

# FOR ACTION

COUNCIL

21/08/2008

TO: General Manager (Michael Coulter)

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**Subject:** IPART - Review of the Revenue Framework for Local Government - Issues Paper  
**Target Date:** 4/09/2008  
**Notes:**  
**Trim Reference** SF770 (19749/2008)

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641/08 **RESOLVED:** (Ainsworth/Waller)

That a submission be made to IPART, referring to the research and findings of the Allan Report and the recent Productivity Commission Report, and advising that Council seeks the removal of mandatory rate pegging (option 5) so that it may be acknowledged as a responsible third tier of government consistent with the position of the other Australian States.

642/08 **RESOLVED:** (Hoban/Flack)

That the submission request IPART give consideration to the LGSA's request that an increased and guaranteed percentage of total taxation revenue be returned to Local Government.

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## ACTION TAKEN BY OFFICER

ONGOING / COMPLETED

Completion date: \_\_\_\_\_

*(Please update once item is actually completed)*

Details:

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**GENERAL MANAGER'S REPORT**

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**ITEM 8.2 SF770 210808 IPART - REVIEW OF THE REVENUE FRAMEWORK FOR LOCAL GOVERNMENT - ISSUES PAPER**

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**AUTHOR/ENQUIRIES:** Michael Coulter, General Manager

**SUMMARY:**

The Premier of NSW has asked the Independent Pricing and Regulatory Tribunal of NSW (IPART) to assist the Department of Local Government (DLG) by conducting a review of the regulation of council rates and charges in NSW. IPART have now released an Issues Paper, titled, "Revenue Framework for Local Government" and invite comment on its content no later than 29 August 2008.

The Issues Paper is primarily concerned with the capacity of NSW local government in terms of revenue raising and to this extent is covering similar issues to the recent Productivity Commission Report commissioned by the Federal Government and before that the Allan Report commissioned by the Local Government and Shires Associations.

The report has suggested 5 options in relation to alternative rating arrangements, four of which involve the retention of rate pegging with even more convoluted reporting and approval arrangements than currently exist. There is a fifth option to remove rate pegging but IPART notes that this is not supported by the Minister.

Nambucca Shire Council along with the LGSA should stand fast and express a preference for the removal of rate pegging (Option 5).

**RECOMMENDATION:**

**That a submission be made to IPART, referring to the research and findings of the Allan Report and the recent Productivity Commission report, and advising that Council seeks the removal of mandatory rate pegging (option 5) so that it may be acknowledged as a responsible third tier of government consistent with the position of the other Australian States.**

**OPTIONS:**

Council has absolute discretion as to the submission it makes. As indicated in the report there are limited staff resources available to undertake extensive research and to prepare a lengthy and detailed submission. Given everything that has recently been written about local government revenue, in any case it is unlikely that any new perspectives would be discovered.

**DISCUSSION:**

In May 2008, the Premier of NSW asked the Independent Pricing and Regulatory Tribunal of NSW (IPART) to assist the Department of Local Government (DLG) by conducting a review of the regulation of council rates and charges in NSW.

IPART is to investigate and make recommendations on the following 3 matters:

- 1 an appropriate inter-governmental and regulatory framework for setting rates and charges that facilitates the effective and efficient provision of local government services
- 2 a role for IPART in setting rates and charges in future years
- 3 a framework for setting the charges levied by certain public authorities, such as Sydney Harbour Foreshore Authority, Redfern Waterloo Authority, Sydney Olympic Park Authority and the Growth Centres Commission, to enable these authorities to recover costs for the provision of services that are normally provided by local government.

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**ITEM 8.2 IPART - REVIEW OF THE REVENUE FRAMEWORK FOR LOCAL GOVERNMENT - ISSUES PAPER**

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IPART has now published an issues paper and is inviting comment no later than 29 August 2008. The issues paper is 96 pages in length and for this reason has not been reproduced in the business paper. It can be viewed on the IPART website, [www.ipart.nsw.gov.au](http://www.ipart.nsw.gov.au). Councillors are also invited to borrow the General Manager's copy for review.

The terms of reference require IPART, in undertaking this review, to have regard to a range of matters, including:

- the role of local government in delivering infrastructure and services to the community
- the current and future financial position of local government and the scope for efficiencies
- all the revenue sources available to local government
- the socio-economic impacts of rates and charges, including the ability of families and pensioners to meet their rate obligations
- differences between metropolitan, regional and rural councils
- the findings of recent reviews of local government
- the matters in Section 15 of the IPART Act.

In addition, the terms of reference specify that IPART is **not** required to consider issues related to the valuation of individual properties, or matters associated with the operation of councils' water and wastewater businesses.

IPART is to provide a draft report to the Minister for Local Government by 13 May 2009, and a final report by 13 September 2009. However IPART will allow scope to provide an interim report to the Minister in February 2009 for the purpose of setting rates revenue from 1 July 2009, if it finds that this is necessary.

IPART will examine rate and annual charge revenue as well as revenue from user charges or fees.

IPART propose to apply the following criteria when recommending a framework for regulating council rates and charges.

- 1 promotes the effective and efficient provision of local government services
- 2 enhances the financial sustainability of local government
- 3 meets the standard principles for good regulation and taxation, including:
  - (a) efficiency
  - (b) equity
  - (c) simplicity
  - (d) transparency
- 4 enhances the accountability of local government

IPART considers there are a number of key questions in relation to the regulation of local government revenues that it would like stakeholders to address. These are:

- 1 What is the role of local government and how is it determined?
- 2 How effective is rate pegging and what are the implications for councils and ratepayers?
- 3 What are the objectives for a regulatory framework for local government revenues?
- 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?
- 5 What role should IPART play in setting local government rates and charges, including charges for non-business activities?
- 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?
- 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?

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- 8 What are the implications for local government rates where these authorities provide services normally provided by local government?
- 9 Should a common regulatory framework be introduced for these authorities?

The issues paper contains some interesting statistics for NSW councils including that in terms of the size of the area they serve, councils vary from 5.8 square kilometres (Hunters Hill Council) to 53,510 square kilometres (Central Darling Shire Council). About 25% of all councils serve an area that is smaller than 200 square kilometres. In terms of the population they serve, councils vary from less than 1,400 people (Urana Shire Council) to more than 280,000 people (Blacktown Council), with an average population per council of 44,560. NSW has the second largest average population per council of all States. In comparison, the average population per council across Australia is approximately 28,432, while the average per council in Victoria (which has the largest average population per council) is 62,774. The Issues Paper does not indicate whether these figures take into account the recent reforms in Queensland.

Of the 152 general purpose councils in NSW, 53 serve populations of less than 10,000 persons. A further 53 serve populations of between 10,000 and 50,000 persons.

The Issues Paper notes the ways in which councils cooperate with each other and with other tiers of government and notes such relationships are increasingly being used to deliver services, not only in Australia but internationally.

IPART notes that the Allan report (Independent Inquiry into the Financial Sustainability of NSW Local Government 2006) found that to be most effective, a local council's provision of infrastructure should be confined to items that fall within the area it serves. This equates to a model of fiscal federalism which prescribes that each tier of government should provide services where the benefits fall within its jurisdictional area.

In relation to the role of local government, IPART notes that the Allan report described two distinct views. The first, a minimalist view, holds that councils are the "body corporate" of a local community and thus should foster the community's common property and regulate what property owners may do with their properties. The second, a maximalist view, holds that each council is the government of the area it services, and thus should be concerned with the welfare of the whole community in this area, even if this means duplicating the roles of other tiers of government.

It has been argued that the Local Government Act 1993, particularly the Charter included in this Act, reflects a maximalist position, but that the rate pegging approach used to regulate rates and charges and constrains council's revenues and thus may limit the capacity of local government to provide a wider range of services.

IPART has identified five options for alternative regulatory frameworks:

- 1 Retain existing rate pegging arrangements but:**
  - Publish the economic indicators or indices to be used in determining the uniform rates cap to be applied across local government each year
  - Modify the special variations process to ensure that the mandatory criteria required to justify a Section 508(2) or a Section 508A variation are published and that the process of application and approval is fully transparent and forms part of local government regulatory system.
  - Leave all charges unregulated (except s94 charges which are being dealt with separately under amendments to the NSW Planning and Assessment Act).
- 2 Implement a more disaggregated form of rate pegging which incorporates cost indices relevant to each council (or group of councils).** This option would be as for option 1 but either:
  - Group councils based on specific criteria and calculate a rate peg specific to each grouping, or
  - Calculate a specific cap for each council based on specific criteria (eg cost structures, service dimensions).

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- 3 Reduce the scope of rate pegging** to cover only local government revenue needed to fund operating expenditure and thus exclude capital expenditure from rate pegging (noting that operating expenditure should include some expenditure approximating asset depreciation). This option includes:
- Leaving other fees and charges (except s94 charges) largely unregulated as is.
  - Providing separate guidelines operating and capital expenditure planning and pricing. These guidelines could require approaches to operational revenue raising, related expenditure, capital expenditure plans and costings, pricing policies and charges, depreciation policy and proposed funding options including debt financing and public private partnerships. A section on relationship of Section 94 plans to these guidelines could be included.
  - Modifying the special variation arrangements as described in Option 1 above.
- 4 Maintain rate pegging power but promote greater freedom** by exempting individual councils from rate pegging subject to mandatory demonstration of:
- Financial accountability and governance
  - Financial sustainability
  - Comparative efficiency and effectiveness indicators (including affordability and availability of local services and facilities)
  - Ability to achieve the above objective criteria over a 10 year time frame through an approved and independently audited management plan. This audited plan could be tabled in Parliament and made publicly available.
- 5 Institute measures to enhance accountability to the local community and remove mandatory rate pegging.** This option includes compulsory reporting on a comparable basis to enable comparisons between councils. Where councils fail to meet these criteria a default rate cap could apply. While IPART has included this option for discussion, it notes that the Minister for Local Government favours the continuing of rate pegging.

In addition, in assessing Options 1 and 2, IPART will also consider whether councils should also be required to develop a 10 Year Management Plan, as outlined in Option 3 above.

IPART indicates that submissions are most useful when they are detailed, provide evidence to support the views they express, and move beyond identifying problems to suggesting solutions.

In all, the IPART report poses 52 questions for which they seek a response and in particular the 9 core questions which are listed above. Nambucca Shire Council does not have the resources to provide a detailed, evidence based response to these issues.

It is also important to note that the IPART Inquiry is following a number of recent inquiries all essentially concerned about the financial sustainability of local government. The Australian Government's Productivity Commission released their major report on Assessing Local Government Revenue Raising Capacity on 17 April 2008 and prior to that the LGSA sponsored the major investigation by Percy Allan and others, known as the "Independent Inquiry into the Financial Sustainability of NSW Local Government". Its results were released in May 2006. This will be the third major inquiry in two years dealing with primarily the same issue.

The recent report by the Productivity Commission found that NSW appears to be an exception in a number of areas.

*"The rate of growth in rates revenue in NSW has been among the lowest of all jurisdictions over the past seven years, for which reliable data are available. NSW also has rate revenue per person below that of most other jurisdictions. Rate pegging in NSW appears to be restricting revenue raised from rates, notwithstanding scope for councils to seek variations to mandated rate increases. In addition, only partial reimbursement of concessions affects the revenue of local governments in NSW. The evidence suggests that the NSW Government has chosen to have a more significant constraining influence on the revenue raised by local governments than have other State governments."*

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Finding 6.4 of the Productivity Commission's report was as follows:

*"Finding 6.4*

*Rate pegging has dampened the revenue raised from rates in NSW relative to the other States and there seems to have been little offset from on-rates revenue sources in recent years."*

The NSW Government, unlike the other States, seems unable to accept a federal model which acknowledges local government as a responsible third tier of government. And even after two enquiries which have demonstrated the adverse impacts of rate pegging on asset management and service provision, the Minister for Local Government still provides IPART with the pre-emptive direction that he favours the continuing of rate pegging.

Of the 5 options listed for an alternative regulatory framework, four essentially propose the retention of rate pegging with even more convoluted reporting and approval requirements. As for such arrangements meeting the standard principles for good regulation and taxation (efficiency, equity, simplicity, transparency, accountability), they will challenge local government professionals let alone ratepayers and the general public.

Nambucca Shire Council along with the LGSA should stand fast and express a preference for the removal of rate pegging (Option 5).

**CONSULTATION:**

The General Manager has discussed the Review with members of the LGMA (Local Government Managers' Association) Policy Committee in a teleconference on 12 August 2008. The LGMA will be making a submission.

**SUSTAINABILITY ASSESSMENT:**

**Environment**

There are no implications for the environment.

**Social**

There are no social implications.

**Economic**

There are no economic implications.

**Risk**

There are no risk implications.

**FINANCIAL IMPLICATIONS:**

**Direct and indirect impact on current and future budgets**

There are no financial implications.

**Source of fund and any variance to working funds**

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There is no impact on working funds.

**ATTACHMENTS:**

There are no attachments for this report.