

Submission to IPART on the Application of Kogarah City Council for a Special Rate Variation

I make this submission to IPART as a result of the manner in which Kogarah City Council has manipulated or distorted information presented to IPART as part of the Council's application for a Special Rate Variation.

On 14 February, I made a submission to Kogarah City Council in respect of the Council's proposed application for a Special Rate Variation. That submission is set out as Annexure A to this submission. At the time of making the submission to Council, a copy was emailed to Mr Tony Camenzuli of IPART due to my concerns that my submission would not be faithfully represented to IPART by Council.

It is apparent from the contents of Attachment 6 to Kogarah City Council's application, that my concerns were well founded. In particular, my submission that Council forwarded to IPART was limited to only the first page of the submission, not the full 12 pages of that submission. I think you will find that there are significant issues in the pages that were suppressed by Council, including \$440,000 of Council funds that are apparently missing and unaccounted for by Council.

I have no way of knowing the extent of other submissions that were edited or suppressed by Council. However, it is apparent from the contents of Attachment 6 to Council's IPART Application that at least one other person raised the issue of Council amalgamations in their submission, in addition to me, yet the Council report to the full Council meeting makes no mention of that issue.

I doubt the integrity of the Council application, the integrity of the persons involved in making the application, and the veracity of the Council Certification.

Briefly, from my review, I doubt that the Council application is in accordance with the published guidelines for such application as it does not identify the proposed Special Rate Variation with specific projects or services, and the Council Application does not prioritise projects. The reference in Worksheet 6 of Part A of the Council Application to simply "maintenance of current services" is indicative of that. The fact that Kogarah Council cannot point to even one example of productivity improvement or cost containment (Criterion 5 in Part B of the Application) tends to indicate the lack of proper consideration by Council and Council staff, or the lack of any meaningful achievement in those areas.

If granting the Special Rate Variation is a fait accompli, and Council can manipulate community consultation with impunity, then there is little point in requiring community consultation as part of the application process. It simply puts the community to an effort where an outcome has been pre-determined by Council, and where alternative views can be suppressed or censored.

In regard to Council staff, there is little achieved in having an ICAC-mandated Code of Conduct, incorporating that Code into Council employment contracts, and having Council assert that they have a functioning "VISTA values" programme, if compliance and enforcement is largely discretionary. The fact that breaches of ethical conduct are dealt with inside of Council, in closed

session, and in confidential reports, if they are dealt with at all, does nothing to enhance the reputation of Council within the community.

I leave it to the assessment of IPART on whether the application by Kogarah City Council for a Special Rate Variation should be approved or declined, wholly or in part. I doubt that Kogarah City Council has fully or faithfully complied with its obligations, or complied with published guidelines, as part of Council's Application.

If IPART requires clarification of any issue in this submission, or in my submission to Kogarah City Council, you can contact me directly.

Dated this 7th day of April 2013.

Neale Murden.

Submission to Kogarah City Council on the Community Strategic Plan and Council's Proposed Increase in Rates

14 February 2013

Submitted by: Neale Murden

Executive Summary

This submission is provided in response to a request from Kogarah City Council for community feedback on the Council's Community Strategic Plan and on Council's proposed increase in rates above rate pegging.

My submission is that:

1. There are considerable inefficiencies in the manner in which Council operates which have not been addressed in the Community Strategic Plan or in the proposed application to IPART;
2. Council should objectively examine what are the core functions of Council and what activities they should properly be involved with;
3. Council rates should not be used as a form of taxation to redistribute funds to groups or organisations that Council wishes to preference on a subjective basis; and
4. Council should be utilising the significant investment funds of approximately \$35 million to achieve the core functions of Council.

On balance, I recommend the Council's proposed increase in rates above rate pegging be withdrawn or that IPART makes a decision not to allow such increases. Alternatively, any increase above rate pegging should be clearly conditioned on Council providing genuine access to Council processes, committee meetings, information & financial reports, and to realising efficiencies in the short term.

Background

The Council is, essentially, a State Government-sanctioned territorial monopoly for certain services.

I believe that such a monopoly should not be an impost on the community through waste and inefficiency, and contemporary community standards require Council to pursue efficiencies as a matter of proper administration. This may require both Councillors and senior Council staff to deal with an inherent conflict in pursuing an amalgamation of Councils to realise efficiencies where such an amalgamation may have personal consequences for those persons. This is the nature of a fiduciary relationship with ratepayers that I believe Councillors and senior Council staff should be pursuing diligently.

Available Information and Documentation

I believe that the documentation that has been prepared by Council presents the Special Rate Variation as a foregone conclusion. The alternative to the proposed Special Rate Variation is set out in extremely limited detail and the difference between the two scenarios is not clear.

The information set out on page 3 of the Kogarah Life Special Edition published by Council in support of an increase above rate pegging does not quantify what the actual rates and charges will be in dollar terms for each year or quarter. That is, what rates and charges residents will see on their rate notices in each of the years of the proposed increase? The cumulative nature of the increases would be a great deal clearer to ratepayers if it was presented in such a manner. I tend to believe that the information as it has been presented in the Council publication is misleading and deficient. Set out below is an extract of the analysis in the Kogarah Life Special Edition.

Year 1 (2013/14)

Land Value	Weekly Increase - Existing SRV (5.9%)	Weekly Increase - Setting a Rate (5.9%)	Annual Increase - Existing SRV (5.9%)	Annual Increase - Setting a Rate (5.9%)
Minimum Rates (Land Values <\$447,000)	\$0.40	\$0.40	\$20.90	\$20.90
\$450,000	\$0.40	\$0.40	\$21.01	\$21.01
\$600,000	\$0.54	\$0.54	\$28.01	\$28.01
\$800,000	\$0.72	\$0.72	\$37.34	\$37.34
\$1,000,000	\$0.90	\$0.90	\$46.68	\$46.68

The use of weekly figures in the rate analysis is probably inappropriate as ratepayers do not pay rates on a weekly basis. I query whether this is a strategy by Council to minimise or trivialise the extent of the increases, or has been designed to mislead residents about the true impact of the proposed Special Rate Variation. The analysis may be more meaningful if it was to present quarterly rates and charges as I understand that a considerable number of ratepayers pay their rates in quarterly instalments.

The fact that waste charges have not been included in the analysis may tend to distort the Council's analysis as ratepayers may wish to know how much their rate notice will be for each quarter or each year, depending on which basis they pay their rates. I doubt that the information presented in the Kogarah Life Special Edition January 2013 is in a format that provides the clarity required by IPART.

Core Functions of Council

The community generally accepts that there are certain functions that are the prime function of Council to deliver. In simple terms these are the maintenance of roads, the removal of rubbish, the maintenance of public parks and the provision of street lighting.

There are other services that it may be nice for Councils to provide, such as libraries, but, with an increasing trend towards ebook formats and information available over the internet, the provision and delivery of such services is likely to change dramatically. It may well be the situation that Council's library service requires less of a physical presence through branch libraries and more of an online presence. This would obviously free up Council land and buildings for redevelopment and provide significant funding for the provision of the core Council services.

In November 2011, I requested Council provide the analysis that is lacking in its Annual Report in respect of Water and Sewerage businesses, where the analysis simply states "N/A". These are the same businesses that Council proclaims as being a basis for receiving awards for its environmental initiatives, yet there is no analysis of the costs, the level of government grants, or the profitability of such operations. This is the disclosure in Council's 2012 Annual Report.

Special Schedules
for the financial year ended 30 June 2012

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Special Schedules¹

- Special Schedule No. 1	Net Cost of Services	2
- Special Schedule No. 2(a)	Statement of Long Term Debt (all purposes)	n/a
- Special Schedule No. 2(b)	Statement of Internal Loans (Sect. 410(3) LGA 1993)	n/a
- Special Schedule No. 3	Water Supply - Income Statement	n/a
- Special Schedule No. 4	Water Supply - Balance Sheet	n/a
- Special Schedule No. 5	Sewerage Service - Income Statement	n/a
- Special Schedule No. 6	Sewerage Service - Balance Sheet	n/a
- Notes to Special Schedules No. 3 & 5		n/a

The coordinated response that I received from Council and its auditor in December 2011 were, at best, evasive. It is difficult for ratepayers to have confidence in the integrity and the efficiency of Council operations when Council is not open and up front about its dealings.

The Base Level of Rates

One factor that has not been acknowledged in the Council documentation is the significant growth in the number of home units in the Kogarah Council area that are replacing houses and single level dwellings in recent years. You need only look at the number of home units being constructed near the junction of the Princes Highway and President Avenue, Kogarah to know that there will be a substantial increase in rates simply as a result of additional ratepayers in the Council area.

I understand that one of the Councillors is a selling agent for these home units. That Councillor should be well aware of the number of units in such a development, and similar developments, and the impact that the rates from such developments will have on Council finances.

To the extent that this trend of replacing houses with home units and higher housing densities continues, which I understand is the intention of the NSW Government, there should be a surge in the gross amount of rates received by Council simply as a result of that policy. Such a policy should provide more than sufficient increase in the level of rates, without the need for Special Rate Variations.

A further aspect that hasn't been addressed in the Council publication is the cost of Council exempting certain organisations from paying rates. Some of those organisations are substantial businesses which are extremely profitable and which can impose significant burdens on local infrastructure, including parking and traffic issues. Every time one of those organisations acquires a

local property, there is an ongoing loss to Council of the rates that would otherwise be payable on that property.

When those organisations submit development applications, the usual fees for such applications are waived by Council. In addition, when these organisations monopolise the use of local parks without the usual Council charge for that use, the true cost of this indulgence is quite significant. I don't believe that it is equitable for religious organisations or private schools to expect the broader community to contribute to their private business or religious pursuits through Council subsidies and waivers of charges.

The subsidy to these organisations is not quantified in Council publications, but, I would suggest that it is substantial and that it is a matter Council should seriously consider. In saying this, I am mindful of the recent Council impost on personal trainers that use Council parks, while private schools continue to use those facilities for a commercial purpose, rent-free.

Investment Funds

According to the last available report as part of the Governance and Corporate Services Working Party Meeting held on 19 November 2012, Council holds investment funds of \$35,840,466 as at 31 October 2012.

As a matter of public policy, I have concerns whether Council should be holding significant levels of "investment funds" and whether Council has the expertise to properly manage such a significant level of those funds. My opinion is that the funds should be expended for the purpose for which they were raised. For example, the construction of a bridge over the railway line at Allawah, where Council claims they do not have the funds to be able to proceed.

I note from the last publicly available analysis of the Council's investment funds in October 2012 a significant proportion of the portfolio is invested in unrated or B rated funds. From my calculation, the amount invested in unrated and B rated funds is \$16 million of the total investment funds of \$35 million. With the recent experience of Councils investing ratepayers' funds in risk investments, and the real possibility that significant funds have been lost, I query whether Council should be holding such funds and whether Kogarah Council funds are needlessly at risk.

The Council's investment in the Black Rock Care & Maintenance fund is intriguing. According to the Council documentation the market value of that investment is 9% below the amount invested in that fund (\$1,938,353 compared to an amount invested of \$2,133,356). It is hardly a risk-free investment.

I have no details on who advised on the Council investments, whether that was done within Council, whether there is a trailing commission associated with these investments, and which person receives the benefit of any such trailing commission.

Bank Overdraft

I cannot understand why any organisation with \$35 million in investment funds (asset) would need an overdraft facility of \$500,000, particularly when 26% of the investment funds (approximately \$9 million) are categorised by an independent consultant as being "at call". It seems bizarre that the

investment returns could be such that they would exceed the cost of the overdraft facility, including establishment fees and the cost of granting a fixed and floating charge over Council rates.

If anything, the mere existence of the overdraft facility leads me to question the quality of the treasury function within Council. If Council cannot manage that function professionally, then I have considerable doubt about the fundamentals of Council's request for an ongoing Special Rate Variation.

I certainly hope that no one on Council, or closely associated with Council, has received or is receiving a fee or a commission in relation to the establishment or the ongoing use of Council's overdraft facility. I also hope that the use of a bank overdraft facility by Council is not a means of protecting a person's trailing commission on one (or more) of Council's investments where that investment would have been drawn down to meet cashflow requirements. I note that the independent consultant's report for the September 2012 quarter does not identify who, if anyone, is receiving a trailing commission in respect of Council's investment portfolio.

The Council's Resourcing Strategy document refers to the Council having no external debt. This is an extract from the relevant section of that report.

2.5 External Borrowings

Council currently has no external debt. Council would like to remain debt free whilst allowing for internal borrowing from restricted funds if appropriate. Council has no forecast external borrowing requirements detailed in this Long Term Financial Plan.

Whilst Council has no plans to borrow funds externally for the period of the 10 Year Long Term Financial Plan, the external borrowing capacity Council currently has is very important should any unforeseen large infrastructure costs arise in the future. Council has the ability to fund future infrastructure replacements from external loans should funding not be available from other sources.

Either the bank overdraft has been eliminated since 30 June 2012, or the statement in the Resourcing Strategy is incorrect. Without the benefit of a balance sheet forming part of the monthly and quarterly reporting that is published by the Council, it is difficult to know the true situation.

The Reconciliation Status Report included as part of the Annexures for Council's Governance and Corporate Services Working Party Meeting held on 19 November 2012 discloses that there are material gaps in the reconciliation. Set out below is an extract of that document with the dubious items marked.

Reconciliation Status		
The YTD Cash & Investment figure reconciles to the actual balances held as follows:		\$ 000's
Cash at Bank (as per bank statements)		589
Investments on Hand		35,149
less: Unpresented Cheques	(Timing Difference)	(92)
add: Undeposited Funds	(Timing Difference)	29
less: Identified Deposits (not yet accounted in Ledger)	(Require Actioning)	-
add: Identified Outflows (not yet accounted in Ledger)	(Require Actioning)	-
less: Unidentified Deposits (not yet actioned)	(Require Investigation)	2
add: Unidentified Outflows (not yet actioned)	(Require Investigation)	(440)
Reconciled Cash at Bank & Investments		35,237
Balance as per Review Statement:		35,237

Firstly, where electronic banking is so prevalent, I am surprised at the existence of “undeposited funds”, but, there is obviously some delay in Council depositing funds to the Council bank accounts. Secondly, the quantum of unpresented cheques raises concern as to whether the Council is holding back the release of cheques for suppliers, which is a dubious practice for a Council holding \$35 million of ratepayers’ funds. Again, I would have thought that electronic banking and funds transfers would have virtually eliminated the need for Council to process cheques.

But, thirdly, and most alarmingly, is the existence of \$440,000 described as Unidentified Outflows. It defies any concept of good governance and accountability that a Council can apparently release an amount of \$440,000 from its funds without knowing what it is for, who it is paid to, whether it has been properly authorised and how it is accounted for. The mere existence of such Unidentified Outflows raises serious concerns about whether the Integrated Planning & Reporting framework is working efficiently and effectively within Council, and whether the governance structure within Council is severely compromised. Prima facie, the Council’s system of internal control has significant flaws and the potential for significant loss of Council resources, which may have already occurred based on the Reconciliation Status report.

I would welcome an explanation from Council about these three items in their reconciliation, but, based on past experience, I doubt that a meaningful explanation will be provided by Council or Council’s Auditor. I also doubt that the reciprocal governance arrangements between Kogarah Council and Canada Bay Council will result in a proper investigation of this issue by an external member of the Governance committee. I am not sure that the reciprocal arrangement whereby Kogarah Council’s Director of Governance sits on Canada Bay Council’s Governance committee, and vice versa, was something that ICAC envisaged as independent scrutiny in its recommendation for Canada Bay Council. But, I leave that for ICAC to determine.

Continuing Requests for Special Rate Variations

This is Council's second request for a Special Rate Variation which, if granted, will extend the term of such variations to a term of eight (8) consecutive years.

I'm not sure that the provision of a Special Rate Variation is intended to be an ongoing feature of Council dealings. I believe that it is inappropriate for Council to operate on the basis that ratepayers are an endless source of funds for Council, or for the Council to assume that every request for an increase in rates above rate-pegging should be automatically endorsed.

There is a limit to what increase the community can reasonably bear and whether it represents value to the community.

The information that has been presented by Council in support of a new Special Rate Variation is somewhat self-serving. That is, it does not identify the budgeted income and expenditure if the request for a Special Rate Variation is not pursued.

Information Shortfalls

There are considerable shortfalls in the information that Council provides to ratepayers. In particular, there is little or no information provided by Council about:

- The actual cost to Council of the various activities,
- The extent of Council subsidies for various services, and
- The reasons for such subsidies,

Without the disclosure of this type information by Council, it is difficult for ratepayers to assess whether their rates are being properly accounted for and whether Council is concealing the extent of subsidies that it provides to particular groups in the community. As an example of this, information is simply not being provided about:

- The profitability of Council child care centres, or the extent that that activity is subsidised, including any grants,
- The profitability of Council water treatment and water recycling operations, and the extent of any subsidy or grants.

I am not saying that it is necessarily a bad thing for Council to be involved in these activities. But, I believe that ratepayers are entitled to be provided with a complete picture of the true cost of these services and the financial impact on Council finances in assessing whether ratepayers are getting value for money.

I have asked for this type of information in my email to Council in November 2011 regarding the water treatment businesses, but, the responses from Council's Director of Governance and Council's Auditor did not provide the requested information. The Council's financial statements were not amended and I believe that Council made only token efforts to comply with the spirit of public involvement that is embodied in Section 420 of the Local Government Act 1993.

In my email to Council dated November 2011, I referred to the practice of Council withholding committee and working party agendas and annexures until after the date of those meetings, and the

late publication of that material until shortly before full Council meetings. The omission of material described in agendas as “hard copy provided to Councillors” was also referred to in that email.

Where a former Kogarah Councillor has advised me that many of the Council decisions are made in committee and working party meetings, and the full Council meeting merely endorses those decisions, it is concerning that there is not greater transparency about proceedings at those meetings. The fact that those committee meetings are not open to the public, unlike Hurstville Council, raises concern at just what is occurring at those meetings and why the ratepayers are excluded from attending or addressing those meetings.

The use of closed session meetings and confidential reports on dubious (or unverifiable) bases does **not** help Kogarah Council assert that it is open with the community about its dealings, or publicly accountable.

Budget Comparisons

I believe that it is only reasonable that ratepayers have access to meaningful financial information, including detailed budget-actual comparisons. I cannot locate any budget-actual-variance analysis for the period of the existing Special Rate Variation to enable any verification of Council’s compliance with its Operational Plans.

There is little point in having Integrated Planning & Reporting by Council if the information is not readily available to ratepayers. My experience in seeking information from Council as part of commenting on Council’s 2011 financial statements under the provisions of Section 420 of the Local Government Act 1993 demonstrates that explanations are simply not forthcoming from Council.

I note that Council’s financial statements for the year ended 30 June 2012 contain no reference to related party transactions whatsoever, even though a significant contract with Citywide Civil Engineering of \$548,628.84 would apparently require disclosure as a related party transaction, having regard to the Mayor’s involvement with that company. Based on the coordinated responses that I received from Council’s Director of Governance and the Council Auditor in December 2011, it is pointless raising the related party issue with Council as I expect no genuine explanation, or correction, by Council. Based on my personal experience, the Council Auditor seems disinterested in pursuing such matters even though those matters are clearly within his ambit.

Cost Shifting Arguments

Part of the cost-shifting arguments by Council revolves around a carbon tax, by whatever name it may be known.

It should be remembered that the true cost of the carbon tax to Council may be overstated as, with a Federal election due to be held on 14 September 2013, there is a distinct possibility that a Coalition government will repeal the carbon tax. That is the stated policy of the Coalition. In that situation, Council may experience a windfall gain at ratepayers’ expense if a Special Rate Variation is granted on a premise that is no longer valid.

I think that you will find that the schedule of Council charges has been increased significantly above the rate of inflation in recent years. This has not been specified in the information published by Council in support of a Special Rate Variation and not has it been quantified in that material. It would not surprise me if the charges for various Council services far exceed ~~the value~~ the true cost of providing those services. That is, the charges may bear little relationship to actual cost.

The cost-shifting argument is somewhat undermined by the fact that Council provides a subsidy to various community groups where services are provided to certain organisations below cost or at no cost at all. The precise reasons for such subsidies are rarely identified in Council minutes or Council reports, if such documentation is actually made freely available.

Impact of “Not Setting the Rate”

I consider the cut to services identified in the Kogarah Life Special Edition (back page) to be sensationalised, having been listed without details of the extent of the cuts or the level of funding that such services receive from Council.

Many of the services that are listed are not core Council functions or the asserted cost of those services has been greatly exaggerated. In particular, of the listed items on the back page of Kogarah Life, I would query the relevance of Council functions encompassing:

- Waste & Recycling Education
- Educative Road Safety
- Traffic Management (which is an RMS function)
- Community Swimming Pools (the operation of which is outsourced)
- Community Grants (with the same organisations obtaining recurrent grants)
- Local Business Support & Economic Development Programmes
- Cultural Programmes
- Community Events and Festivals (most of which are sponsored)
- Bushland Management (where little bushland remains)
- Graffiti Management

The annual running cost of each of these activities is not disclosed in the Council material, nor is the level of Council funding for each of the activities under the two scenarios. I would have thought that such information would be readily available under the Integrated Planning & Reporting framework, but, perhaps I misunderstand the limitations of that system and the information that it produces.

The Efficiencies Not Being Addressed

Perhaps the greatest cause of inefficiency within Kogarah City Council is the fact that the Council area is simply too small to justify the level of administration and overhead costs that the community is being asked to fund. The current Council push for a further Special Rate Variation is indicative of that disparity.

There is currently an enquiry through the Independent Local Government Review Panel which includes consideration of whether there should be changes to Council boundaries or Council amalgamations.

In all of the documents that Council has published in support of a continuation of a Special Rate Variation, I cannot find one reference to Council amalgamation. Having regard to the current enquiry and the fact that Council's General Manager has made a written submission to the Panel, I am astounded that the bright and shiny Council publications do not make one reference to that possibility.

This is the link to a Sydney Morning Herald article from 30 July 2003 regarding the proposed merger of the three St George Councils <http://www.smh.com.au/articles/2003/07/29/1059480342332.html>. In almost 10 years since that article was published there has been virtually no action to pursue the efficiencies that could result from such a merger of those Councils – not by senior Council staff, and not by Councillors. Perhaps the vested interests of Councillors and senior Council staff means that such an issue will never be on the Council agenda and, if it is on the agenda, it will only receive token consideration.

If there is to be an amalgamation of the three St George Councils, this is an indication of the savings that could reasonably be realised by all three Councils in the short term, distributable amongst the three St George Councils:

		Indicative Savings \$
General Manager's salaries	2 x \$200,000	400,000
Director of Planning salaries	2 x \$200,000	400,000
Director of Governance salaries	2 x \$200,000	400,000
Director of Assets & Services salaries	2 x \$200,000	400,000
Councillor Allowances	24 x Allowance, equipment, meals & conferences	500,000
Other duplicated senior roles	unknown	unknown
Sale or redevelopment of 2 parcels of surplus Council office sites for home units	2 x \$5,000,000	10,000,000

I think that, as a community, we should reject the fact that Councillors and senior Council staff have a sense of entitlement about their position and we should accept that that sense of entitlement is a relic of the past, which belongs in the past. The community should not be asked to needlessly pay inflated rates and charges when there are significant deficiencies in the level of accountability by Council to ratepayers and significant savings that Council is not actively pursuing.

It is amazing how quickly Council can demolish community assets such as the Kogarah Bay Progress Association hall and the Sea Scouts hall, but, how averse Council is to rationalising its own operations in the interests of efficiency and in the interests of the community.

Quite frankly, any contention that Council has made a diligent effort to pursue the efficiencies resulting from Council amalgamation is simply without foundation. If the relevant Councils are not

willing to investigate the issue objectively, then perhaps the State Government will be justified in insisting on an amalgamation as a result of wanton effort by Councillors and Council staff.

Further Action

I recommend, as a bare minimum, that Council actively pursues the significant efficiencies that are available in its operation prior to, again, putting its hand up for additional rates and charges from ratepayers. Included in this consideration is a proper and detailed analysis of the savings that are likely to result from an amalgamation with Rockdale and Hurstville Councils.

I also recommend that the substantial Council investment funds of \$35 million be applied for the purpose of developing community infrastructure and not as some untouchable pool of funds. Further, Council should reduce the level of such investment funds to a more moderate level before seeking to impose a further Special Rate Variation on ratepayers.

On the basis of the limited information that Council has provided in support of its application for a rate increase above rate-pegging, and the limited information that Council provides the community at other times, I do not believe that there is a dire need for a Special Rate Variation in this instance. I recommend that the Council request for an increase in rates above rate-pegging should be declined or withdrawn.

Dated this 14th day of February, 2013.

Neale Murden.