

**Draft Submission to IPART
on the Review into the development of
a funding framework for
Local Land Services NSW**
June 2013

Opening:

Local Government NSW (LGNSW) is the peak body for councils in NSW. LGNSW represents all the 152 NSW general-purpose councils, the special-purpose county councils and the NSW Aboriginal Land Council.

LGNSW is a credible, professional organisation representing NSW councils and facilitating the development of an effective community-based system of Local Government in NSW. LGNSW represents the views of councils to NSW and Australian Governments; provides industrial relations and specialist services to councils; and promotes NSW councils to the community.

LGNSW welcomes the opportunity to make a submission to the IPART review into the development of a funding framework for Local Land Services NSW (LLS).

Please note that in order to meet the consultation deadline, this submission is provided in draft form, in anticipation of LGNSW Board sign off in late July 2013. LGNSW will advise IPART of any amendments to the submission at that time.

Executive Summary:

LGNSW recognises the significant nature of the Local Land Services reforms and the importance of establishing a robust, transparent and accountable funding framework for these new organisations. As such, we have approached the process in good faith and taken an attitude of active participation, including supporting this review.

Local Government has a long history and significant experience in the development and implementation of funding frameworks for the delivery of local community services. As such LGNSW looks forward to engaging with IPART and the government during their deliberations on the rating framework, and are happy to offer our expertise on rating issues.

Relevant issues that have been raised in this submission include:

- the potential overlap between LLS and council rating, and the ability of the local community to pay additional taxation
- the predominate focus on improvements to agricultural services at the expense of other relevant issues, especially for coastal and urban communities
- consistency between cost recovery frameworks being developed at the state and federal levels
- support in principle of the proposed cost recovery principles and framework (with clarification sought on any potential broadening of the funding base)
- need for any framework to identify community demand for services to take into account existing processes and strategic planning
- support for flexibility under the Cost Recovery Framework, but highlight of the need for a robust governance framework
- opposition by the majority of councils to Local Government collecting rates on behalf of LLS
- recognition of public perception, transparency, cost and complexity issues relating to rate collection mechanisms
- support in principle for the concept of auditing the LLS to promote transparency, accountability and performance

Introduction:

Given Local Government's significant role and investment in local community services, especially biosecurity and natural resource management issues, LGNSW has recognised the importance of the current LLS reforms in NSW. As such, we have approached the process in good faith and taken an attitude of active participation, including strongly supporting the review into the development of a funding framework for LLS during our time on the LLS Reference Panel.

Local Government has a long history and significant experience in the development and implementation of funding frameworks for the delivery of local community services. As the peak body for councils in NSW, LGNSW provides this submission to outline the range of issues of interest to the sector, and looks forward to having direct consultation with IPART during its review.

LGNSW has promoted the reform process widely across the Local Government sector and strongly encouraged councils to engage in the process. As a result a number of councils will attend the public consultation workshops, and may make written submissions.

General Comments:

LGNSW recognises that the proposed functions of LLS, including agricultural services, natural resource management and biosecurity, have significant public and private good outcomes. As such, these services warrant a broad range of funding approaches. However, concern has been raised by a number of councils in relation to the potential overlap between LLS and council rating, and the ability of the local community to pay. It is imperative that this review acknowledge and address these issues and LGNSW looks forward to engaging with IPART and the government during their deliberations on the rating framework, and is happy to offer our expertise on rating issues.

While LGNSW strongly supports the reforms to improve agricultural services across NSW, a concern throughout the entire LLS development process has been the predominate focus on these issues at the expense of other relevant issues. The new LLS organisations will be responsible for a broad range of services, including those relevant to non-framers, especially in those LLS regions that include coastal and urban communities. The IPART review needs recognise this diversity and broaden its understanding of what services will be delivered across all service user groups.

The Issues Paper acknowledges the current activity at the Commonwealth level to legislate a cost recovery framework for federal biosecurity issues. LGNSW encourages IPART to strive for consistency between this federal cost recovery framework and any frameworks developed for LLS at the state level.

Specific Comments:

Cost recovery principles and framework

The cost recovery principles and framework proposed in the Issues Paper seem logical and realistic. The 'stages and key questions' seem appropriate for the task of identifying and understanding who should pay for services and how much they should pay. While there are merits to some of the approaches from other jurisdictions that are outlined in the Paper, the proposed framework is suitable for the purpose at hand. Therefore Local Government NSW supports it in principle.

However, LGNSW seeks clarification from IPART as to the proposed extent of the new funding framework away from the traditional LHPA and CMA funding bases. In particular, is IPART assessing the possibility of broadening the funding base to include urban or residential properties? As stated, concern has been raised by many councils regarding the potential overlap between LLS and council rating, and the ability of the local community to pay. Any extension into urban areas could potentially impact on current and future council rating, and LGNSW would seek further consultation with IPART on this issue.

Identifying the demand for the service

While the principles and framework are seen as appropriate from a theoretical perspective, it is imperative that the actual implementation of the framework is undertaken by those with a comprehensive understanding of the key issues of agricultural production, natural resource management and biosecurity. Some of the examples used in the Issues Paper (Boxes 5.2 – 5.4) could be improved with input from appropriate stakeholders.

Any framework developed to identify community demand for particular services should take into consideration existing processes and strategic planning at the local, regional and state scale. Examples of existing planning that has already consulted the broader community on priority strategic outcomes and service delivery are Community Strategic Plans developed by local councils and Catchment Action Plans developed by CMAs. The regional and sub-regional plans in the proposed land use planning reforms may also be relevant.

Apportion cost shares between parties

The various approaches on cost sharing arrangements outlined in the Issues Paper all have strengths and weaknesses. While the 'sliding scale' and 'risk matrices' options both provide usable frameworks, there are some concerns over their highly subjective nature. On the other hand, the approach based on the research done by the LLS Reference Panel, is based on direct stakeholder feedback to establish cost shares. Unfortunately, as the Issues Paper points out, this research is heavily biased towards production agriculture stakeholders at the expense of other service recipients (such as coastal and urban communities).

LGNSW supports the view that regional LLS Boards should be able to exercise discretion under the draft Cost Recovery Framework when determining cost shares between parties. Each region will have its own context and variables that will require flexibility in determining these costs. However, the governance framework that provides this flexibility must also have clear consultation, transparency and accountability provisions to ensure appropriate probity.

While a strong funding framework based on sound economic theory may be developed through this IPART process, we live in a reality where political decisions sometimes override theory. The issue of how the proposed framework will deal with these external political decisions is one of interest to LGNSW. As an example, in the *Native Vegetation Act* example (Box 8.3, p75) it is suggested that landholders could be charged on a fee-for-service basis for compliance with the Act, as they create the need for the service. However, the government has a long standing policy that Property Vegetation Plans (the compliance mechanism for the Act) are free, and it is very unlikely that this will change. Will exemptions like this undermine the whole funding framework?

Funding and Rate Base Options

Again, concern has been raised by many councils over the potential overlap between LLS property taxation/charging and council rating, and the ability of the community to pay. This was

especially in relation to existing and potential council special rate variations and environment levies.

The impact of new taxes and/or charges levied by LLS boards cannot be considered in isolation from the overall tax burden, and particularly from other taxation on land such as council rates. Councils' ability to raise additional rates (including special rate variations and special rates) is already becoming increasingly crowded out by the encroachment of state land taxes. LLS taxes on land would add another competing tax.

Collection Mechanisms

The issue of fee collection mechanisms and a potential role for Local Government is obviously one of significant interest to LGNSW and our member councils. While some councils have indicated that they are capable of collecting rates on behalf of LLS (as a fee for service function), the vast majority of councils oppose Local Government undertaking this role for LLS.

On Page 54 of the Issues Paper, IPART state that:

“There is considerable cost to establishing billing systems. Economies of scale may be realised where the rating bases of different organisations align and both utilise the same fee collection mechanism. If a rating base is unique to one organisation this may not be possible.”

While this is included to highlight the opportunity of council involvement in rate collection, it is important to reinforce the notion that different rating bases (such as the currently different frameworks for LHPA and council rates) will nullify any potential economies of scale or efficiencies. There are also a range of other issues that must be considered when determining the most appropriate collection mechanism, including:

Public Perception

- Public perception is likely to be that any LLS rate or levy collected by a council is a Local Government levy, even if it is indicated to be a LLS charge.
- This would especially be the case if council rates and LLS charges were on one statement (council rates notice).
- The same public perception will be present if a council is required to undertake debt collection.
- Councils are also concerned about the potential for them to bear the brunt of community concerns or complaints over rates, fees and charges that they have no control over.
- There might even be a disincentive for councils to collect debt for political reasons.

Transparency

- The principles of fiscal transparency require the level of government providing a service to also be responsible for the collection of corresponding taxation revenue
- Responsibility for both expenditure and revenue collection places in-built controls on expenditure growth and ensures appropriate transparency in the collection of the rate, fee or charge

- Even where the levy is separately identified on the notice as a state tax, it appears highly unlikely that the community will credibly believe that the levy is being collected on behalf of the LLS and will rather see it as a council levy. This is likely to result in limited accountability of the persons who make expenditure decisions.
- A single government having responsibility for the revenue raising and expenditure of a service is likely to lead to increased expenditure restraint. Under a model where the revenue is collected through a process lacking transparency, the existence of sufficient pressure for restraint might be questioned.
- The potential safety net of requiring IPART or Ministerial approval for setting or raising rates is also missing from the proposed legislation, which further reduces accountability of those making expenditure decisions
- Council rates are subject to IPART determination and many stakeholders (especially councils) could expect that LLS rates would also be subject to IPART determination. Otherwise it would sit awkwardly alongside council rates and may raise opposition.

Collection costs and complexity

- During the Second Reading Speech for the LLS legislation, the Hon Duncan Gay MLC stated that: *“Most money received by the Local Land Services, including grant funding, will be paid into the central Local Land Services Fund and then redirected as required to the accounts of the relevant local board”*. (Legislative Council Hansard, 20 June 2013)
- This seems to imply that no matter what the collection mechanism, all money will be pooled at the state level before being reallocated to the regions.
- In this situation, it is highly questionable whether it would be cheaper to collect rates by way of 152 councils as individual collection agencies than one centralised state agency (such as Office of State Revenue)
- It could reasonably be expected that centralising the levying and collection of LLS charges in terms of systems enhancement, forms production, eligibility for a pre-existing broad range of concessions, front line services and complaints handling will achieve scale economies.
- Collection by a centralised state agency would also reduce the complexity of collection process and provide flexibility in the design and implementation of any fees and charges. There is an attraction to all ratepayers having a similar experience with the rating system — from the same rates notice, to consistent customer service standards, communication strategies and a central point for any subsequent inquiries. With 152 collection agencies there is the high possibility of different collection and enforcement arrangements operating in different areas including treatment of concessions, hardship, and customer service.
- While the Issues Paper does state that *“If it is deemed necessary for LLS to have its own fee collection mechanism(s) then it is likely that a centralised state wide billing system will be most efficient”* (IPART, p54), further analysis of this option is limited. Proper cost-benefit analysis of options (i.e. Office of State Revenue) needs to be undertaken. This would be required under best practice regulation making (consult Better Regulation Office).

- The Issues Paper suggests councils as a potential collection agent on the basis of established procedures in the Hunter, however these arrangements are based on a historically specific circumstance in a discrete part of the state, and may not be appropriate to extrapolate to a state scale.
- As an example, it is unlikely that councils could take on the LLS rating function within the required timeframe. New software would have to be rolled out and this would have to be adopted by the 2 or 3 dominant firms that supply council software. Experience demonstrates that these firms do not make overnight changes and that it would be subject to their upgrade schedules (eg. up to 2 years).

Rate Exemptions

The use of rate or fee exemptions as a part of the cost recovery framework to provide incentives to reduce risk seems logical from a policy perspective, but there are some concerns about how it would work in practical real-world situation. Also, these types of incentives would significantly complicate the rating system, further strengthening the need for the same organisation to collect rates as sets the policy.

Audit methodology

LGNSW supports in principle the concept of auditing the regional LLS boards to promote transparency, accountability and performance. Given the potential complexity of the funding framework and the intent to give regional LLS boards a certain level of flexibility in application, an appropriate audit regime is vital to ensure community confidence. However, it is important to ensure that the different types of audits proposed (financial audits, performance audits, etc) are undertaken by the most technically appropriate organisations.

Conclusion

LGNSW appreciates the opportunity to make a submission to the IPART review into the development of a funding framework for Local Land Services NSW (LLS). We recognise the significant nature of these reforms and the importance of establishing a robust, transparent and accountable funding framework for these new organisations. We look forward to continuing to work with IPART and the government during this process.