



Reference: MC/15/

Enquiries: Kathryn Parker [REDACTED]

Dr Peter Boxall  
Chair  
Independent Pricing and Regulatory Tribunal  
PO BOX K35  
Haymarket Post Shop 1200

Dear Dr Boxall,

Subject: Local Government Consultation Paper, Methodology for Assessment of Council Fit for Future Proposals

Manly Council welcomes the opportunity to provide comment and a submission to IPART's Local Government Consultation Paper, Methodology for Assessment of Council Fit for Future Proposals, April 2015 in response to the questions raised (p.11).

This submission is conditional upon IPART's legal competence under the *Independent Pricing and Regulatory Tribunal Act 1992* (NSW), to accept the Terms of Reference from the Premier of NSW and/or his Minister for the purported review, and to make findings on the "fitness" of local councils in a manner contained in its publication: *Local Government Consultation Paper, Methodology for Assessment of Council Fit for Future Proposals, April 2015*.

This submission references the Independent Local Government Review Panel ('ILGR Panel') Revitalising Local Government Final Report (October 2013).

This submission raises a number of issues with the IPART proposed methodology including:

1. the inconsistencies in usage and purported reliance on scale and strategic capacity aspects, and
2. a complete lack of quantifiable criteria for these aspects in order to assess the future fitness of 152 local councils.

Manly Council believes that the scale and capacity elements should be flexible for councils, particularly those in the metropolitan area, where the achievement of scale can take a variety of forms that are not necessarily a function of population size. This is especially important for Councils such as Manly Council that already achieve financial sustainability, and where mergers and amalgamations are not desired by communities, or seen to produce long-term net benefits for their communities.

#### Council's Response to Question 1:

Council agrees with the ILGR Panel's assessment that 'one size does not fit all', and welcomes the NSW Government's consistent reiteration of this concept in its Fit for the Future documents published to date.

In agreeing with the ILGR assessment, Council strongly contends that scale, efficiency and effectiveness are all affected by the location, geography and



characteristics of the community. Therefore, any process that ignores these determinants in relation to population is flawed.<sup>1</sup>

It is therefore recommended that 'scale' should be grouped as the eleventh key strategic capacity element measured alongside other key elements rather than a standalone threshold determined by population

Nevertheless, IPART (p.21) requires councils to 'demonstrate sufficient scale with an appropriate minimum population size'. Council disagrees that this is a valid requirement. Population size should include resident population, visitation population and working populations of an area.

Any assessment of population size has the potential to penalise good performance. There are numerous examples in NSW, Victoria and Queensland where 'forced' merged entities fail to meet the needs of their communities and fail to achieve financial sustainability across a range of ratios and benchmarks which leaves them worse off than they were beforehand.

Council also disagrees with IPART's approach that there is a 'target number of councils' in the metropolitan area. We believe that is the wrong approach to local government reform. This is because the varying operations, circumstances, or views of the community are not included in this 'target' approach. Instead it is seen as a political solution to reduce the numbers of councils in the Sydney area, without any real economic, practical justification or rationale.

To date, a requirement 'for a minimum population size' has not been explicitly requested in the documents or submission requirements to date. Council supports the concept that 'scale' should not be directly linked to population scale.

While Manly Council area has a 'small' population size of 44,000, it achieves 'scale' in a variety of ways. For instance, it services a much larger visiting and tourist population base (visitors number eight million plus per annum, as measured by ferry data and car parking turnover). It also has innovative ways of delivering services through collaboration across council boundaries.

"Scale" in the Sydney context for Manly is overcome by sophisticated joint regional efforts to work with other levels of government, agencies and non-government organisations that often go beyond the boundaries of local government. For instance, this has been effective in the Northern Beaches through the strong performance of NSROC and SHROC who have worked with state agencies on health, transport, sub-regional planning, as well as on the differing needs of state and federal agencies. SHOROC comprises of four Councils - Mosman, Warringah, Pittwater and Manly - who work together on joint regional initiatives including working with state agencies, lobbying government on key priorities, purchasing, savings and managing regional assets. It has also established a corporate organisations with its neighbours, e.g KIMBRIKI to manage and plan improvements in regional waste.

Manly Council therefore contends that IPART's definition of scale should be flexible. In some cases, size is more accurately reflected by the population that the particular LGA serves, which, in the metropolitan Sydney context, can extend beyond Council's current boundaries, especially when there are Sydney and international visitors constantly coming and going in an area.

Council believes that IPART's current methodology is unreasonably inflexible at present to cater for these considerations and agrees with the ILGR Panel's assessment

<sup>1</sup> Professor Dollery, Bigger is Not Always Better; and Critical Evaluation of Revitalising Local Government

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that 'one size does not fit all'. This should remain the case in the Sydney region given the different roles that different areas play to serve the needs of global Sydney.

Additionally, the reliance on minimum sizes of an area may be counter-productive to achieving 'strategic capacity' as required by IPART and the Independent Panel. There is a body of evidence that shows how the reliance on a particular population size is flawed as a determining factor. These studies are further examined in the paragraphs below.

Professors Abelson and Joyeux<sup>2</sup> found that the Independent Local Government Review Panel provided no evidence or reference in its report to support their view that larger councils are more financially sustainable than smaller ones. They also found that NSW Government and IPART's equation of scale with financial capacity was baseless and incorrect. They contend that financial capacity is dependent on and a function of income, not of population size of a council area or of 'scale' however this is defined.

Council supports Professor Dollery's research to date (as published on Council's website)<sup>3</sup> that argues that the Independent LG Review Panel's discussion of the empirical work on the relationship between council population size and council performance is 'severely deficient' since it entirely neglects population density that is a crucial determinant of the costs of service delivery".

Dollery also finds, on examination of variance in population size in Australia in 2012, there is "no right size for an area". For instance, the average size in Victoria (71,183 persons per council), Queensland (62,467 persons per council) and NSW (47,963) is well above those of the national average, and average size of councils in South Australia (24,335 person per council), Western Australia (17,484 persons per council), Tasmania (17,666 person per council) and the NT (14,677 person per council). International evidence further supports different population sizes, and variance according to Dollery. Australia has the fourth highest average council size (2007) after the United Kingdom, which has the highest average council size (in terms of persons per council) of 143,000. However, even comparing Australian councils to the UK in terms of population size is misleading as there are only two tiers of government compared to Australia's three tiers of government.

Dollery also found that there is no statistically significant relationship between population size and total per capita expenditure for Manly, Warringah and Pittwater councils. There is no evidence that the proposed merger of the 3 councils will result in any significant cost savings. This research is also supported by commissioned independent research by KPMG.

### *Strategic Capacity*

The Independent Panel and the NSW Government's reliance on strategic capacity aspects as defined by the ten factors (as replicated below) is welcomed.

However, it is questioned whether and how IPART will weigh the various factors differently in order to compare 152 different councils' submissions on these qualitative aspects that are expected to vary markedly between the different councils. Otherwise,

<sup>2</sup> Dr. Peter Abelson: Mayor of Mosman Council and past Professor in Economics at Macquarie University, and Dr Roselyne Joyeux, Associate Professor, Macquarie University, Smoke And Mirrors: Fallacies In The Nsw Government's Views On Local Government Financial Capacity, Paper to LG Professionals Australia NSW Forum, 27 February 2015

<sup>3</sup> Professor Dollery, Bigger is Not Always Better; and Critical Evaluation of Revitalising Local Government



it would be impossible to compare the various criteria, especially in view of their relationship with the seven financial ratios required to be met.

1. Robust revenue base and increased discretionary spending.
2. Scope to undertake new functions and major projects.
3. Ability to employ wider range of skilled staff.
4. Knowledge, creativity and innovation.
5. Advanced skills in strategic planning and policy development.
6. Effective regional collaboration.
7. Credibility for more effective advocacy.
8. Capable partner for state and federal agencies.
9. Resources to cope with complex and unexpected change.
10. High quality political and managerial leadership.

#### Council's Response to Question 2

Manly Council does not consider it appropriate to comment on this question given that it is a metropolitan council, and rural council characteristics vary significantly across NSW (p.4 of IPART Methodology for Assessment of Council Fit For Future Proposals, defined as "small, declining populations spread over a large area"). Council doubts whether there is any meaningful criteria to assess them in terms of the 'Fit For Future' requirements.

#### Council's Response to Question 3

IPART should make the ratios more flexible and relax the imperative (and make it mandatory) to achieve the ratios within a three year target.

The ratios should be a target to achieve over the long-term, say 10 years plus, as part of Council's long term financial plans (as contained in the CSP documents), rather than a pass or fail test for councils, namely a three year achievement average.

There are particular problems with the reliance of three ratios on asset information as contained in Council's special schedule 7 documents as they can vary widely between councils, are unaudited, and subject to different 'satisfaction tests' that may or may not be undertaken with community input.

#### *Sustainability measures*

Council agrees with the usage of the Operating Performance and Own Source Ratio as measures of sustainability.

Manly Council has a consistent record of achieving these benchmarks historically. However, these two ratios should not be measured solely over a three year period. There should be a longer period over which achievement is measured. As well, forward projections are subject to manipulation, assumptions and modelling to achieve a particular outcome. While, this can be based on historic data, and provides a viable long term achievement option for Councils, it does not provide flexibility to change direction or use resources differently if needs arise. As well, as Council is planning



major project borrowings and spending and the creation of new infrastructure, it may well be penalised for this if assessed over a shorter period.

Manly Council queries whether these should be 'minimum targets' but rather seen as 'best practices', and queries whether they really measure how sustainable a Council is, given the time periods available to compare spending in the templates as provided by the Office of Local Government.

The Building and Asset Renewals (BAR) ratio is also queried by Manly Council as a subjective measure that relies on different information which cannot be easily compared between the different councils.

A major problem with this ratio is that the BAR relies on *unaudited* special schedule 7's values of asset renewals (in its numerator) and *differing depreciation or amortisation rates / schedules* for different asset classes between councils (in its denominator). This makes comparisons between different councils almost impossible as they use different rates, different assets and their own formulae for depreciation.

Additionally, AASB ruling prevents Councils reusing the 'residual value' of assets. Such accounting standards are not suitable for long-term assets with lives more than one hundred years, where a whole of life approach is required to be used for various long-term assets.

The BAR ratio also assumes that councils should be spending more on asset renewals (maintenance) rather than depreciation. This also provides an inherent bias towards not spending or creating new assets.

The ratios also assumes a reduction in costs/expenditure over time is an indicator of good financial management. This provides no relationship to service maintenance, quality, or investment in new services and that the needs of a community might change quickly from year-to-year or over time.

#### *Infrastructure management measures*

Council queries the reliance on ratios based on measures that vary widely between councils and where Asset Management Plans and strategies across councils have been found by the Office of Local Government to be the weakest part of the Integrated Planning and Reporting framework.

Infrastructure backlog and asset maintenance ratios are not consistently measured across all councils and there is wide variation in backlogs, condition ratings and measures.

Auditing these backlogs has not yet commenced across councils on asset renewals, backlog and maintenance.

- *Infrastructure Backlog Ratio*

Firstly, the infrastructure backlog measure is subjective and different between all councils.

Secondly, it can be manipulated as part of the FFF processes to get the outcome or ratio desired.

Thirdly, large asset backlogs have also been used to justify SRV applications during the past few years. We note with interest that applications have been approved for councils in 2014-15 with large infrastructure backlogs. It is also interesting for the current year that the councils with the largest SRVs approved also had large infrastructure backlogs and were deemed not needing to merge or amalgamate by the Independent Panel (e.g Wollondilly and Blue Mountains).

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As well, it is doubtful to what extent communities have been properly consulted about infrastructure service levels, as this remains an issue that undermines the validity of condition ratings that are contained in Infrastructure/Asset plans (that again vary enormously between the different councils).

- *Asset Maintenance*

Asset maintenance expenditure is not regarded as a measure that should be used to assess a council's performance in a comparative sense.

Council budgets are set at a level they can financially afford, and assets are required to be maintained, and there can be a wide variance between councils. However, maintenance levels should not be mandatory for the future practices, but set in a 'targeted' range. For instance, in Western Australia the policy target range for local councils is in the order of 90-110% (hence a 20% margin is allowed), and this is preferred to a 100% average over 3 years (where there can be peaks and troughs and the time period is relatively short). Targets should be reached via 'best practices'.

At present, asset maintenance expenditure measures cannot be properly compared throughout different councils as they rely on unaudited asset schedules, asset management plans and special schedule 7 where satisfaction of various assets and within their asset classes varies markedly. It is also problematic that there are different depreciation rates between councils for different assets in the various asset classes.

#### *Efficiency measures*

This measure is flawed in that it assesses operating expenditure as a factor of population size. Again, this feature immediately makes comparisons between small and large council population sizes and respective operating expenditures difficult and controversial, and contradicts the 'no one size fits all' proposition of the independent panel.

It is also concerning that the population size does not include visitor populations or worker populations that often benefit from the level of services and infrastructure provided by residents of a local area. This is particularly the case in Manly, where the resident population of some 44,000 people support eight million visitors annually (based on ferry travel data and visitor parking estimates) and a large working population (10,000 according to ABS data).

This ratio also assumes that operating expenditure relative to population size will reduce over time; that is that spending locally will be reduced on services over time. This contradicts strategic capacity requirements of (1.) 'Robust revenue base and increased discretionary spending', or (2) "scope to undertake new functions and major projects" and possibly (3) "employ a wider range of skilled staff".

It is also questioned whether this is an appropriate measure for government that generally has to provide services that the market cannot deliver – efficiency in costs of operation of services for which there is no market and is a government responsibility indicates that if a service is provided it has to be of low cost. Communities have right to expect improved services over time in return for their rates. Also, there is no evidence to suggest that a larger population results in lower costs of operation and / or provides better services (lower costing services are result of greater spread, and changes/cuts in service delivery).

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#### Council's Response to Question 4

Manly Council believes that the community consultation that councils undertake in examining their FFF options should be determined by them, and no 'one size fits all' approach as stated by the Independent Panel should prevail.

There are a wide variety of consultation approaches being undertaken (to support or not support) the Independent recommendations for respective councils. As councils are subject to political influences from their varying elected members, these views can be both consistent with and different to their community expectations, research or understanding of the implications of the Independent Panel's recommendations.

It is noted that councils completing a merger proposal (via Template 1) are now expected to have a consistent methodology, and that a template and guidance for this was released in April 2015. This is more than six months after the FFF templates were released, and it is expected that many councils were already engaging with their communities during this time period. It is unrealistic, and ridiculous for the Office of Local Government to expect consistent approaches in community surveys at such a late stage of the consultation phase, and at the point when many communities have been consulted in a manner determined by the politically elected representatives in local government.

Any further attempt either by the OLG or IPART to measure the extent to which community consultation was 'transparent', 'informative' and clear especially regarding the various council FFF alternatives is regarded as not productive and too late to be considered coherently.

Additionally, what is critically missing in the OLG's FFF methodology and templates is how the views of the community will be weighted and taken into account in the review process.

#### *Templates provided to Council*

In Council improvement proposals, emphasis in this template is provided only on the achievement of financial ratios, and future improvement plans. There is no opportunity to fully explain strategic capacity or show the extent to which community consultation has been undertaken. The major flaw with the templates is the reliance on financial measures and meeting benchmarks and ratios as a way of indicating good performance or improvements. It does not take into account historical performance. It uses 2013-14 performance as an indicator only. As well the templates only consider 2016-17, or that shown in Long Term Financial Plans (for the next 3 year period) for good performance.

There is little opportunity in the templates to demonstrate future alternatives, or structural change and improvements in performance over time – does not take into account need for debt financing for new public assets or need for spending to take place over time.

#### Council's Response to Question 5

Councils various performance on their FFF proposals should not be monitored.

This is because there is sufficient 'monitoring' of Councils already, and Manly Council submits that the various financial ratios selected should already be contained in Council Long Term Financial Plans and that these are contained in Council's Community Strategic Plans that are reviewed and updated annually.

For instance, Manly Council annually updates its Long Term Financial Plan in view of its various projects and undertakings that form part of its annual Operational Plan.

In summary, Manly Council urges the following considerations and improvements to the IPART methodology;

- IPART to seek advice on its legal competence under the *Independent Pricing and Regulatory Tribunal Act 1992* (NSW), to accept the Terms of Reference from the Premier of NSW and/or his Minister for the purposed review;
- Critically review the question of scale and subordinating this criteria to community of interest and community aspirations considerations ;
- Place significantly greater emphasis on the importance of community determined service standards: social, economic and local identity, and
- The role shared services plays in achieving appropriate scale.

Yours Sincerely

Henry T Wong  
General Manager



25/5/2019