INDEPENDENT PRICING AND REGULATORY TRIBUNAL

REVIEW OF A RATING FRAMEWORK FOR LOCAL LAND SERVICES

PUBLIC FORUM

Forum Chairman

Mr James Cox, CEO

Members of the Secretariat

Mr Colin Reid, Mr Peter Leventis, Mr Thomas Clay and Mr Alex Kelty

At the Penrith RSL
Hornseywood Hall
8 Tindale Street,
Penrith NSW 2750

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OPENING REMARKS

THE CHAIRMAN: Good morning everyone and thank you for coming to this public forum that is part of our review into the development of a funding framework for Local Land Services NSW.

My name is Jim Cox and I am chief executive officer and full-time member of Independent Price and Regulatory Tribunal of NSW, (IPART). Assisting me today are members of the IPART secretarial: Colin Reid on my left and Peter Leventis, Thomas Clay and Alex Kelty.

We released an Issues Paper on 21 May asking stakeholders for their views in response to terms of reference issued by the Minister for Primary Industries and these terms of reference ask us to develop a framework that Local Land Services boards can use to set service fees; recommend the rating base, for example, stock carrying capacity, land area or land value and an associated fee collection mechanism; and develop an approach to ensure that Local Land Services boards comply what is recommended in the setting of service fees.

We will not be determining actual service fees. The intention is that fees may vary between regions to reflect local needs, however, it is proposed that they should be calculated using a common approach which will be developed as part of this inquiry. So at the end of the day it is a Local Land Services' boards that will be setting fees.

Some services, as now, will be funded by government and other services will be priced to recover part or all of their costs from landholders.

The timetable for the review after today is as follows: we will submit a draft report to the government by the end of August. There will be a round table in Sydney in September. We will receive public submissions on the draft report by mid-October and we will submit a final report to the government by the end of November and the government will decide whether to adopt our recommendations.

Today’s forum provides stakeholders the opportunity to talk to their written submissions and to more broadly present their views on the matters raised by the terms of reference and captured in our Issues Paper.
To introduce the topic, I will hand over to Colin Reid, who will talk to the first session.

SESSION 1: INTRODUCTION TO REVIEW

MR REID: Thank you very much, Jim. As Jim has indicated, we have broken the day down into three sessions. I will present obviously the first session. Peter Leventis, on Jim’s right, will introduce session 2, which is about deciding who contributes and how much they contribute. Thomas Clay will introduce session 3, which is deciding on the basis of payment; in other words, the rate base.

We obviously have the benefit of access to the outcomes of earlier consultation by the stakeholder reference panel and, in particular, the workshop sessions that were run by Mick Keogh. Obviously we also have your submissions, all of which are available on our website if you wish to access those.

The purpose of today’s forum is, firstly, to convey our interpretation of the terms of reference. You may well have a different interpretation and we would like to hear that. As I say, it is more importantly to provide you with the opportunity to voice your views, including expanding on your submissions with regard to what happens at the moment, what you believe should happen and how we can ensure that what is adopted will be complied with by the Local Land Services boards in setting service fees.

Specifically on that last matter, the important issue there is how expansive our framework should be and how detailed it should be and what discretion is required by Local Land Services boards in exercising their powers in setting fees.

Just to put everything in context, the Local Land Services Act was assented to on 1 July 2013. In late May the government released a series of fact sheets in relation to local land services and these in part set the context for this review. The government has indicated that local land services will be funded from a variety of sources. They are the Commonwealth and state Government and local ratepayers.

The government has also indicated that local ratepayers currently fund around one-third of the services to be combined under local land services and they anticipate this proportion will broadly continue. The government has indicated it supports in principle the recommendation from the stakeholder reference panel to amend the current rating system to collect a flat fee from small properties, ranging from 2 hectares to 10 hectares in size, and a biosecurity levy from these same property holders in recognition of the biosecurity risk that they create. In addition to that, the government has said if the local boards and ratepayers agree, they can introduce additional new services and obviously they would have to be paid for by local ratepayers. In setting charges for such services Local Land Services boards will need to comply with a broader framework that’s applying across their whole range of services.

The government also provided this indicative source of funds statement. It covers a period for four years commencing 1 July 2014. In a number of respects this pre-empts the outcome of our review but it does provide an indication of the government’s expectations. Things to note include that these figures are for the four years, so, for example, the $140 million there, that is existing rates collected by the Livestock Health and Pest Authorities - it’s about $35 million a year at the moment, so over the four years it is $140 million.

The government has also indicated it hopes to save around $5 million a year in the administrative efficiencies from combining the three existing organisations and those savings will be applied to providing advice and extension services. In addition, we are advised by the department that 49 DPI staff and their consolidated fund budget of about $5.5 million a year are being transferred to local land services and some of the staff that are being transferred will be shared across different regions, so they won’t be just working in the one region but it gives you a feel for the amount of money we are talking about and the possible sources or intended sources for those funds more broadly.

Given this context for our review, I would like to then turn to our terms of reference which Jim referred to in his opening address. The terms of reference are, firstly, to develop an efficient and transparent cost recovery framework to be applied in the setting of service fees. Part of that is to assess the strengths and weaknesses of cost recovery frameworks used in other jurisdictions. We are to advise on an efficient rating.
Having determined the services to be provided, the next issue is to determine the level of service and then to calculate the efficient cost of service delivery. Once again, the main input into that, obviously, will be the overview of the board and stakeholders and they can presumably also have regard to benchmarking and, where appropriate, independent review.

The next point will be to determine which parties contribute and how much. That is the main focus of Peter’s session later this morning. That obviously will be assessed in the light of available government funding and the reasonableness of pricing outcomes as far as local ratepayers are concerned. With this in mind let us turn our attention to the second part of our terms of reference, which is to advise on an efficient charging base.

There is a clear difference in focus that has come through in the submissions. Some people are suggesting that it be a broad-based rate and that Local Land Services boards then have discretion on how those rates are applied, to what services, having in mind that the services to be delivered could vary from one year to the next and there will be different, for example, biosecurity threats that will develop from one year to the next.

Other people are looking for amounts that are raised for a specific purpose and be linked to a specific activity, so you can trace through the money raised and how it is spent. So there’s a bit of a difference arising in the submissions in regards to that.

So what are the possible charging bases? Obviously there’s fee for service - which will be charged to individuals for services captured by those individuals. The possibility of an industry levy. I know some people have raised the issue of the constitutional issues if there is an industry levy, or there could be a broad-based rate - and the ones that have been mentioned are notional stock carrying capacity that the Livestock Health and Pest Authorities currently apply; land area, which is recommended in the Bull report, in his 2007 report; and the other one is obviously land value.

In deciding on the rate base, the possible charging bases, those rate bases will obviously have to be simple to understand, transparent, verifiable, robust. An issue that
has been raised is that given that there could
be some variation in Government funding, given that
conditions could change in one year to the next, or the
threats could raise - vary from one year to the next, the
funds that will be raised will have to cope with that
variability. And obviously the rate base will have to be
administratively efficient.

A key issue that has arisen - is there a role for
rebates and incentives? And once again there's a variation
in views here that's come through in the submissions, and
we'd like to expand a little bit on that today.

Some people are saying to introduce rebates and
incentives, that the administrative costs of that, and the
performance of that role would be just too great, too
complex, too complicated, particularly as within some of
the local - or the Livestock Health and Pest Authorities,
when they've been combined, there is a significant
variation in rates in those regions at the moment, and
with this further consolidation there'll be further
variation in rates as a starting point.

And so there's a transition issue there which people
are saying could be even more complicated if
you then start to introduce rebates and incentives.

And the last point, as far as the charging bases are
concerned, is the one we've mentioned before - are there
any legal constraints in the choice of rate base. And the
thing that comes to mind here is obviously constitutional
issues.

So the next area is advising on an efficient fee
collection mechanism. That fee collection
mechanism will have to be linked to the choice of rate
base. The possible fee collection mechanisms that have
been identified so far are the bill for
individual service, an annual return to the Local Land
Services - similar to what the Livestock Health and Pest
Authors receive at the moment; or, we could have the
negotiated arrangements currently applied by
the CMAs. Another one is
obviously local government rates.

A number of people have supported local government
being the fee collection authority, but that is opposed by
What we are being asked to do is to rationalise this process, formally document it, in a manner that Local Land Service boards could implement to ensure uniformity in the process between the different Local Land Services boards, and recognising, obviously, that no two Local Land Service boards are governing an area which is identical - so there are differences between them, and different approaches may be required.

And to also provide transparency for stakeholders, and then provide a process that then can be successfully audited.

Having in mind that we have separate sessions for who should contribute, and what basis a service fee should be set, I'd now like to open this session up for general discussion. And for discussion starters I put up how do the current funding arrangements relate to the services delivered; and the silos - obviously as they are at the moment - the advisory extension services, biosecurity, natural resource management, emergencies. We'd like to explore what are the lessons from the current practices, and what checks and balances are needed to ensure efficient cost recovery pricing is applied.

So without further to do, I'll hand back to Jim to Chair this session. Thanks, Jim.

THE CHAIRMAN: Thank you, Colin, very much. It's now the opportunity for comments, questions, statements from people sitting in the audience. We are obviously very interested to learn your views. If you have questions of IPART, my colleagues and I will attempt to answer it, bearing in mind this is a fairly early stage of our inquiry, we may not have settled views at this stage.

Now, we do have a microphone. Alex has got a microphone. So if you want to make a contribution, just raise your hand and we'll get the microphone to you, and could you please identify yourself for the benefit of the transcribers.

So who would like to go first? Always a difficult moment. Okay. Thank you.

MR HART: Keith Hart, Senior Veterinarian from the Cumberland Livestock Health and Pest Authority. If nobody else is prepared to talk, I'm always willing to have a go.

Just on one aspect, which is the notional carrying capacity issue - always controversial, sometimes very difficult to explain to people. The LHPA movement actually put a submission to IPART, which included some quite good information on that. You would expect them to, because nobody knows better than they do how the notional carrying capacity idea works.

Their idea was that the cut-off point be 40 hectares, and below that down to 2 hectares, notional carrying capacity would not be part of the rating base.

I think that something like that is a good idea - at the moment it's 10 hectares - but something like that is a good idea. It is absolutely impossible to explain to owners of small areas of land - with whom I've had a lot of experience, I can tell you, notional carrying capacity. They have absolutely no idea.

But once you get up to an area where agriculture becomes somewhat viable, notional carrying capacity is a very fair way of rating, because it takes into account the different capacities, carrying capacities of land, which to a farmer are very much part of the way they operate. To a small landholder, they have absolutely no idea.

MR MacDONALD: Scot MacDonald. I'm a State Upper House MP. Can I just ask a question with advisory extension services? My background is agriculture up in the Northern Tablelands.

I'm just sort of wondering - and the experience up there is, with the advisory extension offices, they've really changed in the last sort of 10-20 years from being in a ute, eight hours a day, five days a week, going out and giving advice on a pasture or fertiliser or whatever. The DPI has sort of wound that back a bit, if you like, and now they have not a lot of role in advisory extension.
I'm wondering are you contemplating a fee for service, or anything like that - and I look at industries such as, say, maybe cotton, which has very low reliance on advisory and extension. We have glasshouse tomatoes - 50 hectares up where I am - very little use of Department of Ag. But then you might have someone on 200 hectares, who are getting the local DPI officer out three times a month, and there's not a price signal there.

So is that being looked at in this, if you want someone to kick off on the advisory and extension query - question.

MR REID: Yes, thanks very much for the question. Yes, we are certainly looking at that. We have noted an example given to us by the department, where they've worked through some of the advisory services, and in that particular example their claim is that the cost of collecting a fee in some cases would be too difficult, but obviously that's something that we'll be looking at.

The general proposition that we have put forward in the Issues Paper is that if someone can capture a private benefit as an individual, and it's efficient and effective for them to be charged, then that would be the proposal that may well go forward.

Obviously the Tribunal hasn't made such decisions at this point in time, and still obviously are reviewing the submissions, but as a general philosophy that would be the position, having in mind the broader issues of effectiveness and administrative cost of implementing it.

Now, as we understand it, however, in some cases the DPI proposed to move back a little bit from where they have been in the past, and provide more industry-based advice, and less on-farm advice. And if that's the case, if it's broad industry advice, it raises then questions whether there's a broader benefit, if you like, and it may not be appropriate to charge individuals in that situation.

So they're some of the issues that we are coming to grips with - no firm position at this point in time, but that's certainly been raised as a possibility.

MR HAYES: Terry Hayes is my name. I'm with the Serrated Tussock Working Party for the New South Wales and the ACT.

I make the point that biosecurity is probably a whole-of-community issue. Biosecurity, whether it be in animal health, or whether it be in weeds or whatever, will affect the future food production capacity of our land; and, therefore, it will affect our ability to have food locally. So I believe actually it is a whole-of-community responsibility.

And to that degree I would submit that the rating base should be levelled over the entire rating base, however that is determined - that is, everybody in the community pays. It is the compliance component of biosecurity that is the responsibility of the individual landholder, and I believe that that is where the incentive part of the process might be able to be encapsulated, in that there be a direct fee for service where there's noncompliance, and in that way you give an incentive to those who comply, against those who don't comply.

With regard to the rating, I would submit that the most efficient form of rating might well be that we look at combining the rate service capacity of local government and the Local Land Services. I'm not suggesting that the local government raise the rate for the Local Land Services, but whichever organisation does the rating, that it's conducted on the one base, and the rate notice is sent to the landholder by the one individual, but that each part - that is, local government and the Local Land Service - should have the discretion to determine what level of rating it requires.

I think I'll leave it at that point.
issue. I believe it's the compliance, it's the responsibilities of the individual landholder.

THE CHAIRMAN: Thank you. Yes, please. Yes.


Probably a statement with a couple of questions in there, possibly for the range of authorities and agencies that conduct those services at the moment, but also a question for IPART probably.

I'm intrigued in the timing of the whole process, in that traditionally, I suppose, a number of the funding frameworks - cost recovery mechanisms - that IPART develops with electricity prices, local government services - those sorts of things - are traditionally looked at in a cost recovery basis, where you assess the cost of operation and then transpose that across the actual revenue collection.

So a question to me is looking at Local Land Services into the future, and what services they may provide, is a question as to whether or not the existing ones are accurately going to reflect that, and how this will work in the transition that we are about to embark on with the interim boards coming in, setting the framework, setting the structure, and setting the operational things, developing a strategic plan - those sorts of things, as to what they see going to be the operations and functions of their local area, and then how this might fit in over the top of that.

I suppose, going back to the very beginning of the Livestock Health and Pest Authorities with the PP boards initially being a collection of local landholders being able to pool their resources, identify a program and work together to try and resolve those issues. So that's a local landholder-driven objective to try and overcome a local problem.

I suppose over time Livestock Health and Pest Authorities, Rural Lands Protection Boards have picked up an increasingly larger amount of statutory requirements. Biosecurity emergency management, those sorts of things that are now probably more requirements of the service as opposed to possibly local landholder-driven issues.

Similarly, I suppose, bringing in the whole NRM perspective into LLS is again going to impose upon-LLS a number of broader public community values of environment. And then how that's going to be rolled out on the ground.

So I suppose the question is there seems to be a number of different forces driving Local Land Services. To us some of those key ones are actually driven by Federal and State governments reflecting community concerns for the environment. Secondly, their statutory environments for biosecurity controls - and some of those are dictated by international requirements and trade arrangements as well.

And, then, the little local component related to local programs.

How is the IPART process of developing a funding framework - and interested in the use of the term funding framework and then cost recovery framework - how does that fit into what the future of the LLS might be, given that those sources and how those funding streams for those sources at the moment may not necessarily be reflective of what happens in the future.

THE CHAIRMAN: Thanks, Angus, very much. I might have a go at that first, and ask Colin to follow me.

So far as IPART is concerned, what we are doing, I think, is looking at what are the efficient costs of doing the services, and then, you know, who shall pay. That doesn't mean that landholders should pay for all of it. What we would do is to say, "Well, let's think through who should pay what for each service", if you like, and then set up a framework based on that structure - and Peter Leventis will talk about that later on.

So obviously it will differ, I think, depending on the nature of the service. There are some things that probably do relate very strongly to particular local groups and landholders. There are probably other things that are a much more broader community concern. In principle, I think, the question - the answer about who pays should differ between those things.

So, I mean, I think that's it as far as the IPART framework is concerned.
MR REID: Yes, I think - I mean, what we've been asked to
do is come up with a more generic approach that could be
applied across a broad range of services, recognising that
some of them will have both a community or public good
aspect, and some will have - as well a private
aspect - whereas others may be purely private. And so
we've essentially, not knowing what the full range of
services, as you suggested, may be, but we come up with a
framework that could be applied across the board.

So that's the task that we've been given, and which
obviously we're attempting to come up with a solution
to that.

As far as the issue between cost recovery or funding
framework is concerned, I suppose we took a bit of liberty
when we put the Issues Paper out. The terms of reference
refer to cost recovery, but we thought given that
the government is indicating that about one-third of
the cost of Local Land Services are intended to be
as is currently the case recovered from local
ratepayers, and two-thirds more broadly across the
community.

We took, as I say, that liberty to think it would be
better to use the term funding framework rather than a cost
recovery framework because the words "cost recovery" gave
the impression that the whole lot of the costs of Local
Land Services work was going to be put back onto the local
ratepayers. So that was a change that we made to
communicate better what we understood to be the task that
was before us.

MR GIDLEY-BAIRD: Maybe just as a further to that then, I
suppose, looking at the IPART process - have you done any
work, or is IPART involved in any sort of funding
frameworks looking at the environmental benefit or the
general public benefit of processes? And not for one
moment necessarily questioning the amount of funding, but
effectively the natural resource management component of
that 450-odd million, or whatever was up there before, is
effectively predetermined by the Commonwealth
Government, as to how much they have available and whether
or not the delivery on ground at New South Wales level is
going to meet their requirements.

THE CHAIRMAN: Angus, I suppose the concern is what
happens if the Commonwealth Government doesn't come up
with the money.

MR GIDLEY-BAIRD: That's the question.

THE CHAIRMAN: That's the other line. I guess what our
work would hopefully do is show there are some activities
of which there are a substantial public benefit - that's a
benefit other than to the individual landowner. I think we
could probably do that.
Then were Commonwealth funding suddenly not to be available, then I think the question for perhaps the State Government is what other ways have they under their control that might allow the New South Wales community as a whole, of which the community is the beneficiary, to make this contribution. We can't answer that question. I mean, I think that's a question imposed by others. Look, I agree with many of the comments that have been made, and I just think overall, every so often, we've got to go back up into the helicopter and look down, because many of the issues that are being raised apply to specific areas and the other shoe doesn't fit all. If I take - well, for instance, I agree with the comments about NRM issues, and community issues and so on, and then when we get to the rating, if I can just make a couple of points. And I did pass these on previously, too. For the broader audience, I mean, in what will be the Sydney LLS et cetera, the region, which is primarily the mountains and river systems and everything else, but all that flows down into the very important part of this city is, you know, Sydney Harbour and that sort of thing. And I just mention that the last figures I was able to get is approximately 1.3 million properties in this area are under 2 hectares in size. But by the same token, the impact on people in the Metro area, and Hawkesbury-Nepean, and Windsor, Richmond, all those areas - there's a big overlap. So I think when we are looking at this issue of rating, I think there's going to have to be probably three levels, and that the NRM and biosecurity issues will fall into one category. The extension services, much of which has now been brought into what was the old CMA system, need to be looked at, and because emergencies - well, I see that with a different hat going in a different direction. The traditional activities of LHPA - and I'll just change my hat - I paid LHPA fees for my farm in the Central West, and I also pay LHPA fees for my property at Windsor, on the river there.

MR SELDON: Bob Seldon. I'm the Chair of Hawkesbury-Nepean CMA and Sydney metro. Look, I agree with many of the comments that have been made, and I just think overall, every so often, we've got to go back up into the helicopter and look down, because many of the issues that are being raised apply to specific areas and the other shoe doesn't fit all. If I take - well, for instance, I agree with the comments about NRM issues, and community issues and so on, and then when we get to the rating, if I can just make a couple of points. And I did pass these on previously, too. For the broader audience, I mean, in what will be the Sydney LLS et cetera, the region, which is primarily the mountains and river systems and everything else, but all that flows down into the very important part of this city is, you know, Sydney Harbour and that sort of thing. And I just mention that the last figures I was able to get is approximately 1.3 million properties in this area are under 2 hectares in size. But by the same token, the impact on people in the Metro area, and Hawkesbury-Nepean, and Windsor, Richmond, all those areas - there's a big overlap. So I think when we are looking at this issue of rating, I think there's going to have to be probably three levels, and that the NRM and biosecurity issues will fall into one category. The extension services, much of which has now been brought into what was the old CMA system, need to be looked at, and because emergencies - well, I see that with a different hat going in a different direction. The traditional activities of LHPA - and I'll just change my hat - I paid LHPA fees for my farm in the Central West, and I also pay LHPA fees for my property at Windsor, on the river there.

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Any assessment in terms of how many head of sheep I can carry, whatever, is totally irrelevant to those areas. So I am very much, in terms of view that that has to go to the issue of size, value - and I whacked it down to that level right at the moment. But what I think is important is that we do take a more general view when it comes to probably the coastal areas as against over the mountains and out west is a totally different comparison situations. I think, as I say, I can judge that personally - I have got 3,500 acres in the central west; I've got, you know, 150 acres at Windsor area there - but that's doing thoroughbred horses, which is a totally different thing - and then I have a property in the metro area, which is very important to what's happening on the river system, along with all my other colleagues that live in those regions. I think at the end of the day we've got to really segregate this out. As much as we're putting it all together into Local Land Services, the reality is there's still going to be core activities that relate to the old CMA style of things, and relate to the LHPA systems, and the people to whom they are going to apply, are different. I mean, if I'm simply standing as the farmer, unfortunately a lot of people think that finishes at the farm gate, that's the end of my responsibility. There's some practical people who go further, but that's not right across the board. The same applies in local council areas et cetera. And I can understand councils being a bit hesitant about it, but I think it is something that we've got to isolate. I just mention one other situation. In the case of HNCMA and metro, we've got the Parramatta Trust, which was handed over to us, which was the flood trust et cetera. That's been through a lot of situations and levies. I have talked a lot with the chair of Hunter. They have a trust funding arrangement going with the councils for a similar sort of activity. So I think at the end of the day we can't take this macro approach to it. We are in the end going to have to sit down and work out - I am using my horses for courses situation - the areas involved are very different. I agree with the general concept there will probably be three levels of fees required and they will vary dramatically. I did say it was the last point.
One final thing I will say is I am also heavily involved with the fishing industry. I have been former deputy chair of the Fisheries Management Authority and all the rest of it, on a Commonwealth basis. The estuary fisheries in New South Wales are heavily affected by a lack of control by NRM-type activities down the river system. That is a very vibrant area of activity that we need to watch and not just from the commercial fishers. One of the biggest organisations as such, in terms of people, is the ordinary average guy and girl who are out there doing some fishing and there is roughly, in terms of that community, around Australia, around about 5 million that actually register in terms of that sort of involvement. I think we have really got to be careful there as well to keep them in the loop of what we are doing.

I have not asked a question, I just made a statement.

MR MacDONALD: Just to comment on emergency, and it comes back to what Colin was saying there about the seasonality of some of the risks and emergency outbreaks or whatever. I had a bit to do the Riverina citrus down in Griffith. One of the problems they are always dealing with was if you have a run of hot dry years, you have very low risk and very low pest prevalence, so there wasn't a lot of expenditure or need or control or whatever. Then they ran into years that we have just had two or three years of humid, low averages and Queensland fruit fly and that sort of thing and there wasn't enough money and they would have to go cap in hand to the Primary Industries Minister, who would then go cap in hand to the treasurer. So I am not sure if it is this part of your program or if it is later on the fee calculation, or whatever, but I would certainly like consideration to some sort of banking or reserving of funds for emergencies. I know things like Hendra virus, whatever, might be a bit different but there are biosecurity risks out there that need that sort of flexibility of funding. I would be interested to see if you are considering the capacity for the LLSs to build up reserves for those years, for those times when the fruit fly, or whatever the risk might be at the time. I know that might have governance risks and I'm not sure how we park money, I don't know how people would feel about it, but when the money's not there, it builds a lot of conflict.

THE CHAIRMAN: Thank you, Bob, very much.

MR MacDONALD: I just want to comment on that point raised by the previous speaker. If you looked at the base level - and this is a position that CMAs have taken, that everybody should pay towards biosecurity - and did some actuarial calculations related to the likelihood and contingency of funding those emergencies like pest outbreaks, disease outbreaks, you could actually create the fund. That would then lend some weight to this being a levy across the whole of the community and so I just put that on the table.

THE CHAIRMAN: Who would like to go next?

MR GIDLEY-BAIRD: Angus Gidley-Baird again. I don't want to dominate the discussion but just to comment on the pest insect levy, to me that is an interesting case and I suppose the background for it - there is now a working party from the Livestock Health and Pest Authorities, DPI and ourselves that sit together and meet regularly to identify an ongoing budget, given forecasts of locusts. That field work is carried out by LHPAs and others as well.

Interestingly, I suppose - 2004/5 I think it was - there was a major outbreak but that outbreak in 2004/5 wasn't necessarily any different to another large outbreak, it was actually the expenditure of the funds that caused it to blow out of the water. There was a large amount of aerial support and suddenly it went from what is now...
generally, I think, about a $6 million program each year to have been paying has actually had to go to paying that loan back. I understand this year we are finally at a neutral point again, where the fund itself is at a point where it can collect enough to manage the ongoing seasons. I suppose it is a question for the administrators of the fund as to how much levy should be collected and therefore provide for those large locust seasons and then your low locust seasons but to a certain extent I think the three groups coming together to actually sit down and identify what the forecast is for the season, then draw up a budget and what the expenditure is going to be over that 12-month season has allowed them to bring that back into control. To a large extent, I suppose, a lot of this, looking at the cost side of things, is forgetting the actual operational side of things as well and how we can ensure the administrative efficiency of delivering the programs, which I think comes to your third or fourth point in terms of the auditing and financially reporting and how do we make the system accountable and effective in that sense. That is one of the few I can see that is working now.

We, in our membership, have a dilemma in the sense that the coastal fringe guys pay the pest insect levy, yet they never may see a pest locust in their life and we have guys on the north coast that say, "Well, we want our pest levy to pay for cattle ticks" because they get cattle ticks. There is always going to be that issue in terms of what that rating base is but at the same time, having the coastal guys pay some of it means that the rest of the state doesn't have to pay as much for it. So there is that dilemma but it is one of those things where I can actually see there is a levy that has been identified based on a cost recovery process where there is a budget worked out as to how much it is. The question for the three groups going forward is going to be: now that we don't have to repay that government loan anymore are we actually going to reduce that levy down to a lower rate and does that allow us to bank some for the bad times as well.

THE CHAIRMAN: I wonder if I can draw out Keith a bit more if I could, please. You said that you thought that carrying capacity worked well above 40 hectares. I was wondering what your views are and what would work well below 40 hectares.

MR HART: Below 40 hectares?

THE CHAIRMAN: How do you think that might operate.

MR HART: Yes, I am very happy to make that view. Let's talk below 10 hectares because at the moment Livestock Pest and Health Authorities rate down to 10 hectares and they have a database to work from. Below that point it would be virtually impossible for the current structure to actually find those people - very, very difficult, cost prohibitive in my view, if you actually rate it down to 2 hectares.

There has got to be a reason why the government actually realigned the LLS boundaries with local governments. Maybe somebody else has heard it, I haven't, and I have been following the rate fairly closely. It makes a lot of sense to me - and I was a member of local government for a term - if you actually rate down to 2 hectares, that you actually get local government to collect those rates for the people below 10 hectares for whom they are not ratepayers to the current LHPA system. Local government already rates them all and the model from the Hunter Valley is, in my view, a very useful model which could easily be extrapolated across the state. That is my view, if that is what you were after.

THE CHAIRMAN: Yes.

MR HART: I also have a comment on the pest insect levy. Very few people would pay an insurance cost on the knowledge that they were never going to have a claim. That is the situation with a lot of coastal ratepayers in relation to the pest insect levy. It creates a major, major concern for our staff.

The idea was put up by what was then the Moss Vale Rural Lands Protection Board to do exactly what Angus has said, to convert that pest insect levy to a levy to assist with controlling cattle ticks because cattle ticks ultimately, from a climatic point of view, could quite happily become established the length and breadth of coastal New South Wales if they weren't kept where they are. That idea was actually canned by the general annual conference of LHPAs, which they had in those days - or
RLPs, I'm sorry - out of vested interests. If you look at the Sydney basin LLS area, there is no historical record of any incursion of pest insects into that area and for that reason, from an equity point of view, it would be totally unreasonable for any of those ratepayers to be paying the pest insect levy.

THE CHAIRMAN: It does encapsulate the issue we are facing, I think.

MR HUDSON: Geoff Hudson from Local Government NSW. I will talk about it in more detail in the session specifically on collection mechanisms later today. Just in response to the comments made about local government collection, obviously there is the Hunter model that is out there at the moment and there have been some councils that have been open to the idea of collection for a fee for service but I just put on the record now that the vast majority of councils across the state certainly indicated to us that they are opposed to the idea of councils collecting rates on behalf of LLS. We have obviously put in a submission already but I am happy to go through some of those issues later today, if required.

Just a couple of other quick questions. You touched on before about the difference - and a few other speakers have as well - between the coastal and urban areas and the western three-quarters of the state. I would be interested in IPART's thoughts on if you are looking at different approaches for the coastal and urban areas compared to west of the divide because they are such different issues that the communities are facing.

Also, just picking up on a question I think that Angus raised as well, the whole issue of cross-subsidisation from regions and especially it comes into the issue if you start collecting rates from - if you broaden the rate base and you include Sydney, for example, that is a significant number of ratepayers. I am just wondering about the whole issue of cross-subsidisation of that money going to other areas of the state and how IPART would deal with that.

THE CHAIRMAN: Thank you. I think those are two quite difficult issues. The extent to which things should be allowed to vary between various regions of the state is something I think we will need to consider. Obviously the service is the problem, the risks do differ, depending where you are in the state, and there ought to be something in the framework, I would have thought, that reflects that.

On cross-subsidisation, probably the leading idea in all of this is that those that create the risk or receive the benefit should pay. So that tends to run against cross-subsidisation, I would have thought. So that if someone is responsible for an activity required to be undertaken, they should pay. On the other hand, if there is a broader community benefit, as there often is, then the general community should pay. But that requires, it seems to me, an assessment of impactor or a beneficiary rather than a general cross-subsidy and I think the general direction of which this area is going and I think the policy generally is to move away from cross-subsidies. I suspect that is not where we are going but we do need to recognise a lot of these services do provide general benefit for the New South Wales community and the community in some sense should be paying those for.

I will be interested from you at some stage to hear the thinking of councils as to why they oppose acting as, if you like, an agent of local land services if they are being paid to do so. You don't have to answer that now but it would be an interesting discussion to have at some stage.

Any further comments? I think we might move onto the next session which is on the interesting issue of who should pay. Peter Leventis is going to introduce that.

SESSION 2: WHO SHOULD PAY?

MR LEVENTIS: Thank you, Jim. Session 2 is about deciding who pays or, really, the contribution between different parties.

The terms of reference asked IPART to develop a cost recovery framework. In our Issues Paper we provided some preliminary thoughts on issues to consider when developing a funding framework. Our aim was to be informed by stakeholders on an efficient and transparent framework and if impediments might exist in applying a cost recovery framework.

The views we receive in our workshops and from our.
reports will assist us to develop an efficient and transparent funding framework. 'Efficient' and 'transparent' are two of the key words within the first terms of reference and it is important to understand that you must be able to understand the frameworks, it has to be transparent but efficiency is a key - it has to be incorporated within the framework.

So cost recovery for government-provided services has been with us for some time. More recently work has been undertaken by the productivity commission and subsequently guidelines developed for Commonwealth Government agencies. The objectives of cost recovery are to improve efficiency by providing information that identifies the resources used to provide government-provided services and to support equity by asking those who use the service or create the need for the service to bear the cost. Cost recovery frameworks in general seek to link the provision of a service to the appropriate funding option.

Key questions are used in various examples of cost recovery frameworks we have seen to elicit information required to assess funding government-provided services. These include the reason for government intervention; which particular driver of the service is important, either to reduce risk or to provide a service; and whether particular individuals or groups exist that should be charged.

The principles IPART produce in the Issues Paper were developed based on the Commonwealth Department of Finance's cost recovery guidelines and guidelines developed by the OECD. These principles are intended to help us to assess and then develop a cost recovery framework. The principles we have identified may conflict. For example, what is economically efficient may not be efficient to administer and a charging approach that is efficient would need to be within the powers of the state to legislate but there is a broader context for the institutional issues, in that you would want to make sure that what is happening in the LLS context is consistent with state, national and international objectives as well because they work together.

The cost recovery framework needs to be transparent to ensure that relevant parties have a say in how a service is delivered, should it be provided. We developed a four-stage process to link service provision to an appropriate funding option. This session is aimed at stages 1 and 2, which use the key questions approach to identify whether cost recovery is appropriate and, therefore, who should pay.

The next session will discuss issues surrounding the following stages; that is, how to charge for services. In general, government involvement through provision of services is tied to the presence of market failure. The presence of market failure provides a reason for involvement but does not necessarily mean it should intervene. The presence of these market failures and the nature of the problem being addressed should assist to understand what the service is trying to address and who in particular the service is aimed at. When it intervenes, the government should ensure its resources are used in the most efficient manner to achieve desirable outcomes for society. Cost recovery is a way to ensure that those who create the need or demand a service or product from the government understand the costs of the resources required to provide it.

Economic efficiency requires that all possible costs be internalised by those parties involved in an activity. Where these costs cannot be internalised, the market finds it difficult to adequately provide the service at a level that benefits society. This means that parties that create the need for the service or benefit from its provision on efficiency grounds and equity are charged for its provision where possible. In our research we have found that certain cost recovery strategies based on risk creators or beneficiaries have been adopted. The taxpayer, represented here by the government, is included, because it may be efficient for the government to provide the service where neither risk creators or beneficiaries can be identified or efficiently charged or where charging would interfere with policy objectives.

So the purpose of the cost recovery framework is to allow for consistent and transparent decision making when seeking to charge for government-provided services. The PC in its 2001 review found that this task was inconsistently undertaken by Commonwealth Government agencies, hence the need for a framework, which was produced by the Department of Finance in 2005. For our purposes and consistent with these previous undertakings which state governments in the meantime have also been doing - the cost recovery...
framework seeks in general to identify these questions. These questions represent high-level questions in the framework but the final version of the framework will consider our research into frameworks from other jurisdictions before the final model is presented, which will include supporting information.

Key questions are being used in the various frameworks we have seen to elicit information that will help to determine the reason for the service and hence who and to what extent should the identified party contribute towards its provision. These questions assist the user of the framework to understand the nature of the problem and why the service is being provided, that is, which failure of the market may warrant government intervention; understand which cost recovery strategy is appropriate, considering the market failure the service is trying to understand. Some models in Australian jurisdiction we have seen identify a risk creator, beneficiary, taxpayer hierarchy to efficiently allocate costs. This hierarchy raises some interesting issues, for example, the sufficiently principle which influences how costs are allocated. That is, where it is possible that an identifiable party or group should be charged and the benefits to private individuals or industry outweigh the cost of the service, then any additional benefits derived by third parties are irrelevant.

Once the reason for the service has been established and the appropriate cost recovery strategy identified, then the question remains as to which parties can be classified as risk creators or beneficiaries. It should be noted that it may be possible to be both a risk creator and a beneficiary.

To ensure all potential parties in an LLS area are considered appropriately, we have split parties to charge into three broad categories: landholders, which include individuals on contiguous landholdings for any purpose; industry, to account for a group of similar commercial users of landholdings, that is, a group or collection of farmers, for example, producing the same commodity; the community, which could be either the community within the LLS area or more broadly refers to all people in New South Wales. Each of these categories can be disaggregated further to specifically identify, if possible, who creates the need for the service or is deriving a benefit from its provision.

Where it is considered appropriate that one party should not bear the entire cost of the service, it would be useful to have an approach that transparently allows for shares to be allocated. We presented a set of approaches for discussion including a sliding scale approach, based on the emergency plant and animal deeds, but which includes landholders. There may be other ways to apportion costs. For example, based on effort required, which may require a cost accounting approach. What is important here is if it is considered appropriate that more than one party should contribute to the cost of the service, then some arrangement is necessary to transparently share costs.

So some of the key issues for session 2, but by all means please raise any others, is that this session sets out to discuss issues on what is an appropriate funding framework to decide who should pay for services but before a framework can be developed it is important that we apply the correct principles to assess alternatives. Further, it is important to understand which cost recovery strategies are appropriate, given the services that will be provided. The framework is a tool that is intended to allow for consistent application across the various services provided by Local Land Services. However, it is important to understand that the outcomes may vary, given the circumstances or the issues in each area. So your thoughts on these issues or any other related matter will assist us in our task as per our requirements within the terms of efficient, that is, the efficient and transparent cost recovery framework. Thank you.

THE CHAIRMAN: Thank you, Peter, very much. We will now take questions, comments, statements from people in the audience. Who would like to go first?
provided by the CMAs has shown us that a technique they use
to elicit private funding from individuals is this reverse
auction, where they have an objective they wish to achieve
and they then go out to tender to say, "Well, to achieve
this objective we'd like to leverage on the private funds"
and then they would adopt the process. I guess you could
see that as an example of a sharing arrangement, where
there is a --

MS SHANKS: I understand.

MR LEVENTIS: Yes.

THE CHAIRMAN: Further questions or comments?

MR SELDON: Bob Seldon again. Not covering all those
issues but one in particular coming back to again -
contribution on NRM, et cetera - I just wondered whether
IPART has had any look at what was done in South Australia
in terms of an across-the-state decision to collect from
the community generally onto that sort of thing. It is an
issue that impacts some of the discussion here.

MR LEVENTIS: No, I haven't actually seen that from South
Australia. I have seen, recently, a review they did into
animal health for cost sharing. I have seen what the
purpose of the Primary Industries and Resource South
Australia have put out in terms of price recovery
framework, but no, I haven't actually seen --

MR SELDON: Well, this was a big deal, as you can imagine,
but it's there.

THE CHAIRMAN: We'll certainly follow it up.

MR SELDON: Okay.

THE CHAIRMAN: I think over at the back, first, and then
we'll come on to you.

MS GREEN: Pam Green from Southern Rivers CMA again.

One of the things that we would need if you're going
to go through the cost recovery sort of matrix is some sort
of understanding of a duty of care. Now, it's very
problematic to strike that. In Victoria - I think I've
already forwarded you the papers on that, but unless we
have an agreed standard to start from, a benchmark, it's
going to be very difficult to have the right sort of
structure to make this work.

I was having this discussion with a few people before
the meeting. Some of them might like to comment.

THE CHAIRMAN: Thank you. Keith.

MR HART: Yes, just a comment on the South Australian
situation. I wasn't aware they were collecting a levy for
NRM, but a couple of my colleagues over there were
explaining the levy that they raised for animal health
purposes, and I was of the view that constitutionally they
were dodgy, but I think from a State Government's
perspective - certainly not this State Government's
perspective because I've been involved in a committee with
senior legal officers and bureaucrats of New South Wales,
and they won't go anywhere near that sort of stuff, because
they've been on the losing side of constitutional
challenges.

But I think some of the other States - and South
Australia is probably one of them - are saying, "Well,
let's wait until somebody challenges it, and then we'll
have to change our basis for billing." I suspect that's the
mind-set.

THE CHAIRMAN: Much depends on what the base of the
levy is, I think. Are we talking about a levy on, say, rates
or are we talking about --

MR HART: Yes.

THE CHAIRMAN: -- industry production? The second is much more dangerous than the first one, constitutionally.

MR HART: Sure. But this was a levy that was, I think, based on live stock or some such thing. In New South Wales we had something similar, and, of course, it lost a constitutional challenge.

THE CHAIRMAN: Thanks.

MR MacDONALD: Can I quickly --

THE CHAIRMAN: Yes.

MR MacDONALD: I hear you. I hear the caution, if you like, on levies, but you have the Agricultural Industry Services Act now, and the wine grape people pay $3 or $3.50 a tonne. The citrus people were paying $4.50 a tonne. So I hear the caution, but as far as from my world view, it's getting it through parliament. You put up the Act of parliament and, you know, if it gets through on a good day, it gets through.

THE CHAIRMAN: Right.

MR HART: The caution came from people like the Chief Legal Officer of New South Wales DPI, and I'm absolutely certain that he would have checked those levies, and they would pass a constitutional challenge, otherwise they wouldn't be in State legislation.

THE CHAIRMAN: Okay. Yes.

MR HAYES: Terry Hayes, STWP. I think one of the things that we would like as an outcome on the ground is a situation where those people who do take the right management decisions from any biosecurity NRM point of view are not penalised by those who don't.

It has got to be some sort of insurance system. It's also got to be an incentive to those people to carry out the management that needs to be carried out in order to protect the land and environment in the long term. It's not just a business thing. This is about protecting our agriculture and production in the longer term, because if you're not real careful, you'll create a situation where the problems will become just too large to handle, and disadvantage the whole community.

So whatever you put to government, I believe, has to protect those people who manage their resource responsibly.

MR REID: Can I just bring together your points, Terry, with those that Pam raised on the issues of duty of care?

Is it possible to mesh those two things together, so that I think --

MR CLAPHAM: Absolutely. Absolutely, because you have got a biodiversity and environmental case in there as well. And, of course, the community good and a whole of community outcome.

MR HART: From a biosecurity perspective, I've had 26 years as the District Veterinarian for the Cumberland Livestock Health and Pest Authority, formerly Moss Vale Rural Lands Protection Board. My responsibility was for the Sydney Basin and for the Illawarra region adjoining it, and I know a fair bit about biosecurity risks. I was the person who was sent out by the Chief Veterinary Officer on 24 August 2007, to look at some horses with runny noses at Centennial Park. The rest is history.

But I have got a perspective of many years dealing with small acreage farmers that to some extent - Angus will like me saying this - to some extent the larger the property size, the lower the risk. The rating base for LHPAs, as most of us in this room will now know, is 10 hectares. That means that a significant amount of land that creates a real biosecurity risk is not rated at present.

And that was picked up by the Ryan review, which is mentioned in your report. They recommended the rating be down to 2 hectares. Particularly if we have a particular concern in relation to pigs and piggeries, because it only takes one person to swill feed one pig - you could have a pig in a backyard for that matter - and you have the potential to actually create a foot and mouth disease outbreak.

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Transcript produced by Merrill Corporation
The FMD outbreak in the UK in 2001 was caused by swill feeding of pigs. We have had cases of swill feeding in the Sydney Basin, and they are almost inevitably on piggeries that are smaller than 10 hectares. The cost to the economy, we are told by a report put out by a guy called Matthews in 2011, for the Federal Government, for a 12 month outbreak of foot and mouth disease - it could cost the Australian economy $16.7 billion. That's a lot of bikkies.

So certainly the people who create the risk at the moment are not paying their way. They're not paying at all. And something has to change. So I support the principle that Ryan talked about in his review that from a biosecurity perspective it's not equitable at all.

Can I just explore then, one of the things that was raised at the Tamworth hearing was a regulatory function that's currently performed by LHPAs. So at what point is there a crossover between regulation, if you like, and a more broadly-based rate? And this issue was raised earlier, where you have this non-compliance question. And I'm just wondering, in developing a funding framework, how do we bring in the regulatory part of it, and the effectiveness from your experience of that regulatory activity, compared to a rate that applies across the board?

I'm not sure what you're getting at with your question, but I'll - let me see if this helps. The Animal Health Australia - I think you mentioned it in your report - has a process for funding exotic disease outbreaks in - I'm talking animals, of course - Animal Health Australia. And they have a sliding scale, depending on the amount of responsibility that they see as being with the rural community versus the community across the board.

For FMD it's 20% and 80% now. You know, there's an argument that even that's unreasonable, but that's their view, based on a lot of work - that 80% of the biosecurity risk in relation to FMD should be funded by the community - taxpayers in general.

Now, I don't know whether that helps your question. I'm thinking that I'll probably have a good look at the draft when it comes out and perhaps give you some more of the benefits of my experience then, but perhaps if you can clarify the question a little bit more. I'm not quite sure what you're asking.

MR REID: Yes, sure. So there are general biosecurity functions that are going to be performed by the LLS, and obviously, as we've talked about, they are going to fluctuate from one year to the next - so there is that ongoing biosecurity issue.

In some cases there is also a situation, as explained to us in Tamworth, where if there is a problem on a particular property, there may be sort of advice given, and there's a period where people are expected to correct the problem, and if they don't correct the problem, then the LHPAs have stepped in with some sort of regulatory powers.

And the issue was raised there - was the funding of the LHPAs to perform those regulatory functions, and the effectiveness of those regulatory functions on that sort of reaction basis as opposed to a more general, more broadly based biosecurity role.

So the question I'm asking is: there's an ongoing function performed by Local Land Services, but there's also, when a particular threat arises, where they have to step in, and with particular regulation. And I'm just wondering what your experience would be as to the effectiveness of that regulation, and the associated funding of it.

MR HART: Okay. Well, then, you are running into the problem - it is a problem, it's an issue. The mind-set in Tamworth is going to be completely different to the mind-set in the city basin. That's the difference.

For the boundaries of the Sydney region LLS, the biosecurity - the animal biosecurity function will almost be totally regulatory. Out at Tamworth, it's a totally different ball game. And it would be relatively rare where you would have to bring in the regulatory big guns.

For situations like sale yards, where you've got to maintain traceability, then you will always have a regulatory component. But in the Sydney Basin, which is - you know, it's totally different to all the others. You need to understand that. In the Sydney Basin, most of your biosecurity work would be regulatory. There wouldn't be -
you know, in terms of regulatory, you have an advisory component. "You've breached the Act" - you don't go in with the big guns straightaway. "This is the problem, here's a warning letter, here's how you fix things." Most people respond to that.

We're doing an audit at the sheep sale at the moment. I have got one no names, no pack drill, but I have got one guy who has been bringing sheep in non-compliant for five weeks. He has got a collection of five letters from me. The audit period had no regulatory component. We've just started our regulatory component. He's got his six letter, he'll get the infringement notice next week almost certainly. That's how we operate. If you call that advisory within a regulatory component, then that's fair enough.

At Tamworth the operation is totally different, and the vast majority of the results you are looking for you'll get from just an advisory approach. That doesn't happen in the Sydney Basin - different kind of people.

THE CHAIRMAN: Yes, please. Yes.

MR LEVENTIS: Regarding the frameworks - so the Issues Paper was necessarily the framework was necessarily smaller than it needed to be because we hadn't settled on what a cost recovery framework should look like; we had different examples, and we've found more along the way. So different States approach it in different ways.

Having said that, the structure is identified market failure, identify cost recovering strategy, impact or beneficiary pays, and you follow that kind of a process. The framework will need to provide guidance to the LLS on how to run through assessing a service. Similar to what Department of Finance has with a cost benefit analysis framework, similar to what New South Wales Treasury has.

So that kind of a framework which helps to understand what the different market failures are; helps to understand what a public good issue is, separately from private/public benefits, and I think that issue, a lot of times, gets confused. That kind of explanation will assist the user of a framework to understand whether if there is a duty of care, and it's a legal duty of care, then you are starting to see, well, then, the risk creator is the person who's breaching that duty of care.

So you might think well, if that's the first point of call and they're identifiable, and this is the legislation that supports it, then you start working through who they say if you have a biosecurity - I probably shouldn't use biosecurity, because it will fall into the ADRA. If you have an NRM function on your property or something like that, we clearly know that half of that belongs in that basket as a public cost, and half of it belongs as a private.
are, and what they’re doing about it. Where that is not possible, this hierarchy I was talking about is then you look at the beneficiaries.

So that’s a framework that’s been put to us, and we are looking at that. So we don’t have all the details in the Issues Paper, I agree. I did read your submission and some of the issues that you raised regarding public goods, in other submission, where the framework would be used and common understanding of some of these definitions will be in the draft report, and necessarily so. But we couldn’t write a user guide at the Issues Paper stage, but those issues are definitely in.

THE CHAIRMAN: I guess, Peter, one indication of what we are saying is that the particular cost sharing ratios is quite different between that and our services.

MR LEVENTIS: Yes, they could. Given the circumstances in the area. There may be situations were there could be two or three LLS areas that need to cooperate. That is something we need to look at as well. It was raised in the Tamworth workshop. So I’m not sure how you would apply the framework differently, but the framework may need to be applied at a different level of the process. So we are working through those issues.

MR REID: I think the practical example - it may have been Angus who raised it in the submissions - was if you had, for example, a wild dog problem. You may not want one Local Land Service board charging a broad-base levy and another one charging individual property holders.

So there would need to be a common approach across Local Land Service boards. And that’s coming up with a framework that can be more broadly applied, I think is the key issue.

MR GIDLEY-BAIRD: The question right back to the beginning is how this fits into the time frame of everything. The framework might be okay, but it’s not until the LLS board gets established and individual boards get established and they start applying the process, that we can actually get a better understanding as to how it fit. At the moment we are all second-guessing.

Generally the framework sort of looks okay, but it’s how that situation is going to play out with, and people are not quite sure of that, yes.

THE CHAIRMAN: Yes, please.

MR HAYES: Terry Hayes again. At the risk of sounding like an old farmer who has bits falling off everywhere, I hope you will forgive me if I sound impatient. The problem that I begin to see is we’re talking about frameworks and organisations, and still I end up with the problem I’ve got today, and I’ve had for years.

I’m here because I have a serrated tussock problem and an encroaching dominating weed problem. And I’m told that, well, we can’t do any more because it will cost too much. Yet all the while the problem is getting worse, and all the while I am trying to keep my property clean. And if you went past my property in a car, you’d say I don’t have a problem because I keep it down.

In 2006, on a fairly small property, I estimated my cost of going around, spraying individual serrated tussocks, no other weed, and I worked out allowing for the write-off of my quad bike, my spraying, my fuel and my time and stationhand’s rates, at $23,000.

Now, it’s all very well to say that the community doesn’t have a responsibility. Well, I believe that I’m honouring my responsibility, and all the while I am paying for those who don’t come along and do their responsibility.

And who is going to pay for that? And it’s all very well to say - and I hope I’m not lecturing you now - too much - but it’s all very well to say, ‘Well, is it just my responsibility?’ Well I think I’m honouring my responsibility.

You know, last week I had a neighbour who owns a piece of ground, and he lives in Sydney. You know, the biggest biosecurity risk is the metropolitan area in my area, because they come out and they buy blocks of land. And he thought he’d do the right thing and let somebody who was burnt out in another area put some sheep on his block. And when they got there they were lousy, and he didn’t know what lice were. Now, who protects me from that?
Now, I don't mean to be selfish, but at the end of the day the framework you've got to come up with is a framework who protects the person who does the right thing, but informs the people who don't know. We've got people buying land, and they don't know what they're buying, and nobody is protecting them, and nobody is protecting me from them.

So at the end of the day, yes, I understand you've got this hopeless task of a framework, but at the end of the day what I want is just a system that works, and we haven't had it for 200 years.

THE CHAIRMAN: Thank you for that. Could someone perhaps explain how our inquiry will address the issues of serrated tussocks.

MR HAYES: It's not just serrated tussocks. It's all the issues.

MR CLAPHAM: Broader term is biosecurity.

MR LEVENTIS: The framework in general will address an issue like that by asking - so if we're going to do something about it, what is the nature of the problem, how does a service that we're going to be providing address that problem, and what's the market failure issue. The way you're putting the issue right now is that an absentee or an uninformed person is posing a risk to you.

So in the economic terms, that would be a negative externality, where the actions of this individual are flowing on to - are costing another individual. And that is well recognised in the economic literature and in a lot of these frameworks, and that's where this risk creator idea comes in - that I am either hosting a problem or imposing a problem on someone else. And the idea is to address that issue.

And normally - this is in general rather than the LLS context - for the impact or a polluter pays, this is how it normally comes up - you tax the person doing the polluting. So that's the issue. You are looking at a process of addressing this person's inaction that's imposing additional costs on you that otherwise will not be there.

So the framework does address these issues, because it identifies the different market failures that exist. The one that you've put to us is related to the additional costs imposed by others. And it's well-recognised how you would do that. And that comes through the regulatory - can come through a regulatory framework. It normally does.

I understand that not always does the duty of care exist in the regulatory process, so I'm not sure how that will be dealt with otherwise. That's something we are looking into. But that's the general idea of the framework - to understand what is the issue, and how will we address it, and who is either being impacted or doing the impacting, and whether it's right to go after the impactor or the person that potentially benefits.

But if there is an issue like that, where somebody's impacted someone else, we would usually look after the risk creator in that first instance, because we're trying to get them to internalise the cost of their activity, which they're not doing if they're not doing the right thing. So that's the idea in general.

THE CHAIRMAN: I mean, we're not deciding, I take it, how much will be spent on addressing the problem of serrated tussocks.

MR LEVENTIS: No.

THE CHAIRMAN: I mean, that's not our responsibility.

MR CLAPHAM: No. We are using that as an example.

THE CHAIRMAN: Yes. But what we're saying is that if the Local Land Services boards does decide to do it, who should pay? I mean, that's our question.

MR LEVENTIS: Yes.

MR HAYES: The next part of that issue, of course, is the unwillingness of a regulator to do an adequate job. And I don't want to get into the business of bashing local government, but at the present time local government has responsibility for the regulation.

Now, they come under a lot of criticism in our area because they are not achieving a result. Their argument, quite rightly, is that they don't have any more resources to put to the issue, and they're gagged by things like rate...
pegging. But at the end of the day, they aren't achieving
an outcome, and they don't measure the outcome. The only
thing they measure is their level of busyness - that is,
the number of weeds inspections they do, rather than the
outcome they achieve - that is, the amount of weed that
they've either had increased or reduced in their area.

So the next part of that problem that I need to see addressed,
and I don't know whether any part of your recommendations
on the framework can address the outcomes
issue of the LLS as a regulator. And while I am on that
point, can I just say that we feel very strongly that all
biosecurity issues - that's weeds as well - should be put
under the one roof. That is the LOS. And not have this
part of it in local government.

Thank you.

THE CHAIRMAN: No, thank you.

MR MacDONALD: Can I just --

THE CHAIRMAN: You first, then Scot.

MR CLAPHAM: Mitchell Clapham. I'm Serrated Tussock
Working Party too. I just want to carry on from what Terry
said.

In biosecurity, in the framework, as you've indicated
on a previous slide, there needs to be a recognition and
appreciation of those that are doing the right job in
compliance, by way of either a rebate system or something
that does not disadvantage those that are undertaking the
appropriate level of regulatory control or whatever, that
are doing the right thing and not costing the rest of the
community money by not doing anything.

That's where the charge and the economic impost should
be on carrying out the job of regulation on those that are
not complying or doing their bit. We see that as a big
issue.

I'd just like to reinforce the previous speaker with
regards to the cost of biosecurity. We believe that as was
previously stated, if you live in the community you are a
possibly risk creator, but you're also a benefactor. So,
therefore, it should be the whole of community that should
be - you know, a base cost on the whole of the community,
like the local government rate base. That's, to me, the
appropriate base from which to set a broad community rate
for the biosecurity, and also environmental management
because there is a whole-of-community outcome and benefit
for good environmental management.

So, you know, it's a whole-of-community thing, not
just, you know, between 10 and 2 hectares or whatever.
It's a whole of community. I believe that there should be,
you know, some sort of a base rate right across on the
whole of community.

On the point of local government not wanting to be the
collector of rates, that's fine. It doesn't matter whether
it's local government, LLS or an independent one but
I would have thought from the government's perspective it
is pretty cost-effective if you have one collector, one
ticket taker for rates. Those in the community that are
rated get one rate notice, have one bill to pay. That's
where there has got to be an efficiency in doing that.
Thank you.

THE CHAIRMAN: Just going to one of those - I think the
idea behind the frameworks we are developing is that those
that create the risk or the needed activity should pay for
it and from the way you have described it, certainly to
some extent that is individual land owners that are not
doing the right thing. So certainly those people should be
contributing.

MR MacDONALD: One of my fears is if you end up with a
very good framework - it's fair, equitable, risk benefit
and all the rest of it, and I'm sure you'll get there, I do
fear you are still going to have a structure LLS without
the capacity to do a lot of the necessary compliance work.
If I can just go back quickly to the citrus example: you
had powers, you have regulations for things like abandoned
orchards, for people not doing the right think, for the
free rider and all that sort of thing. I do see some of
that is a public sector problem within the DPI and I talked
about that with you before the meeting. So I don't know
how to answer that but even if you get the best resources
in the world, will the LLS have the powers, have the will,
have the framework, have whatever they need to actually
exercise those functions, which they might have the best
resources in the world they have, to tackle serrated
tussock, to tackle Queensland fruit fly, or whatever the risk might be at the time. If they still have - and I have seen it there in Griffith in the Riverina where you have the compliance officers - whether it be fisheries, whatever - who are slow out of the blocks identifying a problem, reacting because someone is on sick leave and someone only works seven days a week and, you know, the office is 300km away and then they have to go to the next manager in Dubbo, whatever. With the money you need the power and the regulation to back you.

THE CHAIRMAN: I think you just made that point.

MR HART: Just in support of the comments made by Terry Hayes and his colleague, I can tell you that in the Southern Highlands, which is an area that I am responsible for currently, there are blocks owned by city farmers that are covered by serrated tussock, where the cost of control now exceeds the value of the property. That is the worse-case scenario, I just wanted to make sure IPART understood, and that is why they are so concerned about it because this thing ultimately can completely wipe out the value of property.

THE CHAIRMAN: Thank you. Further comments?

MR GIDLEY-BAIRD: Angus Gidley-Baird again. It wasn't had the landholder, the community - I can't remember off the top of my head now, there were three of them. On this discussion about compliance and regulatory responsibility, it has been raised about enforcement and things like that. We don't have a position on it, so I am not going to make a statement as to whether or not it is a right or wrong thing but if we are looking at a system - and I presume we are going to come up to it, possibly in the third part, about auditing and the efficiency of a system and allowing for exemptions and things like that and how they do or don't work - but compliance and the cost of compliance, whether or not there is another revenue stream in there in terms of fines and those sorts of things. Now, I don't know that the powers that exist at the moment for regulatory officers and those sorts of things but is that another form of revenue for these compliance activities that are required under statute?

Mr Reid: I think that is, yes.

MR GIDLEY-BAIRD: Is that something that would be covered by what you are looking at for a funding framework?

MR REID: I think it is something we are going to have to address, yes.

MR HUDSON: Geoff Hudson here again. Just a quick one. What about, I suppose, external political decisions and how they impact on the framework you want to develop? One of the examples used in the Issues Paper was the Native Vegetation Act and PBPs and I think you put in the example that because landholders create the need for the service, they should pay for that. That's an example. Now, we all know that PBPs are free and that is a political decision and that is pretty unlikely to change. I am just wondering - that is just one example of what could potentially be many political decisions that may be contrary to the pure economic theory process and framework that you are coming up with. I am just wondering how you may deal with those types of situations.

MR LEVENTIS: With regard to the example in the Issues Paper, I will say this - it wasn't a complete example, we needed to run the process through something that existed. We didn't have the backgroundering on what PVPs were and all the interactions. So I would say use that as a way of understanding how the process can be worked, the type of answers you require, but you need the background information so you answer them correctly. In that first instance I'll say the PVP example and the other examples are to illustrate the framework. More information would be required to undertake it appropriately and that is where the LLSS come in because they would be running the framework, so they would have the background information.

Having said that, where charging goes against the policy objective, where charging may make someone act against their best interests or against reporting something you would otherwise want them to, it may not be appropriate to go ahead and charge but that is something that you would consider as a part of the framework. Is it not only efficient to go after them and can you identify it but do charges lead to a perverse outcome and against the objective of the regulation. So you need to consider that as a part of the framework, it's not just running it by the
numbers and seeing. "Well, this is what it is". In some
way it is because it will give you the economic theory but
that is also supplemented by information such as "Why are
you trying to do this and does charging lead to an outcome
against what you're trying to do". That wouldn't make
sense. So it allows for government objectives to be
included.

The framework, if you look at it - even in its current
draft state - you are looking at landholders, industry and
community. Where there is an express will of the
government to do something or whether there is significant
overwhelming benefits to the community, then if you were to
run the framework appropriately and ask the questions a
likely outcome is that the taxpayer would pay. Now,
whether that happens in actuality I don't know because, as
I said, the presence of the market failure provides reason
for the government to act. It doesn't necessarily mean
that the government will act because it has its own
priorities. It will always look to invest taxpayer funds
where it seeks to get the highest reward. As an economist
that is what I am saying. So if it does not, then there is
a discrete policy decision not to act in that space but the
framework will give you a guide to what the reasonable
position is - should you charge, should you not charge; who
are you looking at; who is the risk creators or the
beneficiaries. I think you do need to do that. Just for
the record, we are looking at putting examples in the next
version that will be more informed, with the service as
well.

MR GIDLEY-BAIRD: Angus Gidley-Baird again. Just going
back to that slide there and some of the comments before
about industry and some of the constitutional issues that
were raised, there may be other alternative ways of getting
industry funding and that is through different agreements
and arrangements with the current research development
corporations, groups such as that. I know, for example,
the dairy industry, Dairy Australia, had a large
contribution to the DPI for their extension roles that they
were undertaking for Dairy. So while it may not
necessarily be a direct industry cost to an identified
party, it may be an indirect collection through those RDCs
and an agreement between that RDC and that industry within
New South Wales that might allow for some industry funding
that could leverage against others, so just throwing that
in.
co-payments, labour and materials. Under the legislation
CMAs do have the ability to levy rates, however, this is
only allowed to fund shortfalls in available funding for
catchment activities or if specifically authorised by the
regulations. Only the Hunter CMA has done this to date
through its flood mitigation levy. The Hunter levy is
collected by the local governments within the Hunter CMA
for a small percentage of the total money collected.

The issues that IPART has identified include matching
service fees with beneficiaries and risk creators;
different rates/levy options; problems with the efficiency
of special purpose rates; and efficient fee collection
options.

Firstly, we considered how different service fees
might align with different risk creators and beneficiaries.
We came up with this table to summarise our preliminary
thinking. Fee for service should only be used where the
benefit for the service or product can be restricted to
those who pay for it. Government funding should only be
used where the wider community is identified as beneficiary
or risk creator or where it is administratively inefficient
to collect from risk creators or beneficiaries. Rates or
levies can be as broad or targeted as each LLS board
desires, depending on the services provided, where it may
be possible to use different rate bases to target different
individuals or industries.

With regard to an efficient rate base, we identified
the following options based on our preliminary analysis.
These include notional carrying capacity, which is the
current LHPA rating base; land area, a per-hectare basis;
or unimproved capital value of land, which is currently
used by local governments.

With regard to minimum rateable land area, the LLS
could either leave the minimum rateable land area the same,
at 10 hectares for most LHPAs, with the exception of the
darling, western and LHPAs, or it could reduce minimal
rateable land area below 10 hectares to try and capture
risk creators of beneficiaries on smaller properties.

IPART has been asked to assess the appropriateness and
efficiency of special purpose rates. The issue with
determining the efficiency of special purpose rates, as
this table illustrates, is that it depends largely on how

specifically they target beneficiaries or risk creators.
The broader and more uniform rates are, the more efficient
they will be to administer. However, this will mean that
the rate will less likely target actual beneficiaries and
risk creators. Conversely, the more specific or targeted
rates are, the less efficient they will be to administer.

IPART has also been asked to advise on an efficient
fee collection mechanism. Based on our preliminary
analysis, we have identified two options - the LLS could
either: enlist the help of local government to collect
rates on behalf of the LLS, however, unless the LLS use the
same rating base as local government - unimproved capital
land value - efficiency gains may be limited. Or they
could create a statewide LLS collection mechanism. We
believe that an individual collection mechanism for each
board would be inefficient.

Therefore, the key issues IPART would like comment on
with regard to service charges are as follows: are current
service fees - reflective of the efficient cost of providing
services; targeted at actual beneficiaries or impactors;
simple to administer and cost-effective; compliant with
statutory and legal constraints; and clear and easily
understood, and, given the range of services the LLS will
provide: (a) what service fee should be used (b) what
ratings bases should be used, (c) how should
special-purpose rates be determined, and (d) should
exemptions be allowed. Thank you.

THE CHAIRMAN: Thank you, Thomas, very much. We now
have opportunity for questions, comments, statements from
stakeholders in the audience. Who would like to go first?

Have we said it all?

MR HART: Just to start the ball rolling, since it seems
to be my job here today, just how should exemptions be
allowed? I would like you to consider the possibility of
landholders who actually have voluntary conservation
agreements. That has been considered when the Rural Lands
Protection Act has been looked at but it has never actually
made it through the system. You find yourself going to a
property which might be fully forested and yet they still
have to pay rates. I think if a person is prepared to
actually lock up their land in a voluntary conservation
agreement, which in my view is something that you are doing
for the sake of the community rather than yourself - and
future generations - then I don't think you should have to pay rates on them. That's my view.

THE CHAIRMAN: Do you want to comment on the reasons why you think it has not been adopted in the past?

MR HART: I have no idea. It's a government decision, I'm not privy to the reasons why but I don't think it's too hard. If you have a situation where - if you get rid of carrying capacity assessments, then perhaps it might become difficult but at the moment if somebody has a carrying capacity that they challenge, we actually send somebody out to assess the property and it would be just as easy to go out and assess the place as to whether or not it had a voluntary conservation agreement that was viable.

MR HUDSON: Can I just point out that voluntary conservation groups are exempt from local government rates. There is actually an agreement between the state government and the landholder which council play no part in, yet the cost impact is on council rates not on state government revenue and we find it quite ironic that they don't want to stop what will be a state government authority from collecting rates but they are quite happy to stop local government collecting rates on that same block of land for the same rates.

THE CHAIRMAN: Thank you for the comment.

MR MacDONALD: Just a comment. I was a bit surprised how down you seemed to be on the special purpose levies, if you like. I will come back again to that citrus levy. When you have that free rider effect, when you have free riders there, if you don't have a special purpose levy are you not making the whole task harder? Are you not putting a price or value on the industry? Are you not sending a signal to those in the industry what the costs and benefits are and all that sort of thing? So more just a comment.

MR CLAY: What I was getting at was trying to link up with what Peter was talking about, which was identifying beneficiaries and risk creators specifically. The more you try to narrow down on how much they actually benefit from the service or how much risk they actually create, the more work is required, which might be more costly to implement. But in the case of a broad-based rate, I'm just making a point about the efficiency of a broad-based rate, which is a lot easier to implement. So it's not that they shouldn't be used, it is just what is the balance you want to strike between how targeted they are or how broad they are, basically how efficient they are.

I am not saying they shouldn't be used, I am just saying there is a trade-off that needs to be acknowledged.

THE CHAIRMAN: I think one of the slides show there are a number of levies in existence anyway.

MR CLAY: Yes.

THE CHAIRMAN: That actually exists.

MR HAYES: Terry Hayes again. I worry a little bit about the whole issue of exemptions, in that if you exempt a landholder, for instance, from rates - take the example of the national parks in some areas of the state. There are huge areas there that don't pay rates to the local council and yet for a whole lot of reasons the council has got to supply services to the area and so therefore it can't collect anything towards those services. So that imposes everything on the other ratepayers in the area. I think you want to be careful of the same thing with regard to local land services, in that they have got to provide a service and quite often these services that are provided to small landholders are very difficult, simply because they are hard to find and there is a lot of them. So it becomes very costly to the Local Land Service to provide a service to a small landholder compared to the same service to a larger landholder. I am not suggesting larger landholders don't pay, I am saying there is a problem there.

I think we should be very careful about providing exemptions simply because it is a small area or it's urban or it's whatever. For instance, a lot of the weed problems come out of local gardens in the first place. They are actually the cause of the problem. Let's not let it divide the community but nevertheless let us recognise the reality.

I think that what you have got to do is get as efficient a system of funding as you can and not get too pedantic about what's fair and unfair. I see a situation in my area where people are suggesting that properties that host wind farms should be rated more highly, simply because they are getting this income from the wind farm. Maybe the
only way to do it is a special rate on the wind farm but,  
alternatively, if their income was taken into account in 
the unimproved capital value of the land, then that would  
affect what the LLS would get, if you put LLS rates on 
unimproved capital value. I don't know how you overcome 
that to the nth degree but I think you should avoid 
becoming too pedantic about every little issue.

THE CHAIRMAN: Thank you.

MR GIDLEY-BAIRD: Angus Gidley-Baird. Probably just  
covering off the points that had been provided in our 
submission anyway just generally around service fees and 
-rating. Our current policy position is that we support 
extending the ratepayer base down to 2 hectares, with those 
between 2 and 10 paying a base rate. We also support 
public landholders being ratepayers as well. As Terry was 
alluding to, basically, they do contribute and harbour a 
number of weeds and pests but yet at the moment they escape 
paying for that and those in the community have to, or 
those landholders have to.

We support the use of a base rate which possibly could 
be used for funding some of those, I suppose, broader 
community operations and then the use of more specific 
rates, such as the animal health rate, possibly an 
intensive industries rate, the pest insect levy, those 
sorts of things that could be more targeted but again, if 
you add too many layers to it you add further complexities 
and it becomes more and more difficult.

One of the things that does come up from time to time 
amongst our members is those cropping industries and 
horticultural industries and, I suppose, their role or what 
their role will be in the LLS. Obviously there are pest 
and weed issues and environmental issues that they are 
exposed to but the animal health side of thing, if they 
don't run livestock, then they won't be beneficiaries of 
the biosecurity-type arrangement. Generally that's our 
preference. The other one was that we support the current 
notional carrying capacity as the way of establishing it. 
Geoff is here and Mitch is over there. Numerous 
conversations I have had with them about land value as 
opposed to unimproved capital value because there are some 
capital improvements that are currently included in the 
valuer-general's assessment of land value and how that 
reflects the actual income-earning capacity of that

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MR GIDLEY-BAIRD: Not one associated with the rate or the base itself, but more about the accounting and financial reporting that's going to be needed. We are combining three entities here, each with their own funding streams and each with their own reporting requirements that they need to meet, and I suppose questioned by landholders in the past as to, you know, where their rates go, how much is delivered back to them in the service.

And I'll be frank - the biggest discussion we have amongst our members - and it's close to 50/50 in terms of supporting LHPAs, but the biggest bugbear for them is knowing that they have to pay rates, and writing the cheque every year, but then not seeing the direct service come back to them, and I think one of the challenges with the establishment of the new LLS is I'm glad to see that they've got, you know, strategic planning and auditing and financial reporting in the legislation, but it will be how well that's done, and how well the costs and benefits are actually identified in that so people can clearly understand, and we have that transparency there to know, "Well, okay. I know what that levy is being paid for and where it's going, and how much is raised and where it's coming back to me."

I think that's one of the real challenges and, you know, it is no secret because it was in the budget papers, because the Federal Government hadn't actually allocated the NRM component because they were still looking at the application. So to meet all those requirements, the financial reporting is going to have to be pretty good.

THE CHAIRMAN: Okay. Well, I think we might close the session now. I'd like to do so by thanking everyone for attending today's forum, and for your contribution to the discussion, helping us better understand what's required to develop a funding framework for Local Land Services. Realising some of you have come some distance today to be here with us, so we are grateful for the effort you made to be with us today. And for the, I think, constructive contribution and the spirit in which these discussions have been held, which I think has been very good. It's good, I think, to have a bit of a conversation between us and you about the issues and we'll benefit from that.
A transcript has been taken. The transcript from today’s forum will be available on our website within the next week.

Perhaps a bit hard to summarise the discussion, but I think a clear message has been the importance of smaller landowners as risk creators. I think that has come through very clearly out of today’s discussions.

As advised, we plan to release a draft report at the end of August, and then there’ll be a further opportunity for stakeholders to comment on our findings. And there’ll be a public roundtable in mid-September. So that’s the next stage of this inquiry. You’ll be able to see what our thoughts are at that stage.

So, once again, thank you everyone for attending and we’ll close the forum. I believe we have some lunch available. You are most welcome to join us for lunch. Once again, thank you very much.

AT 12.31PM THE TRIBUNAL WAS ADJOURNED ACCORDINGLY