File: CST-100.05.058 Doc: IC22/1

ITEM 4 CONTRIBUTION REFORM AND IPART REVIEW – COUNCIL SUBMISSIONS TO PROPOSED AMENDMENTS

New and existing communities are dependent on essential infrastructure such as parks, paths for walking and cycling, roads, community facilities such as libraries and community centres and measures to manage stormwater. Development contributions are the key funding source to allow delivery of essential local infrastructure. Without sufficient development contributions there is an increased reliance on other funding sources such as Council land rates.

During 2021 the NSW Government proposed major reform to the infrastructure contributions system via the introduction of the *Environmental Planning and Assessment Amendment (Infrastructure Contributions) Bill 2021* into NSW Parliament on 22 June 2021. This followed the Government's acceptance of all 29 NSW Productivity Commissioner recommendations in March 2021. The Government review is being coordinated by the NSW Department of Planning & Environment (DPE). The State proposes that the reformed system would be operational by July 2022 with councils progressively moving into the system over two years until all recommendations are effective by July 2024.

Council staff have participated in all available stakeholder engagement stages including the formal exhibition phase from 28 October 2021 to 10 December 2021. On 10 December 2021, Council staff made a submission to DPE in response to the public exhibition (see **Attachment 1**). The staff review focused on the NSW Government repeated commitment that "no councils will be worse off under the reforms". The staff review also considered the reforms in the context of Illawarra Shoalhaven priority growth areas including West Dapto.

The Independent Pricing and Regulatory Tribunal (IPART) has undertaken a number of reviews concurrent with the DPE review. Both IPART and DPE have reported that their reviews are separate. However, the IPART review has relevant implications for Council and infrastructure funding. This includes the local contributions plan (Section 7.11 Plan) essential works list and benchmarks reform and also the rate peg reform. Council made a submission to the IPART proposed review of the rate peg to include population growth on 3 August 2021 (see **Attachment 2**) and staff also made a submission to the IPART essential works list review process on 10 December 2021 (part of **Attachment 1**).

The purpose of this report is to seek Council support of the staff submissions of 10 December 2021 to DPE and IPART.

RECOMMENDATION

1 Council ratify the staff submissions to the NSW Department of Planning and Environment (DPE) and Independent Pricing and Regulatory Tribunal (IPART) of 10 December 2021 in response to the DPE Contributions Reform proposal and IPART essential works list and benchmarks reform.

2 Staff write to the Minister for Planning, DPE and IPART confirming Council support for the 10 December 2021 submissions.

REPORT AUTHORISATIONS

Report of: Chris Stewart, Manager City Strategy
Authorised by: Linda Davis, Director Planning + Environment - Future City + Neighbourhoods

ATTACHMENTS

1 Council's Letter and Submission to DPIE NSW Contributions Reform - December 2021
2 Council's Letter dated 16 July 2021 to Independent Pricing and Regulatory Tribunal
3 NSW Productivity Commission's Review of Infrastructure Contributions in NSW - March 2021

BACKGROUND

Department of Planning and Environment Proposed Reforms

During 2021 the NSW Government proposed major reform to the NSW infrastructure contributions system. This followed the Government's March 2021 acceptance of all 29 NSW Productivity Commission recommendations to deliver a certain, transparent, simple, efficient and consistent system. A summary of the Productivity Commissioner recommendations and initial NSW Government response is provided at **Attachment 3.**

The State proposes that the reformed system would be operational by July 2022 with an expectation that councils progressively move into the system with all recommendations effective by July 2024. There is significant detailed information regarding the proposed reforms on the DPE website at www.planning.nsw.gov.au

Improving the infrastructure contributions system - (nsw.gov.au)

There are three key areas of reform proposed by DPE. All proposed reform will rely on amendment to the *Environmental Planning and Assessment Regulation* as the major mechanism. This legislation aspect was introduced to parliament in 2021.

Key reform elements summarised -

1 Draft Environmental Planning & Assessment Regulation

Proposed changes to the regulations have been proposed to -

- Facilitate early identification of infrastructure needs
- Addressing high and rising land values
- Encourage and allow for forward funding of infrastructure through pooling and borrowing
- Improving revenue collected under section 7.12 contributions plans
- Public notice improvements / exhibition requirements for planning agreements to ensure greater transparency and accessibility
- Reporting requirements for affordable housing contributions
- Simplifying and standardising contributions exemptions
- Better aligning infrastructure contributions and strategic planning delivery
- Conditions on complying development certificates issued for development for which a local infrastructure condition or local levy condition may be imposed (Clause 136K)
- Land value contribution exhibition paper. To ensure owners who benefit from land being rezoned for development contribute towards provision of land for local infrastructure when their land is being either sold or developed
- Require a Practice note review.

2 Local Infrastructure Contributions and Land Use Planning

- Minister Direction, the Environmental Planning and Assessment (Local Infrastructure Contributions - Planning Proposals) Direction 2022. The direction is issued to Councils under section 9.1 of the *Environmental Planning and Assessment Act 1979*. The purpose of the direction is to encourage preparation and exhibition of draft contributions plans at the same time as planning proposals where the contributions plan is needed to accommodate the increased demand for infrastructure.
- Contribution Plans and Planning Proposals draft practice note, October 2021. The practice note supports the abovementioned Ministerial Direction and in particular is intended to provide a best practice process for local councils and proponents of planning proposals to achieve the

objective of ensuring that planning proposals and draft contributions plans are exhibited together.

- Minister Direction, the Environmental Planning and Assessment (Housing, Infrastructure and Urban Development) – Dual and shared use of open space and public facilities) Direction 2022. The direction is issued under section 9.1 of the *Environmental Planning and Assessment Act 1979*. The purpose of the direction is to encourage efficient use of public open space, drainage and public facilities by incorporating shared uses.

3 Regional Infrastructure Contribution (RIC) a new framework for state infrastructure contributions

The new framework for state infrastructure contributions has been explained in the exhibition material in terms of where the contribution applies, to what development it applies, the charge rates, form of contribution, indexation and timing of payments. The RIC is explained as being made up of a base contribution component that applies to all new development across a region, strategic biodiversity component that applies only to specific areas within a region and a proposed Transport component that only applies to specific Major Transport Infrastructure within a region. The exhibition material included -

- RIC discussion paper, October 2021 which outlines the new framework proposed.
- State Environment Planning Policy Explanation of Intended Effect (EIE) which sets out the detail of the proposed Policy for the purposed of public exhibition.
- Infrastructure delivery agreements, RIC state planning agreement guidelines. The document explains how the agreements would operate in the RIC framework. This is further supported by a RIC works-in-kind guideline. Where a developer proposes land or works in lieu of a RIC contribution.
- RIC governance and prioritisation guidelines. The guidelines outline how the RIC fund is proposed to be managed within each region. Specifically outlining types of infrastructure to be supported by the RIC fund, where the RIC fund can be spent (within the region where it is collected), outcomes that the RIC Fund will deliver, roles and responsibilities for administering the RIC Fund and the process for prioritising and allocating the RIC Fund.
- RIC feasibility analysis.

In October 2021, adjustments to Productivity Commission's 29 recommendations were announced by the State. The adjustments were made in response to feedback received from stakeholders during the policy development process. The following adjustments to the Productivity Commission recommendations were subsequently included as part of the public exhibition -

- Extended 3-year transitional arrangements for the application of the essential works list to all section 7.11 contributions plans. This is a transitional measure, providing time to understand the effect of the population growth factor on council rate revenue.
- Application of differential section 7.12 levies based on Sydney district and regional boundaries can be found in the EP&A Regulation explanatory paper. This recognises that construction costs vary across NSW. The differential rates provide a more accurate reflection of the Productivity Commission's intent that the section 7.12 levy equal 3% of residential, and 1% of commercial and industrial, construction costs.
- Section 7.12 levies applied to total development, rather than just to net additional development can be found in the EP&A Regulation explanatory paper. This allows section 7.12 levies to be applied to knock-down / rebuild developments. While these developments do not strictly result in population growth, they do extend the use of the land, which in turn extends demand on infrastructure.

- Section 7.12 levies applied to additions and alterations can be found in the EP&A Regulation explanatory paper. This allows section 7.12 levies to be applied to additions and alterations, which are typical developments in CBDs and town centres.
- Introduction of a section 7.12 levy for boarding houses, aged care facilities and caravan parks in the EP&A Regulation explanatory paper. Residential boarding houses, co-living, group homes and other similar developments create demand for infrastructure and should contribute to the cost of providing infrastructure. However, because they are not separately titled, they cannot be levied as a rate per dwelling and require their own specific levy.
- Application of a capped section 7.12 levy for energy developments can be found in the EP&A Regulation explanatory paper. Energy developments, such as solar and wind farms, are commercial developments that cannot be levied at a rate per square metre of gross floor area. As such, a rate per megawatt is considered an appropriate measure for energy developments. Capping the rate reflects the low level of demand for infrastructure arising from these developments. The DPE is interested in receiving comments on these adjustments to the Productivity Commission recommendations and whether they enhance the overall reform program.

IPART Concurrent Reviews

The IPART concurrent reform review included proposed changes to the Local Contributions Plans Essential Works List and Infrastructure Benchmarks. In addition, during 2021 IPART undertook a population growth-based review of land rates peg.

- IPART review of the local infrastructure contributions system (Essential Work list, nexus, efficient design and benchmarking). The review was intended to ensure local infrastructure contributions (collected via Section 7.11 of the EP&A Act) reflect development-contingent costs only. A draft report was issued by IPART for exhibition on 29 October 2021 and benchmark information paper issued for exhibition on 12 November 2021. Public submissions were due on 14 December 2021. The IPART review included -
    - Advice to inform an essential works list that would apply to all section 7.11 contributions plans.
    - Provide advice on an approach Councils should use to determine the most efficient local infrastructure to meet the need of new development, applying the principle of nexus.
    - Develop and maintain standardised benchmark cost for local infrastructure that reflects efficient cost of provision.
- Review of the rate peg methodology to account for population growth. IPART was asked by the NSW Government to undertake the review to recommend a rate peg methodology that allows general income of councils to vary in a way that accounts for population growth. A draft report was issued for public exhibition on 29 June 2021 and a final report issued on 5 October 2021.

  Land rates are used for services, facilities and generally running the Wollongong City. IPART sets a rate peg each year which is a percentage amount that restricts what level of increase Councils can make on rates. The IPART 2021 rate peg review approach including population growth led to a Council submission of 3 August 2021. While Council provided general support for the methodology based on the understanding that the IPART proposed approach would lead to higher growth in rates revenue that better represents the increase in population and will allow Council to better meet the costs of increased service. The Council submission promoted Capital Improved Valuation (CIV) as an option for rating. Business and employment growth is something Council also noted should inform rate peg calculations.

  On 18 October 2021 Council adopted recommendations from a Lord Mayoral Minute that Wollongong City Council –

  1 *Note that the local government sector is concerned that the proposed changes to the infrastructure contribution scheme may limit Council's ability to deliver infrastructure and open spaces for the community.*

2 *Call on the NSW Government to formally withdraw the Environmental Planning and Assessment Amendment (Infrastructure Contributions) Bill 2021 pending consultation on detailed supporting documents including modelling, regulations and guidelines.*

3 *Ask that staff review any supporting documents released by the NSW Government on proposed changes to the infrastructure contributions framework and brief Council on potential impacts on the long-term financial sustainability of Council and delivery of community infrastructure.*

4 *Call on the NSW Government to de-couple the Independent Pricing and Regulatory Tribunal led review of the rate peg to include population growth from future infrastructure contributions reform*

5 *Write to local State Members, the Premier the Hon Dominic Perrottet MP, Treasurer the Hon Matt Kean MP, Minister for Planning and Public Spaces the Hon Rob Stokes MP and Minister for Local Government the Hon Shelly Hancock MP to highlight concerns about the lack of detail on proposed changes to infrastructure contributions.*

PROPOSAL

Council staff have participated in all available DPE and IPART stakeholder engagement processes including the DPE pre-exhibition phase, 1 July 2021 to 27 October 2021, and the formal DPE exhibition phase, 28 October 2021 to 10 December 2021.

Council staff made a submission on 10 December 2021. The staff review focused on the Government commitment that “no councils will be worse off under the reforms”. The staff review also considered the reforms in the context of Illawarra Shoalhaven priority growth areas. Copies of the staff submissions are provided are at **Attachment 1**.

In the submissions staff highlighted that Council officers support an equitable contributions system in NSW. This includes equitable infrastructure programming between and within regions, equitable collection of contributions and equitable expenditure of contributions. Wollongong City Council is a lead supporter of growth in our region’s release areas. However, in the staff submission it was made clear that the most significant proposed change to the contributions framework, the proposed Regional Infrastructure Contributions (RIC), should not just benefit priority release areas. The broad revenue source proposed from all new development in the region should not be used to cross subsidise specific development fronts. Equitable benefit must be demonstrated.

Programmed State investment in infrastructure to support growth should be the priority with or without a contributions system reform. The reform package does not demonstrate how the region will benefit from a proposed RIC. Council officers consider the existing Special Infrastructure Contribution (SIC) framework provides more certainty for priority growth areas such as West Dapto.

In addition to the detailed submission, Council officers also sought clarification from DPE regarding the timing of the West Dapto Development Contributions Plan 2020 review. The review is due for completion by December 2023 consistent with IPART’s recommendations from their 2020 assessment of the existing contributions plan. This is a 3-year review. However, the proposed reforms include a recommended 4-year review of all contribution plans above the $30,000 greenfield threshold. Staff asked DPE to clarify if there is an expectation that the West Dapto Contributions Plan is to be reviewed by December 2023 as an IPART reviewed Plan or by December 2024 consistent with the reform. At the time of writing this report staff are yet to receive clarification from DPE.

Council staff submission is provided at **Attachment 1**.

CONSULTATION AND COMMUNICATION

Council various Divisions were consulted to inform the 10 December 2021 submissions including staff from -

- City Strategy

- Finance
- Infrastructure Strategy and Planning
- Project Delivery
- The Council staff Development Contributions Coordination Group (chaired by City Strategy).

Local Government NSW facilitated ongoing discussions to understand shared Council issues with the various aspects of the contributions reform.

Staff were also invited to participate in a series of Productivity Commission round table events (x3) during August 2020.

In addition, staff participated in the following DPE stakeholder engagement events -

- 1 July 2021: DPE update meeting for Council senior management of process to implement Productivity Commission recommendations
- 20 September 2021: IPART stakeholder workshop regarding review of essential works list, nexus and efficient design principles
- 22 October 2021: DPE briefing for Council senior management pre-exhibition
- 9 November 2021: DPE exhibition launch webinar
- 26 November 2021: DPE Q&A webinar during exhibition period.

A Councillor briefing session was held on 7 February 2022.

PLANNING AND POLICY IMPACT

This report contributes to the delivery of Our Wollongong 2028 Goal 5 we have a healthy community in a liveable city. It specifically delivers on the following:

Community Strategic Plan	Delivery Program 2018-2022	Operational Plan 2021-22
Strategy	**4 Year Action**	**Operational Plan Actions**
5.1.4 Urban areas area created to provide a healthy and safe living environment for our community	5.1.4.3 Policies and plans are developed, reviewed and implemented to encourage physical activity	1 Review West Dapto recreation needs in line with the bi-annual review of the West Dapto Development Contributions Plan

RISK MANAGEMENT

The NSW Government's proposed contributions reform presents economic and social risk. From an economic perspective without careful consideration, the reforms could reduce the revenue source available to fund local essential infrastructure. In addition, without the appropriate funding source community facilities including libraries, community centres, passive and active recreational areas for example would become harder for local government to deliver. The Council staff submission at **Attachment 1** attempts to reduce those risks by promoting improvements to the Government proposed reforms.

FINANCIAL IMPLICATIONS

The NSW Government has continued to state that "no councils will be worse off under the reforms". However, Council staff have critically reviewed the proposed reforms to understand potential impacts of the proposed changes.

Value of development contributions is one of the key factors when determining the financial implications of any change to the system. The Council staff submission highlighted that we support an equitable system which relates to the equitable programming and expenditure of contributions collected. This is particularly relevant in the case of State contributions, or through the state's proposed Regional Infrastructure Contribution (RIC). There is no information in the reform package that provides certainty

on how and when the RIC contributions would be spent within the Illawarra/Shoalhaven region or how Wollongong and our growth areas would benefit.

The Council submission to DPE also requests that the State clarify if there is proposed to be a cap on local contributions and what that cap would be. Council staff recommend that no cap should be imposed particularly as our section 7.11 plan goes through rigorous IPART assessment to justify our proposed contributions rates. This clarity is required for all Council's before changes are made to the system on 1 July 2022 so the implications can be better understood.

Council's submission to IPART again highlighted the disappointment that works or buildings not being including on the essential works list for community facilities. As a result, Councils can only collect development contributions for community facility land costs. This puts more pressure on other funding sources such as rates which should be used to fund services not essential infrastructure. Staff request that the state reinstate the option to allow Councils to include community facility buildings in section 7.11 contribution plans. Community buildings not being included in the essential works list for collection and allocation of section 7.11 contributions is inconsistent with the rules relating to section 7.12 Contribution Plans.

The draft IPART benchmark costs for section 7.11 contributions plans differ to those adopted through the West Dapto Development Contributions Plan, 2020. The staff review identified some transport infrastructure components for example where the benchmark cost is estimated to be in the order of 60% of that of the current rate adopted in the West Dapto Development Contributions Plan. It is important to note that IPART reviewed the West Dapto Contributions Plan in 2020 and found the costings in our adopted plan as reasonable based on the justification provided by Council staff. The proposed benchmark changes could magnify the funding shortfall to provide essential infrastructure at a local government level.

Section 7.12 contributions are proposed to be levied on development type and not on the cost of development. This is a major change that may have considerable staff resource implications to implement the change. From initial analysis this change is unlikely to lead to any reduction in Council income. It will also add further administrative complexity to manage contributions. For example, Council staff will need to undertake additional work to determine the appropriate levy for mixed use, commercial and industrial developments. Increased residential rate may affect the feasibility of growth in the LGA. The administrative burden on Councils is not restricted to this one aspect of the proposed reform. As there is wholesale reform proposed to the contributions system there is likely to be significant resource and systems impact implications for Wollongong and other Councils.

Council is of the view that this review of contributions is totally separate from the IPART review of the Rate Peg to Include Population Growth. We consider that the operational cost considerations that gave rise to the growth factor were inclusive of the Developer Funding levels currently in place. Should there be changes to Developer Contribution funding it should then require further review of rates.

Council's 3 August 2021 submission to IPART indicated a qualified general support for population growth-based rate peg calculation. The inclusion of business and employment growth was also something Wollongong suggested. As was an option for a Capital Improved Valuation approach-based system. IPART finalised their review issuing a final report on 5 October 2021. Subsequently IPART issued a rate peg for Wollongong of 1% for 2022/23.

With rate peg set at only 1% there is further importance that reform to the developer contributions system in NSW does not leave Council's worse off. If there are short falls in developer contribution to essential infrastructure further pressure is placed on Councils. Alternate funding sources such as competitive grant funding opportunities does not provide the necessary certainty required by the community.

CONCLUSION

Development contributions are the key funding source to allow delivery of essential local infrastructure. Without sufficient development contributions there is an increased reliance on other funding sources such as Council land rates. It is important that Council is not worse off under the NSW Government proposed reforms to the infrastructure contributions system and that infrastructure can be equitably funded within our LGA.

Staff are seeking Council support of the 10 December 2021 submissions made to DPE and IPART. The staff submission aims to encourage improvements to the governments proposed system change.

DocuSign Envelope ID: 1B459E88-F5CF-446C-830D-5D54695D0816

wollongong
city of innovation

WOLLONGONG CITY COUNCIL

Address 41 Burelli Street Wollongong • **Post** Locked Bag 8821 Wollongong DC NSW 2500
Phone (02) 4227 7111 • **Fax** (02) 4227 7277 • **Email** council@wollongong.nsw.gov.au
Web www.wollongong.nsw.gov.au • ABN 63 139 525 939 - GST Registered

Ms Kiersten Fishburn
Secretary
NSW Department of Planning Industry and Environment
NSW Planning Portal

Your Ref:	Contributions Reform
Our Ref:	Z21/257085
File:	CST-100.05.058
Date:	10 December 2021

Dear Ms Fishburn

WOLLONGONG CITY COUNCIL OFFICERS SUBMISSION: NSW CONTRIBUTIONS REFORM

Thank you for the opportunity to comment on the proposed NSW contributions system reforms. I also appreciate the opportunity provided to Council officers to participate in a number of discussions with DPIE's project team while developing the reforms.

Council officers have reviewed the proposed changes and offer a number of comments and recommendations. This Council officer submission will be reviewed by our newly elected Council following their meeting of 21 February 2022.

Our review has focused on the Government commitment that "no councils will be worse off under the reforms". We have also considered the reforms in the context of Illawarra Shoalhaven priority growth areas.

Council officers support an equitable contributions system in NSW. Equitable infrastructure programming between and within regions, equitable collection of contributions and equitable expenditure of contributions. Wollongong City Council is a lead supporter of growth in our region's release areas. However, it is important that the most significant proposed change to the contributions framework, the proposed Regional Infrastructure Contributions (RIC), does not benefit only priority release areas. The broad revenue source proposed from all new development in the region should not be used to cross subsidise specific development fronts. Equitable benefit must be demonstrated.

Programmed State investment in infrastructure to support growth should be the priority with or without a contributions system reform. The reform package does not demonstrate how the region will benefit from a proposed RIC. Council officers consider the existing SIC framework provides more certainty for priority growth areas.

A detailed submission on all aspects of the proposed reforms is attached. We have also included our comments on the current IPART contributions reform review.

In addition to our submission, Council officers seek clarification in regards to the timing of our West Dapto Development Contributions Plan 2020 review. The review is due for completion by December 2023 consistent with IPART's recommendations from their 2020 assessment. This is a 3 year review. Could you please confirm if there is an expectation that the West Dapto Contributions Plan is to be reviewed by December 2023 as an IPART reviewed Plan or by December 2024 consistent with the reform recommended 4 year review of all contribution plans above the $30,000 greenfield threshold.

We welcome the opportunity to continue to work with DPIE on this significant reform package. We are available for discussion and workshops as needed. Please do not hesitate to contact Linda Davis, Director Planning and Environment on 4227 7111, should your staff wish to discuss any aspect of our submission further.

Yours faithfully

DocuSigned by:
225E1B59CB53435...

Greg Doyle
General Manager
Wollongong City Council
Telephone: (02) 4227 7111

Attach

DocuSign Envelope ID: 1B459E88-F5CF-446C-830D-5D54695D0816

Wollongong City Council Submission
NSW Contributions Reform December 2021

Reform Item	Council officers Submission statement
DPIE reform	
Local Infrastructure Contributions	
Planning proposals direction	Council officers can see benefit in the proposal to improve clarity for the general public. Council officers and all Councils will need to consider whether current s7.11/7.12 contributions plans and current Planning Agreements are adequate for new Planning Proposals (PP). If new or amended contributions plans are required they should be exhibited at the same time as the relevant proposed PP.
Contributions plans and planning proposals draft practice note	No comment on the content presented. Council officers are interested in the module 'determining contribution rates' which is referred to as being developed on DPIE's website. It will be important to know if there is proposed to be a cap on local contributions and what that cap will be. Clarity should be provided before making changes to the contributions system on 1 July 2022.
Dual and shared use of open space and public facilities direction	Council officers support the intent of this direction. However, the support for dual and shared use will be subject to the outcome of each purpose being maintained and not compromised due to dual use.
	Council officers question of Clarification: Local Contributions Plan review deadlines. Council officers review of the current adopted section 7.11 West Dapto Development Contributions Plan 2020 is due for completion by December 2023 consistent with IPARTs recommendations from their 2020 assessment. Can DPIE please confirm if there is an expectation that the West Dapto Contributions Plan is to be reviewed by December 2023 or by December 2024 consistent with the reform recommended 4 year review time frame for all contributions plans above the $30,000 greenfield threshold?
Draft Environmental Planning & Assessment Regulation	
General	s7.11 is proposed to be called local infrastructure **conditions** and s7.12 local levy **conditions**. The term 'condition' has a different meaning in planning and development consents. Council officers recommend the retention of the term "contributions".
Facilitating early identification of infrastructure needs	It is important to note that IPART's current review of the Essential Works List (EWL) is part of the overall consideration for facilitating early identification of infrastructure needs. Council has for example identified community facility needs in the West Dapto Urban Release Area early in the planning process. However, the current EWL does not include community facility buildings leaving Council to consider the use of rates revenue for this essential infrastructure item. Rates revenue should generally be used for ongoing maintenance and service provision not essential infrastructure linked to new development.
Addressing high and rising land values	See comments on land value contributions below.
Forward funding infrastructure through pooling and borrowing	Council officers support the flexibility that will be provided by pooling within and between development contributions plans.

DocuSign Envelope ID: 1B459E88-F5CF-446C-830D-5D54695D0816

Reform Item	Council officers Submission statement
DPIE reform	
Improving revenue collected under section 7.12 contributions plans	s7.12 contributions are proposed to be levied based on development, not cost of development. This is a fundamental change to how s7.12 will be levied and is becoming more like s7.11 contribution rates. This change is not supported, as it will add complexity to the s7.12 and will no longer be a straight forward levy. Developers and Council officers will need to undertake additional work to determine the appropriate levy for mixed use, commercial and industrial developments. If the amendment progresses, staged implementation may be appropriate for a change this significant. If the change is progressed, in-house modelling indicates that the rate for dwelling houses will increase 3- fold, while commercial and industrial developments will pay less.
	Appears greater contributions burden will be placed on residential development. Using Gross Floor Area (GFA), especially with some industrial uses, does not necessarily provide a true representation of development contributions that would otherwise be payable. For example some uses tend to have a small site office, but large outdoor sealed areas for business purposes, storage etc.
	Flexibility for Council to set a rate (up to the maximum). Council must determine what rate to levy. There is risk that without more guidance on what % rate Council should use, there could be inconsistent implementation between local government areas which reduces certainty for industry. Further explanation and clarification on how GFA is used for calculating development contributions and whether it is to be used at the nearest square metre or at a certain number of decimal places. Standardising this will have benefits and make the system easier to understand across NSW.
	Indexation using Producer Price Index (Road and Bridge Construction – NSW) – it is generally higher than CPI which is supported as being more in keeping with increasing construction costs. However, the largest cost is the acquisition of land. A separate index is required for the land component of the Plans.
	The proposed s7.12 reforms are simpler in respects that cost is not a factor – no need to review cost summaries, or work out what costs are, or are not included in the cost of development. No contributions collected for subdivisions, non-bedroom extensions. Many accredited certifiers do not currently condition and calculate development contributions appropriately, resulting in underpayments and pushing the burden on to Council to chase up the contribution. This forces Council to check a greater amount of CDCs for development contributions, while the fee for processing CDC is only $36 per application. Further education and explanation to accredited certifiers of their responsibilities when issuing CDCs would lead to less confusion with applicants, and CDCs being lodged will have less administrative costs.
	Council does not support major change to the charge process. DPIE support for Council's is required to implement the new charge process due to the move from simple to a complex system. A staggered approach to implementing the new system is required to ensure a smooth transition.
	Simpler to work out exemptions – only based on development type or who the developer is – cost does not play a factor. There is however a risk that development is not described correctly to avoid contribution amount. For example there could be an increase in proposed 'study rooms' to minimum number of bedrooms. Conversely a system that charges a contribution for rooms capable of use as a bedroom would seem unfair. It appears that the burden of contribution sits with residential development. DPIE should clarify if that is the intent?
	There is a real risk of cost and resource burden to impact Local Government in terms of upgrading systems to levy the new style of contributions rates. DPIE training for Council officers should be provided.
Public	Brings exhibition requirements for "other" planning agreements in line with those done in

DocuSign Envelope ID: 1B459E88-F5CF-446C-830D-5D54695D0816

Reform Item	Council officers Submission statement
DPIE reform	
Notice/Exhibition of Planning Agreements	conjunction with DAs or Planning Proposals. This approach is generally supported by Council officers. We also support changes to improve transparency of the requirements for and timing of the exhibition of planning agreements with the mandatory exhibition period being included in Schedule 1 of the EP&A Act.
Reporting requirements for affordable housing contributions	The proposed reporting requirements are generally supported by Council officers. It would be beneficial for all Councils if DPIE provide a reporting template.
Simplifying and standardising exemptions	Council officers see the benefit in the simplification of exemptions, as well as incorporating Environmental Planning and Assessment (Local Infrastructure Levies) Direction 2015, State Environmental Planning Policy (Three Ports) 2013 and State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 into the EP&A Regs. There may be scope to extend this to the exemptions outlined in Circular No. D6 (Revised 21 September 1995) from the former Department of Urban Affairs and Planning. It is understood that the document is still regarded as current, and there are specifics contained within it which relate to exemptions from development contributions for certain types of development. Incorporating this into the amended Regulation or as a minimum, providing a refresh of the document in relation to the current contributions regimes would be welcomed. If circular No.6 is no longer current this should also be clarified.
	Time limit should be applied for Environmental Planning and Assessment (Local Infrastructure Levies) Direction 2015. There are cases where only minimal amounts were levied historically under Section 94 of the EP&A Act. To provide an exemption from future development contributions for the life of the property (unless greater demand for community infrastructure) does not make sense from an infrastructure demand perspective, as there are instances where properties within s7.12 areas have paid contributions above and beyond that of historical section 94 levied areas. Many of these older sites are currently at the cycle of development where they are being redeveloped as new, larger housing which consequently increases demand on community infrastructure. For example old, small housing stock (two bedroom houses) are being replaced by 4 - 6 bedroom houses which are still exempt from any further contributions under s7.12 of the Act).
	Clarification is also required to explain if the above mentioned exemption applies where an additional bedroom is being added to an existing dwelling where the former s94 development contributions were levied. The new s7.12 system levies an amount for additional bedrooms, which implies that they increase demand on community infrastructure compared to the initial dwelling that was developed on the land.
	Council officers understand that the Planning Portal may be able to calculate contributions in the near future under the new system. There would be issues with the Environmental Planning and Assessment (Local Infrastructure Levies) Direction 2015 as each Council will need to check the history of each lot to determine whether the ministerial direction/exemption applies to the lot and the development proposed. This would require manual searches which is not supported. Upgrades to the portal should consider this task.
	Council officers see benefit providing flexibility that allows Council to identify additional exemptions to reflect local circumstances.
Better aligning infrastructure contributions and strategic planning and delivery	Council officers welcome clarification and explanation of when public exhibition is not required for development contributions plans. It is noted that Contributions Plans would be required to be reviewed/remade prior to 1 July 2024 and that the plans must be reviewed every 4 years.
Clause 136K - Conditions on complying development	Council is seeking further support from DPIE to ensure all Accredited Certifiers condition development contributions appropriately. There is currently a resource burden on Councils' being required to check each Complying Development Certificate (CDC) and

DocuSign Envelope ID: 1B459E88-F5CF-446C-830D-5D54695D0816

Reform Item	Council officers Submission statement
DPIE reform	
certificates issued for development for which a local infrastructure condition or local levy condition may be imposed	chase up certifiers and applicants where conditions are not applied or complied with. It is recommended that the State Government undertake an education program to ensure Accredited Certifiers include an infrastructure condition or local levy condition where it applies, and that contributions must be paid prior to the commencement of works. It is Council officers' experience that many CDCs fail to include conditions, or only include a general condition with no monetary amounts included. Consideration of more regulation and enforcement by the State is also needed.
	In addition to DPIE there is a role for the Builders Professional Board to conduct an audit of CDCs issued which would show compliance, or lack thereof, of accredited certifiers conditioning development contributions appropriately. Through both DPIE and the Board more guidance for the industry clarifying where the responsibility lies when development contributions have not been conditioned on the Complying Development Certificate.
Practice Note Review	It is noted that the new practice note would replace the current. Council officers welcome further clarification on how administration costs are treated in s7.12 Plans. Parts relating to Planning Agreements are included in the various proposed modules, but there is no specific Planning Agreement module. The previous Planning Agreement Practice Note, which was published in February 2021 provided a comprehensive reference to basic procedures, negotiation as well as administrative direction relating to PAs. Is or will there be a PA practice note? Council officers recommend that the PA be updated.
Land Value Contribution exhibition paper	Council officers are concerned that this proposed contribution approach is overly complicated and therefore inconsistent with the new principles including simplicity. The complexity is also likely to become a resource burden for Councils. During DPIE webinars it was clear to Council officers that much more work is needed from DPIE to explain and provide clear guidance on this new contribution. Therefore it is suggested that more clarity is needed before any change is implemented.
	As the use of the Land Value Contribution is only an option that will be taken up by some Councils and for some rezoning's, it will only have benefit in limited areas and the existing issue will remain across most council land areas. Landowners developing their land will still have an expectation to receive market rates for the land that they are required to provide for public purposes.
	As part of a rezoning and urban development, providing public infrastructure to support the residential development is essential. These costs are often shared with adjoining land owners whose developments also create the need for the infrastructure. Therefore, it is not considered reasonable for developers to expect to receive market rates for the land that is required to service their development. Rather, they should expect a reasonable amount that reflects its constrained nature and / or limited use.
	The land value contribution is based on a % of the total area at the time the payment is triggered. Therefore, this could significantly change if the payment is triggered now or in the future. Understanding and forecasting likely revenue will as a result become difficult for Councils.
	It is unclear how/when the land is transferred to council and how/when the landowner is compensated.
	It is noted that the land is valued based on the value of land for rating purposes as defined by the NSW Valuer General under the Valuation of Land Act 1916, and not market rates.
	An alternative solution that could be explored and that will provide a broader resolution of the fundamental issue is: • The existing s7.11 framework is used. Where land is identified during a rezoning (or other time) it is included in a contributions plan and the value only increases with indexation. • That is, a limit is set on the amount that a landowner is compensated for providing land to be used for public purposes to facilitate their development. This

DocuSign Envelope ID: 1B459E88-F5CF-446C-830D-5D54695D0816

Reform Item	Council officers Submission statement
DPIE reform	
	establishes certainty for all parties that a market land valuation that exponentially increases as a result of a rezoning will not form the basis for landowners being compensated for providing land for public purposes as a result of their development. • One option for valuing the land identified for public purposes during a rezoning (or other time) is to introduce a capped rate per hectare, indexed quarterly or annually in line with a relevant land index. • Another option is using the land valuations based on the land value used for rating purposes • Either way, establishing a consistent method for valuing land for public purposes, such as capped rates by land use or the value for rating, rather than market rates, will provide certainty to the landowner and other developers in terms of their contribution to be paid. It will also allow the existing and established practice of s7.11 contributions plan to continue to be an efficient way of levying land for public purposes.
Regional Infrastructure Contribution	
General comments and questions	Council officers provided a detailed submission to the June 2020 'Improving the Infrastructure Contributions System' exhibition. The 2020 DPIE exhibition included 'Draft SIC guidelines'. As RICs are now proposed to replace SICs have the comments provided in Council's June 2020 submission been considered as part of the RIC development? Council officers consider these comments are still relevant.
	More clarity on the proposed process to transition SICs to RICs is needed. The Illawarra/ Shoalhaven SIC determination was made during 2021. This came more than 10 years after the draft West Lake Illawarra SIC determination was exhibited. Council officers have worked closely with the Illawarra Shoalhaven Urban Development Program Committee to provide a regional position on priority infrastructure requirements for the region's major release areas. This work is reflected in the 2021 SIC determination. Therefore it is crucial that the specific infrastructure schedule included in the SIC determination is kept and transitioned to any new RIC for the Illawarra / Shoalhaven region. That way there will be limited impact on existing infrastructure commitments. Existing SIC contribution rates should be translated fairly to RIC.
	Will the proposed RIC discount rate for 2022/23 and 2023/24 apply to current SICs? To ensure equity between and within regions it is important that the same discount rates are adopted during the transition phase.
	There appears to be a disconnect between the scenarios of the base RIC contribution rate and the proposed catchment specific Bio certification and Transport component rates. The Bio certification and Transport component rates have a direct nexus between the benefit and those to be charged. Will there be a clear benefit to all base RIC contribution rate payers in terms of the infrastructure that base rate is spent on? The broad regional benefit should be further clarified.
	The framework for how major transport projects are to be determined is still ongoing. It therefore seems too early to propose a contribution rate. There appears to be a lot of work to be undertaken prior to implementing a proposed RIC system. Council should be provided more opportunity to comment on any further RIC framework clarity prior to implementation of the proposed framework.
RIC discussion paper	There remains uncertainty regarding what infrastructure benefits will come from the RIC charge. Council officers are seeking more clarity and certainty on what infrastructure projects RIC will be spent on. Without that clarity it is hard to understand what benefits RIC will produce apart from a known charge to factor into development costs. If the intent is to fix uncertainty of infrastructure contributions it is a reasonable expectation that Local Government and applicants of development know what infrastructure their contributions will be spent on before the Government starts collecting the RIC.

DocuSign Envelope ID: 1B459E88-F5CF-446C-830D-5D54695D0816

Reform Item	Council officers Submission statement
DPIE reform	
	Important to ensure equity. How will the whole catchment funding RIC benefit from expenditure? RIC will be collected across whole regions. Will those whole region catchments directly benefit from the 'priority growth infrastructure' or will only priority growth areas benefit?
	The RIC appears to have a large focus on transport infrastructure. For example transport infrastructure and regional and State roads are listed separately under the base RIC contribution rate. In addition there is the option for a 'major transport' contribution on top of the base rate. As a State contribution it is reasonable to expect the base rate would contribute to major transport projects. Other important regional infrastructure should be emphasised for support such as securing growth related school sites.
	Approach to Biodiversity costing across contributions catchments. There appears to be major difference between the proposed Cumberland Plain Conservation Plan based SBC v's the Illawarra Shoalhaven SIC identified WD Bio certification SIC component. While the case by case calculation approach is noted and understood, the idea of achieving a relatively consistent standard of contribution across the state is challenged by this major difference. As a conservative comparison the $5,000 per dwelling approach proposed for the Cumberland Plain would result in $85,000,000 revenue for conservation in West Dapto if it were applied (this comparison is based on 17,000 dwellings at West Dapto which is a conservative estimate). However the Illawarra Shoalhaven SIC has allocated just $20,000,000. It is not apparent that the Cumberland Plain context compared to West Dapto warrants such a major difference.
	Section 4.3 digital tool concept is generally supported. Timely DPIE provision of training and a responsive help line during initial stages will be important to assist Councils with implementation.
	Section 5.1. Investment Program overview. Makes reference to infrastructure investment being aligned with timeframes for land-use planning, rezoning and forecast development. However, RIC payments are to be made prior to subdivision certificate stage which is well past the rezoning stage. Not clear how the investment could be linked to the rezoning stage in that case?
	Section 5.2 Investment prioritisation. Who will be responsible for preparing and reviewing Growth Infrastructure Needs Assessments? Will Local Government have input and at what stage in the process?
	The stage 3 Project Evaluation and Approvals process refers to state agency and local council submissions seeking RIC funding would be assessed by NSW Treasury as part of the State Budget process. Is this for consideration in stage 1? It is important that delivery follows the stage 1 identified 10 year investment priorities to provide the certainty required for long lead time infrastructure projects.
State Environmental Planning Policy Explanation of Intended Effect (EIE)	Council officers support a lower rate for residential development within the regions reflecting a different feasibility context compared to the Greater Sydney Region.
	Secondary dwellings are proposed to be exempt from RICs Council currently charges local contributions for secondary dwellings. As part of the overall reform process a clear policy setting should be established to guide contributions for secondary dwellings at all levels.
Infrastructure delivery agreements, RIC state planning agreement guidelines	Risk of development specific benefit v's regional benefit via IDAs. The discussion paper outlines an Infrastructure Delivery Agreement as an option for development to meet their RIC obligation. This is a reasonable option. However, it will be important that any infrastructure identified in an IDA to be delivered by a developer is also infrastructure that has broad regional growth infrastructure benefit.

DocuSign Envelope ID: 1B459E88-F5CF-446C-830D-5D54695D0816

Reform Item	Council officers Submission statement
DPIE reform	
RIC governance and prioritisation guidelines	Prioritisation Process. RIC will be one of many sources of funds required to deliver state infrastructure required for growth in the regions. Therefore, although there is a commitment to only spend RIC money in the region where it is collected, the support for projects will be a contest with other regions due to the need to access general State revenue. It is important that regions are represented equitably in the broader infrastructure funding determinations. Where needed, forward funding of state infrastructure should be considered to support regions. Particularly as a broad base of revenue will now be available to service any borrowing that the State may need to make.
RIC feasibility analysis	The economic analysis is missing the expenditure benefit component. What will RIC be spent on? Understanding the cost / benefits should also be explored and not just the capacity of development to pay. Proposed TPC and SBC rates should also be subject to economic analysis prior to implementation. We know in the Illawarra / Shoalhaven region based on the current SIC that contributions will account for 10% of priority growth area regional transport project funding. We need to understand what % the RIC contribution will represent in comparison. In either a RIC or SIC scenario there is a need for more commitment to programmed delivery of growth reliant regional / state infrastructure.
	The analysis recognises that further understanding is needed of some non-private dwellings (particularly tourist and visitor accommodation) Council officers agree that the infrastructure demand from all land uses should be clearly understood before determining exemptions.
	"In emerging high density markets where sale values are comparatively 'low' to the rest of Greater Sydney, feasibility impacts are observed to be greater." Diversity and choice of housing is an important outcome to achieve in the state's growth areas. It will be important to ensure the RIC does not result in a disincentive to provide higher densities in areas that strategic planning has identified would benefit from higher density (such as adjoining regional centres of activity).
	The feasibility analysis recommends staggered RIC, water charges and higher s712 charges over 3 – 5 years. As RIC is the largest proposed change to the contributions system it should not be rushed to implementation. 1 July 2022 is unreasonable. If the RIC is to be implemented a start of 1 July 2023 and transition would be better.
	Council officers agree regular review of RIC will be needed. Not only on development and take up impact but on benefits to the community and regions.
	It is noted that all case studies referenced are in the greater metro. Prior to transition to a RIC in the Illawarra Shoalhaven Region a specific feasibility analysis should be undertaken. This should consider benefits to the region not just a test of capacity to pay.
	Section 6.3.2 seems to make a link between rezoning and major transport infrastructure. Therefore not clear why regional catchment RIC would apply and also why RIC would apply on DAs for Major Transport. If it is to apply to a specific area it should be at the rezoning stage. The Productivity Commission recommendations appear to link major transport to rezoning?
	It is noted that RIC is not proposed to be charged on super lots. How will super lots be defined? There should be a charge on super lots which can come off any future subdivision or mutli dwelling developments.
	RIC Fund Investment Program. Council officers support State agencies better linking programmed infrastructure delivery to new growth. This link can be achieved without introducing a new contribution scheme. If the RIC framework is not implemented the State should still ensure the programmed link between infrastructure delivery and new growth.
IPART	
Essential Works List and Benchmarks	

DocuSign Envelope ID: 1B459E88-F5CF-446C-830D-5D54695D0816

Reform Item	Council officers Submission statement
DPIE reform	
	Comments below relate to the IPART review of essential works list, nexus, efficient design and benchmark costs for local infrastructure draft report, October 2021. The comments focus on the IPART draft findings and recommendation and 'draft decisions' included in the IPART report.
	IPART draft decision 1 – Council officers note that the essential works list is proposed to be expanded to include: • strata space for community facilities, and • borrowing costs to forward fund infrastructure. We welcome the inclusion of the additional items into the essential works list. Council officers note that the building works required to deliver community facilities and complete costs for open space items (beyond base level embellishment) are excluded from the essential works list and funds cannot be levied through s7.11 plans for such infrastructure. We remain concerned that these two essential infrastructure items continue to be excluded. It is understood the Terms of Reference provided to IPART specified this could not be expanded regarding open space and community facilities, Council officers are of the opinion that growth areas such as West Dapto Urban Release Area should be able to levy costs for all aspects of open space, recreation and community facilities that are development contingent. The State should support inclusion of these items in the final essential works list to ensure their delivery by local government. Without the inclusion in the essential works list these essential infrastructure items will need to be funded from other sources which creates a competition of funding with essential services within the LGA. If base level embellishment continues in the final essential works list as much clarity as possible should be provided to define what can and cannot be considered as base embellishment.
	Council officers are supportive of draft decision 2 regarding development contingent local infrastructure.
	Draft decision 3 and 4. Council officers see the merit in costs, as a minimum, reflecting the base level efficient local infrastructure required to meet the identified demand. The Benchmark costs and scopes proposed through the report under separate cover (Typical scopes and benchmark costs of local infrastructure) differ to those adopted through the West Dapto Development Contributions Plan 2020. The proposed benchmark cost relating to, for example transport infrastructure, vary significantly to the current adopted West Dapto Development Contributions Plan 2020. Depending on the locality variables input into the benchmark, the benchmark cost is estimated to be in the order of 60% of that of the current rate adopted in the West Dapto Development Contributions Plan. Application of such benchmark costs in s7.11 plans will magnify the funding shortfall to provide essential infrastructure. Supplementary funding (Council rate revenue) will be relied on to build adequate base level essential infrastructure to service the urban release area. This would be at the cost of other essential services ordinarily expected to be provided through the expenditure of general rates revenue.
	Draft decision 5. Council officers are supportive of including project allowances as a standardised approach. Allowance for contingency, project management and design are all supported. Specifically factoring in cultural heritage is also supported. In addition there is an opportunity to consider cultural strategy benefits in infrastructure design such as implementation of a public arts strategy through the design of essential infrastructure. The contingency rates proposed are considered generally reasonable.
	Draft decision 6. Council officers are supportive of the approach proposed. Benchmark cost for plan administration should be set at 1.5% of the total value of works to be funded

DocuSign Envelope ID: 1B459E88-F5CF-446C-830D-5D54695D0816

Reform Item	Council officers Submission statement
DPIE reform	
	as a minimum.
	Draft decision 7. Council officers support regular IPART benchmark cost updates. An annual indexation approach consistent with the DPIE reforms proposed indexation approach is supported. When Councils undertake a comprehensive review of contribution plans the project from start to finish can take two years when factoring in revised infrastructure scopes, draft CP exhibitions, Council reporting, IPART assessment including draft and final reports, Minister direction and finally Council adoption. Therefore it may be more appropriate for IPART to review costs every two to three years while maintaining an annual indexation approach.
	Draft decision 8. Council officers support regular IPART review of benchmarks and ensuring that review is undertaken no less frequently than every 4 years.
	Draft decision 9. Council officers support IPART working with DPIE and Council to establish a mechanism for obtaining actual project costs to refine the benchmarks.
	Draft decision 10. Council officers consider the principles outlined in section 9.2 recommended for Councils to follow when developing their own cost estimates are reasonable. Principle 1 suggests contributions plans should include benchmark costs unless the council has reason to believe the benchmark would not provide a reasonably accurate estimate. Using benchmarks is more likely to be supported if the IPART draft decisions 8 and 9 are also committed to as they will ensure benchmarks remain more relevant.
	Draft decision 11. Council officers agree it is reasonable to use the most accurate information where it is proposed to use specific council costs and not the IPART benchmarks.
	Draft decision 12. Council officers are supportive of a minimum 4 year review process for contribution plans. Council officers also seek clarification of the timing requirements for our current review of the West Dapto Development Contributions Plan 2020 which is a 3 year review due in December 2023. Should Council now target December 2024 as a deadline for the review?
Cardno Supplementary Report – Benchmark Datasheets 10 November 2021	Council officers have reviewed the Cardno supplementary report and offer the following comments:
	The Report does not compare the unit costs for specific (stormwater) items against the widely accepted Rawlinsons Australian Construction Handbook. This handbook provides cost estimates for various items used in construction works. This would validate the estimates provided in the Cardno report for specific stormwater items.
	The Report does not appear to consider the co-location of items from the essential works list to enable cost efficiencies, but rather treats each item individually. For example, a proposal within a release area including a playing field which functions as a detention, and also a bioretention facility within the detention basin cannot be easily costed from the Cardno report, and would likely be overestimated if using this report. Shared use is promoted elsewhere in the DPIE contributions reform. Therefore it should be costed.
	The Report does not provide a clear depiction of the available benchmark items in the item datasheet contents (page 8), but rather individual items are located under a sub-item listed within the main item. For example see item 2.04 (bioretention basin) and sub-items including swales and bioretention basins/trenches listed as 2.04.1 to 2.04.5. This embedment under a main item is not helpful for the user – instead all available items should be included in a single table for possible inclusion within a S7.11 Contributions plan.

DocuSign Envelope ID: 1B459E88-F5CF-446C-830D-5D54695D0816

Reform Item	Council officers Submission statement
DPIE reform	
	2. Stormwater/ Transport Stormwater 2.01 Culvert 2.02 Combined basin and raingarden facility 2.03 Single raingarden facility 2.04 Bio-retention basin 2.05 Bio-retention filter 2.06 Not used 2.07 Not used 2.08 Wetland basin 2.10 Detention basin / Enhanced Storage Area 2.11 Gross pollutant trap 2.12 Not used 2.13 Stormwater pipe 2.14 Stormwater headwall 2.15 Stormwater pit 2.16 Stormwater channel/open channel 2.17 Stormwater channel stabilisation *Extract of page 8 from Cardno Supplementary Report – Benchmark Datasheets 10 November 2021*
	The Report appears to underestimate the value of Gross Pollutant Traps (GPT) when compared to previous quotations received as part of the 2020 West Dapto Development Contributions Plan. For example, a comparison of two equivalent GPT units shows a significant difference even without considering indexing of the 2019 quotes that Council officers received during the preparation of the contributions plan – see table below:

Item Reference	Outlet size diameter	Total Cost (supply + install)	Cost Difference
2019 quotation – WCC	1350mm	$205,000	$55,000
2021 datasheet – Cardno – item 2.11.3	1200mm	$150,000	
2019 quotation – WCC	525mm	$50,000	$15,000
2021 datasheet – Cardno – item 2.11.1	450mm	$35,000	

The report has an insufficient number of sub-items for GPTs to select appropriate sizes for specific catchments sizes. In addition, further information should be provided against each sub-item that considers the range of catchment and flow capacity for each GPT item. The current draft table only has 3 sub-items to choose from – see 2.11.1 to 2.11.3 below:

DocuSign Envelope ID: 1B459E88-F5CF-446C-830D-5D54695D0816

Reform Item	Council officers Submission statement
DPIE reform	
	Cardno Supplementary Report - Benchmark Datasheets Benchmark Costs for Local Infrastructure **Item Definition** Item Name: **Gross pollutant trap** Item No.: 2.11 Functional Description: Primary pollution devices including proprietary devices Inclusions: ▪ As per manufacturers specifications Key scope of work inclusions: ▪ Excavation and backfilling but excluding reinstatement of any hard surfacing ▪ Imported stabilised fill material ▪ Installation works ▪ Connection into network Exclusions (may be reasonably required): ▪ N/A Exclusions (exceed minimum requirements: ▪ N/A Key identified risks: ▪ Removal of excess spoil ▪ Waste levy allowances ▪ Excavated material other than VENM ▪ Encountering rock ▪ Dewatering ▪ Stockpile location located further than 500m from site Sub-item details: 2.11.1 Proprietary GPT system – outlet size 450mm diameter; 2.11.2 Proprietary GPT system – outlet size 750mm diameter; 2.11.3 Proprietary GPT system - -outlet size 1200mm diameter Specific sub item information: ▪ Sub items 2.11.1 - 2.11.3 - Proprietary GPT system ▪ Gross Pollutant Trap, proprietary system based on industry standard Applicable standards: ▪ Australian Runoff Quality: A Guide to Runoff Quality (Engineers Australia, 2007) ▪ WSUD Technical Guidelines for Western Sydney (URS, 2004) ▪ Water Sensitive Urban Design Book 1 | Policy (Landcom, 2009) **Cost information** Methodology: ▪ Reference pricing Benchmark base cost: \# | Item/ sub-item | Unit | $/ Unit 2.11.1 | Proprietary GPT system - outlet size 450mm diameter | each | 35,000 2.11.2 | Proprietary GPT system - outlet size 750mm diameter | each | 65,000 2.11.3 | Proprietary GPT system - outlet size 1200mm diameter | each | 150,000 Banding: ▪ N/A Minimum quantity: ▪ N/A *Extract of page 64 from Cardno Supplementary Report – Benchmark Datasheets 10 November 2021*
	The Report does not account for proprietary water quality devices for secondary and tertiary treatment. There are numerous products available which can be installed on site rather than constructing a raingarden or bioretention basin or wetland device. It is recommended these products are considered further by IPART.

WOLLONGONG CITY COUNCIL
Address 41 Burelli Street Wollongong • **Post** Locked Bag 8821 Wollongong DC NSW 2500
Phone (02) 4227 7111 • **Fax** (02) 4227 7277 • **Email** council@wollongong.nsw.gov.au
Web www.wollongong.nsw.gov.au • ABN 63 139 525 939 - GST Registered

Independent Pricing and Regulatory Tribunal
PO Box K35
Haymarket Post Shop
SYDNEY NSW 1240

Our Ref: Z21/154495
File: FI-002.10.1.1.006
Date: 16 July 2021

SUBMISSION TO THE DRAFT REPORT JUNE 2021 – REVIEW OF THE RATE PEG TO INCLUDE POPULATION GROWTH

Wollongong City Council (Council) would like to thank IPART for the opportunity to respond to its review and draft report on the inclusion of population growth into the Rate Peg. While your direct questions relate primarily to the method of calculation of population growth, Council would like to reiterate that its preferred approach to effectively and equitably managing growth in a local government area would be through the application of Capital Improved Valuation (CIV) as an option for rating. Council would urge the continued pursuit of this outcome through IPART and the State Government in the future.

Council does acknowledge that the proposed methodology for the inclusion of growth in the Rate Peg calculation would provide a reasonable representation of the residential growth of the City and would provide better alignment between Council's increased costs incurred through residential growth and the revenue received to support services for that community. Like IPART, Council is aware that the current calculation does not fully represent the increased population growth or costs incurred and has supported reform that would support such a change.

Council also agrees that the methodology needs to include a net growth result that is inclusive of the portion of growth that is already achieved through the supplementary valuations process. Council's analysis of recent years indicates that on average about 50% of the growth has been achieved through supplementary valuations.

Council also agrees with IPART that the proposed system should provide outcomes that:

- maintains total per capita general income over time;
- reflects a linear relationship between population growth and council costs;
- is based on the change in residential population for each council, and
- applies to all councils, including those experiencing low growth.

While Wollongong City Council agrees that the methodology proposed reflects relationship between population growth and Council costs, it still believes that growth and costs to Council extend beyond 'population'. Cost is are also linked to the business and employment growth, especially when considering a regional council such as ours that supports areas and populations outside our Local Government Area. Council is disappointed that the current proposal will not provide for growth in business properties.

While the IPART proposed approach will lead to higher growth in rates revenue that better represents the increase in population and will allow Council to better meet the costs of increased service, the allocation of rates will remain an important consideration. We understand IPART has suggested that 'while the impact on individual ratepayers may vary, on average new ratepayers will pay most of the additional rates revenue' and 'given this…additional protections for existing ratepayers are not necessary at this stage'. We would argue that due to the nature of Council's rates structure that applies a 50% Base charge (fixed amount) and an ad valorem amount (percentage of valuation), the percentage increases will be higher for higher valued properties and lower for lower valued properties, while all properties will pay more.

Wollongong City Council also remains concerned particularly with previous decisions not to address the cost burden of non-rateable property and pensioner rebates. Council has made submission seeking variation on a number of these issues including the current exemptions legislation (non-rateable properties) that was broadly argued on a principle that residential properties should incur rates. This is consistent with a population based approach that increases revenue requirements in line with population growth. The proposed IPART methodology would, for example, increase rates revenue based on population growth in non-rateable residential property. While the rate income would increase, that increased amount must be applied to existing ratepayers who would bear the burden of increased population living in non-rateable property. While this is not preferable, it is consistent with what happens with existing properties when they convert from rateable to non-rateable and would be best addressed through further consideration of exemptions.

In terms of the specific questions ask by IPART the following is provided.

1 **Should our methodology be re-based after the census every five years to reflect actual growth?**

2 **In the absence of a true-up, should we impose a materiality threshold to trigger whether an adjustment is needed on a case–by–case basis to reflect actual growth?**

There are undoubtedly numerous methods for calculating population growth and presumably each will have specific issues. The use of local government area (ERP) specified by the Australian Bureau of Statistics (ABS) appears to be a valid source, although there is potentially some concern with the lag between actual growth and its application. The proposed source will effectively be applied to a rating year that commences two years after the period of estimated growth. This lag may, at times, have impact on the rates and their distribution of rates that will be reflected in changes to the average rate that theoretically should be maintained in real terms.

In reviewing the estimated residential population (ERP) for Wollongong over recent publications, it has been identified that there have been retrospective changes to estimates from year to year. These changes may have implications on the applied formula. Three data sets for the preceding year show this.

	2020	2019	2018	2017	2016	2015	2014
2001-2018 ABS			216,071	213,281	210,394	208,313	206,415
2001-2019 ABS		218,114	215,856	213,281	210,394	208,313	206,415
2001-2020 ABS	219,798	218,856	215,856	213,281	210,394	208,313	206,415

It can be seen in these numbers that the 2001-2018 estimated population for 2018 of 216,071 was revised downwards in the 2001-2019 statistics to 215,856 and the 2001-2019 figure for 2019 was revised upwards from 218,114 in the 2001-2020 estimates to 218,856. The impact of applying the calculation for the change in population from a single data set, therefore, would produce inconsistencies and potentially higher or lower rate variation percentages. The cumulative effect of such changes could be significant.

It is contended that the formula should be based on the estimates provided and applied in the first instance for each year. By applying the numbers reported each year, the system would true itself up each year based on the latest estimate of population against the previously applied estimate. The table below shows the varying population indexes and cumulative effect for Wollongong City Council, where the first line is derived by applying the numbers published in a single year and the second variation (2) based on the numbers as first published in each year.

	2019-20	2018-19	2017-18	2016-17	2015-16	2014-15	2013-14
Change in Population	0.430%	1.046%	1.308%	1.372%	0.999%	0.920%	0.834%
Change in Population 2	0.772%	0.946%	1.308%	1.372%	0.999%	0.920%	0.834%
Cumulative PopN Index	106.228	105.773	104.678	103.326	101.928	100.920	100.000
Cumulative PopN Index 2	106.484	105.668	104.678	103.326	101.928	100.920	100.000

The variations in the prior years based on using a single year's numbers would have reduced income indexation from 6.484% to 6.228% (0.256% variation).

Presuming that the ABS consider census data as it becomes available in its estimates, it is considered that the linear application of the estimated growth based on information applied in the first instance will provide a reasonably sound progression without the need for 'true-up' of information external to the ABS process.

Please contact me should you require further information.

This letter is authorised by

Brian Jenkins
Chief Financial Officer
Wollongong City Council
Telephone (02) 4227 7111

NSW Productivity Commission's Review of Infrastructure Contributions in NSW

NSW Government Response

NSW Government Response to NSW Productivity Commission's Review of Infrastructure Contributions in NSW

Item	Recommendation	Response
2.1	**Enhance efficiency of the infrastructure contributions system** Implement reform to deliver an efficient infrastructure contributions system so: • local contributions are cost-reflective charges on impactors, applied through a consistent framework but with flexibility for adaptation to local circumstances • State contributions are simple and certain charges on impactors and beneficiaries of State service delivery.	**Accept**
3.1	**Allow councils' general income to increase with population** Subject to review by the Independent Pricing and Regulatory Tribunal, reform the local government rate peg to allow councils' general income to increase with population.	**Accept**
4.1	**Develop infrastructure contribution plans upfront as part of the zoning process** Amend legislation to require: • where land is being rezoned, the draft infrastructure contributions plan must be publicly exhibited at the same time as the planning proposal. • adoption of the infrastructure contributions plan before any determination is made on a development application.	**Accept.** Consideration will be given to managing the time taken for councils to adopt contributions plans, which would otherwise unreasonably delay the rezoning of land.
4.2	**Introduce a direct land contribution mechanism to improve both efficiency and certainty for funding land acquisition** i. Amend legislation to introduce a direct land contribution mechanism to: • apply a statutory charge on the land at the time of rezoning that requires land contribution be made • require the contribution on sale of the land, or subdivision development application, whichever comes first • allow the contribution to be satisfied as a monetary payment, or dedication of land.	**Accept.** A case study to be prepared in consultation with the External Advisory Group.
	ii. Consult with key stakeholders from councils and industry in the design and implementation of a direct land contribution mechanism.	**Accept**
4.3	**Issue advice for land valuation to improve consistency and accuracy** Develop a practice note, in consultation with the Valuer General, to guide land valuation, including assumptions and methodology, particularly for land that is yet to be rezoned and may be constrained.	**Accept**
4.4	**Index land contribution amounts to changing land values** i. The Valuer General prepare a methodology and publish appropriate land value indices.	**Accept**

NSW Productivity Commission's Review of Infrastructure Contributions in NSW

NSW Government Response

Item	Recommendation	Response
	ii. Amend legislation to require new contributions plans to separately identify and escalate land contribution amounts by the appropriate index	**Accept**
	iii. The Minister to direct councils to separately identify and escalate land contribution amounts by the appropriate index when reviewing contributions plans.	**Accept**
4.5	**Section 7.11 contribution plans use benchmark costs** Independent Pricing and Regulatory Tribunal to develop and maintain standardised benchmark costs for local infrastructure that reflect the efficient cost of provision.	**Accept**
4.6	**Contributions plans reflect development-contingent costs only** i. Apply the essential works list to all section 7.11 contributions plans.	**Accept.** DPIE and IPART to work together to interpret 'efficient infrastructure design', particularly as it relates to greenfield development and land use planning to support creation of liveable and resilient communities.
	ii. IPART to review the essential works list and provide advice on the approach to considering efficient infrastructure design and application of nexus.	
	iii. Subject to review by the IPART issue a revised practice note.	
4.7	**IPART review of contributions plan be 'by exception' and based on efficient costs** i. Remove the monetary trigger for review of contributions plans by IPART.	**Accept**
	ii. Develop Terms of Reference for the IPART to review any costs in a section 7.11 contributions plan on a 'by exception' basis with the option of a 'targeted' review of specific sections of a plan.	
	iii. Prepare a practice note to reflect the 'by exception' review process and requirements for local contributions plans.	
4.8	**Contributions plans are prepared using standard online templates** i. Develop standard online contributions plan templates for section 7.11 local contributions and section 7.12 fixed levies.	**Accept**
	ii. Amend legislation to require new contributions plans to be made using the standard templates and housed within the contributions digital tool to be developed on the NSW Planning Portal.	
	iii. Require contribution plans upon review to transition to the digital tool.	
4.9	**Encourage councils to forward fund infrastructure, through borrowing and pooling of funds** i. Amend legislation to allow: • pooling of contributions funds as the default option • interest costs associated with borrowing for infrastructure to be collected through contributions plans.	**Accept**
	ii. Incentivise councils to borrow to forward fund infrastructure, including by: • Treasury Corporation reviewing their lending criteria to consider allowing capital grants and contributions (including infrastructure contributions) to be included in debt serviceability calculations where contributions relate specifically to the project for which council is seeking funding • establishing a program to provide an additional financial incentive when councils borrow to build infrastructure.	

NSW Productivity Commission's Review of Infrastructure Contributions in NSW

NSW Government Response

Item	Recommendation	Response
4.10	**Defer payment of contributions to the occupation certificate stage** i. Extend permanently the *Environmental Planning and Assessment (Local Infrastructure Contributions – Timing of Payments) Direction 2020* that was introduced as a temporary measure in response to the COVID-19 pandemic.	**Accept**
	ii. Design the NSW Planning Portal so that the release of occupation certificates is contingent upon payment of infrastructure contributions.	
	iii. Increase oversight of private certifiers by requiring that the certifying authority must confirm payment of contributions before issuing an occupation certificate.	
	iv. Amend legislation to create an offence should certifiers issue a certificate without an infrastructure contribution payment.	
4.11	**Increase the maximum allowable rate for section 7.12 fixed development consent levies** i. Amend the maximum rate for section 7.12 contributions as follows: • $10,000 per additional dwelling for houses (detached, semi-detached, townhouses) • $8,000 per additional dwelling for all other residential accommodation • $35 per square metre of additional GFA for commercial uses • $25 per square metre of additional GFA for retail uses • $13 per square metre of additional GFA for industrial uses	**Accept.** Final rates subject to confirming the charging methodology.
	ii. Index contribution rates quarterly using the Producer Price Index (Road and Bridge Construction – NSW) and review periodically (approximately every three to five years) to ensure they remain in line with the intended proportion of development costs.	**Accept**
4.12	**Planning agreements consistent with the principles-based approach** i. Adopt the Draft Planning Agreements Practice Note 2020 and EP&A Regulation amendments exhibited by the Department in April 2020 to provide immediate improvements to the operation of planning agreements.	**Accept**
	ii. Amend the practice note to embed the principles of the contributions system so that planning agreements are: • for the delivery of infrastructure to support development that is out-of-sequence or unexpected. • to facilitate the direct delivery of development-contingent infrastructure or impact mitigation works.	
	iii. Amend the legislation to require planning authorities to: • register planning agreements and draft planning agreements in a centralised system, contained within the NSW Planning Portal. • 'publicly exhibit' rather than 'publicly notify' planning agreements, including requirements to receive and consider public submissions.	

NSW Productivity Commission's Review of Infrastructure Contributions in NSW

NSW Government Response

Item	Recommendation	Response
4.13	**Publish guidelines for planning agreements for mining and energy related projects consistent with the principles-based approach** Publish a guideline for mining and energy related projects consistent with the principles-based approach, so that planning agreements primarily relate to direct delivery of development-contingent infrastructure.	**Accept**
4.14	**Improve accountability for affordable housing contributions** i. Require affordable housing contributions received through section 7.32 contribution mechanisms and planning agreements be reported by councils, including: • the amount of monetary contributions received • the value and location of any in-kind provision, both works and land • expenditure of monetary contributions • transfer and management of assets.	**Accept**
	ii. Undertake a future evaluation of section 7.32 affordable housing contribution programs to determine their effectiveness and efficiency.	**Accept**
5.1	**Adopt regional infrastructure contributions** i. Prepare and implement state contributions for Greater Sydney, Central Coast, Hunter, and Illawarra-Shoalhaven regions.	**Accept.** Savings and transitional arrangements for SIC determinations made prior to 1 July 2022 to be determined.
	ii. Greater Sydney region charges (subject to no substantial impacts on feasibility) as follows: • $12 000 per dwelling for houses (detached, semi-detached, townhouses) • $10 000 per dwelling for all other residential accommodation • $10 to $15 per square meter for industrial • $20 to $30 per square meter for commercial • $30 to $40 per square meter for mixed uses.	**Accept.** Final rates subject to confirming the charging methodology.
	iii. Central Coast, Hunter and Illawarra-Shoalhaven region charges (subject to no substantial impacts on feasibility) as follows: • $10 000 per dwelling for houses (detached, semi-detached, townhouses • $8 000 per dwelling for all other residential accommodation • $10 to $15 per square meter for industrial • $20 to $30 per square meter for commercial • $30 to $40 per square meter for mixed uses.	
	iv. Governance arrangements and criteria for infrastructure projects to be established.	**Accept.** Allocation methodology to be confirmed.
5.2	**Improve guidance for State planning agreements** Publish a guideline for State planning agreements to ensure they: • support out-of-sequence development in areas not supported by special infrastructure contributions plans, or • facilitate the direct delivery of development-contingent infrastructure.	**Accept**

NSW Productivity Commission's Review of Infrastructure Contributions in NSW

NSW Government Response

Item	Recommendation	Response
5.3	**Adopt transport contributions for major projects** i. Prepare and implement a transport contribution for major projects that: • is additional to regional infrastructure contributions, where these apply • applies to properties within a service catchment and is subject to additional development capacity created as a result of the investment. ii. Contribution charges should be established for residential and non-residential uses. A minimum charge of $5,000 per dwelling should be applied, with Transport for NSW required to apply higher charges where costs and benefits are relatively higher.	**Accept.** The Minister for Planning and Public Spaces will retain responsibility for adopting a standard approach to development contributions to apply to precincts identified for rezoning in conjunction with new major transport infrastructure. DPIE and Transport for NSW will undertake further work to determine the level of the charge to be levied on future rezonings, having regard to development capacity, feasibility and cumulative impact of development contributions, as well as considering a holistic and strategic approach to future transport infrastructure investment.
5.4	**Create a new category of contributions plan specific to biodiversity** i. Create a new contribution category under Part 7 of the EP&A Act for biodiversity offsets. ii. Prepare and implement a biodiversity contribution for areas subject to biodiversity certification.	**Accept.** Savings and transitional arrangements for SIC determinations made prior to 1 July 2022 to be determined.
5.5	**Phase in metropolitan water contributions for more efficient delivery of water infrastructure** i. Rescind the 2008 Section 18 Direction that approved zero developer charges for water, wastewater and stormwater services for Sydney Water and Hunter Water. ii. Direct Sydney Water and Hunter Water to reintroduce water charges and include provision for: • the approach to phase-in, and • exemptions for development completed prior to 1 July 2026. iii. Establish a service level agreement for Sydney Water and Hunter Water for expenditure of water charges funding.	**Accept**
6.1	**Develop and implement a centralised contributions digital tool** i. Develop a contributions digital tool in the NSW Planning Portal, integrated with the spatial mapping and development application system, which requires: • councils and the State to make contributions plans • receive and track payments • report on contributions spending, fulfill accounting requirements, and report on the infrastructure delivery pipeline • landowners and developers to estimate, calculate, and pay their infrastructure contributions for both local and state infrastructure in one place, ideally in one payment. ii. Amend legislation to support the digital tools and require their use to be phased in.	**Accept**

NSW Productivity Commission's Review of Infrastructure Contributions in NSW

NSW Government Response

Item	Recommendation	Response
6.2	**Promote consistency and transparency in works-in-kinds agreements** Develop a practice note to guide efficient and consistent use of works-in-kind agreements.	**Accept**
6.3	**Build the capability and expertise of the planning sector** i. Create and maintain consolidated guidance material for each contribution mechanism that reflects up-to-date information and integrates with the digital tool. ii. Implement a training and professional development program to support planning practitioners and build a knowledge sharing culture within the planning system.	**Accept**
6.4	**Introduce a simple, clear, centralised exemptions policy** Produce a simple, clear, standardised exemptions policy, underpinned by guiding principles, to ensure a consistent and transparent application of exemptions.	**Accept**
6.5	**Better synchronise State and local strategic planning frameworks** i. Amend legislation to update the review timeframes of Local Strategic Planning Statements to five years, in line with other State and regional plans. ii. Issue a Ministerial direction extending the regional implementation plan timeframe to cover a 4-year period to align with councils' delivery program.	**Accept**
6.6	**Incorporate the local infrastructure contributions system into the Integrated and Performance Reporting Framework** Update the Integrated and Performance Reporting guidelines to require councils to: • include infrastructure contribution plans in their reporting • review their infrastructure contributions plans by 1 July 2024, and every four years thereafter (or earlier if required), to align with their delivery program.	**Accept**
6.7	**Strategic planning to maximise the efficient use of land** i. Issue a Ministerial Direction to require planning proposals to demonstrate consideration of efficient use of land, including opportunities for dual-use and joint-use. ii. Develop a practice note to establish performance-based benchmarks for open space planning.	**Accept.** Consideration will be given to creation of liveable and resilient communities, and ensuring quality outcomes.
7.1	**Strong governance to guide implementation** Establish an Implementation Steering Committee to oversee implementation of the reforms.	**Accept**

© State of New South Wales through Department of Planning, Industry and Environment 2021. The information contained in this publication is based on knowledge and understanding at the time of writing (March 2021). However, because of advances in knowledge, users should ensure that the information upon which they rely is up to date and to check the currency of the information with the appropriate departmental officer or the user's independent adviser.