

Our ref: IRF24/654

Your ref: FP216

Mr Michael Edgar
General Manager
The Hills Shire Council
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NORWEST NSW 2153

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9 July 2024

Subject: Draft Section 7.11 Contributions Plan No.15 – Box Hill Precinct 2023

Dear Mr Edgar

I am writing in relation to the draft Section 7.11 Contributions Plan No.15 – Box Hill Precinct 2023 (the Plan), which The Hills Shire Council submitted to the Independent Pricing and Regulatory Tribunal (IPART) for assessment. IPART has completed its assessment and made eight recommendations in relation to the Plan.

As nominee for the Minister for Planning and Public Spaces, I have considered IPART's advice and further information provided by council in correspondence dated 17 June 2024 (your reference FP216). Changes to the Plan are required prior to its implementation.

These changes are detailed in **Attachment A**.

I have carefully considered the matter of the \$172 million funding shortfall and do not support IPART's approach to apportion 29% to the remaining development. Nor do I support Council's proposal to fully apportion 100% of the shortfall.

Principles of apportionment underpin the use of section 7.11 of the *Environmental Planning and Assessment Act 1979* and determine the reasonable nature of the contribution imposed upon development. The remaining 29% of development does not generate demand for more than 29% of the total costs of infrastructure and therefore none of the shortfall can be apportioned.

I appreciate that this is disappointing for the Council and contrary to your expectations. It is an unfortunate consequence of the long timeframe between the setting of contributions rates through development consent and the delivery of infrastructure in precincts such as Box Hill. The options remain for the Council to recoup this shortfall from existing development through a special rate variation, seek additional grant funding or reconsider the local infrastructure to be provided in the release area.

Once the amendments required by **Attachment A** have been made and the Council has finalised the Plan, it will meet the requirements of an IPART reviewed contributions plan within the meaning of clause 5(3) of the *Environmental Planning and Assessment (Local Infrastructure Contributions) Direction 2012*.

I would be grateful if you could advise the Department once Council has completed this process, including evidence that the changes have been made, via email to infrastructure.contributions@planning.nsw.gov.au.

Department of Planning, Housing and Infrastructure

If you have any questions in relation to this matter, please contact Mr Jonathon Schipp, Executive Director Infrastructure Programs at the Department via email infrastructure.programsedteam@dpie.nsw.gov.au

Yours sincerely,

A handwritten signature in grey ink, appearing to read "Monica Gibson".

Monica Gibson
Deputy Secretary
Planning, Land Use Strategy, Housing and Infrastructure

Department of Planning, Housing and Infrastructure

Attachment A

IPART Recommendation		Minister's nominee direction	Comments
1	Remove the costs for the skate bowl/plaza and pump track/BMX track from open space embellishment costs as these are not on the Essential Works List. This will reduce costs by \$1.2 million	Recommendation accepted	Amendment to the Plan required
2	The council update the plan for the income of \$8.23 million to reflect the agreed Accelerated Infrastructure funding for the transport item BRBRU.	Recommendation accepted with changes. The council update the plan to reflect all grant funding received for Box Hill local infrastructure items.	Amendment to the Plan required
3	Update the cost of plan administration to be 1.5% of the revised total works costs.	Recommendation accepted	Amendment to the Plan required
4	The council update the apportionment of BOUNDARYRD, BOUNDARYRD2, BRBRU, BHT23, BHR06, and BHR07 to 70% to the plan.	Recommendation accepted with changes. The council update the apportionment of BOUNDARYRD, BOUNDARYRD2, BRBRU, BHT23, BHR06, and BHR07 to 70% to the plan as described in IPART's "CP15 Works Schedule- Mar 23 FINAL_FY23_V3_Updated_Escalators2.xls" Tab "Capital works + Land – Modified" and "Final Report – Argyle Consulting – CP15 Final NPV Model report – February 2024.DOCX".	Amendment to the Plan required

IPART Recommendation		Minister's nominee direction	Comments
5	The council remove \$112.8 million of the estimated funding gap in NPV terms in setting residential contribution rate for the plan	Recommendation rejected. New recommendation The council remove \$172 million of the estimated unrecoverable costs linked to development completed or approved in NPV terms in setting residential contribution rates for the plan.	Amendment to the Plan required
6	The council remove \$9.2 million of the estimated funding gap in NPV terms in setting non-residential contribution rate for the plan.	Recommendation rejected. Refer to recommendation 5	Refer to recommendation 5.
7	The council should review the method or index used to value land next time the plan is reviewed.	Recommendation accepted	This recommendation is for advice only and does not require immediate action to amend the contributions plan.
8	That the council only include the construction costs for BHT22 and updated land acquisitions for identified transport items if the Minister issues a written direction under section 7.19(1) of Environmental and Planning Assessment Act 1979 requiring the council to amend the plan to include updated construction costs for BHT22 and updated land acquisitions for identified transport items.	Recommendation accepted with changes. That the council only include the construction costs for BHT22 and updated land acquisitions for identified transport items – as detailed in IPART's "Clarification of IPART final adjustment_RC.xlsx", request from Council re: 13 and 15 Nelson Road land acquisition updates \$197,316 and \$360,528 respectively, and Final Report – Argyle Consulting – CP15 Final NPV Model report (February 2024).	Amendment to the Plan required



Department of Planning, Housing and Infrastructure

IPART Recommendation		Minister's nominee direction	Comments
N/A	IPART Final Report (pg 4)	Council is to ensure that all relevant costs within the final plan are indexed to FY2022/23 dollars as the base year.	Required to clarify IPART's final report.