

TO: INDEPENDENT PRICING AND REGULATORY TRIBUNAL

Submission relating to Woollahra Municipal Council's Fit for the Future proposals, 2015

Perspective

I offer these comments and views having taken account of the Woollahra Municipal Council response to IPART's methodology for the *Fit for the Future* Review, and having also consulted the responses of its neighbouring councils. They are coloured by my experience as an Alderman of Woollahra Municipal Council over three electoral terms and Mayor for two terms, and by over 50 years of continuous membership of and activity on behalf of resident action groups relevant to the area.

While I might cavil at some minor issues of interpretation, I saw nothing of substance in Woollahra's documentation to which I could take real exception, and much in it that I strongly endorse. Importantly, it seems to me that Woollahra's submission makes a very sound and logical case against the proposal of the Independent Local Government Review Panel (ILGRP) that Woollahra should merge with neighbouring councils in the *Global City* concept. Equally importantly to my mind, Woollahra's submission provides a compelling case for the continuation and active fostering of the kinds of co-operative and *ad hoc* council alliances and groupings that have long assisted and enabled much that is highly valued in the local sphere.

My overview of the submissions led me to the view that no practical or lasting gain would be achieved for Woollahra's ratepayers, residents, businesses and visitors if the present area of the Municipality were substantially altered and/or subsumed into a larger council structure. At the same time, in a dynamic environment I do not dispute the possibility that minor council boundary adjustments may be helpful for administrative purposes from time to time; certainly they will be most helpful when they are mutually identified and agreed between the affected councils. But those kinds of minor changes are not the focus of the present exercise as I understand it, and none of relevance to Woollahra has been specifically identified in the submissions of the relevant councils.

My submission dated 17 June 2015 to the *NSW Legislative Council's General Purpose Standing Committee No. 6* for its current *Local Government* inquiry was made under the aegis of my consultancy *Rolfe Planning Assessments*. While I had directed those remarks to (some of) the Legislative Council Committee's terms of reference, the conclusions I reached referring to the Government's *Fit for the Future (FFTF)* agenda are reinforced by the material presented to IPART by Woollahra late in June 2015, and so they are reproduced here:

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2. I conclude *that the FFTF proposals do not offer benefits of the kind that are purported to flow from and be implicit in them. Regardless of how their areas are constituted or re-constituted, councils will still remain subject to the same kinds of potential weaknesses and strengths that flow from decision-making by elected people, from decisions by regulators in response to policy imperatives of varying quality and validity, and from inability to forecast the future. The FFTF council amalgamation proposals in particular have the come-by-chance character of an essentially unreliable means directed towards an illusory end.*

3. It is unfortunate *that the burden of proof seems to have been laid on the relevant councils to show why they should not be merged, willingly or otherwise, with the other councils nominated in the documentation; the benchmarks put forward for the purpose of the*

exercise are themselves partial, irrelevant in many contexts, and static in their applicability anyway.

4. Other - perhaps praiseworthy - purposes may be served by some of the policy changes proposed in the FFTF framework, but they are too closely aligned to and dependent on the boundary change proposals to be assessed sensibly in their own right at this stage.

5. I do not know of serious or significant obstacles to the successful negotiation of council boundary changes between consenting councils, and none appear to have been identified in the FFTF papers, but I think that the matter warrants investigation. I do not think external financial and administrative inducements – such as those offered by the Government in the FFTF context – should drive council boundary changes. Similarly, I do not think it wise to base council boundary changes on the application of abstract concepts or simplistic financial formulae.”

The Legislative Council Committee has now published my submission (No. 10). I formally request IPART to consider it as an intrinsic element of my offering to this IPART Review. These present remarks are intended to *supplement* it rather than to duplicate it.

Benchmarks, yardsticks, indicators, targets.....

For present purposes, I cannot see that Woollahra’s compliances that have been achieved and predicted in relation to the measures utilised for the IPART Review could be thought to offer any certainty about the municipality’s financial, cultural and democratic future, nor would they offer any better forecasting tool for any other council area. This seems to be the case regardless of whether the compliances are viewed as part of the total FFTF package or individually.

It can be said fairly that the present and forecast compliances reported to IPART by Woollahra and the other councils only tell us about compliance *with the nominated formulae*. I do not think the story can reliably be generalised beyond that.

Compliance with the present indicators and/or with any new benchmarks that may be adopted could well be helpful or relevant for a specific purpose in a particular context, for one or more councils. But I think there is no sensible way in which such formulae can be said to be seriously helpful to the *overall* operation of a council, or of councils generally, given their widely varying menus of services, real differences in physical, social and economic characteristics, and their democratic decision-making remit, as well as the inevitability of change over time in all aspects of local administration. When projected into the future, the indicators and the compliances may be indicative; they cannot be determinative.

Coping with change and uncertainty

Formulaic tools of the kind that Woollahra and the other councils have been required to employ in their proposals to IPART make no practical concessions to the reality of the need for *financial flexibility* to deal with *contingencies*. This is especially relevant in the context of council use of debt.

I hold that retention of a prudent margin of reserve borrowing capability is critical to allow councils responsibly to recognise the reality that fairly major contingencies can and do arise from time to time. Recognising that they may result on occasion from some failure of council alertness or vigilance, contingencies are by definition essentially unpredictable. Meeting the financial

requirements to deal with unpredictable and unexpected events may be beyond the scope of a council's current revenue account and reserves balances.

For that reason, I deprecate the continuing endeavours of those who encourage councils to utilise their borrowing capacity much more extensively - in effect to *max out their credit cards*.

But – and not for the first time – encouragement of resort to debt is evident in the Government's borrowing inducements that form part of its FFTF package, even though councils found to be FFTF should not – on the face of the rationale of the package – need special treatment for that or any other purpose. Following from this IPART Review, I hope that financially prudent and forward-looking views will be promoted and will prevail on their merits, without needing inducements.

I certainly hope that Woollahra will continue to see the wisdom, in any future resort to debt, of constant caution of the kind that has been generally evidenced by the council to date.

Equity aspects of borrowing

The *inter-generational equity* argument that is often put forward in support of increased current reliance on loan funding of council infrastructure has a superficial appeal, at least to the extent that future citizens can be expected to benefit from the works involved that they inherit, and so it is said they may reasonably be required to pay for them by way of servicing the inherited debt that funded them. However, future citizens necessarily bear the burden of poor decision-making (or asset obsolescence, or whatever) in the past too, by way of inherited debt servicing obligations, budget constraints, and otherwise, but that does not automatically produce an equitable and financially sustainable form of local administration.

Future citizens will fund the infrastructure needs that become evident in their own times by way of rates (which may either be servicing loans or providing direct funding from current income), and/or by user charges, as best they can. Equity aspirations are also served by recognising that *current* citizens at any time benefit and/or bear the problems arising from past investments in infrastructure regardless of how they were funded.

In the *present* tense, the bequest of loan servicing obligations to future generations clearly reduces the margin of financial flexibility that would otherwise be available to those councils in the future, just as the inheritance of past loan servicing obligations demonstrably inhibits the financial flexibility of councils of the current generation.

From the viewpoints of council sustainability and accountability, it is far better that the funding arrangements for council works be determined in relation to the council's economic and budgetary realities of the day – that is, they should be *contemporary* - rather than by doctrinaire adherence to some canon asserting that long-lived assets should always be funded with long-lived debt.

The very *concept* of long-lived assets is itself obviously frail: damage by natural disasters and displacement arising from major changes in technology and safety standards cannot be assumed away, and those risks are not peculiar to any council or period. Woollahra is not immune to them, nor is any other council, but in its retention of a fair margin of reserve borrowing capacity, Woollahra appears to be better prepared than many for nasty surprises. It should not be penalised for that prudence.

The enthusiastic utilisation apparently advocated by the Government of favourable access to loan funding for certain councils – those deemed FFTF - seems to me to contain potential for future woe.

Equity aspects of rating

Given its sizeable population base and peninsula landform, Woollahra's submission to IPART exhibits a considerable variety in locality characteristics. In response, the council's general planning and financial policies seek to recognise locality and economic differences in practical ways. Of particular interest in the present context is the council's use of *the base rate* as a major component of its residential rating policy.

The *base rate* mechanism makes a critical contribution to equity in the Woollahra community, because it ensures *as far as is permitted by legislation* that people using rates-funded services pay more-or-less comparably for them. The defects in the present legislative arrangements concerning rating structures notwithstanding, Woollahra's early adoption of the base rate mechanism set it apart from the other councils in the region, including the *Global City* councils. Those other councils have not seen fit to utilise the base rate mechanism for what are apparently considered by their own councillors to be good reasons; I see nothing in their proposals to IPART to suggest that they would wish to modify or abandon that attitude if they were merged with Woollahra.

Because it can and does recognise the very significant variations in residential land values that reflect (among other important indicators) differences in proximity to the Harbour and associated scenic attributes, the Woollahra base rate policy makes a continuing and substantial contribution to equity among its ratepayers. Defects in rating mechanisms applicable to strata units are not peculiar to Woollahra, and I welcome the identification of that matter as one warranting close attention.

For those reasons even if for no others, Woollahra ratepayers would be entitled to view the application of the *Global City* concept in whole or in part to Woollahra with very great apprehension. There would be serious inequity in Woollahra if the base rate policy were removed – but I cannot imagine it being continued in a new situation involving collective decision-making by an amalgam of those councils that have clearly - and rationally for their purposes - not favoured it to date.

Keeping fit....

In addition to any contingencies that occur, the *democratic realities* of decision-making by elected people can – and will - interfere with the prospects of on-going compliance with benchmark measures of council sustainability anyway. Changing regulatory regimes and national and local circumstances necessarily modify past decisions and fashion new issues demanding new decisions for the time to which they apply. Electoral pressures and priorities also change. Resistance to such changes *for the sake of compliance* with performance monitoring formulae (so as to assist or enable access to preferential treatment of some kind emanating from the NSW Government, as proposed in the FFTF concept) is unlikely to be productive of efficiency in either the short or the long term.

Human endeavour being what it is, perfection in council performance cannot even be defined, let alone be assured. Elected councillors are not required to have any special competence, qualifications or expertise. They can and do make mistakes, and compliance with specific performance indicators cannot fully or always or necessarily ever quarantine councils and ratepayers and citizens from what might be judged in retrospect to have been poor *quality decision-making*. Experts (staff, external consultants, elected members) may fairly differ and thereby parade - and sometimes even improve - their expertise.

It is, of course, open to anyone who disagrees with a council decision to view it as being somehow wrongheaded, but the realities of democratic decision-making suggest that dissent and discussion are highly valuable when contentious matters have to be resolved. And the more confidence that

citizens can sustain in the local knowledge of their councillors, the more those citizens can at least feel assured that the detail they value is actually addressed, even when the outcome is not entirely to their liking! The more remote a council and its councillors are from their citizens, the less sensitive and insightful their knowledge base can be.

Councillors would not be better protected from making mistakes if Woollahra were joined with one or more other councils of the *Global City* concept, nor would expert staff, who are also fallible.

Bigger councils are not inherently better than smaller councils at being excellent, or even better at being good, but the blunders of large councils are usually bigger than those of smaller councils.

Boundaries

I see no defects in Woollahra's performance that would be rectified by merging it with one or more of its neighbouring council areas.

The cross-subsidisation by Woollahra of rate bills in those other areas would be understandably attractive to their ratepayers, but definitely not to Woollahra's. The proposals of those other councils do not identify any potential matters of joint interest involving Woollahra that could not be dealt with effectively and efficiently by the kinds of co-operative effort that have marked the inter-relationships of the councils to date. This kind of collaborative and often *ad hoc* endeavour should be encouraged; it is likely to be much more productive for all parties than the FFTF prospect of involuntary coalitions being imposed on the existing framework.

When they delineate broadly homogenous communities and/or localities, council *boundaries* can have a helpful impact on *equity* in delivery of services to and imposition of rates on residents and ratepayers. In contrast, the more heterogeneous the communities and localities served by a council, the less is it likely that anything other than superficial equity goals can be served, because of the electorally necessary variety of policies and services that are needed to embrace the different areas and interests .

Within its existing boundary, Woollahra has a quite high degree of *location homogeneity* that reflects the harbour-side location and orientation of activity of the Municipality. That Woollahra characteristic is not shared with the other councils nominated in the *Global City* concept; rather, Waverley, Randwick and Botany Bay council areas exhibit a strong ocean coast orientation that is very different in character and service implications from the peninsula landform of Woollahra, and from the City. As Woollahra's submission indicates, the economic character of its council area is also different from that of its neighbours.

Communications.....and effective advocacy

The NSW Government's submission to the *Legislative Council's General Purposes Committee No. 6 Inquiry into Local Government* looks to a future *where a smaller number of councils have the scale and capacity to partner effectively with all levels of government, deliver better infrastructure and services and sustain themselves without charging higher rates*. It echoes the ILGRP proposals.

The "*no rate increase*" proposition is unsupported and insupportable. As a scenario for easier governmental and bureaucratic life, the general idea of fewer bodies to be dealt with carries obvious weight, but otherwise it lacks merit. Modern communications make light of numbers, and modern people expect their views to be given appropriate and fair consideration whether enunciated by

and/or submitted to a large institution or a small one. We call it *democracy*, but we could also, and just as accurately, designate breadth of opinion as *the getting of wisdom*.

FFTF looks toward advantages in advocacy to flow from larger councils. That approach seems to rest on the prior proposition that fewer councils would be more effective. I see no reason why that would actually be the case. Woollahra has generally managed its advocacy well by use of expert advice to support well-researched decisions and policies and by making its cases, when appropriate, through various regional and functional council groupings up to and including Local Government NSW, as well as through other channels, and with its residents.

A major *failure* of Woollahra advocacy relates to its concerns about the land value mechanism for allocating the Fire and Rescue NSW levy among councils. The levy is manifestly unjust in that ratepayers throughout the Sydney area bear markedly different burdens in order to fund the councils' share of the fire service budget even though all properties are entitled to receive a similar level and type of service. The problem there lies not in the logic of Woollahra's case for change to a more equitable system, nor does it lie in the means by which the case for change has been promoted to Government. Rather, it lies in the practical State and local-level politics of changing the levy allocation mechanism; a few councils like Woollahra effectively subsidise councils having lower land values. Councils and political representatives in the areas that benefit from the subsidy naturally resist any threat to what is a valuable bonus for them. There is a long history of this matter, and an equitable resolution would be welcome. It seems unlikely to come from the FFTF proposals themselves – indeed, the FFTF proposal for Woollahra to merge with neighbouring councils would more likely bury the case than promote it. Perhaps a fair outcome might eventuate from IPART's Review.

Through a glass, darkly...

As has always been the case, the future for councils singly and collectively is unclear, and I cannot imagine and do not expect that IPART's Review can change that. But I think its submission to IPART shows that Woollahra is on a sound course as things stand, and I expect and am confident that an informed, alert and aware constituency will continue to keep the Woollahra Council of the day well and prudently attuned to economic, social, and environmental realities. To my mind, that seems as closely as one may reasonably expect to approach sustainability.

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