

Our Ref: A12/0619

25 May 2015

Methodology for Assessment of Council Fit for the Future Proposals
Independent Pricing and Regulatory Tribunal of NSW
PO Box K35
HAYMARKET NSW 1240
[Lodged via online submission form]

Dear Dr Boxall

At the Ordinary Council Meeting held on Tuesday 19 May 2015, Waverley Council considered a Notice of Motion regarding the IPARTs Fit for the Future assessment criteria and resolved as follows;

That Council:

- 1. Makes an urgent submission to the Independent Pricing and Regulatory Tribunal ('IPART') seeking the need for more specific, objective and realistic criteria to be applied to IPART's Fit for the Future assessment methodology.*
- 2. Urgently requests that the IPART submission deadline for methodology assessment criteria be extended from 25 May 2015 to allow Councils, in consultation with their community, adequate time to make quality submissions on the methodology assessment criteria.*
- 3. Consults with Waverley precincts before finalising a submission to IPART on methodology assessment.*
- 4. Receives and includes comment from Waverley councillors and precincts in Council's submission.*

Council has already written separately to IPART, in a letter dated 20 May 2015, urgently requesting an extension of the deadline for submissions on the methodology for assessment of Fit for the Future proposals from 25 May 2015. We note that request for an extension has now been declined by IPART.

There are a number of concerns that Council has with the methodology for assessment. In particular, whilst much of the paper confirms previous information regarding Fit for the Future released by the Office of Local Government (OLG) we would like to highlight the following points;

1. The proposed methodology makes it clear that stand alone proposals , that is no change options, need to be demonstrably superior (p25) to the Independent Local Government Review Panel’s preferred merger option whereas any alternate merger submission is required to be broadly consistent only with the objectives of the Panel’s preferred option. This is unfair and stand alone proposals should not be required to meet a higher requirement than merger proposal.
2. The majority of the key elements of strategic capacity detailed in Box 3.1 on p21 of the IPART document (Box 8 in the Independent Local Government Review Panel’s final report) are very subjective. For example, why does any merged council group have a better chance of employing a wider range of skilled staff than any of the individual councils in a group? Why does a larger organisation automatically equate to a higher quality of political and managerial leadership? It would assist councils greatly to demonstrate their strategic capacity if IPART could provide more objective, realistic and detailed specificity around these key elements.
3. Waverley Council recommends that specific, objective and realistic criteria need to be included in the assessment methodology. With respect to the threshold question of scale, the proposed IPART assessment methodology (p21) states sufficient scale would require a proposal with the “appropriate minimum population size “. However, there is no guidance given as to what this minimum population size is. If there is to be a “minimum population size” as part of the assessment methodology, then this should be clear and transparent and made specific in the final assessment methodology.
4. The Fit for the Future process has again highlighted the difficulties with data comparability and integrity across local government and the need for further work on sustainability measures. More detailed guidelines for accounting for expenditure such as depreciation and more robustness around the reporting in Special Schedule 7 regarding infrastructure and building assets is still required.

As noted above Council has resolved to include comment from Waverley Councillors within our submission to IPART on this matter. In this regard please find at Attachment 1 detailed comment from Councillor Dominic Wy Kanak for your consideration.

Thank you for the opportunity to make comment and we look forward to IPART positive response. I can be contacted via email on [REDACTED] or phone [REDACTED]

Yours sincerely

[REDACTED]
Cathy Henderson
Acting General Manager

Attachment 1 Comments from Cr Dominic Wy Kanak

Under its “Fit for the Future” program, the NSW Office of Local Government (OLG, 2014) requires local councils to demonstrate that they are adopting a local council structure that has scale, strategic capacity and is financially sustainable.

This Submission addresses the relationship between scale (population) and financial sustainability, and asks that the Consultation Time for the IPART Methodology Criteria formation be extended for another 28 days.

In 'FFTF', the NSW Government defines a financially sustainable council as “one that, over the long term, is able to generate sufficient funds to provide the level and scope of service agreed with its community through the Integrated Planning and Reporting process”.

However the Government has pre-empted rational and informed analysis of the efficient financial scale of local councils with its arguments that councils are currently running financial deficits of \$1 million a day and that this can be rectified only by councils adopting a scale of organisation in the order of 250,000 persons per mega council population numbers as recommended by the Independent Local Government Review Panel (ILGRP, 2013).

IPART assessing methodology criteria should have reference to the OECD scale for the population of Local Councils being a much lower figure, and the 250,000 threshold population figure should be revised and/or abandoned.

The 'running of financial deficits of \$1M per day' has been criticised during Council and Councillor responses to FFTF discussions as contrived and sensational over generalizations that do not stand up to proper scrutiny.

The ILGRP provided no evidence or reference in its report to support their view that larger councils are more financially sustainable than small ones.

The NSW ILGRP and Government’s equation of scale with financial capacity is both baseless and incorrect.

There is no basis for the belief that larger councils are necessary for financial sustainability.

As "IPART also serves as the NSW Government’s economic advisor and policy think tank", the FFTF assessment criteria should include provision for examining and taking into relevant account how other Australian States , especially those States who most recently reversed or abandoned Local Council Amalgamation proposals have analysed and/or experienced the economic impacts of Local Council amalgamation processes.

If IPART has at the core of its work the optimising of market competition and value in the long-term interest of the NSW community, economy and environment, then adopting scale/financial sustainability criteria and an approach to industry which some other States have either abandoned or reversed, contradicts IPART's economic responsibility to the NSW Government by progressing a broad scale Local Council amalgamation exercise which will cost the State and deny it the frugal benefit of economic lessons already learnt by some of its partners in the Federation.

"Dollery et al. (2012) provide detailed and extensive evidence in Australia and internationally that forced amalgamations have not produced financial sustainability or any cost savings. They conclude that anyone who still believes that compulsory council amalgamation leads to

financial sustainability in local government, lower costs or scale economies, has not acquainted themselves with the vast empirical literature on amalgamation.

In a further major review, in an international peer reviewed journal, Dollery et al. (2013) cite 15 international studies from the United States, Canada and Europe all of which throw doubt on the claimed economies of consolidated local councils. They then examine 8 Australian national and state-based inquiries into the financial sustainability of local councils over the past decade. They found (p.215) that “with one exception, these inquiries are sceptical of the ability of forced amalgamation to improve local authority financial viability”.

[Dollery, B., Grant, B. and Kort, M., 2012, Councils in Cooperation, Shared Services and Australian Local Government, Federation Press, Sydney Dollery, B., Grant, B. and Korrt, M., 2013, ‘An evaluation of amalgamation and financial viability in Australian local government’, Public Finance and Management, 13, 215-238.]

The State Government has changed a key financial benchmark which was the basis for government rate setting since 1977 and it has exploited this change to allege that many local councils lack financial capacity without taking responsibility for the rate pegging.

Lack of financial capacity is fundamentally a function of low income not of the size (population) of a local council area.

Differences in expenditure per capita are explained by differences in income and service levels not by the size of the local community or the unit cost of services.

FFTF defines “strategic capacity” in term of 10 amorphous criteria such as “Credibility for more effective advocacy”, which cannot be quantified.

These criteria would appear to allow the Government to reach any conclusion that it sees fit.

Local Council scale and financial capacity are not equivalent.

Financial capacity is fundamentally a function of income, not of “scale” however that may be defined.

This repeated point has important and fundamental implications for the structure of local government and amalgamation policies.

For decades, both local councils and the DLG/now OLG, have reported revenues inclusive of capital contributions and grants.

Consistent with this, council surpluses have been estimated primarily as the difference between total revenue (including capital contributions and grants) and total expenses.

Typically an additional row in council accounts has shown council operating results with capital contributions and grants excluded.

DLG/OLG reported total revenue and expenses in its annual reports up to 2012 (when the results for 2010-11 were published) which showed total revenue inclusive of capital grants and expenses and total expenses.

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These DLG/OLG reports also showed operating revenue and expense per capita, but not the total operating deficit or operating deficit per capita.

Following publication of the NSW Treasury 'TCorp' report on Financial Sustainability in April 2013, with its strong emphasis on the operating deficit, the DLG/OLG radically changed the format of its annual report, dropping total revenue inclusive of capital contributions and grants, and published only the operating revenue, including retrospective changes to the 2009/10 and 2010/11 figures. (Comparative Information of NSW Local Government Councils 2009/10 and 2010/11.)

Such changes make a dramatic difference to the outcomes.

Comfortable council surpluses with the inclusion of capital contributions and grants become (operating) deficits without them.

There is some support for this change in the accounting definition of a surplus.

Ideally current expenses (services) should be met from current revenues and capital grants should be spent on capital expenditure and included in the capital budget.

This accounting approach maximises the net public worth (the net assets) of the community.

A council that runs a net surplus inclusive of capital contributions and grants is increasing the net assets of the local community, even if it is running an operating deficit exclusive of capital grants.

Communities by this financial assessment criteria are becoming better off, not worse off as some rhetoric implies.

IPART is requested as an Independent Tribunal utilising those sections of its establishing Act to not be directed or influenced by the Premier or Minister and to have as broad a regard as possible to the factors related to a Community's perception of its Local Council's efficiency and the right of Constituents to have a Poll of Electors on the question of whether or not Their Local Government Council should amalgamate.

Government responsibility for rate pegging and its consequences should be examined by FFTF assessing Methodology Criteria.

The NSW Government has been pegging council rates annually since 1977.

The Independent Pricing and Regulatory Tribunal (IPART) took over in 2011/12.

Despite large rises in population, community incomes and demands, the state government did not allow for any increase in local council services in over 10 years.

In effect the government was viewing operating deficits without concern.

If these deficits had been a concern, the government could surely have allowed rate increases at least up to the increase in GDP.

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Certainly local councils could apply for rate variations, but it seemed the DLG/OLG was content with the financial results that it was overseeing and regulating.

In a recent report IPART (September 2014) endorsed the ILGRP view that larger councils are more efficient than small ones.

Can the IPART now 'independently' assess Submissions on Methodology that may question this 250,000 scale of Local Council population figure and provide reference for IPART to look at OECD alternative Local Council scale population numbers that are significantly less, and to then include that scale as a preferred minimum threshold, which is the request in this Submission?

According to IPART, the data showed that “around 30% of the variation in opex per head amongst the councils of Greater Sydney is inversely associated with their population and that opex per head is lower the larger the population of the LGA”.

This finding is misleading because it fails to account for the substantial inverse correlation (of - 0.49) between local council size and income levels per capita.

Smaller councils generally have higher income per capita and hence the local residents expect, and are willing to pay for, more services.

Larger councils in Sydney tend to spend less per capita than small ones because of lower income, not greater efficiency.

The lower expenditure would indicate efficiency only if the larger councils were producing equivalent services to small ones.

As the Productivity Commission (2008) showed, financial sustainability or capacity is fundamentally a function of local community income.

It is not a function of council size.

The ILGRP produced no evidence to show that financial capacity is a function of the size or scale of a council area and no evidence to show that mega councils of 250,000 people or more are efficient or produce the services that local community want.

Nor has the DLG/OLG been able to explain why population scale and financial capacity are synonymous.

Most councils in the Sydney Metropolitan area would be able to run financially sustainable, balanced, operating budgets if they were able to determine their own rates and were not subject to rate pegging.

It is irresponsible to decry operating deficits and then in 2014-15 to allow the lowest rate increase in 15 years.

On the other hand, less well-off and lower density council areas, especially outside the Sydney Metropolitan area, would need financial assistance with, or without, amalgamation.

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This paraphrased Submission has been concerned with financial capacity as a core focus of the “Fit for the Future” requirements.

There are other important issues, including the provision of local services and care for the local environment on the one hand and metropolitan and state wide planning of transport, housing and other infrastructure on the other hand.

Small and medium sized local councils are by far the best vehicles for provision of local services and for protection of the local environment.

Montesquieu (1748), “In a small republic, the public good is more strongly felt, better known and closer to the citizen”.

Other vehicles such as Joint (Regional) Organisations may be needed to facilitate the provision of metropolitan and state infrastructure or, in the language of Fit for the Future, to provide “strategic capacity”.

Regrettably discussion of strategic capacity to date, including in the ILGRP report, has been characterised more by slogans and rhetoric than by careful, evidence-based, discussion of the real issues.

(Some of the preceding text Paraphrased, Quoted and Referenced from 'Smoke and Mirrors: Fallacies in the NSW Government's Views on Local Government Financial Capacity', by Peter Abelson and Roselyne Joyeux. Dr. Peter Abelson is Mayor of Mosman Council and has held a Chair in Economics at Macquarie University. Dr. Roselyne Joyeux is an Associate Professor at Macquarie University.)

Please take the full 'Smoke and Mirrors' Paper (Waverley Council Agenda February 2015) into relevant account for the IPART Methodology Criteria formation.

A Social Criteria and Methodology to assess a Local Council's engagement with the Aboriginal Community should be included by IPART so that a Municipal Council's Social and Economic Inclusion of the NSW Aboriginal Community OCHRE policy via its economic relationship with the LGA's Local Aboriginal Land Councils is able to be assessed for that Local Municipal Councils partnering Reconciliation capacity to advance Aboriginal employment and economic development.

After all, Local Councils by a colonial invasion have subverted the EcoSocioEconomic system of the Land's Productive Industrial Management under Traditional Aboriginal Elders Councils into a contemporary Community Elected Municipal Councils model, and all current NSW Government reviews and Consultations now provide creative opportunities for Reconciliatory theory to be properly realized in practice as Healing.

Please take these Submission comments into relevant Consideration for deliberating on the IPART FTF Methodology Criteria, and for any relevant overall inclusion in the report that IPART may produce if it has the power to act as an Expert Panel in these circumstances of reviewing and reporting on aspects of FTF.