



Assessment of Contributions Plan  
Orchard Hills North – Area A  
Development Contributions Plan 2022

Penrith City Council

## Draft Report

May 2024

Local Government >>

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# 1 Executive Summary

This is our Draft Report of our *Assessment of Orchard Hills North – Area A Development Contributions Plan 2022*. In the Draft Report we have made draft recommendations and are seeking comment from Penrith City Council where we need further information.

New development is essential to provide housing for NSW's growing population and more commercial, retail, and industrial space for employment. When development occurs, local councils need to provide additional infrastructure to support both the development and the new community – for example, new roads, stormwater management and open spaces. In NSW, councils can require developers to contribute to the cost of providing that infrastructure.

Contributions plans set out the local infrastructure required to meet the demand from new development, and the contributions a council can levy on developers to fund the necessary land and works.<sup>a</sup> Currently, a contributions plan that proposes a level of contributions above a threshold of \$30,000 per lot or dwelling in identified greenfield areas and \$20,000 per dwelling in other areas must be submitted to IPART for review.

IPART provides its assessment to the Minister about whether the plan complies with the essential works list and other criteria set out in the Infrastructure Contributions Practice Note ([2019 Practice Note](#)) published by the Department of Planning, Housing and Infrastructure (DPHI).<sup>b</sup>

The 2019 Practice Note must be read in conjunction with the Department of Planning and Environment's Development Contributions Practice Notes, July 2005 ([2005 Practice Notes](#)) which outline the requirements for local councils in preparing and administering their contributions plans.

The council submitted *Orchard Hills North – Area A Development Contributions Plan 2022* (OHN CP) to IPART for assessment on 29 September 2023. The council is seeking to levy development contributions above the \$30,000 cap per lot/dwelling.

This is the first time that IPART is reviewing OHN CP.


We assessed OHN CP against the 2019 Practice Note criteria.<sup>1</sup> We found that the plan meets some of the 2019 Practice Note criteria (see **Figure 1.1**). We are seeking further information from the council to assist us to assess whether the plan meets the criteria of reasonable costs and reasonable apportionment.

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<sup>a</sup> [Section 7.11 of the Environment Planning and Assessment Act 1979](#) allows councils to levy contributions towards the cost of providing local infrastructure.

<sup>b</sup> The Department of Planning, Housing and Infrastructure (DPHI), formerly Department of Planning and Environment (DPE). This change took place on 1 January 2024, and this report will refer to DPE/DPHI interchangeably.

Figure 1.1 Summary of our assessment of OHN CP

Essential Works List	Nexus	Reasonable Cost	Reasonable apportionment	Reasonable timeframe	Community consultation	Other matters
						
Demonstrated subject to recommendation	Demonstrated	Seeking comment	Seeking comment	Demonstrated subject to recommendation	Demonstrated	Demonstrated subject to recommendation

We have made draft recommendations where OHN CP has not completely met the criteria, and adjustments to the costs in the work schedule, which includes that the council:

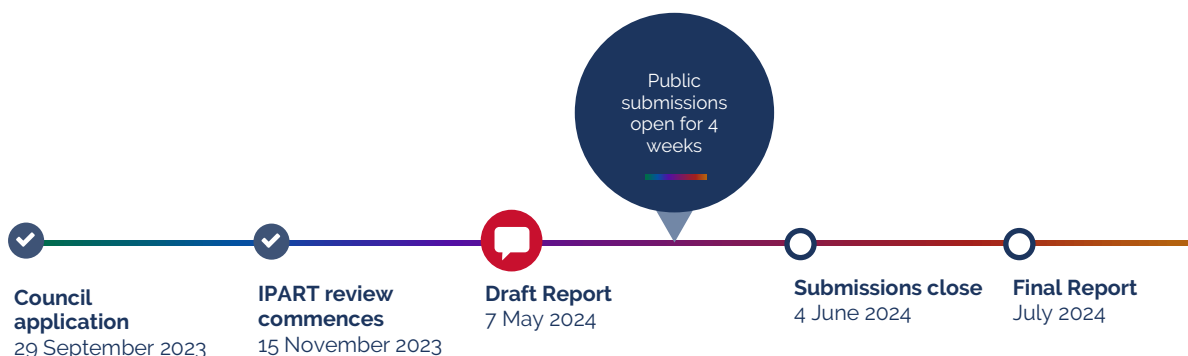
- ensures that the plan does not include any items not on the essential works list, such as public art
- increase the contingency allowances across stormwater, transport and open space infrastructure
- adjust items in the work schedule that impact the indicative contribution rates
- provide indicative timing for the delivery of each individual infrastructure item in the plan.

If our draft recommendations were implemented, we estimate that the total reasonable cost of works and land in OHN CP will be about **\$231 million**. The corresponding estimated development contribution rate for a typical dwelling would be about **\$137,000**.

We are seeking feedback on our draft recommendations, and further information from the council, until 4 June 2024. **Figure 1.2** shows the review timeline for OHN CP.

The Draft Report outlines our preliminary position on OHN CP, and we are seeking further information, including undertaking consultation, to assist us to complete our review of the plan. We have published our Draft Report to facilitate assessing the plan in a timely manner.

Figure 1.2 Review timeline for OHN CP



## 2 Introduction

Penrith City Council (the council) submitted *Orchard Hills North – Area A Development Contributions Plan 2022* (OHN CP) to IPART for review on 29 September 2023. The council is seeking to levy development contributions above the \$30,000 cap per lot/dwelling.

IPART must first review OHN CP and provide its review of the plan to the Minister for Planning and Public Spaces (Minister). The Minister (or the Minister's nominee) may request the council to make changes to the plan. After the council makes any changes and adopts the plan, the council can levy the contributions rate above the cap, as calculated under the adopted plan.

This is the first time that IPART is reviewing OHN CP.

We assessed OHN CP against the DPHI's 2019 [Practice Note](#) criteria:

1. Public amenities and services in the plan are on the **essential works list** as identified within the Practice Note.
2. Public amenities and services are reasonable in terms of **nexus** (i.e. there is a connection between the development and demand created).
3. Development contribution is based on a **reasonable estimate of the cost** of the public amenities and services.
4. Public amenities and services can be provided within a **reasonable timeframe**.
5. Development contribution is based on a **reasonable apportionment** between:
  - a. existing and new demand for the public amenities and services, and
  - b. different types of development that generate new demand for the public amenities and services (e.g. different types of residential development such as detached dwellings and multi-unit dwellings, and different land uses such as residential, commercial, and industrial).
6. Council has conducted appropriate **community liaison** and publicity in preparing the contributions plan.
7. **Other matters** IPART considers relevant.<sup>2</sup>

Our assessment of OHN CP involved reviewing the contributions plan and supporting documentation supplied by the council, including the council's application form, the works schedule, strategic studies, and consultant reports. The supporting documentation was mainly prepared by Legacy Property, the main developer in the precinct.

We also made 2 requests for further information from the council and received further information to assist us in assessing the plan.

We are seeking further information from the council in this Draft Report to help us assess whether the plan meets the 2019 Practice Note criteria.

For more details on our assessment approach, please see our [Information Paper](#).

The remaining sections of this Draft Report provide a background on OHN CP, our assessment of the plan, draft recommendations, where we are seeking comment from the council and draft recommended contributions rates.

We are seeking feedback on our draft recommendations and seeking comment until 4 June 2024 (see below).

## Draft recommendations

1.	Ensure that only open space embellishments that are consistent with the essential works list are included in the plan. This means the plan should not include any public art or skate parks that are inconsistent with the essential works list.	10
2.	Update the cost of plan administration to be 15% of the revised total works costs.	25
3.	Use the following contingency allowances:	26
	a. 20% for stormwater works	
	b. 30% for transport works	
	c. 20% for open space embellishment works.	
4.	Adjust the work schedule to correct for the:	27
	a. underestimate of the apportionment of non-residential stormwater costs	
	b. underestimate of residential open space land costs	
	c. underestimate of residential and non-residential plan administration costs	
	d. underestimate of residential total transport works costs	
	e. overestimate of residential costs through transport works item EW1.	
5.	Include indicative timing for the delivery of each individual infrastructure item in the work schedule for the plan.	30

## Seek Comment

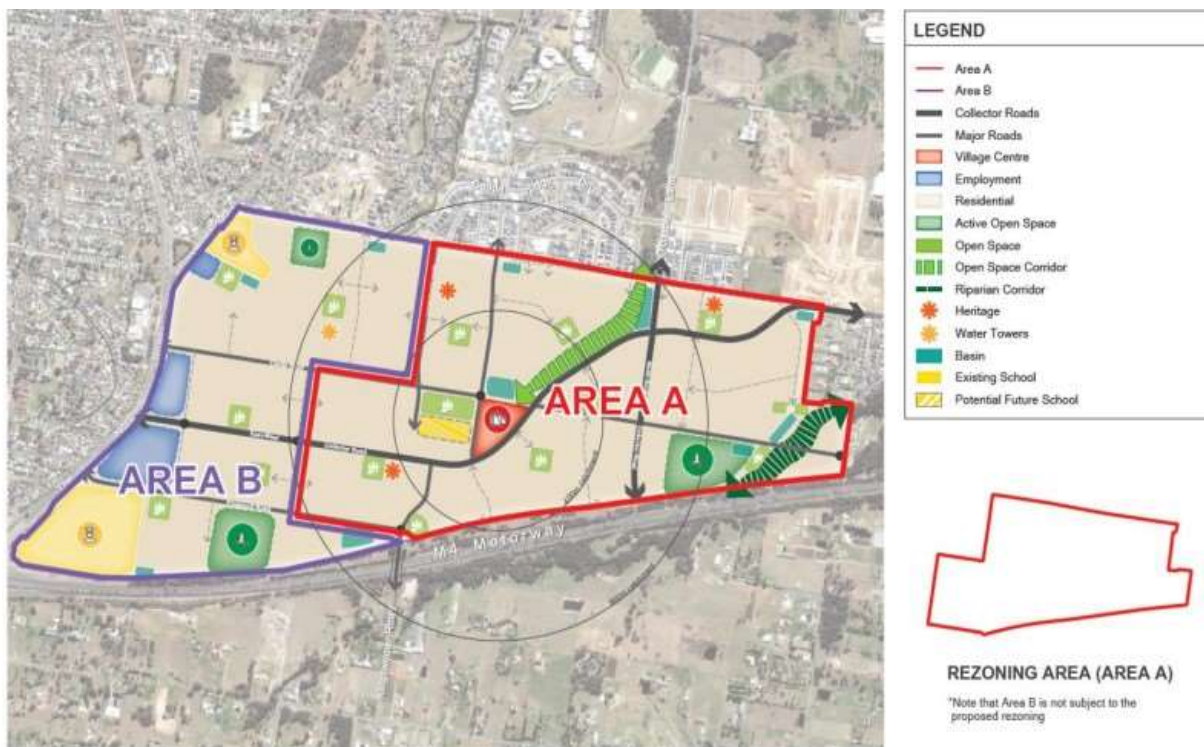
1.	The council provide further information on the costs of transport works items (SG, SH, SL, SP, SQ) so that we can understand why the costs in the work schedule differ from the individual cost estimates.	18
2.	The council provide further information for the basis for the costs for transport works items (EECR1-3, EEKR1, EEFR1, OSHR1-7, OSHR9, BOSHR1-3, OSHRB4, SR1-3, and OSHR81-3, EW1, EW2, and NS1 and roundabouts).	18
3.	The council provide further detail on the costs of open space works items OS3, OS5, OS6 and OS8.	20
4.	The council provide further information about why non-residential development has not been charged plan administration costs.	25
5.	The council provide further information on why transport costs have not been apportioned to non-residential development.	28
6.	The council provide further information on why non-residential development has not been apportioned plan administration costs for transport.	29

### 3 The Orchard Hills North – Area A Development Contributions Plan 2022

#### 3.1 The Orchard Hills North: Area A precinct development

The Orchard Hills North rezoning area (Area A) precinct (the precinct) is about a 152-hectare area within the Penrith local government area and has a net developable area (NDA) of 101.15 hectares. The precinct is bounded by elements of Kingswood Road, Castle Road and Frogmore Road to the west; Caddens Road to the north; Claremont Meadows residential lots to the east; and the M4 Western Motorway to the south (see **Figure 3.1**).<sup>3</sup>

Figure 3.1 Map of Orchard Hills North: Area A precinct



Source: Penrith City Council, Orchard Hills North – Area A Development Contributions Plan 2023 – Part 1: Administration, p 5.

The land located immediately west of Area A is known as the Orchard Hills North structure plan area (Area B). The contributions plan only applies to Area A.<sup>4</sup> Most of the land within the precinct is owned by Legacy Property, the majority landowner and proponent in the precinct.<sup>5</sup>

The precinct is currently mainly a rural and rural residential environment, with a range of agricultural activities, that is proposed to undergo urban development comprising housing, a neighbourhood centre, and retail space.<sup>6</sup> The land in the plan is subject to rezoning for various uses to support its incoming population, including residential, retail/mixed use, commercial/industrial, traffic, transport, stormwater management, recreation and open space purposes.<sup>7</sup>

The precinct is forecast to result in 1,675 new dwellings to support a net population increase of 5,025 residents. Residential development is estimated to comprise 98.95 hectares of total net developable area.<sup>8</sup> The remaining 2.2 hectares of land is zoned for non-residential purposes. This includes retail, business and community use floorspace, including a supermarket, cafes and food services, specialty shops, offices and retail services. The new growth in the precinct is expected to create 174 jobs.<sup>9</sup> The council expects development to span approximately 10 years.<sup>10</sup>

### 3.2 Contributions Plan – Orchard Hills North Precinct

To support development in the precinct, the plan levies contributions for traffic and transport facilities, stormwater management facilities and open space and recreation facilities.<sup>11</sup>

The plan was submitted to IPART for review on 29 September 2023. The council has indicated its intention to adopt the plan following receipt of the Minister's advice and IPART's assessment.<sup>12</sup>

### 3.3 Items included in OHN CP

OHN CP includes total development contributions of about \$218 million, which covers the land, works and plan administration items associated with the development in the precinct.

#### Stormwater works

The plan proposes to deliver about \$24.3 million worth of stormwater works items within the precinct.<sup>13</sup>

In summary this includes wetlands basins, detention basins, raingardens, gross pollutant traps (GPTs) and drainage.<sup>14</sup> The full list of stormwater infrastructure items and associated costs are listed in **Table 4.2**.

#### Transport works

OHN CP proposes to deliver about \$28.9 million worth of transport works items within the precinct.<sup>15</sup>

In summary this includes road upgrades, collector roads, sub-arterial roads, local roads, half road frontage, roundabouts, bus shelters and traffic controls and signals.<sup>16</sup> The full list of transport infrastructure items and associated costs are listed in **Table 4.3**.

#### Open space embellishment

OHN CP proposes about \$27.8 million to embellish passive and active local parks, bushland open spaces and playing fields.<sup>17</sup>

The open space embellishment items in OHN CP include landscaping, park furniture, playgrounds and play equipment, sporting fields, water play, recreation spaces and car parking.<sup>18</sup>

OHN CP also proposes almost \$1.6 million to embellish Gipps St District Open Space Facility,<sup>19</sup> which includes sporting fields, lighting, club facilities, amenities, park furniture, picnic facilities, public art, car parking, playgrounds, landscaping and shared pathways.<sup>20</sup>

The full list of items and associated costs are listed in **Table 4.4**.



## Land

OHN CP includes about \$134.2 million of land costs to acquire 37.21 hectares of land.<sup>21</sup> The council must acquire 11.80 hectares of land for drainage, 9.53 hectares for transport works and 15.88 hectares of land for local open space and recreation.<sup>22</sup>

Land acquisitions are planned to allow for stormwater infrastructure, traffic and transport management and open space and recreation.<sup>23</sup> The full list of items and associated costs are listed in **Table 4.5**.

## Plan administration

OHN CP includes a plan management and administration cost of around \$1.2 million.<sup>24</sup> This is based on 1.5% of the total works costs.

## Indexation

OHN CP proposes 3 indexes to be applied in the plan. These are:

- Producer Price Indices (PPIs), applied to works cost estimates<sup>25</sup>
- ABS Sydney All Groups Consumer Price Index (CPI), applied to land cost estimates<sup>26</sup> and to the base contribution rate at the time of payment.<sup>27</sup>

## 3.4 Contribution rates in OHN CP

OHN CP levies contributions to each development based on the relevant apportionment of the total costs of the land, works and plan administration items (where relevant) required to service the development.

The council's application sets out its proposed contribution rates for residential dwellings and non-residential development. **Table 3.1** and **Table 3.2** sets out the council's proposed contributions rates for each development type.

Table 3.1 OHN CP residential contributions rates (\$Jun23)

Type of Development	Occupancy (persons/dwelling)	2023 proposed contribution rate (\$)
Studio or 1-bedroom dwelling, secondary dwelling or seniors living dwelling	1.5	64,853
2-bedroom dwelling	2	86,470
3+ bedroom dwelling or residential lot	3	129,702

Source: Penrith City Council, OHN CP works schedule.

Table 3.2 OHN CP non-residential contributions rates (\$Jun23)

Type of Development	2023 proposed contribution rate (\$ per ha of NDA)
Non-residential	521,948

Source: Penrith City Council, OHN CP works schedule.

## 4 Assessment of OHN CP

This section provides our assessment of Orchard Hills North – Area A Development Contributions Plan 2022 (OHN CP) from the council. It includes our assessment of each criterion, by works category, issues relating across all categories, our draft recommendations and where we are seeking further information to assist in assessing the plan against the 2019 Practice Note criteria.

### 4.1 Overview

We assessed OHN CP against the criteria in the DPHI's [2019 Practice Note](#). For more details on our assessment approach, please see our [Information Paper](#).

We found that OHN CP meets some of the Practice Note criteria. In **Table** we present a summary of our assessment of each infrastructure category against each criterion, including where we are seeking further information.

Table 4.1 Summary of our assessment of OHN CP

Criteria	Stormwater	Transport	Open space	Land	Plan administration
<b>Essential works list</b>	Criteria met	Criteria met	Criteria met subject to recommendation	Criteria met	Criteria met
<b>Nexus</b>	Criteria met	Criteria met	Criteria met	Criteria met	Criteria met
<b>Reasonable cost</b>	Criteria met	Seeking comment	Seeking comment	Criteria met	Criteria met subject to recommendation
<b>Apportionment</b>	Criteria met	Seeking comment	Criteria met	Criteria met	Seeking comment
<b>Timing</b>	Criteria met subject to recommendation				N/A
<b>Community liaison</b>	Criteria met	Criteria met	Criteria met	Criteria met	Criteria met
<b>Other matters</b>	Criteria met subject to recommendations				

### 4.2 Essential Works List

#### 4.2.1 Stormwater

The council proposes \$24.3 million of stormwater works in OHN CP, and an associated \$26.9 million in land acquisitions.<sup>28</sup> OHN CP stormwater works include wetlands basins, detention basins, raingardens, gross pollutant traps (GPTs) and drainage.<sup>29</sup> For the full set of stormwater works, see **Table 4.2**. There is a land component for all stormwater infrastructure items.<sup>30</sup>

Our review of the proposed stormwater infrastructure works items within OHN CP has not identified any items that are inconsistent with the essential works list set out in [2019 Practice Note](#).

#### 4.2.2 Transport

The council proposes \$28.9 million of transport works in OHN CP, and an associated \$47.2 million in land acquisitions.<sup>31</sup> OHN CP transport works include road upgrades, collector roads, sub-arterial roads, local roads, half road frontage, roundabouts, bus shelters and traffic controls and signals.<sup>32</sup> For the full set of transport works, see **Table 4.3**. There is a land component for all transport infrastructure items.<sup>33</sup>

We consider that the transport infrastructure items proposed within OHN CP meets the description in [2019 Practice Note](#) essential works list for land and facilities for transport.<sup>34</sup>

#### 4.2.3 Open space

OHN CP proposes around \$27.8 million in local open space works to embellish 9 passive and active local parks, 3 bushland open spaces and playing fields, and an associated \$53.8 million in land acquisitions.<sup>35</sup> For the full set of open space items, see **Table 4.4**. There is a land component for all local open space infrastructure items.<sup>36</sup>

The open space embellishment items in OHN CP include landscaping, park furniture, playgrounds and play equipment, sporting fields, water play, recreation spaces and car parking.<sup>37</sup>

The council has relied on Legacy Property to commission the Place Design Group to prepare the *Orchard Hills North Open Space Strategy (January 2023)* which includes concept plans for open space items. The concept designs include high level details about potential open space embellishments. Most of the open space sub items are on the essential works list, however, some items are not on the essential works list. These include:

- 'high quality Public Art installation' in Open Space 3 (Caddens Road Farmhouse Park)<sup>38</sup>
- 'small outdoor heritage installation' that will celebrate the cultural and theological significance of the Church and its role in forming the Orchard Hills community in Open Space 4 (Community Dog Park and Flower Garden)<sup>39</sup>
- 'interpretive public art for Aboriginal/environmental awareness/European heritage in Open Space 5 (Linear Riparian Park)<sup>40</sup>
- 'wheeled activities including skate, scooter and bike' in Open Space 8 (Farm Park).<sup>41</sup>

OHN CP also includes about \$1.6 million to embellish Gipps St District Open Space Facility,<sup>42</sup> which is a district sports facility that includes sporting fields, lighting, club facilities, amenities, park furniture, picnic facilities, public art, car parking, playgrounds, landscaping and shared pathways.<sup>43</sup>

We have previously assessed that public art is not allowable under the Essential Works List. In our assessment of [Contributions Plan No.24 – Schofield's Precinct \(2022\)](#) we allowed public art where it was required for base level open space embellishment rather than interpretative signage.<sup>44</sup>

As the 2019 Practice Note<sup>45</sup> specifically excludes skate parks, BMX tracks and the like, we also recommend that as further design work is undertaken that the council ensure that these items are not included in open space embellishment works in the plan.

As the plans provided by council are high level concept designs with no specific costings for these sub items, we are not proposing to recommend removing any costs for open space embellishment for these items. However, we recommend that council ensure that they only include public art that is consistent with the essential works list in the plan.

## Draft Recommendations



1. Ensure that only open space embellishments that are consistent with the essential works list are included in the plan. This means the plan should not include any public art or skate parks that are inconsistent with the essential works list.

### 4.2.4 Land

OHN CP includes about \$134.2 million of land costs for 37.21 hectares of land.<sup>46</sup> The land acquisitions in the plan are for stormwater infrastructure, traffic and transport management and open space and recreation.<sup>47</sup> The full list of land acquisitions is in **Table 4.5**.

We consider that the land proposed within OHN CP is consistent with the essential works list.<sup>48</sup>

### 4.2.5 Plan administration

OHN CP includes about \$1.2 million for plan management and administration costs.<sup>49</sup> This is based on 1.5% of the total works costs for stormwater, transport and local open space.

This \$1.2 million administration cost also covers plan management and administration cost for Gipps St District Open Space Facility, which is 1% of the district open space works costs, as set out in the council's *Open Space Facilities Development Contributions Plan*.<sup>50</sup>

We consider that the proposed plan management and administration cost within OHN CP is consistent with the essential works list, which allows the costs of plan preparation and administration.<sup>51</sup>

## 4.3 Nexus

### 4.3.1 Stormwater

The council relied on Legacy Property to commission the *Stormwater and Flood Management Strategy* (February 2023) prepared by J. Wyndham Prince. The report identifies the stormwater infrastructure items needed to manage water quantity and water quality and conducts a flood assessment using flood modelling based on the parameters of the precinct.

We consider that the council has established nexus for stormwater management infrastructure in the precinct and is consistent with the approach taken to establishing the need for stormwater infrastructure in other plans we have previously assessed.

### 4.3.2 Transport

We consider that the council has established nexus for the transport infrastructure in OHN CP.

The council based its transport works concepts, designs and quantities on the assessments by J Wyndham Prince and SCT Consulting commissioned by Legacy Property, which establish that development in the precinct and surrounding areas will generate the demand for transport infrastructure.

SCT Consulting's *Transport Management and Accessibility Plan (TMAP)* establishes the transport needs based on the projected traffic in the precinct.<sup>52</sup> The study demonstrates the need for significant expansion of 11 intersections based on traffic modelling data from the council and Transport for NSW.<sup>53</sup>

The new infrastructure is necessary due to the increased population projected in the area as well as background traffic growth, which is considerable for roads linked to the Great Western Highway and M4. The study considered current traffic patterns in the precinct and projected changes to them by 2036 and 2041.<sup>54</sup>

The study broadly identified roads and areas which would need to be upgraded to support development and accommodate increased traffic through the Precinct because of other developments in the Penrith local government area.<sup>55</sup>

Based on the concept layouts in the SCT Consulting study, the J Wyndham Price report details the quantities of infrastructure needed to meet the demand identified. The areas identified for road upgrades by J Wyndham Price and their intended purpose align with the recommendations in the SCT Consulting study.

### 4.3.3 Open space

The council relied on analysis undertaken by Place Design Group, commissioned by Legacy Property, to establish nexus for open space included within the plan.<sup>56</sup> The study estimated that based on the anticipated new population of 5,187 residents about 15.77 hectares of active and open space is required.<sup>57</sup> This is 3.04 hectares per 1,000 residents, which is slightly higher than the Growth Centres Development Code benchmark of 2.83 hectares per 1,000 residents.<sup>58</sup>

An assessment of the provision of open space within the precinct was also undertaken comparing the amount of open space against a range of planning benchmarks, including the NSW Government Architect's *Draft Greener Places Open Space for Recreation Guide*<sup>59</sup>, and Penrith City's *Open Space and Recreation Facilities Strategy*.<sup>60</sup>

While the amount of open space is above the Growth Centres Development Code benchmark of 2.83 hectares per 1,000 residents, we consider this an initial high-level guide for the appropriate amount of land that is required within a precinct to serve open space needs. We have previously assessed plans, such as *Campbelltown City Council's Menangle Park Contributions Plan 2018 (Menangle Park CP)* with a higher provision of open space (3.19 hectares per 1,000 residents) as reasonable, particularly where throughout the local government area there may be higher provision of open space.<sup>61</sup> This is the case in the Penrith local government area with the *Penrith Sport and Recreation Strategy* (March 2020) indicating that the Penrith local government area has around 5 hectares per 1,000 people, with some precincts within the local government area having a higher ratio.<sup>62</sup>

In addition, new development within the precinct will be required to contribute towards an out of precinct district open space facility, the Gipps Street district open space facility. This is currently included in the *Penrith City District Open Space Facilities Development Contributions Plan (2007)* and has been assessed by the council as having capacity to meet the demand generated by the precinct. This facility also meets the Greener Places Open Space for Recreation Guideline benchmark of being a district-level facility located with 2 kms of residents within the precinct.<sup>63</sup>

The council relied on analysis that shows that the provision of open space is specific to the precinct, its topography and other physical features, the development context and the demographics of the community it will serve. We consider that the council has established nexus for the overall provision of open space and level of open space embellishment within the plan.

#### 4.3.4 Plan administration

OHN CP includes plan administration costs to cover the costs of council staff time to prepare and review contributions plans, account for contributions receipts and expenditure, and coordinate the implementation of works.<sup>64</sup>

The costs will also cover the costs of consultant studies that are commissioned for land valuations and designs and cost of works, and for reviewing the development and demand assumptions in the plan. This includes the costs of engaging the services of legal professionals to provide advice on implementing the plan.<sup>65</sup>

As these costs arise directly because of development within the precinct we consider that this establishes nexus for plan administration costs.

## 4.4 Reasonable Cost

### 4.4.1 Stormwater works

We consider that the costs for individual stormwater works items in OHN CP are reasonable. The costs for stormwater works in OHN CP are shown in **Table 4.2**.

Table 4.2 Costs for stormwater works in OHN CP (\$Jun23)

ID	Description	Cost (\$)
WB1	Wetland Basin WB1 (basin works, walls, outlet structures)	3,991,426
WB2	Wetland Basin WB2	2,191,504
B2	Detention Basin B2 (basin works, ret. walls, and outlet structures)	1,284,208
B4	Detention Basin B4 (basin works, ret. walls, outlet structures)	2,153,136
B6	Detention Basin B6 (basin works, ret. wall, outlet structures)	761,723
B8	Detention Basin B8 (basin works, ret. wall, outlet structures)	794,448
WB1	Raingarden for WB1 (media bed, access and planting)	678,215
B2	Raingarden in Basin B2 (media bed, access and planting)	558,597
B4	Raingarden in Basin B4 (media bed, access and planting)	2,573,437
B6	Raingarden in Basin B6 (media bed, access and planting)	436,721
B8	Raingarden in Basin B8 (media bed, access and planting)	600,350
WB1	GPT for WB1 ((P1512)	180,556
WB2	GPT for WB2 (P2018)	157,987
WB3	GPT for WB2 (P1512)	90,278
B2	GPT for Basin B2 (P1009)	67,709
B4	GPT for Basin B4 (P2028)	191,841
B6	GPT for Basin B6 (P1009)	67,709
B8	GPT for Basin B8 (P2018)	135,417
-	Werrington Creek drainage channel construction (bulk earthworks, scour protection, and planting)	1,915,027
Professional Fees	12% on construction costs	2,259,635
Authority Fees	2% on construction costs	376,606
Contingency	15% on construction costs	2,824,544
<b>Total</b>		<b>24,291,074</b>

Source: Penrith City Council, OHN CP, works schedule.

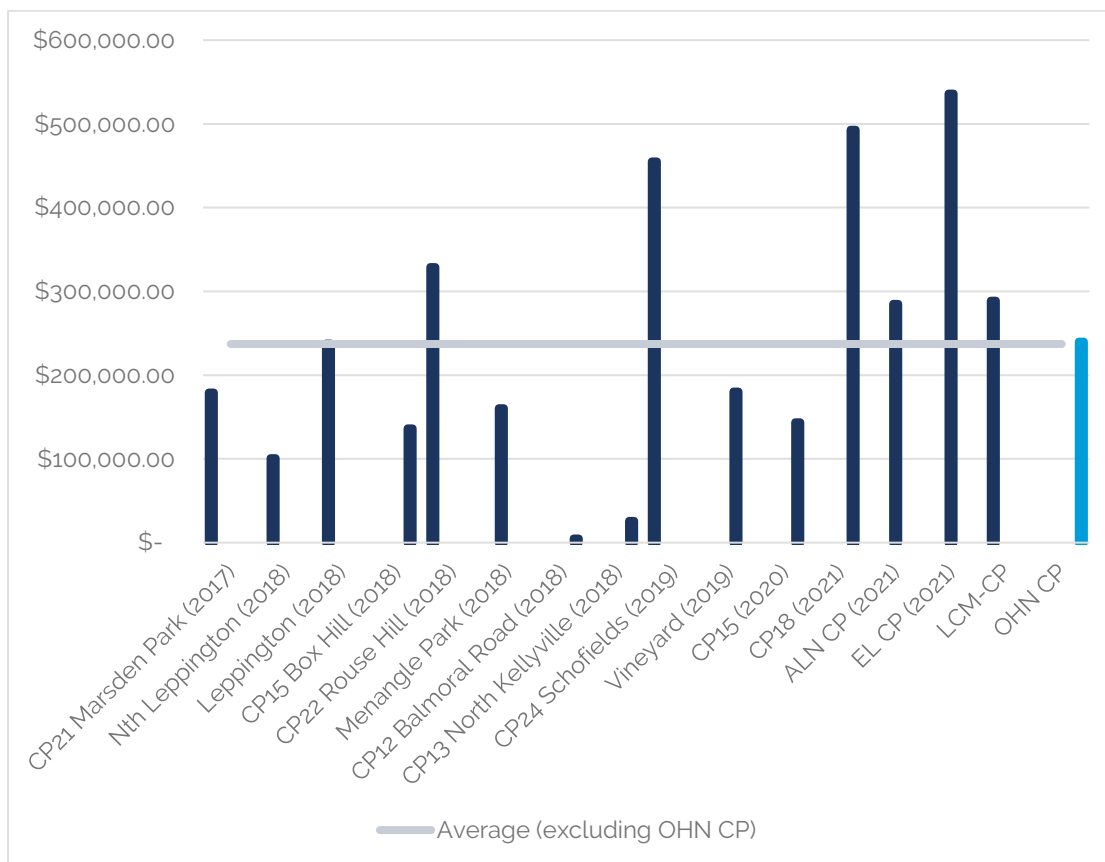
The council relied on Legacy Property to commission J. Wyndham Prince to develop concept design plans and opinions of probable cost<sup>66</sup> based on the water management strategy.<sup>67</sup>

We gave weight to the use of a suitably qualified quantity surveyor for costings for stormwater management. We also compared the cost estimates for stormwater management works in OHN CP with IPART's [2014 benchmarks](#) (which we indexed to the base date of the plan) and other similar items that we have assessed as reasonable.

We have assessed that the costs of wetland basins, GPTs and the drainage channel in the OHN CP are reasonable based on IPART's 2014 benchmarks (indexed to the base date of the plan). The costs of raingardens and detention basins are also reasonable, compared to the costs of raingardens and detention basins in other plans that we have assessed as reasonable.

We also compared stormwater works costs (per hectare of net developable area) in the plan to other plans that we have assessed and found that stormwater works in OHN CP of \$240,149 per hectare of net developable area is within range to other plans we have assessed (Figure 4.1).

Figure 4.1 Stormwater works cost per hectare of NDA (\$Jun23)



Source: IPART analysis

We consider that the professional fee allowances are reasonable based on our 2014 benchmarks.

We clarified with the council what the authority fee allowance includes. The 2% allowance is to account for a range of authority fees required to undertake works, which may include development assessment fees, construction certificate fees, construction inspection fees, building long service levy, legislative fees and Natural Resources Access Regulator (NRAR) fees for controlled activity approvals.

Our 2014 benchmarks allow council on-costs to reflect the additional cost which is incurred through the delivery of infrastructure and would not be incurred had the development not occurred.<sup>68</sup>



We consider the 2% authority fee to be reasonable, which together with the professional fee allowance of 12%, is consistent with our 2014 benchmarks which allow for 15% for stormwater on-costs.<sup>69</sup>

#### 4.4.2 Transport works

The total proposed cost of transport works in OHN CP is almost \$28.9 million.<sup>70</sup> Our preliminary assessment of individual transport works items was that some items were reasonable, and the costs for other items are low. We are seeking comment from the council about transport items to assist in forming a view about the reasonableness of costs. The costs for transport works items are shown in **Table 4.3**.

Table 4.3 Costs for transport works in OHN CP (\$Jun23)

ID	Description	Cost (\$)
<b>Off Site Infrastructure Upgrades</b>		
SG	Site SG : O'Connell Street/ Cadda Ridge Drive	845,343
SH	Site SH : O'Connell Street/ O'Connell Lane (UWS)	530,385
SL	Site SL : Caddens Road / Cadda Ridge Drive	577,216
SP	Site SP : O'Connell Lane/ New East West Link	883,088
SQ	Site SQ : New East West Corridor/ Neighbourhood Centre Access	848,322
<b>Collector Road / Sub-Arterial Roads</b>		
EW1	East West Road - Sub-Arterial (Area A/B Boundary to North-South Road)	10,119,061
EW2	East West Road - Collector Road (North South Road to Caddens Road)	3,960,957
NS1	North South Road - Collector Road (Caddens Road to East-West Road)	1,072,054
<b>Existing and Other Roads (incl half road frontage at school)</b>		
EECR1	Caddens Road north side only (east of Braeburn Street to Creek closure)	397,994
EECR2	Caddens Road north side only (O'Connell Lane to Ulm Road)	135,417
EEKR1	Kingswood Road (west side - Castle Road to Caddens Road)	547,312
EECR3	Castle Road (north side - Kingswood Road to OHN boundary)	411,894
EEFR1	Frogmore Road (south side - opposite OHN only)	428,822
SR1	Avenue Road adjacent to new public school site (eastern side of school)	101,563
SR2	Local (Major) Road adjacent to new public school site (southern side of school)	239,237
SR3	Kingswood Road adjacent to public school site (western side of school)	101,563
<b>Other infrastructure</b>		
-	Roundabouts	1,410,597
-	Bus shelters	135,417
<b>Open Space Half Road Frontage – Works</b>		
<b>Passive Open Space - Parks</b>		
OSHR1	Park OS1	135,417
OSHR2	Park OS2	359,702
OSHR3	Park OS3	165,040
OSHR4	Park OS4	177,735
OSHR5	Park OS5	253,908
OSHR7	Park OS7	211,590

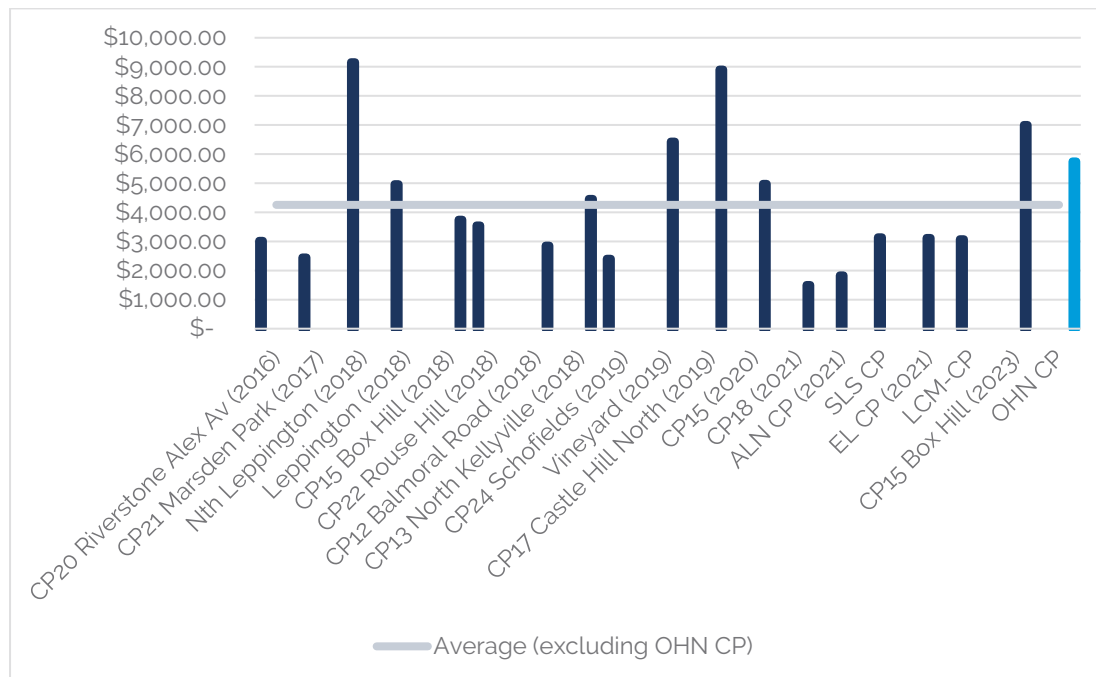
ID	Description	Cost (\$)
OSHR9	Park OS9	287,762
<b><i>Passive Open Space - Bushland</i></b>		
BOSHR1	Bush/OS (1)	220,053
BOSHR2	Bush/OS (2)	42,318
BOSHR3	Bush/OS (3)	228,517
<b><i>Active Open Space</i></b>		
OSHR6	Playing Field OS6	317,384
OSHRB4	Playing Field B4	169,272
OSHR81	AOS - OS8 (Avenue)	112,848
OSHR82	AOS - OS8 (Castle Road)	259,550
OSHR83	AOS - OS8 (Kingswood Road)	112,848
Professional Fees	12% on construction costs	3,096,022
Authority Fees	2% on construction costs	516,004
Contingency	15% on construction costs	3,870,028
<b>Total</b>		<b>28,896,210</b>

Source: Penrith City Council, OHN CP, works schedule.

We assessed the overall transport works included in the OHN CP by comparing them to other plans on a per person basis. We have also analysed individual transport works items to assess whether transport works costs were reasonable.

Overall, we found that transport works costs in OHN CP of \$5,750 per person are within range of other plans we have assessed (**Figure 4.2**).

Figure 4.2 Transport works cost per person (\$Jun23)



Source: IPART analysis

We also assessed individual transport infrastructure items. We considered that the council relied on Legacy Property to commission J. Wyndham Prince to determine cost estimates for transport works costs.<sup>71</sup> In addition, the council clarified that some cost estimates are based on similar projects for upgrades for both local and Transport for NSW roads. These costs have been indexed to the base date of the plan (June 2023).<sup>72</sup> We also note that these costs estimates are high level, with detailed design work yet to occur.

We have assessed the costs of the bus shelters as reasonable.

The council provided further information to clarify that the full extent of EW1, EW2, and NS1 will have a road reserve with 2 lanes in either direction.

We are seeking further information from the council to assess some existing roads and open space half road frontages (items EECR1-3, EEKR1, EEF1, OSR1-7, OSR9, BOSR1-3, OSRB4, SR1-3, and OSR81-3, and EW1, EW2, and NS1) to help as assess whether these costs are reasonable as they appear low in comparison to either our benchmarks and/or other similar items we have assessed (indexed to the base date of the plan). Additional information about the specific infrastructure items, including whether there is anything in particular about the infrastructure or its location that may mean costs are lower than what would be expected, will assist us to determine whether these costs are reasonable.

The council clarified that the cost estimates for off-site infrastructure upgrades (SG, SH, SL, SP, SQ) include signalised alternatives or intersections. We still need further information about the costs included in the work schedule for SG, SH, and SL SP and SQ, as the costs differ between the work schedule and the individual cost estimates for these items. This will assist in assessing the basis for these costs, and whether the costs for these items are reasonable.

The council clarified that 5 roundabouts included in the precinct are single lane roundabouts. We have compared the costs for the roundabouts to our benchmarks (indexed to the base date of the plan), and we consider that the costs for the roundabouts appear to be high. We are seeking further information from the council to assist us to understand why the costs for the roundabouts included in the plan are high.

We clarified with the council what the authority fee was for (see **section 4.4.1**), and we assess the 2% authority fee to be reasonable, which totals 14% of costs with the professional fee allowance, which is aligned with our 15% benchmark for council transport on-costs.<sup>73</sup>

## Seek Comment



1. The council provide further information on the costs of transport works items (SG, SH, SL, SP, SQ) so that we can understand why the costs in the work schedule differ from the individual cost estimates.
2. The council provide further information for the basis for the costs for transport works items (EECR1-3, EEKR1, EEFR1, OSHR1-7, OSHR9, BOSHR1-3, OSHRB4, SR1-3, and OSHR81-3, EW1, EW2, and NS1 and roundabouts).

### 4.4.3 Open space works

The total cost of open space embellishment works in OHN CP is about \$29.4 million (including district open space).<sup>74</sup> Our preliminary assessment of individual open space embellishment items indicates that some open space embellishment items are high. We are seeking comment from the council about costs for open space embellishment to assist in assessing whether open space embellishment costs are reasonable. The costs for open space works in OHN CP are shown in

**Table 4.4.**

Table 4.4 Costs for open space works in OHN CP (\$Jun23)

ID	Description	Cost (\$)
OS1	Park OS1	708,035
OS2	Park OS2	837,982
OS3	Park OS3	929,717
OS4	Park OS4	708,035
OS5	Park OS5	2,761,757
OS7	Park OS7	1,180,901
OS9	Park OS9	702,696
BOS1	Bush/OS1	954,114
BOS2	Bush/OS2	168,065
BOS3	Bush/OS3	306,394
OS6	Playing Field OS6 and Field B4 (3 Fields)	8,341,612
OS8	OS8 AOS Embellishment	2,904,043
-	Shared paths 2.5 metres wide	296,185

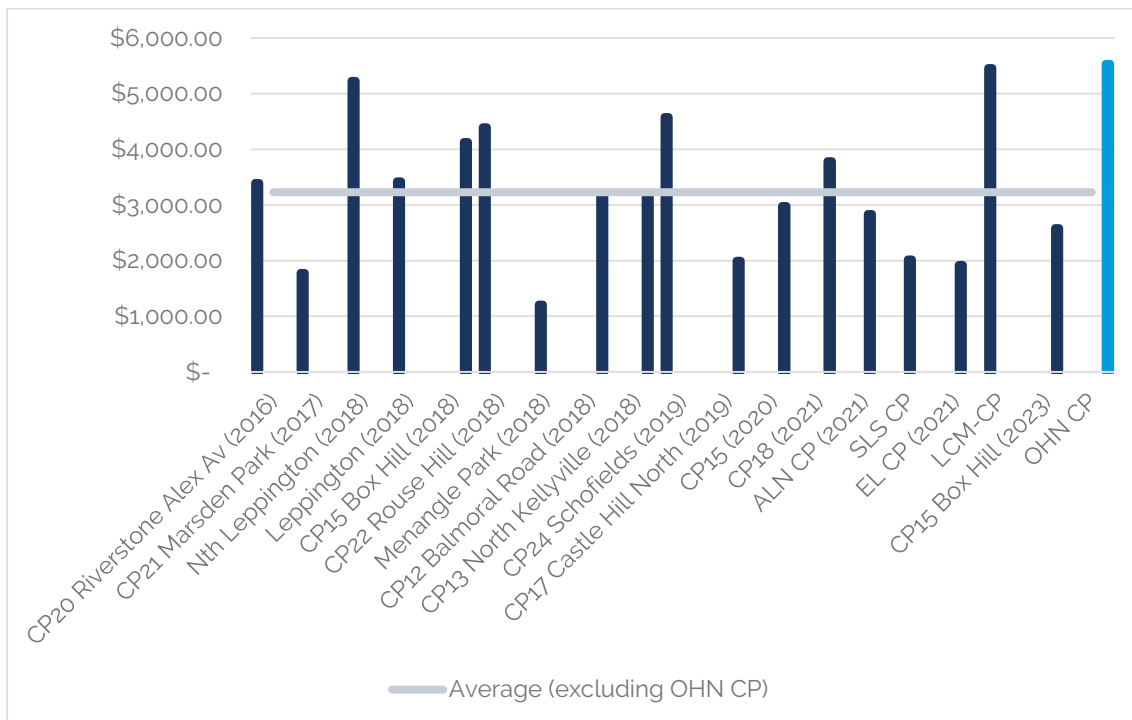
ID	Description	Cost (\$)
-	Shared paths - 1.0m widening of standard footpath to Castle Road, Frogmore Rd, and connection to East-West	392,767
-	Pedestrian/shared path bridge	351,208
Professional Fees	12% on construction costs	2,585,221
Authority Fees	2% on construction costs	430,870
Contingency	15% on construction costs	3,231,527
<b>Subtotal</b>		<b>27,791,129</b>
	Gipps Street District Open Space	1,590,871
<b>Total</b>		<b>29,382,000</b>

Source: Penrith City Council, OHN CP, works schedule.

We assessed the overall costs of open space in comparison both to other plans we have assessed, and individual open space embellishment costs.

Overall, we found that open space works costs in OHN CP are \$5,531 per person and is higher than most other plans we have assessed (**Figure 4.3**).

Figure 4.3 Open space works cost per person (\$Jun23)



Source: IPART analysis

We also assessed individual open space embellishment works items. The supporting information provided states that per square costs have been sourced from IPART benchmarks, and/or benchmarks for comparable infrastructure.<sup>75</sup> The council clarified that they relied on IPART benchmarks for costs for open space embellishment items for local parks and bushland regeneration works. For active open space embellishment costs, the council stated that they had relied on J Wyndham Prince's previous experience, IPART benchmark rates and assumed rates based on tenders.

We note that our 2014 benchmarks use a per item cost basis (rather than per square metre cost) and do not contain benchmarks for items such as bushland regeneration, however, does contain benchmarks for basic landscaping items.

To assist in assessing the reasonableness of costs, we used the Department of Planning and Environment's (DPE) benchmarks from the *Framework for Valuing Green Infrastructure and Public Spaces (October 2023)* and/or similar items from other plans we have previously assessed.

We consider that the costs for open space works items OS1-2, OS4, OS7 and OS9 are reasonable based on DPE's benchmarks for passive and active open space and compared to costs of similar items in CPs that we have assessed as reasonable (indexed to the base date of the plan). We also consider that the costs for BOS1-3 (bushland open space) are comparable to similar open space embellishment items in other plans we have assessed.

We are seeking further information from the council on open space parks (items OS3, OS5 and OS6) as they appear to be high when compared to similar items from other plans we have assessed.

We also consider that the costs for two other open space items (OS8 and shared paths 2.5 wide) are lower than similar items we have assessed in other plans.

We have assessed that the professional fee allowances are reasonable based on IPART's [2014 benchmark report](#). We consider the 2% authority fee allowance is reasonable.

## Seek Comment



3. The council provide further detail on the costs of open space works items OS3, OS5, OS6 and OS8.

### 4.4.4 Land

OHN CP includes almost \$134.2 million of land costs, which is more than 50% of the total cost of the plan (**Table 4.5**). We consider that the cost of land in the plan is reasonable for this stage of the plan.

Table 4.5 Costs for land in OHN CP (\$Jun23)

ID	Description	Land Size (ha)	Cost (\$)
<b>Stormwater</b>			
3.01	OS5 Channel - Werrington Creek/College Creek (existing Flood liable land)	4,270	244,712
3.02	OS5 Channel - Werrington Creek	3,500	1,732,309
3.03	Claremont Creek north of Castle Road (existing Flood Liable land)	20,400	1,169,114
3.04	Claremont Creek south of Castle Road (existing Flood Liable land)	24,000	1,375,428
3.05	Claremont Creek south of Castle Road	0	0
3.06	WB1 (existing Flood Liable land)	400	22,924
3.07	WB1	11,399	5,641,885
3.08	WB2 (existing flood liable approx 50%)	9,573	548,624
3.09	WB2	14,894	7,371,719
3.10	B2	6,152	3,044,905
3.11	B4 (existing Flood Liable land)	13,421	769,151
3.12	B4	0	0
3.13	B6	4,815	2,383,163
3.14	B8 (existing Flood Liable land)	0	0
3.15	B8	5,200	2,573,717
<b>Stormwater subtotal</b>		118,024	26,877,649
<b>Transport</b>			
<b>Land Acquisition for Roads (Collector Road / Sub-Arterial Roads and roundabouts)</b>			
-	East West Road - Sub-Arterial (Area A/B Boundary to North-South Road)	43,512	21,536,072
-	East West Road - Collector Road (North South Road to Caddens Road)	15,990	7,914,180
-	North South Road - Collector Road (Caddens Road to East-West Road)	6,384	3,159,733
-			
-	Land required for roundabout on Sub-Arterial	1,600	791,913
-	Land required for roundabout on other roads	1,000	494,946
-	Land required for Kingswood Road Realignment	1,000	494,946
-	Land required for public school half road frontage (excluding existing roads)	3,724	1,843,177
<b>Land acquisition for half roads fronting parks</b>			

ID	Description	Land Size (ha)	Cost (\$)
<b>Passive Open Space - Parks</b>			
-	Park OS1	1,280	633,530
-	Park OS2	2,320	1,148,274
-	Park OS3	1,080	534,541
-	Park OS4	1,680	831,509
-	Park OS5	2,400	1,187,869
-	Park OS7	1,600	791,913
-	Park OS9	2,720	1,346,252
<b>Passive Open Space - Bushland</b>			
-	Bush/OS (1)	2,600	1,286,858
-	Bush/OS (2)	0	0
-	Bush/OS (3)	2,700	1,336,353
<b>Active Open Space</b>			
-	Playing Field OS6	1,800	890,902
	Playing Field B4	0	0
-	AOS - OS8	1,900	940,397
<b>Transport subtotal</b>		95,290	47,163,363
<b>Open space</b>			
<b>Passive Open Space - Parks</b>			
OS1	Park OS1	5,040	2,394,000
OS2	Park OS2	5,965	2,833,375
OS3	Park OS3	6,618	3,143,550
OS4	Park OS4	5,040	2,394,000
OS5	Park OS5 part	15,810	7,509,750
OS5	Park OS5 part (existing flood liable land)	3,849	211,695
OS7	Park OS7 (Existing Flood Liable)	3,503	192,665
OS7	Park OS7	4,903	2,328,925
OS9	Park OS9	5,002	2,375,950
<b>Passive Open Space - Bushland</b>			
BOS1	Bush/OS (1)	20,375	1,833,750
BOS2	Bush/OS (2)	3,589	323,010
BOS3	Bush/OS (3)	6,543	588,870



ID	Description	Land Size (ha)	Cost (\$)
<b>Passive Open Space - Other</b>			
	Village Centre OS	0	0
<b>Active Open Space</b>			
OS6	Playing Field OS6 (2 fields)	28,082	13,338,950
OS6	Playing Field OS6 (2 fields) (Existing Flood Liable portion)	11,570	636,350
OSB4	Playing Field B4 (1 field and surrounds)	8,221	3,904,975
OSB4	Playing Field B4 (1 field and surrounds) (existing Flood liable portion)	4,679	257,345
OS8	AOS - OS8	20,000	9,500,000
<b>Open space subtotal</b>		158,789	53,767,160
<b>Land costs subtotal</b>		372,103	127,808,172
-	Land acquisition contingency (5% of land costs)		6,390,409
<b>Total</b>			134,198,581

Source: Penrith City Council, OHN CP, works schedule.

The council has relied on Legacy Property to engage *Cushman and Wakefield* to prepare a valuation report (24 October 2022).<sup>76</sup> Cushman and Wakefield examined recent comparable land sales evidence to determine a square metre rate for 3 categories of land i.e. developable, environmental, and flood-prone land (**Table 4.6**). To determine land acquisition rates, the direct comparison method was used and analysed sales in the general vicinity of the precinct.

Table 4.6 Land acquisition cost rates per sqm for OHN CP (\$/m<sup>2</sup>, \$Oct22)

Land zoning	Cost rate
Developable land	475
Environmental land	90
Flood-prone land	55

Source: Cushman & Wakefield, Valuation Report for Orchard Hills North (Area A), 24 October 2022.

The council applied the 3 cost rates across land acquisitions for transport, open space, and stormwater infrastructure. The 'developable land' has been applied to land acquisitions for transport, passive parks, active open space, and stormwater works (except where land is flood-prone). It applied the 'environmental land' rate to bushland open space works.<sup>77</sup> Land within the plan includes R1 General Residential, B2 Local Centre, RE1 Public Recreation, C2 Environmental Conservation and C3 Environmental Management. In other plans we have assessed land costs are usually informed by the underlying zoning.

## Developable land rate

We sought further information regarding why the council had relied on one developable land rate to all land acquisitions for transport, passive parks, active open space, and stormwater works (except where land is flood-prone), regardless of the zoning.

The council clarified that in setting one developable land rate it has sought to account for instances where land of a particular zoning type falls under multiple classifications (developable, flood prone and environmental). For example, there are instances in the plan where land has been rezoned to RE1 Public Recreation or SP2 Infrastructure (Local Road) but would have been developable land (suitable for R1) had acquisition for the CP not be required. The council notes that this has been supported by professional sales and valuations the various land classifications that are across multiple zonings. Conversely, where land has been zoned and is flood prone due to the hydrology of the site, the council have applied a flood prone rate to these lands.

In past plans we have assessed, land costs are usually informed by underlying zoning. However, in this instance the council has created its developable land rate with reasonable compensation in mind and based on professional valuations and sales of sites in the area. We consider the council's approach to land rates to be reasonable.

## Land acquisition costs

The council has applied a land acquisition allowance, totalling 5% of total land acquisition costs for heads of compensation under the *Land Acquisition (Just Terms Compensation) Act 1991*. We sought clarification from the council regarding the basis of the 5% the allowance used. The council noted that this was the same acquisition allowance used in the Lowes Creek Maryland (LCM) CP. Land to be acquired for OHN has one large owner with small amounts of fragmented ownership. This is comparable to the context of the LCM CP, where 92% of land was owned by one holder with some fragmented holdings. On this basis, we consider the acquisition allowance rate chosen to be reasonable.

In past contribution plans, we have generally preferred fixed costs for compensation estimates rather than percentages. This is because reasons for compensation usually comprise fixed costs while market values can fluctuate significantly over time. However, as this plan is in its early stages, a percentage for the purposes of budgeting land acquisitions is reasonable.

### 4.4.5 Plan administration

OHN CP proposes around \$1.2 million for plan management and administration costs.<sup>78</sup> This is based on the IPART 1.5% benchmark of the total works costs for stormwater, transport and local open space.

We consider this approach is reasonable, and we note that it is similar to the approach taken in other plans.

Non-residential development has not been charged plan administration for transport costs and we need further information to assess why council has not apportioned costs to non-residential development.

The plan administration cost also includes a 1% plan management and administration cost for the Gipps St District Open Space Facility works in accordance with the council's Open Space Facilities Development Contributions Plan.<sup>79</sup> This is consistent with the approach the council takes to all development that contributes to demand for district open space facilities. We consider this approach is reasonable.

As we have recommended changes to the costs and made other adjustments to the plan, we also recommend that the council update its plan administration costs to equate to 1.5% of the revised cost of works.

### Seek Comment



4. The council provide further information about why non-residential development has not been charged plan administration costs.

### Draft Recommendations



2. Update the cost of plan administration to be 1.5% of the revised total works costs.

#### 4.4.6 Other

##### **Contingency allowance for stormwater works, transport works and open space embellishment works**

A contingency allowance of 15% has been applied across stormwater works items, transport works and open space embellishment.<sup>80</sup>

Dependent on the project stage, our 2014 benchmarks for contingency allowances provide for:

- 30% for stormwater works during the strategic review stage or 20% for the business case stage
- 30% for transport works during the strategic review stage or 20% for the business case stage
- 20% for open space embellishment during the strategic review stage or 15% for the business case stage.<sup>81</sup>

Our [2014 benchmarks](#) recognise that infrastructure projects involve uncertainty across the planning, design and delivery stages, and this uncertainty is usually accounted for in cost estimates by including an appropriate contingency allowance. The use of an appropriate level of contingency allowance covers a variety of unforeseen events, including (but not limited to) site contamination, spikes in demand for labour and interruptions to supply.<sup>82</sup>

More broadly, councils are also required to consider the risks as part of developing the contribution plan. The [2005 Practice Note](#) which must be read in conjunction with the [2019 Practice Note](#), outlines that a key risk in the contributions system framework is that capital costs of works estimates in a development contributions plan can be underestimated.<sup>83</sup>

We consider that the council should use a higher contingency for stormwater, transport and open space embellishment works, noting that the council is relying on initial concept design plans or our benchmarks to estimate transport and open space costs in the plan. The council has used detailed stormwater designs for stormwater infrastructure.

We consider that the use of a higher contingency allowance will more likely reflect the eventual cost outcome. We recommend that the council use the higher contingency to reflect the strategic review stage for transport and open space works, and a higher contingency for stormwater works to reflect the business case stage.

## Draft Recommendations

3. Use the following contingency allowances:
  - a. 20% for stormwater works
  - b. 30% for transport works
  - c. 20% for open space embellishment works.

## Adjustments of the work schedule

We have identified adjustments that will need to be updated in the works schedule. This includes the need to correct for the:

- Apportionment of stormwater costs to non-residential development – only 1 hectare of stormwater costs has been apportioned to non-residential development. The plan has 2.2 hectares of non-residential development. This overestimates the costs for stormwater for residential development.
- Underestimated costs of land for open space – costs have not been indexed to the base period. This underestimates residential open space land costs.
- Underestimate in plan administration costs – all allowances (professional fees, contingency allowance and authority fees) have not been included in total works costs for calculating plan administration. This has led to an incorrect application and underestimation of the per hectare and per lot contribution rates for residential and non-residential development.
- Underestimate in total transport works costs – contingency allowance and authority fees have not been included in the total transport works costs. This underestimates residential transport works costs.
- Overestimate in transport works item EW1 – the work schedule cost of \$6,100 per lineal metre differs from the \$6,000 per lineal metre cost for the item in the cost estimates report relied upon by the council. This overestimates residential transport works costs.

We recommend that the council make the adjustments to the work schedule, and we have made these adjustments to the recommended contribution rates for residential and non-residential development in **Tables 5.1-5.3** below.

## Draft Recommendations

- 4. Adjust the work schedule to correct for the:
  - a. underestimate of the apportionment of non-residential stormwater costs
  - b. underestimate of residential open space land costs
  - c. underestimate of residential and non-residential plan administration costs
  - d. underestimate of residential total transport works costs
  - e. overestimate of residential costs through transport works item EW1.

## 4.5 Apportionment

### 4.5.1 Stormwater

The council plans to apportion stormwater costs across residential and non-residential development. The council plans to apportion stormwater costs on a per hectare of net developable area (NDA) basis for both residential and non-residential development. In the precinct, 97.8% of developable land is zoned for residential purposes and 2.2% for non-residential purposes.<sup>84</sup>

We clarified with council the basis for using a per person rate for stormwater items, as the usual approach apportioning stormwater costs on a per hectare basis for residential development.

The council clarified that while there is a per person rate in the schedule of works, that this is based on stormwater costs having a net developable area (\$ per hectare) rate which has been converted to a per person rate for consistency with other infrastructure items (open space and transport) to show an overall per dwelling rate for residential development.

We consider that this approach is reasonable.

### 4.5.2 Transport

The OHN CP catchment (Area A) is located beside another catchment area (Area B). The plan only applies to Area A and not Area B. The council apportions the OHN CP transport costs to only Area A in this plan. The council has set aside an appropriate share of costs to Area B based on the average relative peak hour trip numbers for the employment zone fronting the Northern Road in Area A. The council clarified that these costs will be attributed to a plan covering Area B.

The plan apportions off-site infrastructure upgrades across Area A, Area B, and background growth. The cost of off-site infrastructure is apportioned across the catchments according to the *SCT Consulting – Apportionment Technical Memorandum*<sup>85</sup> and the *SCT Consulting – Transport Management and Accessibility Plan*.<sup>86</sup> We consider it is reasonable to apportion the off-site infrastructure across the catchment areas based on technical studies.

The council clarified that they apportioned total transport costs to only residential development and not to non-residential development. It states that traffic demand for the non-residential development, primarily the Village Centre and the school centre, is almost entirely driven by the requirements of the local residential area.<sup>87</sup> There are about 2.2 hectares of non-residential land in the plan.

Generally, costs should be apportioned to non-residential development in a new precinct or area, including retail centres and schools, as non-residential development of itself generates demand for infrastructure, particularly roads and stormwater, even when servicing the needs of residents. The 2019 Practice Note states that the development contributions should be based on a reasonable apportionment between different types of development that generate demand, including non-residential development.

We also note that non-residential development usually generates more demand for infrastructure than residential development. We are seeking comment from the council to understand why transport costs have not been apportioned to non-residential development.

## Seek Comment



5. The council provide further information on why transport costs have not been apportioned to non-residential development.

### 4.5.3 Open space

We consider the approach to the apportionment of open space as reasonable.

Open space costs have been apportioned in full to the plan on a per person basis to residential development only as residential development will drive demand for open space. The apportionment of costs to residential development on a per person basis is consistent with the approach of other plans we have assessed.

The Open Space Strategy indicates that open space infrastructure inside Area A, and Area B has been considered when locating open space infrastructure, and that open space has been evenly distributed within Area B to compliment Area B.<sup>88</sup> We need this information to assess and ensure that costs in the plan for open space are appropriately apportioned within the plan and any neighbouring areas.

The council confirmed that there is no apportionment of open space outside the precinct as all open space within the precinct provides for the demands of the incoming residents. In addition, the council confirmed that the open space within the precinct is based solely for the demand created by the expected population in the precinct.

The plan also apportions costs to the precinct for the Gipps St District open space facility in accordance with the Penrith District Open Space Facilities Development Contributions Plan. That plan requires open space embellishment costs for district open space facilities to be applied to all residential development that drives demand for the facility within the local government area.<sup>89</sup> The plan apportions 9.89% of the cost in accordance with *District Open Space Facilities Development Contributions Plan*.

#### 4.5.4 Plan administration

OHN CP uses the IPART benchmark of 1.5% for plan administration.<sup>90</sup> However the council confirmed that non-residential development will only be charged plan administration for stormwater infrastructure. We are seeking further information from the council about why non-residential development has not been apportioned plan administration costs for transport.

Costs are apportioned among residential development on a per dwelling/lot basis and non-residential development on a per ha of NDA basis.<sup>91</sup> This is similar to other plans we have assessed as reasonable.

The plan also includes 1% plan administration cost for the Gipps St District Open Space works in accordance with the District Open Space Facilities Development Contributions Plan.<sup>92</sup> This is consistent with the approach the council takes to development that contributes to demand for district open space facilities. We consider this approach is reasonable.

As we have recommended changes to the costs and made other adjustments to the plan, we also recommend that the council update its plan administration costs to equate to 1.5% of the revised cost of works.

#### Seek Comment



- The council provide further information on why non-residential development has not been apportioned plan administration costs for transport.

## 4.6 Timing

The plan indicates a development timeframe of the precinct over 10 years. The council proposes that the development of dwellings is aligned with the proposed infrastructure required to service the specific stage of development, with the stages and timing subject to review during the life of the development.<sup>93</sup> The stages are set out in **Table 4.7** and is consistent with the *Orchard Hills North Development Control Plan 2022*.

Table 4.7 OHN CP indicative staging

Precinct	Estimated timing
Precinct 1	2024-2026
Precinct 2	2026-2028

Precinct	Estimated timing
Precinct 3 and 4	2028-2030
Precincts 5, 6 and 7	2030+

Source: Penrith City Council, Orchard Hills North – Area A: Development Contributions Plan 2022 Part 2: Technical Appendix, p 23.

The development path and delivery of local infrastructure in the precinct will largely be determined by the majority landowner, Legacy Property, who are likely to deliver much of the infrastructure under a voluntary planning agreement with the council.<sup>94</sup>

The council also clarified that infrastructure will be delivered in a way that disruption to new roads and services is minimised as infrastructure is developed. This includes land adjacent to existing rural areas to be delivered last. The council confirmed that staging is indicative only and subject to provision of servicing infrastructure, earthworks strategy and drainage catchments.

The 2019 Practice Note requires us to consider whether the proposed public amenities and public services can be provided within a reasonable timeframe. The 2005 Practice Note provide further guidance that it is the responsibility of a council to ensure the infrastructure meets the needs of a development. This includes ensuring that the works schedule included in the contributions plan specifies the likely timing for the provision of the infrastructure based on the anticipated receipt of contributions and the satisfaction of the demands of the population.<sup>95</sup>

The 2005 Practice Note outlines the importance of timing as the timing of the contributions and the timing of expenditure on works and land acquisition are high risk factors in contribution plans. Any changes to the assumption of timing of works and land acquisition have the potential to impact cashflow, and the 2005 Practice Note outline that councils should review the delivery of infrastructure in the plan regularly.<sup>96</sup>

We recommend that the council, after consultation with Legacy Property (and other developers where relevant), include an indicative infrastructure delivery schedule for individual infrastructure items in the plan, linked to the stages of development within the precinct. The council should also consider regularly reviewing the timing of the delivery of infrastructure to ensure that the delivery of infrastructure is within a reasonable timeframe.

## Draft Recommendations

5. Include indicative timing for the delivery of each individual infrastructure item in the work schedule for the plan.

## 4.7 Community Liaison and Publicity

We have determined that the council's community liaison and consultation process meet the Practice Note requirements which requires the council to conduct appropriate community liaison and publicity in preparing the contributions plan.<sup>97</sup>



The council's application states that they consulted with the community on the plan, exhibiting it alongside the planning proposal, draft Development Control Plan, and Planning Agreement, for the 28-day period between 25 July 2022 to 22 August 2022.<sup>98</sup>

The council minutes indicates that the plan, and supporting information, was available to view online on the council's Your Say Penrith website, at the council's Civic Centre, Penrith Library and St Marys Library. The exhibition was advertised in the Western Weekender throughout the public exhibition period. Written notification of the public exhibition was given to landowners and occupiers of 152 properties located on the affected land and nearby or adjacent lands as well.<sup>99</sup>

The council considered the submissions and incorporated post-exhibition amendments in response to the submissions received.<sup>100</sup> These amendments were made prior to submitting OHN CP to IPART for review.<sup>101</sup>

## 4.8 Any other Matters

### 4.8.1 Indexation

The indexation approach in OHN CP is similar to other plans we have assessed and we consider the approach reasonable.

Where works cost estimates are sourced from an earlier period than the base period of the plan, they have been indexed to the base period of the plan using:

- ABS PPI 3101 Road and Bridge Construction Index for NSW for transport and stormwater management infrastructure
- ABS PPI 3020 Non-Residential Building Construction Index for NSW for open space infrastructure
- ABS Sydney All Groups Consumer Price Index (CPI) for land cost estimates are sourced from an earlier period than the base period of the plan.<sup>102</sup>

OHN CP proposes the ABS Sydney All Groups Consumer Price Index (CPI) be applied to the base contribution rates at the time of payment.<sup>103</sup>

### 4.8.2 Assessment against the EPA regulations and requirements

We have determined that OHN CP contains the information required by clause 212 of the *Environmental Planning and Assessment Regulation 2021* (EPA Regulation). This clause requires the inclusion of certain information in a contributions plan for the purpose of establishing scope and location.

A summary of our assessment of OHN CP against the EPA Regulation is provided in **Table 4.8**.

Table 4.8 Assessment against EPA regulations and requirements

Subsection	Requirement	Location in plan
1(a)	Purpose of the plan.	Section 2.1.2
1(b)	Land to which the plan applies.	Section 2.1.5
1(c)	The relationship between the expected types of development in the area to which the plan applies and the demand for additional public amenities and services to meet that development.	Section 1.3
1(d)	The formulas to be used for determining the section 7.11 contributions required for different categories of public amenities and services.	Section 2.2
1(e)	The section 7.11 contribution rates for different types of development, as specified in a schedule in the plan.	Section 1.4.1 - 1.4.2
1(f)	A map showing the specific public amenities and services proposed to be provided by the council.	Appendix A – Infrastructure Schedule and Location Maps
1(g)	A works schedule that contains an estimate of their cost and staging (whether by reference to dates or thresholds).	Part 2 Technical Appendix
1(h)	If the plan authorises monetary section 7.11 contributions or section 7.12 levies paid for different purposes to be pooled and applied progressively for those purposes, the priorities for the expenditure of the contributions or levies, particularised by reference to the works schedule.	Section 3.3
2(b)	If a contributions plan authorises the imposition of a development levy condition, the plan must contain the method, if any, of adjusting the proposed cost of carrying out the development, after being determined by the consent authority, to reflect quarterly or annual variations to readily accessible index figures adopted by the plan between the day of the determination and the day by which the levy must be paid.	Sections 1.4.3, 2.4.3
3	A contributions plan must contain information about the council's policy about the following— (a) the timing of the payment of monetary development contributions, (b) development levies, (c) the imposition of development contribution conditions or development levy conditions that allow deferred or periodic payment.	Section 2.4.1
4	A contributions plan that provides for the imposition of development contribution conditions or development levy conditions in relation to the issue of a complying development certificate must provide that monetary payments in accordance with the conditions must be made before the commencement of the building work or subdivision work authorised by the certificate	Section 1.5
5	In determining the section 7.11 contribution rates or section 7.12 levy percentages for different types of development, the council must take into consideration the conditions that may be imposed under section 4.17 (6)(b) of the Act or section 97 (1)(b) of the Local Government Act 1993.	Section 2.3.1
6	A contributions plan may authorise monetary development contributions or development levies paid for different purposes to be pooled and applied progressively for the different purposes only if the council is satisfied that the pooling and progressive application will not unreasonably prejudice the carrying into effect, within a reasonable time, of the purposes for which the money was originally paid.	Section 3.3

## 5 Draft recommended contributions rates

Our draft recommended total costs and contribution rates for OHN CP are set out in **Tables 5.1-5.3**.

Table 5.1 Draft recommended total costs for OHN CP (millions, \$Jun23)

Category	Council proposed cost	IPART recommended cost	Change (\$)	Percentage change
Stormwater management	24.29	25.23	.94	3.9%
Transport	28.90	36.91	8.02	27.7%
Open space	29.38	30.46	1.08	3.7%
Plan administration	1.23	1.38	.15	12.2%
Land	134.20	136.57	2.37	1.8%
<b>Total</b>	<b>218.00</b>	<b>230.56</b>	<b>12.56</b>	<b>5.8%</b>

Source: IPART calculations.

Table 5.2 Draft recommended residential contributions rates for OHN CP (\$Jun23)

Category	Per person	Per studio or 1-bedroom dwelling or secondary dwelling or seniors living dwelling	Per 2-bedroom dwelling	Per 3+ bedroom dwelling or residential lot
Stormwater management	\$4,912	\$7,368	\$9,824	\$14,737
Transport	\$7,346	\$11,019	\$14,692	\$22,038
Open space	\$6,062	\$9,092	\$12,123	\$18,185
Plan administration	\$273	\$410	\$546	\$820
Land	\$27,056	\$40,584	\$54,112	\$81,167
<b>Total</b>	<b>\$45,649</b>	<b>\$68,473</b>	<b>\$91,297</b>	<b>\$136,946</b>

Source: IPART calculations.

Table 5.3 Draft recommended non-residential contributions rates for OHN CP (\$Jun23)

Category	Per ha of NDA
Stormwater management	\$249,457
Transport	\$0
Open space	\$0
Plan administration	\$3,742
Land	\$279,007
<b>Total</b>	<b>\$532,206</b>

Source: IPART calculations.

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- <sup>1</sup> Department of Planning, Housing and Infrastructure, [Practice Note – Local Infrastructure Contributions](#), January 2019, pp 14-16.
- <sup>2</sup> Department of Planning, Housing and Infrastructure, [Practice Note – Local Infrastructure Contributions](#), January 2019, pp 14-16.
- <sup>3</sup> Penrith City Council, Orchard Hills North – Area A Development Contributions Plan 2023 – Part 1: Administration, p 5.
- <sup>4</sup> Penrith City Council, Orchard Hills North – Area A Development Contributions Plan 2023 – Part 1: Administration, p 5.
- <sup>5</sup> Penrith City Council, [Application for assessment of a local infrastructure contributions plan Orchard Hills North – Area A Contributions plan 2022](#), September 2023, p 9.
- <sup>6</sup> Penrith City Council, Orchard Hills North – Area A: Development Contributions Plan 2022 Part 2: Technical Appendix, p 2.
- <sup>7</sup> Penrith City Council, Orchard Hills North – Area A: Development Contributions Plan 2022 Part 2: Technical Appendix, pp 3-6.
- <sup>8</sup> Penrith City Council, Orchard Hills North – Area A: Development Contributions Plan 2022 Part 2: Technical Appendix, pp 3-5.
- <sup>9</sup> Penrith City Council, Orchard Hills North – Area A: Development Contributions Plan 2022 Part 2: Technical Appendix, p 5.
- <sup>10</sup> Penrith City Council, [Application for assessment of a local infrastructure contributions plan Orchard Hills North – Area A Contributions plan 2022](#), September 2023, p 3.
- <sup>11</sup> Penrith City Council, Orchard Hills North – Area A: Development Contributions Plan 2022 Part 2: Technical Appendix, p 6.
- <sup>12</sup> Penrith City Council, Orchard Hills North – Area A Development Contributions Plan 2023 – Part 1: Administration, p 17.
- <sup>13</sup> Penrith City Council, OHN CP works schedule.
- <sup>14</sup> Penrith City Council, OHN CP works schedule.
- <sup>15</sup> Penrith City Council, OHN CP works schedule.
- <sup>16</sup> Penrith City Council, OHN CP works schedule.
- <sup>17</sup> Penrith City Council, OHN CP works schedule.
- <sup>18</sup> Penrith City Council, OHN CP works schedule.
- <sup>19</sup> Penrith City Council, Orchard Hills North – Area A Development Contributions Plan 2023 – Part 1: Administration, p 6.
- <sup>20</sup> Penrith City Council, [Penrith City District Open Space Facilities Development Plan \(S94\)](#), December 2007, p 20.
- <sup>21</sup> Penrith City Council, OHN CP works schedule.
- <sup>22</sup> Penrith City Council, OHN CP works schedule.
- <sup>23</sup> Penrith City Council, OHN CP works schedule.
- <sup>24</sup> Penrith City Council, OHN CP works schedule.
- <sup>25</sup> Penrith City Council, Orchard Hills North – Area A: Development Contributions Plan 2022 Part 2: Technical Appendix, p 25.
- <sup>26</sup> Penrith City Council, Orchard Hills North – Area A: Development Contributions Plan 2022 Part 2: Technical Appendix, p 25.  
Penrith City Council, OHN CP works schedule.
- <sup>27</sup> Penrith City Council, Orchard Hills North – Area A Development Contributions Plan 2023 – Part 1: Administration, p 8.
- <sup>28</sup> Penrith City Council, Orchard Hills North – Area A Development Contributions Plan 2023 – Part 1: Administration, p 6.
- <sup>29</sup> Penrith City Council, OHN CP works schedule.
- <sup>30</sup> Penrith City Council, OHN CP works schedule.
- <sup>31</sup> Penrith City Council, Orchard Hills North – Area A Development Contributions Plan 2023 – Part 1: Administration, p 6.
- <sup>32</sup> Penrith City Council, OHN CP works schedule.
- <sup>33</sup> Penrith City Council, OHN CP works schedule.
- <sup>34</sup> Department of Planning, Housing and Infrastructure, [Practice Note – Local Infrastructure Contributions](#), January 2019.
- <sup>35</sup> Penrith City Council, Orchard Hills North – Area A Development Contributions Plan 2023 – Part 1: Administration, p 6.
- <sup>36</sup> Penrith City Council, OHN CP works schedule.
- <sup>37</sup> Penrith City Council, Orchard Hills North – Area A: Development Contributions Plan 2022 Part 2: Technical Appendix, pp 19-21.
- <sup>38</sup> Legacy Property, Orchard Hills North Open Space Strategy, January 2023, p 44.
- <sup>39</sup> Legacy Property, Orchard Hills North Open Space Strategy January 2023, p 46.
- <sup>40</sup> Legacy Property, Orchard Hills North Open Space Strategy January 2023, p 48.
- <sup>41</sup> Legacy Property, Orchard Hills North Open Space Strategy January 2023, p 56.
- <sup>42</sup> Penrith City Council, Orchard Hills North – Area A Development Contributions Plan 2023 – Part 1: Administration, p 6.
- <sup>43</sup> Penrith City Council, [Penrith City District Open Space Facilities Development Plan \(S94\)](#), December 2007, p 20.
- <sup>44</sup> IPART, [Final Report - Assessment of Contributions Plan No. 24 – Schofield's Precinct \(2022\)](#) Blacktown City Council, pp 11-12.
- <sup>45</sup> Department of Planning, Housing and Infrastructure, [Practice Note – Local Infrastructure Contributions](#), January 2019.
- <sup>46</sup> Penrith City Council, Orchard Hills North – Area A Development Contributions Plan 2023 – Part 1: Administration, p 6.
- <sup>47</sup> Penrith City Council, OHN CP works schedule.
- <sup>48</sup> Department of Planning, Housing and Infrastructure, [Practice Note – Local Infrastructure Contributions](#), January 2019.
- <sup>49</sup> Penrith City Council, OHN CP works schedule.
- <sup>50</sup> Penrith City Council, [Penrith City District Open Space Facilities Development Plan \(S94\)](#), December 2007, p 3.
- <sup>51</sup> Department of Planning, Housing and Infrastructure, [Practice Note – Local Infrastructure Contributions](#), January 2019.
- <sup>52</sup> SCT Consulting, Transport Management and Accessibility Plan, 31 January 2023.
- <sup>53</sup> SCT Consulting, Transport Management and Accessibility Plan, 31 January 2023, p iv.
- <sup>54</sup> SCT Consulting, Transport Management and Accessibility Plan, 31 January 2023, p 69.

- <sup>55</sup> Penrith City Council, Orchard Hills North – Area A: Development Contributions Plan 2022 Part 2: Technical Appendix, pp 7-8.
- <sup>56</sup> Place Design Group, Orchard Hills North Open Space Strategy, January 2023.
- <sup>57</sup> Penrith City Council, Orchard Hills North – Area A: Development Contributions Plan 2022 Part 2: Technical Appendix, p 16.
- <sup>58</sup> Penrith City Council, Orchard Hills North – Area A: Development Contributions Plan 2022 Part 2: Technical Appendix, p 17.
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- <sup>60</sup> Penrith City Council, [Penrith Sport and Recreation Strategy](#), March 2020, p 25.
- <sup>61</sup> IPART, Final Report - [Assessment of Menangle Park Contributions Plan Campbelltown City Council](#), December 2018, pp 43-44.
- <sup>62</sup> Penrith City Council, [Penrith Sport and Recreation Strategy](#), March 2020, p 18.
- <sup>63</sup> Penrith City Council, Orchard Hills North – Area A: Development Contributions Plan 2022 Part 2: Technical Appendix, pp 15-16.
- <sup>64</sup> Penrith City Council, Orchard Hills North – Area A: Development Contributions Plan 2022 Part 2: Technical Appendix, p 22.
- <sup>65</sup> Penrith City Council, Orchard Hills North – Area A: Development Contributions Plan 2022 Part 2: Technical Appendix, p 22.
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- <sup>78</sup> Penrith City Council, OHN CP works schedule.
- <sup>79</sup> Penrith City Council, [Penrith City District Open Space Facilities Development Plan \(S94\)](#), December 2007, p 3.
- <sup>80</sup> Penrith City Council, OHN CP works schedule.
- <sup>81</sup> IPART, [Final Report - Local Infrastructure Benchmark Costs](#), April 2014, p 51.
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- <sup>83</sup> Department of Planning, Housing and Infrastructure, [Development Contributions – Practice Note](#), July 2005, p 23.
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- <sup>86</sup> SCT Consulting, Orchard Hills Rezoning Transport management and Accessibility Plan, January 2023.
- <sup>87</sup> Penrith City Council, Orchard Hills North – Area A: Development Contributions Plan 2022 Part 2: Technical Appendix, p 12.
- <sup>88</sup> Place Design Group, Orchard Hills North Open Space Strategy, January 2023., pp 70, 73.
- <sup>89</sup> Penrith City Council, Orchard Hills North – Area A: Development Contributions Plan 2022 Part 2: Technical Appendix, p 15.
- <sup>90</sup> Penrith City Council, OHN CP works schedule.
- <sup>91</sup> Penrith City Council, OHN CP works schedule.
- Penrith City Council, Orchard Hills North – Area A Development Contributions Plan 2023 – Part 1: Administration, p 22.
- <sup>92</sup> Penrith City Council, District Open Space Facilities Development Contributions Plan, December 2007, p 3.
- <sup>93</sup> Penrith City Council, Orchard Hills North – Area A: Development Contributions Plan 2022 Part 2: Technical Appendix, pp 23-24.
- <sup>94</sup> Penrith City Council, [Application for assessment of a local infrastructure contributions plan Orchard Hills North – Area A Contributions plan 2022](#), p 3, 16.
- <sup>95</sup> Department of Planning, Housing and Infrastructure, [Development Contributions – Practice Note Principles Underlying Development Contributions](#), July 2005, p 3.
- <sup>96</sup> Department of Planning, Housing and Infrastructure, [Development Contributions – Practice Note Financial Management of Development Contributions](#), July 2005, p 3.
- <sup>97</sup> Department of Planning, Housing and Infrastructure, [Practice Note – Local Infrastructure Contributions](#), January 2019, p 14.
- <sup>98</sup> Penrith City Council, [Application for assessment of a local infrastructure contributions plan Orchard Hills North – Area A Contributions plan 2022](#), p 20.
- <sup>99</sup> Penrith City Council, [Business Paper - Ordinary Meeting](#), 12 December 2022, p 21.
- <sup>100</sup> Penrith City Council, [Business Paper - Ordinary Meeting](#), 12 December 2022, p 27.
- <sup>101</sup> Penrith City Council, [Application for assessment of a local infrastructure contributions plan Orchard Hills North – Area A Contributions plan 2022](#), pp 20-21.
- <sup>102</sup> Penrith City Council, Orchard Hills North – Area A: Development Contributions Plan 2022 Part 2: Technical Appendix, p 25.
- <sup>103</sup> Penrith City Council, Orchard Hills North – Area A Development Contributions Plan 2023 – Part 1: Administration, p 18.

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