p> <p>An adjustment to the valuation of land purchased by council in 2008 would reduce costs by a small amount.</p>

<b>IPART's assessment criteria</b>	<b>Findings - CP12 - Balmoral Road Release Area</b>	<b>Findings - CP13 - North Kellyville Precinct</b>	<b>Findings - CP20- Riverstone and Alex Avenue Precincts</b>
The proposed public amenities and public services can be provided within a reasonable time	The proposed timing of infrastructure delivery is not reasonable because it does not reflect actual expenditures and availability of new data for forecasting.	The proposed timing of infrastructure delivery is reasonable.	The proposed timing of infrastructure delivery for stormwater management works is only indicative at this stage but reasonable. Timing of delivery of other items was not provided.
The proposed development contribution is based on a reasonable apportionment between existing demand and new demand for the public amenities and public services	Some adjustments should be made to the apportionment of transport and stormwater management costs. Apportionment for the Rouse Hill Regional Centre library expansion is based on outdated population forecasts and is inconsistent with that in CP North Kellyville plan.	Apportionment in the plan is reasonable for all items other than for the Rouse Hill Regional library and the Northern Bridge.	Apportionment in the plan is reasonable except for two detention basins that would support development in Riverstone East as well as Riverstone. We consider that the cost of water cycle management facilities in CP 20 should be reduced by \$8,782,000 to reflect this.
The council has conducted appropriate community liaison and publicity in preparing the CP	The council has conducted appropriate community liaison and publicity in preparing CP 12.	The council has conducted appropriate community liaison and publicity in preparing CP 13.	The council has conducted appropriate community liaison and publicity in preparing CP 20.