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Your submission for this review:

Please see attached LGNSW submission. As noted on p4, this submission is made in draft form, pending approval of the LGNSW Board. If there are any changes following Board endorsement we will provide these separately to IPART.



DRAFT SUBMISSION

# IPART Review of its approach to assessing infrastructure contributions plans

February 2025





Local Government NSW (LGNSW) is the peak body for local government in NSW, representing NSW general purpose councils and related entities. LGNSW facilitates the development of an effective community-based system of local government in the State.

## OVERVIEW OF THE LOCAL GOVERNMENT SECTOR



Local government in NSW employs **55,000 people**



Local government in NSW is responsible for about **90% of the state's roads and bridges**



Local government in NSW looks after more than **\$177 billion** of community assets



NSW councils manage an estimated **4 million tonnes of waste** each year



Local government in NSW spends more than **\$2.2 billion** each year on caring for the environment



NSW councils own and manage more than **600 museums, galleries, theatres and art centres**



NSW has more than **350 council-run libraries** that attract tens of millions of visits each year



NSW has more than **400 public swimming and ocean pools**

# TABLE OF CONTENTS

## Contents

<b>Opening</b> .....	<b>4</b>
<b>LGNSW Position</b> .....	<b>4</b>
2024 Annual Conference Resolutions.....	5
Other relevant policy positions - LGNSW Policy Platform.....	5
<b>General comments</b> .....	<b>6</b>
Review the caps on contributions plan charges .....	6
Expand the Essential Works List .....	8
<b>Response to Discussion Paper</b> .....	<b>9</b>
Refining IPART's assessment approach .....	9
Benchmarks and costing guidelines .....	16
<b>Conclusion</b> .....	<b>17</b>
<b>Summary of Recommendations</b> .....	<b>17</b>
<b>Appendix 1: Relevant LGNSW Annual Conference motions</b> .....	<b>19</b>

# Opening

Local Government NSW (LGNSW) welcomes the opportunity to respond to IPART's review of its approach to assessing infrastructure contributions plans.

LGNSW is the peak body for local government in NSW, representing NSW general purpose councils and related entities. LGNSW facilitates the development of an effective community-based system of local government in the State.

This submission is made in draft form, pending approval of the LGNSW Board. IPART is asked to consider this current version. If there are any changes following Board endorsement these will be separately provided to IPART.

LGNSW understands that IPART is reviewing the approach to assessing contributions plans to make sure it is as efficient and effective as possible. IPART is also updating the benchmarks for local infrastructure and seeking feedback on these updated benchmarks for individual items and aggregate benchmarks for stormwater, transport and open space.

It is understood that the scope of IPART's review does not extend to questions about the content of the essential works list (EWL)<sup>1</sup> or the imposition of thresholds on contributions plan charges<sup>2</sup>.

This submission is informed by the policy positions of LGNSW and feedback from councils. At the outset, it is necessary to highlight that the contributions framework in NSW as it currently operates, presents high risks to councils and is setup in a manner that results in significant funding shortfalls which are ultimately borne by councils and local communities. This submission takes the opportunity to highlight some of the local government sector's broader concerns with the contributions framework, while acknowledging this is outside the limited scope of IPART's review.

## LGNSW Position

LGNSW's Policy Platform and recent Annual Conference resolutions contain a suite of policy positions in relation to local infrastructure provision which inform this submission. These positions are discussed briefly below.

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<sup>1</sup> The Essential Works List specifically excludes the ability for councils to collect for items like libraries or community centres.

<sup>2</sup> These thresholds are set by the Minister and are set out in the [Secretary's Practice Note 2019](#) (p 4) : "The following caps on contributions plan charges will apply:

- a capped amount of \$30,000 per dwelling or residential lot in greenfield areas
- a capped amount of \$20,000 per dwelling or per residential lot in infill area".

## 2024 Annual Conference Resolutions

### Timeframe for IPART review of contributions plans

At the Local Government Annual Conference in November 2024, councils unanimously resolved to call on the NSW Government to significantly shorten the timeframe for the IPART Review and Ministerial Approval process for contributions plans.<sup>3</sup>

### Contributions plan cost recovery

In addition, councils resolved they would like to see changes to the section 7.11 contributions framework that would enable them to levy for the full cost of delivering infrastructure required to support the population within a development precinct.<sup>4</sup> Further, that IPART should allow for and apply a conservative approach to cost estimates in the preparation of contributions plans, so that councils can appropriately account for risk and price escalation in early iterations of plans.

### Indexing s7.11 developer contribution plan levies

In a further resolution of the 2024 Annual Conference<sup>5</sup>, councils reaffirmed their calls for the NSW Government to remove the \$20,000 and \$30,000 per dwelling thresholds on development contributions.

As Blacktown City Council noted in its background note supporting this resolution, these that were issued under a Ministerial Direction to councils in 2012<sup>6</sup>:

These maximum amounts have not changed or been indexed for 12 years and councils increasingly struggle to keep their costs below these amounts. The efficiency and sustainability of this funding mechanism requires an appropriate reset of the total amounts which can be levied, and annual indexation thereafter, to keep pace with inflation.<sup>7</sup>

Councils unanimously resolved that if this threshold is not altogether removed, it should be reset and then an appropriate annual indexation factor applied. (See Resolution 19 in Appendix 1.)

The conference agreed that this threshold is out of date and not sustainable for urban release areas. With the increased attention on housing supply, councils need fewer restrictions in place to support delivery partnerships for enabling infrastructure.

### Other relevant policy positions - LGNSW Policy Platform

LGNSW's long-held positions in relation to key aspects of local infrastructure provision include the following (see LGNSW Policy Platform<sup>8</sup>):

- The importance of sufficient local infrastructure funding through mechanisms such as development contributions.

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<sup>3</sup> [Annual\\_Conference\\_2024-Resolutions.pdf](#) Resolution 21

<sup>4</sup> [Annual\\_Conference\\_2024-Resolutions.pdf](#) Resolution 20

<sup>5</sup> [Annual\\_Conference\\_2024-Resolutions.pdf](#) Resolution 19

<sup>6</sup> [Environmental Planning and Assessment \(Local Infrastructure Contributions\) Direction 2012](#)

<sup>7</sup> [Annual\\_Conference\\_Business\\_Paper\\_2024.pdf](#), p 42

<sup>8</sup> [LGNSW Policy Platform](#) - See policy positions 3.5, 3.6 and 3.7

- Ensuring any review or amendments to the infrastructure contributions system do not adversely affect local councils or their communities.
- The removal of the current caps on development contributions.
- A review of the Essential Works List (EWL) to include community facilities<sup>9</sup>.

A list of relevant LGNSW Annual Conference resolutions is at **Appendix 1**.

## General comments

### Review the caps on contributions plan charges

LGNSW commends IPART for turning the spotlight on its own processes with the aim of making them more timely and efficient. This aligns with recent LGNSW Annual Conference resolutions (outlined above) and with the feedback from IPART’s preliminary consultation (which included 12 councils) which found that the review process for contributions plans takes too long.<sup>10</sup>

Nevertheless, it is disappointing that the \$20,000 and \$30,000 per dwelling caps on development contributions plan charges, which remain unchanged since they were first announced in 2008<sup>11</sup> and imposed in 2012, are out of scope for this review. When this change to infrastructure contributions was introduced, the circular noted that the number of councils with levies greater than \$20,000 per lot “are quite limited”<sup>12</sup>.

Much has changed in the decade-and-a-half since the caps were introduced, with steep increases in land values and construction costs, so it is high time for the thresholds to be reviewed. The fact that IPART regularly approves development contributions plans significantly higher than the cap in some areas validates what the true costs of development actually are.

The thresholds need to be removed or at a minimum, increased to a more realistic level. They do not accurately reflect councils’ increasing infrastructure delivery costs and land values and have not been indexed for fifteen years which means they have declined in real terms during this period.

It was made clear at IPART’s webinar on 9 December 2024 that IPART has initiated the review for the very reason that more contributions plans need to come to IPART for assessment because these 15-year-old caps on contributions plans have not changed since their introduction.

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<sup>9</sup> [LGNSW Submission to Inquiry into the ability of councils to fund infrastructure and service](#), p 34

<sup>10</sup> [Discussion Paper – IPART](#), p 9

<sup>11</sup> A [2008 planning circular](#) announced that councils would be limited to charging \$20,000 per residential dwelling from 30 April 2009 onwards. Following this, [Ministerial Directions](#) in 2012 (amended in 2017) set the maximum contribution amounts that could be charged as local infrastructure contributions at \$20,000 and (in specified areas) \$30,000 per dwelling, and required contributions plans above the capped amounts to be submitted to IPART.

<sup>12</sup> [Planning circular – PS 08-017 – Review of infrastructure contributions](#)

LGNSW's Annual Conference last year saw multiple motions from councils seeking to address issues with the local infrastructure contributions framework. Similarly, evidence presented by councils to the recent Legislative Council Inquiry into the Ability of Local Governments to Fund Infrastructure and Services<sup>13</sup> highlighted the current shortfalls of the developer contributions framework. For example:

**Wollongong City Council:** "The current developer contribution model is limited by its legislative framework which inevitably leads to existing ratepayers subsidising the growth in population. The existing and past caps on contributions, and the control process overseen by IPART to allow contributions rates above the cap, have led to and continue to create additional gaps in funding infrastructure."<sup>14</sup>

**Camden Council:** "Income derived from contribution plans is highly regulated and, in the case of greenfield development, land and infrastructure costs are approved by IPART on the basis of what they estimate the cost will be. Historically this approach has not aligned with actual costs. There is a significant funding gap, between what is collected and the actual costs, in most contribution plans in NSW."<sup>15</sup>

**Blacktown City Council:** "In 2010 government determined that the NSW infrastructure contributions system should not fund community facilities (except for the land cost), and that rates revenue would be sufficient to deliver these facilities. This has not been the case for Blacktown City, with \$631 million in unfunded capital costs for community facilities."<sup>16</sup>

**Tweed Shire Council:** "...developer contributions have been capped since August 2012 at \$20,000 per each brownfield dwelling and \$30,000 for a greenfield dwelling, without regard to council's costs in providing related services and infrastructure. Construction and land costs have increased significantly since August 2012. The average lot in Tweed ten years ago sold for approximately \$300,000 with development contributions at \$30,000 representing 10% of the land value. Today, lots are in excess of \$750,00 and contributions are still at \$30,000 (4%). The State is of the belief that by restricting contributions payable to councils, it will open up supply and make land more affordable. The reality is, if councils cannot forward plan and build infrastructure because they cannot afford it, they simply won't."<sup>17</sup>

Appropriately, this inquiry recommended in its November 2024 report:

*That the NSW Government implement changes to the developer contributions framework to better financially support local councils to fund the ongoing costs at the completion of new infrastructure and works deemed essential to support development including community facilities as determined by the council on behalf of the local community.<sup>18</sup>*

The evidence consistently presented from councils indicates the depth of the sector's concern and the critical need to address restrictions on councils' ability to fund the infrastructure necessary to support the growth. LGNSW has long maintained that

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<sup>13</sup> [Ability of local governments to fund infrastructure and services](#), pp 53-56

<sup>14</sup> [0106 Wollongong City Council.pdf](#), p 4

<sup>15</sup> [0053 Camden Council.pdf](#), p 3

<sup>16</sup> [0021 Blacktown City Council.pdf](#), p 3

<sup>17</sup> [0065 Tweed Shire Council.pdf](#), p 6

<sup>18</sup> [Ability of local governments to fund infrastructure and services](#), recommendation 7, p 59.



removal of the thresholds and the IPART review process would significantly reduce the length and complexity of the process of preparing section 7.11 infrastructure contribution plans.

If the thresholds were reset and indexed to more appropriately reflect the true cost of infrastructure today, this would reduce the number of contributions plans being referred to IPART by outdated caps, lessening the load on both IPART and council resources, and in turn helping to speed up IPART's assessment processes. This would be a sensible and long overdue response.

While it is acknowledged the caps are a government decision that is beyond the direct control of IPART and outside the scope of this review, LGNSW urges IPART to consider, as an outcome of its review, making a recommendation to the NSW Government to revisit and review these contributions caps.

**Recommendation 1:** That IPART acknowledges that the thresholds that trigger IPART review of contributions plans have not changed since they were introduced and as such warrant immediate review to reflect real cost increases over the past 15 years and the introduction of annual indexation to capture future costs movements; this would mean that fewer plans need to go through the IPART process, resulting in a reduced drain on both council and IPART resources.

**Recommendation 2:** That as an outcome of this review, IPART makes a case to the NSW Government to remove the threshold on development contributions, s7.11 caps be increased or if this threshold is retained, to reset and then apply an appropriate annual indexation factor to the \$20,000 and \$30,000 s7.11 maximum amounts specified in the Minister for Planning's 2012 Ministerial Direction.

## Expand the Essential Works List

The Essential Works List (EWL) seeks to limit infrastructure to base level provision and place downward pressure on contribution rates and development costs. The current EWL is already limited to the most basic and narrowly defined development contingent infrastructure:

- Land and facilities for open spaces
- Land for community facilities
- Land and facilities for transport
- Land and facilities for stormwater management
- The costs of plan preparation and administration.

The most glaring omission from the list is contributions for community facilities. It is incongruous that land for community facilities is considered development-contingent, but the actual facilities are not.

The EWL imposed on councils specifically excludes the ability to collect for items like libraries or community centres and the like – subjecting communities to deficits of

social infrastructure that can only be made up through either the use of voluntary planning agreements or provisions of additional funds from the rate base, again placing an unfair burden on councils and existing communities.

Councils aim to create healthy and thriving communities by funding local facilities such as community and neighbourhood centres, halls, libraries, youth and childcare facilities. It is important for infrastructure to be in place when residents move into areas if we are to create liveable communities. Moreover, contemporary community expectations are that these essential services and facilities will be in place when they move into an area. The absence of community facilities is not a good planning outcome.

The restrictive nature of the list should not be at the expense of providing adequate infrastructure outcomes that are required to support development. It is considered within IPART's role in this process to provide advice to the NSW Government on this matter.

**Recommendation 3:** That as an outcome of this review, IPART recommends removal of the strict application of the Essential Works List to contributions plans that are referred to IPART, by amending the EWL to include the capital costs of providing community facility buildings.

## Response to Discussion Paper

Many of the 18 specific questions in the Discussion Paper relate to the detailed and iterative review process for individual contributions plans and/or are highly technical in nature. Councils who are familiar with the detailed analysis and calculations involved in preparing these contributions plans are therefore best placed to respond in detail. LGNSW asks that IPART have regard to the knowledge, expertise and experience of councils as this is reflected in their detailed responses.

### Refining IPART's assessment approach

#### 1. What do you think could be improved about how IPART assesses contributions plans?

##### Conservative approach to cost estimates

IPART "generally aims to assess plans within six months", according to its 2023 Information Paper<sup>19</sup>.

However, a sample of current and completed plans<sup>20</sup> and feedback from councils suggests that the average is possibly closer to twice this time.

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<sup>19</sup> [Information Paper: IPART assessment of local infrastructure contributions plans](#), 21 April 2023

<sup>20</sup> [Current and completed assessment of plans | IPART](#)

The following feedback from The Hills Shire summarises the issue from local government's perspective:

The IPART Review and Ministerial Approval process for the preparation and review of contributions plans takes far too long.

The length of time taken for IPART to review contributions plans, which can be up to a year, often results in substantially more development being approved at the existing (outdated) contribution rates, resulting in an increasing funding deficit that Councils are unable to recoup.

IPART's timeframes, in addition to the time taken for Council to prepare, report and publicly exhibit a Plan, means that a simple review of a contributions plan can take around 2 years, before Council can levy the revised contribution rate. This is too long and limits the ability for a plan to respond quickly to changing economic circumstances and escalations in land values.

IPART or Government has no process for simple, targeted and expedited reviews of contributions plans to enable housekeeping amendments (such as reflecting actual costs incurred) to be undertaken expeditiously.<sup>21</sup>

It is important to highlight that IPART's assessment represents only part of the overall Contributions Plan Assessment Process, with other stages in the process involving actions by the Department of Planning Housing and Infrastructure (DPHI) and the Minister.<sup>22</sup>

Together with the time necessary for councils to prepare, report and publicly exhibit a contributions plan, a simple review of a contributions plan could take one to two years. These long timeframes limit the ability for a plan to respond quickly to changing economic circumstances and can delay development, impacting housing supply.

There are financial implications for councils when estimated costs in new or revised contributions plans become outdated during the assessment process because of lengthy process times.

In line with recent Annual Conference resolutions, LGNSW would like to see IPART allow for and apply a conservative approach to cost estimates in the preparation of contributions plans, to ensure councils can appropriately account for risk and price escalation in early iterations of plans. In the background note supporting this resolution, The Hills Council noted:

1. The contributions framework within NSW as it currently operates, presents high risks to councils and is setup in a manner that results in significant funding shortfalls which are ultimately borne by councils and local communities.
2. IPART involvement in the review of contributions plans forces councils to utilise unrealistically low-cost estimates which results in contribution rates that are lower than what is genuinely required to fund delivery of a work program.

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<sup>21</sup> [Annual\\_Conference\\_Business\\_Paper\\_2024.pdf](#), p 43

<sup>22</sup> [Practice Note - Local Infrastructure Contributions - January 2019](#), Figure 1

Early in plans, detailed designs and approvals are not in place and the assessment should be more conservative with a greater contingency reflecting the maturity of the design and approval process.

3. Once development has been approved, council has no ability to retrospectively recoup cost increases based on the current policy position of Government relating to apportionment.

4. It is essential that IPART employs a conservative approach to cost estimates, especially in the early stages of a contributions plan. This will enable Councils to appropriately account for risk and price escalation over the life of a plan. Historically IPART's approach has been to reduce cost estimates in draft plans to the maximum extent possible, in order to reduce the contribution rates. It is evident that IPART measures its value in the contributions plan review process by how much it can reduce draft contribution rates, rather than by how accurate the resultant contribution rates are as a true measure of the cost of providing local infrastructure to service development.

5. If more conservative cost estimates are not applied early in the life of a contributions plan, then Government must amend the Section 7.11 Contributions Framework to enable councils to recoup any shortfalls associated from cost escalations from the remaining development within a growth precinct (at the time of completing a Plan review), to cover funding gaps resulting from price escalations and missed income earlier in the life of a plan.<sup>23</sup>

If IPART's review and assessment process was shorter and more efficient, then it may be conceivable that more regular reviews could be completed to ensure cost estimates remain accurate and updated over time.

**Recommendation 4:** That IPART consider allowing for and applying a conservative approach to cost estimates in the preparation of contributions plans, to ensure councils can appropriately account for risk and price escalation in early iterations of plans.

### Contingency for land contamination

While IPART's draft Benchmark Costs prepared by Genus Advisory account for potential contamination, land contamination contingency costs are not specifically mentioned in IPART's Discussion Paper.

Councils increasingly report they are encountering many situations where they are required to deal with land contamination, with some seeing high levels of contaminated waste on development sites due to historic incidents of orphan waste dumping.

Despite having processes in place to mitigate the risks, these cannot be eliminated altogether, and councils can end up with remediation costs that far exceed those in the relevant contributions plan. The material risk to under-collecting contributions for land acquisition and remediation is a major contributing factor to contributions plans not meeting the real cost of providing infrastructure.

LGNSW suggest that IPART investigates this matter further, in conjunction with councils. A suitable land contamination contingency should also be considered for

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<sup>23</sup> [Annual\\_Conference\\_Business\\_Paper\\_2024.pdf](#), pp 42-43

contributions plans to de-risk the potential for land acquisitions to deviate from and outstrip what is allowed for in a contributions plan.

**Recommendation 5:** That IPART consult with councils to investigate and consider how land contamination contingencies can be factored in for contributions plans to de-risk the potential for land acquisitions to deviate from and outstrip what is allowed for in a contributions plan.

**2. Do you support using a suitable land value index to update land costs in your CP? Is there any other guidance about our assessment of land acquisition costs that would support your preparation of CPs?**

LGNSW understands there is support from councils to use a suitable Land Value Index (LVI) to ensure accurate and up-to-date values. Shortfalls with acquiring land for contributions plans are inevitable, and IPART's preliminary consultation with councils indicated that the use of LVIs would provide significantly better outcomes compared with the use of CPI<sup>24</sup>.

LGNSW is aware that Blacktown City Council, for example, has adopted an index that is published quarterly by CoreLogic. When first introduced in 2022, the council noted in its Contributions Plan that this "assists in addressing some of the steep rises in land acquisition costs for the Schofields Precinct"<sup>25</sup>.

The CoreLogic index has been endorsed by IPART:

*We consider that the council's use of an LVI for the NWGA is reasonable for application in this plan, and that CoreLogic's hedonic method for establishing an Unimproved LVI also appears reasonable for this plan in this circumstance.*<sup>26</sup>

It would be beneficial for IPART to include guidance on credible LVIs like CoreLogic and outline criteria for selecting or customising an LVI. This will ensure consistency and provide transparency and clarity for councils when managing land cost estimations.

**3. Do you support IPART using Urban Development Program growth forecasts as the agreed measure for population forecasts when assessing contribution plans?**

Councils have indicated some reservations if IPART was to use UDP growth forecasts as the agreed measure for population forecasts when assessing contributions plans.

While there may be some degree of in-principle support for the idea, councils caution that the UDP forecasts may be too generalised and further, that a number of

<sup>24</sup> IPART [Discussion paper - Review of approach to assessing contributions plans - November 2024](#), p 10

<sup>25</sup> [Blacktown City Council Contributions Plan no 24 Schofields Precinct](#), 2022, p 5

<sup>26</sup> IPART [Assessment of Contributions Plan No. 24 - Schofields Precinct \(2022\)](#):

issues would need to be addressed before these forecasts could serve as the agreed measure. Blacktown City Council for example, has highlighted issues with:

- the clarity of the multiple data sources that make up the UDP
- their observations of disparities between of the NSW Population Projections and their own bespoke forecasts which are tailored to the local context
- data limitations that could affect infrastructure planning

In some cases, councils will have undertaken more detailed and accurate analyses as part of their preparation and review of a Plan, noting that the UDP data is high level in nature. If provided, councils' detailed analysis and projections should take precedence over the more generalised UDP forecasts.

For these reasons, councils have indicated a preference for IPART to maintain flexibility by allowing councils to use alternative population projections where this is supported by evidence and justification.

Whatever the approach, any alignment with growth forecasts should be subject to regular scrutiny to ensure the projections remain robust and reliable.

#### **4. Do you have any feedback on our proposal to provide guidance to councils on our assessment of reasonable timeframes in CPs?**

Over the life of a contributions plan, the staging of infrastructure delivery can change depending on multiple factors, making it sometimes challenging or perhaps impossible to meet the indicative public timeframes in an individual contributions plan.

For example, when councils pool their contributions plan revenue<sup>27</sup> to bring forward delivery of a prioritised infrastructure item, this may be out of sync with 'indicative' timeframes for delivery that are set out in contributions plans.

When IPART is assessing individual contributions plans and ascertaining whether the proposed infrastructure can be delivered within indicative timeframes, it should weigh up these circumstances and any guidance IPART gives to councils on its assessment of reasonable timeframes in contributions plans should also take this into consideration.

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<sup>27</sup> The *Environmental Planning and Assessment (Local Infrastructure Contributions – Pooling of Contributions) Direction 2020*, requires councils to pool contributions collected from their various contributions plans.

**5. Do you have any feedback on our proposal to develop guidance on how we identify and assess the Practice Note criterion 'other relevant matters'?**

IPART's Discussion Paper notes that its reviews of councils' contributions plans "are important because they signal the reasonable costs of the essential infrastructure needed to support a new development"<sup>28</sup>.

However, as discussed earlier in this submission, outdated policies in the NSW Government's contributions system prevent councils from being able to collect suitable revenue amounts from development to sufficiently fund the necessary local infrastructure.

Councils should be able to rely on their contributions plans to enable them to recoup the cost of providing new local infrastructure from the development which creates the demand for that infrastructure.

Yet in the absence of any changes to the infrastructure contributions framework these will continue to fall short, placing the onus on councils to address these funding gaps by other means, as the IPART's paper correctly points out:

*"If councils do not recover these costs at the time of the development, it can lead to significant funding shortfalls, meaning either the council will need to find another source of funding, such as rates, or that the new community may not have all the amenities it needs."<sup>29</sup>*

LGNSW supports The Hills Shire Council's request, in its submission, for greater guidance from IPART on how councils could address these gaps:

"Greater guidance is required on how councils are to address funding gaps. ... Requiring councils to knowingly adopt a Plan that results in a funding shortfall is not financially prudent or sustainable, and councils will not be able to deliver the planned infrastructure to service the essential needs of their community. Any recommendations from IPART to address a funding shortfall should have some level of certainty with respect to securing funding (such as grant funding), especially where IPART would have a role in the matter as part of a separate process, such as a Special Rate Variation."<sup>30</sup>

**Recommendation 6:** That IPART provide greater guidance on how councils can address funding gaps that are the result of councils being unable to recover sufficient revenue from development using the infrastructure contributions framework.

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<sup>28</sup> [Discussion Paper - IPART](#), p 7

<sup>29</sup> [Discussion Paper - IPART](#), p 7

<sup>30</sup> The Hill Shire Council - [Ordinary-Council-Meeting-Agenda-11-February-2025.pdf](#), p 38

**6. Are there any other areas of IPART's assessment of contributions plans that you would like guidance on?**

LGNSW does not have further suggestions regarding general guidance. We defer to the detailed comments in councils' submissions and request IPART consider this feedback which draws from the considerable expertise within councils.

**7. Do you support our proposal for IPART to convene regular forums about our CP assessment process? Should these be separate forums for councils and developers?**

Regular forums with councils and other stakeholders are supported as this would help IPART keep pace with any new issues that may not be covered under existing and future guides and cultivate opportunities for continuous improvement initiatives to be identified and implemented.

Forums should be open to councils and developers, however, as their focus and priorities may differ, it would be appropriate to also hold separate council and developer forums. It would be valuable for feedback from each forum to be shared to facilitate an awareness and understanding of different stakeholder viewpoints.

**8. Would you support IPART holding a stakeholder workshop on the CP when we receive the council's plan for assessment?**

LGNSW understands that the current process involves meetings between councils and IPART. Early and regular consultation between councils and IPART is supported and should be maintained. A workshop between the relevant council, IPART and DPHI may be beneficial, but not with other stakeholders, as there are already opportunities for them to provide submissions to councils on the draft contributions plan when it is publicly exhibited and further, when IPART's draft report is published on its website. Equally, additional steps added to the process of review may only slow IPART's activities down without clear value being demonstrated. IPART may consider however, choosing to use direct stakeholder engagement instead of broader consultation on a case by case basis.

**9. Would you support IPART inviting submissions on the CP as soon as we receive the council's plan for assessment in addition to submissions on our draft reports?**

Contributions plans are subject to legislated community consultation by councils, which must be completed before a plan is submitted to IPART for review. It is unclear what the benefit would be of introducing the additional step of a further round of consultation as soon as IPART receives a council's plan for assessment. This may unnecessarily extend the assessment process without bringing forward any new feedback or information.

**10. Do you support a performance-based approach to assess nexus for open space, consistent with the Draft Greener Places Design Guide?**

Councils have indicated to LGNSW that they would not support IPART's proposal to adopt a strictly performance-based approach to assess nexus for open space.



The *Draft Greener Places Design Guide* was prepared in 2020 and has not been endorsed by the current NSW Government. This underpins a number of concerns highlighted by Blacktown City Council associated with IPART's proposal to focus its assessment of open space nexus on a performance-based approach.

In their submissions to IPART<sup>31</sup>, both Blacktown City Council and The Hills Shire Council provide detailed reasoning for their concerns with relying on a performance-based proposed approach. These risks include:

- ambiguity (e.g. how terms like 'efficient' and 'quality' should be interpreted and quantified)
- potential misuse by developers
- inconsistent application and equity issues (due to a lack of a spatial metric)
- funding and implementation uncertainties and gaps, and
- inconsistencies with policy and practice.

Councils have also expressed concern that a performance-based approach to determine open space provision would limit their ability to reasonably identify and acquire the extent of land required to facilitate anticipated improvements to recreation outcomes in the medium to long term. This is critical and necessary, given the limited availability of land and the significant increase in acquisition costs in both in-fill and greenfield areas as the precincts develop.

Rather than relying solely on a performance-based approach, as suggested in Blacktown City Council's submission, a hybrid approach that combines spatial and performance-based standards may be more prudent. More work would also be needed, before using a performance-based approach, to reduce the risk of ambiguity (such as by providing clearer and more measurable definitions than the general descriptions used in the 2020 Draft Greener Places Guide).

**Recommendation 7:** That IPART acknowledges the potential issues of solely relying on a performance-based approach, consider using a hybrid approach of spatial and performance-based standards for open space, and consults further with councils to further their concerns with the proposed approach.

## **Benchmarks and costing guidelines**

LGNSW does not have specific comments in response to questions 11 to 18 of the Discussion Paper regarding aggregate benchmarks. We ask IPART to defer to councils' submission for detailed technical feedback on the benchmarks.

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<sup>31</sup> Both Blacktown and The Hills shared their draft submissions with LGNSW during preparation of this submission.

# Conclusion

LGNSW welcomes IPART's efforts to improve its process for assessing contributions plans in response to the increasing number of these plans that are being referred for review. This submission is based on LGNSW's longstanding policy positions which advocate for changes to the section 7.11 contributions framework that would enable councils to move closer to being able to levy for the full cost of delivering infrastructure necessary to support development.

The submission makes the case that a sensible and long overdue response to the ever-increasing number and complexity of contributions plans coming to IPART is to reset and index the thresholds that trigger these referrals, to more appropriately reflect the true cost of infrastructure today. Another key element of changes sought by councils is to remove the restrictive nature of the EWL.

While it is acknowledged these policy decisions are beyond the direct control of IPART and outside the scope of this review, LGNSW urges IPART to consider making a recommendation to the NSW Government to revisit and review the s 7.11 caps. This would reduce the number of contributions plans being referred to IPART, lessen the load on both IPART and council resources and in turn help to speed up IPART's assessment processes.

LGNSW's responses to specific questions in IPART's discussion paper have been informed by the advice and experiences of councils, who are responsible for undertaking the detailed analysis and calculations required in preparing contributions plans and are familiar with the IPART review process for these plans.

## Summary of Recommendations

**Recommendation 1:** That IPART acknowledges that the thresholds that trigger IPART review of contributions plans have not changed since they were introduced and as such warrant immediate review to reflect real cost increases over the past 15 years and the introduction of annual indexation to capture future costs movements; this would mean that fewer plans need to go through the IPART process, resulting in a reduced drain on both council and IPART resources.

**Recommendation 2:** That as an outcome of this review, IPART makes a case to the NSW Government to remove the threshold on development contributions, s7.11 caps be increased or if this threshold is retained, to reset and then apply an appropriate annual indexation factor to the \$20,000 and \$30,000 s7.11 maximum amounts specified in the Minister for Planning's 2012 Ministerial Direction.

**Recommendation 3:** That as an outcome of this review, IPART recommends removal of the strict application of the Essential Works List to contributions plans that are referred to IPART, by amending the EWL to include the capital costs of providing community facility buildings.

**Recommendation 4:** That IPART consider allowing for and applying a conservative approach to cost estimates in the preparation of contributions plans, to ensure councils can appropriately account for risk and price escalation in early iterations of plans.

**Recommendation 5:** That IPART consult with councils to investigate and consider how land contamination contingencies can be factored in for contributions plans to de-risk the potential for land acquisitions to deviate from and outstrip what is allowed for in a contributions plan.

**Recommendation 6:** That IPART provide greater guidance on how councils can address funding gaps that are the result of councils being unable to recover sufficient revenue from development using the infrastructure contributions framework.

**Recommendation 7** That IPART acknowledges the potential issues of solely relying on a performance-based approach, consider using a hybrid approach of spatial and performance-based standards for open space, and consults further with councils to further their concerns with the proposed approach.

# Appendix 1: Relevant LGNSW Annual Conference motions

## **2024 - Resolution 21 - The Hills Shire Council**

### **Contributions plan review timeframes**

That Local Government NSW calls on the NSW Government to significantly shorten the timeframe for the IPART Review and Ministerial Approval process for contributions plans.

## **2024 - Resolution 19 - Blacktown City Council**

### **Indexing the maximum section 7.11 developer contribution levies**

That Local Government NSW calls on the NSW Government to remove the threshold on development contributions, or if this threshold is retained, to reset and then apply an appropriate annual indexation factor to the \$20,000 and \$30,000 Section 7.11 maximum amounts specified in the Minister for Planning's 2012 Ministerial Direction.

### **Shoalhaven City Council - Infrastructure in new developing urban release areas**

That the NSW Government either remove the cap on infrastructure contributions or allow its indexation on contributions for urban release areas. The infrastructure cap in the contributions plan is out of date and not sustainable for urban release areas. With the increased attention on housing supply, Councils need fewer restrictions in place to support delivery partnerships for enabling infrastructure.

## **2024 - Resolution 20 - The Hills Shire Council**

### **Contributions plan cost recovery**

That Local Government NSW calls on the NSW Government to reform the Section 7.11 Contributions Framework and Practice Notes to:

1. enable Councils to levy population within a Precinct for the full cost of delivering infrastructure required to support the population and acknowledge that a healthy contributions system should ensure that the development and population that generates the demand for new local infrastructure, should fully fund the cost of delivering the infrastructure required to support it; and
2. direct IPART to allow for and apply a conservative approach to cost estimates in the preparation of contributions plans, to ensure councils can appropriately account for risk and price escalation in early iterations of plans.

## **2024 - Resolution 6 - The Hills Shire Council**

### **Streamlined management of infrastructure approvals and delivery**

That Local Government NSW calls on the NSW Government to improve the efficiency of processes associated with the delivery of critical local infrastructure by Councils. This should include a particular focus on:

1. reducing the time taken to obtain design approval from Transport for NSW and other utility providers;
2. removal of barriers to the efficient and early acquisition of land for a public purpose and streamlining of the compulsory acquisition process for local Councils; and
3. increased scrutiny of service relocation costs required by utility providers.

## **2022 - Resolution 5 - City of Canterbury-Bankstown Council**

### **s. 7.11 and 7.12 contribution rates**

That Local Government NSW:

1. calls on the NSW Government to empower councils to levy s7.12 contribution rates of up to 4% of the cost of works of new development. This would represent a contribution of between \$15k-\$20k per additional dwelling.
2. advocates to the Minister to amend the Environmental Planning and Assessment Act 1979 to enable the application of section 7.11 and 7.12 rates for different land uses within the same development application.

## **2022 - Resolution 8 - Bayside Council**

### **Developer contributions for infrastructure renewal and maintenance**

That Local Government NSW lobbies the State Government to enact changes to the *Environmental Planning and Assessment Act 1979* to allow councils to quarantine and utilise a certain percentage of levied developer contributions, within the pooled development contribution plans, to be used for maintenance and renewal of infrastructure that has been provided by developer contributions.