Submission:

IPART Review of the Local Government Rating System – Discussion paper, April 2016

Noting that this *Review* is being undertaken in the context of the NSW Government's amalgamation proposals for many NSW councils, I offer these comments:

A blunt instrument

Council rates are simply annual tax burdens distributed among taxpayers/ratepayers on the basis of successive periodical assessments of land values. As such, rates are a form of annual capital tax – that is, they are levied each year on the basis of *assessed* capital gains/losses in land value.

All rateable landowners are subject to the tax, whether nor not capital gains/losses have actually been realised. The ultimate recourse for unpaid rates lies in confiscation and sale of the relevant rateable property; other – perhaps more liquid - assets are not encompassed in that provision. Council rates thereby occupy a unique place in the taxation menu: they collect revenue based on assessed capital value changes that have not necessarily accrued to -or been realised by - the owners of the taxed land; they are an enforceable charge on the land itself; they are not levied on other assets.

That reality suggests that, whether rates are levied on the basis of land values or on capital improved values, they may not necessarily be equitable *per se.*

Taxes based on some characteristic of land have obvious virtues that are recognised in the IPART documentation for this *Review* and elsewhere. But they are essentially discriminatory against other forms of non-taxed assets. They rely on valuations deduced from sampling of land sales thought to be broadly comparable, and the taxable values are therefore *derived* values, not actual ones. Other asset categories may have similar characteristics, but I think they are not taxed annually for any purposes at any level of government unless and until their actual value is realised by transfer of some kind.

Rates are often said to be appropriate for the (partial) funding of council activities that are available to an indeterminate public, and which are considered to confer value on specific land by providing accessibility, amenity and so on. Roads and footpaths and parks are the usual examples.

The present inquiry may ask whether it is appropriate for a tax on a single class of asset to be levied annually on a base which by definition reflects assessed capital gains or losses that have not (generally) been realised by the taxpayer/ratepayer concerned?

To the extent that equity may be a dominant concern, I cannot see that landholdings present a more accurate picture of *ability-to-pay* than is provided by other asset categories, nor is it clear that land assets are a source of more readily-available means to pay such taxes. Rather, the relative stability of land *ownership* suggests that many other forms of wealth provide a more accessible and less cumbersome asset base from which to fund an annual taxation impost.

In practical terms, the purposes for which councils may expend rate income within their areas are not restricted in any meaningful way. Non-landowners, non-residents, and non-ratepayers may well benefit from expenditures on services, and plainly they do, for example with roads and parks. The matter is more complicated when councils, either of their own volition or as agents, provide services

that are primarily the responsibility of other levels of government, but which are not fully funded by those other governments.

Since they reflect directly neither their affordability nor the nature and level of the services to which they are allocated, it might reasonably be said that council rates are a blunt tool for funding many of the purposes to which they are customarily directed, and – for those reasons – they are an essentially inequitable one.

Consideration of some kind of boundary for rate expenditures may have merit.

Illusory gains?

I note briefly that an important element of the material presented to Chief Justice Preston in the NSW Land and Environment Court on 20 and 21 April 2016 by Counsel for Woollahra Council, in its legal action relating to its proposed amalgamation with Randwick and Waverley Councils, related to the purported assessment of gains that might accrue from the amalgamation process.

With the judgment not yet delivered, I simply note that referral to the Court transcript might well provide IPART with a much less optimistic view of the gains that might be anticipated than that which appears to underlie the comments expressed by IPART in its Discussion paper.

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