



attachment 3
to
item 103

Draft Hawkesbury City Council
Submission to IPART's
Draft Report

NOTE: This Draft Submission is awaiting further input from the various consultants engaged by Council to assist with the preparation of a submission to IPART.

date of meeting: 25 June 2019
location: council chambers
time: 6:30 p.m.



DRAFT ASSESSMENT OF THE VINEYARD PRECINCT CONTRIBUTIONS PLAN

DRAFT SUBMISSION TO IPART

Hawkesbury City Council

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Draft Assessment of the Vineyard Precinct Contributions Plan

Draft Submission

June 2019

Prepared for

Hawkesbury City Council

By

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Note for Council

IPART released its draft report *Assessment of Vineyard Contributions Plan* on 31 May 2019. It is accepting public submissions on the draft report until 28 June 2019. GLN Planning has been engaged by Hawkesbury City Council to prepare a draft submission on its behalf.

We recommend that Council make a submission based on these draft comments with a cover letter, addressed to Ms Deborah Cope, Chair of IPART's Delegated Committee for Local Government, and copied to both the Minister for Planning and Public Spaces and the Department of Planning, Industry and Environment Secretary (Attention: Martin Reason, Executive Director – Infrastructure and Delivery).

It is possible that submissions will not be posted on IPART's website since it has not committed to doing so in its draft report release materials. For this reason, it is prudent for Council to ensure that the Minister for Planning and Departmental Secretary both have copies of Council's views on IPART's draft report, as soon as possible.

It is up to Council discretion as to whether it wishes to post its submission on its own website.



1 Introduction

IPART released its draft report *Assessment of Vineyard Contributions Plan* on 31 May 2019. It is accepting public submissions on the draft report until 28 June 2019. GLN Planning (GLN) has been engaged by Hawkesbury City Council (Council) to prepare a draft submission on its behalf.

IPART's report recommends significant amendments to the Vineyard contributions plan which would reduce the total cost of land, works and administration, from \$165,272,444 to \$129,796,778. This equates to a decrease in total costs of 21.5% relative to the plan submitted by the Council to IPART for review.

If the majority of IPART's large cost reduction recommendations are maintained at the final report stage, there is a strong chance that Council will face significant underfunding of essential infrastructure to meet the new demand from the Vineyard Precinct.

The submission comments focus on the main areas of concern with IPART's assessment: land values (particularly constrained land values and District Park 5 land value), the nexus for channel stabilisation works, and the costs of open space embellishment, the Boundary Road upgrade, new collector roads and creek crossings.

The submission draws on additional advice from relevant experts specially commissioned by Council to inform the submission:

- Kent Wood, the Registered Valuer who was originally engaged on behalf of the Department of Planning and the Environment (DPE) to value land rates in the plan,
- Matthew Kritzler, Quantity Surveyor with Mitchell Brandtman but formerly with WTP (where he originally costed items in the plan), and
- David Johnson, Director of J Wyndham Prince and an experienced stormwater engineer who advised on the need for the channel stabilisation works in the plan.

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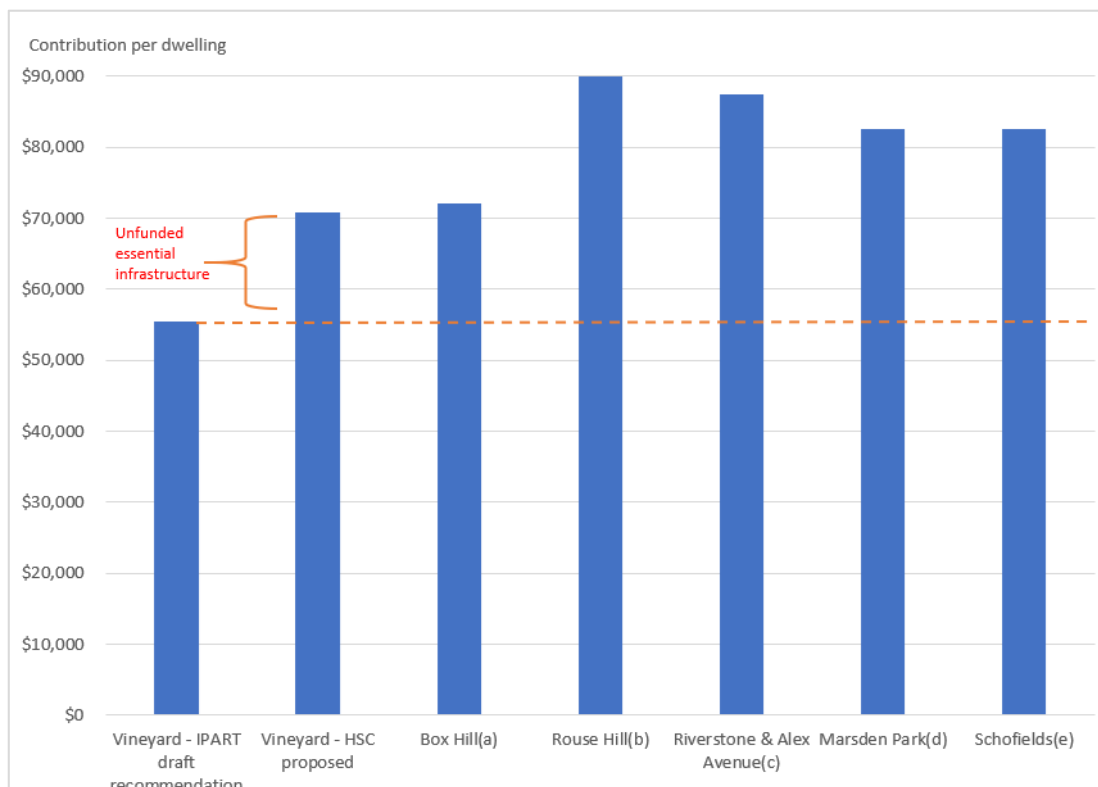
2 Overview of key concerns

Hawkesbury City Council (Council) wishes to raise a number of critical concerns with IPART's draft report on its assessment of the Vineyard Contributions Plan (published on 31 May 2019).

IPART's assessment suggests contributions in the Vineyard Precinct should be \$55,436 per lot for low density dwellings, which is 22% lower than the proposed \$70,789 per lot by Council in the plan. This compares with rates for low density dwellings in other North West Growth Centre areas which all exceed around \$70,000 per lot.

As **Figure 1** shows, the contribution rates for other urban release area precincts in the North West Growth Centre, generally endorsed by IPART and the NSW Government, are between 30 to 62% higher than the IPART-assessed rate for Vineyard.

Figure 1 Comparison of IPART's proposed contribution rates for Vineyard Precinct compared with rates for low density dwellings (15 dw/ha) in other North West Growth Centre precincts (\$Mar18)



Notes:

- (a) The Box Hill contribution rate is the average of the IPART-assessed rates for the three catchments in the plan, indexed. Source: IPART, *Assessment of Revised Contributions Plan 15 for Box Hill -The Hills Shire Council*, October 2018.

- (b) The Rouse Hill contribution rate is the average of the IPART-assessed rates for the three catchments in the plan, indexed. Source: IPART, *Assessment of Contributions Plan 22 for Rouse Hill (Area 20 and Riverstone East)*, December 2018.
- (c) This is the rate presented in BCC's existing contributions plan for the Riverstone and Alex Avenue Precinct (CP20), indexed and last assessed by IPART in July 2016.
- (d) This is the average of the three catchment Marsden Park rates in BCC's existing contributions plan for Marsden Park/Marsden Park Industrial (CP21), indexed and last assessed by IPART in August 2017.
- (e) This is the average of the three catchment rates in BCC's existing contributions plan for Schofields (CP24W and CP24L), indexed and currently under assessment by IPART.

There is no legitimate reason that the local infrastructure in the Vineyard Precinct will cost any less (on a per lot basis) than surrounding precincts in the North West Growth Centre. That is because:

- as a new greenfield site, Vineyard needs the full suite of transport, stormwater, open space and community facility infrastructure to facilitate new development, as other areas do
- the density of expected residential development is similar to other developing precincts in the area
- the geographical terrain is similar to surrounding precincts.

Further, Blacktown City Council (BCC) and The Hills Shire Council (THSC) (the other two councils in the North West Growth Centre) both have very large levels of pooled contributions for growth infrastructure and significant implementation and delivery scale which is not available to Hawkesbury City Council.

Council's submission highlights the areas where IPART's recommendations are imbalanced, ignore important pieces of supporting evidence and have inadequate regard for the actual likely cost of essential infrastructure overall for Vineyard.

Where it is clear that the costs may be insufficient under IPART's recommendations, IPART considers it plausible for the Hawkesbury community to subsidise these costs for some three years, as highlighted in its media release. This is unacceptable to Council.

The implication for Council and the Hawkesbury community from IPART's recommendations is that there will be some \$25 million (to be determined after all inputs are finalised) in unfunded essential infrastructure in this State Government designated growth area. The Hawkesbury community must already fund an estimated \$10m plus in capital works costs for community facilities to meet the demand from growth in the Vineyard Precinct because the State Government policy currently disallows these costs in development contributions.

Hawkesbury LGA is one of the first to be excluded by the State Government from the Local Government Infrastructure Scheme (LIGS) which funded essential works in contributions plans



above the Minister's cap. Development in 15 other greenfield precincts in NSW, six of which are in the North West Growth Centre, were all potentially able to be subsidised under this program. Council had appealed to the State Government to allow Vineyard and the associated development to be included in the scheme but it refused.

The State Government policy does, however, allow Council to fully fund the reasonable cost of essential infrastructure in the community – an outcome which IPART's imbalanced assessment clearly **does not** provide for.

The draft Vineyard contributions plan was prepared by the State Government (the Department of Planning and Environment, or DPE) over four or more years as part of the precinct planning process. After such a long period and the high level of inquiries from landowners intending early lodgement of development applications, Council publicly exhibited the plan and then progressed it expediently to IPART (13 November 2018) in good faith based on the reasonableness of the overall proposed costs and contribution rates to help facilitate development progress in the precinct.

Council had also provided IPART with a preliminary version of the plan in February 2018, before public exhibition, on its request to help determine the readiness of the plan and none of the issues identified in its draft assessment report were identified by IPART then.

Council considers that IPART failed to acknowledge the process of information exchange in its report. On the contrary, it instead seeks to penalise Council where it considers it identified an issue with an underlying assumption in the plan without fair consideration of the additional information offered by Council to clarify the reasonableness of plan assumptions during the assessment and a balanced assessment of overall cost needs. It is thereby shifting the burden of financial risk in the plan onto the Hawkesbury community. [this wording needs to be adjusted]

While IPART has acknowledged that high-level costings are only available at this stage of planning only, where it has identified issues related to imperfect information or the complexities of the precinct planning process, many of the resulting recommendations appear to reflect more of a cost-cutting agenda rather than a balanced assessment of what it will still actually cost Council to deliver the infrastructure to the community.

Council contends that in reducing certain costs in the plan, IPART may have gone beyond the Premier's term of reference dated 18 December 2018, i.e. IPART must:

- (b) consider, in its review of the Reviewable Contributions Plan, whether the estimate of the costs of providing those public amenities and services, as set out in the Plan, are reasonable;



DPE guidelines describes 'reasonableness' comprising the concepts of fairness, equity, sound judgement and moderation.¹ Reasonableness invokes the following additional concepts: rational, full of common sense, logical, fair, just, equitable, practical, realistic, based on good sense, sound, judicious, valid, plausible and credible.

In Council's opinion, IPART has not provided evidence to demonstrate that the costs are so manifestly unreasonable that they need to be reduced. Council has put forward supporting information that demonstrates that costs are reasonable in the context of an area in the earliest stages of development.

It is not acceptable for Council to progress or adopt a plan where essential works costs are not reasonably accounted for. Council is particularly concerned that some of the recommendations, such as the land value recommendations, are based on a selective focus on certain market evidence only or consultant opinion based on highly questionable assumptions. Others, in terms of what passes the 'reasonableness test', are inconsistent with IPART's previous assessments and result in a significant shortfall in funds for Council to provide essential infrastructure for Vineyard.

Council is appealing to IPART to review many of its cost reduction recommendations in light of the additional evidence presented in this submission, including the additional expert opinions commissioned by Council based on contemporary market evidence and specific precinct infrastructure needs. Council has also identified that many of the cost estimates for certain infrastructure commissioned by DPE some four years ago are now significantly out of date based on current market rates, and the new estimates must be accounted for, particularly in light of the impact of IPART's other recommendations.

ONCE COUNCIL HAS ALL REVISED PROPOSED COSTS (\$) IT CAN INCLUDE A SUMMARY TABLE HERE WITH ITS RECOMMENDED NEW \$ AMOUNTS

Should these changes be made by IPART, the plan can be progressed and adopted after this assessment process so that infrastructure provision and development is not delayed unnecessarily in the Vineyard Precinct, and the community of Hawkesbury LGA is not unfairly left with **more than 20%** of the essential infrastructure bill.

¹ Department of Infrastructure Planning and Natural Resources (2005), Development Contributions Practice Notes



3 Summary of responses to draft recommendations

The following table lists each of IPART's draft recommendations and Council's summary response to each recommendation.

Recommendation		Summary of Council response
1	<p>For its next comprehensive review of the plan, obtain a detailed, site-specific cost estimate for the upgrade of Boundary Road to a collector road standard. In the interim, the council should revise the cost of the Boundary Road upgrade by:</p> <ul style="list-style-type: none"> • Using the unit rate per linear metre for collector roads from WTP's advice • Removing costs associated with the bridge upgrade • Retaining the cost of one roundabout and the upgrade to the intersection at Windsor Road • Retaining a 5% allowance for project on-costs and a 20% contingency allowance. <p>We estimate this would reduce the cost of transport works by \$10,565,316.</p>	
2	<p>Reduce the contingency allowance for new roads in the plan from 20% to 10%, in line with the advice from WTP, which we estimate would reduce the cost of transport works by \$417,808.</p>	
3	<p>Increase the cost of transport works by an estimated \$910,032 to correctly account for the three roundabouts in the collector road network, comprising:</p> <ul style="list-style-type: none"> • A reduction of \$636,975 for removing the cost of two roundabouts from the per linear metre rate of Commercial Road [items CR4 & CR5] • An increase of \$1,547,006 for the addition of three separately-costed roundabouts (\$515,669 per roundabout). 	
4	<p>Use a unit rate derived from WTP's cost estimates for the Vineyard CP to estimate the cost of full-width collector road upgrades [items CR2 & CR6], which we estimate would increase the cost of transport works by an estimated \$1,906,254 (including a 20% contingency allowance)</p>	
5	<p>Use a unit rate equal to 50% of the full-width rate derived from WTP's cost estimates for the Vineyard CP to estimate the cost of the half-width collector road upgrade [item CR8], which we estimate would increase the cost of transport works by \$193,359 (including a 20% contingency allowance)</p>	

Recommendation		Summary of Council response
6	Remove the double-counting of the contingency allowance for bus shelters, which we estimate would reduce the cost of transport works by \$67,692 (\$5,641 per bus shelter).	
7	<p>Reduce the cost of channel stabilisation works by an estimated \$7,072,502 by:</p> <ul style="list-style-type: none"> • Removing item DC2. Which would reduce the cost of stormwater management works by an estimated \$7,639,814 (including the removal of the contingency allowance of 20%), and • Adding Item DC1, which would increase the cost of stormwater management works by an estimated \$567,312 (including a contingency allowance of 10%). 	
8	Increase the cost of land acquisition by \$1,632,861 for Item DC1	
9	Reduce contingency allowance for all stormwater management works items to 10% of base costs, consistent with WT Partnership's recommendation, which we estimate would reduce the cost of stormwater management works by \$851,741.	
10	<p>Revise the cost of open space embellishment by excluding the areas of ENV land from the total area of embellishment, which we estimate would reduce the cost of open space embellishment by \$5,728,848, comprising:</p> <ul style="list-style-type: none"> • A reduction of \$3,447,326 for District Park 4 • A reduction of \$2,281,522 for District Park 5 	
11	Reduce the contingency allowance applying to the base costs of open space embellishment from 15% to 10%, which we estimate would reduce the cost of open space embellishment by \$1,945,608.	
12	Calculate the cost of plan administration for the Vineyard CP based on 1.5% of the adjusted cost of works, would reduce the cost of plan administration by an estimated \$367,544.	
13	Use a value of \$85 per square metre for flood liable land and \$120 per square metre for transmission easement land in the Vineyard Precinct.	
14	Reduce the cost acquiring land for District Park 5 by \$7,527,714 to account for the constraint on development arising from the presence of protected vegetation.	
15	Index the estimate cost of open space and community services land to the base period of the plan.	



Recommendation		Summary of Council response
16	Revise the interest costs in the plan taking into account IPART's recommended adjustments for transport and stormwater management costs, and the value of the subsidy under the NSW Government's Low Cost Loan Initiative.	
17	In response to this Draft Report, the council should clarify its intended approach to indexation of contribution rates, particularly in regard to indexation of contribution rates, particularly in regard to the indexation of contribution rates for land.	
18	Review the plan within the next three years to update and refine estimates of the scope, cost and apportionment of works.	



4 Comments on specific recommendations

4.1 Land values

4.1.1 Constrained land value ignores the most relevant market evidence (recommendation 13)

IPART's draft report recommends (Rec. 13) that the value of constrained land be reduced from \$100/m² to \$85/m², which results in a total cost reduction in the plan of \$4,129,950. We note this accounts for 39% of IPART's net cost reduction recommendations for land in the plan.

IPART stated its reason was because it had considered that:

... cost estimates for constrained land identified in the plan, are not reasonable, and not supported by sufficient market evidence. [ref to be inserted]

Council rejects this statement; in fact, it is simply untrue.

The \$100/m² average rate for constrained land in the plan is recommended by the valuer, Kent Wood, who was originally commissioned by the Department to provide the estimate for the likely land acquisition costs to be incurred by Council in administering the plan. In all other cases in its review, IPART has maintained a very stringent adherence to all DPE's consultant opinions and has chosen to deviate from the opinion of a consultant only in the case of land values in the plan.

IPART's assessment of the constrained land rate is based on the premise that there is insufficient sales evidence to support Kent Wood's original valuation opinion.

The lack of relevant sales evidence within the boundaries of Vineyard Precinct is a reality of the early stage of development in Vineyard and lack of actual relevant sales that have occurred to date. Professional valuation judgment, based on a broader market perspective, is certainly required. But specific to constrained land within the Vineyard Precinct, IPART already has knowledge of three separate valuer opinions that \$100/m² is a reasonable for constrained land, and all advice was made independent of Council.

In particular, during the assessment process, IPART was provided with evidence from a decision by the NSW Valuer General for *an actual acquisition by Council for fully constrained (100% flood liable) land within the Vineyard Precinct*. The land was described by the Valuer General, as follows:

Based on the accurate flood extent maps, the entire area of the Acquired Land (1.309ha) is inundated during the 100 year ARI event (p 34 of the VG Preliminary Report).

The Valuer General decided that the market value for the land should be \$100/m² plus compensation costs. If this was accepted by the landowner, the actual costs in the contributions plan would therefore be \$100/m² plus compensation costs and Council's other expenses (conveyancing, legal etc). In actual fact, there is already evidence to suggest that this decision will be appealed by the landowner on the basis that the land still has some development potential, despite it being 100% flood liable. Therefore, an even higher rate than \$100/m² is likely to be contested in court by the landowner. This is the reality of the challenges and costs faced by Council in acquiring land for infrastructure needs in the Vineyard Precinct.

The Valuer General explained in detail in its report which land would be most similar to the flood liable land in the Vineyard Precinct to inform his decision of the \$100/m² rate. He considered that the most appropriate sales evidence for the land was as presented in **Table 1** below.

Table 1 Most Comparable Sales for 100% Flood Liable Land in Vineyard Precinct identified by Valuer General in April 2019

Address	Suburb	Sales date	Sales price	Land area	Zone	Shows
5 Putland Place	Vineyard	19/05/2017	\$2,100,000	2.024 ha	E4, RE1, E2	\$87/sqm
149 Foxall Road	North Kellyville	23/10/2018	\$3,125,000	2.459 ha	E4	\$111/sqm
6 St James Road	Vineyard	24/03/2018	\$4,000,000	2.027 ha	RU1	\$143/sqm
36 Level Crossings Road	Vineyard	03/11/2017	\$3,100,000	2.203 ha	RU4	\$145/sqm
20 Bruce Place	North Kellyville	02/02/2018	\$3,420,000	2.026 ha	E4	\$164/sqm
					Average	\$130/sqm

None of these sales incorporate a land value of \$85/m² or lower, which is recommended by IPART. The lowest is \$87/m², and the Valuer General reported that this was inferior with greater flood affectation to the O'Dell property; the others were higher values than \$100/m², with less flood affectation generally. But these were the sales that informed the \$100/m² landed on by the Valuer General as a reasonable estimate for the Vineyard Property.

Despite the Valuer General report being made available to IPART by Council during the assessment (17 April 2019), it did not acknowledge this critical piece of supporting information in its draft assessment report.

IPART also commissioned its own land valuation advice, unbeknown to Council, in mid-May 2019 – just two weeks before it released its draft assessment report to inform another significant



cost reduction recommendation it sought to make to land values in the plan (see **Section x.x** below).

In its advice to IPART, the valuer (Lunney Watt and Associates Pty Ltd) states that the \$100/m² for constrained land is “within market parameters”. Further, Lunney Watt and Associates recommended that \$100/m² be applied to the constrained land in their assessment. Once again, this advice was not acknowledged by IPART in its draft report in discussing its reasons for the \$85/m² decision on constrained land.

Instead, IPART’s recommendation is based on valuation reports (by MJDavis) that were commissioned by Blacktown City Council (in 2017 and 2018) to inform its land valuation estimates for its own contribution plans. The reports are not publicly available, but Council has since been provided with copies after the release of IPART’s draft report.

IPART had stated that the reports had identified that an average of lands considered by that value for the relevant Blacktown City lands was \$85/m². Therefore, IPART had considered that that average should automatically apply to the Vineyard Precinct.

However, this position by IPART ignores the following facts:

- The advice IPART has relied upon is for Blacktown City constrained land, not for Vineyard Precinct land. The sales evidence for constrained land used in the valuation advices provided for CP20 (Riverstone) and CP22 (Rouse Hill) are based mainly on land sales within precincts outside of the Riverstone Precinct (which at least borders Vineyard Precinct to the south).
- In the most recent valuation advice (2018) to BCC, MJDavis referred to seven sales evidence examples – one in West Schofields, five in Shanes Park, one outside a release area altogether and one in the Vineyard Precinct. The one sale example in the Vineyard Precinct (June 2017) shows a constrained rate of \$104/m², much higher than all the other example rates in the report. It is 100% flood affected but noted as superior to the other sites in Blacktown.
- The Valuer General considered that The Hills Shire land provided the best sales comparisons for Vineyard Precinct land for a number of reasons that it details in its preliminary report yet the ‘average’ relied on by IPART includes mainly parcels of Blacktown City’s land south and west of Riverstone. West Schofields and Shanes Park precincts are many kilometres from Vineyard – Shanes Park has not even been rezoned or yet planned for urban development.

It is also of note that these other MJDavis valuation reports value residential (R2) land (undeveloped) for the NWGC consistently higher than the \$300/m² that is proposed in the Vineyard contributions plan. The range is consistently between \$350-450/m². IPART has not



recommended a review of the R2 lower rate in the Vineyard plan, despite the fact that it has used the same valuation advice to justify its lower \$85/m² constrained rate recommendation.

As a result of IPART's report, Council has commissioned Kent Wood, the valuer originally commissioned by DPE, to obtain his opinion again on land values in Vineyard and IPART's recommendations. He advised that:

ADVICE TO BE INPUTTED ONCE AVAILABLE FROM KENT WOOD

(An updated value for R2 land, as recommended now by Kent Wood, is discussed by Council further below in **Section x.**)

Under IPART's draft recommendation on flood-labile land rates, Council estimates that it would already experience underfunding by 16% of the *actual costs* incurred for an acquisition of 1.309 hectares (and this also ignores Council's additional legal /conveyancing costs).

For all the reasons above, Council considers that a \$100/m² estimate for constrained land in the plan clearly complies both with the EP&A legislation for section 7.11 plans and DPE's Practice Note requirements for reasonable cost estimates with appropriate supporting information.

IPART has not demonstrated that the constrained land cost rate is manifestly unreasonable. In Council's view of the Practice Note and IPART's terms of reference, it is well outside IPART's role in assessing contributions plan to mount an opposing case for a different, lower rate with a selective use of certain market evidence only. Land values can be somewhat unpredictable to begin with and the Council and Hawkesbury community are already exposed to considerable risk when landowners in compulsory or forced acquisition cases will usually seek the highest price possible.

Council appeals to IPART to remove this recommendation (Rec 13) from its final findings altogether.

4.1.2 The assumed value of transmission easement land is also unjustified (recommendation 13)

IPART's draft recommendation 13 also stated that Council should use a \$125/m² rate for the transmission easement land in the Vineyard contributions plan rather than the proposed \$150/m². This would result in a small cost reduction in the plan of \$61,132.

Although the amount is relatively small, Council submits that IPART's position is unreasonable and does not properly consider all relevant information available.



Kent Wood, the valuer commissioned on behalf of DPE to inform the average land values in the plan, had recommended a market range of \$125-\$150/m² for the 0.2 hectares of transmission easement land in the plan.

On being questioned by IPART during the assessment process on the applied rate of \$150/m², Council submitted that it considered that it was prudent to adopt the higher rate when the plan, especially since it was conservative in other respects (e.g. no contingency costs for land values were proposed in the plan). This advice by Council was not acknowledged by IPART in its draft report.

IPART's reasoning (in its draft report) for its recommendation of \$125/m² is as follows:

For transmission easement land, recent valuation advice from another valuer (engaged by other councils in the NWGA) consistently refers to a Land and Environment Court decision that land encumbered by a transmission easement shows a 60% discount to an underlying R2 land value. In the Vineyard CP context, a 60% discount to the R2 land value results in a value for transmission easement land of \$120 per square metre. This is within the \$120-\$150 per square metre range recommended by the council's valuer but is below the \$150 per square metre applied by the council. [ref to be inserted]

and that

The Hawkesbury City Council has not provided any justification for applying the highest value recommended by its valuer. [ref to be inserted]

Council's main concerns with IPART's position are as follows:

- The independent valuer commissioned on behalf of DPE to value the land originally (Kent Wood) would appear to form a reasonable justification for the land value adopted by Council – why wouldn't Council, acting prudently and with appropriate caution, ensure it had a land value within the higher of the recommended parameters in the plan, especially for such a small area of transmission easement land?
- The justification by IPART for the lower rate refers essentially to "the recent advice from another valuer" which relates to IPART's other advice to inform its \$85/m² recommendation, and Council has shown clearly in this submission (including with Valuer General advice) that this is not even the most appropriate valuation comparison for the Vineyard Precinct.
- The 60% discount rule is not a hard and fast rule that must be adhered to in all valuations, it's a broad guide at best and certainly hasn't been adhered to in all IPART's previous assessments.

- MJDavis, in the same valuation advice to BCC referred to by IPART in its report, also stated that transmission land should be at least \$135/m² when circa one third of the land to be acquired is subjected to this constraint. This advice appears to have been overlooked by IPART.

Below is a map of the segment of easement land in the Vineyard Precinct (in the dotted line section), which shows how relevant the 'one third' advice is for the relevant lots as the easement areas make up around one third or less of the total lot areas. This factor would certainly be considered closely in compensation cases: (This need to be checked)



Kent Wood's response to IPART's draft report has advised that:

ADVICE TO BE INPUTTED ONCE AVAILABLE FROM KENT WOOD

Once again, Council considers that the estimate of \$150/m² was reasonable to begin with and appeals to IPART to remove this recommendation (Rec 13) from its final findings altogether.

Council also wishes to emphasise that the additional costs it has incurred to further justify a higher amount in this submission, in part already materially offset the relevant cost difference for this small land area.

4.1.3 The land value rate for District Park 5 will result in significant underfunding for land acquisition costs (recommendation 14)

Note: This focus of this response really depends on the advice from Kent Wood to come

IPART recommended (Rec 14) that Council remove a further \$7,527,714 in costs for land with an underlying zoning of R2 for District Park 5 to reflect the restricted development potential of the presence of native vegetation of land on the site.



Council does not support this recommendation as it is based on an incorrect assumption about the nature of the land and the steps in the rezoning process, which renders it completely unjustified.

which is questionable at best. **or //** it is presented in isolation in IPART's draft report because it ignores the averaging approach of the application of the proposed \$300/ m² rate to all unconstrained land acquisition with an underlying zoning of R2 land in the plan, as was recommended by Kent Wood. Further, Council's valuation **xx** is different to the valuation commissioned by IPART by xx (if **relevant**).

IPART's draft recommendation is specifically based upon:

- Applying the same average rate for other constrained land (\$85 per m²) to the 26,557 m² designated as ENV (native vegetation land).
- Applying the unconstrained rate (\$300 per m²), discounted by 50% ecology risk/cost, to the remaining portion of the land that is non-certified (12,388 m²).

IPART explained its position as follows:

In its application of average land values the council has not accounted for the presence of protected vegetation in District Park 5, which is located towards the middle of the precinct. The plan includes \$11.8 million for the acquisition of this park.

Post-exhibition of the Indicative Layout Plan, the land forming District Park was re-classified as "Non-Certified" land pursuant to the relevant biodiversity measures of the Biodiversity Certification Order (See Figure 9.1). This means that vegetation cannot be removed without environmental assessment, and onerous conditions of any development approval may be imposed by the relevant consent authorities, including the requirement to purchase expensive Biobanking Ecosystem Credits. **[ref to be inserted]**

Council notes that IPART has formed its view based on the advice of a valuer, Lunney Watt and Associates Pty Ltd, who it commissioned on 13 May 2019 to specifically value this site under its instructions, and the valuer provided the advice two days later on 15 May 2019, suggesting a cursory review of relevant information informed the valuation. IPART's final report was then published on 31 May 2019, further suggesting that this \$7.5m cost-reduction recommendation was 'fast-tracked' into its report.

Council was not asked any questions from IPART about the valuation of this site throughout the assessment process and did not know it was of concern.

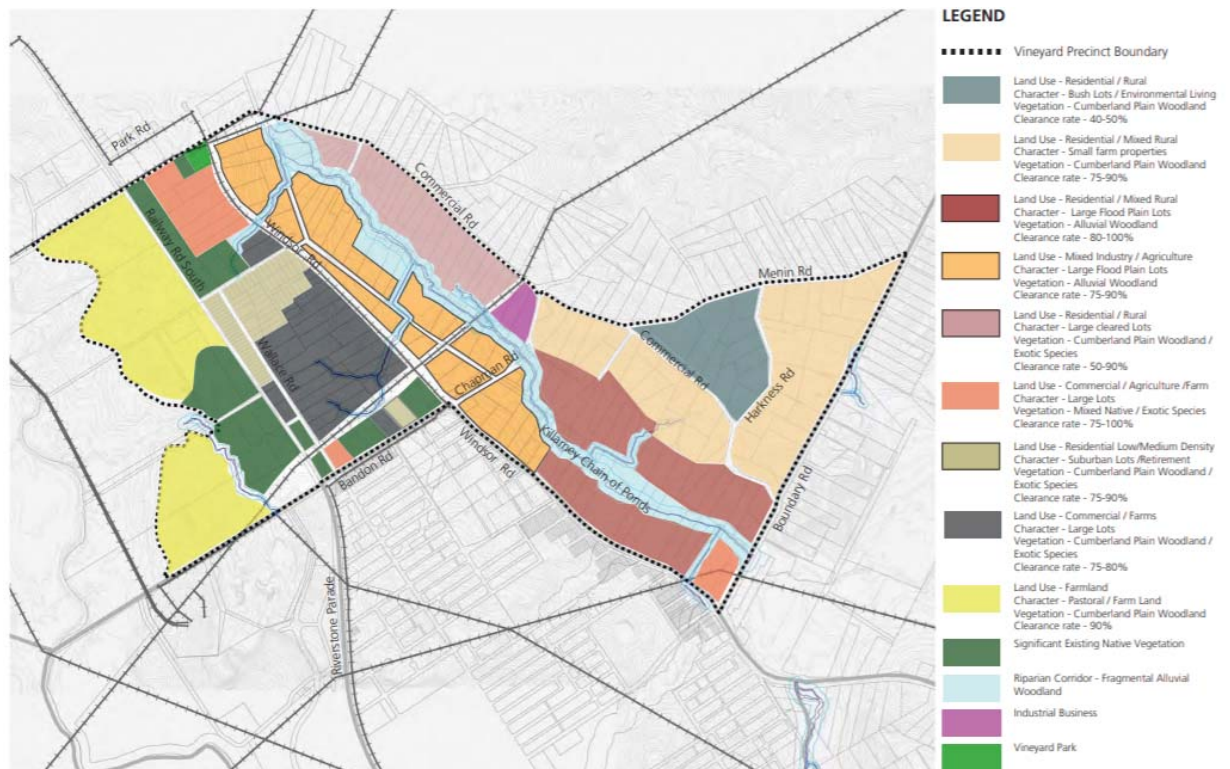
The valuation by Lunney Watt, which itself, is highly subjective even **if** the main assumption upon which it was based was correct to begin with, appears to have been made under a



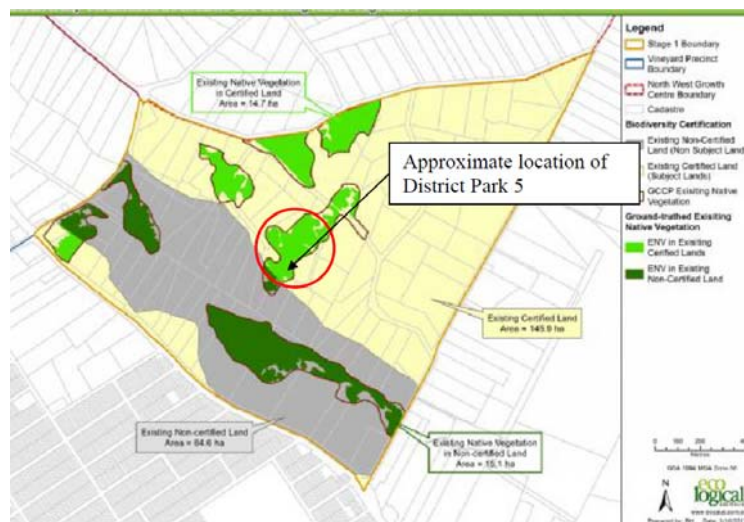
misconception about the landscape nature of the ENV land and native vegetation which actually exists on the site relative to other residential development sites in the area at present (pre-development). This misconception appears to have been shared by IPART, as reflected in the open space embellishment cost recommendations about the ENV land.

Figure 2 shows the pre-development land use and landscape character of the Vineyard Precinct.

Figure 2 Vineyard Land Use and Landscape Character Diagram (Pre-Development)



Source: Place Design Group for DPE, *Vineyard Precinct Landscape & Visual Analysis Report*, November 2016.



The areas in question (DP4 and DP5) largely consist of lands with large floodplain plots, alluvial woodland and a clearance rate of 80-100%. The landscape analysis by Place Design Group (2016) which informed precinct planning noted how “Possible impacts (of development) could be minimised with the retention of Alluvial woodland vegetation along the creek line and rehabilitation and revegetation.” This is why certain areas (DP4 and DP5 sites) were zoned RE1 – to retain some vegetation and rehabilitate where it made most sense to do so (along the riparian corridor) rather than there being dense vegetation in those areas to begin with.



In particular, Lunney Watt has incorrectly assumed that it is not necessary to give effect to the Section 56 statutory disregard of the Just Terms Compensation Act:

(56)

His reasoning is as follows:

If the fact were to be that the designation of the District Park 5 as “ENV” pursuant to the Native Vegetation Protection Map and/or the re-classification of District Park 5 to “Non-Certified” land pursuant to the BCO was caused by the Council’s proposal to acquire District Park 5 in the future for public recreation purposes, it would be necessary to ignore any restrictions or development constraints which are suffered as a result of these matters. This would be necessary to give effect to the Section 56 statutory disregard.

From my review of the foregoing chronology, there does not appear to me to be a sufficient causal connection between the Council’s (future) proposal to acquire District Park 5 and the ENV designation or the Non-Certified land classification. In fact, there does not appear to be any nexus or causal connection at all. [ref to be inserted]

And that:

In the present matter, the Acquisition Land, District Park 5, has a moderate cover of remnant native vegetation which is likely to represent a material development constraint.

But disregards:

If a thorough legal and factual analysis indicates that the actual zone had been imposed or retained by reason of the proposal to carry out the public purpose for which the land was to be acquired, it is necessary and appropriate to consider the market value of the land on the basis of an alternative or

Underlying Zoning.

The native vegetation which exists on District Park 5 is a physical characteristic and constraint of the land. The existence of this vegetation, and consequential constraint was not caused by any proposal of the Council to acquire District Park 5 in the future, for public recreation purposes.

We reject this statement and this is why. This is the landscape analysis map:



The decision to rezone that particular land as RE1 (District Park 5) was formed as part of the precinct planning process in order to protect the land and retain the land, effectively offsetting other clearing of vegetation elsewhere to make for the development. The decision was not based on particular greater coverage of 'native vegetation'. This is what this map clearly shows: it is not a dark green, native vegetation areas. The reason the area was zoned that was because it was close to riparian corridor. But a landowner or possible developer would argue that would have been just as valuable to develop as other land in the precinct – where the same ground cover exists. If there was no RE1 zoning, it would not be non-certified. The area was specifically non-certified to protect it. Therefore to state that there is no causal connection is a nonsense. Statutory 56 would come into play. And Council also wishes to add that it does not think that it is IPART's role to emulate an expensive just terms style valuation battle on this land. The costing was appropriate to begin with, because it is a most reasonable and likely outcome for a court.

Note for Council, the line of argument depends on Kent Wood's valuation advice. If he finds the underlying assumption incorrect from the Lunney Watt advice, he might recommend a higher rate than Lunney Watt. This is because Lunney Watt identified that

You (IPART) have instructed me to assume that of the total area of District Park 5 (38,945 square metres), 26,557 square metres is within a designated ENV area. [ref to be inserted]

And that

A significant part of District Park 5 is depicted as being within a Native Vegetation Retention Area (NVRA). From my review of the Growth Centres SEPP there does not appear to be any specific controls related to the NVRA classification. The NVRA is depicted in vegetation mapping in the EcoLogical Report as containing Cumberland Plain Woodland (CPW) vegetation of a similar type and quality to the vegetation on the land which is classified as ENV. [ref to be inserted]

And in particular, that

If the fact were to be that the designation of the District Park 5 as "ENV" pursuant to the Native Vegetation Protection Map and/or the re-classification of District Park 5 to "Non-Certified" land pursuant to the BCO was caused by the Council's proposal to acquire District Park 5 in the future for public recreation purposes, it would be necessary to ignore any restrictions or development constraints which are suffered as a result of these matters. This would be necessary to give effect to the Section 56 statutory disregard.

From my review of the foregoing chronology, there does not appear to me to be a sufficient causal connection between the Council's (future) proposal to acquire District Park 5 and the ENV

designation or the Non-Certified land classification. In fact, there does not appear to be any nexus or causal connection at all. [ref to be inserted]

This is questionable since the chronology shows that the non-certification of the land occurred because of the rezoning process (zoned RE1), not separate to rezoning, and it is the rezoning which is why Council must acquire the land. **Kent Wood to provide advice on this.**

The application of the \$300/m² rate in the proposed contributions plan for Vineyard Precinct is based upon the underlying zoning, as shown in the segment of the precinct rezoning map as below, where the majority of the land is surrounded by low density development:



As IPART's valuer stated:

The concept of an Underlying Zoning is well established in valuation principle and relevant case law and is generally understood to be the zoning which would have applied to the Acquisition Land if the proposal to carry out the particular public purpose for which the land is to be acquired did not exist and had never existed. [ref to be inserted]

The plan had applied the \$300/m² rate to all relevant land with an underlying zoning of R2 land as an average. This does not mean that all specific land sites in the plan will be exactly valued at this rate – as Council acquires individual sites, some will likely be lower (potentially DP5) and some will likely be higher (e.g. **depends on Kent Wood's advice.**) IPART's focus on one site which will be lower, without consideration of other sites which will likely to be higher, ignores this fact.

IPART, in its review of CP21 for BCC, has previously dismissed arguments to deviate from the average rate in the plan based on specific site estimates:

We consider that in the absence of any information about the extent of work required to make the land developable, any alternative rate, including a midpoint, is arbitrary. The averaging methodology has been used across all land to be acquired by the council **and it would be inconsistent to adjust the approach for certain properties only**. For some properties where there is a mix of constrained and unconstrained land, the rates paid by the council might be closer to the underlying zoning rate (and therefore the higher land value rate), while in others, the rate might be closer to the lower, constrained rate. The averaging approach helps to smooth these differences over the total land acquisition costs in the plan. (IPART, *Assessment of revised Section 94 Contributions Plan No 21 – Marsden Park*, p 53)

But now in its assessment of the Vineyard plan, it has deviated from the average by seek to make a recommendation with a separate, lower value for one specific area of land.

Final comment depends on Kent's Wood's updated valuation of R2 land, if applicable, and advice on the rate as an average

4.1.4 The plan should also include a reasonable contingency for additional land acquisition costs

Kent Wood is going to consider providing advice on an appropriate % to cover contingencies for compensation, legal, conveyancing, other costs.

The Vineyard Precinct draft contributions plan prepared by DPE did not include any allowance for contingencies to cover compensation in land acquisitions or associated legal, conveyancing and other costs. Council did not include these costs when progressing the plan because it considered the overall cost allowances recommended were reasonable. However, its first acquisition of land in the Vineyard Precinct has already demonstrated the significant costs and risks it is exposed to without an appropriate allowance for these costs in the plan. The matter has not yet been settled in court (such that the main legal expenses are still to come for Council) and already it has incurred some 4-5% (?) of the cost estimate in the proposed plan in additional costs.

Further, in light of the strong focus on reducing any land value estimates that IPART considers "high" in its assessment, without also considering where cost provisions might be insufficient or "low", Council considers it is now imperative to propose an additional allowance for these type of costs in the plan.

Council understands that other councils, such as Camden Council, have included an allowance for contingencies in its land acquisition cost estimates for greenfield contributions plans at very



early stages of development. For the Camden Growth Areas Contributions Plan, Camden Council proposed a 12% contingency be allowed in that plan based on a consultant's advice and this was endorsed by IPART in its final assessment report of May 2018 (pp 86-87) as follows:

Camden Council's land cost estimates in CGA-CP include a contingency allowance of 12% of the estimated market value, based on advice from MJ Davis. This allowance is included to cover the cost of any just terms compensation that the council may be required to pay a landowner under the Land Acquisitions (Just Terms Compensation) Act 1991 (Just Terms Compensation Act). This includes compensation for matters such disturbance, relocation, legal costs, valuation fees and stamp duty associated with a compulsory acquisition. We prefer that any just terms compensation costs in contributions plans are based on fixed costs rather than a percentage of the estimated market value.

This is because:

- the components of the likely compensation comprise mainly fixed costs, and
- market values can vary significantly, making a percentage approach less accurate.

However, we consider that the 12% contingency allowance included in CGA-CP is reasonable at this stage of development in Leppington and Leppington North, because:

- it is based on the professional opinion of an external valuer, and
- with minimal development in the precincts, Camden Council would likely have to pay the full suite of relevant compensation under the Just Terms Compensation Act.

Council notes that 12% of its original total land acquisition costs in the Vineyard plan would be an additional \$9.5m.

Council proposes that a x% allowance be included in the Vineyard Precinct Contributions Plan as recommended by Kent Wood, which amounts to \$x of originally proposed costs in the plan (depends on Kent Wood's advice). We submit that IPART incorporate this allowance into its final recommendations to reduce compliance costs for Council in having to instead resubmit the plan for its assessment and delay the plan adoption for potentially another 6-12 months.

4.2 Stormwater works

4.2.1 Channel stabilisation works are required and should not be removed from the plan (Recommendation 7)

The plan prepared by DPE for Council had included \$7,072,502 in channel stabilisation works along drainage channel 2 (DC2) of the Killarney Chain of Ponds. Council had always considered that it would need to undertake these works as a result of the development and



linear open space along the riparian corridor where significant flooding risk occurs, and the plan was progressed to IPART with these works included.

The contributions plan explains that a key component of the stormwater drainage network included use of the capacity of the existing creek system to manage flood events.

However, IPART has considered that reasonable nexus does not exist for the works and so recommended (Rec. 7) that the full cost of the works be removed from the plan.

IPART identified that the Mott MacDonald report, the water management study commissioned by DPE to help inform stormwater infrastructure in the precinct, proposes creek embellishment works on first order streams only, and because DC2 was not a first order stream, there would be no need for the works as a result of new development.

During the assessment process, IPART questioned Council about the need for the works. Responses from Council, which were not acknowledged in IPART's draft report, included the following:

...the bank stabilisation works for DC1 and DC2 were included in the draft plan prepared by the Department of Planning and Environment as necessary stormwater management infrastructure. Council supports the need for the works which are required to achieve the development outcome planned by the Department of Planning and Environment. This is particularly the case given the expected impact (potential for significant erosion) to the banks of these creeks once urban development occurs. Without the stabilisation works, it is expected that the banks will fail leading to considerable levels of complaint from adjoining urban development, and a higher level of maintenance costs to ensure ongoing stabilisation. [ref to be inserted]

And

It should also be noted that the extent of this flooding that was experienced in February 2019 along the floodplain of Killarney Chain of Ponds further underlines the importance of Council undertaking the DC2 bank stabilisation works as included in the plan. ... The DC2 works are required to mitigate the flooding impact on surrounding development. The extent of linear open space embellishment along the corridor that is required will have a significant impact of the stability of the corridor and it is critical that this work be undertaken to facilitate that development. Otherwise, increased flooding of the parks and other development is likely. [ref to be inserted]

Council considers that there is still a need for the works, despite IPART's findings. The water management technical study informs the infrastructure needs of the precinct but it is not the only information that should be taken into account. Other Sydney Growth Centre contributions plans approved by IPART (such as Blacktown and Camden plans) adopt adjustments to original



precinct planning water management study recommendations, when the council considers that other objectives still need to be met.

In other recent assessments of contribution plans, IPART has applied a much more lenient 'reasonableness test' with its assessment of nexus for channel stabilisation works and Council's supporting information. For example,

- In its assessment of the Camden Growth Areas Contributions Plan (CGA-CP) (May 2018), it found that there was nexus for channel stabilisation works, without any justification in a technical study, as follows:

CGA-CP includes the costs of stabilising existing watercourses (Channels C1, C2, C4 and C5) in Leppington North. These works were not included in Cardno's stormwater management strategy for Leppington North. Camden Council explained that the existing channels are required to efficiently convey stormwater in the precinct to ensure the development outcome planned by DPE. The costs include earth works stabilisation of exposed soil and are based on Council's experience with stabilisation works in other areas of Camden. We consider that Camden Council's explanation for including stabilisation works for existing watercourses in Leppington North in CGA-CP establishes nexus for these works. [ref to be inserted]

- In its assessment of the Menangle Park Contributions Plan (December 2018), it recommended that riparian regeneration works of \$12.3m and \$6m that were classified as open space embellishment be reclassified as stormwater management works, when not recommended in any supporting water management study. IPART stated that

... the stormwater management strategy which the council has adopted to meet water quantity objectives for the Menangle Park Urban Release Area is based on channel stabilisation, and a small number of detention basins. We therefore consider the revegetation and regeneration works are consistent with the essential works list but recommend that they are re-categorised as stormwater management works. [ref to be inserted]

As a result of IPART's draft assessment report for the Vineyard plan, Council commissioned J. Wyndham Price (JWP) (David Johnson), civil infrastructure experts, to further assist in assessing the need for the works. David Johnson advised that:

"INPUT DAVID JOHNSON's ADVICE WHEN AVAILABLE"

For these reasons, Council requests that IPART reinstate the \$ m in channel stabilisation works in the plan on the basis that there is reasonable evidence to establish nexus for the works.



4.3 Transport costs

4.3.1 A more accurate cost estimate for the Boundary Road upgrade (recommendation 1)

The proposed Vineyard contributions plan includes \$15,473,035 or 43% of \$35,983,802 as the estimated cost of upgrading Boundary Road (which forms a collective boundary of Vineyard and Box Hill precincts). The 43% share is based on a recommended apportionment of costs by DPE to represent the assumed demand generated by Vineyard Precinct development only. The high-level specifications for the upgrade and cost estimates were also prepared on behalf of DPE to inform the draft plan through the precinct planning process.

There were three different cost estimates prepared during this process for this upgrade work (by AECOM, ARUP and then WTP (who reviewed the costing)), and the final cost estimate adopted in the draft plan was for a 23m width road at a unit rate of \$14,240/m, including a replacement bridge over Killarney Chain of Ponds (estimated cost of \$7,734,614).

IPART identified that the unit upgrade rate was for a sub arterial rather than the collector road specification which was noted in ARUP's final traffic needs study (2017) and the Vineyard Development Control Plan (DCP) (released in 2018) and so it recommended (Rec 1) that Council should:

For its next comprehensive review of the plan, obtain a detailed, site-specific cost estimate for the upgrade of Boundary Road to a collector road standard. In the interim, the council should revise the cost of the Boundary Road upgrade by:

- Using the unit rate per linear metre for collector roads from WTP's advice
- Removing costs associated with the bridge upgrade
- Retaining the cost of one roundabout and the upgrade to the intersection at Windsor Road
- Retaining a 5% allowance for project on-costs and a 20% contingency allowance.... [ref to be inserted]

It estimated that this would reduce the cost of transport works by \$10,565,316.

First, Council wishes to contend the statement in IPART's draft report that the change in the classification of the road occurred early in the precinct planning process. Below is the road network map in the Mott Macdonald's Final Infrastructure Planning Report for Vineyard dated October 2017 – just two months before the finalization report from DPE was published, where the change in classification was reported. In the DPE Finalization Report for the Vineyard Precinct, the change is not listed as a major planning change but rather is identified in the table of explanatory notes to the figures, which is attached to the main report [ref to be inserted].

Figure 3.6: Proposed Road Hierarchy



While Council acknowledges that an updated estimate for the Boundary Rd upgrade is a prudent option based on the reclassification of the road as a collector road (which occurred very late in the precinct planning process), we wish to raise the following concerns with this recommendation:

- The interim allowance for the upgrade (based on a unit rate of \$5,650/m) is clearly well below the likely cost of the Boundary Rd upgrade, leading to a significant shortfall of contributions revenue to fund the essential infrastructure in the plan.
- It does not properly represent the complexity of the precinct planning process concerning the Boundary Road upgrade and how Council had quite reasonably relied on the estimates which were provided by DPE in the draft plan it had prepared as a product of this process. Instead, IPART expects the Hawkesbury community to now bear a significant share of the cost of the roadwork because of what it considers to be the inadequacy of the final plan estimates presented to Council in precinct planning.
- It is inconsistent with IPART's previous assessment of the Box Hill plan regarding the road requirements. Once again, this illustrates how unclear the requirements for the roads have been throughout the process. IPART assessed the Box Hill Contributions Plan (as amended) in October 2018, and still endorsed the full cost of the replacement bridge works on Boundary Rd be contained in that plan. Conversely, it has recommended the apportioned share of the cost of these works be removed entirely in this assessment of the Vineyard plan.
- It requires that Council undertake detailed design and specification work *before* it can include reasonable cost estimates for the infrastructure in the plan, which is not required

for any other infrastructure in the plan. Under the current Practice Note, this requirement would potentially stifle the contributions plan finalization process by another 6-12 months because the plan would then need to return to IPART for another review. Once again, it is not acceptable to Council for the Hawkesbury community to subsidize the cost of essential infrastructure “in the interim” because of unnecessary red tape concerning the current contributions plan review and adoption process.

Council engaged Mitchell Brandtman to prepare an updated cost estimate for Boundary Road to try to address IPART’s concerns. Mitchell Brandtman’s advising QS consultant is Matthew Kritzler who originally reviewed the ARUP cost estimates and prepared other cost estimates for the plan (when he was a consultant with WTP).

Matthew Kritzler also has significant experience with costing upgrades of other segments of Boundary Road.

He has recommended:

INSERT MATTHEW KRITZLER’S ADVICE WHEN AVAILABLE. Needs to address:

- whether assumed road straightening would be necessary (for a single lane collector road.)
- whether there is a need to replace the existing bridge over the Killarney Chain of Ponds Creek System, with a collector road upgrade.
- Requirements for roundabouts and tie-in roads
- Whether the standard would be suitable for flood evacuation purposes.

4.3.2 New collector road rates to be included in plan

The rates are very low in the plan and IPART reduced them by another 10% (due to a contingency reduction) etc

Input Matthew Kritzer’s latest rates, if applicable.

4.3.3 Additional evidence for updated creek crossing costs

During the assessment process, IPART questioned Council as to why the plan adopted a rate for creek crossings based on the Camden contributions plan assessed by IPART in 2017/18. The DPE-prepared plan did not include any consultant cost estimates for the creek crossings and in the absence of any other estimates, consultants (GLN Planning) adopted the Camden-based rate.



On being questioned about the reasonableness of the rates, Council considered the specifications for the bridges and submitted to IPART a revised cost estimate of \$250,000 per crossing on the basis of its own experience in delivering other bridge infrastructure over Killarney Chain of Ponds.

In its draft report, IPART found that the total cost of the four cycleway creek crossings included in the plan of \$404,706 needed to be retained on the basis that:

The council advised the cost of cycleway creek crossings is likely to be too low given the bridges spanning Killarney Chain of Ponds creek system would need to be around 20-30 metres long. ... The council provided no further information about the length or design of the bridges. It may well be the case that the span of the bridges will be in the range indicated by the council, but at this stage we do not have sufficient information about the specifications for the crossings, nor cost rates on which to base a finding and recommend a cost adjustment. [ref to be inserted]

Council considers that the length requirements that it advised IPART (in response to questioning about the adequacy of the estimates) and its own bridge construction and cost experience forms a reasonable source of information in the plan and is superior to the Camden-based rate.

Council asked JWP to assess the crossing needs as part of its assessment of the Killarney Chain of Ponds channel stabilisation works and it advised that:

INSERT JWP ADVICE WHEN AVAILABLE

4.4 Open space embellishment costs

IPART made two recommendations to reduce the cost of open space embellishment in the proposed Vineyard Precinct contributions plan, as follows:

10. Revise the cost of open space embellishment by excluding the areas of ENV land from the total area of embellishment, which we estimate would reduce the cost of open space embellishment by \$5,728,848, comprising:
 - a. a reduction of \$3,447,326 for District park 4
 - b. a reduction of \$2,281,522 for District park 5.
11. Reduce the contingency allowance applying to the base costs of open space embellishment from 15% to 10%, which we estimate would reduce the cost of open space embellishment by \$1,945,608.

These recommendations together would reduce the original proposal cost of open space embellishment works of \$28,416,706 by \$7,674,456 or 27%.

Council maintains that the proposed original cost for open space provision as prepared by the DPE was more reasonable to begin with – in fact they appear to be too low based on current market rates and all necessary base level inclusions (depends on MB costings now) - and that IPART's approach in its assessment will likely either result in a significant cross-subsidisation of facility costs by the Hawkesbury Shire community or a significant under provision of facilities for the needs of new development in the Vineyard precinct.

Further, IPART's recommendations appear to have nil regard for the actual likely cost of provision of open space embellishment in native vegetation protection areas and along riparian corridors, information of which it has access to with its recent (December 2018) assessment report of another North West Growth Centre precinct contributions plan, that of Blacktown City Council's Rouse Hill.

In the Rouse Hill plan assessment, IPART commissioned Morrison Low (QS) to review and recommend rates for all open space embellishment items including riparian corridor works where areas are predominantly ENV (non-certified) lands. This cost information – based on latest market rates - is highly relevant to other North West Growth Centre precincts like Vineyard since open space embellishment rates in greenfield sites in the same region with similar terrain characteristics should be comparable.

For the embellishment works in the Vineyard precinct for which IPART has allowed a nil cost and extracted \$5.7 from the proposed plan (basic rehabilitation-style landscaping, largely in ENV areas), **it recommended a rate of embellishment of \$92/m² for the Rouse Hill plan**, and this rate excluded any other park item inclusions such as playgrounds or amenities) (insert ref). In fact, with Morrison Low's advice, IPART also recommended rates of park embellishment for other forms of landscaping as high as \$196/m² in the Rouse Hill plan, and this still excluded playgrounds, amenities and other additional items.

The Vineyard plan had proposed an average rate of just \$86/m² in total for all passive park embellishment (with playgrounds and other inclusions), on average, which is still below the \$92/m² rate recently endorsed by IPART in the Blacktown plan for embellishment of ENV lands only.

This demonstrates how unreasonable and inconsistent IPART's recommendations on open space embellishment in the Vineyard precinct are.

In response to IPART's questions about open space embellishment during the assessment process, Council identified that WTP's costings (commissioned on behalf of DPE in preparing



the plan) for open space had omitted amenities buildings at each of the parks. Accordingly, Council advised IPART that these costs (potentially \$3.15m) also needed to be accounted for in its assessment of “reasonable cost”. This information also appears to have been ignored by IPART entirely.

Council has now re-estimated ENV land embellishment based on the Morrison Low estimates (IPART’s consultant for Rouse Hill), which appear to be the most contemporary IPART-initiated ENV embellishment rates in the North West Growth Centre available.

Council also commissioned new cost estimates of other open space embellishment by Mitchell Brandtman to inform this submission and its proposed revised cost estimates for other areas of open space embellishment. These estimates will ensure that there is adequate funding collected in contributions to fund open space facilities, as intended by the Government’s ILP for Vineyard.

4.4.1 Accounting for the cost of embellishing ENV land which is integrated into open space facilities

IPART’s entire justification for recommending a nil allowance for embellishment of ENV land in the RE1 zoned areas of District parks 4 and 5 is as follows {insert ref}:

“Given there are restrictions on how ENV land can be treated, it is reasonable to assume that the area of ENV land within a park would not be embellished to the standard on which the square metre cost has been estimated.

We therefore recommend the council remove the cost of embellishing the areas of open space land with ENV from the plan.”

Given that IPART has not even allowed a reduced embellishment rate for ENV areas or a review of costs by Council suggests that IPART has a misconception about the current state of the non-certified areas in the open space zoned land (40,127sqm in DP4 and 26,557sqm in DP5). The assumption seems to be that the areas do not need to be integrated into the existing facilities, are densely vegetated or could simply be left in their current state to form part of the open space facilities – none of which are correct.

First, there is a requirement specifically for integration of the ENV lands into the open space facilities under the Growth Centres SEPP. Second, the lands are not densely vegetated and are in need of regeneration to facilitate the objectives of the Final Indicative Layout Plan for Vineyard Precinct.

IPART also disregarded other information provided by Council to inform a balanced assessment of open space costs, and its own recent cost estimates from Morrison Low for similar



embellishment works, that it referred to in making open space cost recommendations in its assessment of the Rouse Hill plan (only late last year - December 2018).

For passive open space land, the plan had proposed an effective average rate of embellishment for the hectares of RE1 land of \$86/m² (excluding contingency, \$Mar18).

IPART's recommendations for a nil cost for embellishing ENV lands result in an effective average rate of passive open space embellishment of \$57/m² (excluding contingency, \$Mar18). The difference between the two is \$29/m².

During the assessment process, IPART had asked Council about the ENV lands in the RE1 facilities. Council acknowledged the fact that the costings were high level and that it would be reasonable for a lower standard of embellishment to occur on these particular land areas (where there is ENV land) than other park areas (although detailed designs for facilities were not available) but that there would still be embellishment costs incurred for the ENV lands (e.g. for integration of facilities and to reflect the intentions of the Final Indicative Layout Plan (ILP) for Vineyard. The ILP and other relevant planning reports for Vineyard focus on the need for rehabilitation works in these areas.

Council also advised IPART that it had since identified that the WTP costings prepared for DPE in 2015, which were high level, omitted amenities buildings at each of the parks. Amenities buildings would be a necessary inclusion in more detailed designs and so Council proposed the following:

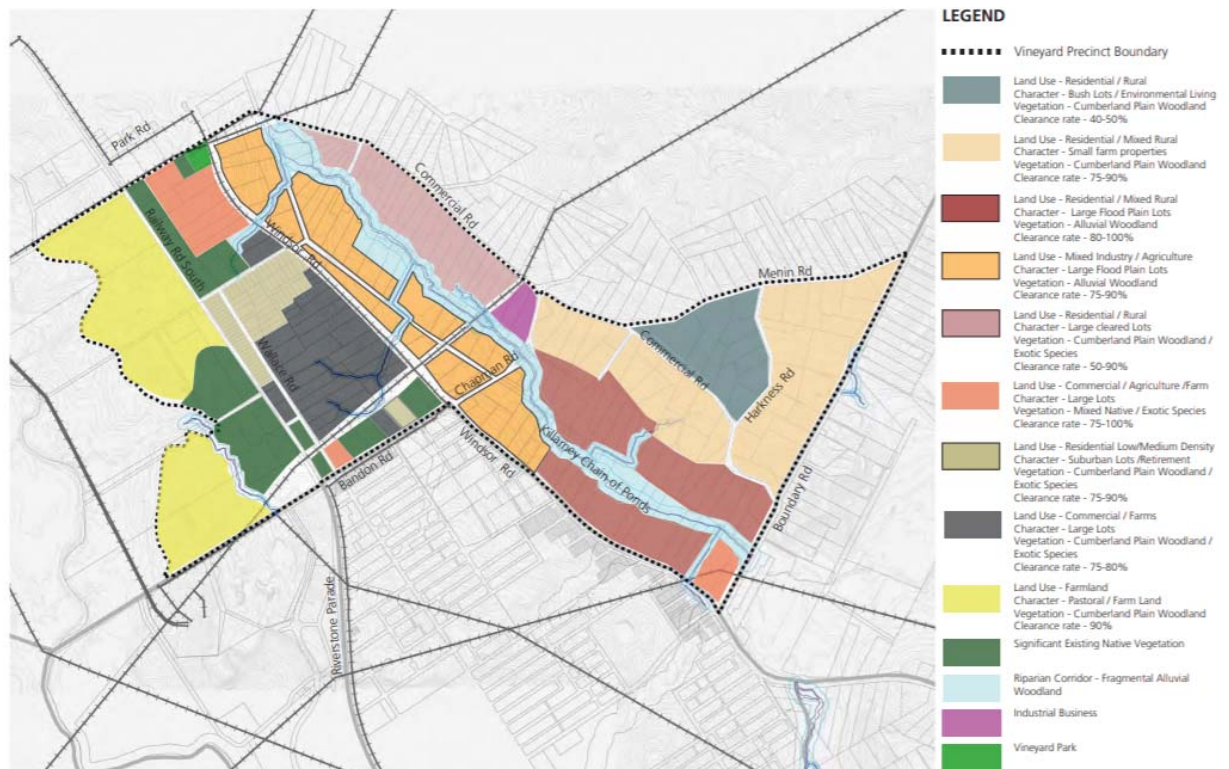
"Based on recent cost estimates by Mott MacDonald (QS report for Wilton, dated December 2018) local park amenities cost \$250,000 per facility and district park amenities cost \$550,000 per facility. Including these amenities costs in the open space cost estimates (for 6 local parks and 3 district parks) would add approximately \$3.15 million to the plan, and likely offset reduced embellishment costs for native vegetation (ENV) areas."

Just isolating the \$3.15m for the oversight omission of amenity facilities in the WTP costings prepared for DPE would amount to a \$41/m² embellishment rate (excluding contingencies of 15%), as applied to the 6.67 hectares of open space with ENV lands, all else being equal.

To achieve the aims of the ILP and to comply with the ENV/non-certified status of the lands, rehabilitation of the sites will be required, and the integration of the facilities needs to be incorporated into the overall facility designs. A rate of around \$41/m² for this work is not unreasonable – in fact evidence suggests that it could be too low.

Figure 2 shows the pre-development land use and landscape character of the Vineyard Precinct.



Figure 2 Vineyard Land Use and Landscape Character Diagram (Pre-Development)

Source: Place Design Group for DPE, *Vineyard Precinct Landscape & Visual Analysis Report*, November 2016.

The areas in question (DP4 and DP5) largely consist of lands with large floodplain plots, alluvial woodland and a clearance rate of 80-100%. The landscape analysis by Place Design Group (2016) which informed precinct planning noted how “Possible impacts (of development) could be minimised with the retention of Alluvial woodland vegetation along the creek line and rehabilitation and revegetation.” This is why certain areas (DP4 and DP5 sites) were zoned RE1 – to retain some vegetation and rehabilitate where it made most sense to do so (along the riparian corridor) rather than there being dense vegetation in those areas to begin with.

The draft report suggests that IPART does not consider that embellishment costs are warranted on ENV lands. However, this is a completely different position to its recent (December 2018) assessment of Rouse Hill.

Figures 3 and 4 below include the areas of open space in the Rouse Hill plan where the average of the recommended rate of \$92/m² would apply, together with the overlay native vegetation retention (NVR)/ENV map. Much of these areas are “non-certified” ENV land (within the red dashed line circles) as applies in the Vineyard precinct district parks. Yet, IPART recommended a rate of embellishment of \$92/m² for this land in this plan where it has allowed nil cost for Vineyard.

Figure 3 NVR/ENV layer map in Growth Centres SEPP (relevant to Rouse Hill)



Figure 4 Blacktown CP 22W (Rouse Hill) showing park items



The rates in the Vineyard precinct for similar embellishment works would be at least comparable, if not higher, than this rate applicable to Rouse Hill 'riparian corridor' parks because Council does not have the same level of delivery scale regarding greenfield infrastructure provision available to it as Blacktown City Council, and it must also undertake



master planning of the site to ensure adequate open space provision *and* appropriate protection of vegetation.

Hawkesbury Shire Council must ensure that it can provide the new Vineyard community with adequate open space facilities, which is of paramount importance in an area of dense urban development.

Elton's social infrastructure needs study (p 31) noted the following about existing open space provision for the community:

"The Hawkesbury Regional Open Space Strategy concludes the following in relation to open space provision in the Oakville/Vineyard/Mulgrave area:

- Distribution is highly scattered and diversity is very limited
- The majority of open space has a sports-based use
- **Local open space provision (especially for passive recreation) is very low**
- Sports reserves lack amenity
- With the exception of the nearby Scheyville National Park, open space in these townships is very limited."

Elton recommended a total provision of 21.2 hectares to meet the 2.83 hectare per 1,000 people standard benchmark. If you exclude the embellishment needs of the ENV areas entirely, Council is left with only 19.5 hectares of open space for the community, an under provision of 1.7 hectares. Therefore, it is critical for the ENV areas to be accessible to the community with appropriate walking tracks and/or buffers for protection of rehabilitation activities introduced where necessary etc.

And it is quite reasonable to assume that some peripheral clearing of vegetation might even need to be investigated (especially if there was weed inundation, for example). These considerations will need to be addressed at the master planning and (more detailed) environmental assessment stage of each of the facilities. What is clear to Council is that there are legitimate costs involved in embellishing the ENV areas and also risks in delivering these facilities as intended by the ILP, and both the likely cost and risk needs to be properly accounted for in the base level and contingency estimates for embellishment provision in the contributions plan.

Insert updated cost estimates



4.4.2 Ensuring other cost estimates are accurate and up to date

In light of such significant cost reduction recommendations by IPART, Council considered it was prudent to commission updated cost estimates (by Mitchell Brandtman) for remaining open space facility embellishment to address some of the shortcomings of the original estimates (including the omission of the amenities buildings), and to update the estimates for current market rates. Mitchell Brandtman's estimates suggest the following cost rates:

INSERT MATT KRITZLER (MB) UPDATED COST ESTIMATES WHEN AVAILABLE

4.4.3 Factoring in an appropriate contingency to open space embellishment costs

This really depends on the final WTP costs – it might be that they're higher, and 10% is sufficient. We can word this to suit the advice.

We can draw on the following which could help to suggest a higher contingency for the ENV vegetation works, from Lunney Watt advice to IPART (p 13):

"...In my opinion an intending purchaser of that land, even if it was assumed to have an Underlying Zoning of "R2 – Low Density Residential", would reasonably foresee that significant time, cost and risk would be encountered in realising any development potential. Onerous assessments are required in order to remove native vegetation from Non-Certified land and onerous conditions of any approval may be imposed by the relevant consent authorities, including the requirement to purchaser expensive Biobanking Ecosystem Credits, of a similar CPW profile."

4.5 Loan interest costs in plan

4.5.1 Reason for loan interest costs misrepresented by IPART

Council included the cost of a loan to fund collector road design costs and certain stormwater facility costs, to bring forward the delivery of this critical enabling infrastructure. Throughout IPART's assessment it was announced that it would be granted a 50% subsidy for the interest costs under the NSW Government's Low Cost Loan Initiative.

Council supports the principle of Rec 16 to revise the interest costs in the plan if required to take into account IPART's recommended adjustments for other infrastructure costs (when endorsed by the Minister), and the value of the subsidy under the NSW Government's Low Cost Loan Initiative.



However, Council wishes to make one comment. IPART stated that:

The council has unintentionally included the total interest costs of \$3,383,996 in the plan, rather than 50% of the interest costs. [ref to be inserted]

And then that

The approved refundable interest of \$1,493,702 is not 50% of the total interest in the plan. This may be due to differences in interest rates at the time of calculating the interest costs. [ref to be inserted]

Council did not unintentionally include all interest costs rather than 50%, and it was not due to a difference in interest rates.

Council has advised IPART throughout the assessment process that at the time of the plan submission to IPART, when interest costs were calculated, that it was not yet granted any subsidy, so it still had to include the full amount of interest at that time. There was no guarantee that the subsidy would be granted. Further, the application form submitted to IPART as part of its application for assessment explained (p 8) that:

Council has applied for a 50% interest subsidy for the loan costs via the NSW Government's Loan Cost Loan Initiative (with its applications due 1 July), and pending the outcome of this application, will amend the plan to reflect the actual interest costs to Council.

As with other examples in IPART's draft assessment report of the Vineyard Contributions Plan, this information has not been properly represented.



5 Conclusion

To be inserted when the advice from other professionals is inserted

ADD CONSULTANT REPORTS