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Your ref: A5922499
Contact: Mark Arnold



DATE

Independent Pricing and Regulatory Tribunal
PO Box K35
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Submission made via online form

Dear Sir / Madam

Submission - Draft Terms of Reference for NSW council financial model review

Thank you for the opportunity to make a submission in respect of the Draft Terms of Reference for NSW council financial model review, as outlined on your website: [Draft Terms of Reference for NSW council financial model review](#).

This submission addresses the intent and purpose of the review, as well as giving consideration to each of the matters identified for review by the Hon. Christopher Minns MP, Premier, in his correspondence to you dated 11 January 2024.

Overall

The draft Terms of Reference, while titled “NSW council financial model review” do not *prima facie* address the financial model of local government. That is, how councils are financed. There is no reference to, or accounting for the impact of cost-shifting; the inequitable distribution of taxes, such as the methodology for calculating the Financial Assistance Grant program; or the burden of rates exemptions on other ratepayers.

Council acknowledges the recent review of the rate peg methodology, conducted by IPART in 2023. From which IPART recommended the NSW Government commission an independent review of the financial model for councils in NSW. Some of the suggested measures for consideration from that review (Chapter 9.3) included:

- Better targeting eligibility criteria for rates exemptions
- Allowing councils to use the Capital Improved Value method to set the variable component of rates
- Ensuring statutory charges reflect the costs incurred by councils in providing statutory services
- Alternative funding mechanisms to provide essential social services
- Comprehensive state-wide evaluation of the existing pensioner concessions

The draft Terms of Reference are devoid of these matters, and rather shift the focus on “councillor and community visibility over the financial and operational performance of their councils” and “how better planning and reporting systems can improve long term budget performance, transparency and accountability to the community.”



Addressing each of the draft Terms of Reference (ToR), *in seriatim*:

1. The visibility of councillors and the community over the financial and operational performance of their councils

While it's commendable that the ToR acknowledges the importance of transparency and visibility, the focus on whether mechanisms for reporting are "clear and understood" is somewhat limited. The ToR should delve deeper into whether the current reporting mechanisms actually provide meaningful insights into council performance.

Council supports a review of the performance indicators. The benchmarks do not encompass all relevant financial factors and focus too heavily on own-source revenue, for example, which is not always an appropriate indicator of financial performance. In this example, the benchmark aims to provide a representation of a council's self-sufficiency, however it creates disincentives for councils to pursue external funding opportunities. Community perception about Council's financial performance can be influenced by the results of these narrow indicators, without the contextual information to support them. The performance indicators should be complimented with other metrics to provide a more accurate and balanced assessment of financial performance.

A review of the performance indicators provides an opportunity to consider other appropriate measures, such as Financial Resilience Measures, i.e. the resilience of councils to financial shocks and emergencies, such as natural disasters or economic downturns. Furthermore, Council implores the review to identify measures that can enhance financial resilience.

The proposal to consider dedicated committees for budget or expenditure review may be advantageous and the results of such a review would be welcome by Council. The review should however consider a cost-benefit analysis of implementing dedicated committees, considering factors such as resource requirements, potential efficiency gains, and impacts on accountability. Additionally, it should explore alternative models, such as enhancing existing committee structures or strengthening councillor training on financial matters.

2. Whether the current budget and financial processes used by councils are delivering value-for-money for ratepayers and residents

The ToR rightly addresses the importance of the Integrated Planning and Reporting (IPR) process in budget decision-making. While councils have flexibility within the IPR Framework, the review should consider the effectiveness of the resourcing strategy and alignment with the strategic objectives and the needs of the community.

Furthermore, the ToR should include consideration of intergenerational equity in financial decision-making and what accountabilities are in place to ensure decisions of a council do not disadvantage future generations. Councillors elected on a 4-year term are focused on the here and now and communities are rarely prepared to fund long term needs.

3. Whether the current funding model will sustainably support the needs of communities

It is well documented that the financial model for local government is not sustainable. Councils in NSW heavily rely on rates as a source of revenue. However, this revenue stream often proves insufficient to meet the growing demands for essential services and infrastructure upgrades. Compounding this issue, councils face constraints in generating additional revenue streams due to legislative restrictions and limitations on their taxation powers. Accordingly, the ToR should provide an assessment of revenue diversification opportunities beyond traditional sources such as rates, fees, and charges.

Chapter 15 of the Local Government Act 1993 is titled: “How are Councils Financed.” The current draft Terms of Reference (ToR) do not specifically mention this chapter. However, it’s worth considering whether IPART would be open to reviewing this chapter. Such a review could explore potential legislative amendments that grant councils greater flexibility to generate additional revenue and enhance their financial sustainability.

Past reforms, such as *Fit for the Future*, have demonstrated the Government’s unwillingness to adequately address the real challenges facing local government, instead diverting considerable time, effort, and resources to responding to reform requirements.

The cost of delivering essential services such as infrastructure maintenance and community programs continues to rise, placing further strain on council budgets. The impact of cost-shifting on local governments should be considered as part of this ToR, with an aim to identify mechanisms to address vertical fiscal imbalance. Cost-shifting to the extent of \$1.36 billion, as highlighted in the LGNSW commissioned report ([Cost Shifting | LGNSW](#), 2023), is imposed on NSW councils yet for some reason is not included as a consideration the ToR for a review of the ‘NSW council financial model.’

4. Whether councils (both councillors and staff) have the financial capacity and capability to meet current and future needs of communities

The ToR includes a broad statement “Are councils equipped with the right internal capabilities to deliver on the services which their community requires.” We find this point of the review to be wildly subjective. The resourcing of service delivery is unique to each council, dependent on their community needs, expectations, and available resources.

Instead, the ToR should include an evaluation of the adequacy of current practices in forecasting revenue and expenditure trends, projecting future capital needs, and managing long-term liabilities.

There is inherent bias in the wording “Are there opportunities to look at the long term expenditure and service delivery improvements *by insourcing services?*” (emphasis added). These present a predisposed view of a preference for insourcing. The review should conduct a comprehensive analysis of insourcing and outsourcing practices, considering factors such as cost-effectiveness, service quality, and alignment with community needs. It should then identify best practices from both models and recommend strategies for optimising service delivery and resource allocation.

5. How can better planning and reporting systems improve long term budget performance, transparency, and accountability to the community

The ToR should include an examination into the impact of existing legislative and regulatory frameworks on the financial sustainability of councils. This would identify barriers or constraints that hinder councils’ ability to effectively manage their finances and recommend legislative reforms or policy changes to address these issues.

An example of this is the Code of Accounting Practice and Financial Reporting that prescribes the reporting for annual financial statements for all Councils in NSW. The Code currently mandates extensive reporting in financial statements. Unfortunately, some information is repeated across different sections of the statements.

For example, Councils have been preparing duplicated special purpose financial statements for the purposes of National Competition Policy that require separate external audit since 1996. Interestingly, no other industry faces this level of reporting, including calculations and notional values that councils do not actually incur (e.g., debt guarantee fees and taxation equivalents). The value of this detailed information needs to be questioned. Who uses this data, and for what purposes?

Whilst special schedules have been reduced in the physical published financial statements, they are still reported to the Office of Local Government through the Financial Data Return. Further, in the cases of Councils providing water and sewerage services, the core information is reported three times: in the general purpose financial statements, the special purpose financial statements and the financial data return.

The focus should be on evaluating reporting requirements and focus on streamlining reporting processes and strengthening accountability, not on reporting for reporting's sake.

6. Any other matters IPART considers relevant

The review should take into account regional economic disparities and their impact on the financial sustainability of councils. Assess whether current funding models adequately address the needs of economically disadvantaged regions and identify strategies to promote greater equity in resource allocation.

Overall, while the ToR touches on some important aspects of financial transparency and governance, it would benefit from the removal of some of the peripheral matters and give more attention to the financial model in which local government operates, as the title suggests. A more comprehensive and nuanced review will be essential to identify actionable recommendations for improving the financial sustainability and oversight mechanisms of local governments.

Please contact me on 02 6626 7000 or marnold@byron.nsw.gov.au if you require any further information.

Yours sincerely

Mark Arnold
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