

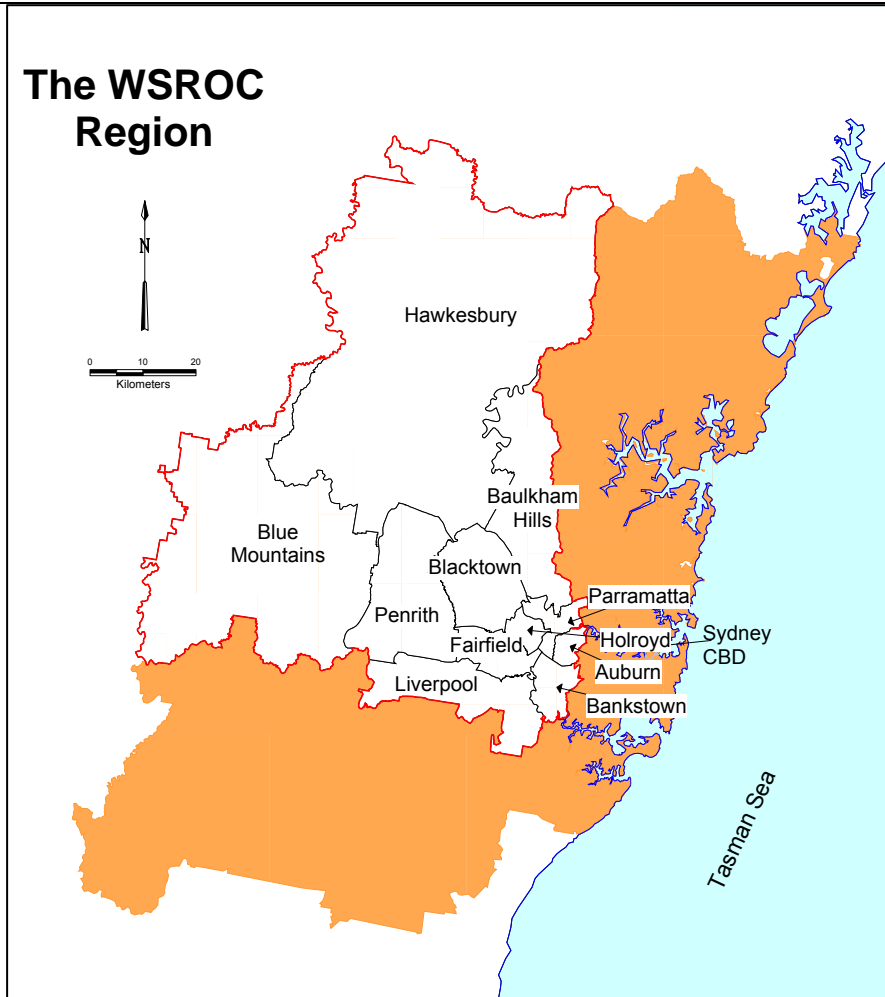


RESPONSE TO THE IPART REVIEW OF THE REGULATION OF COUNCIL RATES AND CHARGES

SEPTEMBER 2009

Prepared by the

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IPART Review of the Regulation of Council Rates and Charges

Sydney Olympic Park Issues

On 8th September 2009 WSROC received correspondence from Auburn Council seeking support for the Council's position into rating and charges affecting local councils.

In July 2008 IPART released an issues Paper on the Revenue Framework for Local Government in which inter alia it discussed the framework for setting the charges levied by other public authorities. It noted that several public authorities provide services that would normally be provided by councils, including Sydney Harbour Foreshore Authority (SHFA), the Sydney Olympic Park Authority (SOPA), the Redfern-Waterloo Authority (RWA) and the Growth Centres Commission (GCC). At that time IPART had been requested by the

NSW Government to recommend a framework for setting the charges levied by these authorities, to enable them to recover the costs of service provision.

Auburn Council made a submission to the review noting that the Issues Paper heralded a transfer of rates from properties in Sydney Olympic Park from Auburn Council to SOPA. The Council argued that not only was this counterproductive for SOPA – given their small workforce and limited core functions – but was also against natural justice for Auburn Council.

In its draft report on the Revenue Framework for Local Government, July 2009, IPART compared the roles and responsibilities of SHFA and SOPA to determine the extent of overlaps in services provided. In relation to the City of Sydney Council and the SHFA IPART concluded there is some overlap, but no duplication with services traditionally provided by local government. It also noted no overlaps between Auburn Council and SOPA, however, it noted that waste management is to be contracted out to the Council.

Within Sydney Olympic Park SOPA has legislative authority to carry out the function of a council such as the delivery of municipal services. This includes roads and footpath maintenance, street lighting and cleaning, State and Regional Sports facilities, open space and land use planning. But the authority does not provide all local government services within their area. While lessees within the Park pay property rates to Auburn Council, rather than to SOPA, the authority maintains that over the next 2-4 years the revenue to the Council is expected to rise significantly as new commercial development and the first areas of residential development are brought on stream.

However, history has shown a failure of the NSW Government to offer any support or compensation to Auburn Council for the rate losses incurred in the decade leading up to and following the Sydney Olympics in 2000.

The Government determined that Auburn could suffer an initial loss between 1993-2007 but would be amply recompensed in the longer term by the increase in rates that would flow from post-Olympic development. The Council has estimated it has suffered a rate loss of \$18.242 million for the period 1993-2008/9 and will approach \$20 million in 2010. During the same period Auburn Council expended significant sums of money on roads and other infrastructure associated with Sydney Olympic Park prior to and beyond the staging of the Olympic Games for which it has never been compensated.

There was also a misplaced expectation that property values would rise in Auburn to the point when property value would expand. This has not occurred. Moreover, the implicit faith and promise by the Government that long-term rate revenue would amply compensate Auburn Council is now threatened by the Department of Planning's move to seize the rate revenue.

IPART noted that SOPA did not provide costings or local community usage figures in support of its claim for a share of Auburn Council's rate revenue. Any such claim for compensation for the limited services provided should have been substantiated. SOPA also acknowledged that councils should not pay for the full cost of the public domain services since they are provided at a much higher level of service in the special development area venues than normally provided by councils, due to the State and regional nature of the facilities.

Auburn Council argued that the SOPA role was no different from a commercial developer or a large complex (e.g. a large shopping complex) and that there may be some common elements in the roles of SOPA and SHFA. However, IPART concluded that the scale and nature of the facilities in these special development areas are broader and more extensive than services provided in a commercial facility.

An appropriate comparison could be made with the development of the Rouse Hill Town Centre in North-West Sydney. This centre comprises a mix of commercial, residential, entertainment, community facilities and services and a town centre park linked by an extensive network of footpaths and cycleways. The centre was developed on land owned by the Department of Planning, who still retain some responsibility for a higher level of maintenance which has been set out in a voluntary planning agreement with The Hills Shire Council. The Hills Shire Council contends once residential properties are sold to private individuals these properties should be rateable.

In Norwest Business Park, also located within The Hills Shire LGA many of the commercial and residential units are strata titled with payment being made to a Norwest Association. There is no reduction in the Council rates, but in the case of the Hills Shire Council the rates levied are lower for commercial premises and higher for residential premises than those levied in surrounding local government areas.

Auburn Council has also argued that special events at Sydney Olympic Park create extra costs for the Council. Similarly the City of Sydney has pointed out that it is already making key contributions for a range of services throughout the city on behalf of the State which are over and above local government expectations and should be compensated directly by the State.

The Council very strongly contends that it should continue to receive all of the rate revenue for the Sydney Olympic Park area as SOPA does not and cannot provide the comprehensive range of municipal services to the area, and as critically, the Council has already suffered rate revenue and Section 94 losses from the development of Sydney Olympic Park. In the case of the latter the Council was prevented from levying S.94 contributions for facilities and services required by Newington residential development that replaced the Sydney Olympics Athletes village.

IPART noted there are no incentives or mandatory requirements for councils to negotiate with agencies to resolve responsibilities for costs to local government for services provided by agencies in special development areas. The Tribunal has therefore recommended a legislative provision be established for a mandatory dispute resolution process. If the parties fail to resolve the dispute by negotiation it is proposed a mediator be involved to encourage a settlement. Failing that an adjudication process akin to arbitration could be used to allocate costs.

In contrast, IPART noted that SFHA is transferring local service assets across to the City of Sydney Council for ongoing management and that the Council considers that this will assist in resolving responsibility for ongoing maintenance costs. It points to the value of such an approach in reducing the costs of a dispute resolution process and related costs. It also suggested if agencies require a higher level of service than normally provided by the council, this could be achieved through contractual arrangements with the council.

By shifting the State costs to Auburn City Council the resident of the LGA will be subsidising expensive amenities that are not solely of direct benefit to them. SOPA provides only a small defined subset of the range of services provided by councils.

SOPA is not in a position to provide cost effective local government services such as waste and recycling services, street lighting and libraries. Its core functions are the provision and management of sports facilities, education, major events and the provision of parklands for the metropolitan population. It also develops buildings to accommodate commercial and residential facilities.

In September 2008 WSROC made its own submission to the IPART Review of the Revenue Framework for Local Government. Among its 15 recommendations WSROC argued that:

Recommendation 2: There should be a comprehensive review conducted jointly by State and Local Government of all legislation and regulations.

Recommendation 3. This review should also aim to prevent future cost-shifting by other levels of government to Local Government, reduce existing levels of cost-shifting and ensure that where it continues, councils are adequately compensated.

Recommendation 4. The problems identified with rate-pegging mean that it should be reviewed and discontinued, at least in its current form.

WSROC is of the view that the draft IPART report reviewing the Revenue Framework for Local Government has not adequately addressed the issue of rate pegging nor does it provide a framework that addresses how two authorities can carry out the same functions within one local government area.

There are currently clearly severe financial consequences being suffered by Auburn Council as the result of the current situation. Auburn is an area that suffers from profound socio-economic disadvantage and contains many vulnerable communities as evidenced by its second lowest position in the SEIFA index of disadvantage. Instead of providing assistance to the Council the State is reneging on its stance that the Council would be compensated for its loss of revenue during the creation of Sydney Olympic Park with expanded rate revenue in future years. The IPART recommendations are yet another example of cost shifting which should not be adopted.

In its response to the following key questions WSROC made the following comments and recommendations in its submission to the IPART review in 2008:

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?

WSROC is very concerned at the expanding role of some of these authorities and their current and potential duplication of the functions of Councils. It appears that decisions to establish these bodies have been made on several occasions in the absence of any direct consultation with or input from the councils affected. There has been no appreciation of the capacity of these councils to manage the area concerned, or to undertake the functions required. It should always be remembered that the extent to which these bodies are delegated the existing function of a council is the extent to which the area under management is removed from the democratic control of the council concerned. Any such delegation is also likely to have serious financial impacts on the council(s) concerned.

As a matter of principle, the case for the creation of specific authorities to manage particular precincts and to remove certain functions from the affected councils needs to be strongly argued and this process used only as a last resort. When such authorities are established, any functions to be delegated should be strictly defined both in scope and duration, and should not be used as a pretext for the further expansion of the body concerned. The affected councils should also be given strong representation on the authority, which should be required to consult regularly with these councils.

Recommendation 10: The establishment of any statutory authority to manage land and/or take over any other function of Local Government should be undertaken only as a last resort and only after direct consultation with the councils and communities concerned and detailed examination of the financial and other impacts on the affected councils.

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

As the IPART issues paper notes, in practice the level of Council-like services provided by these authorities varies considerably, with only the Sydney Harbour Foreshore Authority (SHFA) and the Sydney Olympic Park Authority (SOPA) providing “municipal” services.

However, it should be noted that even these bodies provide only a small, defined subset of the range of services provided by Councils. Indeed, many Councils have had to take on additional responsibilities or fund the provision of additional infrastructure directly or indirectly as a result of the creation and operation of these agencies.

A particular example is provided by SOPA, which manages a significant area within Auburn Council area. Council’s submission outlines the rates revenue foregone and the additional expenditure incurred by Auburn Council as a direct result of the creation of SOPA, for which Council has received little or no compensation. The submission also notes that SOPA provides only a limited range of what could be defined as council services; others are in fact provided by Auburn Council under contract.

Council’s submission details the serious financial consequences for Auburn of the current situation. Council is also deeply concerned at the potential implications in the issues paper on page 67 (in respect of SHFA) and page 70 (in respect of SOPA) that imply Council’s rates function could be handed over to these authorities.

There are also a number of concerns regarding the role of the Growth Centres Commission (GCC) which affect a number of other WSROC Councils. Whilst these do not have the same municipal functions as the SHFA and SOPA, they still impact on Council operations, particularly through the management of the strategic planning process and the management of the timing of land releases.

Further powers have also been added to the GCC (for example, the GCC will now hold section 94 funds in relation to development in the Growth Centres), whilst the original Commission which had some degree of autonomy has been replaced by a management framework which brings the GCC effectively under Ministerial control. (In fact since this submission was made the GCC has been merged with the Department of Planning).

There are also concerns that the recent cuts to developer charges in Growth Centres and uncertainty regarding the timing of the roll-out of major infrastructure projects will result in the under-provision of infrastructure in these areas with resulting long-term implications for councils.

Recommendation 11: Any council function to be delegated to a statutory authority should be strictly defined both in scope and duration, and should not be used as a pretext for the further expansion of the body concerned. The affected councils should also be given strong representation on the authority, which should be required to consult regularly with these councils.

Should a common regulatory framework be introduced for these authorities?

As outlined above, there are therefore a number of issues of concern around the IPART proposals for a common legislative framework for these bodies and to remove duplication between their functions and those of councils.

Whilst the establishment of such mechanisms appears to be a logical step, it is supported only if the resulting framework effectively minimises the extent to which these bodies remove these functions from democratic council control. In particular WSROC strongly supports the view of Auburn and other councils that rates collection should remain at all times under Local Government control.

Recommendation 12: The creation of a common legislative or regulatory framework to govern the role of statutory authorities is supported in principle, if and only if it embodies the following principles:

- Those outlined in the previous recommendations regarding the establishment of such authorities, the degree of council involvement in their operation and their relationship to affected councils;**
- The collection and management of rates income remains under the control of the relevant council(s) at all times;**
- Full compensation should be provided to affected councils for any losses directly or indirectly incurred by each affected council resulting from the establishment of the authority and/or the delegation to it of any “municipal” role which would otherwise be undertaken by that council;**
- The authority should be required to contract the affected council(s) for the provision of these services at a reasonable cost; and**
- Compensation and/or the ability to levy additional rates is guaranteed to affected councils for any infrastructure shortfall or additional maintenance costs resulting from the decisions of the statutory authority.**

Auburn Council, in its submission to the Sydney Olympic Park issue, makes it abundantly clear that SOPA does not, and cannot in the future effectively provide a wide range of local government services. It is in fact, not in SOPA's best financial interests to attempt to do so – its financial position is already parlous.

The facilities provided by SOPA concentrate on events management, sports provision, education, parks maintenance and property development. To provide the necessary equipment and labour force to provide a complete range of municipal services is completely unreasonable and likely to lead to further long term financial difficulties for SOPA. There is apparently a contention that SOPA carries out many of the functions of a Council including roads maintenance and waste services. Auburn Council contends that this is not so.

Auburn Council already provides an extensive array of municipal services to Sydney Olympic Park and in its submission indicates that “Rate revenue would cover the cost to Council of such services, and therefore would enable SOPA to receive all the services at no cost to the Council”

The position of SOPA is to draw funds away from the Auburn Council to carry out Local Government services that it is unable to do and a substantial level of funds would be required in asset provision, and labour force development in order for it to do so.

Auburn Council has submitted a proposal to assume municipal services and on-going maintenance of built civic assets, without any loss in rate revenue. This is a completely reasonable and sensible solution which WSROC supports.

WSROC does not support any proposal for some form of agreement or mediation of a claim by SOPA for funding from the Council. WSROC's view is that this gives inappropriate weight to an argument that is not reasonable. The fact is that the claim for funding should be **dismissed outright** and the parties required to negotiate on the position offered by Auburn Council to assume responsibility for local government services.

The provision of these services will then rest where they should be – in the hands of a democratically elected Council.

Recommendation 13: That SOPA's claim for funding be dismissed outright and the parties required to negotiate on the position offered by Auburn Council to assume responsibility for local government services.

Sharon Doc: \E Project: Regional AdvocacyFile: 13001 stakeholders Date: 21/09/2009