

8th September 2009

Dr Michael Keating AC,
Chairman
Review of Regulatory Framework of Local Government – Draft Report
Independent Pricing and Regulatory Tribunal
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Gail Sanders Executive Officer

Dear Dr Keating,

We refer to the *Draft Report* published in July 2009 by the Tribunal entitled “*Revenue Framework for Local Government – Other Industries*” inviting submissions to the matters discussed in the abovementioned *Report*.

The Institute is appreciative of the opportunity to place its views before the Tribunal as it undertakes its review of the revenue framework pertaining to local government. It is noted that the *Report* canvasses a raft of issues which whilst important are not central to the concerns of the Institute, hence the following submission focuses on the specific area of rating as a revenue source.

The API is supportive of the review, however it is concerned that Options A and B as detailed in the *Report* indicate that regardless of which option is chosen the new framework proposed by the Tribunal will continue to incorporate rate revenue constraints “broadly in line with a cost index”¹ Rating as a source of taxation can be traced back at least to the Middle Ages in England, where it was realised that movables presented a difficult asset class for taxation, and hence from that time the focus was upon land as it “could not be concealed”².

The Tribunal in the *Report* refers to the *Second Reading Speech* for the (then) *Local Government (Rating) Further Amendment Bill 1976* which introduced rate pegging to ameliorate the prospect of large increases in future rates³. However, it is noted that the *Speech* alluded to 1977 valuations by the Valuer General which:

..... could, in a number of areas, have given rise to a substantial change in the incidence of rating between commercial and residential lands and between different parcels of residential land.⁴

The amendment to the rating base in 1977 was introduced as a temporary measure for “one year only”⁵, however the pegging of rates has now become a feature of the rating revenue regime for local government in NSW. Land as the rating basis until the passing of the Local Government Act 1993 was assessed on an ad valorem method, which was based on the long settled principle that where land was to be rated a valuation for rating purposes was to be made:

.....in order that the tax or rate may be equitably levied.....⁶

¹ Independent Pricing and Regulatory Tribunal (2009) *Revenue Framework for Local Government: Other Industries –Draft Report* (Sydney), 165.

² Murray J F N (1973) *Principles and Practice of Valuation* (Sydney : Commonwealth Institute of Valuers), 25.

³ Independent Pricing and Regulatory Tribunal, 31.

⁴ *Hansard* 1 December 1976, 4057.

⁵ *Hansard*, 4059

⁶ Collins C M (1949) *The Valuation of Property Compensation and Land Tax* 3rd ed. (Sydney : The Law Book Co) 1.

Using land as a rating base has been slowly refined to the point that statutory site or land value is now the most common denomination throughout Australia rather than unimproved value as it provides:

..... a more realistic and more equitable rating and tax sharing basis⁷

The Institute is concerned that the *Draft Report* is perpetuating the move away from land base rating as the major revenue source for local government whereas the pegging of rates which commenced in 1977 has realistically been the cause of the current financial vicissitudes of local government in NSW. It is recognised that as site or land values rise or fall, so the rate levied on an individual property may also rise or fall commensurately. There is a mistaken belief in the community that rate pegging will forestall the cost of running local government authorities.

Since 1977, the pegging of rates has forced local government to look for other sources of revenue in order to meet increasing expenditure, which has been partly the result of the devolution of various responsibilities from the State Government or its agencies to local government. As a result local government has increasingly upon non rating revenue⁸ to meet the short fall between rate income and expenditure. The growing reliance on s.94 contributions to fund infrastructure has caused the production cost of land to rise significantly, where as in the past infrastructure construction was funded out of either rate revenue or long term loans.

It is recognised by the Institute that a return to the rating base may be difficult from a political standpoint, however it does offer an avenue whereby local government can be assured of a revenue base which is non discriminatory, in the sense that it reflects the fluidity of land value. It should be remembered that property, especially principal places of residence, represent a significant tax free capital gain to the property holder. From an equity standpoint, it would seem only appropriate that the unearned increment inherent in this capital gain should in small part be accessed by local government for the broader community benefit.

Please do not hesitate to contact the Institute's NSW Executive Officer Gail Sanders on 9299 1811 should you require any further information. Should the Tribunal decide to conduct face-to-face meetings in respect of the various submissions received the Institute would welcome the opportunity to provide a further expanded oral submission.

Yours sincerely



Robert Hecek
President
NSW Division

⁷ Rost R O and Collins H G (1993) *Land Valuation and Compensation in Australia* 3rd ed. (Sydney : Australian Institute of Valuers and Land Economists), 39.

⁸ Independent Pricing and Remuneration Tribunal, 20