



ATTACHMENTS

GENERAL MEETING

**Wednesday 9 February 2022
at 6:30PM**



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ATTACHMENT/S

REPORT NO. CS7/22

ITEM 1

**1. NOMINATION FORM - DEPUTY MAYOR - FEBRUARY
2022**



Deputy Mayoral Election – Nomination Form

Hornsby Shire Council Deputy Mayoral Election 2022

to be held on 9 February 2022

We, Councillor
(name in full)

and Councillor
(name in full)

elected members of the Hornsby Shire Council hereby nominate

Councillor
(name in full)

as a candidate at the abovementioned election.

Signed

Signed

Date day of 2022

I, Councillor
(name in full)

hereby consent to such nomination.

Signed

Date day of 2022

ATTACHMENT 1 - ITEM 1

ATTACHMENT/S

REPORT NO. CS3/22

ITEM 2

- 1. SCHEDULE 9A OF THE LOCAL GOVERNMENT
(GENERAL) REGULATION**

Local Government (General) Regulation 2021 [NSW]
Schedule 9A Countback elections

Schedule 9A Countback elections

(Section 393C(1))

Part 1 Preliminary

1 Definitions

In this Schedule—

ballot-paper includes a vote record.

close of applications—see section 3(3) of this Schedule.

eligible candidate, in a countback election, means a person who has been declared by the returning officer under section 4(a) of this Schedule to have duly applied to be a candidate in the countback election.

non-participating candidate means a person who was a candidate at the original election and is neither an eligible candidate nor a previously elected councillor.

original election, in relation to a vacancy, means the ordinary election of councillors in respect of which the vacancy has occurred at which the vacating councillor was elected or in a case where the vacating councillor was elected under this Schedule, the councillor who was the predecessor (whether immediate, intermediate, or original) of that councillor, was elected.

previously elected councillor means a person who—

- (a) was elected as a councillor at the original election, or
- (b) was declared elected as a councillor under this Schedule after the original election.

returning officer means the person conducting the countback election in accordance with section 291A(4) of the Act.

vacating councillor means the person whose departure created the casual vacancy (even if that person never became a councillor).

Note. If a candidate who is nominated for election to a civic office in respect of a ward or area dies after the day when the poll at a contested election closes, but before the declaration of the election, the candidate is a "vacating councillor" even if that person never became a councillor by operation of section 233(2)(a) of the Act.

2 Notice of casual vacancy

Note. Section 285 of this Regulation requires the general manager of a council of the area to give notice of a casual vacancy to the Electoral Commissioner within 7 days of its occurrence.

- (1A) After a casual vacancy occurs that is to be filled by a countback election, the general manager of the council concerned must, in relation to an election administered by an electoral services provider, give notice of the vacancy to the electoral services provider within 7 days.
- (1) After a casual vacancy occurs that is to be filled by a countback election, the electoral services provider concerned (in relation to an election administered by an electoral services provider) or the Electoral Commissioner (in relation to an election administered by the Electoral Commissioner) must—
 - (a) give notice of the vacancy to the returning officer who conducted the election at which the person whose departure created the casual vacancy was elected or, if it is not possible for the returning officer to conduct the countback election, the substitute returning officer at that earlier election, or
 - (b) if not possible for that returning officer or that substitute returning officer to conduct the countback election, appoint a returning officer in accordance with the Act.

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Schedule 9A Countback elections

- (2) The notice under subsection (1) must be given or appointment made—
 - (a) in relation to an election administered by an electoral services provider—within 14 days of the electoral services provider being notified of the casual vacancy under subsection (1A), or
 - (b) in relation to an election administered by the Electoral Commissioner—within 14 days of the Electoral Commissioner being notified of the casual vacancy under section 285 of this Regulation.
- (3) Within 14 days of being given notice or being appointed, the returning officer who is to conduct the countback election must—
 - (a) arrange for the publication of a notice of the casual vacancy as follows—
 - (i) in relation to an election administered by an electoral services provider—on both the council's website and the electoral services provider's website,
 - (ii) in relation to an election administered by the Electoral Commissioner—on the websites of the Electoral Commission and the relevant council, and
 - (b) give notice in accordance with this section to each person (at the person's last known address or by email to an email address specified by the person for the giving of notice of this kind) who, in the opinion of the returning officer, may be entitled to make an application under this Schedule in relation to the vacancy.
- (4) The notice under subsection (3) must—
 - (a) declare that a casual vacancy in the office of a specified councillor exists that is to be filled by a countback election, and
 - (b) advise that a person may apply to be a candidate in accordance with this Schedule, and
 - (c) specify the date and time that applications close, and
 - (d) specify the date, time and place for the conduct of the countback election, and
 - (e) advise that an eligible candidate is entitled to appoint scrutineers for the countback election, and
 - (f) give the contact details of the returning officer.
- (5) The date for the conduct of the countback election must be the date which in the opinion of the returning officer is the earliest practicable date to conduct the countback election, but is—
 - (a) at least 14 days after the date of the publication of the notice of the relevant council's website, and
 - (b) not more than 49 days after the date of the casual vacancy occurring.

3 Candidates for casual vacancy

- (1) A person may apply to be a candidate in the countback election if the person—
 - (a) was a candidate at the original election, and
 - (b) did not withdraw the person's nomination from, and was not elected at, that election, and
 - (c) is still eligible to be elected as a councillor at the close of applications.
- (1A) A person elected to the office of councillor or mayor at the original election, or at a countback election under this Schedule, who subsequently vacates the office by resignation or disqualification may not apply to be a candidate in a subsequent countback election.

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- (2) An application under this section is to be made in the way approved by the election manager and must contain—
 - (a) a statement by the applicant that he or she consents to be a councillor if elected, and
 - (b) a declaration that the applicant is still eligible to become a councillor.
- (3) An application must be lodged with the returning officer before noon on the 10th day after the day on which public notice of the vacancy was given under this Schedule (the *close of applications*).
- (4) An applicant may withdraw his or her application by giving the returning officer written notice of withdrawal in the way approved by the election manager before applications close.
- (5) An application or a withdrawal of an application under this section may be made by electronic means approved by the election manager.

4 Publication of candidates' details

If one or more persons have applied to be a candidate in accordance with this Schedule, the returning officer must, as soon as practicable after the close of applications—

- (a) publicly produce all the applications and declare each person who has duly applied to be a candidate (the *eligible candidates*), and
- (b) arrange for a notice containing particulars relating to each candidate to be published on the website of the relevant council.

5 Determination of candidate to fill casual vacancy

- (1) If there is only one eligible candidate in relation to a casual vacancy, the returning officer must declare the candidate elected.
- (2) If there are no candidates in relation to a casual vacancy—
 - (a) the returning officer is to declare that there are no candidates and inform the general manager of the relevant council accordingly, and
 - (b) the countback election fails.

Note. Section 291A(5)(b) of the Act provides that if a countback election fails a by-election must be held to fill the casual vacancy.
- (3) If there is more than one eligible candidate in relation to a casual vacancy, a countback election must be conducted in accordance with Part 2.

6 Filling of multiple casual vacancies

- (1) If there is more than one casual vacancy to be filled at any time, the casual vacancy that occurred first is to be filled first.
- (2) If, in the opinion of the returning officer, it is impossible to determine which vacancy occurred first, the vacating councillor who was elected first (either at the same election or in point of time) is deemed to have left office before the other vacating councillor or councillors.
- (3) If it is still not possible to determine which vacancy occurred first despite subsection (2), the returning officer must determine which casual vacancy is to be filled first by an approved method of random selection (including by electronic means).
- (5) The returning officer may comply with section 5 of this Schedule in respect of a casual vacancy even while the returning officer or another returning officer is complying with that section in respect of another casual vacancy.

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Part 2 Countback procedures

7 Casual vacancy to be filled by recount

- (1) The countback election is to be conducted by a recount of the votes on the ballot-papers used in the counting of votes at the original election and the result is to be ascertained in accordance with Schedule 5.
- (2) On the recount under subsection (1) a preference indicated on a ballot-paper for a previously elected councillor whose seat has become vacant is to be disregarded and the ballot-paper is to be treated as if the numeral indicating any subsequent preference had been altered accordingly.
- (3) If on the recount under subsection (1) a non-participating candidate is elected that election has no effect and the returning officer is to terminate that recount and repeat the procedure of recounting the votes on the ballot-papers until an eligible candidate is elected.
- (4) On a recount under subsection (3) a preference indicated on a ballot-paper for—
 - (a) a previously elected councillor whose seat has become vacant, or
 - (b) a non-participating candidate who has been elected on the recount under subsection (1) or on a previous recount under subsection (3),
 is to be disregarded and the ballot-paper is to be treated as if the numeral indicating any subsequent preference had been altered accordingly.
- (4A) If, on any recount under this Schedule, more than one candidate would be elected, the following applies instead—
 - (a) only one candidate is taken to be elected, being the candidate who has the highest number of votes,
 - (b) if 2 or more candidates have an equal number of votes—
 - (i) if the number of votes at the last count or transfer was unequal—the candidate who had the highest number of votes at the last count or transfer at which the candidates had an unequal number of votes is taken to be elected, or
 - (ii) otherwise—the elected candidate is to be determined by a method of random selection, including by electronic means, approved by the election manager.
- (5) A recount under this Schedule does not affect the election of a previously elected councillor and where a previously elected councillor is elected or excluded during a recount that election or exclusion has effect for the purposes of the continuation of the recount and for those purposes only.
- (6) If no recount under subsection (1) or (3) results in the election of an eligible candidate—
 - (a) the returning officer is to declare that the countback election has failed, and
 - (b) inform the general manager of the relevant council accordingly.

Note. Section 291A(5)(b) of the Act provides that if a countback election fails a by-election must be held to fill the casual vacancy.

8 Declaration of result

- (1) As soon as possible after the conclusion of the countback election, the returning officer must—
 - (a) inform the persons present of the result, and
 - (b) immediately notify the election manager of the result, and

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- (c) inform the participating eligible candidates (in person, in writing, by facsimile, by telephone, by email, by text message or in any other way) as soon as practicable after the result is ascertained—
 - (i) of the result of the countback, and
 - (ii) when the returning officer's declaration under this section will be available for inspection at the office of the relevant council, and
 - (iii) that the information contained in a notice under subsection (5) is to be published on the election manager's website for at least one month.

Note. Section 353 (Recount) of this Regulation does not apply to a countback election.

- (2) The election manager is to approve of the returning officer's declaring of the countback election in writing as soon as practicable after the notification of the result.
- (3) The declaration is to be signed by the returning officer and is to state the number of votes recorded for each candidate and the names of the candidate declared elected.
- (4) After the election is declared—
 - (a) the election manager must deliver or send a copy of the written declaration to—
 - (i) the Secretary, and
 - (ii) the Chief Executive Officer of Local Government NSW, and
 - (iii) the relevant general manager, and
 - (iv) for an election administered by an electoral services provider—the Electoral Commissioner, and
 - (b) the general manager of the council must display the written declaration in a conspicuous position at the office of the relevant council.
- (5) The election manager must cause the information in the declaration to be published on the election manager's website for at least one month.

10 Application of other provisions

- (1) The following provisions of this Regulation apply to a countback election with all necessary modifications—
 - (a) section 337 (Scrutineers),
 - (a1) section 346 (Persons present at scrutiny and count),
 - (b) section 365 (Obstruction of election officials),
 - (c) section 368 (Persons present in polling place),
 - (d) section 369 (Misconduct by scrutineers),
 - (e) section 370 (Misconduct at polling place or pre-poll voting office).

Note. Section 329 (Can the holder of a civic office be dismissed?) of the Act applies to a person holding civic office who has been elected at a countback election.
- (2) For the avoidance of doubt, sections 353 (Recount), 354 (Who pays for the recount?) and 355 (Result of recount) of this Regulation do not apply to a countback election.

Part 3 Miscellaneous

11 Costs

Expenses incurred by the election manager in connection with a countback election are to be met by the council.

ATTACHMENT/S

REPORT NO. PC1/22

ITEM 4

- 1. DPIE CONTRIBUTION SUBMISSION**
- 2. HSC SUBMISSION - IPART**



OFFICE OF THE GENERAL MANAGER

10 December 2021

Department of Planning, Industry and Environment
Infrastructure Funding Policy Team
infrastructure.contributions@planning.nsw.gov.au

Submitted via Planning Portal

Dear Sir/Madam,

Hornsby Shire Council - Submission on Infrastructure Contributions Reform

Thank you for the opportunity to comment on the Infrastructure Contributions Reform package.

Due to the timing of the exhibition period, at its meeting on 10 November 2021, Council delegated authority to the General Manager to make a submission on the Department of Planning, Infrastructure and Environment (DPIE) Infrastructure Contributions Reform package. In accordance with this delegation, Council officers have prepared this response outlining Council's concerns and feedback on the reform package as provided below. We will however seek further guidance from the newly elected Council following the declaration of the poll.

1. Regional Infrastructure Contributions (RIC)

Council's July 2021 submission to the Parliamentary Inquiry into Infrastructure Contributions Reforms raised a number of concerns with details around the implementation of a RIC. It is pleasing that, since the commencement of the exhibition of the reform package, the State Government has proposed changes that would see RIC funds spent within the Region in which the development is located. However, Council remains of the view that the funds should be spent within the District in which it is collected to provide tangible benefits for the communities living in the areas where development is occurring in accordance with the strategic planning priorities in the district and local plans.

Local councils will also be required to formally nominate regional infrastructure projects for RIC funding, including making the case for change, project benefits, economic justification, value for money and alignment to the RIC funding objectives. This process raises concerns as it is understood that Treasury will be responsible for considering the allocation of funds. However, the projects for regional infrastructure should be progressed on the basis of nexus to the development in the area in which it is proposed. If the RICs do not have a nexus requirement, the same principle should apply to local contributions and the nexus relaxed to allow more flexibility for councils in line with the expenditure of the RIC.

It is understood that the mechanism for a RIC to be introduced will be through a proposed SEPP and a RIC would be payable in addition to any local development contribution levied for the development. This is of concern as it would increase the overall costs of development. This would appear to be inconsistent with State Government's aim of addressing housing affordability with the increased development costs likely to be reflected in the end market cost. The provision of regional infrastructure should not come at the expense of local development contributions.

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2. Local Contributions

To assist consideration of the impacts of the proposed changes to local contributions under Section 7.11 and Section 7.12, NSROC engaged independent consultants GLN Planning to undertake financial modelling. The results of the modelling indicates that the proposed changes would have negative revenue projections for both the Region and Hornsby Council specifically. It is our understanding that the NSW Government has committed that no Council will be worse off as a result of the proposed reforms. However, GLN's financial modelling indicates that, even including additional income due to rates reforms, Council would have a cumulative net income reduction of \$51.3 million by 2040/41. The projected increase in income from proposed rate reforms would be in the order of \$51.8 million. However, this would not offset the potential loss of \$103.1 million over the same period.

The consultants have identified that the main impact on projected income for Council is the proposal to exclude 'non-essential' works (i.e. community facilities, indoor recreation and public domain improvements) from s7.11 contributions. To ensure that the State Government achieves its commitment that councils will not be worse off as a result of the reforms, direction is required which allows community facilities, indoor recreation and public domain improvements to be levied for under s7.11 contributions where there is nexus with the new development. These issues are discussed in more detail below.

a) Section 7.11 Contributions (local infrastructure conditions)

Council's July 2021 submission to the Parliamentary Inquiry into Infrastructure Contributions Reforms raised concerns with removing the ability to levy contributions under Section 7.11 for community and indoor recreation facilities. The IPART draft report, which is on exhibition concurrent to the infrastructure reform package, includes details of the Essential Works List (EWL) which would apply to all contribution plans.

The justification for the recommendation from the NSW Productivity Commission to apply the EWL to all Section 7.11 contributions plans is not clear and the IPART review does not explore or explain the reason for the broadening of its application. If a contributions plan can be implemented below the relevant cap, it should remain up to the individual council what infrastructure is required to support growth and development, rather than imposing an EWL.

As outlined in Council's submission to the Parliamentary Inquiry, within the Hornsby 7.11 Development Contributions Plan 2020 – 2030, community and indoor recreation facilities represent 36% of Council's works program costs. Removal of the ability to levy contributions for community and indoor recreation facilities would result in a potential loss of income for Council in the order of \$59 - \$90 million over the next 17 years (being the period from the proposed commencement of the changes in 2024 to 2041).

The essential works list also restricts the provision of public domain improvements which are essential components of creating liveable, connected and accessible communities. This is inconsistent with the draft State Government *Design and Place State Environmental Planning Policy* which includes design principles and controls aimed to facilitate the provision of a high quality and diverse public domain spaces including streets and open spaces in concert with new development. It is essential that the interface between the public and private domain be planned and funded as a component of the development process.

Consistent with the principles of the draft SEPP, within the Hornsby 7.11 Development Contributions Plan 2020 – 2030, public domain improvements with a direct nexus to high density development activity in housing precincts represent 8% of Council's works program costs. Removal of the ability to levy contributions for public domain improvements would result in a potential loss of income for Council in the order of \$13 million over the next 17 years.

Council's Contributions Plan is largely based on providing additional services to cater for forecast growth within areas rezoned for higher density residential development as part of Council's Housing Strategy to meet State Government obligations for housing provision. To cater for anticipated growth, the Plan includes an extensive works schedule of road, local open space, recreational and community facilities projects with total costs over \$340 million with \$157 million of those costs to be levied from development contributions. Such a significant

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reduction in the types of infrastructure which can be included in a contributions plan works schedule would reduce Council's capacity to deliver the extent of planned infrastructure to support population growth.

One of the main issues raised by the Hornsby community in community satisfaction surveys is resident concerns about the impacts of increased residential development and the need to ensure that infrastructure supports the development. With the changes proposed, Council's capacity to provide this infrastructure and the timeliness of any delivery will be significantly impacted. Consequently, community support (or tolerance) of increased densities to meet State housing obligations will be more difficult to attain as we try to plan for growth into the future.

The above comments have also been included in Council's submission on the IPART draft report.

b) Land Value Contributions

The framework for a land value contribution is welcomed as it provides an alternative mechanism to enable councils to fund local infrastructure by requiring landowners in areas that are up zoned to contribute towards land required for public purposes.

However, there is no justification for the proposed maximum land value contribution of 20% of the land value uplift. Dependent on the changes to land use and the level of intensity in a given area, the percentage levied may need be higher and proportionate to the infrastructure required to support the new development. An upper limit should not be imposed for the percentage levied for land value contribution. Instead, consideration should be given that when a Section 7.11 plan is prepared, detail costings should be supplied by local councils to justify the percentage levied.

c) Section 7.12 Contributions (local levy conditions)

It is pleasing that the reform package responds to Council's concerns about proposed exemptions for alterations and additions and that dwelling alterations and additions will be able to be levied. However, it is understood that alterations and additions would be charged on a per bedroom rate. This will increase uncertainty in the assessment process when seeking to determine where an additional room would constitute a bedroom. The matter may be further compounded through the private certification process. As most of the income received under Hornsby's Section 7.12 plan is associated with applications for alterations and additions to residential dwellings, Council may end up disadvantaged under the new framework.

Council instead supports amending the local levy conditions to the maximum percentage that can be levied, up to 3% of the cost for residential development and up to 1% of the cost for non-residential development. This will provide certainty and transparency and will ensure the provision of local infrastructure under the Section 7.12 plans.

d) Deferring payment of contributions to occupation certificate stage

Council maintains its concerns with the proposal to permanently allow contributions payable at the occupation certificate stage rather than before construction starts. This amendment is inconsistent with the purpose of levying contributions that seek to ensure community infrastructure is delivered in a timely manner in conjunction with development.

Ensuring follow up non-payment of contributions at the occupancy stage is a further administrative burden on councils as they do not always have control over the full or partial occupation of buildings (i.e. when a private certifier is used) and there is a significant risk that occupation occurs without contributions being paid. The burden will fall to Council to act against the private certifier and potentially occupants of the building or the body corporate which is a difficult and for residents of new development, a stressful and uncertain process.

The recommendation to include borrowing costs in to forward fund infrastructure delivery in the EWL is simply a cost shifting process. Any saving to developers by the delayed payment of contributions would be offset by inclusion of the costs in a developer contributions plan. Accordingly, in acknowledgement of the cost to councils and the administrative burden by delaying payment of development contributions, the pre-COVID arrangements for payment of contributions at the constructions stage should be reinstated to facilitate the timely delivery of infrastructure with development.

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3. Land Use Planning**a) Contributions Plans and Planning Proposals**

The Ministerial Direction that contributions plans are to be prepared upfront (where relevant) and exhibited with a planning proposal is supported. Determining early in the process whether a local contributions plan is required and how it is to be implemented for a planning proposal provides certainty for the provision of infrastructure to support the change in land use. However, there is concern with the potential additional administrative burden on councils in the case of proponent led proposals. It is understood Council would be required to review and provide comments on the draft contributions plan and come to a position to include "in principle" support for the plan at the time Council resolves (if they choose) to support the planning proposal, within the same statutory timeframe currently required. The timeframe for the assessment of planning proposals should be increased to acknowledge the additional process for the preparation and "in principle" support of a draft contributions plan with rezoning proposals.

b) Dual and shared use of open space

The Ministerial Direction encouraging opportunities for shared use of public open space, drainage and public facilities appears to be in contradiction to the proposal to benchmark costs and embellishment at base level. The benchmark costs do not acknowledge that these spaces are often designed and constructed for multi-purpose or shared use. Therefore, to support this Ministerial Direction, flexibility instead of benchmark costings is required to encourage consideration of best practice design in the delivery of the assets and the to meet the demands of various users.

In summary, whilst it is pleasing to see that the Infrastructure Reform package responds to some aspects of the extensive advocacy by councils and industry groups, there remains concern that the proposed changes to the development contribution system will undermine the delivery of critical infrastructure required to support the growth and wellbeing of local communities. Financial modelling indicates negative revenue projections association with Section 7.11 contributions due to the changes proposed. Council reiterates its position that proposed changes to rate pegging do not adequately compensate for population growth or offset the anticipated loss in development contributions. Specifically, we understand that the NSW State Government has outlined that no Council will be worse off under the proposed reforms. We offer these comments

We offer and trust these comments are of assistance to the Government in ensuring it achieves its stated aim. Council requests the State Government continue to work with councils, industry and the community to make further improvements to the infrastructure contributions reform package.

Should you require any clarification in relation to any of the matters raised, please do not hesitate to contact me on 9847 6602 or Mr James Farrington, Director Planning and Compliance on 9847 6750.

Yours faithfully



Steven Head
General Manager

TRIM Reference: D08312566

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OFFICE OF THE GENERAL MANAGER

8 December 2021

Independent Pricing and Regulatory Tribunal NSW
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Submitted via IPART website

Dear Sir/Madam

Review of the essential works list, nexus, efficiency and standardised benchmark costs

Thank you for the opportunity to comment on IPART's review of the Essential Works List and standardised benchmark costs.

Due to the timing of the exhibition period, at its meeting on 10 November 2021, Council delegated authority to the General Manager to make a submission on the IPART draft report. In accordance with this delegation, Council officers have prepared this response outlining Council's concerns and feedback on the draft report as provided below.

1. Application of an Essential Works List to all contributions plans

The justification for the recommendation from the NSW Productivity Commission to apply the EWL to all Section 7.11 contributions plans is not clear and the IPART review does not explore or explain the reason for the broadening of its application. If a contributions plan can be implemented below the relevant cap, it should remain up to the individual council what infrastructure is required to support growth and development, rather than imposing an EWL.

One of the main issues raised by the Hornsby community in community satisfaction surveys is resident concerns about the impacts of increased residential development and the need to augment community facilities, open space and public domain improvements to cater for growth. In direct contrast to what our community considers essential, the application of a restricted EWL reduces Council's capacity to deliver the extent of required and planned infrastructure to support population growth.

Plans should remain not subject to an EWL where contributions rates are below the cap threshold. This would not affect developers as they have the certainty that the contributions costs would not surpass the cap, but it would provide councils with the flexibility to deliver appropriate infrastructure in consultation with their community. This would also reduce the administrative burden on councils associated with having their contributions plans reviewed by IPART.

As is acknowledged in the IPART report, the appropriate infrastructure for a community differs between councils and should not be a blanket approach through the application of a restricted EWL to all plans. A flexible approach would be consistent with the collection of monies under the proposed Regional Infrastructure Contributions which it is understood would not be subject to the same project justification process or EWL costings. If a flexible approach is legislated for collection of contributions by the State Government, which is not even required to specify a project list, a similar process should be available to councils.

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2. Infrastructure that is included on the Essential Works list

Notwithstanding the comments above, should the EWL be introduced to apply to all contributions plans, community facilities should be included as they are an essential component of planning for future population growth.

Concern is raised with the limited terms of reference for the IPART review which specify that the EWL must not expand beyond the current parameters and that community facilities works must not be included. This means that IPART has not been able to express an independent view of this matter or consider the wider interests of the community. No compelling case has been made for the proposed removal of community facilities, which are essential to our community and the inability to fund them through development contributions is a significant loss. The report notes that although developers support this position to reduce contribution costs, councils advised that community facilities are essential for their communities and should not be excluded. Any concerns from the development industry about the rate of contributions would be addressed by the cap threshold.

Within the Hornsby 7.11 Development Contributions Plan 2020 – 2030, community and indoor recreation facilities represent 36% of Council's works program costs. Removal of the ability to levy contributions for community and indoor recreation facilities would result in a potential loss of income for Council in the order of \$59 - \$90 million over the next 17 years (being the period from the proposed commencement of the changes in 2024 to 2041).

The essential works list also restricts the provision of public domain improvements which are essential components of creating liveable, connected and accessible communities. This is inconsistent with the draft State Government *Design and Place State Environmental Planning Policy* which includes design principles and controls aimed to facilitate the provision of a high quality and diverse public domain spaces including streets and open spaces in concert with new development. It is essential that the interface between the public and private domain be planned and funded as a component of the development process.

Consistent with the principles of the draft SEPP, within the Hornsby 7.11 Development Contributions Plan 2020 – 2030, public domain improvements with a direct nexus to high density development activity in housing precincts represent 8% of Council's works program costs. Removal of the ability to levy contributions for public domain improvements would result in a potential loss of income for Council in the order of \$13 million over the next 17 years.

Council's Contributions Plan is largely based on providing additional services to cater for forecast growth within areas rezoned for higher density residential development as part of Council's Housing Strategy to meet State Government obligations for housing provision. To cater for anticipated growth, the Plan includes an extensive works schedule of road, local open space, recreational and community facilities projects with total costs over \$340 million with \$157 million of those costs to be levied from development contributions. Such a significant reduction in the types of infrastructure which can be included in a contributions plan works schedule would reduce Council's capacity to deliver the extent of planned infrastructure to support population growth.

A restricted EWL would also de-incentivise planning agreement offers for works that can be offset from otherwise payable developer contributions. For example, developers can currently offer delivery of community facilities, benefiting the community through more efficient delivery of infrastructure and often allowing earlier delivery of works at lower disruption to the community.

3. Nexus

The infrastructure items contained within Council's Contributions Plan, despite not being included on an EWL, are all based on a demonstrable increase in the demand for public amenities and services (leading to the

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requirement for those works or facilities). The strong nexus has always been a requirement of a Contributions Plan and a feature of Council's plans.

However, the DPIE Contributions Reform Package includes the introduction of Regional Infrastructure Contributions (RICs) that will not be nexus based. As discussed above, if the RICs will not have a nexus requirement, the same principle should be applied to local contributions and the nexus should be relaxed to allow more flexibility for councils in line with the flexibility of the RIC.

4. Efficient design and delivery

The draft report recommends that only cost-effective infrastructure that provides the minimum (or base level) of performance or service can be included in a contributions plan. This aims to ensure developers only pay for the efficient cost of infrastructure. However, such an approach does not take into consideration the reasonable expectations of the local community for the quality of infrastructure provided.

The quality of infrastructure would vary between local government areas and the composition and age of the population. It should be the responsibility of the council to determine the design quality of infrastructure in consultation with the local community. The report appropriately acknowledges that it is difficult to define base level embellishment of open space without considering the circumstances and context in which it is being delivered. What is base level can differ between communities and their specific characteristics and needs, which change over time.

Mandating that only base-level infrastructure can be funded through contributions is likely to disadvantage communities as the facilities may either be overlooked and/or underused due to lack of innovation and quality or there may be a delay in their provision due to the gap-funding required to provide the facility at a level which meets community expectations.

5. Standardised benchmark costs

It is understood that the aim of setting benchmark costs for particular items is to simplify the process of contributions plan preparation. Similar to the comments above, if these standardised benchmarks are set at base level, councils will have difficulty in gap-funding the true costs of facilities over and above the costs set for standardised items.

Flexibility to allow councils to identify cases when benchmarks are not likely to provide a reasonable cost estimate is needed and supported. For instance, Council's experience in the development of open space at Westleigh for sports ovals and regional open space at Hornsby Quarry has identified significant additional costs beyond standard benchmarks. These costs are in the tens of millions of dollars and include addressing issues of contaminated lands, access and geotechnical issues such as landfilling and stabilisation.

In addition, the benchmark costs for open space do not acknowledge that these spaces are often designed and constructed for multi-purpose use. Flexibility is required to encourage consideration of best practice design in the delivery of open space which is increasingly required to cater for high use for a range of activities. Standard costs do not account for the need for open space to meet the demands of various users.

Further, the draft IPART report references requirements for more climate resilient infrastructure but does not appear to acknowledge that higher standards (and therefore costs) are likely to be required for infrastructure to withstand the climate extremes expected over their determined life cycle. Plans should not be subject to the benchmark costs or review where the contributions are below an agreed threshold amount.

The draft report notes that there is often a mismatch between when infrastructure is needed and when it is provided by councils. The report appropriately acknowledges that this is partly because infrastructure contributions are paid by developers late in the development process and councils wait to receive the money

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before spending it. The recommendation to include benchmark borrowing costs to forward fund infrastructure delivery is simply a cost shifting process. Any saving to developers by the delayed payment of contributions would be offset by inclusion of the costs in a developer contributions plan. Accordingly, in acknowledgement of the cost to councils by delaying payment of development contributions, the report should recommend the continued practice of most councils to require payment of contributions prior to the issue of a construction certificate.

6. Process for updating the benchmark costs over time

The proposal to undertake frequent updates and reviews to maintain the currency of benchmark costings is supported should they be pursued. At a minimum, costs should be reviewed annually as current experience demonstrates that costs are escalating rapidly given restrictions in terms of supply chain and demand on resources (both human and materials) during a stimulus driven recovery. This is having a disproportionate impact on costs. Recent tenders by Hornsby Council for construction works such as the refurbishment of Galston Aquatic centre have experienced significant costs increases beyond QS estimates within a very short period and cost forecasting on scheduled works is growing rapidly beyond normal cost increases. It is also essential that any cost increases be reflected in contributions that may be levied under a contributions plan otherwise the gap between contributions and the cost of the provision of planned infrastructure will continue to increase as a financial burden on councils.

In summary, it is unclear what more certainty developers need around infrastructure contributions than the cap threshold which they are able to factor into their development costs. The draft recommendations in the IPART report appear only to reduce the flexibility available to councils who are already restrained by the cap. Councils would be unable to provide the appropriate types of infrastructure at the appropriate levels of service to cater for forecast growth within areas rezoned for higher density residential development as part of Housing Strategies to meet State Government obligations for housing provision.

I trust these comments are of assistance. Council would appreciate the opportunity for more discussions with IPART in conjunction with DPIE and its corresponding Contributions Reform Package. Should you require any clarification in relation to any of the matters raised, please do not hesitate to contact me on 9847 6602.

Yours faithfully



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