Contact Name: [redacted]
Contact No: [redacted]
Our Reference: OUT-5086/23

3 July 2023

Independent Pricing and Regulatory Tribunal
Online Submission

Dear Sir/Madam

Response to IPART Draft Report - Review of the Rate Peg Methodology

Council appreciates the opportunity to provide the attached responses to IPART's Draft Report "*Review of the rate peg methodology – June 2023*". Council made a submission to the first draft in October 2022 and the Council report with Council's submission is also attached for your reference.

It is disappointing that the amount of time to make submissions was limited to only 28 days in June. The staff required to review this document are primarily finance and accounting staff and throughout June are finalising the 2023/2024 budget so the timing of such consultation should have taken this into account. In addition, the duration does not take into account Council's reporting process so it is not possible to review the report, assess the implications, report this to Council and obtain a Council decision or resolution.

Yours sincerely

[redacted]

Upper Hunter Shire Council

Response to IPART's Draft Report

Review of the Rate Peg Methodology – June 2023

IPART Questions	Council Responses
1. What are your views on using one of the following options to measure changes in employee costs in our Base Cost Change model? How can we manage the risks associated with each option when setting the rate peg?	
a. Use annual wage increases prescribed by the Local Government (State) Award for the year the rate peg applies, adjusted to reflect any change in the superannuation guarantee rate.	Utilising Award increases fails to capture the over-award costs such as performance increases for staff stepping through the salary system as well as inflated costs to attract and retain staff in difficult to recruit areas. Council has seen increases in some positions as high as 20% over former year salaries due to industry shortages in roles such as planning, engineering and compliance.
b. Use the Reserve Bank of Australia's forecast change in the Wage Price Index from the most recent Statement on Monetary Policy (averaging the changes over the year to June and December for the year the rate peg applies), adjusted to reflect any change in the superannuation guarantee rate.	It is recommended that this index would be more reflective of real wage increase that allows the Local Government Award to be more competitive with the open wages market.
2. Are there any alternative sources of data on employee costs we should further explore?	None noted
3. Do you support releasing indicative rate pegs for councils in September, and final rate pegs that are updated for councils' Emergency Services Levy contributions in May?	Yes, this is supported to ensure councils are not disadvantaged by significant and somewhat unknown increases to the Emergency Services Levy that are announced without any consultation or warning. However, what is the driver behind the linkage to the Emergency Services Levy? It seems that this is another form of cost shifting which will be placed on councils who are effectively collecting a form of State Government tax from councils' rate payers?
4. Do you have further information on arrangements between councils to share Emergency Services Levy (ESL) contribution bills including: Executive Summary Review of the rate peg methodology	Refer below

a. what these arrangements cover (including whether they cover matters other than ESL contributions), and	There seems to be a considerable lack of transparency as to what the ESL contributions cover and the methodology around the calculation for individual councils.
b. whether they apply to Rural Fire Service, Fire and Rescue NSW and NSW State Emergency Service ESL contributions, or contributions for only some of those services?	It is assumed that the ESL covers these components only as the contributions are segregated on the annual levy notice. This raises the question as to whether these are used for other services or going towards State Government administration costs?
5. Would councils be able to provide us with timely information on the actual ESL contribution amounts they pay including contribution amounts paid to the:	Overall, Council can provide actual data for the ESL contributions however, this is only historical data. The issue has been the limited notice of impending increases to the ESL contributions for the next financial year which are only provided to Council by way of issuing the annual contributions levy notice in late April early May.
a. Rural Fire Service	Yes, historical data only, not forecasted.
b. Fire and Rescue NSW	Yes, historical data only, not forecasted.
c. NSW State Emergency Service? For example, by providing us with a copy of any cost sharing agreement that sets out the proportion that each council pays.	Yes, historical data only, not forecasted. In respect to cost sharing agreements, the Council's current executive management team are not aware of any such agreements.
6. Would you support IPART establishing a process to develop adjustment factors for groups of councils to increase the rate peg to cover specific external costs?	Yes, large footprint rural councils with a low rate base are disadvantaged by the current methodology as costs to deliver services to the farming ratepayers, such as rural road maintenance, far exceeds the cost of road maintenance within a metropolitan urban environment. This is due primarily to length of roads to maintain, remoteness and supply of materials. The only method of increasing the rate peg is through a Special Rate Variation process which is, for rural councils, quite an intensive and arduous task given the already limited resources that these councils have available.
7. Would you support measuring only residential supplementary valuations for the population factor?	As stated in Council's first submission the logic of an increased rate peg for growing communities is flawed. Councils with growth are already benefiting from both the developer contributions and the increase in rateable properties realised through their growth yet the increase in maintenance of their infrastructure is not increasing at the same rate as growth, nor is the administrative burden on the council increasing as the population grows. Conversely, councils with low growth rates are unable to maintain the standard of maintenance as the rate base is not increasing.

8. If you supported using residential supplementary valuations, what data sources would you suggest using?	Not supported.
9. What implementation option would you prefer for the changes to the rate peg methodology?	Council believes that methodology for rate peg is quite simple. It should align itself more with an overarching consumer price index which provides a more realistic increase based on the inflationary effects of wages, materials and services. The current methodology appears flawed on the basis that the increase does not seem to take this realism into account as the rate peg ultimately is lower than the inflation rate and/or council Award wage increases in most respects. For example, the rate peg for the 2023/2024 year of 3.7% is lower than the inflation rate of approximately 7.00% and the State Award increase of 4.5%, as seen by these % increases, Council is already disadvantaged when comparing rate revenue increases against the cost of delivering services to the community! This example was even more amplified by the introduction of the new rate peg methodology introduced for 2022/2023 in which a rural council with minimal population growth was recommended with only a base rate peg of 0.70%. Due to the considerable angst displayed by councils, applications were allowed for an Additional Special Variation in which councils' rate peg increase to 2.0%. This however, only covered the State Award increase of 2.0% but paled in significance to the inflation rate running at 8% and higher, especially for the civil construction industry which includes councils' primary service to the community in the delivery of road maintenance to its vast network.

G.10.4	***COUNCIL SUBMISSION TO IPART RATE CAPPING ISSUES PAPER***
RESPONSIBLE OFFICER:	Greg McDonald - General Manager
AUTHOR:	Greg McDonald - General Manager

PURPOSE

The purpose of this report is to provide Council with a draft submission to the IPART rate capping issues paper for endorsement.

RECOMMENDATION

That Council:

1. make a submission to the IPART Rate Capping Issues Paper in accordance with the draft document in attachment 3 that supports the abolition of rate capping and provides feedback on the present rate capping issues; and,
2. advise the United Services Union of this resolution.

BACKGROUND

Council has not considered this matter previously.

REPORT/PROPOSAL

Since 1977 New South Wales local government has been controlled by rate capping. Rate capping is set at a maximum each year and councils resolve to adopt a rate up to but not exceeding the rate cap amount set by the state government. Historically most councils adopt the maximum rate cap. Councils also have the option of applying for Special Rate Variations (SRV) when they have particular financial requirements. SRVs are subject to the council undertaking community consultation and a rigorous financial assessment by the Office of Local Government.

In 2008, the NSW Government asked IPART to review the framework for regulating council rates and charges. The review identified that stakeholders were concerned about the transparency of the approach for setting the rate peg, given the methodology had never been clearly explained.

The review recommended using a new local government-specific cost index that is calculated transparently and designed to reflect movements in councils’ costs to determine the rate peg.

The Local Government Cost Index (LGCI) measures the average annual change in councils’ costs. This index measures the change in prices of a fixed ‘basket’ of goods and services purchased by the average council relative to the prices of the same basket in a base period. It is similar in principle to the Consumer Price Index (CPI) used to measure changes in prices for a typical household. A productivity adjustment factor would also be added to account for councils’ productivity gains.

In 2010, the NSW Government announced that from 2011/12 the amount by which councils could increase their rates income would be determined by IPART, having regard to the movements of the LGCI and productivity factor. IPART exercises this power under delegation from the Minister for Local Government.

For the 2022/2023 financial year, IPART set a rate cap of 0.7% and within weeks of the rate cap being announced the Office of Local Government recognised the futility of this and announced an additional special variation to allow councils to apply up to 2.5%. Upper Hunter Shire made submissions to be granted a 2% increase which was subsequently approved by the OLG.

Upper Hunter Shire's rate income of approximately $12 million is about 12% of the total budget and only a quarter of the operating budget, meaning that just to remain operational (not undertaking any capital works) Council relies on other funding sources to continue to operate.

It is clear that the one size fits all for rate capping does not work across all councils with different aged assets, community sizes, density and community needs. In 2022 IPART advised that they were modifying the mechanism to provide a rate cap that allowed for variable caps dependent on a Council's population growth rate. These caps for 2023/2024 were released on 29 September 2022 and varied from 3.7% to 6.8% with the highest rates being assigned to councils with the highest population growth rates. For Upper Hunter Shire Council, with low growth rates, we have been granted a rate cap of 3.7% (the lowest available). The logic of providing high increases to councils with high population growth rates is not logical and assumes that costs increase proportionately with growth. This is incorrect and to some degree is already managed through the increase in rateable properties without the need to also increase the rates collected from those properties. In essence, councils with high growth rates are getting not only the percentage increase from the rate income but the size of the rate income is also increased from the increased rateable number of properties.

In contrast, councils such as Upper Hunter do not have any rate increase through new rateable properties.

Present construction indices and wages growth are also outstripping any real increase in rate income, making Council even more reliant on grants and other forms of income to remain sustainable.

Given the issues with rate pegging, The NSW Government have called for a review and are seeking Council feedback by 4 November 2022.

Under section 9 of the Independent Pricing and Regulatory Tribunal Act 1992, the NSW Minister for Local Government, Wendy Tuckerman, asked the Independent Pricing and Regulatory Tribunal (IPART) to investigate and report on the current NSW rate peg methodology. In particular, the Minister for Local Government sought IPART to investigate and make recommendations on the following six matters:

1. Possible approaches to set the rate peg methodology to ensure it is reflective of inflation and costs of providing local government goods and services;
2. Possible approaches to stabilising volatility in the rate peg, and options for better capturing more timely changes in both councils' costs and inflation movements;
3. Alternate data sources to measure changes in councils' costs;
4. Options for capturing external changes, outside of councils' control, which are reflected in councils' cost';
5. The effectiveness of the current LGCI approach; and,
6. Whether the population growth factor is achieving its intended purpose.

In reviewing these matters, the Minister for Local Government required IPART to have regard for the following factors:

a) The Government's commitment to protect ratepayers from excessive rate increases and to independently set a rate peg that is reflective of inflation and cost and enabling financial sustainability for councils.
b) The differing needs and circumstances of councils and communities in metropolitan, regional and rural areas of the State.
c) Ensuring the rate peg is simple to understand and administer.

Following this request, IPART (2022) published its Review of Rate Peg Methodology: Issues Paper on 29 September 2022. In the Issues Paper, IPART (2022) identified twenty matters on which it sought input from both the NSW local government sector and the broader general public by 4 November 2022:

In addition, Professor Dollery has been commissioned by the United Services Union to review the IPART report and make his own recommendations. Professor Dollery recommends the abolition of rate pegging.

Provided under separate cover are copies of the Dollery paper (attachment 1) and the IPART Issues Paper (attachment 2). A draft submission is attached for Council endorsement (attachment 3).

OPTIONS

Council can choose to:
1. endorse the submission drafted,
2. modify the submission as presently drafted to include or exclude additional material,
3. not make a submission.

CONSULTATION

Consultation with the Director Corporate Services, Finance Manager and General Manager have occurred in the preparation of the submission.

STRATEGIC LINKS

a. Community Strategic Plan 2032

This report links to the Community Strategic Plan 2032 as follows:

Responsible Governance
Providing efficient and responsible governance in order to effectively serve the community.
5.4 Open and effective communication methods and technology are utilised to share information about Council plans, intentions, actions and progress.
5.5 Community is effectively engaged, can provide opinion and contribute to decisions that plan for the present and future of the Upper Hunter Shire.

b. Delivery Program

- Ensuring regulatory and statutory compliance

c. Other Plans

N/A

IMPLICATIONS

a. Policy and Procedural Implications

There are no policy implications

b. Financial Implications

Rate income makes up approximately $12 million annually.

c. Legislative Implications

There are no legislative implications. Council will comply with all rating legislation.

d. Risk Implications

There are financial risks associated with the method of calculation of rates and reputation risks to Council if rates are increased significantly without due consideration to the community.

e. Sustainability Implications

There are long term financial sustainability implications if Council is unable to raise significant rate income on an annual basis.

f. Other Implications

NIL

CONCLUSION

IPART are seeking feedback on their present issues paper on rate capping methodology. Council has prepared a draft submission that firstly recommends that NSW joins the rest of Australia and abolishes rate capping and has also provided feedback to IPART on a number of the processes that it feels need to be reviewed if rate capping is to continue.

ATTACHMENTS

1	IPART Rate Capping Report for USU Dollery	Excluded
2	Issues Paper Review of rate peg methodology-September-2022	Excluded
3⇩	Submission to IPART on rate capping	

Submission to IPART, LGNSW and OLG on the IPART Issues Paper

Upper Hunter Shire Council (UHSC) welcomes the opportunity to make a submission on the IPART Issues Paper on rate capping.

In summary, Council believes that the one aspect of the Issues Paper that has not been adequately addressed is the abolishment of rate capping in NSW. In this respect, Council is fully supportive of Professor Dollery in his review of the Issues Paper and his recommendation 1: A 'first – best' approach to abolish rate capping and grant local councils the freedom to strike their own rates and be held accountable by their own local residents.

In regard to the 20 questions posed in the Issues Paper the questions and Council's responses are shown below.

1. To what extent does the Local Government Cost Index reflect changes in councils'costs and inflation? Is there a better approach?

The use of an average index is too blunt of a tool when considering councils of different size, regions and community make up. The weightings used by IPART, for example, do not reflect the weightings of the Upper Hunter Shire and as such the index is significantly lower than actual costs. In addition, smaller councils are often operating under a number of different awards especially when those councils provide services such as child care and aged care and these awards and staff payments cannot be averaged across a local government award.

Page 7 (fig 1) of the IPART Issues Paper shows the weighting for each however when compared to UHSC actuals it is apparent how far these vary.

IPART Weighting		UHSC Actual
38.6%	Labour	29.9%
26.9%	Road and bridge construction	19.8%
6.2%	Business services, including administrative services	9.0%
4.9%	Non-residential building construction	1.2%
3.0%	Plant and equipment – machinery	1.3%
2.3%	Utilities (electricity, gas, and water)	1.4%
2.1%	Operating contracts	3.4%
1.5%	Emergency services levy	1.0%
1.2%	Insurance	1.5%

2. What is the best way to measure changes in councils' costs and inflation, and how can this be done in a timely way?

Professor Dollery provides strong arguments for more accurate rate capping based on better indices and geographical and regional influences. Council is supportive of Professor Dollery's position.

All correspondence to:
General Manager | Upper Hunter Shire Council | PO Box 208, Scone NSW 2337
Phone: Scone Office 6540 1100 | Merriwa Office 6521 7000 | Murrurundi Office 6540 1350
Email: council@upperhunter.nsw.gov.au UPPERHUNTER.NSW.GOV.AU

3. What alternate data sources could be used to measure the changes in council costs?

Council's biggest increases in cost has been labour, materials and fuel. Relying on long term (2 years in some instances) of data is not adequate when there are large spikes in prices

4. Last year we included a population factor in our rate peg methodology. Do you have any feedback on how it is operating? What improvements could be made?

The report (pg 8) states "When the population a council serves grows, the costs of delivering local government services in the council's area also grow." This is an over simplistic statement and fails to recognise that the cost does not increase proportionally. In fact the reason for amalgamation of so many local government areas was to provide a more efficient mechanism so that larger populations could be serviced with less staff in a more efficient way. There are two flaws with the present population growth mechanism:

(i) Councils that do have growth are achieving this primarily through higher land density development so the assets provided by the council are not increasing by the same rate of growth. Some assets may be utilised at a higher rate such as parks and community halls and where new assets are required these will be funded through developer contributions. Where existing assets are impacted through increased use, such as roads, then the already increased rate revenue from the growth in rateable properties should address this. There is in fact a double dip occurring where councils are getting increased rateable properties <u>plus</u> an increase in the amount levied on each property.

(ii) There is an incorrect statement in the Issues Paper that as councils grow they provide more services. This is incorrect and in many smaller councils (especially in rural and regional areas) the council provides services far in excess of larger councils due to the fact there are no other state or private providers to do so and the size of the council area precludes a commercial provider undertaking these services. In the case of UHSC, because of our low population, we provide aged care services, child care services, subsidised rental to medical practitioners, all of which wouldn't be provided if we had sufficient growth to attract private investors to run these services. As such the logic that a population growth equates to Council providing additional services is incorrect and serves to actually disadvantage smaller councils with low growth who provide a vast array of services to its community until such time as population growth is sufficient to attract commercial providers.

5. How can the rate peg methodology best reflect improvements in productivity and the efficient delivery of services by councils?

The measurement of efficiency in local government has still not been adequately defined. As seen in the Fit for the Future process, relying on 10 KPIs to measure a council's performance fails to take into consideration many factors including rateable area (if a council has 50% national park and unrateable land how can it be compared to another council with only 10% unrateable land), length of roads, weather conditions, heavy vehicle routes, distance from major centres. There is no one size fits all which is why trying to develop a measure for 128 vastly different LGAs is flawed. Instead, the abolition of the rate peg and providing each council with the mechanism to determine their own within their own political space is the only solution.

6. What other external factors should the rate peg methodology make adjustments for? How should this be done?

As pointed out able councils provide a vast array of services not included in the LGCI and a more targeted actual cost of service provision should be undertaken.

7. Has the rate peg protected ratepayers from unnecessary rate increases?

No. The rate peg has stifled councils from providing the appropriate services and service levels to our community. It has resulted in lower service levels only. The argument that removing rate pegging will result in councils going crazy with rate increases is ludicrous. No elected member of a council will increase rates without a good cause and some may actually choose to not increase as much as they no longer have the protection of "well we're just implementing what IPART recommended" and will have to justify their decision making. Professor Dollery points out many examples across Australia where rate pegging is not used and the councils are providing value for money efficient services to their communities.

8. Has the rate peg provided councils with sufficient income to deliver services to their communities?

No. Services are cut each and every year to be able to provide services within our financial means.

9. How has the rate peg impacted the financial performance and sustainability of councils?

The financial performance would appear (by looking at the KPIs) to be maintained however the financial KPIs don't measure the real service delivery to the community.

10. In what ways could the rate peg methodology better reflect how councils differ from each other?

The methodology of additional incremented level of rate peg percentage for growing population areas has the effect, in Council's opinion, of a methodology that is detrimental to the smaller rural and regional councils. This opinion is based on the fact that the level of rate peg approved is normally below that of the current consumer price index (CPI), meaning Council's ability to maintain the level of service for the community declines due to reduced dollars to spend.

It is noted that with smaller rural communities, rating revenue is primarily the main form of constant revenue stream that Council can generate, which is obviously outside the delivery of operational and capital grant funding that is not guaranteed. Limiting the level of rate peg percentage to a minimal base rate, like the 0.70% initially provided for the 2022/2023 year, places these councils into total despair removing the council's ability to service the community of basic requirements.

In addition, with a lot of smaller rural councils, similar to that of the Upper Hunter Shire, the vast rural unsealed and sealed road network places strains on the Council financially and thereby limiting the level of rate peg percentage reduces Council's ability to maintain and service these roads to the level of satisfaction required by the farming ratepayers. Therefore, when it is recommended that when determining the methodology behind the rate peg consideration of the Council's geographical footprint and road network may be prudent.

It can be said that with a growing region councils do benefit from additional revenue streams including s94 and s64 development contributions to increase infrastructure amenities for the Community.

11. What are the benefits of introducing different cost indexes for different council types?

Unless an index can take into account all the variables as highlighted in point 5 above, then there is no benefit in introducing more. As pointed out above you have 128 different councils and no index will be representative of them all, or even representative of different types (unless you are prepared to have 128 different types of course).

12. Is volatility in the rate peg a problem? How could it be stabilised?

Volatility is not a problem provided it follows the true costs. When costs of fuel, wages and materials are going up by 5% or more and IPART makes a determination of a rate peg of 0.7% then that volatility against actual costs is the biggest concern for councils as the rate peg has no real world relativity to the costs being faced by the council.

13. Would councils prefer more certainty about the future rate peg, or better alignment with changes in costs?

Certainty may assist but certainty of a low rate peg (or an incorrect rate peg amount) won't provide much long term sustainability to a council if it has to wait several years to get it adjusted.

14. Are there benefits in setting a longer term rate peg, say over multiple years?

See point 13.

15. Should the rate peg be released later in the year if this reduced the lag?

The release date of the rate peg information, as it currently stands in December preceding the next financial year, meets Council's requirements for preparation of the forward year's budget.

16. How should we account for the change in efficient labour costs?

The demonstration of an efficient labour force and costs associated with this should not have an influence on the rate peg increments as this efficiency should remain with Council to achieve increased level of services for the Community.

17. Should external costs be reflected in the rate peg methodology and if so, how?

All costs should be accounted for in the rate peg. There is no known logic for removing any costs.

18. Are council-specific adjustments for external costs needed, and if so, how could this be achieved?

Absolutely yes and the only way to do council specific adjustments is to allow each council to determine these adjustments themselves and take ownership of them. No two councils are the same and trying to place an artificial index based on average costs across 128 councils is in itself flawed. If council specific adjustments are to be made by IPART how would IPART have the resources to control and measure this? It is inefficient to think IPART could do this better than the council itself.

19. What types of costs which are outside councils' control should be included in the rate peg methodology?

All costs should be included in the rate peg. To not include some costs will automatically result in councils having insufficient funds to operate.

20. How can we simplify the rate peg calculation and ensure it reflects, as far as possible, inflation and changes in costs of providing services?

The simplest, most cost efficient mechanism is to abolish the rate peg and allow councils to determine their own rates.