

Council Ref: 87.G IPART  
Your Ref:

29 September 2009



Review of Regulatory Framework of Local Government - Draft Report  
Independent Pricing & Regulatory Tribunal  
PO Box Q290  
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Woollahra  
Municipal  
Council



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Dear Sir/Madam

Woollahra Council thanks the IPART for the opportunity to make a submission in response to the "*Revenue Framework for Local Government – Draft Report July 2009*". Council also appreciates IPART's approval of Council's request for an extension until Tuesday 29 September 2009 in which to forward its submission.

Having considered a report on the matter at its meeting held on 28 September 2009, Council resolved to make a submission to IPART in response to the Draft Report incorporating the following comments:

- i. Welcoming IPART's review of the Revenue Framework for Local Government and the release of its Draft Report – July 2009.
- ii. Highlighting the inconsistency of IPART's findings regarding the financial sustainability of NSW councils with the findings of the "Independent Inquiry into the Financial Sustainability of Local Government 2006" (The Percy Allan Report).
- iii. Expressing Council's disappointment that IPART has not recommended an option that removed mandatory rate pegging as noted in Option 5 of the previous IPART Issues Paper released for public comment in July 2008.
- iv. Recommending that IPART undertake further detailed investigation of Option 5 from their July 2008 Issues Paper, including consideration of a range of accountability measures that would apply to councils in order to qualify for an exemption from the default rate cap.
- v. Welcoming the proposal for IPART to develop and publish an annual Local Government Cost Index.
- vi. Recommending that the published Local Government Cost Index be used by councils to substantiate the level of rate increase proposed by the individual council to their community under a revised system that removed mandatory rate pegging.
- vii. That in the absence of an alternate recommendation in IPART's final report that proposes the removal of mandatory rate pegging, Woollahra Council supports Option B as the preferred of the two recommended options presented in the Draft Report.



- viii. Highlighting the difficulties associated with, and costs involved, in seeking and gaining community support to increase rates as suggested in the Draft Report that would be required for the Minister to approve special variations under both Option A and Option B.
- ix. That the requirements for councils to earn their independence in setting the level of rate increase under Option B be amended to include a requirement to have in place appropriate financial and asset management policies and plans and be able to demonstrate a track record of improvement in implementing those policies and plans, rather than having a track record of positive operating results over the reporting cycle.

Further comments in respect of Council resolution is provided below.

***Comments on IPART's conclusions in respect of the Financial Sustainability of NSW Councils***

It has been the long held view of Local Government in NSW that the system of rate pegging has significantly reduced councils' ability to maintain services and service levels, particularly in respect of the maintenance and renewal of critical public infrastructure. Local Government's long standing position has been that rate pegging should be abolished and councils given the opportunity to determine the level of rate increases in consultation with their respective communities as happens in other States of Australia. Conversely, the NSW State Government has had a long term commitment to rate-pegging, largely because it believes the approach protects ratepayers from excessive rate increases.

Interestingly, IPART has found that the perception that there were widespread problems of financial sustainability for councils in NSW is not supported by the evidence. IPART found that most councils are financially sustainable in terms of their recurrent position, while capital sustainability is more difficult to assess because of the lack of reliable asset management measures or estimates of backlogs. IPART also noted that operating results for NSW councils have continued to improve, and that revenue and expenditure growth in NSW has been comparable to other states.

The Draft Report states that *"IPART has concluded that there is no evidence to suggest that the average financial position of councils in NSW is worse than in other states. Specifically, IPART cannot find that rate pegging has had an adverse effect on the financial position of councils in NSW on average."* Further, *"IPART has noted, there appears to be a backlog of council infrastructure works in NSW that needs to be addressed. However, this also exists in other states and the evidence suggests that it is no worse in NSW than elsewhere."*

These particular findings are inconsistent with the findings of the previous *"Independent Inquiry into the Financial Sustainability of Local Government 2006"* (The Percy Allan Report), which concluded that NSW Local Government is facing major challenges, including a real infrastructure funding crisis, an inadequate revenue base, skills shortages and the ever increasing demands being placed on Local Government by the community and other spheres of government.

Council highlights the inconsistency of IPART's findings in respect of the financial sustainability of NSW Local Government with the findings of the "Independent Inquiry into the Financial Sustainability of Local Government 2006" (The Percy Allan Report) and requests that the final report clearly identify the reasons for the significant difference in the findings of the two reports.

Further, in response to IPART's conclusion that there is no evidence to suggest that the average financial position of councils in NSW is no worse than in other states (as a result of rate-pegging), it is suggested that this could also indicate that the absence of rate pegging in other states has **not resulted** in a situation of excessive rate increases in those other states which has led to a situation where NSW Local Government is disadvantaged in respect of its financial position (on average). **This could therefore be viewed as an argument in support of the abolition of rate-pegging.**

### ***Comments regarding an additional Recommendation C proposing the abolition of Rate Pegging***

As previously stated, it has been the long held view of Local Government in NSW that the system of rate pegging has significantly reduced councils' ability to maintain services and service levels, a position which was supported in the finding of the the Percy Allan Report. Local Governments' long standing position has been that rate pegging should be abolished and councils given the opportunity to determine the level of rate increases in consultation with their respective communities as happens in other States of Australia. It is disappointed therefore that IPART's Draft Report does not include an additional Recommendation C that proposes the abolition of mandatory rate pegging in accordance with Option 5 from IPART's initial Issues Paper released for public comment in July 2008.

Council notes that the absence of a Recommendation C proposing the removal of mandatory rate pegging, consistent with IPART's initial Option 5, was raised as a question to IPART at the public workshop held in Sydney on 2 September 2009. It is noted that IPART's response to that question was that Option 5 from their initial Issues Paper, which suggested the removal of mandatory rate-pegging but with a default rate cap that would apply to councils that had failed to meet measures imposed by the State Government for enhanced accountability, was considered but they were guided in their deliberations by all submissions received in response to their initial discussion paper, some of which, particularly those from ratepayer associations, supported the retention of rate-pegging. IPART also reiterated at the Sydney public workshop that the State Government supported the retention of rate pegging.

Council considers that a proposal for the removal of mandatory rate pegging, consistent with the initial Option 5, would provide an effective balance between the need for Local Government to provide facilities and services for its community, consistent with its obligations set out in Section 8 of the Local Government Act (i.e, "The council's charter") and the perception that ratepayers need to be protected from councils wanting to impose excessive rate increase on ratepayers. In this regard, Council notes that included in the principles contained in "The council charter" is the requirement for councils to provide adequate, equitable and appropriate services and facilities for the community, and to effectively account for and manage the assets for which it is responsible. It is argued that in order to meet these obligations, the constraints of rate-pegging must be removed and

NSW councils allowed to determine their own levels of rate income in consultation with, and having regard to, the wants and needs of their respective communities.

This submission therefore expresses Council's disappointment that IPART has not recommended an option that removed mandatory rate pegging as noted in Option 5 of the previous IPART Issues Paper released for public comment in July 2008 and that further investigation of this option be given prior to the release of IPART's final report. This further investigation should also include detailed consideration of accountability measures that councils would need to meet in order to qualify for exemption from the default rate cap.

### *Comments regarding Option A - Local Government Cost Index*

It is pleasing to see that whilst IPART has concluded that rate-pegging plays an important role in ratepayer protection, it has been at the expense of reduced transparency and accountability to ratepayers and the community. Additionally, short term controls on rate increases may impose constraints on the ability of councils to plan and deliver financial sustainability and service provision over the medium to longer term.

It is also pleasing to see IPART acknowledge the significant shortcomings in the current system for determining the rate-pegging cap and approving special rate variations. Any recommendations aimed at improving the transparency and accountability of these processes are welcomed.

IPART's proposal to develop and publish annually a specific Local Government Cost Index is also a welcomed initiative and should be supported.

It is Woollahra Council's view however that the Local Government Cost Index should be used as a guide for **councils** in determining their own proposed level of rate increase each year under a system that sees the abolition of mandatory rate-pegging. The Local Government Cost Index should be used as the benchmark indicator against which council need to justify to their own communities any variation in their individual proposed level of rate increase from the index percentage increase. The Local Government Cost Index could also form the basis of the default rate cap to apply under the proposal suggested in the previous Option 5 put forward in IPART's July 2008 Issues Paper.

### *Comments Regarding Option B*

In summary, Option B provides an alternative mechanism for determining over the medium term (i.e. the duration of the electoral term) the revenue path for eligible councils. This would provide those councils with autonomy in setting revenue requirements and annual rate increases above the regulated rate of annual increase. To be eligible for this option, councils would have to earn their independence by demonstrating:

- a track record of sound financial management, and
- a community mandate for the council's proposed medium term revenue plan.

Option B would be available to councils that:

- have demonstrated high standards of financial management

- have developed a medium term approach to revenue, expenditure and service delivery plans and
- their plans have the support of their constituent communities, especially when these plans involved greater than the regulated annual rate increase.

In outlining the specifics of Option B in the Draft Report, Recommendation 22 states that the financial performance and asset management criteria should include the following:

- have a track record of having positive operating results over the economic cycle
- have a reasonable liquidity ratio;
- have sustainable debt levels;
- comply with the Local Government Code of Accounting Practice and Financial Reporting and report on the KPIs shown in Table 16.2;
- have a responsible funding policy;
- have a track record of asset management;
- have a comprehensive asset management plan.

In demonstrating community support for the council's medium term revenue plan, the Draft Report suggests that there would be clear guidelines on what councils need to do to demonstrate this community support. For example, where councils relied on community surveys, IPART proposes that at least 25-30 percent of ratepayers would have to participate in a survey with 50-60 percent support for a council's proposal for it to pass. Alternatively, where a four year financial plan was adequately debated in the run-up to a council election, and supported by the incoming council, that council could be considered to provide a mandate from the community for that plan.

Councils not achieving rate variations under either Option A or B would revert to being subject to the Option A rate cap arrangements.

It is argued that the difficulty for many councils with having a track record of positive operating results over the economic cycle as one of the criteria for "earning independence" in rate setting is that it **is the very system of rate pegging over the past thirty years** that has placed many councils in a financial position where achieving a track record of positive operating results over the economic cycle would not be possible in the absence of significant cuts in expenditure and resultant reductions in service delivery. Consequently meeting the criteria to earn the independence in rate setting will not be possible for many councils.

An alternate suggestion is that this criteria be amended to read as follows:

- *have in place appropriate financial and asset management policies and plans and be able to demonstrate a track record of improvement in implementing those policies and plans.*

It is suggested that this represents a practical and sensible improvement to the proposal in the Draft Report.

Also of significant concern to Council with Option B is the requirement to demonstrate 50-60 percent community support for the proposal to increase rates after surveying between 25-30 percent of ratepayers. In addition to the impact that the cost of the required survey would have on council budgets, there is the great difficulty any council would have in obtaining majority community support for **an increase in rates**. It is

argued in this regard that a survey of ratepayers in respect of the Minister's permissible increase under rate-pegging would similarly not achieve majority support of between 50-60 percent. A further difficulty in this regard would be obtaining community wide support for a funding strategy that was to support improvement works in one particular location of the municipality.

An alternative to demonstrating 50-60 percent support for a proposal could be to demonstrate a minimal level, or absence, of community objection following effective community consultation on the proposal.

It is also suggested that the proposal under Option B to establish medium term revenue, expenditure and service delivery plans for the four year electoral term, and allow qualifying councils the freedom to set rates to deliver those plans, is inconsistent with the Integrated Planning and Reporting legislation. The draft legislation includes a requirement for councils to have in place a long-term resourcing strategy to achieve the objectives established in the Community Strategic Plan. The resourcing strategy must include provision for long-term financial planning (minimum ten year planning), workforce management planning and asset management planning. This integrated approach to long term planning (over a ten year period) to achieve strategic objectives developed in consultation with the community, is an initiative that has been welcomed by Local Government and its implementation should be supported by the removal of rate-pegging so that councils have a level of certainty in their revenue raising capacity in order to deliver on those plans.

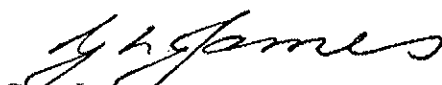
### **Concluding Comments**

Finally, Woollahra Council welcomes the release of the Draft Report and finds it encouraging that IPART has acknowledged the limitations of the current system of rate pegging. Council considers that the recommendations contained in the Draft Report in respect of earned autonomy for the setting of rates are preferable to the current system of rate pegging which has been in operation for over thirty years.

The basis of Council's submission however is that whilst Council considers that the proposed alternative framework outlined in the Draft Report represents an improvement to the current system for local government, it is disappointing that IPART have not put forward an alternate recommendation (Recommendation C) that proposes the removal of mandatory rate pegging as suggested in its initial Issues Paper (Option 5) released in July 2008 and that this option be further investigated prior to the release of IPART's final report.

Thank you again for the opportunity to present this submission.

Yours sincerely

  
Gary James  
General Manager