

5 April 2018

## 1 What is IPART's role in assessing contributions plans?

### Why do we assess local infrastructure contributions plans?

In 2010 the Government asked IPART to assess certain section 94 contributions plans. IPART's role is set out in a Direction by the Minister for Planning under section 94E of the *Environmental Planning and Assessment Act 1979*.<sup>1</sup>

From 1 March 2018 the provisions applying to the contributions plans we assess are found in section 7.11 of the *Environmental Planning and Assessment Act 1979* (EP&A Act), and the provisions applying to Ministerial Directions concerning contributions plans are in section 7.17.

The most recent revision of the Direction, issued on 17 July 2017, reflects the Government's reforms to funding of local infrastructure contributions, including phasing out funding through the Local Infrastructure Growth Scheme (LIGS).<sup>2</sup>

A Practice Note issued by the Department of Planning and Environment (DPE)<sup>3</sup> sets out our role and the process we are to use in assessing plans. It also establishes the requirements for submissions of contributions plans to us and the criteria we apply in our assessment.

Our role in assessing contributions plans is explained in more detail in the following section, and the remainder of the paper outlines how we have assessed the 14 plans reviewed between 2011 and 2017, including the principles we have employed.

### What contributions plans do we assess?

IPART is required to assess contributions plans in the following circumstances:

- ▼ In specified precincts (LIGS transition areas) the caps on contributions will increase until 30 June 2020, after which they will be removed. Councils for those specified precincts must submit their contributions plans to IPART for review before they can apply for funding from the LIGS to meet the shortfall between the applicable capped amount and the contributions otherwise payable in accordance with the plan. After 30 June 2020, those councils can levy developers the full contribution amounts based on an "IPART-reviewed plan".<sup>4</sup>
- ▼ In all other areas (apart from LIGS transition areas until 30 June 2020 and exempted land), where a contributions plan has a contribution amount above \$20,000 per dwelling (or \$30,000 per dwelling in identified greenfield areas), the council must submit the plan to IPART for review before it is able to charge the full contribution.

We may also be required to assess other contributions plans referred to us by the Minister, even if they propose contributions below the relevant threshold.

<sup>1</sup> Minister for Planning, *Environmental Planning and Assessment (Local Infrastructure Contributions) Direction 2012*, 21 August 2012, as amended.

<sup>2</sup> See Minister for Planning, *Environmental Planning and Assessment (Local Infrastructure Contributions) Direction 2012*, 17 July 2017 and DPE, *Planning Circular: Changes to section 94 local infrastructure contributions*, PS 17-002, 27 July 2017.

<sup>3</sup> DPE, *Local Infrastructure Practice Note*, January 2018 (Practice Note).

<sup>4</sup> As defined in clause 5(3) of the Ministerial Direction dated 17 July 2017.

### **When does a council need to re-submit a plan which IPART has already assessed?**

When a council amends a contributions plan we have already assessed, it should re-submit the revised plan to IPART for assessment unless the changes are limited to those noted in clause 32(3) of the *Environmental Planning and Assessment Regulation 2000*. The three types of changes are minor typographical corrections, omitting details of works already completed, and changes to contributions rates that reflect changes to index figures adopted in the plan itself.

### **What should councils do when submitting plans?**

Councils submitting a contributions plan for assessment should provide to IPART:

- ▼ Application form Part A (mandatory) and Part B (optional)<sup>5</sup>
- ▼ the contributions plan
- ▼ supporting documents including spreadsheets, technical studies and consultants' reports that have informed the contributions plan
- ▼ copies of all submissions received when the plan was publicly exhibited, along with the council's responses to any issues raised in them.

We recommend that councils undertake a quality assurance check of the contributions plan before submitting it to IPART to reduce the incidence of administrative errors and inconsistencies in plans.

### **How long does it take for IPART to complete its assessment?**

We aim to complete our assessment within six months of receiving the application. The actual time taken will depend on a number of factors, including:

- ▼ whether data and other information in the plan, costing information and spreadsheets and supporting documents is complete, accessible and accurate
- ▼ the complexity of the issues we identify, and
- ▼ whether we require consultants to assist with our assessment.

If IPART needs to make multiple requests to the council for additional information or explanations of aspects of the plan that are not clear, or a council's response is delayed, we will formally pause our assessment of the plan (as in 'stop the clock' provisions).

We will track the progress of our assessment on our website.

### **Consultation by IPART**

The *Environmental Planning and Assessment Regulation 2000* requires a council to publicly exhibit a draft local infrastructure contributions plan for at least 28 days prior to its adoption, and consider public submissions before finalising the plan. Developers and other stakeholders should raise any issues of concern with the council at this statutory consultation stage. We will review the council's consultation, which is required by one of the assessment criteria.

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<sup>5</sup> These are available on [IPART's website](#).

IPART does not seek to duplicate the council's consultation processes for contributions plans. However, we are considering whether we should also undertake our own consultation processes. For the next plan to be submitted to IPART for review, we will trial a formal public consultation period. After we have received the complete application and we have uploaded it on our website, for a period of four weeks, we will accept submissions related to the assessment criteria from the public. As for previous reviews, we will consult with DPE and the relevant council as part of our assessment, but we may also conduct targeted consultation on a draft of our assessment report.

### **What happens after our assessment?**

After we have assessed the plan against the criteria in the Practice Note, the steps for making an "IPART-reviewed contributions plan" are as follows:

- ▼ We will publish our report on our website, along with a fact sheet and media release.
- ▼ We will provide a copy of the report to the Minister, and also to DPE and the council.
- ▼ The Minister will then consider our report and the Minister (or Minister's nominee) will advise the council about any amendments to the contributions that are required.
- ▼ The Minister's (or nominee's) advice will be published on DPE's website.
- ▼ The council must then make any required amendments before formally approving the draft (or revised) plan.

When the IPART-reviewed plan has been adopted, the council may:

- ▼ seek LIGS funding for the amount of the contributions above the applicable cap if eligible, or
- ▼ levy contributions which reflect the full cost of essential infrastructure.

### **How many contributions plans has IPART assessed to date?**

As shown in Table 1, between 2011 and 2017 we reviewed 14 contributions plans. The majority were submitted by The Hills Shire Council and Blacktown City Council for precincts in the North West Growth Area. We have also reviewed plans from Wollongong City Council (West Dapto Urban Release Area) and Bayside Council (Rockdale Urban Renewal Area).

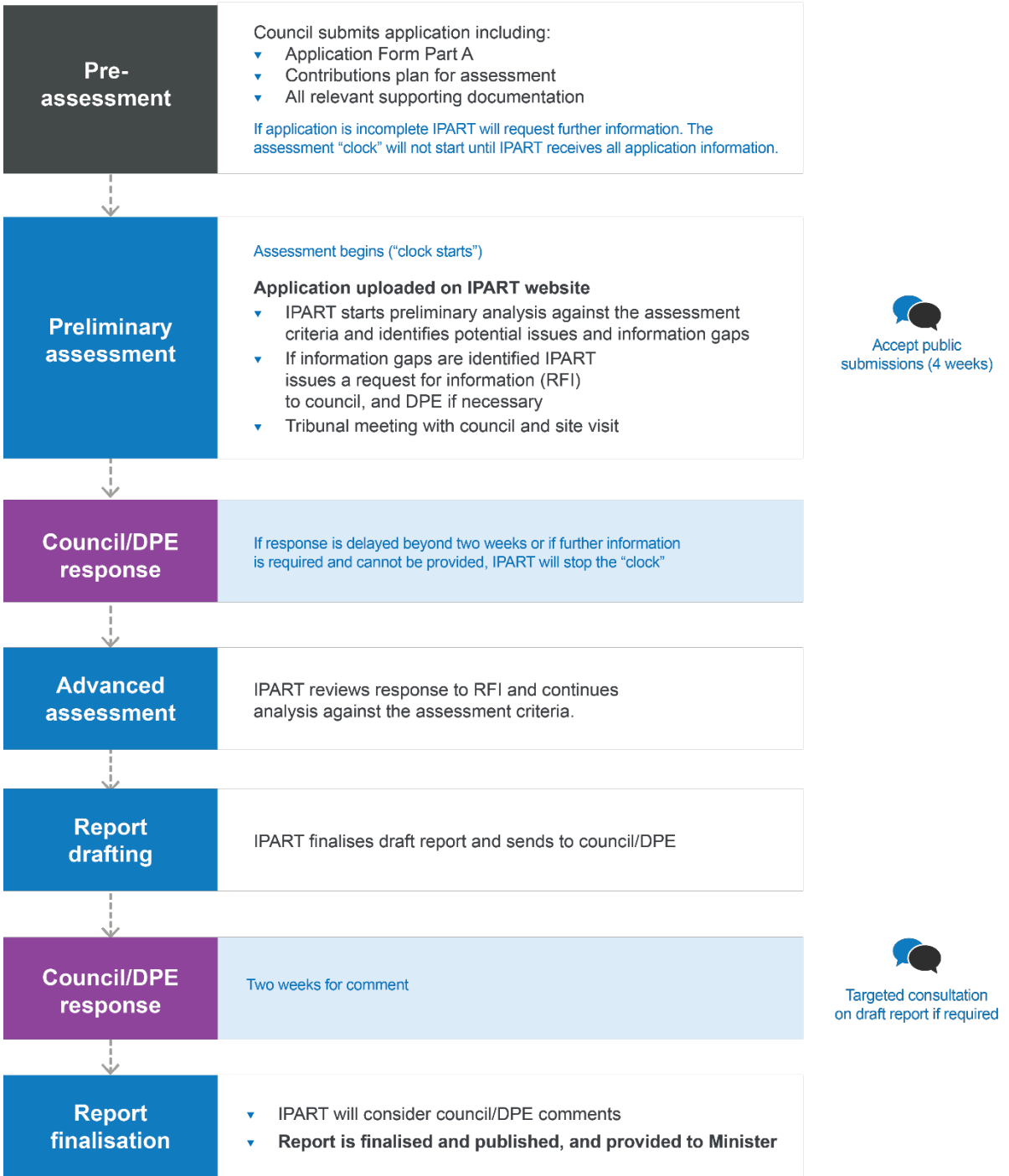
**Table 1 Contributions plans assessed by IPART**

Council	Plan and development area	Date of assessment
The Hills Shire Council	CP12 – Balmoral Road Release Area	October 2011
The Hills Shire Council	CP13 – North Kellyville Precinct	October 2011
Blacktown City Council	CP20 – Riverstone & Alex Avenue Precincts	October 2011
Blacktown City Council	CP21 – Marsden Park Industrial Precinct (MPIP)	September 2012
Blacktown City Council	CP22 – Area 20 Precinct	September 2012
Blacktown City Council	CP24 – Schofields Precinct	August 2014
The Hills Shire Council	CP15 – Box Hill Precinct	December 2014
Blacktown City Council	CP20 – Riverstone & Alex Avenue Precincts (revised)	March 2015
The Hills Shire Council	CP16 – Box Hill North Precinct	September 2015
The Hills Shire Council	CP15 – Box Hill Precinct (revised)	March 2016
Blacktown City Council	CP20 – Riverstone & Alex Avenue Precincts (revised)	July 2016
Wollongong City Council	West Dapto Contributions Plan (draft)	October 2016
Bayside Council	Rockdale Contributions Plan 2016 – Urban Renewal Area	December 2016
Blacktown City Council	CP21 – Marsden Park (revised to include Marsden Park Precinct and MPIP)	August 2017

In this paper we refer to our assessments using a short version of the name of the plan and the date of publication of our report, eg CP24 Schofields (2014) or West Dapto CP (2016). Different dates for the same plan indicate that we have reviewed a plan more than once, eg, CP15 Box Hill (2014) and CP15 Box Hill (2016).

Figure 1 provides a summary of our assessment process.

Figure 1 Contributions plan assessment process



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## 2 How do we assess the plans?

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We assess the plans in accordance with the seven criteria set out in the Practice Note: that is, we consider whether:

- ▼ the public amenities and public services in the plan are on the **essential works list**
- ▼ the proposed public amenities and public services are **reasonable in terms of nexus** between the development and the demand it creates
- ▼ the proposed development contributions are based on a **reasonable estimate of the costs** of the proposed public amenities and public services
- ▼ the proposed public amenities and public services can be provided within a **reasonable timeframe**
- ▼ the proposed development contributions are based on a **reasonable apportionment** of costs
- ▼ the council has conducted appropriate **community liaison and publicity** in preparing the contributions plan, and
- ▼ the plan complies with **other matters** IPART considers relevant, including information requirements in the Practice Note and Regulations.

We generally refer to land and works rather than public amenities and public services.

The following sections explain how we apply each criterion during our assessment, drawing on examples from our reports. All but one of the plans we have reviewed have been for greenfield sites. Determining the infrastructure needs for infill or urban renewal sites, such as the Rockdale URA (2016), requires some different considerations from those we have generally applied in assessing plans for greenfield precincts.

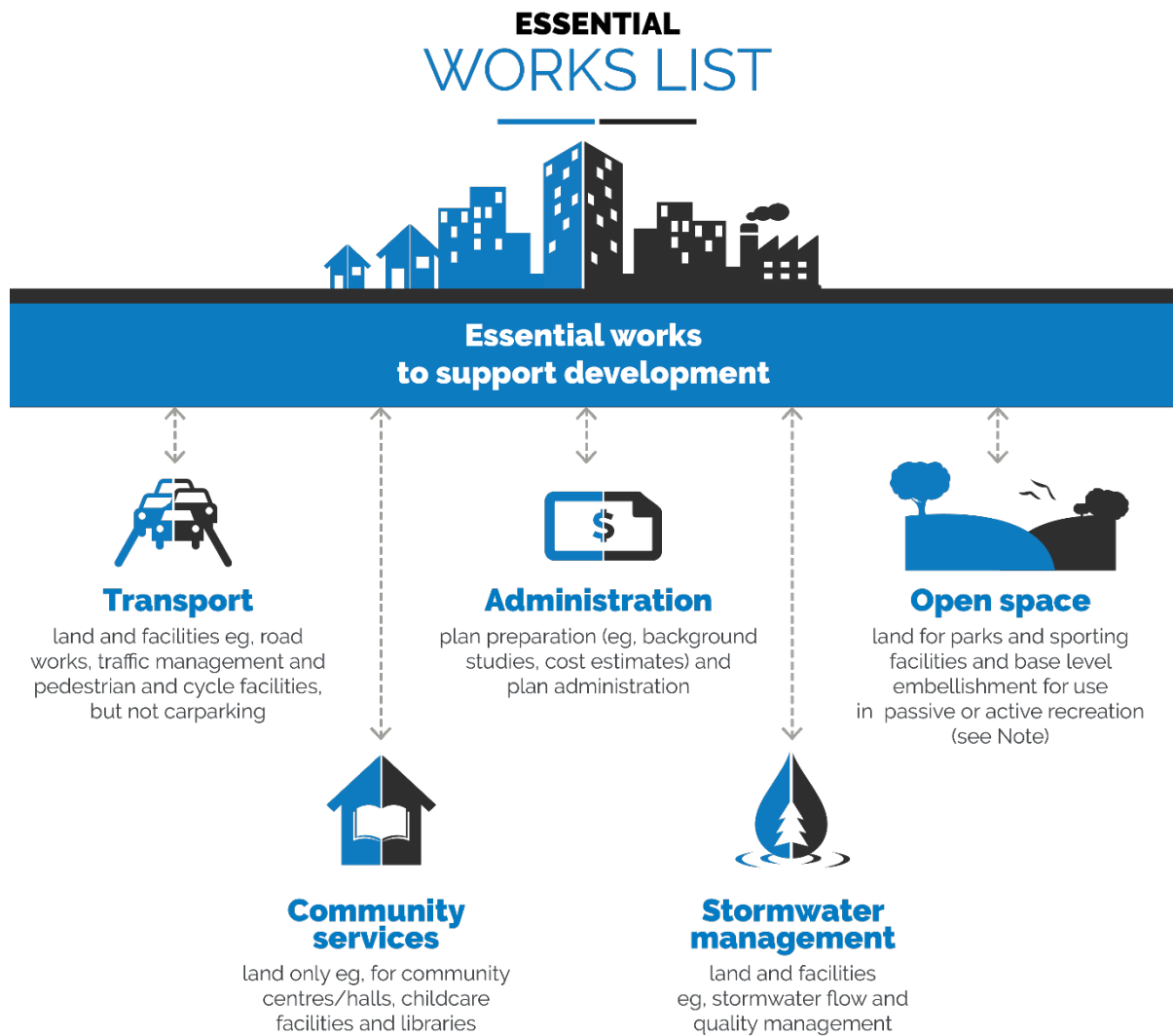
### Criterion 1: Essential Works List

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We are required to assess whether land and works in the plan are on the Essential Works List (EWL), as specified in the Practice Note. The EWL includes land and works for transport and stormwater infrastructure, as well as land and base level embellishments for open space infrastructure. The cost of administering the plan is also on the EWL. For community services, only land is on the EWL.

Figure 2 shows the land and works on the EWL.

Figure 2 Essential Works List



The EWL **does not include** buildings for community services. It also **does not include** land and works for environmental purposes eg, bushland regeneration or riparian corridors, **unless** it serves a dual purpose with one of the categories on the EWL.

**Note:** Base level embellishment is defined as works required to bring open space up to a level where it is secure and suitable for passive or active recreation, and may include site regrading, utilities servicing, basic landscaping (turf, asphalt, synthetic playing surfaces), drainage and irrigation, basic park structures, lighting, sports fields and outdoor courts.

**Source:** DPE, *Local Infrastructure Contributions Practice Note*, January 2018, pp 14-15.

To assess whether the infrastructure is consistent with the EWL, we examine the plan's work schedules and/or itemised costing data as this is often where the detail of inclusions is located.

We have previously recommended removing some infrastructure because it is not on the EWL or did not meet the definition of base level open space embellishment, for example:

- ▼ In CP20 Riverstone & Alex Ave, several items were not essential works – a skate park (2011), aquatic facility upgrades (2011), construction of a community resource hub (2011) and a frog habitat (2016).
- ▼ In CP15 Box Hill (2014):
  - ▽ The capital cost of an indoor recreation centre was deducted because it was not on the EWL, although the cost of land for the centre, zoned as open space, was retained.
  - ▽ It was not reasonable to include costs for ‘sundry unmeasured items’ (almost 5% of total embellishment costs) as the council was not able to reasonably define what works would be carried out.
- ▼ In West Dapto CP (2016):
  - ▽ A multimodal interchange upgrade with car parking facilities did not meet the definition of essential work.
  - ▽ Riparian land (290.2 hectares) did not meet the definition of essential work as we considered that the predominant purpose for acquiring the land appeared to be environmental rather than drainage management.
  - ▽ The capital cost of four community centres was removed although the cost of land for these facilities was retained.

Subject to the Minister’s advice, in such cases the council may continue to refer to the works in the plan, but may not fund them through local infrastructure contributions or LIGS funding.

## Criterion 2: Nexus




We are required to assess whether there is reasonable connection (nexus) between the infrastructure included in the plans and the demand for facilities generated by the anticipated development.

To assess whether there is reasonable nexus, we examine the supporting technical studies. In particular, we compare the rates of provision and levels of service in the plan with the recommendations in the technical studies. Where the council has deviated from the recommendations in the technical studies, we consider whether they are supported by an independent assessment or a sound basis to demonstrate their reasonableness. This requires councils to explain instances where deviations occur, and why.

Table 2 summarises the principles and approaches we have applied when assessing nexus for each infrastructure category.



**Table 2 Principles and approaches applied in assessing nexus**

Infrastructure	Principles and approaches
<b>Transport</b> 	<ul style="list-style-type: none"> <li>▼ The road network and intersection works in the plans should be consistent with a transport and accessibility study.</li> </ul>
<b>Stormwater management</b> 	<ul style="list-style-type: none"> <li>▼ The location and configuration of stormwater infrastructure should be consistent with a stormwater technical study.</li> <li>▼ Where possible, dual-use of stormwater land for open space should be made to minimise the cost of essential works.</li> </ul>
<b>Open space and community services</b> 	<ul style="list-style-type: none"> <li>▼ The assumptions used in the open space and social infrastructure study should be consistent with the current estimated population and development in the plan.</li> <li>▼ The overall amount of open space and the size of any land for community centres should be consistent with the recommended rate of provision in a technical study.</li> <li>▼ Embellishment such as sportsfields, tennis courts and playing courts should be consistent with the recommended rates of provision in a technical study.</li> <li>▼ The parks, sportsfields and playgrounds should be within a reasonable walking distance for residents in the development area.</li> </ul>

We have previously recommended removing some transport and stormwater infrastructure from the cost of essential works in plans on the basis that there was insufficient nexus for these items. Examples include:

- ▼ For CP24 Schofields (2014), the plan included a culvert that was redundant given the changes to the precinct layout during later planning revisions.
- ▼ In CP20 Riverstone & Alex Ave (2016) we found nexus was not satisfied for a bridge over a State Conservation Zone. While not prescribing the transport solution, we considered a culvert presented a lower cost alternative for the transport link in this location – a conclusion with which the council agreed.
- ▼ For CP21 Marsden Park Industrial (2012), we found that the provision of an additional stand-alone raingarden was not essential, given the stormwater management needs of the area identified in the technical study.
- ▼ In Rockdale URA (2016) we considered how nexus could be established for infill developments where sites are often already impervious. We found nexus was not established for the stormwater works for flood mitigation purposes in the Wollie Creek precinct. While the council had established the need for flood mitigation work in principle, we considered it did not establish the need for the particular configuration of works in light of the change to the nature of development, and should undertake further studies to demonstrate nexus for the necessary infrastructure in this precinct.

Our assessment of nexus for the provision of open space in plans includes:

- ▼ In CP12 Balmoral Road Release Area (2011), the rate of provision for open space was high compared with the recommended rate in the technical study when taking account of the potential use of drainage land for passive recreation and population estimates lower than originally forecast. We recommended removing some linear parks from the works cost to reduce the rate of provision without significantly reducing access to open space.

- ▼ In CP21 Marsden Park (2017) the rate of open space provision was higher than the recognised benchmark, but we assessed that nexus was established for the land, because much of it was constrained for public recreation, and DPE's latest population forecasts indicated that the demand for open space would be higher than anticipated in the plan.

We have also assessed that, in some cases, reasonable nexus exists for infrastructure not recommended in the technical studies. Examples include:

- ▼ For CP22 Area 20 (2012) and CP24 Schofields (2014), we assessed that it was reasonable to include more playgrounds than the recommended rate of provision, which would allow a playground to be located within a reasonable walking distance for most residents.
- ▼ For CP24 Schofields (2014), we assessed that it was reasonable for the council to amend stormwater designs prepared by consultants during the precinct planning process because the council had refined the requirements to take into account specific local factors.

### **Criterion 3: Reasonable costs**

We are required to assess whether the proposed contribution rates are based on a reasonable estimate of the cost of land and works in the plan. This includes how the costs of land and each item of infrastructure are derived and the methodology applied to calculate the contribution rates and escalate them over time.

#### **Land costs**






IPART has published a separate Information Paper setting out our approach to assessing the proposed costs of land in contributions plans.<sup>6</sup> The land costs Information Paper provides detailed guidance about how councils should estimate the cost of acquiring land where local infrastructure in the plan will be located.

Table 3 summarises the principles and approaches we have applied when assessing whether the cost estimates in a plan are reasonable.

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<sup>6</sup> IPART, *Contributions plan assessment process for land costs - Information Paper*, April 2018.

**Table 3 Principles and approaches applied in assessing reasonable costs**

Cost aspect	Principles and approaches
<b>Land</b> 	<ul style="list-style-type: none"> <li>See land costs Information Paper.</li> </ul>
<b>Works</b> 	<ul style="list-style-type: none"> <li>The cost estimates should be based on the best information available.</li> <li>The contingency allowances, professional fees and other on-costs should be commensurate with the stage of infrastructure planning and delivery.</li> <li>Where IPART benchmarks have been used, they should be applied in accordance with IPART's benchmark report and should be replaced with site-specific estimates when these are available.</li> </ul>
<b>Administration</b> 	<ul style="list-style-type: none"> <li>The cost estimate should either be based on a 'bottom up' approach of the cost of administering the plan and technical studies, or the IPART benchmark rate of up to 1.5% of the total cost of works.</li> </ul>
<b>Indexation</b> 	<ul style="list-style-type: none"> <li>The costs in the plan should be escalated from the time of the costings to the base year of the plan, using appropriate cost-reflective indices for the different types of works and land.</li> <li>The contribution rates should be indexed by the CPI from the base period onwards.</li> </ul>
<b>NPV model</b> 	<ul style="list-style-type: none"> <li>The approach in calculating the discount rate should be consistent with IPART's Technical Paper on Modelling Local Development Contributions.</li> <li>Where the council has used a nominal value approach, these costs should be escalated by appropriate indices that are cost-reflective.</li> <li>The expected cash-flows should be consistent with the timing of infrastructure delivery and the development pattern in the area.</li> </ul>

### Cost of works

As a general principle, we consider that the cost of works should be based on the best available information at the time of preparing the contributions plan.

Councils generally use one or more of these approaches:

- recent competitive tender and contract rates
- quantity surveyor (QS) rates
- consultant's estimates
- IPART's Benchmark Report

We will assess the reasonableness of the approach in the context of each plan. Examples taken from our assessment of CP15 (2016) include:

- Cycleway costs based on tender rates were reasonable, but revised costings for some transport infrastructure based on recent tender rates (which were significantly higher than consultant's costs based on detailed designs) were not.

- ▼ Using cost estimates based on specific designs from the consultant's stormwater technical study for the precinct was reasonable, as was using cost estimates by a QS for site-specific designs of recreation facilities in each of six parks.
- ▼ The council should not use IPART benchmark costs for some roads and intersections because a consultant's estimate, based on detailed site designs, was prepared for the precinct.
- ▼ Using the Benchmark Report costing may be reasonable in some instances, but its recommendations and cost estimates should not replace detailed and site-specific cost estimates when these are available.

In relation to use of QS estimates, it is important to note that while we consider it is reasonable to rely on QS estimates, this does not mean all costs based on QS estimates will always be found to be reasonable. Advice from a QS can reflect the brief given by a council, as well as assumptions made by the council or the QS about scope, quality, or the circumstances of delivery. In our assessment of CP21 Marsden Park (2017), we reviewed QS cost estimates over time for generic items of open space embellishment. We recommended that the council review the costs to ensure that they reflected reasonable unit rate levels, the level of risk for the project stage, and more site-specific plans, where necessary.

In CP20 Riverstone & Alex Ave (2016) we were again concerned about the relatively high cost of stormwater infrastructure compared with other recent plans we had assessed. We identified this issue in our original assessment of CP20 in 2011, reiterating it at the next assessment (2015), although we noted that the council was exploring lower cost options. In 2016 with the issue remaining unresolved, we recommended removal of \$140 million of soil disposal costs, pending a detailed review by DPE and the council of stormwater management infrastructure design and costs including soil disposal costs.

We also consider that the contingency allowance and professional fees should be commensurate with the degree of planning for the infrastructure. Examples include:

- ▼ In CP24 Schofields (2014) we assessed that a 5% contingency allowance was reasonable for stormwater infrastructure given the availability of detailed infrastructure designs.
- ▼ In CP22 Area 20 (2012) we recommended the contingency allowance be reduced from 10% to 5%, given the straightforward nature of works and stage of the design.
- ▼ In Rockdale URA (2016) we recommended reducing the contingency allowance from 30% to 20% for specific transport works which were already 'in progress' and therefore beyond the strategic cost estimate stage.
- ▼ Given the reduced risk associated with the availability of detailed designs and cost estimates for infrastructure in CP15 Box Hill (2014), we recommended the contingency allowances for transport infrastructure be reduced from 30% to 20% and for open space infrastructure from 20% to 15%.
- ▼ Additional project management/design fees and contingency allowances were reduced or removed from the cost of some transport items in West Dapto (2016) because they were already reflected in the estimated rates.

For professional fees, we assessed in CP24 Schofields (2014) that a 5% to 10% fee (based on the base cost of the facility) is a reasonable estimate. In some cases, the council applied an additional lump sum (eg, \$5,000 to \$20,000) to estimate the cost of design and consultancy services for each item.

### **Plan administration costs**

In CP24 Schofields (2014), CP15 Box Hill (2016) and CP20 Riverstone & Alex Ave (2016), we found it reasonable for councils to estimate plan administration costs using the IPART benchmark rate of up to 1.5% of the total cost of works. However, in some cases, using a standard rate may not be justified if the council expects or has incurred more or less costs, and in these cases, a council may wish to more accurately estimate this cost. As discussed in our IPART Benchmark Report, we consider that a 'bottom-up' approach with a cost breakdown is also reasonable when administration costs are higher than 1.5% of capital costs.

### **Indexation of the cost of land and works to the base period in the plan**

In some instances, councils may have acquired land for infrastructure in the plan, and/or constructed the facilities in the plan, before the plan is prepared. The amounts in the plan for such purchases may not exceed the actual purchase prices, indexed by the CPI (All Groups) for Sydney to the base period in the plan.<sup>7</sup> In CP20 Riverstone & Alex Ave (2015) we recommended that the council consider indexing the costs already incurred for some demolition works by the CPI for Sydney to June 2014 dollars (ie, the base period of the plan).

The remaining cost estimates in a plan (ie, costs that have not yet been incurred) may be prepared at different points in time and it may therefore also be necessary to index cost estimates to the base period in the plan. We consider indices should be cost-reflective for each infrastructure category, although we acknowledge that some councils consider use of the CPI across the board is simpler to administer.

Reflecting the position adopted in our *Local Infrastructure Benchmark Costs Report*,<sup>8</sup> we stated in our assessment of CP20 Riverstone & Alex Ave (2015) that tailored Producer Price Indices (PPI) from the Australian Bureau of Statistics (ABS) could be used to escalate the various cost categories:

- ▼ Road and Bridge Construction Index for NSW for transport/stormwater facilities, and
- ▼ Non-residential Building Construction Index for NSW for open space embellishment.

### **Net present value (NPV) approach to calculating contribution rates**

Councils may use an NPV model to calculate the contribution rate/s in a plan. The NPV approach involves the use of a discounted cash flow model. In the discounted cash flow model, the contribution rate is calculated so that the present value of anticipated expenditure is equal to the present value of anticipated revenue. This helps to ensure that a council collects sufficient revenue to cover its anticipated expenditure.

<sup>7</sup> *Environmental Planning and Assessment Regulation 2000*, cl 251.

<sup>8</sup> IPART, *Local Infrastructure Benchmark Costs Report – Costing infrastructure in Local Infrastructure Plans*, Report, April 2014.

Our preferred approach to modelling local development contributions in a present value framework is set out in a separate Technical Paper.<sup>9</sup>

To date, only the plans submitted by The Hills Shire Council use an NPV approach. In CP15 Box Hill (2014), which used a nominal NPV model, we concluded that:

- ▼ for revenue, it is reasonable to use the 2.5% midpoint of the Reserve Bank of Australia's inflation target range for escalating contributions revenue forecasts
- ▼ for the cost of land, it is reasonable to use the ABS Established House Price Index (Sydney), and
- ▼ for the cost of works, the council should consider using cost-reflective Producer Price Indices (PPI) rather than a single PPI to escalate the costs.

### Indexation of contribution rates

The *Environmental Planning and Assessment Regulation 2000* allows councils to index contribution rates quarterly or annually using:

- ▼ readily accessible index figures adopted by the plan (such as a Consumer Price Index), or
- ▼ index figures prepared by or on behalf of the council from time to time that are specifically adopted by the plan.<sup>10</sup>

Other than some plans which used the NPV methodology, the plans we have assessed have indexed contributions rates by the CPI (All Groups) for Sydney.

## Criterion 4: Timing

The timing criterion requires us to assess whether the infrastructure can be provided within a reasonable timeframe.

We examine how the timetable for provision of infrastructure in the plan was developed and how the infrastructure delivery has been prioritised. Examples of previous findings and recommendations on timing are:

- ▼ In our assessments of CP24 Schofields (2014) and CP20 Riverstone & Alex Ave (2015), we found it reasonable for infrastructure delivery timeframes to be based on flexible time tranches, given the uncertainty about the rate of development and when infrastructure will be required.
- ▼ In CP15 Box Hill (2014) we recommended the development timeframe of 40 years be shortened to 25 years. The longer period was used in the supporting technical studies and was comparable with development timeframes in comparable precincts nearby. However during our assessment, Sydney Water advised the rollout of water and wastewater services would likely occur earlier than the council originally anticipated.

<sup>9</sup> IPART, *Modelling local development contributions in a present value framework, Technical Paper*, February 2016.

<sup>10</sup> *Environmental Planning and Assessment Regulation 2000*, cl 32(3)(b).

- ▼ For West Dapto CP (2016), while we found that an extended timeframe of around 60 years for development was reasonable, we recommended that the plan should prioritise infrastructure delivery beyond its 10-year capital works program (as specified in the plan), including an indicative timetable for each stage in tranches of five or 10 years.

### Criterion 5: Apportionment

Apportionment is about ensuring the allocation of costs equitably between all those who will benefit from the infrastructure or create the need for it. To assess whether the contribution rates are based on a reasonable apportionment of costs, we assess how the council has allocated the costs between:




- ▼ existing and new development
- ▼ stages of development
- ▼ sub-catchments of the precinct
- ▼ residential and non-residential development
- ▼ different residential development densities, and
- ▼ development within and outside the precinct.

We have also considered the apportionment of costs in plans where development of land for some uses, such as public schools, is exempt from paying contributions.

The appropriate **units of apportionment** will vary depending on the type of infrastructure and the characteristics of development in the precinct. Most plans we have assessed to date have apportioned costs on a 'per person' basis or a 'per hectare of net developable area' basis, or a combination of both. However in West Dapto (2016) the council used traffic modelling data to apportion transport costs between the West Dapto Urban Release Area and adjacent areas.

Table 4 lists some examples of the apportionment approaches we have accepted or recommended for each infrastructure category.

**Table 4 Recommended or accepted approaches to apportionment**

Infrastructure	Approaches
<p><b>Transport</b></p> 	<ul style="list-style-type: none"> <li>▼ In principle, transport costs should be apportioned on a vehicle trip basis but the relevant information may not be available. In the absence of vehicle trip information the costs should be apportioned on a per person basis for residential development and on a per NDA or gross floor area (GFA) for non-residential development.</li> <li>▼ Where transport infrastructure addresses the demand from both residential and non-residential development, the costs should first be apportioned between each land use type on the basis of net developable area (NDA), then <ul style="list-style-type: none"> <li>– per person for residential development</li> <li>– NDA or gross floor area (GFA) for non-residential development.</li> </ul> </li> </ul>
<p><b>Stormwater management</b></p> 	<ul style="list-style-type: none"> <li>▼ Generally should be apportioned on an NDA basis for both residential and non-residential development. <ul style="list-style-type: none"> <li>▼ We have also accepted apportionment of stormwater costs between residential developments on a per person basis.</li> <li>▼ We have also accepted apportionment of stormwater costs between non-residential developments on a gross floor area (GFA) basis</li> </ul> </li> <li>▼ Where stormwater infrastructure addresses the demand from both residential and non-residential development, the costs should first be apportioned between each land use type on the basis of net developable area (NDA).</li> <li>▼ Where development contains on-site stormwater infrastructure (provided by the developer), the council could proportionally discount the amount apportioned, based on the extent of the on-site infrastructure.</li> <li>▼ Where stormwater infrastructure serves more than one precinct, the council could apportion the cost based on the relative size of catchment areas.</li> <li>▼ Where the precinct is divided into different stormwater catchments, the cost of infrastructure servicing each catchment should be separated and be apportioned to their respective catchments only.</li> </ul>
<p><b>Open space and community services</b></p> 	<ul style="list-style-type: none"> <li>▼ Costs should be apportioned on a per person basis within the precinct, or across several precincts, consistent with the needs analysis of the area(s).</li> </ul>

## Transport

Examples of our approaches to assessing apportionment of transport infrastructure include:

- ▼ For CP20 Riverstone & Alex Ave (2015) and (2016) we recommended the council, when next reviewing the plan, consider apportioning costs to residential development on a per person basis, consistent with the recommendation in the supporting Arup study which had modelled future traffic demand, although we recognised that in this case, differences between the per person and per hectare apportionment were relatively small. A similar recommendation was made for CP21 Marsden Park (2017) where the differences were more marked.
- ▼ In CP15 Box Hill (2014) we considered the specific areas and location of employment land to determine that it was reasonable to share the cost of a road upgrade equally with industrial development in the Annangrove Road Light Industrial precinct.



- ▼ In Rockdale (2016) we considered that the upgrade of the Princes Highway (a State road) may be funded by Roads and Maritime Service (RMS), and if this were to occur, the cost should be removed from the plan.
- ▼ We accepted in CP21 Marsden Park (2017) that it was reasonable not to apportion road costs to residential development in the Marsden Park Industrial Precinct as the roads in that catchment are to be provided primarily to service the industrial development and it is unlikely the residents would use them, except to access commercial development.

### **Stormwater management**

Examples of our approaches to assessing apportionment of stormwater infrastructure include:

- ▼ In CP15 Box Hill (2014), we accepted that stormwater costs were driven by the size of the catchment area and therefore it was reasonable to apportion costs to each catchment based on per hectare of NDA.
- ▼ In CP20 Riverstone & Alex Ave (2011), we recommended that two basins shared with the Riverstone East Precinct should be apportioned based on the relative size of the stormwater catchment in both precincts.
- ▼ In CP24 Schofields (2014) and CP21 Marsden Park Industrial (2012), we considered it reasonable for the council to divide stormwater costs into different sub-catchments and apportion each sub-catchment's costs internally on an area basis. This recognised different stormwater needs for different sub-catchments and ensured that costs were equitably borne.

### **Open space and community services**

Examples of our approaches to assessing apportionment of open space and land for community services include:

- ▼ In CP15 Box Hill (2014) we recommended that the open space costs be apportioned per person rather than on an area basis because it was more equitable and better reflected how demand for open space is generated.
- ▼ In CP24 Schofields (2014) we recommended that some residential areas in the precinct should not contribute to the cost of local open space infrastructure because they were located in a remote area, without reasonable access to the local parks.
- ▼ For both CP12 Balmoral Road Release Area (2011) and CP13 North Kellyville (2011) we recommended that the land (stratum) costs for a library be apportioned between these two precincts using their relative population estimates.

### **Apportionment between residential and non-residential development**

In West Dapto CP (2016) we recommended that the approach which had the effect of exempting most non-residential development from contributions should be revised. Rather than limiting the relative contribution rate per hectare for industrial land and exempting other non-residential development from contributions, we recommended that costs be apportioned to non-residential development as well as residential development, to represent its fair share of demand for the infrastructure.

### Apportionment between stages of development

This situation arose in West Dapto CP (2016). Development will occur across five stages and in six sub-precincts over a period of six decades until 2070. Only two stages have been rezoned; the order and timing of rezoning of the remaining three stages is uncertain. At present contributions under the plan can only apply to development in the two rezoned stages, but contribution rates apply uniformly across all stages, based on estimates of total cost of infrastructure required to meet demand arising in all five stages.

As we identified significant variation in infrastructure costs and service provision among the five stages resulting in some cross-subsidisation between stages, we considered the apportionment of costs could be more equitable if the costs were apportioned separately to Stages 1 to 3 and Stages 4 and 5.

### Apportionment where land is exempt from paying contributions

We have identified an apportionment issue arising where councils voluntarily exclude some land from the calculation of contribution rates.

Councils may specify in a contributions plan that certain parcels of land are exempt from paying contributions. This can occur as a result of a direction issued by the Minister for Planning exempting certain development types from paying contributions,<sup>11</sup> or the council deciding that it will exempt certain types of development from paying contributions.

If the plan excludes the exempt land from the calculation of NDA for the purposes of allocating costs among developments, the contribution rates for all land would be higher than otherwise would be the case. Instead, we have recommended that the exempt land be included in the NDA for the purposes of apportioning costs. This issue is discussed in relation to public schools in CP15 Box Hill (2016) and West Dapto CP (2016).

## Criterion 6: Appropriate community liaison

We are required to assess whether the council has conducted appropriate community liaison and publicity in preparing the contributions plan.

To apply this criterion, we require evidence that the plan has been exhibited and publicised in accordance with the statutory requirements and that submissions received during the exhibition period have been taken into account.<sup>12</sup> The post-exhibition version of the plan should not differ so significantly from the exhibited version that it requires re-exhibition.

CP15 Box Hill (2014) was adopted almost two years after the council publicly exhibited a draft of the plan. Prior to the plan's adoption but without further public consultation, council changes significantly increased the base costs in the plan. We recommended that after the council considered IPART's recommendations and any requests made by the Minister for Planning, it re-exhibit CP15, so that stakeholders could comment on the significant changes to infrastructure and costs.

<sup>11</sup> A Section 94E Direction exempts certain types of development from paying contributions in a section 94A plan, but there are no current exemptions applying to section 94 plans. The provisions applying to Ministerial Directions concerning contributions plans are now found in section 7.17.

<sup>12</sup> The provisions applying to making of contributions plans are now found in sections 7.18 and 7.19 of the EP&A Act and clauses 26 to 33.

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## Criterion 7: Other relevant matters

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A recurring theme in our assessments is that councils should be transparent and consistent about their contributions plans. We have also examined whether the council has complied with the information requirements set out in the EP&A Regulation and the 2005 Practice Notes.<sup>13</sup> We have made recommendations about:

- ▼ **Providing indicative contributions amounts for selected types of dwellings.** We recommended that this be done for CP21 Marsden Park Industrial (2012).
- ▼ **Providing clarity about works-in-kind and offset provisions.** Significant infrastructure in CP24 Schofields (2014) was to be provided through a works-in-kind agreement, but it was unclear on how the works would be credited. We recommended that guidance on the council's policy for works-in-kind be included in the plan.

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<sup>13</sup> Department of Infrastructure, Planning and Natural Resources, *Development Contributions Practice notes*, July 2005.