

Mark Ferguson, General Manager  
Telephone: [REDACTED]



25 May 2015

Dr Peter Boxall  
Chair  
Independent Pricing and Regulatory Tribunal  
PO BOX K35  
**HAYMARKET POST SHOP NSW 1200**

Dear Dr Boxall,

**Pittwater Council Submission to Independent Pricing and Regulatory Tribunal (IPART) on the Methodology for Assessment of Council Fit for the Future Proposals**

Pittwater Council (Pittwater) appreciates the opportunity to provide feedback on the draft methodology.

Pittwater submits:

1. The outcome of this process must be in line with the vision of Destination 2036.
2. That the assessment be conducted in a fair and equitable manner.
3. That the methodology for assessment of Local Government across NSW is consistent with the relevant NSW legislation.

The primary concern for Pittwater is the mandatory reliance upon scale and capacity as a deeming factor to determine whether a council is fit is unreasonable and may even be unlawful.

Pittwater bases this upon a belief that IPART's methodology may be firstly contrary to Section 51 of the NSW Constitution Act that requires a system of the Local Government Act be constituted in accordance with the Laws and Legislation. Secondly by assessing the fitness and structure of a council, it could be argued IPART has placed itself in the shoes of the Governor and Boundaries Commission so any determination should be based upon the relevant considerations set out in the Local Government Act.

The current statutory framework of a council does not have a mandatory requirement of scale or population size. Thus, it would not be fair or equitable for IPART to list as threshold criteria a measurement that currently is not a statutory requirement for the existence or measure for the performance of a council. Pittwater submits, IPART should not make as the threshold question, criteria that is not currently a statutory requirement for a council.

Councils embarked upon this process four years ago and the original Destination 2036 Vision was 'Strong Communities through Partnership'. The Terms of Reference define the scale and capacity criteria as; 'has the scale and capacity to engage effectively across community, industry and government'. It further states that its assessment should be as a threshold criterion.

IPART has now proposed that failure to satisfy the key elements defined including an appropriate population size, or a target number of councils may deem councils unfit. In eliminating the opportunity for councils through partnerships such as shared services and other similar organisations Pittwater submits IPART has acted contrary and undermined the fundamental intent of the process.

**Pittwater recommends the following improvements to the methodology for assessment:**

- **scale to be a weighted score not a pass or fail criterion**
- **a greater weight to be given to the statutory council charter**
- **the role shared services plays in achieving appropriate scale**

Pittwater's further concerns and recommended improvements are outlined within this submission.

**Scale and Capacity**

The IPART methodology asks councils to demonstrate why an alternate to the ILGRP's recommendation is superior. The guidance material for completing Template 1 or 2 asks councils to consider all the issues however, should they believe their council meets scale, proceed with the Improvement Proposal – Template 2. The IPART methodology has now introduced the notion of 'superior', which places greater emphasis on being measured against the ILGRP recommendation. The inherent difficulty of this task is the lack of data and evidence to support the recommendation and provide a substantiated 'starting point'. The underlying assumption of the ILGRP and IPART is that the increase in population correlates to higher standard of service delivery, improved management and governance, cost savings and economies of scale.

Pittwater Council has sought independent advice and built an evidence base with research undertaken by Professor Brian Dollery and more recently by KPMG that suggests this conclusion has no basis. In their analyses both conclude the need to assess or measure council holistically and that size does not necessarily equate to a superior outcome. Whilst the KPMG analysis looks at a number of options which suggest financial sustainability, it acknowledges the difficulty in applying measurements to the ill-defined concept of scale. Despite IPART acknowledging the difficulty in measuring this concept, it would appear the underpinning objective of scale is merely to reduce the number of councils across NSW.

Contemporary research demonstrates overwhelming weight against amalgamation as a means of improving the efficiency of local government and its financial viability. The KPMG analysis concluded there may be some financial savings to be made should structural changes occur however this would only be realised through good management, leadership and adaptive qualities therefore making a case for strategic capacity not scale.

The proposed methodology does not clearly define the concept or objective of 'scale' furthermore suggesting a priority of scale over strategic capacity. The priority of scale undermines the level of service the community has determined, the track record of council's achievements, future financial suitability and level of community satisfaction. Whilst the ability to partner and effectively engage across community, industry and government is critical for the future of local government, scale is but one key element to strategic capacity and should instead be assessed on past performance, current responsiveness to local and regional issues, and planning for future changing needs. With a lack of empirical evidence to support the ILGRP's recommendation it is unreasonable to be measured against a hypothetical scenario based on size when other key elements of strategic capacity and financial sustainability can be demonstrated.

Lastly, scale, efficiency and effectiveness are all affected by the location, geography and characteristics of the community. The concern then becomes: 'at what cost is scale to service?'. 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.

## **Community determined service standards: social, economic and local identity**

The Terms of Reference ask IPART to consider the social and community context when assessing council proposals. It is widely researched and recognised that being responsive to changing social and economic needs, a strong sense of place and local identity are essential elements to a successful community. An appropriate level of consideration or weight should be applied to the adaptive qualities of a local government to deliver on these elements now and into the future. Identified with the ILGRP and referenced in the IPART methodology is an emphasis on customer service, community engagement, place management and community participation as contemporary approaches to ensure the social and community context is maintained. Therefore it would seem only appropriate for this to be a priority element in assessing scale and capacity.

## **Shared service provision**

Pittwater Council is an active partner in Shore Regional Organisations of Councils (SHOROC), demonstrating a commitment to advocating and driving regional outcomes that benefit the community beyond LGA boundaries. This type of regional partnership has been recognised in previously mentioned research as effective regional collaboration (one of the key elements of strategic capacity Box 3.1 IPART proposed methodology). The Joint Organisation model has been ruled out as an option by government for metropolitan councils, however is still being considered viable in rural and regional areas with metro amalgamation or mergers being targeted as the most favourable form of structural reform.

Many of the initiatives identified in the KPMG report below were undertaken through regional collaboration.

Examples of regional arrangements and improved service delivery include:

- Joint procurement arrangements for roads and traffic management, maintenance services, administrative and professional services, office materials and equipment;
- The 'Kimbriki' joint venture to manage disposal and resource recovery operations on the Northern Beaches
- Issues focused committees such as Water Cycle Management, Regional Code of Conduct, Climate Change and Adaptation and Narrabeen Lagoon Management
- Lobbying State and Federal Government on critical regional issues such as bus rapid transit proposals and local hospital upgrades; and
- Sharing data to promote best practices around health and wellness, sustainability, built form, economic development and community engagement.

The success of regional organisations hinges on collaborative and equal partners. Pittwater Council is not advocating for a fourth tier of government rather recognition within the assessment methodology that scale may be achieved through shared services, strategic regional planning and partnerships (which may go beyond the region and include both public and private models).

Yours sincerely,



Mark Ferguson  
**GENERAL MANAGER**

## Reference Material

IPART, 2015, *Methodology for Assessment of Council for Fit for the Future Proposals*.

KPMG, 2015, Independent review of structural options for Manly Council and Pittwater Council. Report prepared for Manly and Pittwater Council.

Dollery. B, Kortt. M, Drew. J (2003) Bigger is Not Always better: An Assessment of the Independent Local Government Review recommendation that Pittwater Council be amalgamated.