

Our reference: Infostore  
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Independent Pricing and Regulatory Tribunal  
PO Box K35  
Haymarket Post Shop NSW 1240

**Sent by email:** [ipart@ipart.nsw.gov.au](mailto:ipart@ipart.nsw.gov.au)

**Review of the essential works list, nexus and efficient infrastructure design and Review of benchmark costs for local infrastructure**

Council considered a report at its ordinary meeting on 22 February 2022 in relation to IPART's review of the essential works list, nexus and efficient infrastructure design and a Review of benchmark costs for local infrastructure.

This letter provides Councils endorsed feedback on the matter and supersedes our previous staff technical submission that was made in good faith.

We appreciate the opportunity to provide feedback on this review.

If you have any questions about this matter, please contact me via [natasha.borgia@penrith.city](mailto:natasha.borgia@penrith.city) or 4732 8593.

Yours sincerely



**Natasha Borgia**  
City Planning Manager

*Attach. Penrith city council submission IPART essential works, nexus, and benchmarks review*

**Essential Works List Review**

- Support the minor amendments to the essential works list (EWL). The addition of strata space for community facilities is warranted, as is the addition of borrowing costs.
- It is understood that the terms of reference for the review specifically excluded the consideration of community and cultural facilities as an essential works list, notwithstanding, we wish to have noted our objection to its exclusion from consideration. This is based on the following:
  - Community and Cultural Facilities meet the nexus principles provided in the IPART report. The need for new facilities is based on new development creating a demonstrable increase in the demand for community facilities.
  - That there is no logical differentiation between providing land for a facility, but not the construction of the facility as is the case under the current EWL.
  - For many large release areas, including the equivalent of new cities (such as the Aerotropolis within Penrith and Liverpool Local Government Areas) the population growth is such that 100% nexus can be established for such facilities.
  - IPART's final report on *Review of the Rate Peg to include Population Growth Report* specifically indicates that the increase to the rate peg is not going to be enough to cover capital works, and suggest council seeks special variation to provide facilities. It would not be considered acceptable to the broader community to pay for facilities when the need is generated by new development.
  - This outcome may generate community concern that growth does not deliver the communities expectation of suitable infrastructure needed for communities.
  - The *Draft Urban Design Guide* exhibited as part of the Design and Place SEPP provides some discussion on the provision of high-quality public facilities and open space. IPART should ensure that the EWL recognises all infrastructure identified in the Design and Place SEPP and guides that set a standard for good design outcomes.

***Recommendation: Support minor amendments, oppose the exclusion of community and cultural facility works from the EWL.***

<b>Determining Nexus</b>	<ul style="list-style-type: none"> <li>- There is support that the determination of nexus should be based on technical studies and Council's policies, strategies, and standards. The technical studies should be supported and approved by Council.</li> <li>- The <i>Draft Urban Design Guide</i> exhibited as part of the Design and Place SEPP provides draft standards for the delivery of public open space, street tree canopy targets. IPART should ensure that all are considered as forming nexus to development.</li> <li>- We seek IPART to also consider Councils technical studies and policy into Urban Heat matters to be a suitable technical study that would provide nexus for related infrastructure.</li> </ul>
<b>Efficient Design and Delivery</b>	<ul style="list-style-type: none"> <li>- Support the need to ensure that efficient design and delivery is established and demonstrated in a contributions plan, and the overarching principles as set out in the draft report are generally considered suitable.</li> <li>- However, concern is raised that the process to establish efficient design and delivery in line with the report appears to be a lengthy and arduous process. To assist Councils to undertake this process, it is recommended that IPART consider developing a process map or guideline for this process.</li> <li>- The Department of Planning, Industry &amp; Environment (DPIE) Infrastructure Contributions reforms seek for Councils to prepare development contributions plans early in the process and exhibit concurrently post gateway. It is important for Council, developers and the community that the process of establishing efficient design and delivery can be completed in a streamlined manner, and that the expectations of the needs and requirements of the process are clearly established.</li> <li>- In a situation where Contributions Plans will be reviewed by exception by IPART as proposed by DPIE in the proposed reforms, the process on establishing efficient design and delivery should be clear and precise, in order to limit review requests.</li> <li>- IPART should provide further scope in response to reconciling base level embellishment and community expectations. Councils are best placed to understand the base level embellishment needed to meet community needs, however this may not align with developer expectations or the draft benchmarks.</li> <li>- Additionally, IPART should provide more guidance through this process of reconciling lower ongoing maintenance costs, and developers seeking low upfront cost. This is a potential point of conflict that IPART could set a clear process of review.</li> </ul> <p><b><i>Recommendation: Support in principle, process and assessment assistance requested from IPART</i></b></p>

<b>Benchmarks</b>	<ul style="list-style-type: none"> <li>- Support the notion of benchmarks as a starting point for costing infrastructure, on the provision that they represent the true costs to Council and respond to market conditions and unique circumstances. Where the benchmarks do not fit the specific circumstances, which is likely as they appear to cover a very specific set of circumstances, Council will choose to use alternative approaches.</li> <li>- Councils adopted specifications should take precedence.</li> <li>- Council has recently undertaken infrastructure contributions planning work within the Mamre Road (greenfield industrial) and Aerotropolis (new city) to establish benchmark costs for inclusion in the draft contributions plans. We would be pleased to share our experiences of this process with IPART.</li> <li>- The benchmarks do not address industrial collector roads, in fact the benchmarks don't appear to address industrial roads sufficiently. IPART should provide an indication of whether the benchmarks are applicable to industrial development.</li> <li>- Council supports the preparation of an infrastructure worksheet that assists in the standardisation and streamlining of costing preparation.</li> <li>- The benchmarks for roads don't appear to consider or respond to the uniform engineering guidelines undertaken by Western City Deal Councils. The benchmarks should not limit Councils and developers from seeking to innovate.</li> <li>- The benchmarks should reflect outcomes consistent with the <i>draft Design and Place SEPP</i>.</li> <li>- The plan administration benchmark cost must consider the additional requirements for reporting that have come into force by DPIE. IPART should provide a clear methodology as to why 1.5% is still a suitable administration cost.</li> <li>- Generally, the benchmark costs appear low and may not meet community expectations, such as the playground costing. Currently Council is finalising the costings for an update open space and recreation contributions plan and would be happy to provide IPART the costings from this work.</li> </ul> <p><b>Recommendation: Defer for further review</b></p>
<b>Plan Updates</b>	<ul style="list-style-type: none"> <li>- Contributions plans require regular review to ensure they are delivering the right infrastructure for the community at the correct cost. With the current shortage of qualified infrastructure contributions professionals, the review of plans every four years will be challenging to achieve.</li> </ul>

	<b><i>Recommendation: Support</i></b>
<b>Transitional arrangements and other</b>	<ul style="list-style-type: none"><li>- If IPART are to be removed from reviewing plans, and only by exception, IPART should provide guidance as to how will this work in practice, what methodology will IPART use to review plans by exception?</li><li>- It is unclear how the recently announced delay to the application of the EWL to all contributions plans will impact this review or existing plans. IPART should be clear in its final report as to the impacts of introducing changes to the EWL, other principles and benchmarking individually or in a holistic manner.</li><li>- Penrith City Council has several contributions plans under preparation for locations transitioning from metropolitan rural area to greenfield release areas. Discussions have been underway with DPIE for some time to ensure these plans can be considered under Schedule 2 of the Ministers Direction <i>Environmental Planning and Assessment (Local Infrastructure Contributions) Direction 2012</i> for a higher cap rate. Council seeks certainty that this can occur under the announced delay to the EWL.</li></ul>