



Assessment of Contributions Plan  
Orchard Hills North Contributions Plan  
Penrith City Council

# Final Report

September 2024

Local Government »



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## **Acknowledgment of Country**

IPART acknowledges the Traditional Custodians of the lands where we work and live. We pay respect to Elders both past and present.

We recognise the unique cultural and spiritual relationship and celebrate the contributions of First Nations peoples.

## **Local Government Contributions Plan Committee**

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## **The Independent Pricing and Regulatory Tribunal**

IPART's independence is underpinned by an Act of Parliament. Further information on IPART can be obtained from [IPART's website](#).

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# 1 Executive Summary

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). The 2019 Practice Note must be read in conjunction with the July 2005 Practice Note ([2005 Practice Note](#)) which outlines the requirements for local councils in preparing and administering their contributions plans.

Penrith City Council (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 \$20,000 cap per lot/dwelling. This is the first time that IPART has reviewed OHN CP.

We assessed the OHN CP against the 2019 Practice Note criteria.<sup>1</sup> We found that the plan meets most of the 2019 Practice Note criteria (see Figure 1.1). We have made recommendations on how the council can amend the plan to fully demonstrate the Practice Note criteria.

Figure 1.1 Summary of our assessment of OHN CP

Essential Works List	Nexus	Reasonable Cost	Reasonable apportionment	Reasonable timeframe	Community liaison and publicity	Other matters
						
Demonstrated subject to recommendation	Demonstrated	Demonstrated subject to recommendation	Demonstrated subject to recommendation	Demonstrated	Demonstrated	Demonstrated

<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.

## 1.1 Recommendations

We have made recommendations to ensure that the OHN CP meets the assessment criteria. After implementing our recommendations, the total costs of the plan will have increased from \$218 million to \$231 million (5.8%) mostly due to recommending increased contingencies and updating plan administration costs and fixing errors in the work schedule. The council's proposed contribution rates were between \$64,853 and \$129,702 and our recommended contribution rates range from \$68,473 to \$136,946.

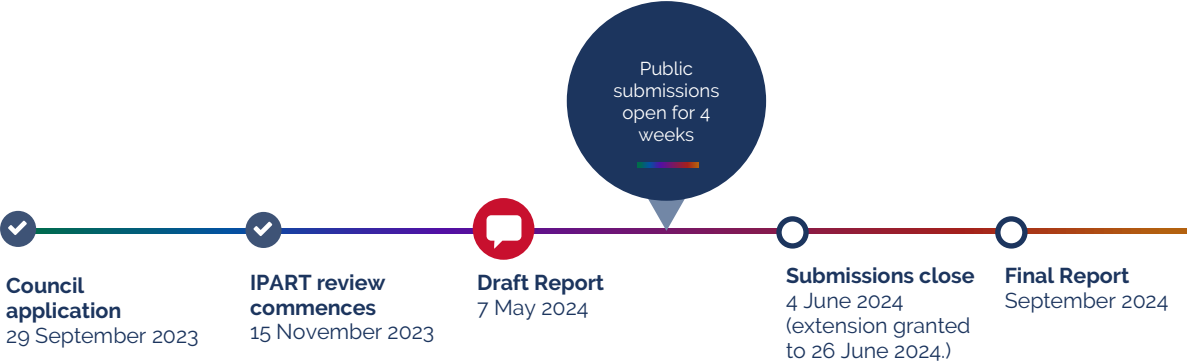
### Recommendations

1.	That the council monitor the design and development of open space embellishments in the contributions plan to ensure that only 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.	13
2.	That the council regularly review the costs of infrastructure items in the contributions plan over the life of the development.	21
3.	That the council update the cost of the plan administration to be 1.5% of the revised total works cost.	27
4.	That the council use the following contingency allowances:	28
	a. 20% for stormwater works	28
	b. 30% for transport works	28
	c. 20% for open space embellishment works.	28
5.	That the council adjust the work schedule to correct for the:	29
	a. underestimate of the apportionment of non-residential stormwater costs	29
	b. underestimate of residential open space land costs	29
	c. underestimate of residential and non-residential plan administration costs	29
	d. underestimate of residential total transport works costs	29
	e. overestimate of residential costs through transport works item EW1.	29
6.	That the council apportion both transport and stormwater costs to both residential and non-residential development on a per hectare of NDA basis.	31
7.	That the council apportion transport and stormwater land and works costs for the public school site to residential development.	31
8.	When the council next reviews the OHN CP, review the capacity of the NS1, EW1 and EW2 roads to ensure they meet the needs of the future development and review the apportionment of the roads to the OHN CP and outside the precinct.	32
9.	That the council apportion plan administration costs for transport and stormwater to non-residential development.	33
10.	That the council regularly review the work schedule to ensure infrastructure is rolled out efficiently to service the development as and when it occurs.	35
11.	That the council reviews infrastructure works costs and makes adjustments if any grant funding is received for infrastructure in the plan following the adoption of the plan.	37



The timeline for the review is illustrated in Figure 1.2 below.

Figure 1.2 Review timeline for OHN (2022)



## 2 Introduction

Penrith City Council (the council) submitted the *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 \$20,000 cap per lot/dwelling.

IPART must first review the OHN CP and provide its assessment 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.

We assessed the 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 in 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 the 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 largely prepared by Legacy Property, the main developer in the precinct.

We also made requests for further information from the council and received further information to assist us in assessing the plan. We sought further information from the council in the 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](#).

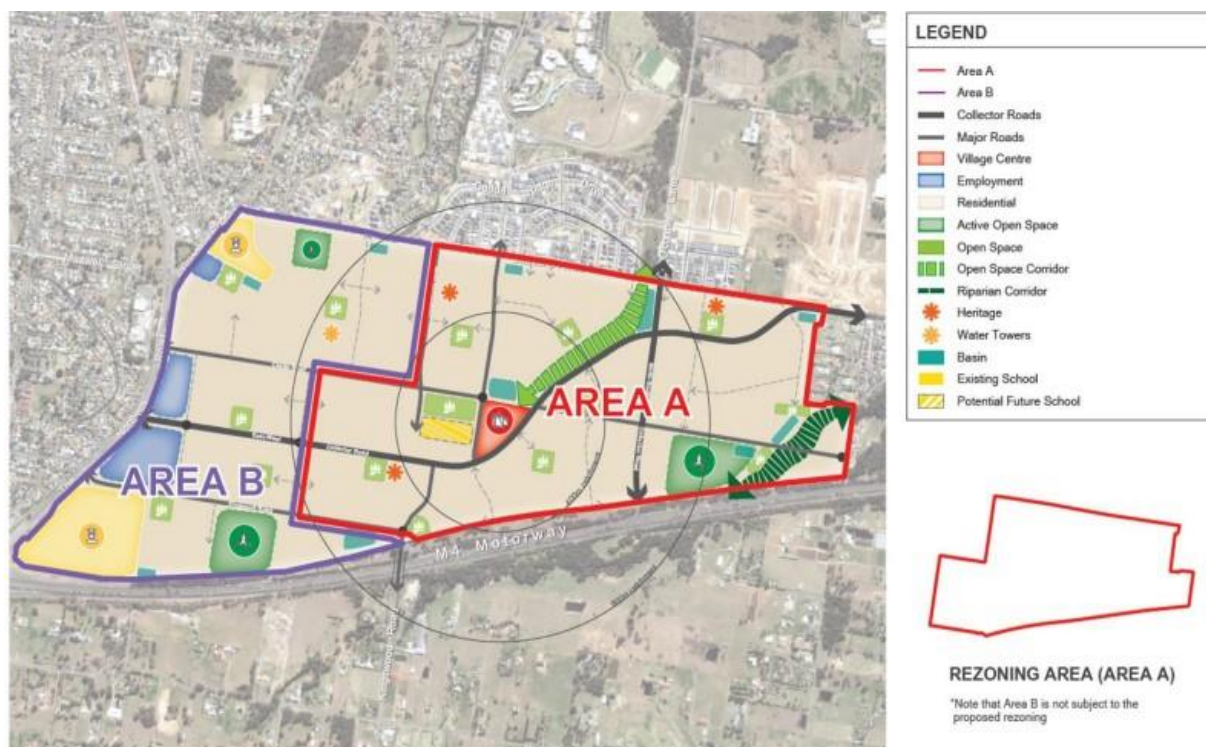
The remaining sections of this Report provide a background on the OHN CP, our assessment of the plan, recommendations and recommended contributions rates.

## 3 The Orchard Hills North Contributions Plan

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

The Orchard Hills North rezoning area (Area A) precinct (the precinct) is an area of about 152 hectares within the Penrith local government area and has a net developable area (NDA) of 101.15 hectares. The precinct is bounded by parts 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 Map of Orchard Hills North: Area A precinct).<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>

Currently, the precinct is mostly a rural and rural-residential environment, with a range of agricultural activities, that is proposed for urban development including 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 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

To support development in the precinct, the OHN CP planned to levy contributions totalling around \$218 million for land, works and plan administration costs for traffic and transport facilities, stormwater management facilities and open space and recreation facilities.<sup>11</sup>

### 3.2.1 Stormwater works

The plan proposes to deliver about \$24.3 million worth of stormwater works items within the precinct.<sup>12</sup> This includes wetlands basins, detention basins, raingardens, gross pollutant traps (GPTs) and drainage.<sup>13</sup>

The full list of stormwater infrastructure items and associated costs are listed in Table 7.1.

### 3.2.2 Transport works

The OHN CP proposes to deliver about \$28.9 million worth of transport works items within the precinct.<sup>14</sup> This includes road upgrades, collector roads, sub-arterial roads, local roads, half road frontage, roundabouts, bus shelters and traffic controls and signals.<sup>15</sup>

The full list of transport infrastructure items and associated costs are listed in Table 7.2.

### 3.2.3 Open space embellishment

OHN CP proposes about \$27.8 million to embellish passive and active local parks, bushland open spaces and playing fields.<sup>16</sup> The open space embellishment items include landscaping, park furniture, playgrounds and play equipment, sporting fields, water play, recreation spaces and car parking.<sup>17</sup>

OHN CP also proposes almost \$1.6 million to embellish Gipps St District Open Space Facility,<sup>18</sup> which includes sporting fields, lighting, club facilities, amenities, park furniture, picnic facilities, public art, car parking, playgrounds, landscaping and shared pathways.<sup>19</sup>

The full list of items and associated costs are listed in Table 7.3.

### 3.2.4 Land

OHN CP includes about \$134.2 million of land costs to acquire 37.21 hectares of land<sup>20</sup> for stormwater infrastructure, traffic and transport management and open space and recreation.<sup>21</sup> The council must acquire 8.22 hectares of land for stormwater facilities, 9.5 hectares for transport works and 15.77 hectares for open space and recreation.<sup>22</sup>

The full list of items and associated costs are listed in Table 7.4.

### 3.2.5 Plan administration

OHN CP includes a plan management and administration cost of around \$1.2 million based on 1.5% of the total works costs.<sup>23</sup>

### 3.2.6 Indexation

OHN CP proposes to apply the Producer Price Indices (PPIs) to works cost estimates<sup>24</sup> and the ABS Sydney All Groups Consumer Price Index (CPI) to land cost estimates<sup>25</sup> and to the base contribution rate at the time of payment.<sup>26</sup>

## 3.3 Contribution rates in the OHN CP

The OHN CP levies contributions based on the relevant apportionment of the total costs of the land, works required to service the development and plan administration. The council's application sets out its proposed contribution rates for residential dwellings and non-residential development outlined below in Table 3.1 and Error! Reference source not found. 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/dwellings)	proposed contribution rate (\$)
Studio or 1 bedroom dwelling or 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
Non-residential/ha NDA	N/A	521,948

Source: Penrith City Council, Orchard Hills North – Area A Development Contributions Plan 2023 – Part 1: Administration, p 7-8.

## 4 Assessment of OHN CP

This section provides our assessment of OHN CP including our assessment of each criterion against the 2019 Practice Note criteria by infrastructure category and our recommendations.

### 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 most of the Practice Note criteria. In Table 4.1 below, we present a summary of our assessment across each infrastructure category.

Table 4.1 Summary of our assessment of OHN CP

Criteria	Stormwater	Transport	Open space	Land	Plan administration
<b>Essential works</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 costs</b>	Criteria met	Criteria met	Criteria met	Criteria met	Criteria met subject to recommendation
<b>Apportionment</b>	Criteria met	Criteria met subject to recommendation	Criteria met	Criteria met subject to recommendation	Criteria met subject to recommendation
<b>Timing</b>	Criteria met	Criteria met	Criteria met	Criteria met	N/A
<b>Community Liaison</b>	Criteria met	Criteria met	Criteria met	Criteria met	Criteria met
<b>Other matters</b>			Criteria met		

## 5 Essential works list

### 5.1 Stormwater

The council proposes \$24.3 million of stormwater works in OHN CP, and \$26.9 million for land acquisition.<sup>27</sup> Stormwater works include wetlands basins, detention basins, raingardens, gross pollutant traps (GPTs) and drainage<sup>28</sup> and there is a land component for all stormwater infrastructure items.<sup>29</sup> For the full set of stormwater works, see Table 7.1.

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

### 5.2 Transport

The council proposes \$28.9 million of transport works in OHN CP and \$47.2 million in land acquisitions.<sup>30</sup> Transport works include road upgrades, collector roads, sub-arterial roads, local roads, half road frontage, roundabouts, bus shelters and traffic controls and signals.<sup>31</sup> For the full set of transport works, see Table 7.2. There is a land component for all transport infrastructure items.<sup>32</sup>

We consider the transport infrastructure items proposed in OHN CP meet the description of essential works list for land and facilities for transport in [2019 Practice Note](#).

### 5.3 Open space

The OHN CP proposes around \$27.8 million in open space works, in 9 passive and active local parks, 3 bushland open spaces and playing fields, and \$53.8 million in land acquisitions.<sup>33</sup> For the full list of open space items, see Table 7.3. There is a land component for all local open space items.<sup>34</sup> The open space embellishments include landscaping, park furniture, playgrounds and play equipment, sporting fields, water play, recreation spaces and car parking.<sup>35</sup>

The OHN CP also includes about \$1.6 million to embellish Gipps St District Open Space Facility,<sup>36</sup> 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.

The council has relied on the *Orchard Hills North Open Space Strategy (January 2023)* prepared by Place Design Group and commissioned by Legacy Property. The open space strategy includes concept designs with high level information about potential open space embellishments.<sup>37</sup>

While most open space embellishments are consistent with the essential works list, some items do not meet the criteria. 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>

We have previously assessed that public art is not allowable under the Essential Works List therefore public art should not be included in the plan. As the [2019 Practice Note](#) specifically excludes skate parks and BMX tracks, the council should ensure these items are not included in open space embellishment works in the plan.

Following our Draft Report, the council advised that open space embellishments are consistent with the essential works list however the council may facilitate additional open space works through future planning agreements.<sup>42</sup> As the open space strategy only includes high level concept designs with no specific costings for sub items, we are not recommending that the council remove any costs for open space embellishment for these items. However, we recommend that council ensure that the OHN CP only include open space items that are consistent with the essential works list.

## Recommendations



1. That the council monitor the design and development of open space embellishments in the contributions plan to ensure that only 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.

## 5.4 Land

OHN CP includes about \$134.2 million of land costs for 37.21 hectares of land.<sup>43</sup> The land acquisitions in the plan are for stormwater infrastructure, traffic and transport management and open space and recreation.<sup>44</sup> The full list of land acquisitions is in Table 7.4.

We consider that the land proposed within OHN CP is consistent with the essential works list.<sup>45</sup>

## 5.5 Plan administration

OHN CP includes about \$1.2 million for plan management and administration costs.<sup>46</sup> This is based on 1.5% of the total works costs for stormwater, transport and local open space.

The plan also includes the 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>47</sup>

We consider that the proposed plan management and administration within OHN CP is consistent with the essential works list, which allows the costs of plan preparation and administration.<sup>48</sup>



## 6 Nexus

### 6.1 Stormwater

The council relied on the *Stormwater and Flood Management Strategy* (February 2023), prepared by J. Wyndham Prince and commissioned by Legacy Property.<sup>49</sup> The report identifies the stormwater infrastructure items needed to manage water quantity and water quality and conducts a flood assessment within the precinct based on modelling undertaken for the precinct.

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

### 6.2 Transport

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

SCT Consulting's *Transport Management and Accessibility Plan (TMAP)* establishes the transport needs based on the projected traffic in the precinct.<sup>50</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>51</sup>

The new infrastructure is necessary due to the increased population projected in the area and background traffic growth, which is significant for roads linked to the Great Western Highway and M4. The study considered current traffic patterns in the precinct and projected changes as the development progresses.<sup>52</sup> The study identifies roads which would need to be upgraded to support the development and accommodate increased traffic throughout the Penrith local government area.<sup>53</sup>

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

Based on these assessments, we consider that the council has established nexus for the transport infrastructure in the OHN CP.

### 6.3 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>54</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>55</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>56</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>57</sup>, and Penrith City's *Open Space and Recreation Facilities Strategy*.<sup>58</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 a high-level guide for the appropriate amount of land that is required within a precinct to serve open space needs. We have previously other 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 there is a higher open space provision throughout the local government area.<sup>59</sup> This is the case in the Penrith local government area. The *Penrith Sport and Recreation Strategy* (March 2020) indicates that the Penrith local government area has around 5 hectares per 1,000 people, with an even higher ratio in some precincts.<sup>60</sup>

New development within the precinct will be required to contribute towards the Gipps Street district open space facility, which is an out of precinct district open space facility. This is included in the *Penrith City District Open Space Facilities Development Contributions Plan (2007)* and the council has assessed it as having capacity to meet the demand generated by the Orchard Hills North precinct. This facility is a district-level facility located which will be located within 2 kms of residents within the precinct and therefore meets the Greener Places Open Space for Recreation Guideline benchmark.<sup>61</sup>

The council relied on analysis that shows that the provision of open space provision 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.

## 6.4 Plan administration

The OHN CP includes plan administration costs to cover the costs of council staff time to prepare and review contributions plans, to account for contributions receipts and expenditure, and to coordinate the implementation of works.<sup>62</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>63</sup>

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

## 7 Reasonable cost

### 7.1.1 Stormwater works

We consider that the costs for individual stormwater works items in OHN CP are reasonable. The costs for stormwater works are shown below in Table 7.1.

Table 7.1 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.

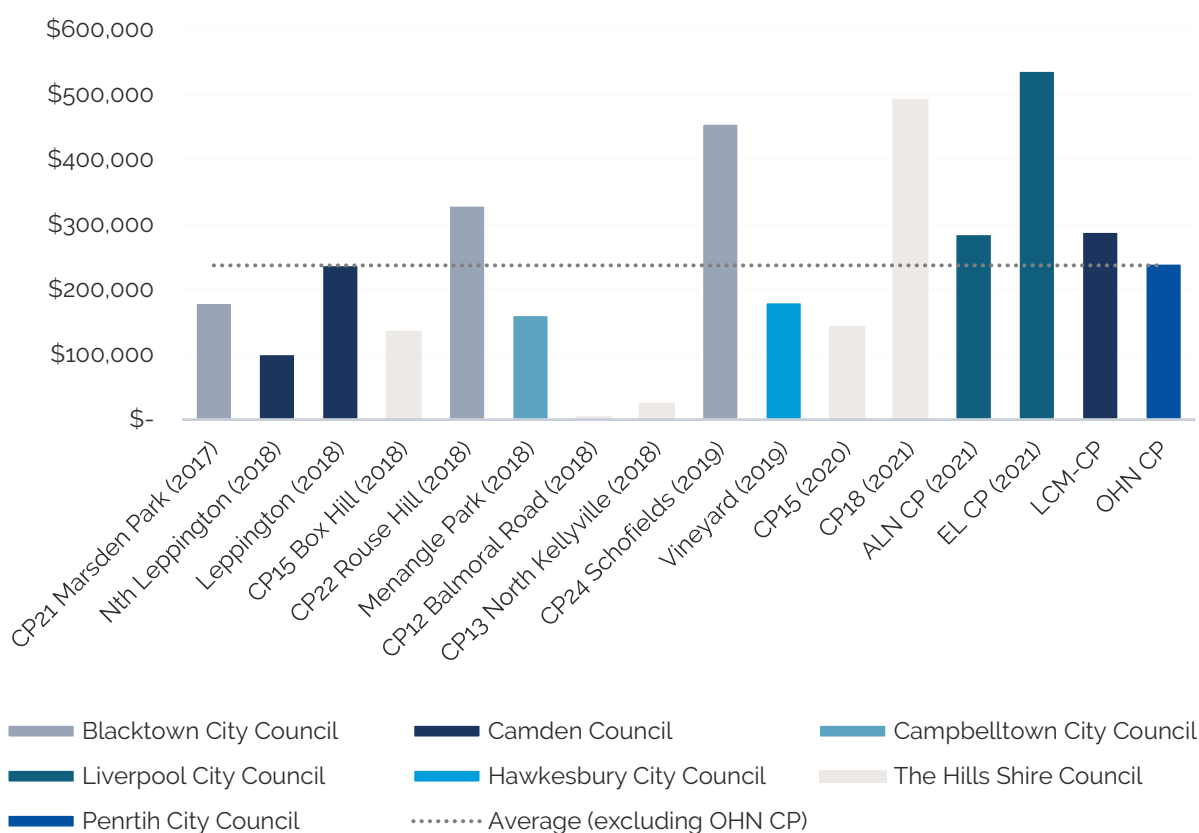
The council relied on Legacy Property to commission J. Wyndham Prince to develop concept design plans and opinions of probable cost<sup>64</sup> based on the water management strategy.<sup>65</sup>

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

We have assessed the costs of wetland basins, Gross Pollutant Traps and the drainage channel 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 (NDA) is close to the average cost (per hectare of NDA) of other plans we have assessed (Figure 7.1).

Figure 7.1 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, that would not be incurred if the development had not occurred.<sup>66</sup>

We consider the 2% authority fee to be reasonable. Together with the professional fee allowance of 12%, is consistent with our 2014 benchmarks which allow for 15% for stormwater on-costs.<sup>67</sup>

## 7.1.2 Transport works

The total proposed cost of transport works in OHN CP is almost \$28.9 million.<sup>68</sup> The costs for transport works items are shown in Table 7.2.

Table 7.2 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
OSHR9	Park OS9	287,762
<b>Passive Open Space - Bushland</b>		
BOSHR1	Bush/OS (1)	220,053
BOSHR2	Bush/OS (2)	42,318
BOSHR3	Bush/OS (3)	228,517
<b>Active Open Space</b>		
OSHR6	Playing Field OS6	317,384



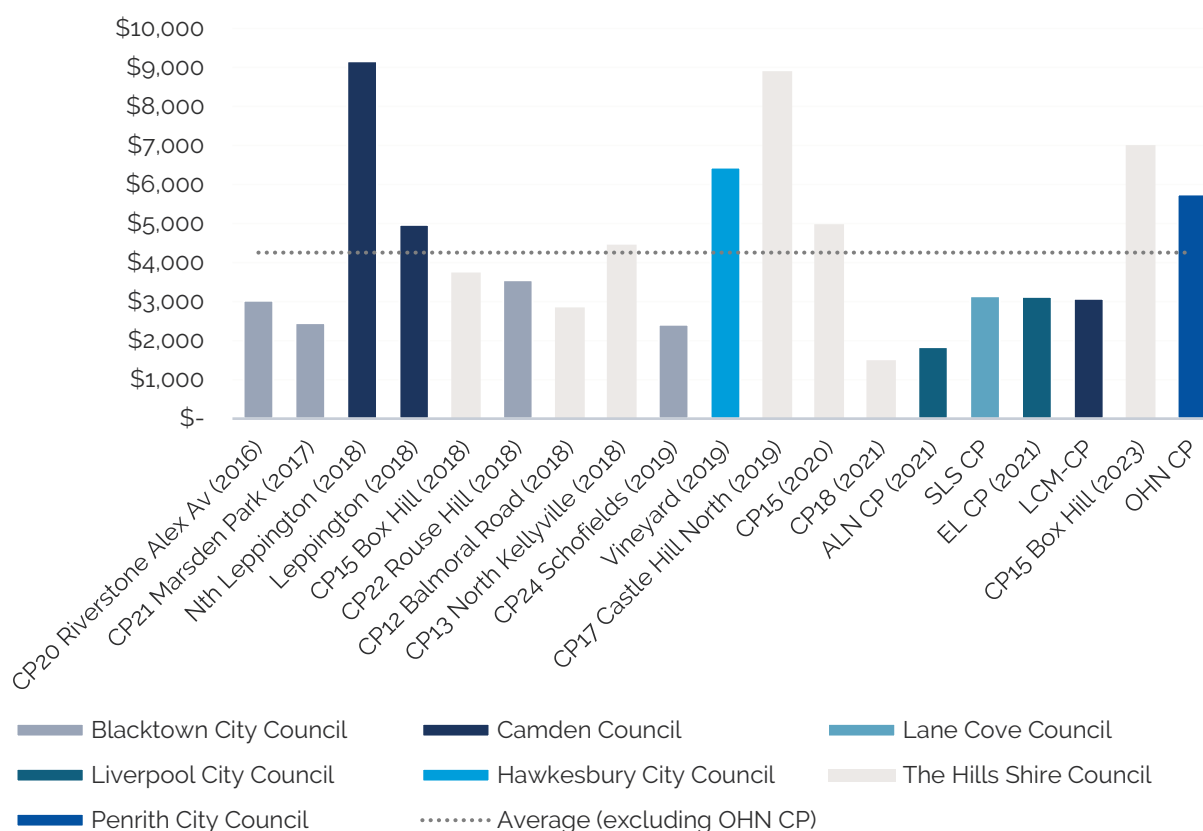
ID	Description	Cost (\$)
OSHRB4	Playing Field B4	169,272
OSHR81	AOS - OS8 (Avenue)	112,848
OSHR82	AOS - OS8 (Castle Road)	259,550
OSHR83	AOS - OS8 (Kingswood Road)	112,848
Professional Fees	12% on construction costs	3,096,022
Authority Fees	2% on construction costs	516,004
Contingency	15% on construction costs	3,870,028
<b>Total</b>		<b>28,896,210<sup>a</sup></b>

a. We note that this total does not sum correctly based on the table rows. We have recommended that the council update the works schedule to address thins (Recommendation 5).

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

We compared the overall and individual transport works items in the OHN CP against other plans we have assessed to determine 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 7.2).

Figure 7.2 Transport works cost per person (\$Jun23)



Source: IPART analysis

Our assessment of individual transport works items indicated that while some items were reasonable, the costs for other items appeared low and the costs for other items appeared high. In our Draft Report, we sought comment from the council about specific transport items outlined below<sup>69</sup>.

We sought further information on the costs of transport works items, including the East-West/North-South (EW/NS) link (a sub-arterial/collector road which comprises 59% of transport costs), existing roads and open space half road frontages, and roundabouts. We assessed the cost of the EW/NS link and other roads to be quite low in comparison to past CPs and/or our 2014 benchmarks (indexed to the base level of the plan). The council's submission on the Draft Report noted that infrastructure upgrades were costed using concept plans and estimated using a per square metre unit rate based on similar projects for council and Transport for NSW roads.<sup>70</sup> The council noted that while costs appear low compared to benchmarks, there are difficulties in drawing direct comparisons to the benchmarks due to differing road typologies.

We have compared the costs for the roundabouts to our benchmarks, and we consider that the costs for the roundabouts appear to be high. We sought further information from the council in the Draft Report. The council's response noted that the roundabouts would be located near intersections with existing roads and traffic and service adjustments were required, hence the council determined the costs of the roundabouts to be reasonable.

The council relied on J. Wyndham Prince to determine cost estimates for transport works costs as well as cost estimates based on similar projects and indexed to the base date of the plan.<sup>71</sup> In addition, the council clarified that some cost estimates are based 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 note that these costs estimates are high level, with detailed design work yet to occur.

We sought further information about the costs of off-site infrastructure upgrades (SG, SH, SL, SP, SQ,) because the costs in the provided works schedule differed from the individual cost estimates. The council advised that the figures provided throughout the cost estimates report and works schedule used differing contingency and authority fee rates and were rounded estimates. The council has provided an amended cost report where figures align with the works schedule, meaning no adjustments are needed for these items in the works schedule.

Because the costings are based on costings for similar projects and/or expert cost estimates we consider the cost of these items is reasonable.

We have assessed 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>

On balance, and acknowledging the basis for the costing methodology, we consider the costs for these transport items to be reasonable, and do not propose recommending adjustments to their costs, however we do recommend regular review of the costs of the plan.

## Recommendations

2. That the council regularly review the costs of infrastructure items in the contributions plan over the life of the development.

## 7.2 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> The costs for open space works in OHN CP are shown in Table 7.3.

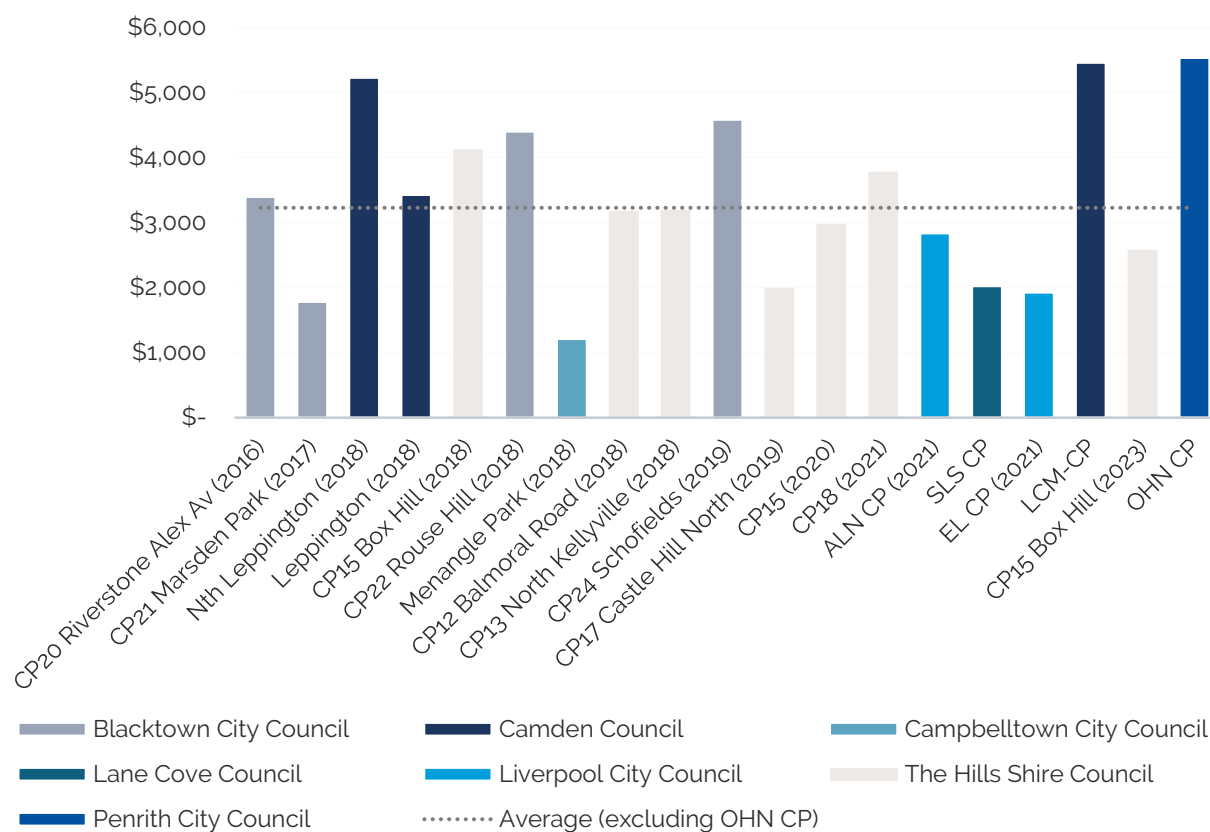
Table 7.3 Costs for open space works in OHN CP (\$Jun23)

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
-	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 to other plans we have assessed and individual open space embellishment costs. Overall, we found that open space works costs (per person) in OHN CP are \$5,531 per person which is higher than most other plans we have assessed (Figure 7.3).

Figure 7.3 Open space works cost per person (\$Jun23)



Source: IPART analysis

The supporting information provided by the council states that per square meter 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). They do not contain benchmarks for items such as bushland regeneration, however, do contain benchmarks for basic landscaping items. To assist in assessing the reasonableness of costs, we used the Department of Planning, Housing and Infrastructure (DPHI) benchmarks from the [Framework for Valuing Green Infrastructure and Public Spaces \(October 2023\)](#) and 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. We also consider that the costs for BOS1-3 (bushland open space) are comparable to similar open space embellishment items in other plans.

In our Draft Report, we sought comment 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.<sup>76</sup> We also sought comment about the costs for OS8 which is lower than similar items we have assessed in other plans. In its submission to the Draft Report, the council advised that the cost of open space was determined by an average overall square meter rate and noted that the open space costs are significantly lower than DPHI's benchmarks.<sup>77</sup> The council advised that costs are high in OS3 because the land is constrained, however the park only includes low level embellishment. We therefore consider this cost as reasonable.

While costs for OS5 are higher compared to similar items in previous contribution plans, we note that individual embellishment items have been costed using DPHI benchmarks and are consistent with the benchmarks. We therefore consider that the cost of this item is reasonable.

The council noted that OS6 includes diverse sporting amenities for precinct, with B4 being a detention basin which includes picnic shelters, cycleways, seating, sports field and passive recreation. The council compared costs to average costs in other comparable projects with an average rate of \$195 p/sqm, which is higher than the proposed rate of \$138 p/sqm. We acknowledge the costing methodology applied to this item and that compared to benchmarks and similar plans, the costs are reasonable.

In our Draft Report, we noted that the costs for OS8 appeared comparatively low. We note that the council has applied an acceptable methodology for costing these items, as average square meter rates were applied to most open spaces except where more detailed design information was available. We therefore consider it reasonable that higher and lower levels of embellishment costs on average would be recovered through the average costing method applied.

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.

Overall, we have assessed that council costs for open space embellishment are reasonable. We note that our recommendation for the council to regularly review the costs of infrastructure items in the contributions plan over the life of the development also applies to the costs for open space.

## 7.3 Land

OHN CP includes almost \$134.2 million of land costs, which is more than 50% of the total cost of the plan (Table 7.4).

Table 7.4 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



ID	Description	Land Size (ha)	Cost (\$)
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>	<b>118,024</b>	<b>26,877,649</b>
	<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>		
	Passive Open Space - Parks		
-	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
	Passive Open Space - Bushland		
-	Bush/OS (1)	2,600	1,286,858
-	Bush/OS (2)	0	0
-	Bush/OS (3)	2,700	1,336,353
	Active Open Space		
-	Playing Field OS6	1,800	890,902
	Playing Field B4	0	0
-	AOS - OS8	1,900	940,397
	<b>Transport subtotal</b>	<b>95,290</b>	<b>47,163,363</b>
	<b>Open space<sup>a</sup></b>		

ID	Description	Land Size (ha)	Cost (\$)
<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
<b>Passive Open Space - Other</b>			
	Village Centre OS		
	Active Open Space	0	0
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>		<b>158,789</b>	<b>53,767,160</b>
<b>Land costs subtotal</b>			<b>\$127,808,172</b>
-	Land acquisition contingency (5% of land costs)		6,390,409
<b>Total</b>			<b>134,198,581</b>

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>78</sup> Cushman and Wakefield examined recent comparable land sales evidence to determine a square metre rate for 3 categories of land: developable land; environmental land; and flood-prone land (Table 7.5). To determine land acquisition rates, the direct comparison method was used and analysed sales in the vicinity of the precinct.

Table 7.5 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 3 cost rates across land acquisitions for transport, open space, and stormwater infrastructure. The developable land rate has been applied to land acquisitions for transport, passive parks, active open space, and stormwater works (except where land is flood-prone). The environmental land rate has been applied to bushland open space works.<sup>79</sup> Land within the plan includes R1 General Residential, B2 Local Centre, RE1 Public Recreation, C2 Environmental Conservation and C3 Environmental Management.

### 7.3.1 Developable land rate

We sought further information from the council about why one developable land rate had been applied 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 a 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) if acquisition for the CP was not required. The council noted that this has been supported by sales and professional valuations of the various land classifications 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.

### 7.3.2 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 clarified 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 in addition to 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 percentage. 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.

## 7.4 Plan administration

The OHN CP proposes around \$1.2 million for plan management and administration costs.<sup>80</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 it is similar to the approach taken in other plans.

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>81</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.

Because we have recommended adjustments and changes to the costs in the plan, we recommend that the council update its plan administration costs to equate to 1.5% of the revised total cost of works.

### Recommendations



3. That the council update the cost of the plan administration to be 1.5% of the revised total works cost.

## 7.5 Other

### 7.5.1 Contingency allowances

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 risks as part of developing the contribution plan. The [2005 Practice Notes](#), which must be read in conjunction with the [2019 Practice Note](#), outline that a key risk in the contributions system framework that capital costs of works estimates in a development contributions plan can be underestimated.<sup>83</sup>

A contingency allowance of 15% has been applied across stormwater works items, transport works and open space embellishment.<sup>84</sup>

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

- stormwater works, 30% for the strategic review stage or 20% for the business case stage
- transport works, 30% for the strategic review stage or 20% for the business case stage
- open space embellishment, 20% for the strategic review stage or 15% for the business case stage.<sup>85</sup>

We recommend that the council 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.

## Recommendations



4. That the council use the following contingency allowances:
  - a. 20% for stormwater works
  - b. 30% for transport works
  - c. 20% for open space embellishment works.

### 7.5.2 Adjustments of the work schedule

We have identified adjustments that will need 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.
- underestimate costs of land for open space – costs have not been indexed to the base period. This underestimates residential open space land costs.
- underestimate 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 cost 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 Table 12.1, Table 12.2 and Table 12.3.

## Recommendations

5. That the council 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.

## 8 Apportionment

### 8.1 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>86</sup>

We sought clarification from the council about the basis for using a per person rate for stormwater items, as the usual approach apportions 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.

### 8.2 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>87</sup> and the *SCT Consulting – Transport Management and Accessibility Plan*.<sup>88</sup> We consider it is reasonable to apportion the off-site infrastructure across the catchment areas based on technical studies.

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. 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.



In our Draft Report, we sought information from the council about why the transport costs were only apportioned to residential development.<sup>89</sup> The council clarified that they apportioned total transport costs to only residential development and not to non-residential development because 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>90</sup> There is about 2.2 hectares of non-residential land in the plan.

We note that non-residential development usually generates more demand for infrastructure than residential development. The council noted that apportionment was determined by the Transport Management and Accessibility Plan (TMAP) which was prepared to support the rezoning of the precinct. The council's assumptions, based on the TMAP, are that trips generated by the non-residential development will originate from the Orchard Hills precinct as this land use would be servicing local demand. Hence the council has not apportioned transport costs to the non-residential development.

We consider it reasonable to apportion transport costs, (in addition to stormwater costs) to both residential and non-residential development. We recommend that the council apportion both transport and stormwater costs to residential development on a per person basis and to non-residential development on a per hectare of NDA basis.

We note that it is typically not feasible for councils to secure contributions relating to public schools. On that basis we consider there is a case to apportion the costs of the local infrastructure required across residential development. We recommended that land for state schools be included in the residential NDA with land costs apportioned to residential development on a per person basis and that transport and stormwater costs be apportioned to residential development on a per person basis.

The council provided IPART with additional information about NDA to inform our proposed apportionment methodology. Total net developable area is 103.05 ha with non-residential area being 4.1ha and residential area being 98.95ha. The school site of 1.9 ha has been included in residential NSW, leading to non-residential NDA being 2.2ha and the remaining NDA (100.8ha) being attributed to residential development. This apportionment method has informed our proposed contribution rates.

## Recommendations

6. That the council apportion both transport and stormwater costs to both residential and non-residential development on a per hectare of NDA basis.
7. That the council apportion transport and stormwater land and works costs for the public school site to residential development.

## 8.2.1 Apportionment of cost of works and land for new East-West Road

We considered whether the full works and land costs for the new East-West Road link should be attributed entirely to the Orchard Hills North area. We note that TMAP indicates significant "background traffic", and that traffic volumes will double by 2036 and the OHN CP explains there will be external works required and traffic flows utilising the proposed link, and that more sub-regional traffic will use this link when the Sydney Metro Western Sydney Airport station at Orchard Hills is operational.

We sought further information from the council to understand whether the background growth has been considered in the apportionment of transport costs for the new East-West Road link (EW1, EW2 and NS1) within and outside the precinct, especially considering off site infrastructure upgrades have been only partially apportioned to OHN (which carry loads from outside of the precinct).

The council has advised that the East-West Road link road is solely costed based on the portions of the road within the precinct and are attributable to the anticipated increase of density and if the development within OHN did not proceed, the existing road network would comfortably cater for any background growth. The council advised that collector roads within the plan are primarily to service the estate and will not take traffic away from existing routes for residents outside of the precinct and traffic resulting from background growth as the roads do not offer any shortcuts. The council also noted that the precinct requires the collector roads to be able to function efficiently, the absence of these roads would significantly burden the surrounding transport network.

Noting that the OHN CP is at an early stage, we are recommending that when the council next reviews the OHN CP, it should review the capacity of the NS1, EW1 and EW2 roads to ensure they meet the needs of the future development, and it should also review the apportionment of the roads to OHN CP and outside the precinct.

### Recommendations

- 8. When the council next reviews the OHN CP, review the capacity of the NS1, EW1 and EW2 roads to ensure they meet the needs of the future development and review the apportionment of the roads to the OHN CP and outside the precinct.

## 8.3 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 evenly distributed within Area B to complement Area A.<sup>91</sup> We use 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>92</sup> The plan apportions 9.89% of the cost in accordance with *District Open Space Facilities Development Contributions Plan*.

## 8.4 Plan administration

The OHN CP uses the IPART benchmark of 1.5% for plan administration.<sup>93</sup> However the council confirmed that non-residential development will only be charged plan administration for stormwater infrastructure.

Costs are apportioned among residential development on a per dwelling/lot basis and non-residential development on a per ha of NDA basis.<sup>94</sup> This is like reviews of 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>95</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.

In our Draft Report we sought further information from the council about why administration costs for transport had not been apportioned to the non-residential development. We have recommended that transport costs are apportioned to non-residential development excluding the area of the school site. It follows that non-residential development should also be charged plan administration costs, applied at a rate of 1.5% of the transport works costs apportioned to non-residential development.

### Recommendations



9. That the council apportion plan administration costs for transport and stormwater to non-residential development.

## 9 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>96</sup> The stages are set out in Table 9.1 below and are consistent with the *Orchard Hills North Development Control Plan 2022*.

Table 9.1 OHN CP indicative staging

Precinct	Estimated timing
Precinct 1	2024-2026
Precinct 2	2026-2028
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 pathway and delivery of local infrastructure in the precinct will largely be determined by the majority landowner, Legacy Property, which is likely to deliver much of the infrastructure under a voluntary planning agreement with the council.<sup>97</sup>


The council clarified that infrastructure will be delivered to minimise disruption to new roads and services as infrastructure is developed. This includes a plan to deliver the land adjacent to existing rural areas in the last stage. 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 provides further guidance that the council is responsible for ensuring the infrastructure meet the needs of a development. This includes ensuring that the works schedule 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>98</sup>

The 2005 Practice Notes outlines the importance of timing, noting the impact on expenditure on works and land acquisition. Any changes to the assumption of timing of works and land acquisition can impact cashflow. The 2005 Practice Notes outline that councils should review the delivery of infrastructure in the plan regularly.<sup>99</sup>

In our Draft Report, we recommended 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. In response to our Draft Report, the council and Legacy provided more specific timeframes for individual infrastructure items. On this basis, we are no longer recommending that the council include additional timeframes in the OHN CP, however we recommend that the council regularly review the work schedule to ensure infrastructure to ensure is rolled out efficiently to service the development as and when it occurs.

## Recommendations

- 10.  That the council regularly review the work schedule to ensure infrastructure is rolled out efficiently to service the development as and when it occurs.

## 10 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>100</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>101</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>102</sup>

The council considered the submissions and incorporated post-exhibition amendments in response to the submissions received.<sup>103</sup> These amendments were made prior to submitting OHN CP to IPART for review.<sup>104</sup>

## 11 Other matters

### 11.1 Grant Funding

In recent reviews of contribution plans we have considered the possibility of the council receiving grants for items included in the CP following the adoption of the CP. To account for this possibility, we have recommended in other plans that the council review costs and make adjustments for any grant funding received following the adoption of the plan. Councils can reduce the total cost of the CP without needing to seek a further review by IPART.

We intend to apply this approach to all CPs to ensure that any grant funding that is received after the CP is adopted prompts the council to reduce the rebates accordingly.

#### Recommendations



11. That the council reviews infrastructure works costs and makes adjustments if any grant funding is received for infrastructure in the plan following the adoption of the plan.

### 11.2 Indexation

Based on comparisons to other plans, 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>105</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>106</sup>



### 11.3 Assessment against clause 212 of the EP&A Regulation

We have determined that OHN CP contains the information required by clause 212 of the EP&A 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 EP&A Regulation is provided in Table 11.1.

Table 11.1 Assessment against clause 212 of the EP&A Regulation

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

## 12 Recommended contributions rates

Our recommended total costs and contribution rates for OHN CP are set out below in Table 12.1, Table 12.2 and Table 12.3.

Table 12.1 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>

Note: totals may not add up due to rounding  
Source: IPART calculations.

Table 12.2 Recommended residential contributions rates for OHN CP (\$Jun23)

Category	Per person	Per studio or 1 bedroom dwelling <sup>a</sup>	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>

a. Including secondary dwelling or seniors living dwelling

Source: IPART calculations.

Table 12.3 Recommended non-residential contributions rates for OHN CP (\$Jun23)

Category	Total cost to be met by OHN development	Apportionment factor to residential development	Cost apportioned to residential development	Apportionment factor to non-residential development	Cost apportioned to non-residential development
<b>Open space</b>					
Land	\$58,826,123	100%	\$58,826,123	0%	-
Works	\$28,868,304	100%	\$28,868,304	0%	-
subtotal	\$87,694,427	100%	\$87,694,427	0%	-
<b>Stormwater</b>					
Land	\$28,221,532	97.87%	\$27,619,034	2.13%	\$602,498
Works	\$25,232,589	97.87%	\$24,693,902	2.13%	\$538,687
subtotal	\$53,454,120	97.87%	\$52,312,936	2.13%	\$1,141,185
<b>Transport</b>					
Land	\$49,521,531	97.87%	\$48,464,303	2.13%	\$1,057,228
Works	\$36,913,394	97.87%	\$36,125,335	2.13%	\$788,059
subtotal	\$86,434,925	97.87%	\$84,589,638	2.13%	\$1,845,287
<b>Gipps St</b>	\$1,590,871	100.00%	\$1,590,871	0%	-
<b>Plan administration<sup>a</sup></b>	\$1,381,123		\$1,361,221.83		\$19,901.19
<b>Total<sup>b</sup></b>	<b>\$230,555,467</b>		<b>\$227,549,094</b>		<b>\$3,006,373</b>

a. 15%, 1% for Gipps St

b. totals may not sum due to rounding

Source: IPART calculations

<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 3.

<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 2023 – Part 1: Administration, p 6.

<sup>12</sup> Penrith City Council, Orchard Hills North – Area A Development Contributions Plan 2023 – Part 1: Administration, p 6.

<sup>13</sup> Penrith City Council, OHN CP works schedule.

<sup>14</sup> Penrith City Council, Orchard Hills North – Area A Development Contributions Plan 2023 – Part 1: Administration, p 6.

<sup>15</sup> Penrith City Council, OHN CP works schedule.

<sup>16</sup> Penrith City Council, Orchard Hills North – Area A Development Contributions Plan 2023 – Part 1: Administration, p 6.

<sup>17</sup> Penrith City Council, OHN CP works schedule.

<sup>18</sup> Penrith City Council, Orchard Hills North – Area A Development Contributions Plan 2023 – Part 1: Administration, p 6.

<sup>19</sup> Penrith City Council, [Penrith City District Open Space Facilities Development Plan \(S94\)](#), December 2007, p 20.

<sup>20</sup> Penrith City Council, Orchard Hills North – Area A Development Contributions Plan 2023 – Part 1: Administration, p 6.

- <sup>21</sup> Penrith City Council, Orchard Hills North – Area A Development Contributions Plan 2023 – Part 1: Administration, p 6.
- <sup>22</sup> Penrith City Council, Orchard Hills North – Area A: Development Contributions Plan 2022 Part 2: Technical Appendix, p 25.
- <sup>23</sup> Penrith City Council, Orchard Hills North – Area A Development Contributions Plan 2023 – Part 1: Administration, p 6.
- <sup>24</sup> Penrith City Council, Orchard Hills North – Area A: Development Contributions Plan 2022 Part 2: Technical Appendix, p 25.
- <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 2023 – Part 1: Administration, p 8.
- <sup>27</sup> Penrith City Council, Orchard Hills North – Area A Development Contributions Plan 2023 – Part 1: Administration, p 6.
- <sup>28</sup> Penrith City Council, OHN CP works schedule.
- <sup>29</sup> Penrith City Council, OHN CP works schedule.
- <sup>30</sup> Penrith City Council, Orchard Hills North – Area A Development Contributions Plan 2023 – Part 1: Administration, p 6.
- <sup>31</sup> Penrith City Council, OHN CP works schedule.
- <sup>32</sup> Penrith City Council, OHN CP works schedule.
- <sup>33</sup> Penrith City Council, Orchard Hills North – Area A Development Contributions Plan 2023 – Part 1: Administration, p 6.
- <sup>34</sup> Penrith City Council, OHN CP works schedule.
- <sup>35</sup> Penrith City Council, OHN CP works schedule.
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- <sup>37</sup> Penrith City Council, [Penrith City District Open Space Facilities Development Plan \(S94\)](#), December 2007, p 20.
- <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.
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- <sup>41</sup> Legacy Property, Orchard Hills North Open Space Strategy January 2023, p 56.
- <sup>42</sup> Penrith City Council, submission to Draft Report, July 2024, p 1.
- <sup>43</sup> Penrith City Council, Orchard Hills North – Area A Development Contributions Plan 2023 – Part 1: Administration, p 6.
- <sup>44</sup> Penrith City Council, OHN CP works schedule.
- <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, [Penrith City District Open Space Facilities Development Plan \(S94\)](#), December 2007, p 3.
- <sup>48</sup> Department of Planning, Housing and Infrastructure, [Practice Note – Local Infrastructure Contributions](#), January 2019.
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- <sup>50</sup> SCT Consulting, Transport Management and Accessibility Plan, 31 January 2023.
- <sup>51</sup> SCT Consulting, Transport Management and Accessibility Plan, 31 January 2023, p iv.
- <sup>52</sup> SCT Consulting, Transport Management and Accessibility Plan, 31 January 2023, p 69.
- <sup>53</sup> Penrith City Council, Orchard Hills North – Area A: Development Contributions Plan 2022 Part 2: Technical Appendix, pp 7-8.
- <sup>54</sup> Place Design Group, Orchard Hills North Open Space Strategy, January 2023.
- <sup>55</sup> Penrith City Council, Orchard Hills North – Area A: Development Contributions Plan 2022 Part 2: Technical Appendix, p 16.
- <sup>56</sup> Penrith City Council, Orchard Hills North – Area A: Development Contributions Plan 2022 Part 2: Technical Appendix, p 17.
- <sup>57</sup> NSW Government, [Architect's Draft Greener Places Open Space for Recreation Guide](#), 2020.
- <sup>58</sup> Penrith City Council, [Penrith Sport and Recreation Strategy](#), March 2020, p 25.
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- <sup>61</sup> Penrith City Council, Orchard Hills North – Area A: Development Contributions Plan 2022 Part 2: Technical Appendix, pp 15-16.
- <sup>62</sup> Penrith City Council, Orchard Hills North – Area A: Development Contributions Plan 2022 Part 2: Technical Appendix, p 22.
- <sup>63</sup> Penrith City Council, Orchard Hills North – Area A: Development Contributions Plan 2022 Part 2: Technical Appendix, p 22.
- <sup>64</sup> J. Wyndham Prince, Orchard Hills North Precinct Stormwater Quantity and Quality Cost Estimate and Concept Design Plans, October 2022.
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- <sup>71</sup> J. Wyndham Prince, Orchard Hills North Traffic Infrastructure Concept Layouts and Cost Estimates, October 2022.
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- <sup>80</sup> Penrith City Council, OHN CP works schedule.
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- <sup>92</sup> Penrith City Council, Orchard Hills North - Area A: Development Contributions Plan 2022 Part 2: Technical Appendix, p 15.
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- <sup>104</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>105</sup> Penrith City Council, Orchard Hills North - Area A: Development Contributions Plan 2022 Part 2: Technical Appendix, p 25.
- <sup>106</sup> Penrith City Council, Orchard Hills North - Area A Development Contributions Plan 2023 - Part 1: Administration, p 15.

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