

In reply, please quote:

TOC: U09/6560

18 December 2013

Dr Peter J Boxall AO
Chairperson
Independent Pricing and Regulatory Tribunal of NSW
PO Box Q290
QVB Post Office NSW 1230

Dear Dr Boxall

Board of Chairs' Proposal Review of funding framework for Local Land Services NSW

Although IPART published its Draft Report on the "Review of funding framework for Local Land Services NSW" in September 2013, with a closing date of 15 October 2013; the Councillors and staff of the Uralla Shire Council was not aware of the Report at that time. It is noted that there was just 25 submissions, three from local authorities and one from Local Government NSW. A review of Council's electronic records between those dates does not reveal any notice of the publication of the report or the submission period. It would appear that this far reaching document was not widely advertised as its existence was not known to many other local government officials, whilst the appointments of Chairs and Members of the Local Land Services Boards were widely publicised.

The Local Land Services Board of Chairs responded to the IPART Draft Report on the "Review of funding framework for Local Land Services NSW". The Uralla Shire Council has now read the "Review of funding framework for Local Land Services NSW Draft Report – September 2013 having been made aware of the "Local Land Services Board of Chairs Response to IPART Draft Report" of December 2013 by the Local Government NSW President. We are also aware that the period for submissions on this proposal is from 3 December 2013 to 20 December 2013.

The Uralla Shire Council views with alarm that the Local Land Services Board of Chairs is endorsing, without question the approach that IPART has outlined in the paper in its attempt to design a transparent and repeatable process for recovering reasonable costs from parties who create the need and benefit from the services provided by the LLS. This endorsement is particularly concerning when the IPART recommendation (7) states that government funding be available to the LLS as a funding mechanism where – **as the funder of last resort**, where it is inefficient or inappropriate to target actual impactors or beneficiaries with a fee or levy.

Given that the Local Land Services combines the former Livestock Health and Pest and Catchment Management Authorities together with some advisory services of the Department of Primary Industries the concept of having the State and Federal governments being the funder of last resort is cost shifting from Government to the landholder of the highest order. This is especially so when this positioning of government funding as a last resort is coupled with the IPART recommendation (17) that expands the rate base by reducing rateable land area from 10ha to 2ha.

The Department of Primary Industries website <http://www.dpi.nsw.gov.au/locallandservices> provides the following explanation to the Question “What will the new Local Land Services deliver?” on its Local Land Services home page:

Local Land Services will be regionally-based, semi-autonomous organisations, governed by locally-elected and skills-based Board members. One central Local Land Services Board of Chairs will be made up of representatives from each Local Board and will be accountable to the Minister for Primary Industries.

Each Local Land Services region will develop operational management plans that will prioritise service delivery on a regional basis, reflecting regional priorities. Individual Local Land Services will be independently audited to ensure accountability and delivery against priorities.

Local Land Services will be funded via direct budget contributions from the NSW Government, ratepayer funds and a continuation of natural resource grant funding via the State Government and Australian Government.

The indication in the statement above is that the Local Land Services will be funded by direct budget contributions from the NSW Government. This is supported by the statement on page 13 of the Draft Report that “*The Minister has advised that over the coming 4 years, LLS boards will have access to \$22 million of recurrent NSW Government funding and the proceeds of an efficiency dividend of \$20 million to fund agricultural advisory services.*” (11 Katrina Hodgkinson, Minister for Primary Industries, *The Land*, Sydney, 22 August 2013, p 13.).

The aforementioned statement of the Minister was in respect to the passing over to the LLS of the section, of approximately 50 Department of Primary Industries extension staff and the following activities:

- programs aimed at improving the production efficiency of agricultural industries
- advice on research, emerging trends, markets and risks to agricultural industries
- formal training for agricultural productivity
- advice on agricultural legislation and policy.

The Minister’s undertaking is only for four years. Will the funding cease at that time and be passed on to the rate and levy payers? What does “the proceeds of an efficiency dividend of \$20 million to fund agriculture advisory services” mean? Is it to be a one off payment? If so, then who will fund the advice, currently provided by the Department of Primary Industries extension staff, after the funding runs out?

The Draft Report, on page 58 section 6.6 – Government funding states that the LHPAs receive no government funding, however Table 2.1 on page 11 indicates State funding of \$1.4 million in 2011/2012. This section also states that “Further we understand that NSW Budget funding will accompany approximately 50 DPI extension staff that will become part of LLS. The Minister has requested a stay on office location for the first 2 years of operation. 97”

(97 See: <http://www.dpi.nsw.gov.au/locallandservices/frequently-asked-questions#Where-willthe-Local-Land-Services-offices-be-located?>)

The Draft Report, lists on pages 11 and 12 State Government funding amounts for 2011/2012: LHPAs \$1.4 million and CMAs \$102 million. These together with the recurrent DPI funding of \$5.5 million (presumably the \$22 million is the total for 4 years) is a total of \$108.9 million (69.5%) of a total expenditure of \$156.8 million (LHPAs \$49.3 million + CMAs \$102 million + DPI section \$5.5 million).

Council agrees with IPART’s statement “We consider that government funding through a public land management agency (including in-kind contributions) should be available to LLS boards where the agency is identified as the primary impactor or beneficiary of the activity.”; although whether or not Government Agencies can issue rates and levies on other State Government Bodies and Agencies is a matter for Parliamentary Counsel to determine. Such payments, if made, should be deducted from the current Government funding of all these agencies to calculate the Community Service Obligation (CSO) currently being provided. This CSO should be an ongoing future commitment and indexed for inflation.

This Community Service Obligation will be lost under IPART’s Funding Framework for Local Land Services NSW Draft Report. Because to place this Community Service Obligation income for the new Local Lands Services as ***the funder of last resort***, and to have only a small portion of the funding guaranteed for four years is an unfunded mandate – transferring the cost from the State Government to rate and levy payers.

The Local Land Services Stakeholder Reference Panel Update #5 of 1 March 2013 article on Myths states:

Building Local Land Services

4 Stakeholder Reference Panel Update, 1 March 2013

Myth 4: The creation of Local Land Services is a cost cutting exercise.

The budget measures imposed on the DPI and the creation of Local Land Services are two separate issues.

Firstly, NSW Treasury has advised that it can no longer borrow money to pay the wages of public servants and requires every NSW Government agency to find significant budget savings. The DPI was instructed to save \$30m from its recurrent budget.

Secondly, the creation of Local Land Services is in direct response to the Ryan Review which notes “there are opportunities for greater administrative efficiency and improved services to landholders from LHPAs participating with other agencies in joint compliance and advisory functions on pest animals, animal and plant biosecurity.

So while Local Land Services is neither the cause nor effect of the budget measures, one of the main drivers for Local Land Services is improving how funds are spent.

The question that the explanation to Myth 4 raises is: “What is the difference to the State government between “Cost Shifting” as recommended in the Draft report and “Cost Cutting” that is no the aim of setting up LLS?”.

The IPART recommendation 7 in the Draft Report on the “Review of funding framework for Local Land Services NSW” in September 2013 in recommending that Government funding be available to the Local Land Services as a funding mechanism where – a public land management agency has been identified as the primary impactor or beneficiary of the activity,. or – as the funder of last resort, where it is inefficient or inappropriate to target actual impactors or beneficiaries with a fee or levy is counter to the following statements and will be, in fact, cost shifting.

While there are many statements that the establishment of the Local Land Services is not a matter of “Cost Cutting”, including the statements in the article “Myth 4: The creation of Local Land Services is a cost cutting exercise” on the previous page. The Draft Report does subscribe to Cost Shifting as outlined on page 26 of the Draft Report as follows:

Cost shifting

A number of submissions and comments at IPART’s workshops in June/July 2013 related to concerns about cost shifting. Cost shifting in this context means the unjustified allocation of costs to parties that do not create the need or receive a benefit from a service, but are required to pay the cost of its provision.

The Ryan Review (2012) commented:

...cost shifting is not necessarily deleterious if the costs are directly attributable to the requirements of an industry or group or ratepayers, as they are the costs imposed upon the rest of society that can be internalised...38

A change in costs does not necessarily indicate a cost shift. A cost recovery framework should transparently show the reasons for the cost being attributed to a particular group over another. Where costs are shifted without reason, the principles of appropriate pricing strategy and transparency would be violated.

However, it should not be assumed that the current mix of funding for services is appropriate. We have not analysed current charging arrangements for each service – this is a task for the LLS boards. The allocation of costs may change when exposed to a cost recovery framework.39

38 Terry Ryan, *Report on the Review of the NSW Livestock Health and Pest Authority (LHPA) Model*, A review commissioned by the Minister for Primary Industries, February 2012, p 11.

39 We do not mention new services because we assume as new services are proposed they would be considered in light of the framework, rather than having a legacy funding approach applied.

The current rates and levies paid by property owners of 10 ha and above to the Livestock Health and Pest Authorities are:

• general rate	\$19.1 million
• animal health	\$10.6 million
• special purpose rate (pest insect)	\$5.9 million
Total	\$35.6 million

A summary of the current position is as follows:

The total income (2011/2012) of the combined agencies is \$157.3 million consisting of rates and levies (above) \$35.6 million (22.6%), State and Federal Governments \$108.9 million (69.3%) and other income \$12.8 million (8.1%).

The current costs of the combined agencies are \$156.8 million.

The new agency Local Land Services will have additional obligations and responsibilities and there is no guarantee regarding Federal Funding so the totals for the new agency will change. However, the above amounts illustrate the general public's perception of "Cost Shifting".

Under the Draft Report on the "Review of funding framework for Local Land Services NSW" - September 2013"; full cost recovery has been coupled with the identification of the three broad groups of impactors, risk creators and beneficiaries as potential funders of Local Land Services; Landholders, Industry and Community (page 12).

The quantum and percentage of rates and levies will increase under the Draft Report on the "Review of funding framework for Local Land Services NSW" - September 2013" for the local landholder, private or public authority. Cost shifting will equate to an increase in their rates and levies which will undoubtedly mean a shifting of costs from the Government, who currently bear most of the costs of the CMAs, to the private sector.

For the person making the additional payment it is a matter of semantics that when the "Cost Shifting" is from Government to the private sector then it is, for them, "Cost Cutting" by Government.

The larger property owners argue that the current rating system is inequitable because owners of properties between 2ha and 10ha create issues or benefit from the research and actions funded by the larger property owners' rates and levies. They believe that the rating should be spread wider to reflect the reality of biosecurity risk-creators and risk-bearers. The principles of fair apportionment of rates and biosecurity costs are essential.

The Local Land Services Stakeholder Reference Panel Update #5 of 1 March 2013 article on Myths states:

Myth 5: The workshops need to solve the issue of rates.

The Stakeholder Reference Panel is working through the pillars required to build Local Land Services.

Currently they have considered regional boundaries, governance structures – including Boards and voting issues, and the services required. However the rating issue is complex and requires more work and time.

The current rating system is inequitable because it does not reflect the reality of biosecurity risk-creators and risk-bearers. The principles of fair apportionment of rates and biosecurity costs are essential.

The Independent Pricing and Regulatory Tribunal will be commissioned to do a broader review of rates in 2013 and will conduct consultation as a part of that review.

Whilst this can be argued each way; recommendation 17 in the Draft Report has opted for the minimum rateable land area to be 2 hectares and above from no later than 1 July 2017. This recommendation is acceptable, if two conditions are met. These conditions are firstly that the existing rates are applied over the additional rate base and not used for the purpose of raising additional rates and secondly that urban areas are excluded.

In respect to the first condition; the following information has been extracted for the Uralla Shire Council to provide an example of the effect of the variation from a minimum of 10ha to 2 ha and to remove exclusions:

Rateable areas greater than 10ha (current rate base)

Rate Category	Number	Area Ha	Value	%
Farmland	576	295,736.836	\$446,521,400	90.8%
Rural Residential	167	3,522.836	\$34,626,000	7.1%
Residential	4	57.470	\$487,800	0.1%
Business	16	440.526	\$2,498,000	0.5%
Non-rateable	5	2,690.510	\$7,462,000	1.5%
Total	768	302,448.179	\$491,595,200	100.0%

Rateable areas greater than 2ha (recommended rate base)

Rate Category	Number	Area	Value	%
Farmland	577	295,739.073	\$446,524,530	75.1%
Rural Residential	777	5,758.192	\$127,719,900	21.5%
Residential	43	187.351	\$6,785,260	1.1%
Business	27	496.546	\$4,120,000	0.7%
Non-rateable	20	2,757.645	\$9,570,990	1.6%
Total	1,444	304,938.808	\$594,720,680	100.0%

Rateable areas of 2ha or more and less than 10ha (new rateable area)

Rate Category	Number	Area	Value	%
Farmland	1	2.237	\$3,130	0.0%
Rural Residential	610	2,235.356	\$93,093,900	90.3%
Residential	39	129.881	\$6,297,460	6.1%
Business	11	56.020	\$1,622,000	1.6%
Non-rateable	15	67.135	\$2,108,990	2.0%
Total	676	2,490.629	\$103,125,480	100.0%

Percentage Increases for areas 2ha or more and less than 10ha (new rateable area)

Rate Category	Number	Area	Value
Farmland	0.2%	0.0%	0.0%
Rural Residential	78.5%	38.8%	72.9%
Residential	90.7%	69.3%	92.8%
Business	40.7%	11.3%	39.4%
Non-rateable	75.0%	2.43%	22.0%
Total	46.8%	0.8%	17.3%

Given that the Residential, Business and Non-rateable assessments are not rated by the LHPAs; for the Uralla Shire Council area the number of assessments would increase by 94% (743 to 1,444), the area by 2% (299,259.672 ha to 304,938.808 ha) while the rate base valuation would increase by 24% (\$481,147,400 to \$594,720,680); any application of the current rate percentage to the broader rate base would be an increase in rating and would be reflected in a reduction of the funding from the State Government.

Since it is Government Policy for rate pegging to be applied to local authorities, IPART should have a recommendation for rate pegging to be applied to the Local Land Services. This should be combined with the need for the Local Land Services to go through the same rigorous Community Consultation that local government authorities must go through for their rate variations.

As noted in our opening paragraph, the Uralla Shire Council is concerned about the apparent lack of public awareness of the calling for submissions on the Draft Report on the "Review of funding framework for Local Land Services NSW" in September 2013. A search of the internet, after a fruitless search of Council's records, found the following ABC Country Hour report of 10 September 2013:

The Independent Pricing and Regulatory Tribunal says LLS boards will use the guidelines to set prices for services like pest control and natural resource management.

IPART Chairman Dr Peter Boxall says government agencies and landholders will be treated equally in terms of cost recovery, smaller landholdings will be added to the system, and rates will mostly be levied on land size.

"There are some activities such as control of wild dogs or other plants or that where land size is more relevant than notional stock-carrying capacity, but obviously stock carrying capacity is relevant for things like the animal health levy."

There were undoubtedly media releases issued on and around 10 September 2013. However, there does not a widespread distribution of the information. Certainly the Uralla Shire Council Councillors and Officers were not aware. The fact that only three Councils made submissions, of which one Gloucester Shire council was a late submission, also indicates that there was general lack of awareness.

The lack of notification was compounded by Local Land Services Stakeholder Reference Panel Updates ceasing with Update #7 dated Wednesday 1 May 2013, several months before the Draft Report was released.

The short submission period 10 September 2013 to 15 October 2013 for such an important and far reaching document makes the lack of public awareness even more unfortunate. Council is taking the opportunity of the calling of submissions on the "Local Land Services Board of Chairs Response to IPART Draft Report – Review of funding framework for Local Land Services NSW – December 2013" to make this submission that includes both comments on the Board of Chairs Proposal and the Draft Report, because of the Board of Chairs' unquestioning endorsement of the Draft Report.

The Board of Chairs' response, with a submission period of Tuesday 3 to Friday 20 December 2013, includes:

- Endorsement of the approach that IPART has outlined and its attempt to design a transparent and repeatable process for recovering reasonable costs from parties who create the need and benefit from the services provided.
- Support for the 5 step cost framework as a sound and logical process.
- Support for the notion of a base rate and special purpose rates being levied against those who are risk creators and/or beneficiaries of services that LLS provides, directly or through contractual arrangements, to manage those risks.
- Requests that the system, to be implemented, be easy to administer and reduce high transactional costs.
- A request for the State and Federal Government funding to be continued to fund services and on ground works that have a mostly public benefit and assist to meet government priorities.
- A desire to have the capacity to utilise rate income (and other multiple income streams) to deliver its broad suite of services. There is also a request to be able to utilise rate income to leverage additional funding from government, industry or local organisations for special purpose projects.

The Local Land Services Board of Chairs made five recommendations, that:

1. a parallel rating system for intensive agriculture which would be accessed by a simple gateway question. "Is the enterprise engaged in intensive agriculture"? If YES, then a simple risk mitigation / revenue matrix would be applied based on the nature of the enterprise being conducted (as illustrated in Table 1 – of their proposal).
2. all risk creators are subject to the Local Land Services rate including land holdings below 2 ha, excluding commercial and industrial land.
3. all industry exemptions be removed and that Local Land Services engages in a process with key industry groups to define the LLS service offering to their industry, how they will manage their risk creation obligations and contribution to Local Land Services.
4. IPART ensures that the final framework is sufficiently flexible to allow for regional variations, while recognising that the process for setting rates by the Local Land Services Boards needs to be transparent and repeatable.
5. exemptions for public landholders are removed and that the Local Land Services engages in a process with these land managers to determine how they will manage their risk management obligation and contribution to Local Land Services.

The Uralla Shire Council is concerned that there are a number of negative impacts for local government contained in Chapters 6 to 8 of the IPART Draft Report on the "Review of funding framework for Local Land Services NSW". It is imperative that:

- firstly, the contribution from State and Federal Governments should be first level of funding and not "as the funder of last resort, where it is in-efficient or inappropriate to target actual impactors or beneficiaries with a fee or levy (Recommendation 7 of the Draft Report) as it will lead to the Cost Shifting affecting landholders and the reduction of the State Governments Community Service Obligation for the reasons outlined on pages 3 to 6.

- Secondly, that the expansion of the flood mitigation levy, like the Hunter flood mitigation levy, not be made to other Local Lands Service Boards (Recommendation 14 of the Draft Report). This is entering into the responsibility of local government.
- Thirdly, for similar reasons to the second point above; the expansion of the Local Lands Boards revenue into environmental levies on rateable properties should be opposed, even though the recommendation has a condition that it does not duplicate any rate/services provided by local government (Recommendation 16 of the Draft Report).
- Fourthly, Council acknowledges that there is arguments for the reduction of the minimum rate size from the current 10 hectares to 2 hectares by 1 July 2017 (Recommendation 17 of the Draft Report); however the quantum of the rate raised should, as outlined on pages 4 and 5 of this submission, needs to be linked to the current rating effort and any rate variation be submitted to the same rate variation procedures as applicable to local government.
- Fifthly, that there should be a minimum rate and not a base rate, as recommended with Local Land Services rates to include both a fixed and variable component (recommendation 10 of the Draft Report). The concept of a base rate is not compatible with the minimal cross subsidisation principle on page 23 of the Draft Report) where a minimum rate has its justification in the cost of administering rate notices.
- Sixthly, that local government should not be used as a collection agency of special purpose rates even for a fee (Recommendation 8 of the Draft Report). Even though the recommendation is that such collection be for an agreed fee; the complications for a Council's Customer Service Officers collecting a rate, which is not set by the Council for services over which Council has no oversight or control are unmanageable. Council supports the IPART position stated on page 60 of the Draft Report that "Given this position, a centralised LLS collection mechanism seems to be the only feasible option. In our view, this is also likely to be the more efficient option, given that in most cases the rating base of LLS rates will be different from local government rates (see Chapter 8)".
- Seventhly, Council oppose the concept that all risk creators are subject to the Local Land Services rate including land holdings below 2 ha, excluding commercial and industrial land (Recommendation 2, Board of Chairs Response).
- Eighthly, Council oppose the concept that exemptions for public landholders are removed (Recommendation 5, Board of Chairs Response); unless the removal of exemptions for public landholders be extended to non rateable lands for local government.
- Ninthly, the expressed desire, by the Board of Chairs in their "Overview and general comments", to have the capacity to utilise rate income (and other multiple income streams) to deliver its broad suite of services and the request to be able to utilise rate income to leverage additional funding from government, industry or local organisations for special purpose projects is opposed. Since rates and levies are deemed in the Draft Report to be target specific they should not be accumulated for other purposes.

In conclusion, Council sees merit in the combining of three similar agencies into a single agency. However, the suggested funding framework needs to be explained to the general public, who will through Cost Shifting be required to make significant increased rate and levy payments, in more specific terms than has been attempted to date.

The results of the review into existing and new activities from 1 July 2014 (Recommendation 24 pages 8 and 93 of the Draft report) required of the Local Land Services Boards in preparing for the implementation of a new cost recovery framework by 1 July 2016 needs to be made public and subject to Community consultation.

The final Report should make it clear in the Executive Summary that
“Under the terms of reference for this review, our role is to provide a framework that LLS should use in partnership with the government to ensure the entity is funded appropriately. Therefore, we do not have any comment to make on the views stakeholders expressed in submissions on specific LLS funding arrangements.” (page 58) and
“However, we do note that stakeholders were strongly in favour of government committing funding to the LLS.⁹⁸ They were also concerned that government would shift costs onto rate payers.⁹⁹”

⁹⁸ Mr Cameron, Tamworth Transcript, p 60.

⁹⁹ Ms Paton-Blackwell, Wagga Wagga Transcript, p 16.

So that this concern, that the State Government should continue to commit to funding the LLS (Community Service Obligations), is one held by the majority of our Community even if it is not within the Terms of Reference.

Yours faithfully,

A black rectangular redaction box covers the signature of Tom O'Connor. There are some faint handwritten marks above and to the left of the box.

Tom O'Connor
General Manager
Uralla Shire Council

Attachments:

Copies of a summary and detailed listing of properties over 2 ha in the Uralla Shire Council area.