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28 August 2008

Dr Michael Keating AC
Review Chairman
Independent Pricing & Regulatory Tribunal
PO Box Q290
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Dear Dr Keating

Subject:

Review of the Revenue Framework for Local Government

On behalf of Hornsby Shire Council, I am pleased to provide council's submission to the review.

Arising from the considerations provided in the attached detailed notes, council makes the following recommendations to IPART in conducting the review and reporting to the Minister.

RECOMMENDATIONS

1. The fiscal federalism principle should be applied consistently to consideration of NSW local government revenue raising capacity.
2. The principle that local governments are primarily responsible to their electorates should be acknowledged.
3. IPART should acknowledge and incorporate the principles being developed by the Department of Local Government in framing the new planning and reporting guidelines for local government. In particular, councils' long term rate setting should have the capacity to accommodate sustainable debt repayment related to the funding of asset replacement and renewal.
4. Rate pegging should become a default setting should councils fail to adequately develop and deliver community strategic plans and delivery programs under the impending planning and reporting guidelines. In this regard, IPART should have a deliberative role in setting the peg, should work to a published timetable and should consider foreshadowing the peg setting methodology for a four year horizon.

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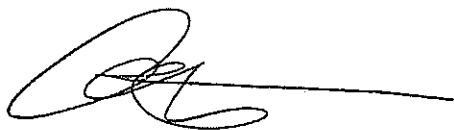
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5. Integrated regional planning with a four year horizon should be a legislative requirement for all State agencies in partnership with local government and should deal specifically with funded service and infrastructure provision.
6. Local government should be given access to a growth tax to supplement rate revenue, preferably a per head allocation of a proportion of GST.
7. Local government should be recompensed for taking on service or asset responsibilities from other tiers of government and this entitlement should be enshrined in legislation.
8. As a policy principle, local government should not be expected to provide premises for the exclusive use of a body or organisation without a commercial fee or hire arrangement.

Some supplementary suggestions are also included in the attached notes.

Submitted for your consideration.

Yours faithfully



GORDON TRUMAN
Executive Manager
Strategy Division

Attachment: (19 pages)

Hornsby Shire Council's Responses to Questions raised in the Issues Paper

Submission Summary

We submit that IPART should make recommendations in this review which follow strong policy principles.

The first principle that should be incorporated in its approach should be that of fiscal federalism, noted on p.19 of the Issues Paper. The principle is that each tier of government should provide services where the benefits fall within its jurisdictional area. We would also add the further consideration that the relevant government level should also be the most efficient provider of the service at that level. If the State Government follows this principle with integrity in dealing with IPART's recommendations, it will strengthen its own credibility in seeking more sustainable fiscal resource sharing between itself and the Federal level. Following this principle through, local government should not seek to provide services that fall within the remit of other levels of government and other levels of government (State and Federal) should not hive off their responsibilities onto local government.

A second principle should recognise local government as a democratically elected level of government which is therefore primarily responsible to its electorate. If local government is acting according to the fiscal federalism principle above, it should be answerable, in a clear and unequivocal way, to its electorate in raising and expending its revenue.

We also recognise that the Department of Local Government is currently drafting a regulatory framework through proposed amendments to the Local Government Act that will establish a longer term strategic and management planning regime for local government in NSW and that the requirement for all councils to adhere to this regime are expected to be phased in between 2009/10 and 2011/12.

Consideration of the revenue raising capacity of local government should also take a longer term perspective. In this regard, it is important to distinguish between some features of service and infrastructure requirements. While all infrastructure is there only to provide a service – effectively, a means to an end – its cost characteristics differ in some important ways from service provision.

Service provision in local government is labour-intensive, despite the increasing contribution of technology to service delivery. Its cost drivers strongly relate to general wage and consumer pricing movements in the economy.

Infrastructure provision, however, has a wider variety of influencers. There are long term cycles of infrastructure growth, depreciation and renewal requirements to consider. For instance, local government areas that experienced strong growth in their road and drainage networks in the 1960's and 1970's to serve burgeoning populations are now facing a surge in asset renewal demands that outstrip established approaches to determining revenue streams. Infrastructure costs are also more susceptible to international commodity price increases (in steel, oil-based products etc.) than are service provision costs. Witness to this is the fact that construction costs in the Sydney metropolitan area have risen at twice the rate of the CPI in the last 10-15 years.

While there is evidence of councils raising some revenue by other means, there is no evidence that NSW local government can sustainably meet the demands of the infrastructure renewal gap by finding new income sources.

Given that property rates are and will remain the primary source of council revenue, it follows that the current approach to rate pegging (as described on p.62 of the Issues Paper) is irrelevant to the needs of the sector and the local communities it serves.

If rate pegging is to remain in any form, it needs to be based on a factual assessment of the service and infrastructure responsibilities of the sector e.g. an index of local government costs has been developed in Tasmania. It should be possible for IPART to devise a similar index for NSW, with due consideration to variation between metropolitan, regional and remote areas.

Under impending legislation, all NSW councils will be required by 2011/12 to form a community strategic plan (of at least ten years currency) together with a fully costed and funded four year delivery program. We submit that, for any council meeting its responsibilities under this regime, annual rate pegging (factually based or otherwise) becomes irrelevant. The council will in effect have formed a sustainable forward plan for the council's activities with appropriate community consultation and will therefore have set its rating requirements for at least four years ahead.

Rate pegging thereafter would only apply as a default setting where, in abnormal circumstances, a council has been unable to meet its corporate management planning obligations or the plans that it has put in place have proven to be flawed.

Separately, we offer no specific comments concerning the questions raised about the special government authorities also included in the terms of reference. However, our general observation is that these are non-elected government-appointed bodies which are not answerable to local communities. In consequence, the approach proposed above should not be taken to translate to such authorities and more consideration should be given to how they are, indeed, made accountable.

Our further observation is that the gestation of such bodies appears to be as much to do with the failure of coordination between State government agencies as any other factor. The State government needs to give attention to regional coordination and planning in *all* areas of the state if the aspirations of the state Plan are to be realised.

Responses to Specific Questions raised in the Issue Paper

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

By international standards, NSW local government has a limited number of functions.

As noted on p.18 of the Issues Paper, the provision of infrastructure and services is a critical part of the role of local government.

The role of local government should therefore be to provide infrastructure within the area it serves and to provide services with local benefits.

The intention of the Local Government Act 1993 was to provide councils with the flexibility to provide services in response to the changing needs of their communities. However, this direction has been compromised not only by restrictions imposed upon access to finance by local government, but also by substantial impositions by the State Government by cost shifting and the imposition of mandatory requirements for particular services.

2 How effective is rate pegging and what are the implications for councils and ratepayers?

The response to this question really depends upon what was and is the goal of rate pegging.

Rate pegging was introduced thirty years ago to limit the autonomy of local government specifically because there were at the time examples of excessive rate increases.

Unfortunately, as is common for NSW State governments, a problem within a limited number of councils was remedied by the imposition of controls across all councils, rather than addressing the isolated issues.

Rate pegging is a blunt instrument that is considered to have largely contributed to the poor state of infrastructure in many local government areas. When combined with the incidence of cost shifting, which has been reported previously, many councils take the line of least resistance and reduce provision in those areas where expenditure can be deferred for another year – typically, infrastructure maintenance and renewal suffer most in these circumstances. The Allan report (despite some deficiencies) clearly shows that the chickens are now coming home to roost.

Alternatives to rates could be investigated e.g. a share of GST distributed by the Commonwealth independently of the States (this would reduce or remove a tax, consistent with the Commonwealth's stated desire to simplify taxation), and would give local government access to a growth tax, something that has long been sought. Alternatives include a local government (LG) cost index (or indices), a cost shift index, (both of which could be applied to arrive at a realistic rate pegging limit), or for IPART to impose a rate pegging limit so high that local communities would be forced to debate imposition at the higher end of the limit.

The need to match developer contributions created where the nexus with new development is not 100% can impose an unreasonable restriction on councils in growth areas. IPART could include consideration of a variant to the LG index where new or enhanced assets are required as a result of increased growth, and a case can be made that existing resources would not otherwise sustain that additional contribution within a reasonable time frame. Future maintenance costs should also be considered in calculating the index or limit.

Public accountability costs (eg freedom of information (FOI), privacy, management planning costs etc) are costs that are not easily comparable with the private sector, and should be separately considered when determining comparisons with the private sector in identifying reasonable increases in costs to councils.

The move of other authorities to levy rates should be rejected a yet another variant on the current theme of cost shifting that avoids transparency.

3 What are the objectives for a regulatory framework for local government revenues?

In addition to the principle of fiscal federalism (p.19), council agrees that the standard taxation principles noted on p.6 should apply to local government revenue raising.

4 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 local government?
- Meet the standard of principles for good regulation and taxation – efficiency, equity, simplicity, transparency?
- Enhance the accountability of local government?

Our earlier comments suffice in response to this question.

However, we also note that the redistribution of wealth is not a responsibility placed on local government under its legislation and it should not be called upon to play such a role.

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

To the extent that a rate pegging regime subsists, IPART has a capacity to undertake research and analysis that provides a factual basis for pegging decisions. It should apply this capacity in an objective manner, free from political influence.

6 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 have an independent determinative role.

7 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?

We offer no comment.

8 What are the implications for local government rates where these authorities provide services normally provided by local government?

We offer no comment.

9 Should a common regulatory framework be introduced for these authorities?

We offer no comment.

10 Is the Department of Local Government modification of the Australian Classification of Local Governments (ACLG) a suitable framework within which to consider the differences between councils?

The Australian Classification of Local Governments (ACLG) as modified by the Department of Local Government appears to be a suitable framework within which to consider the differences between councils.

There is, however, a need for the classifications to be more regularly reviewed to ensure that in the context of change in local government, they remain current.

11 How does the current regulatory framework impact on the efficiency of rate setting by councils?

The random timing of ministerial announcements of the peg each year, rather than working to a set schedule and deadlines, is unhelpful and causes inefficiencies through rework.

12 What is the current role of Local Government and its limits? Where does this role come from? Is it self imposed or is it legislated?

This question is responded to elsewhere and is also covered in the Issues Paper.

13 What should be the limits on the role of local government?

This question is responded to elsewhere.

14 What infrastructure and services do councils currently provide?

This question is responded to elsewhere and is also covered in the Issues Paper.

15 What infrastructure and services should councils be responsible for?

In addition to the responsibilities set out in the Issues Paper, local government is being asked or required by State agencies to look after the management of an increasing proportion of an area's natural assets e.g. bushland, estuaries and other water bodies.

Councils should be responsible for those assets necessary for the council to discharge its functions. Where a state or regional function is being discharged, proportional cost recovery should be provided. There is no objection to councils undertaking the actual asset management task, provided reimbursement is in accordance with this principle. The cost of asset enhancement (as opposed to operational maintenance and renewal costs) would need to be agreed separately. There would need to be a mechanism for dealing with the inevitable changes over time as the proportion of local use changes, and levels of service would have to be carefully assessed and reviewed.

Councils should also continue to be responsible for regulating the built environment to ensure public health, safety and regulation of land use. Albeit that the State Government is moving towards increasing levels of private certification, government needs to fill the gap where private sector certification fails and enforcement is necessary to ensure appropriate standards are met.

16 To what extent is there overlap with other levels of government?

The Issues Paper comments that the Local Government Act does not specify the services local government should provide, and that the intent is to provide flexibility in order for councils to respond to the changing needs of the community. This view does not acknowledge the difficulty a local council faces when attempting to withdraw from a service or make major downward adjustments in service levels. Once a service is provided, residents presume a right to the continuance of the service regardless of the cost of provision or the utilisation of the service. At the same time, residents are unsure or unaware of the breadth of services provided by their local council.

Funding for the management of natural assets in New South Wales is minimal and insufficient. (The operation and funding of the NSW National Parks and Wildlife Service is testament to this observation.)

There is overlap in areas such as

- Roads (regional roads) – RTA;
- Public transport facilities – Railcorp;
- Foreshore and river facilities – Maritime NSW;
- Drainage systems – Sydney Water, RTA; and
- Recreational facilities and other community services – other councils, education sector.

All these have or require significant infrastructure. It is impractical to apportion costs in a metropolitan area where populations are mobile, and home/work/leisure activities can span many areas. For example, a daily routine of home to child care to work to sport after work and back to child care and home again can utilise facilities in a number of areas. The use by non-local traffic of local roads in preference to State routes (usually congested) is not a new phenomenon. This makes the task of apportioning responsibility and resources more complex than it first appears at a policy and broad strategic level.

The age of assets greatly influences their popularity with users. For example, the Epping Aquatic Centre (EAC) is currently being affected by the newly opened and more glamorous facility at Macquarie University. We have an ongoing operational subsidy of \$400K for the EAC, and the centre is over 40 years old and requires major enhancement expenditure (in addition to the usual recurrent renewal/maintenance expenditure) to bring it to current, competitive standards. Should the local community pay for this, when it may or may not be fully utilised? The centre is on the border of three adjoining council areas – should they contribute to the operational costs when the local community from these areas use the centre and when they have their own, loss making facilities as well? A further option is to close the EAC –

however, for the reasons cited above, this would be unpalatable to the local community and would be vigorously resisted.

Is there a case, then, for managing some public facilities of this kind on a regional basis consistent with the population catchments they serve?

Chronic underfunding results in local communities believing that local government cannot do the job, when the true issues are lack of both financial capacity and a whole-of-government integrated planning approach.

17 To what extent do service levels vary between councils in their scope, value and quality of infrastructure and other assets?

The recent report by the Australian Government Productivity Commission titled 'Local Government Revenue Raising Capacity' (Productivity Commission 2008) noted that the scope of local government services had changed over time in response to a number of factors, namely:

- Devolution from another sphere of government;
- Cost-shifting either by voluntary uptake of a service no longer provided by other government spheres or involuntary provision without adequate funding;
- Increased community expectations or demands for a service; and
- Policy choice.

Other factors that impact on the different service levels provided by different councils include:

- Differing maturity levels of settlement;
- Land availability and increasing urbanisation;
- Ability of the community to accommodate increasing fees and charges;
- Community demographics and profile; and
- The locality.

Hornsby Shire is a mature development area on the edge of a major city. Parts of the shire are urban, parts are rural and the majority is bushland, each of which require different levels of services. This mix is reflected in the Hornsby Shire Council (HSC) rating structure which includes residential, business and farmland categories. The Shire has major waterways and hence there is a great emphasis on managing water quality. At the same time Hornsby has a major retail and commercial centre which attracts 6,000 workers each day, many of whom use the local libraries, parks and council amenities. However 50% of workers do not live in the Shire and therefore do not contribute to the cost of operating the services and facilities they use.

18 What factors cause differences between councils provision of infrastructure and services to arise?

This question is responded to in the answers above.

19 To what extent are ratepayers satisfied that Councils provide services that are appropriate and delivered effectively and to acceptable standards?

Consumer satisfaction levels with council services are affected by the choices the consumer has about using a service and the levels at which the council provides the service. For example Hornsby Shire Council's resident surveys have always shown high satisfaction with Waste Services (a non rate pegged service) and with Library and Community Services (consumers freely choose to use these services). The land use planning and development application services are traditionally rated with much lower satisfaction, both as a backlash to increasing population densities and because of the lack of alternate service providers.

The Issues Paper questions the extent of ratepayer satisfaction with the level of appropriate services. Councils do not generally have the expertise or the resources to truly explore ratepayer satisfaction via Quality of Service Review (QSR). QSR is a formalised process of gathering information from customers using trade-off analysis to support service planning and relationship development. It is particularly suited to local councils where the relationships are often complex with many levels of contact and influence. For example residents value water quality but do not relate the direct impact of street sweeping to water quality. Street sweeping is valued by the community for its impact on street amenity, not its retention of litter which would otherwise be deposited into water catchments via stormwater drainage. This lack of relation results in QSR being an intensive survey technique that requires considerable time and education of respondents and hence is expensive.

Alternatively an accurate picture of state-wide satisfaction with local government could be ascertained by the biennial undertaking of research which replicates the deliberative polling by IRIS Research as part of the Independent Inquiry into the Financial Sustainability of Local Government 2006 (the Allan report). The research methodology enabled satisfaction level reporting at the metropolitan, rural and regional level and was considered credible because of the breadth of the research and its independence from local government. The research found that drivers of satisfaction in metropolitan areas included the provision of libraries, parks and waste services whereas those in rural areas place a much higher value on the condition of roads and kerbing. Overall the research showed that the majority of residents believed they received value-for-money services from their local council and were supportive of paying more council rates in order to receive a higher quality of local services.

As mentioned above, at the individual council level, the cost of applying credible satisfaction survey methodology on an annual basis is prohibitive at approximately \$100,000 per year. Online consultations are a tenth the cost, independently moderated and reach a wide audience at a time that suits the participant. Online consultations also offer participants the choice of active or passive participation (either read information and vote on issues or actively contribution to the online conversation by posting comments). Online communication may also attract sectors of the community (for example youth) who may not usually engage with local government. Therefore online communication offers a valuable, cost effective tool for seeking satisfaction feedback for council services.

20 What demographic, intergovernmental, economic, social, technical and environmental changes are affecting Councils now and their future revenue requirements?

While the specific answers to this question will differ from one council to the next, this subject matter lies at the heart of a council's corporate planning processes. The plans that result from research, consultation and deliberation should address all these issues and should result in sustainable revenue setting.

21 What are the implications of the different revenue sources and revenue raising capacities for rate pegging or alternative regulatory frameworks which may be proposed?

This question is responded to elsewhere.

22 What scope is there for councils to make greater use of user charges?

Most of development assessment service fees are regulated by the State government through the Environmental Planning and Assessment Regulation. As IPART has previously determined, regulated fees do not cover the cost of service provision and consequently, service delivery suffers. This is one of the fundamental reasons why there has been so much reform sought in respect of development regulation.

As noted in the Issues Paper, the significant fees and charges associated with Development Applications are regulated by the State Government and therefore there is no scope to increase the fees beyond the amounts determined by the State. Similarly the fees and charges for searching for information under FOI legislation are regulated and set at a level that often does not reflect the time and effort required to locate the requested information.

The other significant areas for the generation of fees and charges is via the use of community facilities e.g. to charge sporting groups that hire council's sports grounds the actual expenditure to maintain the grounds rather than subsidise sports ground usage. At HSC, the sports ground subsidy equates to approximately \$2.5 million (based on income generated from the hire of sports grounds less expenditure on sports grounds). About 20% of costs are currently recovered from sports ground users. Notwithstanding, HSC benchmarks its user charges for parks with other neighbouring councils, and has among the highest charges in the region.

HSC currently provides, through foregone rental, an annual subsidy of more than \$0.55 million to community groups who have use of Council-owned facilities under lease/licence agreements. Council has traditionally supported these groups (Scouts, Guides, Pre-Schools, Non Profit Organisations, Clubs, etc) by not requiring market rental but instead allowing them to pay no, or minimal, rental because of the valuable services they provide to the community. Generally, these groups exist with little support from other spheres of government, even though the services provided are sometimes services for which those spheres of government have responsibility. Council also subsidises users of its swimming pools and libraries.

The Council subsidy needs to be considered in the context of the social and health benefits of participating in community sports, functions and events. The social

benefits of a wide range of active groups in the community includes people looking out for each other, people of all ages, cultures and abilities participating together and the development of a community identity. It can be argued that residents pay for the subsidy in their rates, however the level of subsidy is increasing over time and local councils need to find ways to fund the subsidies, either by large fee increases, or being recompensed by other levels of government or being given the ability to increase the currently regulated fees in order that those fees subsidise the community facilities fees.

HSC, along with other councils, faces increasing difficulty in justifying and meeting the costs involved in this level of support and, in future, local government should not be expected to provide premises for the exclusive use of a body or organisation without a commercial fee or hire arrangement.

We are probably approaching the limit of cost recovery through user fees. In addition to statutory limits on for example, developer charges, there is political reluctance to pursue full cost recovery from the users of sporting facilities. Another type of constraint lies in library services, where access to grants etc from other tiers of government is dependent on certain services being provided at no cost.

23 To what extent has the control of rates revenue under the rate pegging regime limited overall revenue growth or encouraged greater use of non-rate revenue?

The constraints imposed by rate pegging have certainly forced councils to search for other areas of income.

Council's revenues from parking fines, development application fees and development contributions have all been subject to specific reviews in addition to regular operational reviews conducted each year for all fees and charges.

Each attempt to increase local government income in a significant way has led to the State Government's withdrawal of powers, imposition of constraints or other limits on local government's capacities. The subtext implied is that the State Government and its agencies encourage local government to develop alternative sources of income *provided no political reaction results*. In consequence, such additional revenue raising can be expected to be marginal, sporadic and is unlikely to be of a magnitude that makes a fundamental contribution to local government financial sustainability.

24 To what extent are local governments' expenditure requirements likely to grow in the future?

Expenditure requirements are expected to grow in coming years as councils come to grips with the state of their assets and the need for renewal expenditure. For councils in the growth areas of the State, assets constructed using developer contributions funds will soon begin to require renewal (the former s94 regime did not provide for this eventuality).

Provided a sound case can be made for asset renewal or enhancement (and the community understands the difference between the two), it should be possible to justify an increase in rates to fund this work.

Increasing population densities are likely to lead to significant growth in local government expenditure requirements, particularly within the Greater Metropolitan Region. State wide demographic shifts will add further problems as sea- and tree-changes are likely to result in demand for services being felt increasingly in under-provided areas while areas with better provision experience under-utilisation of facilities.

It is obvious that unless the State Government is prepared to accept its responsibilities in the area of public order and safety, health and welfare, housing and community amenities and transport, that local government will have strong community pressure placed upon it to expand its services and functions to meet these pressures, despite the risk of unsustainable decisions being made.

These pressures will compound the current pressures which exist across a broad range of council's services and facilities, but in particular in the area of infrastructure, construction and maintenance.

IPART should promote the processes that facilitate the necessary and orderly provision of public infrastructure by local government through its recommendations to the Minister.

25 What are the implications of this expenditure growth for rate pegging or alternative regulatory frameworks proposed by submitters?

This question is responded to elsewhere.

26 What is an appropriate level for the net liability ratio and what obstacles prevent local government from making greater use of loan borrowings (debt) as a means of financing priority infrastructure renewal/replacement?

A crude assessment of the appropriate level for the net liability ratio may lead one to consider that a ratio of between 5 and 10% appears reasonable. However, it is naïve to assume that the same or similar parameters apply to NSW local government as to other tiers of government.

The unrestricted current ratio monitors the ability of Council to meet its short term obligations based on balance sheet analysis (i.e. current assets less external restrictions/current liabilities less specific purpose liabilities). This council's current assets are significantly represented by cash and investments. The income derived from these current assets already contributes to annual operating budgets. The point here is that while HSC has an unrestricted current ratio well above the accepted industry benchmark (a real positive) it is difficult to meet debt service obligations with increased loan borrowings because of the constraints imposed on its ongoing income sources. Councils are often asset rich but income poor. We have experienced this over two recent financial years with no difficulty in obtaining higher debt. However, we now face the challenge of reconciling increased loan repayments, expenditure greater than CPI and a rates revenue base of 70% of total income that increases below CPI.

In this regard, councils do not have the taxation options available to either state or federal governments.

27 Are there any other significant factors affecting financial performance of local government?

Whenever economic cycles fluctuate, the ability of local government to respond is limited by its workforce responsibilities and undertakings. When there is a downturn in the development sector, it is often quite difficult to reduce labour costs attributed to permanent staffing arrangements. Consequently, the ability of development services to meet budgetary targets often requires crystal ball gazing as opposed to predictive modelling.

Meanwhile, the devolution of responsibilities from State to local government continues unabated, especially in the area of environmental management. New pressures are coming to bear in local government constantly and these have to be met under a climate of rate pegging and lack of financial assistance from the State government.

28 To what extent does rate pegging affect financial sustainability?

Rate pegging has never reflected the cost of service provision at local government level since its inception. Cost of services, materials, and the increasing cost shifting by other levels of government have meanwhile increased the costs of local government services and infrastructure requirements.

Rate pegging restricts a council's ability to deal with asset management issues, although it is also true that there is some limited scope for alternative funding options. The greatest difficulty is that the allowable increase bears no resemblance to the financial requirements of councils.

The Allan report has identified significant shortfalls in councils' ability to renew their infrastructure assets. Yet rate pegging does not address this issue.

Page 48 of the Issues Paper makes a definitive assertion by stating:

"For 2008/09, the rate peg percentage is 3.2%. This percentage reflects the projected annual increase in costs that a typical council delivering services at levels comparable to the previous year is likely to incur over this year."

On Page 62 of the Issues Paper, however, there is this statement:

"However, there appears to be no clear basis for determining the level of the rate peg each year. For example, it has been argued that since rate pegging was introduced, there has been no adequate explanation of the methodology for setting the rate pegs, including cost indices used. While it may appear that the general rate increase is set using changes in the CPI and Average Weekly Earnings, it would seem that some other considerations influence the calculation, as the rates set do not align with an equal weighting scenario. Furthermore, the criteria for special variations are not transparent."

The determination of the rate peg limit is a political determination and is certainly not transparent.

As a consequence, rate pegging is losing some of its public appeal as it is obviously ignoring readily identifiable cost increases many of which are imposed upon local government by the State.

A further consequence is that local government has the ability to defend its decisions to limit expenditure on infrastructure and services by highlighting the State's restriction on local government's main revenue source.

29 What are the appropriate measures for efficiency of local government?

Efficiency measures are generally concerned with defined outputs based on timeliness and budgetary control. The appropriate measures of efficiency can be grouped around financial and budget performance and governance measures; these should be transparent and easily replicated across the industry.

Project management and budget controls also fit in here. This deals with the "doing it right" type questions.

The harder question is "are we doing the right thing"? This ties in with community expectations and levels of service. The question that should be asked is "what are we prepared to pay for the service?", and this is a question that not many councils are asking, or asking correctly, and which communities are having difficulty answering. This issue goes to the heart of community engagement. Why are we requiring participatory democracy through oversight agencies or regulation when we elect our governments in a manner known as representative democracy? Are we being set up for failure by imposing rigorous consultation requirements on the elected body when its financial capacity to undertake such work effectively is inadequate?

The Department of Local Government (DLG) currently collects data from local government for its Comparative Performance tables. The data published annually by the DLG represent an attempt to demonstrate the efficiency or otherwise of all NSW councils. However the data has significant flaws, namely:

- The consistency of the data is not audited or verified in any way;
- The data is classified according to type of service, e.g. environmental management, but with no definition of what services are to be included therefore some councils will include the administrative functions of environmental management whereas others will not;
- The data is published when it is at least 18 months old and therefore any predictive opportunity is lost; and
- A non-local government reader would not be informed by a term such as 'environmental management'.

The proposed audience is the first consideration in defining efficiency indicators. If the audience is the ratepayers then a more meaningful set of efficiency indicators would revolve around tangible data with meaning to the ratepayers. Examples are listed below.

- Recreation centre percentage utilisation per available hours
- Maintenance expenditure on sealed roads per kilometre
- Maintenance expenditure on drainage per kilometre
- Number of graffiti incidents responded to with xxx days
- Amount of gross pollutants removed from gross pollutant devices each quarter
- Number of street trees planted each year compared to number removed each year
- Occupancy rates and wait list times at child care facilities
- Staff turnover and rates of absenteeism etc

These measures are examples of tangible indicators that give a better 'sense' of the council as an organisation and the services it delivers as core business, and would form part of a longitudinal study of each council taking into account the services it delivers rather than trying to compare one council with another.

Potential measures for efficiency for park and tree management are numerous. However, there is little agreement on them in the industry. Possibly the best measures are one or more of the several local government benchmarking exercises that HSC participates in, including one run by Integrated Open Space Services.

Unit costs of assessments based on the value of work would be an appropriate indicator for determining the efficiency of the delivery of development assessment services within local government.

30 To what extent have councils undertaken efficiency reforms and has this been effective?

The fact that a substantial number of NSW councils can still be judged financially sustainable in the environment described in the Issues Paper (and expanded on in these responses) is testimony to opportunities for efficiency improvements being sought continually. However, the end game of the current approach by the State government is deterioration and run down in service levels across the sector. Local government needs to be given the power to objectively set its revenue requirements and then to be clearly held accountable to the community for its decisions, including its pursuit of efficiency gains.

31 How does rate pegging and other constraints on councils' revenues affect the efficiency of councils' operations?

This question is responded to elsewhere.

32 If variations under Section 508(2) provide for an escalated base for future rate increases under rate pegging, what benefits do councils gain from making application under the alternative Section 508A?

Neither process is satisfactory from a process efficiency or transparency perspective.

However, the distinction should shortly become irrelevant. Under the impending new management planning regime, a council's community strategic plan and delivery program should be sufficient grounds for future rate settings up to ten years to be implemented without ministerial intervention in the process.

33 What is the frequency and pattern of individual council requests for special variations to the rate cap?

The Issues Paper addresses this question.

34 Are rate pegging special variations becoming the norm rather than the exception with local councils and should alternatives to existing rate pegging practices be considered to provide greater certainty for councils and reduce the need for Government approvals?

Page 56 of the Issues Paper indicates *“user charges as a proportion of local government revenue have remained relatively constant over recent years, would suggest that rate pegging is not causing Councils overall to increase or introduce new user charges.”*

This is completely fallacious.

The proportion would be calculated by a numerator being local government user charges and the denominator being both user charges, rates and other sources. A large number of councils expanding fees and charges with a small number of councils impacting upon rates does not automatically lead to the claim as proposed in the Issues Paper. It is possible that the limits imposed on fees and charges, both political and by regulation, can also limit local government's capacity to increase fees and charges.

The constraints on user charges are discussed under Question 23 above.

35 Given the role of special variations and the other revenue sources for local government, does rate pegging effectively constrain the level of rates and total revenues for local government?

Yes, in relation to need and for the reasons given elsewhere.

36 Should councils be able to achieve a permanent increase in revenue by applying for a special variation?

No. The process itself is flawed and needs reform.

37 Does rate pegging increase the affordability and/or availability of local Government services especially for poorer regions and sections of the community?

No. There is no evidence that it does.

In fact, there may be unintended consequences of income suppression on local government. When it comes to the provision of development services, many poorer members of the community rely upon Council staff to provide guidance in respect of planning, building and health regulations in respect of the built environment. The ability of councils to provide these services is frustrated by its inability to charge fees on a user-pays basis. The poorer members of the community are less inclined to use architects in plan preparation and this is often to their disadvantage.

38 In addition to the Pensioner Rebate Scheme, are there any other specific measures that could be introduced to address any social impact issues arising from the regulation of council revenues?

Items that may qualify for a "special consideration" category would be facilities for the physically less abled which have imposed expenditure pressures for councils in relation to kerb ramps, public toilets and other infrastructures and now access to public transport, e.g., bus shelters.

39 Which performance measures should be developed for councils (or groups of councils) to provide information on outcomes, outputs, processes, inputs and cost effectiveness in their service delivery?

The Issues Paper notes that organisational performance is generally measured by efficiency and effectiveness. Efficiency generally relates to financial indicators and effectiveness relates to customer expectations and the quality of the services provided.

The NSW Department of Local Government's (DLG) comparative data has relied on efficiency indicators without consideration of the differing levels of service provided by different councils to meet the needs of their different communities. These efficiency indicators do not provide meaningful data on which to judge the performance of one council compared to another because the base data is not audited, for example expenditure on community services without defining the elements of community services. This type of indicator could be used to demonstrate a trend over time but does not give the reader any further information.

A preferred approach to demonstrate a council's overall corporate performance, the performance of council functions and services and the characteristics of the community would be to use an internationally respected framework such as the Global Reporting Initiative (GRI). GRI includes a public agency sector supplement for mission driven organisations that administer and manage public resources, goods and facilities in accordance with public interest and sustainability. The GRI includes reporting principles which relate to the essential principles of report content for balanced and reasonable reporting as well as measures to determine economic, social and environmental performance over time and which can be benchmarked against other organisations.

HSC is of the opinion that 'rather than re-invent the wheel' the GRI provides a framework for measuring performance of local government in NSW.

40 If there are negative unintended effects on financial viability, what modifications or alternative mechanisms would reduce these?

A full review of the provision of development services at local government level would assist in making the delivery of development services self-funding.

In addition, the challenges facing rural and remote communities are acknowledged. The disability factors in the current system of federal assistance are designed to compensate for such matters, and could be continued. A state system of financial grants may also be appropriate, as such concerns are a state issue. A minimum level

of service could be identified, and provided this was met by a council, additional state grants could be available. However, we need to ensure that the basics are covered.

41 To what extent does rate pegging enhance or diminish the revenue raising by local government when assessed against the above criteria for taxation options by altering the revenue mix or enhancing/diminishing criteria such as efficiency, equity, simplicity, and accountability?

The Issues Paper comments on the simplicity and transparency of property as the basis for revenue, at the same time noting that the method of calculating the annual rate peg value is not transparent. It is not clear who benefits from the simplicity and transparency of the current system, the rate payer, the DLG or the council? The lack of transparency in calculating the annual rate peg value results in a council having no certainty year on year as to the level of funding it can expect to receive, and often results in annual budget preparations being undertaken using assumptions because the rate peg value is announced very late in the budget cycle. If rate pegging is to remain, one way to improve budgeting and forward planning would be for councils to be informed of a four year rate peg value, i.e. the rate peg value for a term of office. This would aid transparency of both the State government and local government while retaining the simplicity of property as a basis for revenue. Knowing the rate peg value for a four-year term would also enable rigour to be built into the four year delivery program requirement currently being considered by the DLG as part of its Integrated Planning and Reporting initiative. However, a rate peg arrived at in this way needs to be founded on the cost movements directly affecting councils' services and infrastructure.

We also note that the redistribution of wealth is not a responsibility placed on local government under its legislation and it should not be called upon to play such a role.

42 What alternative regulatory models could be used to regulate rates and charges in NSW?

Council's proposed approach is provided in the opening summary of this submission.

43 How do the various alternatives rate against the criteria listed above ie, financial accountability and governance, financial sustainability, comparative efficiency and effectiveness indicators including affordability and availability of local services and facilities?

Council's proposed approach would rate well in all these respects as it would be founded on these principles and confirmed through a community consultation process.

44 What role should IPART play in setting local government rates and charges in future years?

If a rate pegging is to continue IPART should become the determining authority for setting local government rates to remove any potential for political interference. IPART however, should not have a role in setting local government charges, as these should rest with local government to determine.

If there are charges such as development application fees which have a distinct benefit if consistent State wide, IPART should also determine these to again remove political

interference. Full cost recovery on a best practice model should be the approach taken to such determination.

In setting any rate or charge, IPART should receive submissions from both local councils and the public.

45 How should IPART's role be implemented (for example, by a legislative amendment giving IPART a determinative role or by a terms of reference from the Minister requiring recommendations from IPART)?

Any role to be performed by IPART, must be by a legislative amendment, as terms of reference will not remove the political influence.

If it is appropriate for IPART to be independent in the determination of transport charges and electricity charges, there is no compelling reason why local government rates and charges should be treated differently.

46 Whether a common legislative or regulatory framework be introduced to improve consistency in the levying of charges by authorities (such as SHFA, SOPA, RWA and GCC) that provide services akin to those provided by local government?

We offer no comment.

47 The best form for this legislative or regulatory framework to take?

We offer no comment.

48 To the extent that these authorities provide services that overlap with or duplicate those of local government, what benefits and disadvantages arise from the duplication of service provision?

We offer no comment.

49 To the extent that these authorities provide local government services how should the costs of these services be recovered? To what extent would these arrangements promote:

- Efficiency?
- Equity?
- Simplicity?
- Transparency?

We offer no comment.

50 Similarities and significant differences (in quantum, scope or standard of service) between SHFA, SOPA, RWA and neighbouring councils in regards to:

- current regulatory frameworks including governance arrangements, accountability to the local community and the role of the State Government in setting fees and charges and determining revenue levels and/or mix

- property related services including land use planning, the processing of development applications, development activities, the levying of developer contributions, conservation of natural and cultural heritage, management of public domain areas and provision of infrastructure
- management of major events and regional promotions, and
- responsibilities under the *Roads Act 1993*.

We offer no comment.

51 The potential overlap between the Growth Centres Commission's development approval and Infrastructure planning processes and those used by Growth Centres Councils.

We offer no comment.

52 The extent to which SHFA, SOPA, RWA and the GCC, respectively, impact upon the costs incurred and revenues generated by the corresponding councils.

We offer no comment.