



LGMA NSW Submission
IPART Review of the Revenue Framework for Local Government
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Introduction

LGMA NSW welcomes the opportunity to respond to IPART Revenue Framework for Local Government Issues Paper, July 2008.

Local government is a key part of the Australian community and economy. It is responsible for a wide range of economic, environmental and infrastructure services at the local level. Provision of services by local government is critical to their communities. Currently, the local government profession and sector are facing severe financial pressures caused by both revenue and constraints and increasing expenditure burdens.

The LGMA submission to IPART is an overall summary of suggestions and recommendations on local government's revenue framework.

About LGMA NSW

LGMA NSW is the peak body for local government professionals and managers. It seeks to ensure the organisation and its members are industry leaders and are at the forefront of good practice, change, innovation and the continuous improvement of local government. The goal of the Association is to provide advocacy, leadership, learning and support for members. It represents and supports professional practice by upholding a code of ethics and assists its members with a range of products and services.

In NSW, 50,000 people are employed by local government and the sector contributes around \$7 billion per year into the state economy.

LGMA NSW Summary Position

For this submission, LGMA NSW is focused on local government revenue capacity and the financial sustainability of the NSW local government profession. Local government has shifted from being just a provider of physical infrastructure and regulatory functions to infrastructure and community and human services. Given the diversity of councils - including the varying needs of the communities and the financial capacity of the council, it is difficult to define and generalise about the role of local government. Each of the 152 councils has different needs, scale and financial capacity. In our rural and regional communities, administrative, governance and financial arrangements and systems vary substantially. Therefore, the revenue framework for each NSW council varies greatly.

LGMA NSW believes there should be a focus on allowing local government structural and fiscal systems to be flexible enough to respond to the future needs of the community while meeting the current community expectations which is forever evolving and changing.



Our goal is to ensure that local councils are able to sustain themselves financially into the future. Our mission is for local government professionals is to equip them with knowledge to inform their communities on the drivers of financial sustainability including on debt position, rating, revenue-raising capacity and growth forecasts. It is defined by a council's ability to sustain ongoing operating surpluses while renewing its asset base in order to deliver services at the level demanded by their local communities.

The revenue bases available to local government are not sufficient to continue to support the expanding legislative role of the local government sector. The majority of local government revenue comes from council rates, sales of goods and services, short term grants and other own sources including developer contributions.

Local government seeks to provide good financial management via efficiency, equity, administrative simplicity and financial adequacy. However, there are several revenue pressures facing local government - including limited access to broad range of revenue, legislative restrictions on its ability to raise revenue and the reduction or limited capacity for some residents to contribute further to own source revenues through rates and charges. This revenue pressure is exacerbated by state government increasing its demands on local communities through uncapped increases to the property-related taxes of land tax and stamp duty.

LGMA NSW would like to highlight the underlying financial sustainability and infrastructure funding issues facing local government – including cost shifting and rate-pegging. LGMA NSW has a clear vision for a new fiscal system for the NSW local government profession.

We are seeking clarity around roles and responsibilities between the tiers of government and to be recognised and valued as a genuine partner in the Australian Federation. LGMA NSW is currently focusing on the vision for the sector and how we will look in 2050. We recognise that the core of local government's role would be specifically defined in the Constitution by 2050. The potential to take on expanded roles would be discretionary and dependent on local need.

As the level of government closest to the community, residents and businesses, local government should be directly tasked with (and are expected to) develop and support local services. To do this sufficiently, local government requires great independence including the ability of raising revenue.

LGMA NSW believes the sector is passionate about delivering community visions, stimulating community self-identity and facilitating and delivering services. Our sector offers a point of difference and has the capability, drive and interest to deliver this vision through strategic planning and financial, economic and environmental sustainability. To achieve this goal - LGMA NSW believes the sector requires a self-levied form of taxation and access to taxation as a revenue source. Ensuring access to taxation as a revenue source – especially a share of federal tax, such as GST receipts allocated to the states would be extremely beneficial to both the local government profession and local communities. The access to taxation as a revenue source, will allow local government to



gain genuine autonomy from other tiers of government. In NSW, it is without doubt that the current rate pegging system is preventing the local government sector from gaining both genuine autonomy and financial sustainability.

In NSW, the rate pegging system undermines local government's autonomy, limits the capacity of councils to exercise long term financial planning and limits the capacity of councils to provide for the costs associated with the provision of long-lived infrastructure assets and meeting the needs of the community. LGMA NSW believes rate pegging distorts the NSW local government fiscal system and undermines principles of accounting and transparency.

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

The Local Government Charter

The role of local government is identified in general terms through the Charter in the *Local Government Act 1993*. The Charter is quite broad and does not limit councils to "roads, rubbish and rates". Indeed the Charter states that councils are required, among other things, to:

- provide (either directly or on behalf of other levels of government) adequate, equitable and appropriate services and facilities for the community
- manage the assets for which they are responsible
- exercise regulatory functions
- raise funds for local purposes by the fair imposition of rates, charges and fees and by income earned from investments

The role of local government is determined by the Local Government Act.

The local community which the council serves

Section 24 of the Local Government Act sets the framework for the provision of council services - it states;

A council may provide goods, services and facilities and carry out activities, appropriate to the current and future needs within its local community and of the wider public, subject to this Act, the regulations and any other law.

Appropriate services are those identified as needed by the community and the definition may be wide-ranging limited by councils' (and the community's) ability and willingness to pay for these services from locally raised funds.

The IPART report refers to the Allan report on the financial sustainability of local government and the proposal that "local governments should provide services with local benefits". This is generally supported, but it is difficult, if not impossible, to limit access to the majority of services provided by councils just to those people who reside in the council area. Apart from those services which are provided to a property - such as waste services, council services are not limited to local residents. For example, parks, Beaches and libraries are freely open to anyone who wishes to visit them, as are recreation and cultural facilities so long as people are prepared to pay the entry fee if a fee is chargeable at all.



In addition the nature and the relative importance of the range of services provided by council are changing in response to the concerns and requirements of the community. Increased vandalism, graffiti, community safety, communication services, cultural facilities, economic development, environmental management, community engagement and climate change represent examples of council's response to changing community expectations.

Levels of government

Other levels of government determine the role of local government, with or without the agreement of councils. Apart from the *Local Government Act*, other state legislation, such as the *Environment Planning and Assessment Act* and the *Protection of the Environment (Operations) Act* amongst others, mandate roles for councils. Sometimes roles are determined by other levels of government without the requisite funding being provided. Sometimes grant funding is provided for services over a short or medium term and that funding is later withdrawn or diminished, leaving councils to make up the difference. The most recent examples include the NSW governments 'Film friendly Protocol' and 'Cost recovery of the NSW Local Government Elections'.

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

Rate-pegging does not exist in any other state of Australia apart from NSW. In NSW, the current rate pegging system is preventing the local government sector from gaining genuine autonomy and financial sustainability.

Rate pegging is a key limitation on local government's own source revenue raising capacity. Typically, rates are pegged at around CPI even though local costs are widely accepted to be linked to wage and other expenditure movements at a higher level such as building construction sites.

LGMA NSW supports a system that is more transparent and detailed. There is a need to bring forward the approval of variations by allowing one year in advance notice to provide better implementation and consultations with the community. Rate pegging announcements should be provided for the specified years of the delivery plan.

Councils must be in the position of managing their own revenue and that includes determining the level of rates required to pay for the provision of infrastructure and services to the local community. Rate-pegging does not exist in any other state of Australia apart from NSW. In all other states, councils determine on an annual basis what will be the rates payable by the rate-payers of their communities and they are accountable to their communities for these decisions.

Rate-pegging is a totally ineffective way of enabling councils to determine the revenue required to cover the true costs of providing services. The maximum allowable increase determined each year by the Minister is not based on any objective assessment of the increases in costs of continuing service delivery to the community.



Councils have vastly different average residential rates resulting from the level of rates at each council when rate-pegging was first introduced over 30 years ago.

As a result of rate-pegging, councils have been obliged to look at other means of raising revenue to pay for existing and new infrastructure and services. However, the capacity of councils to raise revenue by other means is limited. Changes in the global, national and state financial environment has a significant impact on the capacity of the sector.

Councils have come to rely on developer contributions for the development of new infrastructure. With changes to the planning legislation and the development contributions framework - councils will now face restrictions on their ability to provide community infrastructure to meet growing community needs.

In summary, rate-pegging greatly effects councils' financial sustainability. It places an ongoing tight restriction that is not reflective of rising costs and councils' ability to raise the amount of its revenue needed to meet its commitments resulting from both cost-shifting and community priorities. Rate-pegging with annual decisions about a maximum rate increase, limits councils' ability to undertake meaningful long-term financial planning.

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

Regulatory framework for revenue should ensure that councils have a flexible mechanism for increasing and reducing revenues to match the cost of delivering and improving the services considered to be of the highest importance to their local communities. Own-source taxation revenue could meet the needs of adequately funding property-based services in the future, if the cap was removed. It is relatively easy to collect as long as it continues to issue valuations, is simple to understand (if the cap were removed) and transparent.

The NSW Government has access to property based charges such as stamp duty and land tax both related to the value of the land and not subject to any capping. This has enabled state revenues to grow exponentially while reducing the tax space available for local government.

The NSW State Government also places tight controls over many of the fees that local government charges. Therefore, while advocating cost recovery on many of its service it denies local government the opportunity to receive an amount equivalent to the cost of the service provision.

Rate exemptions and concessions are provided to a range of potential ratepayers and state government bodies - including schools, aged care facilities and hospitals. The system fails to recognise the quasi commercial nature of many of these services. In the case of state government instrumentalities, they pay a rate equivalent to treasury to overcome competitive neutrality principles without local government ever being transferred the money.



Similarly state government does not fully fund pensioner concessions despite it being a mandatory concession.

This element should be reviewed to fully assess the ability of exempted groups to pay and fully compensate those exemptions require by state law. This would provide for horizontal equity and greater financial adequacy.

The LGMA NSW supports a share of taxation that is independently assessed by state and federal government - such as income tax or GST and phasing out property-based taxation as local government also delivers community-based services.

The pricing structure for the calculation of council rates (based on the 1919 Act) is not appropriate for high density dwellings land valuations. The amount of rate income does not change (increase or decrease) as a result of the land revaluations.

The land revaluation has no affect on properties that form part of a strata because their individual share of the land value is very low due to densities. These properties are levied by the minimum rate irrespective of their market value. Although the overall size of the rate income 'pie' doesn't change, the way the pie is carved up is readjusted following a revaluation. This means for ratepayers not hedged on the minimum rate, their rates will either go up, or down, depending on the increase. Land revaluations create an underlying social justice or equity issue, which is especially prevalent the year following a land revaluation.

What really distorts this situation is the rating calculation as prescribed by the Local Government Act was written before the relatively new emergence of high density properties. It should be considered to changing the basis used in the calculation of council rates from unimproved capital value (UCV) to improved capital values (ICV), with suitable transitional provisions. This would streamline the valuation process.

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

The current regulatory framework involves the pegging of rates to a percentage increase approved by the Minister for local government each year, the capacity for councils to apply for approval for special rate variations and the setting of statutory fees and fines.

The current framework has certainly ensured that councils are efficient in their provision of services even if it means services have to be withdrawn. Even though increases in rate revenue are restricted, councils are still expected to continue to provide services at the levels expected by their communities. However, the current system does not necessarily promote effectiveness – that is the quality of service delivery may suffer with insufficient resources.

The current system also does not meet the principles for good regulation and taxation in that there is no transparent methodology for how the rate-pegging increase is arrived at each year. Councils have no opportunity for input into what the figure should be. The same applies to the setting of statutory fees. The problem is also that the rate peg



increase is a flat maximum percentage applicable to all councils. However, individual councils all have different drivers in any one year for what the rate increase should be. The flat rate increase does not take these individual local differences into account. The increasing reliance on the user pays principle is limited in its capacity to fund services available to general users such as preparing plans of management for the use of community land, libraries, parks and reserves.

Statutory fees, such as fees for development assessments, also do not cover the true costs of providing such services. Councils, therefore, have to make up any shortfall through rate revenue or other revenue sources.

Councils may apply to the Minister for approval for special rate variations and many councils have sought such variations. Generally, however, the special variations have been sought for particular purposes. The special variations have not addressed the underlying problem of restricted rate revenue to fund councils' ongoing operations.

Some metropolitan and regional local councils have been able to generate revenue from other sources - for example rental income from council-owned properties and fees from parking stations and meters. However, such revenue is naturally limited to what the community can or is prepared to pay and there are limited opportunities for expansion.

An alternate framework

The IPART report identifies an alternative, which is to institute measures to enhance accountability to the local community and remove mandatory rate-pegging. This option identifies accountability and reporting measures to enable comparisons to be made between councils and for a default rate cap to apply where councils fail to meet the accountability measures. This alternative would provide councils with the capacity to determine their own rates, albeit within a framework that guards against excessive increases. For this reason this option is supported.

However, if rate-pegging remains in place as government policy, then there needs to be an independent and transparent means of determining what the maximum rate increase will be and for councils to have the opportunity to influence the rate peg determination process. There also needs to be a transparent process for determining councils' applications for special rate variations. As an alternative framework, LGMA NSW suggests that the local government profession could develop a cost index to be applied to forecasting increases over the 4 years of the delivery plan.

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

IPART is the independent economic regulator for NSW and its primary purpose is to regulate the maximum prices charged for monopoly services by government utilities and other monopoly businesses.

If councils are not able to have the freedom to set their own rates, which is LGMA NSW's preferred position, then an independent body like IPART would be in a good position to establish a clear and transparent methodology for establishing a maximum rate increase



for councils. An independent body like IPART would then receive submissions from councils about what the rate increase should be in any one year. LGMA NSW believes that IPART could also be involved in the setting of statutory fees.

LGMA NSW would be keen to have further discussion about IPART's role and any transitional arrangements from the current to a possible new system. The local government profession would encourage such transitional arrangements to ensure local government gains genuine autonomy and has access to self determination in the basic revenue sources from the national taxation system.

IPART, however, should not be involved in setting charges for other areas of local government activity. This is because local government has an extensive list of fees and charges including such items as hire of sporting fields and hire of rooms in community centres. It would not be beneficial for IPART to be involved in the setting of such charges.

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?

If an independent body such as IPART is to have a role in setting local government rates, then it should be a determinative role rather than one of making recommendations, which may or may not be accepted by the Minister of the day.

If local government is to be recognised as a truly legitimate sphere of elected government, IPART should only have a recommendatory role in setting the framework for councils to set rates and charges. As mentioned above there should be a formal link.

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

A difference needs to be made between those authorities responsible for precincts - such as SHFA, SOPA, RWA and a strategic land release planning agency - which are the GCCs.

The agencies responsible for precincts have the capacity to generate revenue from property rents and hire of spaces. These revenues then fund asset management and service delivery within the precincts, for the benefit of tenants, hirers and visitors. The services are focused on the precincts and therefore do not duplicate local government services, which are applicable across whole local government areas. However, the precincts are under local government jurisdiction. LGMA NSW believes that these agencies should be making a positive contribution to local government as they are part of the local community.

The Growth Area Commissions undertake strategic land use and land release planning for the state government and should be funded by government for these purposes.



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

Local government rates fund programs and services for whole council areas and should not be diminished by authorities with the responsibility of raising funds from property activities for application within a specific precinct. These authorities are not providing services normally provided by local government as they only address a specific precinct. Where there is the potential for overlap, the roles and responsibilities should be clearly defined in a MOU between local government and the authorities.

Under item 1, LGMA NSW outlines the key roles and responsibilities of the local government sector so that there is clarification and no duplication between tiers of government and other authorities.

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

These authorities do not take the place of local government and therefore a different regulatory framework should apply and there should be a standard template. LGMA NSW would recommend for there to be further discussion around the establishment of MOU between local government and the authorities on a range of services local government would be responsible for.

Exemptions to Rating

In reviewing the reciprocal charging arrangements between state and local government businesses with the aim of removing all exemptions and mandatory pensioner rate rebates to be fully financed by the both the state and federal governments.

Conclusion

LGMA NSW believes the local government revenue framework should have the freedom to sustain its own source revenue-raising capacity to enable it to meet the quadruple bottom line goals of the community. The local government profession seeks a more genuine form of autonomy and access to a more secure and sustainable source of taxation that is linked to economic growth. Local government's current fiscal and funding system do not sufficiently reflect the long term financial impact on the councils. The local government profession seeks to advance the sector's future financial viability and continue to promote the economic, environmental, cultural and social well-being of the community.