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22 September 2009

The Manager
Review of Regulatory Framework of Local Government – Draft Report
Independent Pricing and Regulatory Tribunal
PO Box Q290
QVB POST OFFICE NSW 1230

Dear Sir/Madam,

IPART – Review of the Regulatory Framework for Local Government

I refer to IPART's release of the draft report for its Review of the Revenue Framework for Local Government.

Port Macquarie-Hastings Council wishes to make a Submission and accordingly it is attached for your review. We apologise for the delay in submitting same however our General Manager, Mr Andrew Roach, was out of town on business and could not review the Report until today.

Trusting the above is to your satisfaction. Should you require any further information, please do not hesitate to contact me on (02) 6581 8511 or by email at shane.ryan@pmhc.nsw.gov.au.

Yours sincerely,



Shane Ryan
Chief Financial Officer

**PORT MACQUARIE-
HASTINGS COUNCIL**

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IPART - Review of the Regulatory Framework for Local Government

Port Macquarie-Hastings Council Submission

On the Draft Report

18 September 2009

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Port Macquarie-Hastings Council ("PMHC") welcomes the opportunity to respond to the IPART "Revenue Framework for Local Government" Draft Report, July 2008.

About Port Macquarie and the Hastings

Geography

The Hastings covers an area of 3,693 square kilometres and is located 420 kilometres north of Sydney and 510 kilometres south of Brisbane. The area is bisected north to south by the Pacific Highway, which is the main road link between Sydney and Brisbane (and also by the State Rail Line). A large proportion of the area is taken up by State Forest and the Werrikimbee National Park. The topography of the area is very diverse ranging across sand dunes, coastal wetlands, flood plains and rugged mountain regions.

Demographic Profile

The area has many small localities and villages in addition to three main townships. Based on the Estimated Resident Population and annual growth rates from 2000-2005, the Hastings' current estimated population is 70,581.

Situated on the coast, Port Macquarie is the largest town with a population of 38,289 people (2001 Census) and serves as a major tourist destination in addition to being the major regional centre for the area. The township of Wauchope (4,772 persons), which is 21 kilometres from Port Macquarie, serves as a regional centre for the inland area, particularly for the rural communities and associated agricultural industries.

The Camden Haven (7,355 persons), located at the southern extremity, is a rapidly growing area and includes the towns of Kendall, Kew, North Haven, Dunbogan and West Haven, with Laurieton as the main service centre. Other outlying population centres include Lake Cathie/Bonny Hills (4,293 persons) and many smaller rural population centres and surrounding villages including the Comboyne Plateau, Beechwood, Ellenborough, Long Flat, Pappinbarra, Hollisdale, Upper Pappinbarra, Bellangry, Pembroke, Ballengarra, Rollands Plains, Upper Rollands Plains & Telegraph Point.

The average age for the Hastings is 43 years compared to 35 years for the state. Camden Haven has not only the oldest population in the Hastings (37.2% over the age of 65 years), but with a median age of 56 years it has the oldest population in Australia per capita. The youngest people live in Wauchope with an average age of 40 years. According to the ABS Census, by 2016 44% of the Hastings will be over the age of 50 years.

About Port Macquarie-Hastings Council

Vision – A sustainable high quality of life for all.

Mission - to provide regional leadership and meet the community's needs in an equitable and inclusive way that enhances the area's environmental, social and economic qualities.

Corporate Values

- Community Advocacy
- Excellence in service delivery
- Openness and accountability
- Consultation and communication
- Sustainability

Corporate Programmes

Environment - to protect and enhance environmental values and provide for sustainable growth and development.

Social - to facilitate access to a range of services and facilities, recognising the importance of social well-being and ensuring a safe, inclusive and equitable community.

Economic - to facilitate economic growth through the provision of quality services, strategies and infrastructure for the better of the community.

Governance - to provide leadership and effective decision making, sound financial and resource management. To undertake the role of advocacy and promote communication and consultation.

Integrated Planning and Reporting Framework

To comply with the pending legislation PMHC has committed to collaborate with our community in the development of a Community Strategic Plan that identifies the main priorities and aspirations for the future sustainability of the Hastings.

The Integrated Planning Guidelines recommend Councils work closely with the community to develop themes or aspirational statements that underpin the vision of the Community Strategic Plan. These statements will then form the core values of the Community Strategic Plan, which in turn will assist in developing the long-term goals and objectives of the new plan. PMHC plans to deliver the Community Strategic Plan (currently referred to as the Towards 2030 Community Strategic Plan) in 2 parts:

- A blueprint describing the desired outcomes and community agreed strategic objectives for the Hastings – target date – draft by end Dec 2009
- A document detailing strategies to achieve each objective, along with quadruple bottom line assessment methods for determining whether the objectives are being achieved – target date – draft by end June 2010.

Executive Summary

PMHC welcomes the opportunity to make a submission to the IPART Draft Report. On the whole the Tribunal is to be congratulated on the content of the report. In particular, council is generally supportive of the following areas:

- Introduction of the principle of democratic decision making in rate setting
- Recommendations linked to the Integrated Planning & Reporting Framework
- Improved transparency on respective rights & obligations and rigour around the “special variation” process
- Introduction of a multi year revenue setting arrangement
- Introduction of a Local Government Cost Index (“LGCI”) in lieu of a CPI approach

This support is to be qualified with certain reservations, which will be detailed in the body of this submission:

- Mechanisms for obtaining a community mandate
- Following a successful community mandate, the retention of discretionary power of Minister for Local Government in Rate setting
- IPART LGCI not recommended for use as the actual rate peg increase

Preface

Local government (including PMHC) continues to evolve from the traditional provider of local physical infrastructure and regulatory functions to fulfilling an emerging role as frontline provider of social infrastructure and community and human services. PMHC believes local government structural and fiscal systems need to be flexible enough to respond to the present and future needs and expectations of the community. This is consistent with the foundations of the Integrated Planning and Reporting Framework.

As the level of government closest to the community (including local business), local government is tasked with developing and supporting services that are expected by the local community. To this end, local government requires greater autonomy, particularly in the area of raising revenue to meet cost demands. PMHC believes the sector requires self determination of taxation as a revenue source. In NSW the current rate pegging system is preventing the local government sector from achieving genuine financial sustainability. The rate pegging system undermines local governments’ accountability and also limits the effectiveness of long term financial planning. Rate pegging seriously inhibits the capacity of councils to provide for the costs associated with the provision of inter generational infrastructure assets to meet the needs of the community presently, and into the future.

Amongst PMHC’s goals is to ensure financial sustainability. This is defined by council as its ability to generate moderate operating surpluses whilst continuing to renew a substantial depreciable asset base in order to deliver services at the levels demanded by the local community. PMHC seeks to provide sound financial management via efficiency, equity, and administrative simplicity however there are several key constraints impacting PMHC’s ability to deliver financial sustainability under this definition. These include:

- limited access to a broader range of revenue sources;
- limited capacity for many of its residents to contribute further to revenue through rates and other charges; and
- legislative restrictions on council’s ability to raise revenue within available categories.

Financial sustainability of Local Government

IPART are to be congratulated on recommending improvements to the existing process of rate setting. However the recommendations have not gone far enough to allow local council's such as PMHC to achieve true Financial Sustainability. The incumbent system has implicitly prevented the local government sector in NSW from operating autonomously and achieving financial sustainability. Subject to regulatory oversight, councils should be in the position of managing their own financial affairs and that includes determining the level of revenue required to fund the provision of current & future infrastructure & services to the community.

In order to achieve sustainability, it is acknowledged that councils may apply to the Minister for approval for special rate variations (and that many councils have been granted such variations in the past). Generally however, the special variations that have been granted have sought funding to address particular issues. Special variations have rarely addressed the underlying problem of constrained revenue to fund councils' ongoing operations (let alone to address significant infrastructure backlogs in many areas). In summary, the existing regime has limited councils' ability to match cost increases with revenue, undermined meaningful long-term financial planning and diluted overall accountability for financial outcomes.

Infrastructure backlog - It is acknowledged that (per the IPART report) the definition and therefore dollar valuation of "infrastructure backlog" is somewhat subjective and inconsistently measured across the industry. This does not mean that significant backlogs do not exist (which is the inference to be drawn from IPART's report). In the end, the definition and dollar value would be extraneous to the debate under a system based on community engagement and democratic decision making. A regulatory framework for revenue should ensure that councils have a flexible mechanism for adjusting revenue to match the cost of delivering and improving the services demanded by their local communities. This would include providing renewal, replacement and new assets as the community (not the Minister) sees fit.

Reliance on developer contributions - Councils such as PMHC have come to rely upon developer contributions for the provision of new infrastructure. With changes to the planning legislation and the development contributions framework councils are now likely to face further restrictions on their ability to provide community infrastructure to meet escalating community needs and expectations. This leaves PMHC fearful of the outcomes individual communities may experience in future.

Limited ability to raise alternative revenue - Whilst the data may indicate that on average local councils have substituted growth in rate revenue with revenue from sales of goods and services it must be highlighted that many councils, particularly those from outside of metropolitan areas, are limited in their ability to raise revenue from other sources such as parking. Metro revenue from these sources is likely to have 'averaged up' the figures overall. This then leads to the next point.

Reliant on handouts from other levels of government - The majority of local councils are already heavily reliant upon receipts from other levels of government in order to meet existing operating and capital expenditure. In PMHC's case the 2009/10 budget for Grants & Contributions represents 26% of the overall revenue budget. Capping revenue (as costs escalate) will simply increase this reliance. PMHC do not consider that IPART have addressed this anomaly in the efficiency of the overall tax framework adequately.

PMHC supports 'Option 5' + Integrated Planning + LGCI

Support for NSW Treasury submission and "Option 5" page 185

Having reviewed the draft report Council supports Alternative Option 5 (page 185) which proposes the introduction of measures to enhance accountability to the local community and remove mandatory rate pegging. The Minister favouring continuation of rate pegging (p185) seems an odd justification for not assessing a particular option on its merits

Council believes IPART's Option 5 aligns quite closely with the submission from NSW Treasury and in particular 'Option C1' as detailed on Treasury's page 17. Council strongly supports the thrust of the Treasury submission and in summary believes the Minister and the Department should:

- Establish and regulate the process not the outcome,
- Maintain discretionary reserve powers for failure of due process

Treasury's position fits seamlessly with the introduction of the NSW Department of Local Government's Integrated Planning & Reporting Framework (below). To add further rigour to the Option 5 approach, the proposed LGCI (below) may be used as a benchmark for community reference when assessing the performance of a particular council.

Integrated Planning

PMHC is sincerely committed to the process of implementing an Integrated Planning and Reporting Framework. Though mandatory, Council was already well on track to establishing the majority of the elements of the Integrated Planning & Reporting Framework at the time the Guidelines were released. On the whole the Framework represents what PMHC considers to be simply sound business practice. Council is therefore very comfortable that many of the IPART recommendations imply the Integrated Planning Framework should be at the centre of a new rate setting regime.

It is therefore disappointing that IPART stopped short of recommending that achievement of Integrated Planning milestones (as selected and assessed by the Department), including adequate and acceptable consultation with the community, is not to be the actual criteria for achieving rate setting autonomy. It seems odd to implement such a comprehensive system of community-centric governance but then not allow true local accountability for revenue decisions.

Support for the Local Government Cost Index ("LGCI")

Council welcomes the development of a Local Government Cost Index to be prepared and published by IPART. The LGCI will prove to be an important reference tool for all council's in management of their financial affairs. Further, it should provide an effective benchmark for communities in holding local council's accountable for their revenue decisions. The only qualification on this is that the community will need to be educated about the role of an inflationary index in addressing cost escalation on status quo services and not on an increased cost base (such as would be required to reduce an Infrastructure backlog).

The productivity adjustment factor is not supported as it could not possibly address the diversity across councils & council services and indeed the relative maturity of councils along the efficiency continuum. The presumptions upon which this recommendation is based are flawed.

Observations of recommended Options

General

Whilst possibly inconsequential PMHC believes the overall structure of the proposed framework would be improved by labelling the alternatives Path A, Path B & Path C (or the like) rather than Option A (1), A (2) & B. Whilst related, the three alternatives are clearly independent. Further, they are not all likely to be “options” to most councils. See commentary that follows.

As stated previously PMHC’s preference is for Option 5, or more particularly, a framework built around the preferred option of NSW Treasury’s submission. Having said that PMHC makes the following comments on the recommended options:

Option A (1) – regulated annual rate increase

Annual Rate peg should equal LGCI

If rate-pegging remains in place as government policy there needs to be an independent and transparent means of determining what the maximum rate increase will be. PMHC’s general support for the LGCI was noted earlier. 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 the rate peg is to remain PMHC believes that there is no reason for further subjective (or worse still politically influenced) determination to be made. The LGCI figure should be adopted as the minimum annual rate peg amount.

Option A (2) – application for a multi year revenue path “special variation”

Multi year revenue path

In general, the concept of a multi year revenue path is supported. In a pragmatic sense it is difficult to materially differentiate between this process and the existing special rate variation process however the concept is supported.

Minister’s discretion & accountability

In PMHC’s view a truly transparent process for determining councils’ applications for special rate variations is critical. Whilst the report acknowledges this at a high level the proposed system does not appear to significantly alter the discretionary involvement of the Minister in the decision making process. The need for separation of policy determination from policy implementation is eloquently covered in the NSW Treasury submission and wholeheartedly supported here (without transcribing the text verbatim). The Minister will naturally be subject to political influence. Further, it is a momentous burden for one individual to bear all power in determining the appropriate tax burden for all NSW ratepayers, across a multitude of geographic and demographic circumstances. PMHC do not consider that IPART have covered the issue of how the Minister will be accountable for their decisions in enough detail to gain any comfort that this area of the framework has significantly improved. A clear and objective set of parameters for this decision path should be established with no discretion left with the Minister of the day. Clearly the Minister must retain the right to oversee the process and step-in in the case of malfeasance without the need to retain specific rate setting power.

Option B: Earned Autonomy

Introduction of the principle of democratic decision making in rate setting

IPART is to be congratulated on attempting to introduce democratic decision making into the key judgment area of revenue setting. This is especially pertinent given the preceding commentary on the development of community led Integrated Planning and the issue of Financial Sustainability. Option B is therefore strongly favoured amongst the recommendations made, with the following qualifications:

- **Minister's discretion & accountability**

As per Option A (2) above

Further to this, individual council's will have borne a significantly increased administrative and cost burden in engaging with the community to obtain a mandate for a rating increase should the Minister choose to use their discretion to refuse an otherwise supported increase. The risk of this may deter council's from traversing this path.

- **Survey Option (page 178)**

The indicative guidelines suggested by IPART for Option B (requiring at least 25 to 30% of ratepayers to participate in a survey and then at least 50 to 60% support for the proposal) are likely to generate an inordinate cost and administrative burden in terms of polling and community education. It is agreed that a statistically valid sample size and positive response rate should be established. If the sample size is of the magnitude suggested this option may not prove feasible for most councils. Add to this the inherent difficulty in obtaining a community mandate for increasing tax and it is most probable that the majority of councils requiring a rating increase to maintain financial sustainability would not attempt it. This would mean reversion to Option A (2) or reduced service levels (against public wishes) to balance budgets. This area requires more investigation prior to definitive support or rejection.

- **Voting Option (page 178)**

Given the inherent difficulties common with the Survey Option (above) would be overlaid with a political factor it is considered that this approach would rarely, if ever, be employed by any local council. This would mean reversion to Option A (2) or reduced service levels to balance budgets.

- **Financial performance criteria**

It should be acknowledged that historic financial performance may not necessarily be a guide for future performance. Too much weight on historic indicators may preclude otherwise worthy applicants for self determination from achieving the threshold performance. It may be the case for example that revenue constraints are the sole reason for historically poor financial performance. Demonstration of achievement of Integrated Planning milestones along with rigorous forecasts of future performance should carry much more weight in the evaluation process.

Conclusion

Local government's current revenue system does not sufficiently reflect the long term financial requirements of local councils including PMHC. On the whole the Tribunal is to be commended on the content of its report in identifying areas for improvement and providing some useful solutions. PMHC believes the report stopped short of certain logical conclusions and to that end believes the local government revenue framework should:

- Truly reflect the accountability of individual councils to meet their particular community's performance expectations against the Integrated Planning & Reporting Framework
- Provide for autonomy in revenue raising to ensure the needs and expectations of the community are met into the future
- Not be unduly influenced by discretionary, subjective or politically influenced decision making by any third party in order for Financial Sustainability
- Reflect the fundamental need to offset the true cost of service delivery and asset provision
- Employ the IPART LGCI as the annual rate peg increase (if rate pegging is to be retained in some form)

Finally, PMHC supports NSW Treasury's preferred option in calling for a system where:

"...local councils are allowed to make their rate determinations provided they are broadly in line with centrally determined advice. Under [..the preferred option..] councils have a presumption of autonomy and have more flexibility within a regulated process ... However the state government would have the power under [..the preferred option..] to make determinations that where due process was not followed or where there was evidence of misgovernment according to established criteria. Thus the state government would have effective rate capping powers when they were needed under [..the preferred option..]"