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Independent Pricing and Regulatory Tribunal
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Dear Sir / Madam,

Review of the Revenue Framework for Local Government

HIA welcomes the opportunity to comment on the Review of the Revenue Framework for Local Government in NSW by the Independent Pricing and Regulatory Tribunal (IPART).

As Australia's peak residential building industry association, HIA represents over 16,000 members in NSW and 45,000 nationally. HIA members include building and development companies, large and small, who construct over 85% of the nation's new housing stock. They are involved in all facets of the residential building industry including land development, detached housing, multi-unit construction, the various trade areas, architects, building professionals and manufacturers and suppliers of building materials.

In this response HIA provides a number of recommendations to improve the current revenue framework within Local Government in NSW and seeks the support of the Independent Pricing and Regulatory Tribunal (IPART) to address incongruous revenue sourcing through minority groups – that is new home buyers.

HIA recommends removing rate pegging, increasing government funding, improving councils' building and planning inefficiencies and expanding the use of private certification to improve the current revenue framework within NSW local government and reverse the impact of damaging development costs on housing affordability.

1. Rate Pegging

The practice of rate pegging has existed for over two decades in NSW. It has exacerbated the problem of capital works funding and maintenance of infrastructure facilities for local government. Over the years, councils have experienced serious budgetary constraints, particularly in an environment where more and more services are being transferred from State and Federal governments to the local councils. HIA supports the removal of rate-pegging and recommends that IPART identify broad rate-based options to finance the provision and maintenance of whole of community infrastructure.

As operates in all other states, local residents should be able to exercise their discretion to guide the level of rates acceptable to the level of services provided by local government through the electoral process. In the NSW rate-pegged environment, councils defer to increasingly higher charges on the much narrower voting base of prospective new home owners – many of whom do not live in the area and are unaware the crippling development costs that put home ownership beyond reach, are used to fund whole of community infrastructure.

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Rate pegging in NSW clearly restricts the ability of councils to increase rates, but has not restricted the growth in their income from development levies. To the contrary, development levies have spiralled by up to 700% over the past six years, to as much as \$50,000 per allotment.

This rapid increase in development costs highlights the extent of revenue transfer - from broad based community-wide rates to targeted development costs charged against individual families purchasing a new home.

It is incongruous to promote a funding mechanism that constricts broad-based, whole of community revenue capacity, while allowing councils to levy crippling development charges on a minority to fund capital and operational costs of community-wide infrastructure.

Increased development levies, targeted at new homebuyers, represent a significant hurdle for the purchase of a first home. Capping rate increases across councils in NSW leaves councils with little option but to rely on revenue from other sources.

HIA recommends that rate charging be subject to greater nexus and transparency in respect of capital expenditure (new roads, parks etc). Furthermore, operational/recurrent expenditure assigned to maintenance of council assets/public utilities and service delivery should also be identified as components funded through general rate charges. A clear, transparent monitoring process of council's capital and operational/recurrent expenditure from rate revenue is warranted to demonstrate that capital expenditure is not being met disproportionately by new development.

The introduction of the Environmental Planning & Assessment Amendment (EP&A) Act 2008 attempts to address the escalating development contributions being imposed on new homebuyers by NSW councils. The new legislation limits what councils can include in their contribution plans. However it fails to provide specific detail on what constitutes 'reasonable' capital expenditure for common infrastructure projects. Councils often interpret the legislation to allow levies to be charged '*at premium rates for gold plated infrastructure*'. New homebuyers face the obvious affordability consequences. Transparent criteria must be introduced to prevent councils from abusing the development contribution system in NSW as a source of revenue increase.

Priority funding options for community-wide infrastructure include:

- the property rates base;
- local government borrowings; and
- private-public partnerships

Borrowing for items of social infrastructure would fund upfront capital investment, while rate revenue would allow repayments through a broader constituency base, consistent with the benefits or amount of consumption of the services obtained from the social infrastructure.

Private-public partnerships also provide an alternative source of funding for infrastructure for debt adverse state and local governments. These partnerships deliver governments the same advantage as borrowing - the cost of providing long lived infrastructure is spread more equitably across the broad community base, in smaller sums over a longer period of time.

2. "Other income" – Development contributions and Penalty Infringement Notices (PINs)

Councils raise revenue through various measures including general rates, sales of goods and services, "other income", interest income as well as subsidies and grants from other levels of government.

"Other income", classified as being fines, contributions and donations, accounted for 15.4% of NSW councils' sources of revenue for the 2006/07 financial year. In the same year, taxation/rate revenue levied against the broader community accounted for 36.7%. "Other income", consisting of

finer (i.e. PINs) and development contributions is predominantly financed through the development industry and is ultimately passed on to the minority group of home buyers. The figures illustrate the disproportion of council revenue that is obtained through the development industry.

In Sydney, local government development charges, levied under Section 94 of the Environment Planning and Assessment Act can be as high as \$50,000 per allotment, in addition to state levies and servicing fees. These fees, taxes and levies can total as much as \$100,000 per allotment. In many new land release areas, there is almost a total reliance on these charges to finance a broad range of facilities, many of which extend outside the immediate locality of the new residents who are charged the extraordinary amounts, for example, school extensions and hospital upgrades.

Development levies are generally regulated through state and local planning laws and are specified on a per lot or per dwelling basis. They are calculated by estimating the future population of an area in combination with a subjective analysis of the likely facilities and services that will be necessary to support new/additional residents. The analysis is not obligated to consider the actual use of the facilities and the potential broader population that may benefit.

While HIA supports the provision of infrastructure to meet community expectations and needs, there is a limit to that which individuals home buyers can and should reasonably bear as a single up front cost.

The application of levies is not tied to the performance of councils or directly to the timely delivery of the infrastructure/facilities, and accordingly funds may be collected well in advance of the delivery of the infrastructure they are to fund. Transparency is a critical issue.

Recent changes to the NSW planning legislation now permit the State Government to charge a development contribution for the provision of 'public infrastructure'.

"(2) In this Part, provision of public infrastructure includes:

(b) the funding of recurrent expenditure relating to the provision, extension and augmentation of public infrastructure, and..."

The legislation has been amended to allow the State Government to charge for the funding of the capital expenditure to cover the provision of necessary infrastructure and the funding of 'recurrent expenditure' to cover the ongoing maintenance and operational costs of this infrastructure. Requiring the minority new homebuyers to cover the ongoing operational costs of community-wide infrastructure is inequitable. Any operational costs associated with community infrastructure should be paid for by the whole community through a broad rate-based revenue increase.

"Other income" also includes fines, such as PINs. In NSW, both the EP&A Act and the Protection of the Environment Operations Act create a framework which permits local council staff to issue PINs.

The Protection of the Environment Operations Act (POEO) permits a local council to issue a clean up notice for the potential to pollute as well as on-the-spot fines for the actual pollution incident. The POEO Act also permits councils to collect a fee in addition to the PIN for the administration of the penalty. The definition of pollution includes "**there is likely to be**" a risk of pollution. It is unacceptable that councils have the capacity to "double dip" by issuing a PIN for non compliance with the development consent under the EP&A Act (or not maintaining sediment and erosion controls) and issuing a PIN under the POEO Act for a potential pollution risk.

HIA urges IPART to consider an infringement model that prevents authorities from issuing controversial PINs and reduce conjecture (and the appearance) that PINs are a revenue raising avenue for councils.

PINs should be issued for direct and actual breaches of regulation and not potential breaches.

The escalation of council's revenue from "other income" must be addressed. Restricting local councils ability to increase revenue from the whole of community rate-base is putting increased pressure on councils to find another revenue source i.e. development contributions and PINs.

3. Government Funding

The NSW Government has placed restrictions against council rate increases since 1977, but has fail to increase their funding assistance, even as the demand for new and improved community infrastructure increases.

Increases in local government own-source revenue relate to shortfalls in funding from other levels of government.

As mentioned earlier, growth in "other income" at a local government level needs to be curtailed. Infrastructure deficiencies should be funded through further federal and state government general revenue bases or covered by higher local rate charges across the broader community - not through the application of development levies charged against minority groups.

Put simply, the lack of state and federal funding has meant that debt once incurred by all levels of government, including local government, is being transferred on to developers and ultimately homebuyers.

The differential in funding and demand has forced local governments to rely more and more on highly variable property taxes and development charges on residential development to meet the cost of community-wide infrastructure.

Housing affordability is at crisis point in NSW.

Increased government funding would reduce the reliance on new homebuyers to provide revenue for councils to facilitate the provision of community infrastructure.

4. Planning & Building Systems

Implementing operational and regulatory efficiencies within local government can lower their need for increased revenue.

Councils' inefficient building and planning operations/systems need to be addressed to eliminate the need for additional council staff/resources. In 2006/07, employee costs in NSW councils accounted for 39% of local government expenses.

NSW councils' inability to utilise current State planning documents (State Environmental Planning Policies-SEPP) instead of developing their own individual planning documents should be addressed to reduce council costs (external planning consultant project fees) and need for staff resources. The State Government should consider a more state-wide legislative approach by producing additional state-wide applicable planning documents. This will remove the need for 152 NSW councils to produce their own documents and at the same time streamline the planning assessment process for the housing industry and homeowners/buyers.

HIA welcomes the State Government's recent commitment to streamline the exempt and complying development process in NSW by producing a state-wide NSW housing code to take precedence over individual council codes. Similar state involvement would reduce the reliance by councils to produce their own planning and building documents and consequently reduce their expenditure. If productivity gains are to be made by councils, efforts must be made to overcome the delays and confusion arising from layers of locally based planning requirements, planning

permit conditions and local building laws.

Reigning in state and local governments on planning and building regulatory matters is considered an essential part of the solution to minimising revenue raising and unnecessary red tape.

5. Private Certification

Operational costs in building services have been reduced by the use of private certification in NSW. Applicants in NSW have the ability to select between using the services of council or employing a private certifier to check the progress of the building work and to approve its compliance, as well as issuing complying development certificates for code compliant building works. The high uptake of this initiative indicates that there are substantial gains to be made by employing a private certifier over and above the generally slower services of council.

Private certification reduces workloads on council staff and resources, lowering councils overall expenditure, and at the same time provides benefits the development industry and new homebuyers in obtaining fast approvals and reducing holding charges. Successful expansion of the use of private certification in the planning and building process would mean that council planners could channel their resources into administering planning schemes and focus on the merit elements of development proposals.

Conclusion

Removing rate pegging, increasing government funding, improving councils building and planning inefficiencies and expanding the use of private certification must be addressed to improve the current revenue framework within NSW local government.

Escalated development contributions charged by councils against a minority group - new homebuyers - to fund community-wide infrastructure, is the one of the fundamental reasons for the current housing affordability crisis. Homebuyers are the losers.

Despite council amalgamations in 2004, NSW councils have faced an infrastructure funding crisis; an inadequate revenue base, exacerbated by rate pegging; deficient federal government grants; cost shifting; skills shortages; and increasing demands on local governments to deliver outcomes that would ordinarily have been managed, at least at a financial level, by other levels of government.

Thank you for the opportunity to present this submission. I would be pleased to meet with you to discuss the matters raised.

If you require any further information in relation to this submission, please do not hesitate to contact either myself or Ms Clare Larkin on 9978 3389 or c.larkin@hia.com.au

Yours sincerely
HOUSING INDUSTRY ASSOCIATION



Graham Wolfe
NSW Executive Director