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Mr James Cox – Chief Executive Officer
Review of the Revenue Framework for Local Government
Independent Pricing and Regulatory Tribunal
P O Box Q290
QVB Post Office NSW 1230

Dear Mr Cox

Re: REVIEW OF THE REVENUE FRAMEWORK FOR LOCAL GOVERNMENT

On behalf of Port Stephens Council I wish to provide the following submission on the Review of Revenue Framework for Local Government issues document recently produced by your Department.

I have commented individually on all issues relevant to Port Stephens Council.

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

The role of Local Government is to provide services and supply and maintain infrastructure. However, the current role can only be considered on an individual basis as all councils are different and all ratepayers have different expectations from their local councils. Services provided by urban councils could be vastly different from the services provided by rural or coastal councils. Councils such as Port Stephens also require a diverse range of skills to manage across diverse land use forms. As it covers coastal and estuary management, and rural hinterland management this requires councils to compete to attract staff with a range of skills in a competitive market. Over the years the provision of services by local government has been changed by the significant amount of cost shifting by other tiers of Government. (See full details of Council's role in Question 12 below.) For example, the NSW State Plan and the Lower Hunter Strategy mandate the development of local government areas, and in the case of Port Stephens Council we require to develop Medowie, Raymond Terrace and other areas. The expectation is that these larger communities will have the effect of doubling the population by 2031. The further State Government expectation is that local government will work with other agencies to implement the plans but no resources are supplied, putting a further drain on council budgets.

Councils such as Port Stephens also experience a high level of sea change and tree change migration to our area, and the expectations of the community are changing as a result of these moves. This translates to an increased demand for services comparable to those in the metropolitan communities they have left.

For example, Port Stephens Council has identified that councils and communities located close to major cities are often overlooked in the provision of grant funding opportunities in

the areas of arts and culture, which impacts the ability of councils to deliver against the Charter. Arts funding state wide is divided up into two categories Regional and Metropolitan. Unfortunately Port Stephens Council falls within the Metropolitan category and as such has to compete with resource rich councils such as Sydney, Newcastle and Wollongong for arts project funding. It is difficult at the level of resources we currently provide cultural pursuits to instigate projects which attract major arts funding. Regional areas are also provided with Regional Development Officers and other support staff which aid in the coordination of cultural activities and the pursuit of sponsorship which is quarantined for regional cultural development funding. This support is not available in the Metropolitan category.

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

Rate pegging is effective in forcing councils to identify and implement efficiencies and expenditure reductions and to force decisions to be made about the allocation of scarce resources. There are however undesirable and unintended by-products of this cost containment approach. Satisfying residents' needs through the provision of additional facilities and services and striving for organisational financial sustainability are mutually exclusive. Maintenance of existing assets and infrastructure is a challenge. As communities grow there is a need for the creation of new assets and infrastructure. However the availability of capital grants often drives priorities due to pegged rate income. For example, in Port Stephens Council the effect of the Lower Hunter Strategy will be to double the population by 2031, and these people will need to be housed, find employment and impact on the provision of services and infrastructure putting further pressure on our current infrastructure maintenance backlog. The rate pegging system will not provide for the catch up, let alone the new pressures to be met. Most councils also face aging infrastructure with a similar or greater maintenance backlog. ...*the infrastructure condition data published by councils is not always comparable across councils or consistent over time.*¹ The Port Stephens Council experience is not necessarily representative of other councils in our category.

The question also arises of the use of special variations by councils to get around the rate pegging system.²

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

The objective of a regulatory framework for local government revenue should be primarily to empower local government to respond positively to the wishes of the community it serves. Different communities may have different expectations of their local council and may express different tolerances for levels of local taxation.

Financial sustainability is an essential objective so that councils have the resources to provide continuity and stability in service delivery, and so that assets and infrastructure can be maintained, enhanced or replaced.

¹ Fiscal Star Review 2008 p. 14

² Interim Report – Independent Inquiry into the Financial Sustainability of NSW Local Government p. 169 – graph 9.6 shows the extent to which rate pegging is deemed to be inadequate because of the use of variation processes to enhance rate outcomes, and the exponential rise in this practice in the last decade,

Efficiency, equity and transparency are essential elements, however administrative simplicity is desirable but not essential because sometimes equitable outcomes require complicated solutions. The Local Government Inquiry into the Sustainability of Councils noted: *...there is a special transaction cost with estimating the tax base, which is passed on to Councils.*³ The Inquiry Report goes on to identify four ways in which the rating system is not equitable:⁴

- Land values have little correlation with income or ability to pay
- Rates paid do not have a direct relationship with the services used by a household
- 30% of rates are paid by landlords, who pass on the costs to tenants but do not use the services for which they pay rates
- The rate per dollar of land value is higher in areas with low land values. However the higher rate in the dollar is compensated by lower house prices.

These factors compound the difficulty of achieving objectives for efficiency, transparency, equity and administrative simplicity that are the desired outcomes from a regulatory system. All of the factors are present in Port Stephens Local Government Area.

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

- Promote the effective and efficient provision of services?

In theory limiting councils' access to rate income creates an opportunity cost for every expenditure decision made. This acts as an incentive to provide effective and efficient services. The need for regulating rate increases however is questionable. Local government is the closest tier of government to local residents. A local resident can readily make an appointment to see the General Manager, the Mayor or a Councillor. Residents can easily attend a Council meeting, read about the happenings of the local council in the local free newspaper delivered to their door and participate in the mandatory consultation about the annual budget, revenue policy and management plan. In the absence of a regulatory framework, the close geographic and informational relationship between local residents and their local council and the mandatory council elections provide residents with ample opportunity to provide feedback signals to the council about service delivery. Through local democracy the elected council can be replaced if local electors are dissatisfied with their performance.

- Enhance the financial sustainability of local government?

The existing regulatory framework as it relates to rate pegging serves to insulate local government rates from fluctuations in land values. Total land values can and do, albeit rarely, decrease, but the concept of notional income guarantees no loss of rate income and at least the rate pegging increase. This income certainty is helpful in developing long term financial models which are essential for achieving financial sustainability.

However a Council should be primarily concerned with meeting local needs. *In assessing future service needs it is not sufficient to establish what current residents want in the way of local services in the future, it is also necessary to estimate the size and composition of the*

³ Ibid p.166

⁴ Ibid p.167

local population in 10 to 20 years time using demographic projections available from sources such as the Australian Bureau of Statistics.⁵

A regulatory framework that allows local communities to choose the level and scope of services provided to it over a longer term and raise rates sufficient to provide those services would be preferable to the one size fits all approach imposed under the current rate pegging framework.

In short, the current framework does not allow for, let alone enhance financial sustainability of local government.

- Meet the standard of principles for good regulation and taxation – efficiency, equity, simplicity, transparency?

The introduction of base amounts, the 50% limit on total base amount yield, the categorisation of land into four categories, optional sub categorisation and the option of using minimums provide reasonable scope for councils to levy rates with efficiency, equity, simplicity and transparency. Equity is the main principle that could be enhanced by a change to the regulatory framework. Specifically:

- Under the current framework (Section 518 of the Local Government Act, 1993) land that can't be categorised as farmland, residential, or mining is placed in the business category which usually attracts a higher rate. The scope for sub categorisation of the business category is limited by section 529 of the Act that only allows a sub-category to be determined geographically according to "a centre of activity". This is too restrictive because for reasons of equity it may be desirable to determine a different sub-category of the business category to apply to industries that occupy a lot of land but are low intensity such as golf courses. It may also be desirable to determine a different sub-category to apply to non-commercial undertakings such as sporting clubs, Masonic lodges, boat sheds, rifle ranges and the like that do not qualify for a rate exemption. Some councils might prefer to apply a lower rate to undeveloped or vacant land. Many councils, including Port Stephens Council have adopted policies of making donations to community and sporting groups that are not rate exempt public charities or public benevolent institutions to overcome inflexibility with regard to sub-categorisation and application of the business rate.
- Land value is used to assess capacity to pay and base amounts are limited to raising 50% of the rate yield in any category or sub-category under section 500 of the Act. In Port Stephens Local Government Area there are many instances of pensioners receiving part or full pensions living in desirable waterfront locations and attracting very high residential rates. In Port Stephens there are 99 pensioners levied total rates and waste charges exceeding \$2,000 per annum. Of those 99 pensioners, 40 are levied in excess of \$3,000 per annum, and of those 13 pensioners are levied in excess of \$4,500 per annum.

Some of these pensioners have lived in these locations for decades and purchased the land when it was less desirable. They are in many cases asset rich and cash poor but have no desire to leave their home and paying the rates causes them hardship. Land value does not always equate to capacity to pay rates. In providing hardship

⁵ Ibid p.137

assistance under section 601 of the Act Port Stephens Council this year has seen some extreme cases where the rates incidence of individual pensioners is up to 23% of after-tax income. The existing framework provides scope for Council to write off rates owed by pensioners (section 582 of the Act), but does not provide any scope to redistribute this rating burden to other ratepayers, which is undesirable in the context of councils operating under the constraint of rate pegging. Port Stephens Council has entered into written agreements with some aged pensioners experiencing difficulties with paying their rates to defer payment of their rates against their estate. A better option would be the rating framework to include two provisions:

- Formalise the availability of an option for councils to defer payment of aged pensioners' rates against their estate so that the interests of Council in recovering the deferred rates are protected by legislation.
 - Introduce notional income catch up provisions so that rates written off by councils in providing assistance to pensioners may be caught up the following year and redistributed among all ratepayers and preserve the rate base. There could also be some provision to collect increased administration costs or lost opportunity costs from the previous year.
 - By 2021 Port Stephens Council population will have 41.4% of people over 50 years old, which will impact on the Council's ability to manage its hardship provisions.
- There are four mandatory land categories and Council is required to place all land into a category according to the dominant use of the land (sections 515, 516, 517 of the Act). There are mixed development provisions in the Act (section 518B) which provide the opportunity for land that contains flats and offices to be levied part residential rates and part business rates according to the appropriate percentage as determined by the Valuer-General. This meets the equity principle and is a desirable outcome for mixed development land.

Contained within Division 5A of the Valuation of Land Act 1916 however are provisions for the Valuer-General to provide a rating or taxing authority with an apportionment factor in respect of mixed use land. Mixed use land is different to mixed development land as it applies to separate buildings and land, rather than shops and offices within the same building. The Office of State Revenue uses mixed use apportionment factors to levy land tax by virtue of amendments made to the Land Tax Management Act 1956 in 2004. No corresponding amendment was made to the Local Government Act 1993 at that time, or subsequently, to allow councils to rate on the basis of mixed use apportionment factors supplied by the Valuer-General. This is inequitable to ratepayers who have mixed use land, who are sometimes compelled to pay the higher business rate on their entire parcel of land where the business use is the dominant use even though part of their land is residential land.

- Enhance the accountability of local government?

The current regulatory framework ensures councils cannot increase rates or fees and charges as they wish. The framework ensures transparency and accountability however fixed cost fees do not represent the actual cost to councils.

The ability to raise alternate revenue differs widely across councils. In many cases councils would like to be able to rely on fee for service charges. However statutory charges comprise a significant percentage of the fees and charges collected. There should be some flexibility to increase these fixed fee charges to better reflect the actual cost. An example is the actual cost for an FOI request compared to the chargeable fee that hasn't been increased since 1989.

Councils' community service obligations are also variable, as each council has its own approach and pricing policy in the areas where discretionary fees are able to be charged.

Other factors include a council's ability to invest in alternative revenue streams, such as property development and land sales.

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

(a) Rates

Councils do not provide identical services and so the stipulation of an across the board increase to rate revenue for 152 different councils is not as appropriate.

Councils should have the responsibility to plan their service provision and budget in the medium and long term on a reasonable basis. Short term opportunities and threats do arise and councils should not be locked into inflexible long term financial models. There is not much scope to increase fees and charges significantly as a percentage of total revenues. Councils that demonstrate fiscal planning responsibility and local accountability through genuine community engagement in decision making should be rewarded with exemption from rate pegging.

In this context, IPART becomes the default rate setting authority where councils are unable or unwilling to engage in the more rigorous processes involved with fiscal planning responsibility and local community engagement. Some councils, especially smaller councils or those which are more remote from key centres, lack the expertise or staff – rather than the will – to carry out processes that require specialist resources. IPART could then ensure that there is a reasonable income to council and that the rate payers' interests are protected.

IPART would play a role in providing timely rate pegging percentage announcements that complement the council management plan cycle. The percentage increase should apply to those councils who are unable or unwilling to meet stringent fiscal planning and community engagement requirements. The percentage increase should reflect the increased costs faced by the industry and take account of cost-shifting where there are increased responsibilities placed on councils. In the case of those councils who are able to set their own rates by meeting the guidelines, rate pegging percentages would be a minimum percentage.

(b) Fees and Charges

IPART should play no role in determining charges for non-business activities. Fees and charges should be determined at the council level and reflect the individual cost structures and pricing policies of each council.

Statutory charges arising from other legislation eg Freedom of Information requests are a drain on Council resources. Councils should be able to recover actual costs. IPART's role would be to ascertain that the Council's fees are reasonable by doing spot audits.

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 a determinative role so that the basis for decisions is transparent, and consistent with agreed principles. Legislation should prescribe the decision making timeframes to be followed that are consistent with the management plan process. It is important to recognise the different situations faced by different councils, so it would need to be on a council by council basis.

Other states in Australia manage without rate pegging, and overall appear to be in better financial shape in relation to longer term sustainability than NSW. Whilst it is unrealistic to expect no regulation and allowing councils to set their own rates, there needs to be an independent, apolitical body with the ability to oversight rate setting by councils in the context of each council's short, medium and long term needs; and to step in to set a base rate if a council is not able or willing to provide reasonable financial leadership for its community.

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?

Not relevant to Port Stephens Council

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

Not relevant to Port Stephens Council

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

Not relevant to Port Stephens Council

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? 15

The framework provides a relatively narrow view of the role of councils, and adheres to the idea of basic measures, when in fact the indicators for difference are more profound, centred around geo-demographics, the financial base and environment, the physical constraints in the LGA, levels of service, and whether the council operates utilities.

The weightings do not sufficiently reflect the range of diversity in these areas.

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

The special variation application process in particular is inefficient because:

- Councils commence their estimates process as early as November each year for the following financial year.
- The Department of Local Government requires applications to be submitted in March, but the Minister does not make a determination until June – Councils like PSC have placed their draft plans on exhibition in March, and of necessity have to 'guess'. This is not a good way to inform the community of likely impacts for them. It also means that councils expend additional resources on rework and recalculation, and the community is not appropriately informed because of the time constraints.
- Councils are required to estimate the rate pegging limit and calculate rates based on that estimate.
- If a council overestimates the rate pegging limit the council is advised by the Department to recalculate the rates to correctly reflect the rate pegging limit to avoid jeopardising the outcome of their application.

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?

Council's Charter (Chapter 3) Local Government Act 1993

The Charter contained in this Chapter comprises a set of principles that are to guide a council in the carrying out of its functions.

- Provide directly or on behalf of other levels of government, after due consultation, adequate, equitable and appropriate services and facilities for the community and to ensure that those services are managed efficiently and effectively.
- Exercise community leadership.
- Exercise its functions in a manner that is consistent with and actively promotes the principles of cultural diversity.
- Promote and to provide and plan for the needs of children.
- Properly manage, develop, protect, restore, enhance and conserve the environment of the area for which it is responsible, in a manner that is consistent with and promotes the principles of ecologically sustainable development.
- Have regard to the long term and cumulative effects of its decisions.
 - Bear in mind that it is the custodian and trustee of public assets and to effectively account for and manage the assets for which it is responsible.
- Facilitate the involvement of Councillors, members of the public, users of facilities and services and Council staff in the development, improvement and coordination of local government.
- Raise funds for local purposes by the fair imposition of rates, charges and fees, by income earned from investments and, when appropriate, by borrowings and grants.
- Keep the local community and the State government (and through it the wider community) informed about its activities.

- Ensure that in the exercise of its regulatory functions, it acts consistently and without bias, particularly where an activity of the Council is affected.
- Be a responsible employer.

Functions of Councils – Local Government Act 1993

Service Functions (Chapter 6)

- Community services & facilities
- Public health services and facilities
- Cultural, educational and information services and facilities
- Sporting, recreational and entertainment services and facilities
- Environment conservation, protection and improvement services and facilities
- Waste removal, treatment and disposal services and facilities
- Pest eradication and control services and facilities
- Public transport services and facilities
- Energy production, supply and conservation
- Water, sewerage and drainage works and facilities
- Storm water drainage and flood prevention, protection and mitigation services and facilities
- Land and property development
- Housing
- Industry development and assistance
- Tourism development and assistance.

Regulatory Functions (Chapter 7)

- Approvals
- Orders
- Building certificates

Ancillary Functions (Chapter 8)

- Resumption of land
- Powers of entry and inspection

Revenue Functions (Chapter 15)

- Rates
- Charges
- Fees
- Borrowings
- Investments

Administrative Functions (Chapters 11, 12 and 13)

- Employment of staff
- Management plans
- Financial reporting
- Annual reports

Enforcement Functions (Chapters 16 and 17)

- Proceedings for breaches of the Act
- Prosecution of offences

- Recovery of rates and charges

Other Functions (Chapter 5, Section 22)

Function	Conferring Legislation
Planning functions as consent authority	Community Land Development Act 1989
Companion animal registration and control	Companion Animals Act 1998
Placing covenants on council land	Conveyancing Act 1919
Environmental planning	Environmental Planning & Assessment Act 1979
Payment of contributions to fire brigade costs and furnishing of returns	Fire Brigades Act 1989
Fluoridation of water supply by council	Fluoridation of Public Water Supplies Act 1957
Inspection of food and food premises	Food Act 2003
Impounding of animals and articles	Impounding Act 1993
Library services	Library Act 1939
Pollution control	Protection of Environment Operations Act 1997
Inspection of systems for purposes of microbial control	Public Health Act 1991
Restricting use of recreation vehicles	Recreation Vehicles Act 1983
Roads	Roads Act 1993
<ul style="list-style-type: none"> • Issue of Permits to light fires during bush fire danger periods • Requiring the furnishing of information to the Rural Fire Service Advisory Council and its Coordinating Committees 	Rural Fires Act 1997
Recommending appointment of local controller	State Emergency Services Act 1989
Approval of strata plans	Strata Schemes (Freehold Development) Act 1973
Approval of leasehold strata plans	Strata Schemes (Leasehold Development) Act 1986
Ensuring restriction of access to swimming pools	Swimming Pools Act 1992

Council's role is now to provide these services without other Government funding even though it legislated that Council is to provide the service. Council's subsidy for Library Services has decreased from 22% to 8% and in the case of the Port Stephens Council LGA as our population ages and the numbers increase, there will be a heightened demand for better library services.

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

This should be driven by the reasonable needs of the local community.

14 What infrastructure and services do councils currently provide?

Council currently provides a very broad and diverse range of infrastructure, facilities and services at a local, regional and even national level given its location on Port Stephens, the Pacific Coast and its proximity to Newcastle and the Hunter Valley. One major example of this is its joint ownership with Newcastle City Council of Newcastle Airport Limited which services over 1.5 million residents, workers, visitors and tourists per annum.

Council has identified that it is involved in well over forty significant businesses providing various economic, social, cultural and environmental infrastructure, facilities and services for specific user groups, segments of the local community and or the general public. Infrastructure and facilities include: roads, traffic management installations; cycleways, footpaths, street trees, bridges and drains; sporting fields, sports amenities, parks and reserves; bushland, beaches, foreshores, boat ramps, wharfs and jetties; pools and leisure centres; waste transfer stations and licensed landfills; libraries, community centres, halls and public toilets; holiday and caravan parks.

As well as a range of services linked to the management and operations of this infrastructure and these facilities, further services include: economic development: water quality, weed and mosquito controls; environmental health controls, traffic, parking and pedestrian management; waste and recyclables collection; land use planning, development approvals and building certificates; aged care, child care and youth programs; ratepayer, resident, worker, visitor, customer councillor and media information.

15 What infrastructure and services should councils be responsible for?

Once Council provides infrastructure, facilities and services, it is very difficult to curtail or abandon any of these due to continued expectations from the community. In fact, for reasons detailed elsewhere, Council faces constant pressure to provide further enhanced, upgraded or new infrastructure and facilities and or even greater service levels. Both state and federal governments through public and political pressure, legislation and regulation constantly add to this. Council as the government closest to the community is willing to accept this increased responsibility however it cannot do so effectively and efficiently unless it has significantly increased access to adequate financial resourcing.

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

The central problem that must be faced by all federal countries is the assignment of expenditure and taxation functions between different tiers of government.⁶

Whilst the Federal Government collects more than 80% of taxation revenues, its method of distribution is random and uncertain with respect to local government. In many instances, especially depending upon the political calendar, Federal Government will allocate funds directly to local governments, for example for roads. In other areas, the Federal Assistance Grants are channelled through an entity managed at State level, and based on category formulae. Other Federal funding in the form of competitive grants are available to local government either as a direct applicant or as sponsor of local community groups.

The cost shifting from State government, and to a lesser extent from the Federal Government, has seen services normally delivered at State level transferred to local government. In Port Stephens Council until recently we delivered immunisation services, which were at first reimbursed, but over time funding was not forthcoming. There are many more instances of functional overlap – land use planning is the primary example, with shifting scenarios.

Other areas of overlap with the State government include social services, road safety and traffic management, child care, personal safety programs including domestic violence, youth services and provision of environmental land care services. In addition Council manages Crown Land Reserves and foreshores across Port Stephens LGA.

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

Service levels between councils vary greatly. It is a council's decision what level of services it provides. A rural council may spend a greater percentage of its funds on roads while another rural council may decide to spend more of its funds on sporting fields. This could be related to the expertise or bias of Councillors and of staff making submissions to the council.

Other factors that may influence services levels are s94 contributions, localised issues like storms and floods affecting infrastructure. Political determinants such as cost shifting and availability of grants and other funds to maintain assets may influence service levels. The expertise of staff in asset, financial and infrastructure planning and management and the quality of data available may affect the service levels provided between councils. The ability to raise alternative revenue streams will also affect the service levels provided by different councils

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

Multiple factors affect these areas at Port Stephens Council, including but not limited to:

- Age of existing infrastructure
- Ability to fund provision of new infrastructure
- LGA constraints including transport, population distribution, topography, soil, water and water quality
- Extent of Crown Land under management
- Socio-economic levels and distribution across the LGA

⁶ Ibid p.71

- Changes to State Government requirements for councils that mean services may have to be discontinued to make way for other services
- Share of State and Federal funding
- Maturity of councils' planning processes
- Availability and affordability of data to allow for successful long term planning.

The Independent Inquiry also identified differences between rural and metropolitan (including whether or not water and sewage services were provided – in rural the council usually provides this); geographical size of the LGA; inland and coastal councils with different types of infrastructure, and in some rural councils, very large road networks.⁷

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

Port Stephens Council conducts an annual community satisfaction survey and in that there are specific questions related to the provision of services and the community's overall satisfaction with these services. In 2007-2008 the survey revealed the services which are important to our community were:

- Garbage collection services
- Storm-water drainage systems, management of traffic flow.

Library events and programs, holiday parks and garbage collections recorded the highest performance scores.

Areas where the community felt that we could improve include:

- Financial management
- Land use planning
- Appearance of the neighbourhood/district
- Timeliness and responsiveness to customer enquiries or requests
- Opportunities for the community to participate in decision making.

Not all councils undertake these exhaustive surveys, which are expensive but inform the planning process. In Victoria it is mandated that the community is surveyed each year on service provisions etc, and this serves to focus management attention on local priorities.

In the 2007-2008 survey, overall the community expressed cautious satisfaction with Port Stephens Council's provision of services.

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

Port Stephens' attractiveness to residents (including retirees) is based on a combination of: its natural features, waterways and rural character; affordable housing; accessibility and its location in a significant regional labour market, which offers a range of accessible jobs in Port Stephens and the broader region. These factors have ensured that Port Stephens has experienced consistently high population growth over the last 15 years. Port Stephens

⁷ Ibid p.95

Council has the highest growth rate of any council area in the region (18% growth in the 10 years since 1996). Other population trends include: an ageing of the population with high growth rates of persons aged 60 years and over (an increase of 4719 or 50% in the last 10 years).

In summary other key drivers are:

- o Lower Hunter Regional Strategy, specifically:
 - o Raymond Terrace will become the major centre for services
 - o New settlements, expansion of existing settlements

This will lead to a doubling of the population by 2031.

The economic challenges include management of the environment which is a key factor in the success of the tourism industry, which in turn is the key driver of the LGA's economy.

The economy is further impacted by:

- o Skills shortage
- o Competition for tourism dollar
- o Limited public transport
- o Aging population

The Council has to factor into the mix the following:

- o New towns at King's Hill & Medowie
- o Expansion & redevelopment of Raymond Terrace CBD
- o Significant growth of aviation industry
- o Potential growth manufacturing around Tomago.

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?

Port Stephens Council aims to enhance its ability to raise alternative revenue in order to reduce over time its reliance on rates and mitigate the impact of rates on our households and businesses.

Currently Council is limited in our ability to achieve this goal because of rules related to opportunities for borrowing and investment, and inadequate statutory fee levels that impact cost management.

Funding from grants provided by governments, foundations and other sources are problematic for a number of reasons:

- o Many programs are funded as one-offs, and even if programs are successful continued funding is not available. This is allied to cost-shifting where governments (State and Federal) make funding available for councils to conduct programs for one or two years. When the community has an expectation that these programs will continue, and the funding dries up, Council has to abandon the programs (with attendant political angst); or, find the funds to continue the program. This impacts on Council's long term financial strategies.

- o Grants often arise during a financial year and can be of a sufficiently attractive nature that applications are made without reference to Council's overall budget or long term financial strategy. If this occurs and matching funds are required, the budget is further impacted.
- o In terms of infrastructure grants, opportunities occur randomly and almost always require matching funds for which there are no budgets, and the amounts can be significant.
- o Infrastructure grants funding is tending more towards education and community engagement and not for building the infrastructure. These grants may require a lot of administrative effort and may not provide sufficient benefits to Council's program delivery.

In summary, there are both positive and negative options for councils who are trying to be less reliant on rates funding.

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

There is little scope at present due to political inputs and community service obligation expectations. There needs to be a move to a full cost recovery basis across all fees and charges to have any impact. Statutory charges need to at least move with the CPI, but this would need to be implemented only after a review of the current cost levels for these charges.

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?

Rate pegging as ensured councils have been required to identify every possible potential income stream to meet the increased demands for services from the community. Council's continue to seek maximum developer contributions to provide services. Sometimes developers move elsewhere due to the contributions being sought.

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

Aging infrastructure and increase in the supply of new infrastructure and services as the population grows are significant in Port Stephens Council. In addition, stresses are placed on existing facilities and services by population growth, and also the changing profile of the population, for example aging of the population.

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

Without a flexible, council-specific funding arrangement that provides levels of revenue to meet each council's different circumstances, some councils will slip from sustainable to unviable. Others will face at the least consistent customer complaints and escalating dissatisfaction with their local government.

Even where councils may have affluent rate payers with high disposable incomes, councils are limited because of rate pegging. They cannot automatically raise additional revenues from these ratepayers to compensate for lesser funds received from FAGs.⁸

Councils are increasingly using revenue from capital grants, section 94 funds and asset sales to fund operating deficits.

This is unsustainable in the long term.

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?

The debt service ratio depends on a council's ability to make the repayments. Council's in a high growth area have the potential to borrow more than a small growth area. However, while there is no potential to significantly increase revenue councils' higher repayments increases councils deficit.

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

The majority of factors affecting financial performance have been covered elsewhere in this submission.

28 To what extent does rate pegging affect financial sustainability?

Financial sustainability means the extent to which a council is able to achieve and sustain financial and infrastructure conditions that are prudent and responsible in the long term.⁹

Under the rate pegging regime councils are not able to plan for the long term as the quantum varies from year to year. It is also susceptible to the political cycle and is a 'one size fits all' approach that does not take account of the situation of individual councils.

This affects most councils who know that without a special variation they very likely won't have sufficient funds to achieve or maintain sustainability. The Fiscal Star report of 100 NSW Councils indicated that only 40 could be classified as 'sustainable financially'.¹⁰

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

Port Stephens Council is moving to adopt Global Reporting Initiative¹¹ indicators for sustainability, including social/cultural, environmental, financial, governance, economic. Port Stephens Council facilitates a healthy and prosperous community by planning and delivering services that achieve a balanced approach towards social, economic, cultural and environmental considerations through business excellence. We believe that these standards, developed by over 100,000 organisations worldwide provide the appropriate measures for efficiency, especially as the public agency supplementary indicators place

⁸ Ibid p.110

⁹ Fiscal Star 2008 Review p.7

¹⁰ Fiscal Star 2008 Review p.4

¹¹ www.globalreporting.org

particular emphasis on government's role in the provision of services to the community and the overall health of the community going forward.

In NSW the Department of Local Government is under resourced, and does not enforce accountability across councils. For example, a program on *promoting better practice* reviewed Port Stephens Council and made 41 recommendations in 2005. It has never been back to follow up and see what we instituted. At this level of oversight, putting measures into a system that are not acted upon means that true efficiency will not be obtained unless councils themselves decide to embrace true accountability to the community and to the regulatory authority.

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

Port Stephens Council has adopted the Australian Business Excellence Framework and has instituted across Council process improvement programs, which resulted in one year in savings of \$2.3 million. We have also adopted the recommendations of the Department of Local Government 2005 Review of Council – Promoting Better Practice.

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

Because councils do not have the ability to control revenue from rates, they are reliant on external grants funding. This means that projects that should be high priority give way to those where some grants funding has become available.

The current system limits ability to grow Port Stephens Council's community capacity, for example it restricts amounts available for apprenticeships in Council; restricts Council's ability to plan beyond one year as the rate pegging is assessed and announced annually; cost to prepare submissions re variations to rates is high and causes local anxiety and uncertainty in households and business.

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?

Where the benefits of a special variation are to be ongoing and a permanent increase to the rate base can be justified, the lodgement of a section 508(2) application is far less onerous than a section 508A application. Section 508A is unattractive when councils can simply choose the section to apply under.

Section 508A is only useful if a specific project that is time-delimited applies. It is difficult to 'sell' to the affected community and is administratively more problematic in terms of resources and oversight of expenditure. However there is some political advantage in this approach for perceived containment of rate increases to a specific sub-set of rate payers and/or a specific project that is perceived as desirable by the community, or its affected rate payers.

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

Port Stephens Council received a special variation of 7.09% (inclusive of rate pegging) in 1997/98 to fund stormwater drainage infrastructure; 5.54% (inclusive of rate pegging) in 2000/2001 to fund a town improvement special rate for capital improvement works such as CBD paving and crossings and a special rate for tourism and business promotion; 7.13% (inclusive of rate pegging) in 2003/2004 to fund environmental rehabilitation and road rehabilitation and to renew the special rate for tourism and business promotion; 7.16% (inclusive of rate pegging) in 2006/2007 to renew environmental rehabilitation and road rehabilitation and to work towards financial sustainability; and 5.3% (inclusive of rate pegging) in 2008/2009 to fund an economic development plan.

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?

Special variations are not becoming the norm because they are onerous and are not guaranteed to be successful.

Councils who are financially vulnerable need a more flexible approach to raise revenue that is not as resource hungry as the special variation processes, and provides for more certainty.

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?

Access to other revenue sources such as fees and charges is limited and is often tied to providing new or additional services. The lead time in preparing for adequate consultation and obtaining support for a special variation proposal means that the resource implications just to make a submission are onerous. Ratepayers naturally view increases above rate pegging as council not being able to manage its finances, and as unfair. In this context it is hard to get community and political support for a special variation application and that constrains attempts to pursue a special variation.

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

Where the purpose of the increase is to provide an ongoing benefit or meet an ongoing cost then it is appropriate to have a permanent increase in revenue. Rate pegging and its associated processes like special variations are an inefficient and problematic method for achieving performance increases. That said, where cost shifting occurs, such as in the case of the Lower Hunter Strategy and its impact on Port Stephens Council, the affected council should automatically be compensated without using special variations with their attendant political and resource impacts.

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

No. The effect of rate pegging is to limit a council's ability to provide services and maintain infrastructure, regardless of the socio-economic level of each community. In the case of

Port Stephens Council for example, the community around Heatherbrae and Raymond Terrace has a relatively low socio-economic profile, but it also includes a significant proportion of properties that are rate-exempt. The revenue raised through rates, pegged or otherwise, is not a reflection of the service provision requirements of this community.

This situation is compounded because lower socio-economic communities normally require additional services and support, and local government is the most obvious provider, when it can least afford to do so.

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?

Council's earlier comments in this submission in relation to equity are relevant here. In summary the measures that could be introduced to address the social impact of rates are:

- o Formalise a system to defer payment of rates for aged pensioners by agreement so that rates still accrue on highly valued land, but its payment is deferred as a charge against the land to be paid upon the death of the pensioner/s out of the estate.
- o Introduce catch up provisions so that where a council provides a hardship assistance under section 582 of the Act to pensioners this can be fully funded by the ratepayers of that council area through catch up the following year.
- o Allow councils greater scope to sub-categorise the business land category so that a lower rate/s may be struck for undeveloped land, non-commercial undertakings, sporting clubs, etc.
- o Amend the Local Government Act to allow councils to use mixed use valuations provided under section 14BBA of the Valuation of Land Act 1916.

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.

Port Stephens Council is introducing Global Reporting Initiative progressively over time and is also using external assessment models. Mandatory annual community satisfaction surveys are also strong indicators of councils' performance, as the Victorian experience suggests. Beyond that Council is moving towards the introduction of a number of financial performance measures identified in the 2006 Allen report into the sustainability of NSW Local Government.

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

If the system is well designed, based on individual councils, and implemented and monitored appropriately there should be no unintended consequences. Any allowance for 'negative unintended effects' means that the system has not been designed properly; or has been designed to meet narrow criteria (political or bureaucratic); or has not been designed to ensure financial viability.

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

There are a number of models that could be used as an alternative to the present system. Some of these are:

- o Increasing the flexibility for individual councils to raise revenue by deregulating rate and fee capping
- o Federal and State governments increase the share of taxation revenue to local government
- o Significantly reduce the number of entities that are exempt from local government rates and charges
- o Reform the distribution of Federal Assistance Grants to reflect an individual council's circumstances
- o Provide certainty through longer term setting of funding options for councils – yearly is not achieving the type of long term financial planning that the Department of Local Government desires from councils.

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?

Currently councils who are being fiscally responsible are treated the same as those whose financial practices are profligate or irresponsible. Port Stephens Council's financial management has seen an underlying deficit of more than \$4 million reduced to \$2.8 million in a little under three years, without contraction of services to its community. This Council's preferred option of individual rate setting with IPART oversight would allow Port Stephens Council to more efficiently work to its Long Term Finance Model. This would be more efficient overall, and work to our financial sustainability (we are moving to breakeven by 2012). Accountability and governance outcomes would be achieved through IPART oversight combined with community satisfaction surveys, and local elections.

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

IPART should have a determinative role, based on council-by-council recommendations, using local data and individual circumstances to move as close as possible to the criteria outlines in Q43 above.

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)?

If the IPART model is adopted, then reference from the Minister is too slow, variability and political expediency could play a role, especially if a council by council model (ideal) is used – marginal seats etc. Better to have an established annual or even longer process (to allow for better financial and other planning); all councils have certainty of the process, if not the outcome; guidelines and requirements for data are pre-determined and councils can put cases based on surety of criteria – remove requirement for community support which is too difficult to organise/measure/predict and is open to manipulation.

Council doesn't wish to comment on Questions 46 to 52 as they are irrelevant.

Council wishes to thank you for this opportunity to comment on the Review of the Revenue Framework for Local Government document.

Yours faithfully

Jeff Smith

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