

DRAFT SUBMISSION

**DRAFT TERMS of
REFERENCE -
IPART REVIEW of the
COUNCIL FINANCIAL
MODEL in NSW**

MARCH 2024



Local Government NSW (LGNSW) is the peak body for local government in NSW, representing NSW general purpose councils and related entities. LGNSW facilitates the development of an effective community-based system of local government in the State.

OVERVIEW OF THE LOCAL GOVERNMENT SECTOR



Local government in NSW employs **55,000 people**



Local government in NSW is responsible for about **90% of the state's roads and bridges**



Local government in NSW looks after more than **\$177 billion** of community assets



NSW councils manage an estimated **4 million tonnes of waste** each year



Local government in NSW spends more than **\$2.2 billion** each year on caring for the environment



NSW councils own and manage more than **600 museums, galleries, theatres and art centres**



NSW has more than **350 council-run libraries** that attract tens of millions of visits each year



NSW has more than **400 public swimming and ocean pools**

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Opening

Local Government NSW (LGNSW) is the peak body for local government in NSW, representing NSW general purpose councils, county councils and related entities. LGNSW facilitates the development of an effective community-based system of local government in the state.

LGNSW welcomes the opportunity to comment on the [Draft Terms of Reference \(ToR\) for the Independent Pricing and Regulatory Tribunal \(IPART\) Review of the council financial model in NSW](#). This review has the potential to be the most significant review ever conducted on the financial sustainability and resilience of NSW local government provided:

- the ToR provide for a comprehensive and unrestricted review
- the review is truly independent
- the NSW Government is genuinely committed acting on the findings and recommendations of the review.

This remains a draft submission until endorsed by the LGNSW Board. Any amendments will be forwarded in due course.

General Comments

LGNSW appreciates that the NSW Government is honouring a pre-election commitment in implementing this review. In February 2022 the then Shadow Minister for Local Government, Greg Warren MP, [wrote](#) to LGNSW advising that:

Furthermore, NSW will also implement a review of the financial modelling of councils, which is clearly broken after a decade long-drain on local council resources and the increasing cost burden on residents.

While welcoming the review, LGNSW has concerns about the limited scope provided by the Draft ToR. The scope is primarily focused on council expenditure and expenditure decision making processes including, budgeting, planning and reporting processes. LGNSW recognises that expenditure is a major component of a review of the council financial model, but it is only part of the equation.

If the review is to be comprehensive, balanced and instructive, it is imperative that the Draft ToR be expanded to direct IPART to include a comprehensive review of the local government revenue base, cost drivers, differences between councils and to undertake an assessment of the current financial condition of all NSW councils.

While ToR 3 appears to provide some scope for consideration of revenue, the associated questions indicate a limited focus on own source revenue (OSR) raising opportunities and the potential to use alternative OSR sources to reduce reliance on rates. The Draft ToR also seem to treat local government generically and do not seek to differentiate between the vast differences in council circumstances.

As it stands, the Draft ToR fail to provide the promised comprehensive review of the council financial model in NSW. The ToR neglect the overall inadequacy of the revenue base for local government, the limitations and constraints on council revenue such as rate pegging and external cost drivers including cost shifting.

The review will be incomplete, ineffective and unproductive without coverage of these factors.

The submission provides comment on the Draft ToR and proposes a number of recommendations for changes and additions to the Draft ToR.

Concerns have also been raised by councils about the apparent bias in the Draft ToR. Collectively they present a negative view of councils and are predicated on a conviction that any financial difficulties facing local government are the result of poor decision making by councils (whether elected representatives or staff), or elected representatives being poorly informed by staff. These concerns will be mitigated by more balanced ToR.

Comments on the Draft ToR

1. THE VISIBILITY OF COUNCILLORS AND THE COMMUNITY OVER THE FINANCIAL AND OPERATIONAL PERFORMANCE OF THEIR COUNCILS

LGNSW Comment:

Councillor and community visibility are matters that the Integrated Planning and Reporting (IP&R) process is intended to address and does so with the requirement for regular and frequent periodic public financial reporting throughout any given year. It is supported by a rigorous financial audit process conducted by the Auditor-General and more recently it has been bolstered by the mandatory establishment of Audit Risk and Improvement Committees (ARICs). These processes are further supported by Office of Local Government (OLG) oversight of council compliance with these processes.

Looking at these elements collectively, it would seem that the framework for maximising councillor and community visibility, along with transparency and financial accountability already exists.

Furthermore, this framework is ultimately underpinned by the inbuilt accountability mechanism of the democratic process, whereby councillors and their performance, financially and otherwise, are judged by their communities.

However, LGNSW recognises that there is room for improvements within the framework and welcomes the review exploring this further.

2. WHETHER THE CURRENT BUDGET AND FINANCIAL PROCESSES USED BY COUNCILS ARE DELIVERING VALUE-FOR-MONEY FOR RATEPAYERS AND RESIDENTS

LGNSW Comment:

Refer to comments in respect of Draft ToR 1 above. In addition, Councils undertake rigorous processes with their communities to develop their Community Strategic Plans (CSPs) which, when combined with the other required IP&R documents covering topics such as asset management planning, allows a council to enquire into and then establish the services and standards that their community expects of them.

3. WHETHER THE CURRENT FUNDING MODEL WILL SUSTAINABLY SUPPORT THE NEEDS OF COMMUNITIES

LGNSW Comment:

The questions associated with ToR 3 will provide a limited view of the funding model. There is reference to the cash flow issues associated with grant funding, but not the quantum or adequacy of grant funding. There have been numerous reviews of the financial sustainability of local government, and they have all concluded that the current funding model will not sustainably support the needs of all NSW communities.

The questions associated with ToR 3 also raised Own Source Revenue (OSR), the potential to increase OSR, and the potential to contain rates through substitution of other own sources of revenue.

Given constrained budgetary positions, most councils have actively sought out OSR opportunities over time. However, the opportunities are limited and vary markedly between councils.

Various past studies have shown that revenue sources other than grants and rates are very limited unless councils have a substantial property portfolio or can generate high parking revenues. These opportunities are mainly available to major urban councils and high tourism impact areas. There are few opportunities for typical rural and regional councils.

Limits on OSR are also imposed by State Government restrictions including regulation of fees and charges, the limitations on investments imposed by the Ministerial Investment Order and Government opposition to allowing councils to broaden the tax base of local government. The tax base of local government is currently restricted to rates. Councils do not have the statutory authority to introduce additional taxes, for example, tourism or road user taxes.

Many councils have also resorted to implementing or increasing fees and charges for the use of facilities and services such as aquatic centres, halls, sporting facilities etc. However, there are limits to what can be charged for community facilities while maintaining equity and elasticity with respect to user volumes.

ToR 3 neglects the overall inadequacy of funding for local government, the limitations and constraints on council revenue and external cost drivers.

The review will be incomplete and ineffective without coverage of these elements.

4. WHETHER COUNCILS (BOTH COUNCILLORS AND STAFF) HAVE THE FINANCIAL CAPACITY AND CAPABILITY TO MEET CURRENT AND FUTURE NEEDS OF COMMUNITIES

LGNSW Comment:

Councils generally have appropriately skilled staff, however, local government, like other sectors, has struggled with skills shortages in recent times. This is particularly true of many rural and regional councils.

Councillors bring a wide range of skills to councils derived from their various backgrounds and many have expertise in financial management gained from past employment, business or volunteering experience. However, councils are a tier of government and councillors, like Members of Parliament (MPs), are elected representatives. It is not and should not be a requirement for Councillors to have formal qualifications in financial management, particularly when this requirement does not apply to MPs. As with MPs, it is appropriate that councillors are informed and advised by appropriately qualified and expert staff.

It should also be noted that regulations have been made requiring councils to provide induction training and ongoing professional development for mayors and councillors. This includes training on financial management. These requirements extend beyond those required of parliamentarians.

It is also relevant to note that the poor remuneration provided to NSW councillors acts as a deterrent to potential councillors, restricting the skills available to councils.

5. HOW CAN BETTER PLANNING AND REPORTING SYSTEMS IMPROVE LONG TERM BUDGET PERFORMANCE, TRANSPARENCY AND ACCOUNTABILITY TO THE COMMUNITY

LGNSW Comment:

As noted above, a framework for maximising councillor and community visibility, along with transparency and financial accountability, already exists in the collective application of the IP&R process, rigorous financial and performance audits, and the introduction of ARICs.

The question is whether the elements of the framework are being effectively implemented. The NSW Office of Local Government's Improvement and Intervention Framework is one mechanism that seeks to provide a graduated approach to ensuring that councils comply with relevant legislation and standards, significant risks facing the council are addressed and that councils are able to exercise their core functions. The Framework encompasses encouragement and assistance, before escalating to orders, interventions and sanctions to ensure councils to comply with relevant legislation or requirements. As a general comment, it is the view of LGNSW that the OLG requires significantly greater resourcing to enable it to effectively monitor and respond to risks or issues relating to council compliance and performance.

6. ANY OTHER MATTERS IPART CONSIDERS RELEVANT

LGNSW Comment:

LGNSW supports inclusion of this TOR and also recommends that the TOR's be expanded to include the points below.

Recommended Additions/ Amendments to ToR

LGNSW maintains that the ToR need to be expanded to provide for a comprehensive review. The ToR should include the following:

- Assess the financial condition of all NSW councils, aggregated by category.
- Determine whether the current revenue base for local government provides councils with adequate financial capacity to meet mandatory responsibilities and deliver the infrastructure and services demanded by communities.
- Assess whether local government currently receives a share of national taxation revenue, through Federal and State Government grants, that is commensurate with its roles and responsibilities.
- Identify and consider new own source revenue mechanisms needed for the local government sector.
- Address the wide differences in revenue raising capacity, opportunities and cost structures between councils and the challenges in providing an acceptable degree of equity in access to local government services.
- Identify the impacts of cost shifting, both historically and ongoing, and propose alternative transparent arrangements that are fair and equitable. Major cost shifts include:
 - Waste Levy
 - Rate exemptions
 - DAs and regulatory functions
 - Emergency services contributions
- Examine the cumulative impacts of rate pegging and provide the Government with recommendations on its future.
- Consider how climate change impacts financial sustainability, including the adequacy of infrastructure, clean-up costs and the need to fund mitigation and adaptation actions.

Conclusion

LGNSW welcomes a comprehensive review of the council financial model for NSW. As discussed above, the Draft ToR as they currently stand do not provide for a comprehensive review. The focus on expenditure decisions and processes ignores the other major elements of the financial model and notably, the revenue base and cost drivers. Furthermore, they do not specifically address the differences between councils.

LGNSW strongly recommends that the Minister expand the ToR to include the additions and amendments raised above.

LGNSW looks forward to working with IPART in undertaking a comprehensive review of the council financial model for NSW.

If you have any questions in relation to this submission, please contact: [REDACTED]