

#E2023/72737
Your ref:
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17 July 2023

Review of the Rate Peg Methodology
Independent Pricing and Regulatory Tribunal NSW
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SYDNEY NSW 1240
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Dear Tribunal,

DRAFT REPORT ON REVIEW OF RATE PEG METHODOLOGY SUBMISSION

Thank you for the opportunity and extension of time to provide a submission to the *Draft Report - Review of the Rate Peg Methodology*.

Council understands from the Draft Report that the current methodology for the rate peg determination based on the Local Government Cost Index plus change in population is to be replaced by:

- A Base Cost Change model that incorporates three components of employee costs, asset costs, and other operating costs.
- A Base Cost Change Model developed on the basis of three Council groups: metropolitan, regional and rural.
- A calculation basis for each component as described on page 24 and 25 of the Draft Report.
- A model that weights the above outcomes using the latest three years of data obtained from Financial Data Returns of Councils in that Group, and updates weighting annually.
- A model where indicative rate pegs for Councils are published in September each year (unless input data is not available) and final rate pegs around May each year to enable inclusion of Emergency Services Levy contribution changes as a separate factor.
- A model that retains the population factor calculation basis as it currently is.
- A model that retains a productivity factor in the methodology but it remain at zero.

As a general comment, Council is supportive of a change to the rate peg methodology. The current Local Government Cost Index (LGCI) with its inherent two year lag is not fit for purpose as was demonstrated by the 2022-2023 rate peg determination of 0.7% (excluding population growth) with inflation for the June 2022 quarter at 6.1% (8.7 times the rate peg) as noted on page 33 of the Draft Report .

In regard to the nine items that IPART are seeking comment as outlined on pages 11 and 12 of the Draft Report, Council offers the following comments:

Item 1 – Measurement of change in employee costs

Council is supportive of calculating the change in employee costs utilising the changes in the Local Government State Award. As the Award is set for three years future increases are known for that period and are Council specific. As the alternative whilst the Award negotiation is being undertaken when a rate peg needs to be set, the use of the Reserve Bank forecast for the Wage Price Index (WPI) as adjusted would be acceptable.

Council does not agree with the notion expressed by surveyed ratepayers that accepting Award increases as a measure of change in employee costs would mean that Councils would have no incentive to negotiate lower wage increases. All Councils in NSW have obligations under Section 8A(1)(b) of the Local Government Act 1993 to carry out their functions in a way that provides best possible value for residents and ratepayers. Further Section 8B of the Local Government Act 1993 requires Councils to spend in a responsible and sustainable way. Councils must also consider intergenerational equity in that current generations fund the costs of services provided to it.

Applying the change in employee costs, would also be done via a weighting derived from financial data returns for the most recent three year period with the formula being employee costs divided by total operating costs over that period. Council suggests that IPART may need to clarify the employee costs used in the weighting. Councils report their gross employee costs in Note B3-1 to the annual financial statements. However, the actual employee costs recognised as an expense and against operating costs is reduced by an amount that is 'capitalised'. The capitalised employee costs represent those costs attributable to capital expenditure undertaken by the Council in a given year and can vary. As demonstrated in the extract from Council's audited 2022 financial statements below, there was a \$973k reduction in the value of employee costs capitalised whereas gross employee costs increased by \$1.049million. Council's total employee costs recognised as an expense changed by \$2.022million (increase).

To be consistent it is suggested gross employee costs would be the best indicator, not employee costs expensed as shown in the Income Statement as this would remove the variability in employee costs capitalised from year to year.

Byron Shire Council | Notes to the Financial Statements 30 June 2022

B3 Costs of providing services

B3-1 Employee benefits and on-costs

\$ '000	2022	2021
Salaries and wages	25,010	24,298
Employee termination costs	–	141
Employee leave entitlements (ELE)	5,073	4,653
Superannuation	2,824	2,788
Workers' compensation insurance	634	572
Fringe benefit tax (FBT)	21	43
Payroll tax	180	155
Training costs (other than salaries and wages)	244	289
Total employee costs	33,986	32,937
Less: capitalised costs	(2,134)	(3,107)
Total employee costs expensed	31,852	29,830

Item 2 – Alternative sources of data on employee costs

There is no perfect approach however, using Award increases is Council specific and directly relevant so there is logic to its validity as a source of data to reflect changes. In setting the rate peg for the year in which the Award is being negotiated and the next increase it not known, IPART may want to consider a further adjustment to pick up the change if the WPI used varied from the next Award increase in the following rate peg setting year once the Award is determined.

Item 3 – Timing of rate peg announcements

Council understands the proposed timing for rate peg announcements will be indicative rate pegs in September and final rate pegs updated with Emergency Services Levy (ESL) contributions in May. An advantage of knowing the rate peg early assists with Council commencing the formulation of its annual budget for the oncoming year. For Byron Shire Council this process starts in October.

Council's public exhibition of the 2023-2024 IP&R documents commenced in May 2023, following the May 2023 Ordinary Council Meeting which is generally held in the third week of month. Based on this, Council would ideally require the final rate peg determination to be received mid-May at the latest, to allow for the preparation and distribution of the Council Meeting Agenda and Business Papers ten days prior to the meeting.

Whilst Councils are on different meeting cycles, if the final rate peg is received in late May, Council may already have its documents on public exhibition with the proposed rate structure. It is noted that IPART needs to incorporate the ESL information so one option may be that Council exhibits a proposed rating structure incorporating the rate peg as announced in September, with a reference that the final rate peg determination may be made post public exhibition and could change. This scenario currently exists in the determination of the interest rate to apply for overdue rates and charges.

Item 4 – Emergency Services Levy (ESL) – further information

Byron Shire Council is part of the Far North Coast Zone of the Rural Fire Service. Within this zone are the local government areas of Ballina, Byron and Tweed Councils. Whilst the Rural Fire Service runs its own affairs, Byron Shire Council provides the financial administration of the Far North Coast Zone.

Each Council is separately charged their respective contributions to the Emergency Services Levy for the Rural Fire Services along with Fire and Rescue NSW and the State Emergency Service by Revenue NSW. However, in respect of the Rural Fire Service zone operations, Byron Shire Council acts as the 'Bank' for the other two Councils. In this regard Byron Shire Council pays all the expenses for each Council in the zone but is later reimbursed by Ballina and Tweed Councils for expenditures associated with their areas through invoicing those Councils. Whilst there maybe timing differences between paying expenditure on behalf of the other Councils and being reimbursed, each Council does eventually recognise their own respective costs for the Emergency Services.

Item 5 – Provision of timely information on actual ESL contributions

Council would be in a position to provide information to IPART on actual ESL contributions upon receipt of the assessment notice from Revenue NSW if required. However, as each Council in the Far North Coast Rural Fire Service Zone is individually billed by Revenue NSW, the information Council could provide would only be the ESL information for Byron Shire Council. No cost sharing arrangement is applicable between Byron, Ballina and Tweed Councils in respect of the ESL levy.

As indicated in the Draft Report the ESL Levy is an important issue for Council given the unforeseen increase in the levy. Along with cancellation of the State Subsidy, this meant that Council must incur an unforeseen expense of an additional \$219k. The growth in rate revenue from the 2023/2024 rate peg including the population growth component has meant Byron Shire Council lost the equivalent of 20% of the additional rate revenue to fund the net increase in the ESL let alone any other cost increase.

As indicated in the Draft Report on Page 55 where some Councils expressed the view the ESL should be removed from general income, for Byron Shire Council to cover its assessment for 2023-2024 of \$615,572.27 would equate to an additional 2.1% general rate increase.

Item 6 – Support IPART establishing a process to develop adjustment factors for groups of Councils to cover specific external costs

Council would support IPART establishing a process to develop adjustment factors for groups of Councils to increase the rate peg to cover specific external costs. Whilst it has a time lag as it is backwards looking, LG NSW annually undertakes a survey of Councils to establish cost shifting from other levels of Government. The survey asks for specific information concerning costs of functions now the remit of Councils which were previously State Government functions. The most recent cost shifting survey by Council indicates Byron Shire Council, based on 2021/2022 expenditures, is covering \$5.3million in costs related to other levels of Government. If in the future Councils are required to pick up additional functions or services and IPART are looking to factor that into any rate peg approval, Council would be willing to assist in the provision of data or other information as required.

Item 7 – Support measuring only residential supplementary valuations for the population factor

Council would prefer the retention of the existing calculation basis that all supplementary valuations are considered in calculating the population factor, not only residential. It is possible, for instance, that properties categorised as farmland may be subdivided into smaller properties that may still undertake farming as the dominant use of the property albeit there could be an element of a 'lifestyle' property and therefore a population increase as a result. Incorporating only residential supplementary valuations may exclude population growth in this regard and therefore underrepresent the real impact of supplementary valuations based on the intent of the population factor calculation. This could result in a population factor greater than should be granted.

There is no exact way to determine that every supplementary valuation increase is directly linked to population growth but if the view is to maintain per capita general income as population grows then including all supplementary valuations means that those directly linked to population growth are caught. This then reduces the impact upon Councils in how they categorise properties for rating given it can be difficult at the best of times, due to the broad definitions in the Local Government Act 1993 and the risk of legal challenge to the categorisation.

Item 8 – If supporting using residential supplementary valuations, suggested data sources to use

If the consensus is to utilise residential supplementary valuations only, the best approach would be to add this to the relevant Special Schedule to the Financial Statements on permissible income for general rates so there is public disclosure and potential audit of what Councils deem as residential in relation to supplementary valuations. This would then provide IPART with a data source if this information is included in the Statement of Compliance lodged with the Office of Local Government annually and also published in Council's Annual Financial Statements.

Item 9 – What implementation option does Council prefer for changing the reg peg methodology

From the outset Council agrees with the view of IPART to undertake regular reviews of the rate peg methodology at least on a five year cycle as outlined on Page 108 of the Draft Report. This obviously provides the opportunity to ensure the rate peg is as accurate or relevant as possible if calculated with a methodology reflecting the environment Local Government is operating in.

For simplicity, Council would favour complete implementation of the revised methodology for the 2024-2025 rate peg that:

- replaces the LGCI with the 3-component BCC model and uses 3 council groups
- amends the population factor to remove prison populations.
- develops a separate ESL factor, and
- includes a one-off true-up adjustment for the differences between the LGCI and the BCC (excluding the ESL) so that councils would be no worse off under the new methodology compared to what they would have received under the existing methodology for 2024-2025.

Although this is a significant change, if the changes are implemented in their entirety and Council's interpretation is correct, the use of the 'true-up' factor would ensure no potential disadvantage.

Other Comments

Council supports the recommendation on page 110 of the Draft Report in that the NSW Government commissions a review of the financial model for Councils in NSW. Further, Council would support the seven matters for further consideration on page 111 of the Draft Report noting that some of these were included in the previous review of the Rating System by IPART but not supported by Government (Items 1 and 2), some were included in the "Fit for the Future" program but never eventuated (Part of Item 7) and Item 5 would require legislation change especially the stormwater management service charge that has been fixed at the same rate for seventeen years.

If you have any further inquiries please contact [REDACTED]

Yours sincerely

[REDACTED]

Mark Arnold
General Manager