



Review of the essential works list, nexus and efficient infrastructure design

UDIA NSW Submission

Image: Gosford Leagues Club Park by HCCDC, Turf and ADW Johnson
Winner of 2021 UDIA NSW Awards for Excellence in Social & Community Infrastructure

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ABOUT THE UDIA

Established in 1963, the Urban Development Institute of Australia NSW (UDIA) is the peak industry body representing the leading participants in urban development in NSW. Our more than 500 member companies span all facets of the industry including developers, consultants, local government and state agencies. Our advocacy is based on creating liveable, affordable and connected smart cities.

INTRODUCTION

Benchmarking, the essential works list and nexus are critical aspects of development in NSW. When implemented poorly they reduce development feasibility and housing supply resulting in reduced housing affordability. Given that NSW is currently facing a housing supply and affordability crisis, it is critical that this important part of the Infrastructure Contributions Reform is implemented successfully.

UDIA NSW has regularly commented on the issues with the existing processes around the essential works list and earlier this year made a submission to IPART making recommendations to support the delivery of a successful reform.

Historically, there have been a number of key problems with the process including:

- Benchmark costs that were far too high.
- The Essential Works list was too extensive and went well beyond what should be deemed 'essential'.
- In many cases, what was considered a base level of scope went well beyond what should be deemed a base level.

We welcome the consultation from IPART and their active engagement during the reform process. Our recommendations are as follows:

Recommendation 1 – Develop practice notes for the prioritisation of local infrastructure and stormwater basins.

Recommendation 2 – Define base standards of infrastructure as clearly as possible.

Recommendation 3 – Develop a timely arbitration mechanism to deal with base standard disagreements between councils and developers.

Recommendation 4 – Develop practice notes for the dual use of infrastructure.

Recommendation 5 – Riparian corridors should be benchmarked and a practice note developed for their application.

Recommendation 6 – Land contamination and service adjustments should be used as cost adjustment factors.

Recommendation 7 - The NSW Government should develop a live database system that collects all the latest data on costs and automates the process of updating benchmarks in real time.

IPART has done an excellent job in its draft report taking on board many of the UDIA's recommendations. However, we are still concerned about the potential for scope creep.

RESPONSES TO IPART QUESTIONS

This section responds to the questions set out by IPART as part of their consultation.

[Q1 - Do you think our proposed principles-based approach to the EWL, as part of our broader framework incorporating efficient design and delivery and benchmark costs, provides enough certainty? Have we got the balance right between flexibility and certainty?](#)

UDIA agrees with the proposed principles-based approach and that the balance is right between flexibility and certainty. Getting the balance right depends heavily on the definition of the base cost and inclusions. UDIA believes that the Cardno data sheets are reasonable, and the rates appropriate.

[Q2 - Is the proposed evidence to establish nexus for infrastructure in contributions plan appropriate and reasonable? Is there any other guidance on nexus for local infrastructure that should be included in an updated practice note to assist councils, developers and other stakeholders in preparing and assessing contributions plans?](#)

UDIA agrees that the proposed evidence to establish nexus is appropriate and reasonable. We think there are two areas where updated practice notes would be useful:

1. The prioritisation of local infrastructure. This is imperative in enabling development and providing amenity as early as possible, particularly in fragmented land ownership areas.
2. Stormwater basins. The prioritisation of the land acquisition and delivery of stormwater basins achieves three things; it enables development, prevents the need for temporary detention basins littered across development sites and provides open space and amenity for growing precincts.

Recommendation 1 – Develop practice notes for the prioritisation of local infrastructure and stormwater basins.

[Q3 - What further guidance on base level, efficient local infrastructure should be included in an updated practice note to assist councils, developers and other stakeholders in preparing and assessing contributions plans? How definitively should the guidance in an updated practice note specify the standards expected of infrastructure \(e.g., legislation and other industry standards\)?](#)

UDIA is concerned about the potential for disagreement between local Councils and our members on what is base level, efficient local infrastructure. This reduces certainty and increases development risks unnecessarily. In addition, using the infrastructure that already exists in the local area as the base level is fraught with issues, considering that it is widely acknowledged that much local infrastructure has historically been gold plated. The base standards expected of infrastructure should be defined as clearly as possible and should be based on industry standards. Where there are disagreements between local Councils and industry, there needs to be a timely arbitration mechanism.

Efficient local infrastructure needs to include dual use infrastructure. For example:

- Use of the edges of riparian corridors for cycleways/ pathways, passive open space and stormwater treatment facilities (swales, rain gardens and smaller basins).
- Dual use of detention basins as sporting facilities, active or passive use (e.g. tennis courts, playing fields, exercise equipment).
- Dual use and co-location of School Halls for community meetings and other uses on weekends and after school hours.
- Dual use and co-location of School playing fields for community sporting use on weekends and after school hours.

IPART should produce a practice note providing details of when dual use infrastructure should be an integral part of a contribution plan.

Recommendation 2 – Define base standards of infrastructure as clearly as possible.

Recommendation 3 – Develop a timely arbitration mechanism to deal with base standard and efficient infrastructure disagreements between councils and developers.

Recommendation 4 – Develop practice notes for the dual use of infrastructure.

[Q4 - Are there other items that we should consider benchmarking?](#)

Yes, riparian corridors should be benchmarked. Riparian corridors are a critical component for the blue-green grid, passive open space and linear active transport networks (pedestrian and cycle paths) in precincts. Historically, councils have handled riparian corridors in contributions plans differently, with some leaving them in private ownership in environmental living lots, while others acquire them as public open space/water management infrastructure in contributions plans.

Guidance on a uniform application needs to be given in relation to public vs private ownership of riparian corridors (could be different for the different order of streams). Also, a uniform approach to how much of a riparian corridor can contribute to open space provision, should be applied across the state.

Recommendation 5 – Riparian corridors should be benchmarked and a practice note developed for their application.

[Q5 - Do you agree with our approach to use adjustment factors so that the benchmarks are applicable to a broader range of projects?](#)

We agree with the IPART approach to use adjustment factors.

[Q6 - What other factors increase the complexity of a project that could be used as an adjustment factor?](#)

Land contamination and Service Adjustments.

Land contamination is rarely identified at the infrastructure planning phase of precincts and can be a major cost. Guidance should be provided on how the project contingency in relation to contamination is managed. This would be more complex and costly in brownfield environments.

Similarly, service adjustments in brownfield environments should be considered when applying complexity cost adjustments.

Recommendation 6 – Land contamination and service adjustments should be used as cost adjustment factors.

[Q7 - We seek stakeholder views on the approach to project allowances, including the rates and their application.](#)

UDIA agrees with the approach to project allowances.

[Q8 - We seek stakeholder views on alternative benchmarks for open space. Is there value in a per person benchmark? How would it work?](#)

No comment.

[Q9 - Does 1.5% of the total value of works excluding land broadly reflect the actual cost councils face to administer a contributions plan? If not, what percentage would better reflect the actual cost councils face?](#)

UDIA believes that the 1.5% is appropriate. However, if there is extensive Works in Kind being undertaken by the developer, then Council administration costs can reduce significantly. This should be considered as part of the Works in Kind agreement.

[Q10 - What other types of information or data would provide a clear evidence base for the true costs of plan administration?](#)

The tracking of benchmark costs against actuals along with appropriate analysis for variances in the make-up of costs would be useful moving forward.

[Q11 - We seek views on our proposed approach to annual escalations and 4 yearly reviews of benchmarks, including the choice of index and timeframe.](#)

[Q12 - We seek views on an appropriate feedback or data collection mechanism to obtain reliable and consistent project information to refine the benchmarks over time.](#)

The NSW Government should develop a live database system that collects all the latest data on costs and automates the process of updating benchmarks in real time. This would remove the need for annual escalations, 4 yearly reviews and index choices.

Recommendation 7 - The NSW Government should develop a live database system that collects all the latest data on costs and automates the process of updating benchmarks in real time.

[Q13 - Are the proposed principles and information requirements for councils using an alternative costing approach adequate? Should councils be required to provide any further information to justify deviations from the standard benchmark costs?](#)

UDIA agrees that the proposed principles and information requirements for councils using an alternative costing approach are adequate.

[Q14 - Are the proposed principles for reviewing plans and updating costs adequate? Are there any principles that should be removed from or added to this list?](#)

UDIA agrees that the proposed principles for reviewing plans and updating costs are adequate.

[Q15 - Are the proposed information requirements for councils enough? Are there any other pieces of information that should be added to this list?](#)

UDIA agrees that the proposed information requirements for councils are enough.

[Q16 - Do you support our approach for a threshold to determine which plans must be reviewed?](#)

UDIA agrees with the approach for a threshold to determine which plans must be reviewed.

[Q17 - Do you support our proposal for a fixed 4 yearly review of contributions plans?](#)

UDIA agrees with the proposal for a fixed 4 yearly review of contributions plans.

[Q18 - Does the annual update and four-yearly review provide an appropriate balance between cost reflectivity and certainty?](#)

UDIA would like to see real time updates (see our comments above).

CONCLUSION

UDIA appreciates this opportunity to offer our comments and recommendations to the review of the essential works list, nexus and efficient infrastructure design.

IPART has done an excellent job of confronting key issues in the current processes and making sensible recommendations for resolving them. The biggest outstanding issue is to minimise the scope for disagreements between councils and industry and to ensure that there is an appropriate and timely arbitration mechanism for resolving them.

Should you have any questions or wish to arrange a meeting for further discussion, please contact Russell King (rking@udiansw.com.au)

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