



Ref: DW

29 August 2008

Review of the Revenue Framework for Local Government
Independent Pricing and Regulatory Tribunal
PO Box Q290
QVB Post Office NSW 1230

Dear Sirs

INVITATION FOR SUBMISSIONS

In response to the public request for submissions on the Review of the Revenue Framework for Local Government, Bega Valley Shire Council has provided the following responses to the nine issues raised within the Issues Paper. Each of the issues identified within the Overview section of the Submission paper have been addressed in sequence, with Council's overall recommendation that rate pegging be abolished in favour of a more laissez-faire approach that allows local governments to determine their own rating structure, with annual and independent reviews being conducted by IPART.

What is the role of local government and how is it determined?

The role of local government has become increasingly fluid over time, although the Local Government Act 1993 provides a basic charter to guide councils in conducting their business and carrying out their functions.

Although the provision of infrastructure and various community services has long been a tenet of local government, the effects of cost shifting over the past 5-10 years has seen the transfer of functions that were traditionally the role of State Government, passed down to local government. This "cost shifting" has placed additional financial and resourcing burdens on local government, but has not seen much devolution of authority from the State government to local governments to raise revenue to compensate for it.

For example, local governments are responsible for the levying of a general rate based on the Unimproved Capital Value (UCV) of a ratepayer's property, but are still reliant on the State Valuer-General to determine the UCV. Similarly, local governments are responsible for the construction and maintenance of shire roads, whereas the Road Transport Authority (RTA) is responsible for the main arterial roads within the shire, and must be consulted and informed on any matters that may potentially impact on the RTA and its functions.

In taking a "reasonable man" approach, and assessing what a reasonable man may consider sensible and workable, the relationship between State and local governments seems to be blurred and often duplicated unnecessarily, with State government assuming the senior revenue-raising role.

1. How effective is rate pegging and what are the implications for council and ratepayers?

Bega Valley Shire Council's position is that rate pegging is **ineffective** in achieving the objectives that have been set for it.

Anecdotally, rate pegging seems popular with communities and the State Government in that it allegedly provides them with a control mechanism whereby they can assess the

ADDRESS ALL
CORRESPONDENCE TO:

PO Box 492
Bega NSW 2550
DX 4904
ABN 26 987 935 332

Council chambers
Zingel Place, Bega

PHONE
(02) 6499 2222

FAX
(02) 6499 2200

INFORMATION

www.begavalley.nsw.gov.au

EMAIL

council@begavalley.nsw.gov.au

efficiency of local government according to its ability to manage its finances in line with the increase in the Consumer Price Index (CPI).

Bega Valley Shire Council offers three comments to repudiate rate pegging:

- The timing of the rate pegging announcement is critical to local government. In recent times, the percent rate peg has been announced very late in the local government budgeting cycle. If rate pegging is to remain, then the announcement must be made significantly earlier in the calendar year in order to allow appropriate community consultation to occur, to allow councils to take a considered approach to the rate pegging percentage imposed, and whether a special variation is to be sought. The current approach has the potential for a rushed approach to the budget implementation and a rushed submission for a special variation where council has deemed it necessary to apply for one.
- No zero-based approach was considered when rate pegging was first introduced. At the inception of rate pegging, councils were at varying levels of cost recovery through the rating process. Some councils were achieving less than cost recovery, whereas others were achieving in excess of cost recovery. If the rate pegging system was to achieve any form of parity from the outset, a zero-based approach should have been taken to allow councils to commence on an even footing. For example, a council achieving a return that was 5% below cost recovery would be automatically disadvantaged when compared to a council that was achieving a return that was 5% in excess of cost. When rate pegging is added to this "mix", the below-cost council will be disadvantaged even further. A zero-based approach would have required all councils to achieve a position of full cost recovery only, prior to embarking on a path of rate pegging. Parity can still be achieved through such an approach.
- To have rate pegging based on the CPI fails to reflect the nature of the costs typically incurred by local government. Local government costs tend to relate more to building and construction costs than to consumer-related costs. Accordingly, a more relevant index to utilise in rate pegging for local government would be the Non-Residential Building Construction (Australia) Index. For the 2007/2008 year, this index indicated that costs increased to local government by 10.5 percent. When compared to the CPI peg allowed to local government (3.2%), local government was financially penalised by 7.3 percent.

2. What are the objectives for a regulatory framework for local revenues?

As stated in the discussion paper, local government is empowered through state legislation to raise revenue through the imposition of rates, but is not able to impose any other form of taxation. In addition, local government is also able to impose user fees and charges, interest, fines, and other penalties. However revenue raised beyond these measures is often subject to some form of state or federal legislation. For example, the requirements of the National Competition Policy (NCP) may place limits on the level of fee/charge that can be levied, at times insisting on full cost recovery only. This applies to major business activities where no margin in addition to full cost is permitted where the legislation becomes active.

The result of this situation is a reliance on grant funding by those councils that do not have large rates bases, significant development activity, or which have significant portions of the shire taken up with State Forest or National Parks. In Bega Valley Shire Council's view, the objectives for a regulatory framework need to take into account a council's capacity to generate revenue relative to the level of growth it is experiencing, the number of rateable properties, and the amount of the shire's potentially rateable land that is

consumed by State Forest and National Park. A lessening reliance on grant funding can only be achieved if councils are permitted to levy rates under a less controlled system or under a new rating formula.

The inequities in the current revenue model pertaining to local government lie in the varying capacities of councils to raise revenue according to the number of ratepayers and the area they administer. For example, Bega Valley Shire Council administers an area in excess of 7,000 square kilometres, with a general rate base approaching \$16 million. Councils in the metropolitan and major regional areas administer much smaller land areas but have the capacity to generate significantly higher revenue due to the size of the rate base compared to Bega Valley Shire.

3. How does the current regulatory framework for council revenue, or any alternative framework:

- **Promote the effective and efficient provision of services?**
- **Enhance the financial sustainability of the local government?**
- **Meet the standard of principles for good regulation and taxation – efficiency, equity, simplicity and transparency?**
- **Enhance the accountability of local government?**

The Bega Valley Shire Council takes the position that the current regulatory framework fails to achieve these objectives. One of the major keystones to the efficient and effective provision of services and the financial sustainability of local government is its ability (or otherwise) to plan for the long term. Under the current regulatory framework it is difficult to prepare meaningful long term projections because local government does not control the future revenue stream in totality.

Each year, the NSW government sets the rate cap for the following year. This is problematic for long term financial forecasting, as the rate cap percentage is not known at the commencement of the forecasting exercise. This leaves two alternatives for councils in making these projections:

- Take a “guesstimate” as to what the future caps are likely to be;
- Follow the State Government’s process for submitting a long term proposal for setting the shire’s rate caps.

Neither of these options is particularly attractive. The first is unscientific; the second is extremely onerous, with anecdotal evidence suggesting that the chances of approval are low.

The current regulatory framework also fails on two additional points:

a) It does not consider the ratepayer’s ability to pay rates. The value of a ratepayer’s property does not necessarily reflect his/her ability to pay rates. For example, a property that has been handed down through generations of a family may well have increased significantly in value. However there is no correlation between the value of the property and the family’s ability to pay the rates on the property, particularly when the family is at the lower end of the socio-economic spectrum.

In situations such as these, Councils are often forced to enter into deferred payment arrangements for the rates levied, which consumes administrative resources, and delays

the realisation of full general rate revenue. Both of these consequences erode local government's ability to deliver effective and efficient goods and services.

b) It does not consider the effect of Conservations Agreements (CAs) on the revenue streams of local governments. This is deleterious for councils for two reasons: firstly, councils have no control over these agreements as they are controlled by State government; and secondly, local governments are not permitted to levy rates for State Forest or National Parks.

4. What role should IPART play in setting local government rates and charges, including charges for non-business activities?

In the event that the State Government insists on maintaining a rate pegging system, the responsibility for reviewing the current system and administering the outcome should be passed to IPART. Its independence is its strongest asset, and is the single most important factor in gaining the trust and respect of the State's local governments.

However IPART's involvement in setting fees and charges should be restricted to an adjudicator's role. That is, in the event of a dispute as to the applicability or quantum of a fee/charge, the dispute may be referred to IPART for a ruling.

5. Should IPART have a determinative role provided by legislation or should IPART's role be limited to making recommendations, if and when requested by the Minister?

IPART should not have its role determined under legislation. Doing so would provide opportunities for political interference into what is supposed to be an independent assessment process. However if the State government is proposing to provide legislative power to IPART in order to allow it to make decisions and determinations, then this would require a vote from the two peak local government bodies within the State.

6. To what extent do government authorities – such as SHFA, SOPA, RWA and the GCCs – provide services that duplicate or overlap with those of local government?

Bega Valley Shire Council has no involvement with these authorities, not does it have a full understanding of their roles. Consequently, no opinion is expressed.

7. What are the implications for local government rates when these authorities provide services normally provided by local government?

Historically, whenever any authority provides services in a local government area, a number of consequences arise:

- The potential for duplication of services increases significantly;
- A degree of confusion arises within the community as to "who does what";
- Revenue raised by the authority tends not to be returned to the local government, or is not returned as a full payment.
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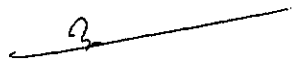
8. Should a common regulatory framework be introduced for these authorities?

This issue is of enough significance for it to become a separate review for IPART to undertake. The issues of cross-over of roles and functions, funding, revenue generation,

and administrative and legislative accountability are important matters for determination by an independent body such as IPART.

In conclusion, Bega Valley Shire Council makes the point that rate pegging exists in very few areas of local government within Australia. New South Wales seems to be one of the few (if not the only) states of Australia still utilising rate pegging as a process for attempting to elicit efficiency and effectiveness in local government rating. Certainly, Queensland and Victoria have a system where councils independently determine the level of their respective rate increases, with the overall control resting with the community through independent review processes (such as the ombudsman) and through the ballot box at elections. For local government to be effective in its role, it requires the flexibility, authority and responsibility to determine its own destiny, particularly in terms of how it generates its revenue. If rate pegging is the panacea it is purported to be by the NSW government, then why have other states moved away from this system?

Yours sincerely

A handwritten signature in black ink, appearing to be 'Peter Tegart', written over a horizontal line.

Peter Tegart
General Manager