

From: [Peter](#)
To: [State Development](#)
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Subject: CM: RE: Inquiry into the ability of local governments to fund infrastructure and services - Post-hearing responses - 3 June 2024
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Thank you again for the opportunity to address the Committee.

Please find attached edits to the transcript and response to the Questions on Notice.

If further information is required, I'm happy to assist.

Many thanks

Peter Tegart



terms of having to divert funds from another planned purpose or, indeed, potentially collapsing the whole grant process itself or, as I am encouraging some councils, to give the money back. If you are unable to scope and rescope the project or find that funding gap, sometimes it ain't worth it.

Dr AMANDA COHN: Thanks so much for coming today. In your written submission you talked about the rate peg methodology in particular and also other ways that councils are categorised. We know that IPART categorises councils into metropolitan, regional and rural. In various parts of your submission, you've suggested there should also be a coastal category. Could you explain in more detail why that might be needed?

PETER TEGART: It was a terrific move of IPART to at least recognise there are at least three groups of councils, even though OLG and the ABS classifies all groups into 11. My suggestion is metro, regional, rural, coastal and remote, because in reality they all have different characteristics. They all have different revenue-raising capacity. When I say revenue-raising capacity, I mean council controlled. That is very different to the way it is currently defined in the financial benchmarks used by OLG. In that way, there could be a differentiation, should rate pegging continue, to recognise, as I said earlier, that the remote and rural councils just have a very low rate base and they may require a larger rate peg just to gain sufficient dollars to keep pace, at least with the water wages or utility costs going forward.

It is also to recognise that there should be different parameters for grant allocations. In particular, I would urge allocated grants to go to remote, rural and the strong, faster-growing ones, because they are under significant pressure. I would **augment that by IPART**, if rate pegging continued, to remove the discounting of the value of supplementary rate levies from the population peg component, because that is stripping those growth councils of significant funds as well. In my view, the purpose of the population peg is to fund population-based services whereas the supplementary rate levies are to fund the infrastructure to support properties that have been subdivided.

If all of the council categories were created into that five—if there were benchmarks that were established for financial, asset, workforce around those five categories, and the rate peg, if it were to continue, be differentiated around that, and grants be allocated around those five categories—that would go a great way to building the financial base of those groups of councils going forward. There is no doubt, and I am sure you have heard from previous witnesses, that some of the councils do not need that level of rate increase, nor do they need that level of financial assistance grants each year, because they have significant council-controlled revenues that they raise.

Dr AMANDA COHN: In your written submission you made a recommendation that the Government look at amending the Act to enable special purpose annual charges. Could you expand on that in more detail?

PETER TEGART: Certainly. Many other States do this. Again, I do some work in Queensland as well, where it has caught my attention. There is no rate pegging in Queensland. The councils choose what will be the increase in their rating income per year. They tend to use the barometer called Brisbane City—as to whatever Brisbane City does, we will use that as the benchmark. There is no benchmark set by the Government. But by the resolution of councils, they can raise an annual charge of a fixed amount per property, per year, for a particular purpose.

Those tend to be the things that the community has sought—things around heritage, tourism, environment, emergency, whatever the case may be—and they are separately accounted for. They are separately planned and reported for, and there is a great deal of transparency around that. It is my view that the current legislation could be tweaked around section 501 to enable councils, through the IP&R process, to discern what would be the types of particular programs or projects that could be subject to a special annual charge, and appropriately accounted for and reported for each year. That will improve transparency and improve the financial sustainability of councils.

Dr AMANDA COHN: In terms of a special purpose charge being implemented, there are obviously different mechanisms through which you could do that—whether that is across every rateable property, whether it is different in different categories or whether that could be a particular subgroup of residents for some reason.

PETER TEGART: Correct.

Dr AMANDA COHN: What do you see the risks or benefits of those types of models?

PETER TEGART: Again, in Queensland—and part of my submission suggested perhaps a rethink of the rate categorisation to blend more closely with the land use zones. Queensland has a mechanism where they can identify the principal place of residence, therefore all other residential properties hitherto are non-owner occupied. That points to they are either for tourism purposes or they are for long-term residential rental purposes. At least that way they can differentiate their rating based on those types of non-principal place of residence uses,

because they have a tax benefit that they may claim. The second feature then allows the council to articulate that or projects these are the particular programs of progress that they wish to go forward with.

I was suggesting in the submission that there could be a benefit to the State by identifying which are the principal places of residence and, indeed, that information flow on to all the councils so a different rating structure may apply. If that were to occur, I would urge that be the occasion upon which those different rates be above the rate yield so that there is an immediate uplift to the yields of councils who are subject. Many coastal councils have 20 per cent or 30 per cent of their properties non-owner occupied. Some might be residential rental, but many are Airbnbs and holiday properties, which do have a tax benefit and which arguably, because of the throughput and potential usage of parks, litter and so forth, should contribute more to those councils through that taxation arrangement.

Dr AMANDA COHN: On page 50 of your submission you highlighted the role of local government in disaster resilience and recovery, particularly through the NSW Critical Infrastructure Resilience Strategy. It's clear that councils are not adequately funded for that role at the moment but, in terms of moving forward or your recommendations, is there a need for a specific mechanism to fund that role of local government in particular? Or is this something that should be coming from general council revenue?

PETER TEGART: There are probably two arms to that. One is that, should the Government pursue the notion that councils will lead the recovery after declared natural disasters—and we should also note there are often many disasters that are not declared, so there is often an impost on community and council finances for non-declared natural disasters. Notwithstanding, there is no doubt that councils across the State are well placed to undertake a range of services on behalf of the State, but most are not well positioned to do so because they don't have capacity. Part of that capacity can be through the human resources you spoke about, provided they are funded by the Government.

Then, secondly, they are supported by the infrastructure that may be continually damaged and re-damaged through a spate of natural disasters. We should invest in the redesign and replacement or betterment of those, like Queensland and other States do, so that the Government doesn't continue to spend money on replacing and repairing those regularly damaged assets. There are many that can be mapped across the State to enable that initial investment. Resilience should be a feature of the State to support councils going forward, because climate change and the impact of declared and non-declared natural disasters will continue. Councils do not have the capacity within their means now, but they need to build that redundancy and resilience inside their own organisations to step in when those occasions do occur.

The Hon. EMMA HURST: I wanted to ask you about high-risk local councils. In your submission you state that the New South Wales Government and the local government sector should collaborate to transition some of these high-risk local councils so that they're in a better financial position. Do we know what those high-risk councils are now? I believe there was an assessment in 2015, but does that need to be reassessed? Do we already have an understanding of who they are?

PETER TEGART: I believe they do need to be reassessed. It has been 10 years since the Treasury Corp did their original financial sustainability check and, yes, there are seven ratings between "very strong" down to "distressed". We suspect there will be more councils in the "weak" if not "very weak" category now, and only because of the advanced payment of the financial assistance grants have the operating results been masked for a few years amongst some councils. Yes, some councils have been assisted through the national disaster declarations, where their assets have been renewed at the cost of government rather than their own cost. That's a side benefit.

But I think you are right, member, that the councils need to be reassessed using that same framework and, indeed, future resilience assessments and benchmarking and indicators be established through that lens, because that has not happened so far. Whether it's a lens that should be readdressed every council term and, indeed, tested through the audit, risk and improvement committee of each council with the benefit of the external audit—that would be a good means of truing up where a council stands at the end of each term before handover to the next council.

The Hon. EMMA HURST: I suppose this is a hard one to answer until that assessment has been redone, but what should be done to support those high-risk councils? What sorts of recommendations would you like to see or what sorts of State government initiatives?

PETER TEGART: There are probably a couple. The obvious one is to improve revenue raising. That will mean some allocation of grants. But the other one is to improve organisation capacity. Many of those rural, remote and regional councils—and even some coastal councils where a lot of residents are migrating to with certain expectations that the councils will provide—don't have the engineering, financial or planning capacity that

metro or other larger councils might enjoy. It's that kind of investment. I would also point out that local government is probably the nursery to the State. Many of the high-level and attractive skills that are developed inside local government are often poached by the State or by the private sector, particularly the development sector. We need to continue to refresh and reinvest in those skills going forward. I lost my train of thought there, I'm sorry.

The Hon. EMMA HURST: That's all right. What do we need to put into place to support those high-risk councils?

PETER TEGART: To that extent there would be greater confidence with those skills invested in those organisations, including technologies, and a consistency in the metrics. I'd urge this hearing to prosecute the case that the IIMM metrics for asset management be instituted in all organisations to standardise condition assessments, re-evaluations and run-to-fail arrangements so that we know with certainty that the residual life, the depreciation, is all the same across the State, because at the moment they are not.

The Hon. EMMA HURST: You note in your submission that there are many cases where that grant funding has been applied but there has been an underestimating or excluding of the maintenance and depreciation costs. I spoke recently to a council who had put a huge amount of investment into a leisure centre; however, now they can't afford the actual maintenance and ongoing costs of that centre. I'm sure they're not the only ones that have got into this situation. What do you believe the State Government should do about this? How do we change either that grant system—or is it the fact that we also need to ensure councils are able to account for those costs when they're applying for the grants? Or is it a bit of both?

PETER TEGART: It's all of the above. Well done. The example you gave—I know where you're talking about, for example. That's quite common—that many communities are now maturing, either through intrastate migration or otherwise, where expectations are that we'll have an aquatic centre, we'll have an indoor sports centre, we'll have a performing arts theatre. They are all part of the community wellbeing and indications of thriving and inclusive local communities. However, in my view councils should plan that that new investment in the asset should be able to be at least maintained and depreciated through the funds raised by the council going forward. That's a rates system. However, they should allow for a portion, if not all, of the operating costs of those new facilities to be met by the key users.

That will help provide some transparency around local government's primary responsibility to look after assets, infrastructure, utilities and facilities. However, the users should pay a primary portion of the operating costs to those. But equally the council should declare what the subsidy from the public taxes would be. The public tax can be a council's rates and/or government grants. That would mean that, as you've suggested, when council does apply for a grant, there is a tail of annual grants to come to contribute towards its future operations until council can get that particular facility up and running and on its own two feet. But that should be part of the utility or the facility planning at the very early stages. But the grant system does not allow for that type of disclosure or ongoing funding going forward.

The CHAIR: In terms of your alternate rate model that you've proposed, effectively it looks as though you assign rates to the cost of asset renewal and then grants to the cost of services. Am I correct in that way of thinking? Could you explain a bit more about this alternate model that you're proposing?

PETER TEGART: Certainly. The alternate rate model, again, is to provide a level of transparency and accountability. The idea is that the ad valorem component, which is the rate based on the land value, and whether it's capital improved or unimproved is immaterial at this point in time, together with other public taxes, which are the grants which are articulated towards assets—those funds should go towards the maintenance and depreciation and debt servicing of those assets. Ultimately, we would hope that that part of the general rate, plus its respective annual charges for a multipurpose council looking after water and sewer, should be able to maintain in an ongoing way the maintenance and depreciation and debt servicing for those assets.

The base rate—or in some councils the minimum rate perhaps—should fund what council should call its public good services together with their respective grants that support those public good services. Those are things like the library grants. A council, as I said in my submission, should be able to work with the assistance of OLG, articulate which are its public good, shared, private and market good services, what are their funding mechanisms, and therefore design a rate structure to recoup the cost of assets and recoup the public good services. Anything else above public good should be borne by the community through user charges and other initiatives. That will improve transparency and robustness, and sustainability of the rating system.

The CHAIR: Thank you for that clarification. As I understand it, your alternative model wouldn't allow councils to charge any rates that they want, but their rates and charges would reflect the cost of assets versus the cost of services. Is that correct?

PETER TEGART: Yes, it is. The ad valorem rate on the property land value is for assets. The base rate—and New South Wales regional councils, in particular, have a base rate as well as the ad valorem—would go towards the public good services, together with their respective grants. We'd be able to articulate, "That's the funding available for those particular services." If there's a change to the level, range or scope of services, I would suggest a special purpose annual charge could then come into play.

The CHAIR: Thank you for clarifying that.

The Hon. STEPHEN LAWRENCE: Thanks, Mr Tegart, for your evidence and submissions. Under that alternative model, would there still effectively be a rate peg?

PETER TEGART: I'm working on the premise that it will take a brave government to remove rate pegging. My suggestion would be that there be, in fact, a benchmark established which might be a certain percentage. Those less mature organisations may simply use that benchmark to increase their rate yield by—again by category or cohort of council—metro, regional, rural, coastal, and so forth. However, I would suggest that, if there was a change to the thinking around a rate peg, a benchmark cost percentage could be announced per year, per cohort of council, against which the IP&R process could argue, "We will apply that particular benchmark, or go above or below." That way there is greater authority in the council making the decision on behalf of the community, and a greater accountability to the community: "We have increased our benchmark cost, and therefore our benchmark rates, by this amount, for these purposes, as the community had asked for, through the comprehensive IP&R process in the preceding year or two." I think that would be a fairer mechanism, rather than a blunt instrument such as a rate peg.

The Hon. STEPHEN LAWRENCE: In terms of this idea that's in your submission, of councils caught in a time warp where they were rate pegged at a time when their community was quite different, are you able to expand more on what council areas might be considered to be in that category?

PETER TEGART: Again, it's basically coastal, regional and rural councils who **have**—they were formerly run by farmers, very small councils. Rate pegging commenced. You think of the sequence of mergers that have taken place since the early 1970s, where we've gone from several hundred councils down to about 128 now. The rate yields had not varied significantly from those times except through indexation through rate pegging or by a politically volatile process called the special rate variation. While IPART went to the trouble of trying to validate whether there is a certain revenue per capita—and they generally should remain the same—the very baseline of those, when they were first established, is already out of kilter because they were capped 50 years ago, or thereabouts.

have been caught

PETER TEGART: I'm of the view that there should be a logical means **of** a base uplift to that notional yield. I would suggest **that should be at least to recover**—rates and annual charges should cover the cost of asset, operations, maintenance, repair and depreciation—so that councils have a solid footing to do what the community wants. At the end of the day, without assets, the community does not have services, and without high-performing and well-presented assets, the community might form low views of the performance of their council. I think that initial uplift should put all councils on a reasonable footing from which they can then continue to **argue** what the community seeks and what the level of funding required should be. Whether that's a process by which a CIV is introduced, coincidentally, I'm unsure. But I think there should be some invested thinking into how we might build the base from what it was capped at, in that time warp, to what it should be on parity across the State now.

pursue

The Hon. STEPHEN LAWRENCE: If that new baseline was set, do you then think that the current IPART formula would be adequate?

PETER TEGART: I think it still requires future work. At the end of the day we need to work with IPART if that's the body that the Government continues to use—recognising there should be four to five cohorts rather than the three, in my view. However, my preference remains that IPART may, in fact, set a benchmark. It may be a benchmark on wages; it might be a benchmark on materials and contracts; and it might be a benchmark on depreciation. Our issue at the moment is the depreciation is outstripping the growth in our taxes, and that's already putting many councils in a big hole.

The Hon. STEPHEN LAWRENCE: In terms of the overall imbalance or shortfall in funding, would you venture a percentage estimate? Do you think councils overall need 5, 10 or 20 per cent more?

PETER TEGART: I think the answer is that could be done and I could take that on notice, but that would require some research to understand because you really need to strip back the financial statements at the moment. They are distorted in various ways because of mistiming of grant contributions or impacts of asset impairments from natural disasters. But stripping back to those bare bones should give you some trend lines to be able to work out, for example: Are the council's general rates and annual charges adequate to at least meet the cost

of assets and/or the base public goods services? That would be a means by which we could establish a base for the councils from which we could leap forward.

The Hon. STEPHEN LAWRENCE: Lastly, I wanted to ask you a pretty specific question that I don't think is addressed in your submission. It's about the policy of value capture where, when a council does a spot rezoning, a developer then pays the council a percentage of the increase in the land value. This was something that, when I was a councillor in Dubbo, was proposed by staff, but ultimately not passed by councillors. I recall at the time being advised that it happens in metro councils—that those policies exist—but not, I don't think, in country councils. I'm just wondering if you've got any view on value capture as a policy, and whether it's something to look at in terms of improving the financial sustainability of councils.

PETER TEGART: The idea of value capture was commenced in the late 1980s. I was at Wingecarribee council at the time when the Sallys Corner establishments took place on the Hume Highway. That was eventually reversed by the State Government, so it does require a policy shift of government to allow that type of thinking. Whether there is a mechanism to enable value capture through subdivision—which is what you're suggesting, which is through a supplementary levy, or through a resetting or a correction of the rate yield every council term, or after every rate re-evaluation, which is every three years—is a moot point.

I do believe that would be an opportunity where, in the absence of a CIV, that could be a mechanism by which the improved value from a rezoning could be captured. In my submission I did talk about how councils should be able to calculate what will be the cost of infrastructure from new developments going forward, to set a rate that would at least recover those costs—which we don't do at the moment, but that's a tool that we could look to. But I think that is one of the mechanisms that the Government should look to, particularly in growth areas, which run under that type of stress. How can there be some form of value capture? That goes to the point from Sam a while ago that, in renewable energy areas, there should be some form of value capture as well.

pressure

The Hon. STEPHEN LAWRENCE: The way that I seem to recall it was, if, for example, you were proposing a new subdivision, you'd approach the council to rezone part of the land to allow a shopping centre to be built—or something of that nature. Once that rezoning occurred, the value of the land might jump from a couple of hundred thousand dollars to maybe \$15 million. There could be very dramatic increases in land value because, all of a sudden, this highly profitable purpose can be enacted with the land. Then a developer would be levied a percentage of that increase. Is that something operating, that you know of, in local government at the moment?

PETER TEGART: It is partly in Queensland, that approach. Just to explain it very crudely, there are a couple of points. When a rezoning is through a planning proposal—progresses through State and then becomes part of the council's local environmental plan—there is an uplift in value, most certainly. Part of that would be that, if there is any land to be acquired by the council for—within that development, for example, or an asset to be gifted—it would be date stamped at what the rate was pre the re-zoning. The council has an opportunity to then categorise. If we were to re-base rate categories around land zones, they could re-categorise that particular property to accelerate the rates, provided the increased uplift in that higher rate category could be added on top of the current rate yield, rather than absorbed within it, because that's part of the problem we have at the moment. It's a one-off uplift as a consequence of that increased land value, and a new subcategory created with a separate rate in the dollar for that purpose. That would be a simpler way of doing it.

The Hon. STEPHEN LAWRENCE: The way I seem to recall it being proposed was not through the rate system, but I may not remember that correctly. The way that I recall the proposal that was being put to the Dubbo councillors was that some form of other levy or charge would be put to the applicant.

PETER TEGART: There are opportunities where it can be a development charge, for example, but my preference would be that you have an annual return, and the best way to do that is to increase your base rate yield through that development, and that becomes an ongoing tax return, rather than a one-off uplift.

The Hon. STEPHEN LAWRENCE: Is a developer charge something like a developer contribution? Is that something of that nature?

PETER TEGART: In addition to it, that could be right. For example, let's say the property's currently categorised as farmland or zoned as farmland and is rezoned as industrial. The council can re-categorise that as a specific subcategory of business, strike a particular rate and raise its yield from that particular development above its current notional rate yield set through IPART. It may then continue to alter the rating structure to accommodate the particular uses inside that industrial-zoned land, to accelerate or increase those revenues, as well. The issue is the extent to which the council gains assets from that development it is to maintain—whether that should be dealt with through a development contribution and/or a bonding system is a separate mechanism that could be dealt with.

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The Hon. STEPHEN LAWRENCE: Do you have any sense of how much those sorts of value capture mechanisms might be able to add to coffers in local government?

PETER TEGART: No, I don't. It's worthy of assessment.

The CHAIR: I might just finish up with a couple of final questions. You referred to the current rate peg methodology and asset maintenance. Do you think the current rate peg methodology adequately covers asset maintenance? If not, how can we get it to do so?

PETER TEGART: The current rate peg methodology introduced this year is an improvement on what it was, most certainly, beyond increasing the cohorts or categories of councils. I think there should be a greater emphasis on the escalations of the cost of assets. By using PPI, that is one step in the right direction. However, I fear that the current spate in escalation of asset values, consequent to the last few years of PPI and other growth, will cause a higher value of infrastructure assets, an elevated level of depreciation, and councils just won't be able to catch up. So there needs to be a means by which there should be a correction, either through land **re-evaluation** cycle or every **re-evaluation** of assets through the accounting's five-year cycle, where there can be a per council uplift to their rate yield, based on the uplift in assets brought about by depreciation, on the basis that depreciation is the ultimate barometer of what should be expended over a 10-year horizon on the appropriate renewal of assets.

revaluation

The CHAIR: How much more money do councils need? We've heard it's a case-by-case basis, but it's important to determine the quantum of the underfunding problem. Is it 5 per cent, 150 per cent?

PETER TEGART: Again, I'm happy to take that on notice and do some work on that if that's requested, but I suggest that there would be far greater brighter minds than mine to work on that, and that would be one of the recommendations of this Committee, no doubt. But it would depend on the individual council. It would depend on the individual circumstance whether that particular LGA is part of a greater State ambition, such as the renewables we spoke about, or part of a big electricity corridor or rail corridor, whatever the case may be. There's a range of impacts that State investment has on local government areas. That should be offset in some way. But there is no silver bullet to answer that question at the moment.

The CHAIR: If we reset all the councils to a baseline that might better capture the services and the costs that communities expect of them, do you think the current IPART rate peg methodology would keep those councils solvent, absent any sort of crisis?

PETER TEGART: Again, I can't answer that with any confidence. The reason is that I think the rate peg becomes a default financial planning tool for many councils. We will just make it cut our cloth. Therefore, the intention of IP&R was to set the ambitions of community—councils to work out, "Within the constraints of the organisation capacity, how far can we go with this to build environmental protections, to build economic capacity and build communities that are inclusive and thriving?" I think those opportunities are lost because council will take the line of least resistance. They are so under-resourced because of funding issues. They can't invest in that high-level thinking or in those long-term strategic settings—those key settings around assets, risk, pricing. They're all important things that should be done normally, but they are only forced to be considered through an SRV process. And, as was said before, an SRV process itself is politically volatile and unlikely to be undertaken.

The CHAIR: Thank you, Mr Tegart, for the evidence you've given today. The secretariat will be in contact with regard to any questions taken on notice.

(The witness withdrew.)