IPART Independent Pricing and Regulatory Tribunal | NSW

Review of the Rate Peg Methodology

Public Hearing Transcript

Tuesday, 18 July 2023

Online - Zoom

Local Government »

Acknowledgment of Country

IPART acknowledges the Traditional Custodians of the lands where we work and live. We pay respect to Elders both past and present.

We recognise the unique cultural and spiritual relationship and celebrate the contributions of First Nations peoples.

Tribunal Members

The Tribunal members for this review are:

Carmel Donnelly PSM, Chair
Deborah Cope
Sandra Gamble

Members of the Secretariat for this review are:

Sheridan Rapmund, Carol Lin, Bee Thompson, Kristy Mamaril, Lawson Spencer, Simon Thomas, and Lei Wang.

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The Independent Pricing and Regulatory Tribunal

IPART's independence is underpinned by an Act of Parliament. Further information on IPART can be obtained from IPART's website.

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1.1 Welcome and overview

Mr Nicholls: Well good afternoon everyone and thank you for your interest in IPART's review of the rate peg methodology. It's great to see so many of you joining us here today. Welcome to today's public hearing where we'll be discussing the rate peg methodology.

My name is Andrew Nicholls and I'm the Chief Executive Officer at the Independent Pricing and Regulatory Tribunal. I'll be managing the public hearing today so I'll just start with a little bit of housekeeping. Please keep your microphone muted, if possible, when you're not speaking, just to avoid feedback and background noise and we encourage you to keep your cameras on if your internet connection is up to it and if you're comfortable with doing so, of course, as it helps us all to connect during this online meeting.

Please show your name, and if relevant to your organisation and the instructions for doing that have been provided in the chat box. Now to help with accessibility we have turned on Zoom captions but there's a message in the chat on how to turn these on as well.

Now to ensure we have an accurate record of the discussion today the hearing is being recorded. Today's hearing will also be transcribed, and we will place a copy of the transcript as well as the link to the YouTube video recording on our website in a few days' time. We'll also be publishing presentation slides and the agenda on our website. Because this is a public hearing, the media and others present are free to publish or refer to anything that's said during this event. And we also want to remind everyone that we have a responsibility to ensure a respectful environment today so that everyone feels safe to share their views.

At around the 20-minute break, sorry at around the 3:50pm mark we'll have a 20-minute break but we have a fairly heavy agenda to get through this afternoon. So we might press on.

Now, I'll briefly go through how we plan to run our discussions today. We want to encourage a meaningful and productive discussion and we're interested in hearing from as many people as possible participating in this hearing. We'll be providing opportunities to speak during our discussion time and please allow others to have their say. We kindly ask that you all remain patient and respectful in your communication. We'll also ask for no interruptions when somebody is speaking.

And I would also encourage you to keep your verbal submissions brief and to the point and I will jump in if it looks like somebody is going a little bit too long, so that everybody can have their say. But importantly, if you've got a comment to make, make sure you make those comments in the comment box. We'll pick all of those comments up. So if you don't get a chance to speak or make all of your points definitely make sure you get those points up there in the chat box. We'll cover all of those when we're reviewing the submissions and the things that we hear today.

Now we've received 72 submissions to our Draft Report, and we'd like to thank everyone of those people for providing feedback to us. We will consider all of those submissions and undertake our own due diligence in making our final decisions here and recommendations.

Today's public hearing is an opportunity for all stakeholders to share any additional views that you may wish to raise beyond those that you have already raised with us in your submissions. And we will do our best to get to every one of you. But, as I say, if we're not able to get to you all or answer your question at the time allocated, we will take note of the questions and comments you've raised, and respond to you after the public hearing. Now, with those housekeeping points out of the way. I'd like to now hand over to the Tribunal Chair Caramel Donnelly to provide a welcome and an overview of today's agenda.

Ms Donnelly: Thank you, Andrew, and good afternoon everyone. Thank you very much for making the time to join us today. As Andrew said my name is Carmel Donnelly I'm the Chair of the Independent Pricing and Regulatory Tribunal known as IPART for short. And with me today our fellow Tribunal Members Deborah Cope and Sandra Gamble. We also have quite a few members of the IPART Secretariat team including Sheridan Rapmund, Maricar Horbino, Bee Thompson, Carol Lin, Lawson Spencer, Simon Thomas, Joyce Tapper, and Lei Wang. Now I know that sounds like quite a few people, but it does reflect the fact that we are here to listen today. And we will be considering everything that is said today.

Now before I go too much further let me acknowledge the traditional custodians of the lands from where we are all joining the meeting today, and pay our respects to Elders, past and present and also extend that respect to Aboriginal people who are joining us today, and all our Aboriginal colleagues and customers and stakeholders and we very much want to acknowledge that the traditional custodians have paid great care to the land on which we are meeting.

I'd like to also just say how much we welcome and value your input today. This is an important part of our consultation, and I will talk in a few minutes and make a few opening remarks about the types of consultation that have been part of this review, but we will take everything into account. We look forward to a very productive discussion.

As I said earlier we'll be listening to feedback. I do want to assure you that there's no need to repeat material that you may have put in a submission, but certainly you're welcome to highlight the aspects that you feel are most important, or to clarify and we'll be taking all of that into account.

Now for this public hearing we've structured the discussion into 3 sessions. We do have around 3 hours and we are going to start general and then get into the detail. So each of these sessions will have a brief introduction from some IPART team members, just so that everyone is up to speed with what part we're talking about. And then, we will go into discussion and questions.

The first is about measuring changes in councils' base costs. And that is where we'll discuss our proposed method that would be simpler than the current method for the rate peg and include more forward-looking sources of data.

The second session is about other adjustments. Now that will include discussion around the Emergency Services Levy (ESL), also potentially external costs, the population factor and productivity. And then as Andrew said, we'll have a short break.

The third session is about transition arrangements. So how revised rate peg methodology would be implemented. And we can also talk about the broader issues raised by stakeholders and in particular there, those broader issues have been raised in consultation with us throughout this review, and we've made a draft recommendation that Government consider investigating the financial model of local government, of councils more broadly. So each of these sessions, we'll have a short presentation, and then we'll invite you to raise any issues or ask any questions, certainly put your views to us.

So I'll just quickly talk about the process so far. We're just setting the scene in terms of the rate peg and our role. The rate peg is the maximum amount in percentage terms that councils can increase their general income each year and general income is mostly rates income. It plays an important role in regulating council's rates income which they use to fund important goods and services.

But it is only one source of funding for councils, and on average represents about a third of a council's total income. So our role under delegation from the Minister for Local Government is as an economic regulator, and this includes setting a rate peg each year as the Ministers' delegate, and also determining applications for increases in minimum rates and special variations and crown land adjustments and those, while not part of this review of the rate peg methodology are areas where we've received some other comments that could be part of a broader review that we are suggesting government undertake. So our rate peg review is also separate from the annual rate peg setting process. It's really a level above that. Looking at how that's done.

The next slide has a diagram that we included in our Draft Report and we thought we'd just highlight that to show how the rate peg methodology is really just part of a larger system for local government. So ratepayers we've put at the centre, the focus of decision making should always be the ratepayers, whether it's looking at rates and setting of rates or ensuring that people are able to access the services that they need and want.

The next layer around the rate peg is the elected council. And so local government, of course, is a level of democracy, democratically elected government, and it is the primary decision maker, and is accountable to ratepayers for council performance and it makes decisions on those council services, on where it spends its money, and is expected to consider the needs of the community as well as legislation, and the operating environment set by NSW Government.

And then the outer ring is NSW Government and regulatory bodies including the role that IPART plays, but also the Audit Office, the Minister for Local Government, the Office of Local Government, and we note also that there is funding that comes from the Federal Government.

I want to just talk a little about the consultation that we've undertaken as part of this review, just as part of my opening remarks. We issued an Issues Paper in September last year and received 96 submissions to that. In December and November we conducted 7 public workshops, and that was followed by 4 additional focussed workshops to test the approach that might come forward in the Draft Report. Then, of course, we have released this Draft Report, and we have now received 72 submissions to that Draft Report.

We also engaged ORIMA a specialist market and social research company to undertake some surveys of ratepayers, both residential ratepayers and business and also hold some focus groups. And we've made the reports on that research public as well. And we have had 515 respondents to that business ratepayer survey, and 2,881 respondents to the ratepayer survey.

Let me just give you an overview of some of the things that have come out, and that we are really grateful for everyone who's given us their views and it has really prompted some deeper consideration by the Tribunal of issues including those that are outside the review of the rate peg methodology.

Our consultations highlight that it is definitely in the long-term interests of ratepayers for councils to be financially sustainable and affordable. And that is quite a challenge. This diagram that you have in front of you is really drawn out of some of the feedback from surveys and focus groups with ratepayers in which what they really want to see is that councils are using the funding they have effectively so that they have got sufficient funds so that there can be stability and predictability in rates and also affordability. I'll talk a bit more about that in a minute.

We also heard from councils that they are also concerned about financial sustainability and want to be able to use their rates effectively and efficiently and maximise what can be achieved.

In terms of more detailed feedback we certainly heard very strongly from ratepayers that affordability is top of mind, and we absolutely understand the cost-of-living pressures, and that that is very challenging. We also heard from people that a number of council services are services that people can't do without, and that they want to see those continue and to be provided with good quality.

We heard that there were concerns about the need for councils to use rates income effectively, the efficient use of funds, consulting with the community and delivering on the community and ratepayers priorities. They want to see accountability for councils and transparency and more information.

We heard from councils and council organisations that as I said, also concerns about financial sustainability and in particular, that many of the councils supported the base cost change model that we have put forward. That many supported the proposed approach to the emergency services levy but have some concerns about the timing of releasing rate pegs. We also receive some support for establishing a process to adjust for external costs.

Of course, stakeholders have varying views on these matters and also on implementation. And that's why it's very important for us today to have the discussion and hear your feedback. I will just add one more thing that many stakeholders do seem to be supporting a regular review of the rate peg methodology more frequently, and also the separate independent investigation of the financial model for councils that we have suggested government commission.

So just to set out a little bit of an overview of our draft decisions and there'll be more detail on this as we go through the public hearing today. We are suggesting changes to enable a more timely measure of cost changes, the changes in costs that councils bear with a new 3 factor base cost change model and breaking that up into 3 types of councils metropolitan, [regional] and rural to reflect the differences between councils.

We're looking to introduce a separate adjustment factor for the emergency services levy. And we're looking to capture external costs that may arise outside of the control of council, considering the merits of establishing another process for those where that's appropriate.

We are considering options for implementation and for having a reference group that would assist with that implementation and I will probably stop there so that we can go into more detail later.

We are going to invite some brief introductions, invite you to introduce yourself briefly in a moment, and just probably some 1 or 2 minutes, key points that you might want to raise in the introductory part of this discussion, and then there will be time for more detailed discussion later. And so before we do that, I will hand back to Andrew. Thank you very much.

1.2 Questions and discussion

Mr Nicholls: Great, thanks Carmel. As Carmel said, we would like to open the floor and just very briefly for any initial comments or questions as Carmel mentioned. We will get into the specific details about draft recommendations in the following 3 sessions. So there will be an opportunity to do a deeper dive and get your feedback. But here's an opportunity for any initial thoughts and comments, anything, any sort of overall comments about the direction that we are going. I encourage you to put any views that you have up in the chat or putting your hand up using the Zoom function. I think, Professor Drew has a comment I might try to throw to you.

Mr Drew: No, I didn't really have a comment. I just had a question. You said 3 categories of council, which I think is a good idea. You mentioned metropolitan and rural. I was wondering what the third category might be, and how you are going to get these categories.

Mr Nicholls: Deb, are you going to jump in?

Ms Cope: Yes, I'm happy to take that. So it's metropolitan, rural towns [regional] and rural. And it'll be at this early stage, I think, based around what those current definitions are within the local government. At the moment we did investigate up to 5 categories. But you know things like splitting the rural between larger rural and more remote areas. But when we start and breaking down the metropolitan one into outer metropolitan and inner metropolitan. But there tended to be 2 issues there. When we got smaller groups, we got smaller numbers of councils, and it meant that small changes within one council could affect the averages across the councils and so the groups wouldn't be so representative of all of the councils in the group.

And also we looked at what the difference would be, and we found that the differences were very much smaller. What the groups are designed to do is, it's actually just looking at how the councils split their expenditure between the categories. So labour asset costs and other costs, and how that differs within each of the groups, so that, the way that the rate peg is weighted will be different to reflect those different groups. If over time we can get more information and it turns out that different groupings are useful. Then that would be something that we could look at in future reviews of the rate peg.

Mr Nicholls: Thanks Deb. Now, I may not have this in the right order but Andrew Butcher.

Mr Butcher: Yeah, thanks, Andrew. So Andrew Butcher from NSW Revenue Professionals. So just like to say, up front, thank you to the IPART for the detailed and comprehensive balanced report that they've put forward and had participation in that along with LG NSW and the OLG has been significant. And this particular report has been very well considered, and there's a lot of detail to support all the decisions the IPART has made. So just to say upfront, that's all. And we'll get into the detail as Carmel has already outlined, so to have a bit more to say about those as we go through them. But thank you.

Mr Nicholls: Great, thanks Andrew. Next, I think Meg might have been next, Meg Montgomery

Ms Montgomery: Oh yeah, that's me. Similarly I just wanted to congratulate IPART on a well-considered report. We strongly support the straight pass through in terms of ESL. Obviously, we've provided more detailed commentary in our submissions. One area that we think further work needs to be done on is build-to-rent and we would welcome further dialogue around that but yes, just like the previous speaker wanted to start off on a positive note.

Mr Nicholls: Fantastic, thanks Meg. And then I've got Shaun on camera, but it could be Elizabeth, because I think both on the call there.

Mr McBride: Shaun McBride. Scott Phillips is unavailable at this time. Yeah, look, we'd like to commend IPART on this Draft Report. It's evident to us that IPART has listened to councils and has attempted to respond to the needs and concerns of councils. It's come through very strongly in this report.

We support the majority of IPART's decisions, recommendations, and findings, although there'll be some high points of difference on a small number of those. We're confident that the reforms will produce a better rate peg model and a peg with bit much better performance.

And we also commend IPART on supporting the NSW Government review of the financial model for local government. We think that's very important, and one that is of absolute critical importance and were very pleased to see is a separate factor for the emergency services levy, that is very important, and a major step forward in itself.

Mr Nicholls: Great. Thank you very much for those comments Shaun. Graham, I see you put some comments in the chat. Over to you.

Mr Kennett: Yeah, I thought it easier just to put some of those words in the chat. And same again, support the decisions. The report seemed well thought out and we felt that the issues that we'd raised along the way have been addressed as best as can be with living with rate pegging I guess.

But there were a couple of principles that were put forward earlier in submissions that we still thought needed some consideration in the final report. And that is around there being a range, either a standard deviation or a set plus or minus.

So that it's still even though you're setting 3 separate pegs in essence that there will still be some variability. There still should be either a statistical consideration of a fair variation and flexibility for councils to make decision, or just some arbitrary variation half a percent, something like that so that councils have a range of values that they can choose from, rather than a single number.

And obviously we've had the conversations in the past about all the different reasons why a council may want to do that and may want to choose to make that up in the following year, or whatever, and that we should have a floor on the base cost change should have some sort of floor, so we avoid what happened last year, and I think 2.5% was what was put forward by LG NSW in their submission, and that's what we generally told by IPART to plan around for our long-term planning. So it would seem fair and reasonable to have something like that in there as a floor.

And the only other point we make which is probably more to do with the transitional arrangements around accounting for that emergency services contributions, is to make sure that in the transitionary process and accounting for ESL increases separately that we're going back to the 2021-22 and 2022-23 increases in the ESL contributions when we're working out this factor for each council next year because they were quite significant, and they've never been accounted for.

And it's taken a few years' worth of conversation about these emergency services contributions to get to this point where we're looking at making a specific adjustment for them. And our concern was that would only look at the last year or miss last year, and then go to next year. But what we're saying is, we'll know what it should actually do is look at where the first radical change in increase in those expenses were which is from 2021-22 through. Thank you.

Mr Nicholls: Alright. Thanks for that Graham. Rob, you've got your hand up.

Mr Pearce: Yeah, thank you. Congratulations on that Draft Report. I think it's really important to remember, I should say sorry. I'm a farmland ratepayer from Federation Council, and I think it's really important that councils try and stick to any rate peg that is set because one of the concerns I have is if SRVs are too easily obtained the rate peg then becomes inconsequential. So I think it's really important to balance the council's needs with the ratepayers affordability. And yeah, I hope and I guess that will be in the last section today. The councils are really conscious of their finances so as not to put too much pressure on the ratepayer. Thank you.

Mr Nicholls: Thanks, Rob. Any last comments before we move to the next session. Peter Tegart I see you put a comment up in the chat box about the proposed review. Do you want to elaborate on that at all, or happy to leave your comments for the chat. No, that's cool. Well what we might move to the, oh, hang on we've got to someone from Broken Hill City Council with their hand up. In fact a group of people from Broken Hill City Council with their hand up.

Broken Hill City Council: Thank you Andrew. Broken Hill Council, so 60% of our rates income comes from rates. We're not the worst around this area. So the rate pegging has a really big effect on how much revenue we get. That is why it's so important that the methodology is completely right. For council as well we don't want to see one year where it's really low, down to say 0.7% and then the next year it tries to catch up at 4% because of what it does to our community.

As our councils and as the ratepayer Rob said, you don't want to put that on so we'd be reluctant to even go to it. So if it's not spread-out fairly evenly and got the methodology right it affects councils like ours dramatically, when we rely so much on our rates as our overall revenue because we're not going to burden the ratepayers by putting it up too high because then we'll start to have ratepayers that just can't afford to pay their rates. Then we start getting into the area where people stop paying their rates. So it affects us. And then we're in a never-ending cycle and they are the sort of things that affect councils like Broken Hill. So it's really important that you don't want to say, a really low rate peg one year, and then a really high one because we don't necessarily put that one on the community fully.

Mr Nicholls: Alright. Thanks for those comments there. And Sandra you've got your hand up as well.

Ms Gamble: I do, thank you Andrew. And thanks to everybody for a great conversation. I think the point that Carmel was trying to make is that the rates are not the only source of income and I think we all do appreciate that for different councils the proportion of the for fee for service, rates, grants, and other things is different. So thanks everybody for highlighting that difference.

The other point that I'd make and I think the gentleman from Federation Council I'm responding to his point. The rate peg is meant to be the maximum amount by which councils can increase their general income. They can certainly choose to raise it less as the gentleman from Broken Hill Council suggested that they could. The rate peg is just simply designed to incorporate the increase in costs that councils experience. So that's all it's meant to do it's been to be a maximum, and councils are required to report, so that they are held to account to make sure that they do not raise rates higher than the rate peg. So that's the general approach. And of course, other than that, there’s also special variations and minimum rate peg determinations they can apply for. But that needs to go through a separate process.

Mr Nicholls: Thanks very much for that clarification, Sandra. Well we might keep moving because we'll get an opportunity to do a bit more of a deep dive on those recommendations in the next couple of sessions. This next session is about the draft decisions around measuring the changes in councils base costs and to conduct that session. I will hand over to Carol to run some brief presentations.

Session 1: Measuring changes in council's base costs

1.3 IPART presentation

Ms Lin: Thanks, Andrew. And so we have made a draft decision to introduce a new Base Cost Change model that includes 3 components: employee costs, asset costs and all other operating costs (excluding councils' ESL contributions) to measure changes in councils base costs. We have also made a draft decision to calculate base cost changes for 3 separate council groups to recognise that councils across the State spend their money differently.

Our draft Base Cost Change model is based on forward-looking measures of cost changes. This is because we have heard that the current 2-year lag in our approach is problematic in periods of volatility. We will discuss these measures in more detail in the following slides.

Additionally, we have may a draft decision to release an indicative rate peg around September, and the final rate peg around May each year. But the only change between the indicative and the final rate pegs being the inclusion of councils' ESL adjustments. We will discuss ESL costs and the timing of the final rate peg in our next session on other adjustments.

Employee costs are the largest single component of council costs, representing around 39% of councils' total costs on average. Currently we use the Wage Price Index (WPI) published by the ABS for the NSW public sector to measure how councils' employee costs are changing. A key issue we have had is that the NSW public sector Wage Price Index mainly captures changes in wages for State Government employees.

Our Draft Report sets out 2 options for how we could measure changes in councils employee costs. One option is to use annual wage increases prescribed by the Local Government (State) Award. This would improve cost-reflectivity and address the 2-year lag. However, we also need to consider if this would reduce councils' incentives and ability to negotiate effectively when participating in award negotiations.

An alternative option would be to use the RBA's forecast change in the Wage Price Index. This would also improve the timeliness of the rate peg and could better account for changes not captured by the Award increases. However, the main risk associated with this option is the accuracy of the forecasts.

In our Draft Report we asked stakeholders to provide feedback on these options and how we could manage the risks associated with each. We are interested in getting further feedback on this in the session today.

Asset costs represent around 21% of councils' total costs on average. Currently, we use several Producer Price Indexes (known as PPIs) published by the ABS to measure how councils' asset costs are changing.

As previously noted, a concern with our current approach is that it is lagged by 2 years. The only way to address the lag is to use a forward-looking measure, however, PPI forecasts are not available.

As a result we have made a draft decision to use the RBA's forecast change in the CPI, adjusted for the difference between the year-on-year change in the CPI and the year-on-year change in the PPI for Road and bridge construction, over the most recent 5 years for which data are available.

For example, over the 5 years to 30 June 2022 the NSW PPI for road and bridge construction, which is shown in the dark blue line, was on average 0.6% higher than the CPI (for All groups, Sydney) shown in the light blue line. As a result, we would adjust the RBA's forecast change in the CPI by 0.6% for the asset costs component of the Base Cost Change model for 2023-24. The graph shows the forecast change in CPI in orange, and the adjusted CPI forecast in green.

During our last round of consultation in March and April this year, we discussed using changes in depreciation to measure asset costs. However, some stakeholders raised concerns about this being backward looking, and inconsistently reported across the State and also questioned whether it might be impacted by changes in accounting practices over time. On balance, our draft decision was not to use depreciation to measure asset costs at this time.

We propose to use the RBA's forecast change in CPI to measure changes in all other operating costs (excluding councils' ESL contributions). While we recognise that there is a range of different costs incurred by councils across the State, we consider that introducing additional cost components with minor weightings in our Base Cost Change model is unlikely to have a material impact on rate peg outcomes.

We also considered using alternative measures, such as changes in the CPI for different capital cities and changes in the PPI for this cost component, however, our view is that the RBA's forecasts are most suitable for our purposes.

Councils have told us that our current approach to measuring changes in base costs using the Local Government Costing Index does not recognise that councils across the State have different priorities and services they provide to their communities.

Results from our residential and business ratepayer surveys show that around two-thirds of respondents would also support a methodology that is better tailored to the needs and circumstances of individual councils.

Our analysis shows that councils do spend their money differently. As an example, we observed that asset costs generally represent a larger proportion of total costs for regional and rural councils than metropolitan councils. As a result, we have made a draft decision to develop separate Base Cost Change models for 3 council groups.

We would use councils' financial data returns to weight the 3 components of the Base Cost Change model and update these weights each year. We also propose to use data from the most recent reported 3-year period to minimise volatility.

This slide shows the change in the Local Government Cost Index in the rate peg and the All groups CPI (Australia). The graph shows that there is a 2-year lag between the CPI, and when the changes are captured by the Local Government Cost Index in the rate peg.

Councils have told us that the lag is a problem in periods of volatility, such as for 2022-23 when the change in the Local Government Cost Index and the rate peg was 0.9%, reflecting the low inflation environment in the years prior, whereas the forecast change in this CPI for 2022-23 is 6.3%. Next slide, please.

This slide shows the change in the Local Government Cost Index in the rate peg and our draft Base Cost Change model. Our analysis suggests that the Base Cost Change model should produce a less volatile and more timely reflection of changes in councils' costs.

This slide shows our draft Base Cost Change model and the RBA's CPI forecast. The graph shows that over the period from 2016-17 to 2023-24 changes in the draft Base Cost Change model are similar to changes in the RBA's CPI forecast.

We consider that the Base Cost Change model should better reflect changes experienced by councils than the CPI, which measures changes in costs for metropolitan households. That brings us to the end of our presentation for Session 1.

We would now like to invite everyone to respond to 2 questions - one on our proposed approach to account for council diversity and one free response question for you to provide further views on council diversity or any other issues raised in Session 1. We will be using the polling feature in Zoom for this.

So our question will be what are your views on IPART's draft decision to introduce separate Base Cost Change models for 3 council groups (metropolitan, regional, and rural). Please select your preferred option and press submit. All answers are anonymous, and we cannot see who has responded or any specific individual's response.

We will not be sharing the responses. However, we will consider these responses in preparing our final report. You're also welcome to add your preference using the chat box. I'll hand back to Andrew now to facilitate the Q&A discussion.

1.4 Questions and discussion

Mr Nicholls: Right. Thanks very much, Carol for that. And if people are able to enter their responses in the poll that you should be able to see on the screen. As Carol mentioned, it's completely anonymous. But also, if you want to put any other ideas or thoughts in the chat box then please feel free to do so.

There's quite a bit of content there and really, we just want this to be an open discussion about the various different aspects of the draft decisions that you've heard, and some of the different options that we put forward and so really we'll throw it to the floor. So again encourage you to put a chat note there, but otherwise pop your hand up using the Zoom feature and we will endeavour to get to as many of you as possible.

So anyone like to ask a first question or make a statement or I can put somebody on the spot from the chat box. Peter, you had some comments about depreciation. Did you want to talk to that, if not I will go to Kevin.

Mr Brooks: Thank you. Checking you can you hear me?

Mr Nicholls: We can indeed Kevin.

Mr Brooks: Yeah, look, I just want to comment on this issue of labour costs using the Local Government Award to measure labour costs for the new BCC, if that's okay.

Mr Nicholls: Absolutely Kevin.

Mr Brooks: Well first of all, I think, as I said during the consultation it remains my view that using the Award to calculate labour cost is a deeply flawed methodology because councils would have no incentive to negotiate lower salary increases when they know they can pass salary hikes straight through to the ratepayers through the new rate peg methodology.

This was pointed out in the original round of consultations, and I've seen no response from IPART to such an obvious economic flaw. In fact, I notice from the Draft Report that IPART hired its own independent consultant the Centre for International Economics (CIE) and they warned about the same perverse incentives.

I'll just quote what they what they said. If the rate peg is directly linked to Award increases then negotiations for Award increases could alter significantly. Councils would have much less incentive to keep salary increases constrained, and much prefer wage increases to changes in conditions. So I think I thought needs to explain why it's ignoring the warnings. Not only some stakeholders but also its own economic advisor.

The other thing I'd like to just touch on, there were some mitigations in the Draft Report IPART put forward although it said they didn't seem to believe in them that strongly. It said it was only considering them.

I just like to run through if you don't mind, this may take a little while. I'm probably one of the few people here solely as a ratepayer. I would just like to run through those 3 mitigations in turn and say why I don't think they would be effective.

The first one is council consulting on financial plans through the IP&R process. And obviously there it's only a handful of residents, a small handful of residents who participate in IP&R consultations. I think, up here on the Central Coast it's about one-tenth of one percent.

Secondly, there's an obvious disconnect between those consultations which are undertaken at individual council level, and the later salary negotiations, that are undertaken at sector level. And what would that consultation look like. What meaningful questions could be asked about complex sector-wide negotiations outside the control of any one single council and in which issues and proposals will likely change as negotiations progress. So that's just not a credible mitigator.

Second, local elections. The local elections to be an effective mitigator residents would have to perceive that their own council is directly responsible for both the Award salary increase and the subsequent rate increase. In practice, there is unlikely to be a smoking gun linking either of those 2 things to a council leadership seeking re-election.

And councillors can tell voters the award was negotiated not by their own council but at sector level and they had nothing to do with it. They can even say they supported it. And they can also say rate peg is set by IPART not themselves and many councils already do this.

They are merely implementing the same rate peg as every other council. And even if they're being economical with the truth in saying all that, its perception that counts in the ballot box and councils have large communication departments. So the link between any individual councillor and a rate peg set by IPART based on salaries negotiated at sector level. It's just far too blurred elections to provide effective mitigation of unintended consequences in salary negotiations.

And finally the third suggested mitigator put forward about the Industrial Relations Commission (IRC). As far as I know the IRC does not exist to protect ratepayers and IPART has not specified under what precise rules or circumstances it would intervene in a local government salary negotiation. Nor does the Draft Report say that IPART has even consulted the IRC on this. So on what basis does IPART think the IRC would intervene.

Even if they did intervene it will probably only be in exceptional circumstances and that could be a cumulative effect of salary increases 1% per year higher than would have been the case under the old system, would make a huge impact on ratepayers over a 10-year period.

So thank you for bearing with me on all that Chair. But in conclusion, I think this is a really flawed idea, a really flawed proposal. It will lead to unintended consequences in salary negotiations and none of the mitigators tentatively suggested in the Draft Report would have any impact on that as far as I can see.

Mr Nicholls: We can appreciate you providing those comments.

Ms Donnelly: I haven't put my hand up. Yes, sorry I haven't put my hand up.

Mr Nicholls: That's alright.

Ms Donnelly: I thought I might just jump in there, and thank you, Kevin for those comments. Certainly, we are indeed alive to the risks that go with using the Local Government State Award, and particularly the analysis by the CIE as you reference it.

And that's one of the reasons why for this part of the Draft Report we have really put forward 2 options, and we are indeed genuinely consulting on those options. So one is the Local Government State Award for which there is a lot of support but I certainly have heard myself from previous workshops concerns from ratepayers along the lines of what you've said.

The alternatives CIE did acknowledge that the State Award is and I'm paraphrasing here you know, reasonably well predict the changes in costs, but that it has some downsides, as you have very much highlighted. They felt that really all sectors Wage Price Index would be the next best option.

But it has the same issue as the current public sector Wage Price Indexing that there's a lag and so the second strongest option that we're consulting on is the Reserve Bank of Australia's forecast change in Wage Price Index, so that it would move to a more forward-looking indicator. So I would be interested in hearing from others here about how the risks associate with the Local Government State Awards could be mitigated, or whether there's support for the Reserve Bank of Australia forecast in the WPI.

Mr Nicholls: Okay. I think a couple of people got their hands up. But I know that Professor Joseph, I think you had a comment about this issue. I didn't know if you wanted to speak to that before I then go to those who've got their hands up. At the risk of putting you on the spot. Professor Drew I think it is. Sorry my mistake.

Mr Drew: No, just put a comment inside be recorded because you said you wanted to comment so that you could look back on them later. I'm happy for you to go to people with their hands up of those that want to speak.

Mr Nicholls: Graham, I think you had your hand up next.

Mr Kennett: Yeah, I guess it was just to make a couple of points on that. In relation to the wages indexing this is 2 separate arguments here. So the rate peg is the rate peg which should reflect councils costs increases. The most accurate way to do that is to use the Award rates of pay, right. So there should be no argument whatsoever about that.

The second conversation we have in here is whether or not there's a robust award negotiation and what mechanisms there might be put in place to control, regulate, monitor. That's a separate conversation. If that's needed, then that can happen. And there's mechanisms to do that. That's not IPART's job.

Yeah, this is the fundamental flaw, I guess, in the rate peg from day one is what's it to do, what's it for, is it to wind down revenue and the use of some arbitrary way of you know, reducing council's costs each year? Or is it supposed to reflect the actual increases in costs? Okay, so 2 separate conversations and they get mixed in here together.

And so I think there's a there's a fundamental misconception about the purpose of the peg. The purpose of the peg is to reflect increase. The increase is absolutely reflective of the Award. From our perspective we say that's not really enough because you haven't got a productivity factor in that. And despite all of the nonsense we've seen in the past with productivity factor application in the peg. The productivity factor doesn't cost less money.

It means you reward productive employees with more money. And then you get a significantly higher proportion of output from those employees. So higher productivity doesn't necessarily result in less wages. It means that you need a smaller increase in money to reward high productivity employees and retain them.

Then the other side of the coin in this argument is that there's plenty of evidence to show that the current methodology, the peg in itself, is already heavily influencing award negotiations to the point where there is quite a significant wages gap between the labour market and what local government is paying under the award right, any of evidence of that.

So I think at the moment we're probably in the order of 6% to 10% behind the labour market. Okay. So it's already having a negative impact. So we've got to stop that before we worry about the hypothetical positive impact it might have on people's wages.

Then, of course, we get into the less tangible arguments around staff progressions, retention, skills, the high turnover that we see because of those low wages and the adverse impacts that the peg award negotiations have been having in the past.

Basically, why would you stay in local government when your wages are going up less than costs are, and the good people leave, and they get better jobs somewhere else. And we start the training again. And this is the whole product, this, how it comes back to this whole productivity argument.

You know, it's what kind of local government do we want. Do we want a cheap local government, or we want an effective local government with good people doing good jobs, high productivity. So from our perspective, our submission initially said, not only should you use the wages from the award, but you should make up for the labour market gap that you've created over the last 30 years, which is in the order of 6% to 10%.

And you should be allowing a productivity factor, which allows a small increase in pay for skills acquisition and productivity and higher performance each year. So you so that we can reward the good people.

Mr Nicholls: Great, thanks for those comments Graham. I might go to our colleagues in Broken Hill.

Broken Hill City Council: Yes, thank you, Andrew. Look to a certain degree. I support what Kevin said. I'll use our local because we're not a state award we have a local award. With the rate peg being so low last year, when it did come to negotiations the employees of council actually probably took a percent less each year for a period of time, because they knew that council couldn't afford that increase.

And don't forget employees are also ratepayers of the city, and they don't want to have the council in a position where it becomes unaffordable or your rates become so high that it drives people out of your area.

Just the previous speaker saying about you know, it's important to ensure that we're keeping up with industry to pay people enough money to get people into local government employee. That that might be fine.

That's why I am supporter of the rate peg in itself because it does take into other things. It does enforce councils to do the right thing. If you get a good council, looks after the community and a good general manager. As our general managers said they will strongly negotiate an award anyway, because they want to get best for council and best to the community as a whole, and a council holds a General Manager to account.

But if you have a bad general manager and a bad council, what Kevin said, it's likely to happen because it's quite easy to say we'll just agree with you. It will go with the 4% and then pass it on to the community. And that's why it's probably better to come up with something that does shift it a little way from directly linked to the employee state award rises.

Mr Nicholls: Thank you for those comments. Shaun, I think.

Mr McBride: To clarify the Local Government NSW position. We haven't really gone either or. We've sort of gone a hybrid. We very much favour the use of the award when it's available because it is a real cost as Graham has pointed out. And it's the most firmly based of any of the indices. We do support the use of the RBA forecast in the years where the award is not available. So just to clarify our position there. But we strongly endorse the use of the award when it's available.

Mr Nicholls: Thanks for that Shaun. Deb.

Ms Cope: There has been suggestion in some of the submissions that have come in around IPART looking at if you had the award, IPART then looking periodically at how that had performed against the RBA index. And given that we're looking at reviewing the rate peg methodology periodically. Is there any views on whether a system of sort of sense checking what's coming out of the process helps in any way.

Mr Nicholls: Shaun.

Mr McBride: Look there'd be some sense in that. But we would recommend that all of the outcomes of the rate pegging process, the peg each year be subject to you know, a bit of a reality check. We propose that in our first submission, that you know the model produces a figure, but it should always be subject to some sort of a reality check against other indicators, and so on. So for all aspects of the model.

Mr Nicholls: Can I just check, I think Broken Hill, ah your hand is down, that's good. What about some of the other aspects in the draft decision, I see the comments about assets and depreciation seems to have had a few comments in the chat. Did anybody want to talk to those aspects or any other aspect in the draft decision. Graham.

Mr Kennett: Yeah, only briefly just to say that that's the only flaw with the cost index at the moment. Using a cost index alone only reflects the increase in the unit rate of the work. It doesn't reflect the increase when your asset base increases and you need to do more work for whatever reason.

So it would be. It would be good to work towards a depreciation being used, even if it was only for a relativity, you know increasing asset base. But I understand issues with inconsistency, and how high fluctuation in those with re-evaluations could affect the rate pegs. But there might be a way of leveling it out over period of time. But that's the risk is that someone's asset base is growing. And so therefore their revenue capacity needs to grow at the same right as the assets. Not just at the rate of the unit cost.

Mr Nicholls: Thanks Graham. Any other comments on that topic or any other draft decision noting that we are picking up quite a few comments online. Broken Hill?

Broken Hill City Council: Yeah, just that council is a real supporter of that minimum rate peg, which then allows us because it evens out and we roughly calculate our costs about 2.7% or 2.5% anyway. So when that's there, it actually, some of those years where it would have been lower we're able to absorb some of the higher rate peg years without putting the whole rate peg on which then protects the community from those sharp increases. So I think that's really important one. I think that's something that IPART's got completely right.

Mr Nicholls: Thank you. Carmel.

Ms Donnelly: Yeah, I think it might be good just to build on that a little and make sure that people are aware that even with the current system for the rate peg. Say a council's rate peg is you know 2.5% the elected councillors do have the opportunity to decide whether to go to that full amount, or if they had some information that would indicate well their costs have only gone up 2%, or they've got some other sources of revenue that mean that they can delay putting the 2.5% in place even under the current method, they do have the ability to say, look, our minimum is 2% . We don't need to go above 2% and that 0.5% that they haven't used they can use that in another year any time to 10 years.

So it's not very clear, I think but there is in effect to kind of range in place now, in that the right peg is the maximum, councillors can decide to go to a lower figure, and then they can decide to then use that at another time, where the rate peg might be lower and smooth things out.

So I would be interested, I know there's been quite a few comments including from I know Rob who is a ratepayer in farming, and Graham as well, others who have talked about and also the people our council is online from Broken Hill about having a little bit more judgment that can be brought into play about how much this council need and can it be smoothed out or the need for a range.

We don't put a minimum out with the rate peg at the moment. I guess that's what Graham, I think you're asking for but if it would be possible for a council to decide to go for a lower amount and then store up the gap for another year. So does that address that issue?

Mr Nicholls: Rob?

Mr Pearce: Yeah, I fully support the fact that councils need to be aware that they don't have to adopt the full rate peg each year and very interesting to listen to Broken Hill, who are really conscious of the affordability for ratepayers. So I think it's a great idea that they'd be encouraged to try and put a little bit in the bank, so that in other years they can then draw on that rather than continually be looking for SRVs which become quite unaffordable for the community. So yeah, I fully support that idea of encouraging councils to store a bit in the bank, like we all have to as business owners. And so yeah, I really support that. Thank you.

Mr Nicholls: Thanks, Rob. Sandra, and then I'll go to Alison.

Ms Gamble: So you know, we're going to cover this a little bit more later on but, you know, one of the reasons that we are suggesting a broader review is to sharpen the incentives on councils in terms of their focus on what communities want and are willing to pay for and to improve their communication with ratepayers.

There are many councils who are doing that really well at the moment, and there are councils that are doing it you know, just going up the curve. So getting those incentives properly aligned so that councils can demonstrate that they are operating in the best interests of ratepayers I think, would give us all a bit more confidence around things like water negotiations and other things.

Mr Nicholls: Thanks Sandra. Alison.

Ms Balind: Thanks Andrew, and I'll turn my camera on so you know who is speaking. Can I just firstly say thank you to those of you at IPART who've been involved in this process. I think it's actually been quite refreshing to see the number of people, and the considered approach that has been taken to this issue because it is something that is quite vexatious, and well, I can understand the views of some of the ratepayers that have commented. I'm a ratepayer myself as are most of the people who work in local government.

None of us really want to pay more in our rates, but we are mindful that the cost increases will continue, and I guess, picking up on some of the comments that Professor Drew has made regarding the range, is there a particular reason and I'm not too sure whether Carmel can answer this, or whoever, is there a particular reason that that concept has not been included.

I guess if we're having a situation where we have the 3 categories of councils for one of a better term. If they were all going to have a similar rate pegs. There are some councils who will benefit from that because their costs may not be quite so high.

I just made a comment, and the feedback regarding the asset costs, I would suspect our asset costs here at Bland Shire would be well above 26% compared with the other 2 elements. So I guess, from my perspective having a range and I wouldn't imagine it would be extensive. But you know a few percentage points would make it a lot easier for councils to then have the discussions with their communities about what would be appropriate to set the rate level at, and what they just really would not contemplate or consider. So it was more a question than a comment.

Mr Nicholls: You know. That's great Alison. I think Deb has got her hand up.

Ms Cope: Yeah, so thank you very much, and we haven't reached final decisions yet. So all things are still on the table but just a couple of comments. You know, one of the things that people say is, it's important to get it right. The problem is, nobody knows when a council sets their rates at the beginning of the year what actual costs are going to be during the following year including the councils themselves, so nobody can set the perfect number.

So we're now trying to get the best information that we can. And one of the reasons why we've suggested the broader review is because things like what's the role of the rate peg compared to other elements of the financing options and the other sources of revenue is something we can't think about in this review, and so being able to set a range, has other implications, for whether you know you catching up, if you base is too low, and all those sorts of things we think all of that needs to be considered in a more holistic way.

So what we're trying to do is improve the peg at the moment and what you've raised. I think you've raised are a set of broader questions which 100% agree need to be looked at but difficult to do within the context of this particular review.

Ms Balind: Fixing the rate peg is a very good start, though, just for what it's worth.

Mr Nicholls: Thank you, Alison. And thanks Deb. Andrew Butcher?

Mr Butcher: Yeah, I think what the IPART has done well what the rate peg has morphed into what's been said by a number of councils which is to reflect the cost of local government rather than being what it was initially implemented as which was the State government policy to keep council rates within a particular reign.

So the IPART is certainly achieving that by the pathways that it's going down, and all the comments are right. There is no perfect answer to this but it certainly is one of the best. It's an improvement on the previous methodology. We'd support the forward-facing Local Government State Award because that is a cost in this industry for wages for the future years, and it's a known. And in the absence of that then the WPI would step in of course, that's part of our submission.

And the asset costs, we're fine with CPI and the other operating costs, and we understand that the IPART is going to be varying those factors by the use of the financial data return from the OLG, which will simplify the process even more. It'd be a lot more accurate with the balance between the two. So you know, that's all I really wanted to say about that.

Mr Nicholls: Right thanks Andrew. We're just about out of time for this session. So I know a number of really good points in the chat, and we certainly pick those up. I think there's a question there from Meg about sort of bringing it all together with multiple reviews and so on and I think that's very valid comment that we would need to work through with OLG. Brian, you've put in a good question here about more general questions about council's asset base and so on which is relevant.

Ms Donnelly: Andrew, I might just make a comment on Brian's point. I would acknowledge that in talking about this rate peg review we've also obviously had 17 special rate variations that we've assessed starting from sort of February through to recent times and one of the points that I've made in talking publicly about our recommendation that we'll talk about at the end about an independent investigation into the financial model. Is that that could include looking at the special rate variation process itself, and how it fits in it also hasn't been looked at for a long time.

And we have particular a particular method that we have to use in assessing a special rate variation. We're not authorised to go through and you know audit, we don't do a financial audit. It's using a particular methodology and in particular, with the very large special rate variations with councils that were able to demonstrate financial need. We're questioning whether that part of the landscape for the financial model for councils is still right or could be improved as well, so that could be looked at in a future review.

Mr Nicholls: Brian, you've put your hand up. Is there anything you want to add?

Brian: Thank you Chair. Thank you, Andrew. I have raised this once before because I see a lacking there of IPART's ability to assess whether a council is putting up a furphy. Putting up an application that really hurts. And I know in past practice IPART rejected our council's 7.5% over 7 years, which was the maximum at the time.

And I've come back now, and IPART recommended 4.4% as a one-off, as I've put in my statement there. And our council I feel is wealthy and a lot of councils are in their Empire building and holding us to ransom as far as services or threatening cuts to services. But anyway, we'll just keep asking and approach the State Government for legislation to have a look at the books because I've asked it before, and it hasn't happened yet, and I would like to see it happen. Thank you.

Mr Nicholls: Thank you, Brian. I'm certainly happy to take those comments on board, and it echoes Carmel's comments about our calls for it from government to consider a fundamental review of the funding model. So I will certainly take that as a comment.

Session 2: Other adjustments

Mr Nicholls: I might change gears slightly now to move to our next session. And in this session we're going to discuss our draft decisions on some other adjustments we think need to be made to the rate peg methodology, including our draft decisions on the Emergency Service Levy contributions, external costs, the population factor and the productivity factor. So I might hand over to Lawson to run through a couple of slides, and then we'll again open it up to the floor.

1.5 IPART presentation

Mr Spencer: Thanks Andrew. Councils are required to make an annual contribution to support funding of the state's emergency services, the NSW SES, Fire and Rescue NSW and the NSW Rural Fire Service. This is the Emergency Services Levy or the ESL.

Councils generally fund their ESL contributions from their general income. The current rate peg methodology calculates the average annual change in total council ESL contributions across NSW. It does not reflect the change in contributions paid by individual councils. Each year some councils receive more than their increase in ESL contributions, while others will receive less.

The current methodology is also lagged by one year. So when councils are not recovering the ESL contribution, they need to pay in the year it is payable. When we set the rate peg in September we do not know what the ESL contributions for the next financial year will be. These are not released until the following April. Next slide please.

We proposed to solve the issue of councils under or over recovering by calculating a separate ESL factor for each council, that reflects the annual change in its ESL contributions. We would need accurate information about this. In submissions to our Draft Report stakeholders have indicated support or a separate adjustment for the ESL.

We propose to resolve the lag by allowing councils to recover ESL contributions in the year they are payable. We propose releasing an indicative rate back in September, and then releasing a final rate peg in May. This would allow us to incorporate the upcoming financial year's ESL contributions. The indicative rate peg would include the BCC, population factor, the productivity factor, and any other adjustments. Then in May, we would release the final rate peg to incorporate ESL factors.

We've heard so far that a final release in May could have impacts on council planning and on consultation with ratepayers. If we set an earlier rate peg, we would need to maintain the lag in ESL costs, which means that the rate peg instead, would allow councils to recover ESL contributions that they paid in the previous year and not ESL contributions for the year the rate peg is to apply. We welcome your feedback on this issue. Next slide please.

In order to set ESL factors that match individual ESL contributions we need accurate information about what councils pay. While we have council assessment notices or the bill, or what a council owes to set the ESL factors some councils pay an amount that is different to their notices. Some councils that form part of a Rural Fire District have a cost sharing arrangement for the RFS component of the ESL.

In these districts the RFS will invoice the lead council and the rural fire service contribution for the district or for part of the district. The lead council then invoices the other councils to share these costs. For these councils we are seeking information on these cost sharing arrangements to find out what these councils actually pay. If we have accurate information, then we could calculate a separate ESL factor for each council that reflects what they actually pay under these cost sharing arrangements. However, if this was not available, we would set ESL factors for these councils based on the weighted average change in the RFS contributions for that particular rural fire district.

So far we have collected some information on cost allocations, so we would be able to calculate ESL factors that reflect each council's actual ESL contributions. However, if these change, councils would need to update us, to ensure that they get an accurate ESL factor. Next slide please.

We prepared an animation to demonstrate how the ESL factor would be calculated. We first start with the council's income and the ESL contribution it had been expected to pay from it. We remove the ESL contribution from council's income. For the remaining council income, we apply the rate peg before the ESL factor, that is, the BCC plus the population factor plus other adjustments.

Next, we add to this income, the ESL contribution that the next rate peg is to capture. Then, we find whether the council income needs to change to match the change in the ESL contribution. If the ESL contribution compared to what the council paid in the year before increases by the same percent as the rate peg before including the ESL factor (the BCC, the population factor, and the other adjustments) then the council would get a 0% ESL factor.

If the council's ESL contribution increases by a percentage more than the rate peg before the ESL factor, we would adjust the council's income to recover the difference. This would make the ESL factor positive.

If the council's ESL contribution increases by a percentage less than the rate peg for the ESL factor, we would adjust the council's income to remove any over-recovery. This would make the ESL factor negative.

The final rate peg that includes the ESL factor captures the change in the council income that is used for the ESL contribution and the change in income used for all other spending. We have calculated this in percentage terms as this is what is required for setting the rate peg. Next slide, please.

We recognise that councils incur costs that are out of their control, and that may not be captured by the rate peg currently. We have called these external costs. We have heard concerns about funding additional requirements and responsibilities that contribute to external costs councils. We have also heard concerns that councils may need to reprioritise their budgets to accommodate these costs, which could reduce council services.

Our draft decision is to maintain current approach and make additional adjustments to the rate peg on an as needs basis for external costs. This might include adjustment factors to capture a specific external cost such as climate change, cyber security, and community facilities. In response to the Draft Report, council supported establishing a process to include adjustments to the rate peg for external costs. Next slide please.

The population factor is designed to give councils the additional revenue required to keep revenue per capita constant with population growth before inflation. Ratepayers and councils were concerned whether the existing methodology accurately captures the cost of population growth for councils. Some stakeholders considered that prison populations should be excluded when calculating the change in residential population of a council area.

Our draft decision is to exclude prison populations, going forward. We would do this by deducting the prisoner population from the residential population of council area and then calculating the growth of the non-prisoner residential population in the given year.

We also heard from stakeholders on issues such as historical population growth, the inclusion of service populations such as tourists and daily commuters, supplementary valuations and adjusting the population factor to accommodate for economies of scale.

The productivity factor was incorporated to reflect the year-on-year productivity gains that could be expected of councils as service delivery becomes more efficient over time. We heard varying views from stakeholders. Some considered that councils create efficiencies through a range of plans and programs, and the productivity factor should be used to reflect these productivity gains.

Other stakeholders considered it difficult for efficiency and productivity gains to be transformed into financial savings. Instead, saying that productivity gains are used to increase service delivery or improve quality.

Our draft decision is to retain the productivity factor in the methodology and continue to set this at zero by default. The current productivity factor is only an average of productivity across the local government sector and does not reflect the ability of individual councils to achieve productivity gains. A more individualised measurement of productivity is something that may be considered in the future. Next slide, please.

That brings us to the end of our presentation for Session 2 . We will now like to invite everyone to respond to 2 questions - one on our proposed approach to include a separate factor for the Emergency Services Levy contributions and one free response question for you to provide further views on any issues raised in Session 2. And we'll be using the polling feature in Zoom for this.

So we proposed in our Draft Report to set a final rate peg in May to remove the lag from the Emergency Services Levy Contributions. Some stakeholders told us that a May release wouldn't give them enough time to consult with the community on rates. May is the earliest possible release to remove the 1-year lag because the ESL invoices are available only in April.

Our first question is, would stakeholders prefer a May final rate peg that removes the 1-year lag or retaining the 1-year lag and releasing the rate peg in a timeframe more consistent with current rate peg announcements such as between September and December.

So please select your preferred option and press submit, and all answers are anonymous, and we cannot see who has responded or any specific individuals response. We won't be sharing these responses; however, we will collect them and consider them in preparing our Final Report and you can also add your preference using the chat box, and I'll be handing back to Andrew to facilitate your comments and questions. Thank you.

1.6 Questions and discussion

Mr Nicholls: Thanks very much Lawson for that presentation on those other issues in our rate peg Draft Report. So I'd like to open discussion again to the floor or any comments on the chat box about any of the issues you've just heard about, the ESL, productivity factors, population factors, etc. I have, I believe if I've got it in correct order, Kevin first, and then Michael, so I will go to you first, Kevin.

Mr Brooks: Thank you very much Chair can you hear me?

Mr Nicholls: I can hear you, yes Kevin.

Mr Brooks: Yes, I'd like to talk on the productivity factor, if I may. I noticed the draft, and we just reiterated this, that the Draft Report proposes no increase in the productivity factor which continues to be set at zero. A productivity factor set at zero effectively means there is no productivity.

I believe that to incentivise productivity the rate peg should be set lower than the BCC. And the gap between the 2 should be made up through improvements in productivity and efficiency. If councils can already get extra revenue to match their increased spending through the current rate peg methodology then what incentive do they have to reduce costs through higher productivity and efficiency?

Indeed, the current system perversely incentivises failed productivity and inefficiency, and I think the Chair touched on this when she spoke earlier, not the Chair, the Chair of the Tribunal because inefficient councils tend to have lower operating performance ratios and the operational performance ratio is the main measure that is used to assess the financial sustainability criterion during special variations. So a special variation process in that way is rewarding inefficient councils.

Now, councils may want to pay that people more money. I understand that. But throughout economic history it is only productivity improvements that have funded higher living standards and salaries. If you think back to that World Bank report a few years ago that said the 800 million Chinese citizens have been lifted out of poverty since 1980. That wasn't because China applied to IPART for extra revenue. It was because productivity, which is in national economics is measured. GDP per hour's worked rose by more than 3,000% in China over that period.

Councils, on the other hand, seem to want higher salaries, including executive salaries, which seem to be out of control and aren't linked to performance, without the productivity improvements needed to pay for them. So all they are really doing is funding their own high living standards by shifting lower living standards on to ratepayers. So I'm very concerned that there is no effective productivity factor, and there is nothing in this Draft Report to incentivise higher productivity and efficiencies by councils.

Mr Nicholls: Alright, thank you, Kevin, for that. We might go to Michael.

Mr Chorlton: I just touched back on the on the ESL. Firstly, I think it's a positive move by IPART to separate the costs out and I didn't quite pick it up in your implementation models but when you go from a lag factor to a forecasting factor you're more likely than not, going to miss some year in between. So I'm touching what Graham Kennett said before about the changes in the ESL over the last couple of years. I would hate for the 2023-24 increase to be missed when we're going from a lag to a forecast indicator, because it's significant.

The third point I'd make is, what's the oversight on the ESL on the State Government. And if you read the press, the 2023-24 increase across the across the sector was about $70 million. So if local government represents 11.7%, and that $70 million is it, that means their budget is increased by over $600 million in one year, which is astonishing, really.

So consistent with the argument that some people have had that there was no skin in the game to negotiate with Award increases. I would ask who's regulating the State Government by increasing an ESL and just passing it through to the ratepayer. Cheers.

Mr Nicholls: Thank you also for that comment, Michael. I'll go to Carmel, who's got her hand up I think he wanted to respond to one of those comments, and then I'll come back to George and Graham, and if you've got a legacy hand, but I'll go to Carmel.

Ms Donnelly: Thanks Michael. And look I will also acknowledge Kevin's comments and certainly say that we will take those on board.

In terms of the ESL you had a couple of points, I'll do the last one about and it actually links a little bit to some of the comments in the chat. I think it's certainly always been my understanding that those emergency service agencies need to have their budget approved as part of the State Budget. The reason for the invoices coming out, you know, something like April is because there's a process of them being advised what their budget is, and then generating their invoices.

And I think, the point you raise is a very good one in that if we were to try and put pressure on getting the amounts earlier it might be that there wasn't the same room for State Government to be having a process of setting the State Budget and approving the budgets for those agencies, and that is where the oversight does sit as far as I'm aware.

The other issue that you raised about ESL, if we were to move to implement a changed rate peg in a way that skips a year or a couple of years in them being factored in. One of the options for us would be to consider an adjustment factor and that might enable us to look at how much increases or they might net out to not be increases for every council. How much adjustment might be warranted for previous years. So that is, that's one option for a methodology to address it. The fact that if we move from having a lag to moving to current year. I'll stop there, because obviously you want to hear from other people rather than talk myself. So I'll hand back to you, Andrew.

Mr Nicholls: Thanks very much Carmel. George, I believe you are next.

Mr Cowan: Yes, thank you very much Andrew and the Chair's possibly answered my question. I guess I was concerned about the issue of the rate peg limit in May. My council has for quite some time adopted the draft IP&R documents in April. I noticed that NSW Revenue issue the ESL notices on the 28th of April. That was about 10 days after we had adopted our budget, IP&R documents and put them on display.

We need to have some synchronisation of that timing. I certainly don't support issuing anything other than a very indicative figure in September. I think there's too much chance of factors changing between then and when we set our budget for the coming year.

So we've got OLG, IPART, Auditor General, all the agencies in NSW revenue. and they don't appear to be communicating with each other very well. I don't know whether that's a historical thing, or whether that's something that maybe our politicians should have a look at, but it would make life a lot simpler.

I want to talk, if I can Andrew at some point in time, before we close about the things that the rate pegging review is not going to achieve and that I really wanted to achieve in this process, or would have been useful at least.

I'm one of those smaller rural councils. We talked earlier about wages levels. I totally reject the concept of restricting local government wages and screwing people down based on some sort of historical cost.

The real world in the market at the moment is the opposite of that. My salary levels are about 12% to 14% below the market generally, and about 8% below local government as an industry. I need more money to adjust that. Otherwise I would never attract the resources that I need to produce the quality of life that our ratepayers deserve and expect.

So, I support including the real wages increase as a cost factor. I think that's really a fundamental start. The index that's been used in the past is really not related to our real cost profile. So that's a really good starting point.

But the other 2 things we need to keep in mind is that local government as an industry is going down the financial drain. I think the overall red line now in local government in NSW is over $500 million. The numbers with the 30 June 2023 financial year will be published and available soon and at some point in time somebody's got to accept responsibility for that.

Rate pegging is causing that to happen. Rate pegging has to be used as a tool to try and provide opportunities for councils to survive and that mechanism should not be an SV. SVs should be for special circumstances, not for sustainability. I think we're missing the boat. I don't want to take up too much time, Andrew, but I'm happy to get on my soap box again later. If there's time.

Mr Nicholls: Thanks, George well certainly in the last session we'll want to talk a little about the broader opportunities for review. So absolutely happy to come back to you on some of those points and appreciate those comments. Graham, I think you're next?

Mr Kennett: Yeah, sorry. I just wanted to quickly touch on the points that Kevin raised about the productivity factor. The fundamental flaw in the use of the productivity factor is that it assumes cost is a measure of productivity, right, which in local government it absolutely is not.

There is no measurement that IPART has access to, or to be honest with you, that anyone in local government would have reported or access to consistently, that actually measures the output, the productivity, how many things do we get done for the amount of money we spend. So that's the fundamental flaw you have with applying a productivity factor when you don't understand your outputs, you don't understand what productivity means, and you have no way of measuring it. Therefore, how do you apply some kind of factor, how do you know whether you’re productive or not?

What's been done in the past is they said, well the productivity factor is in effect a reduction in costs right, and in some cases which has proven since, not to be supported by IPART in the end is this idea of a per capita decrease in costs over time. Whatever, okay, so if I'm making widgets and I'm a business then cost is a good way of measuring productivity. Profit is a good by measuring productivity, isn't it?

But in local government it's not. And the real concern I have with it as a ratepayer and as a resident and as a part of the community that I serve as a general manager at a council is, the less revenue I've got I know what that means. That means less work. So productivity doesn't increase because I have less money to spend. Ultimately, what we decide is, what are the things that we're not going to be able to do this year because we've got less income.

So if there was a set quantum of work to do and we had to do it and we're measuring whether or not we did it, then a good measure of productivity would be cost, did it cost less this year, more last year, because we know we're doing a set quantity of work. But we all know the reality of local government is, we're only doing things that we can afford to do. There's a massive list of things that need to be done that we can't afford to do.

Every time you strip revenue whether it's under the guise of productivity, whether it's cost shifting whether it's the NSW Government deciding that they want some more of the ratepayers money. You know, it's what a fantastic game the NSW Government play here. Pretending to protect the ratepayers with the rate pegging system.

And then at the same time, at the moment, I think 10% of our rates revenue goes straight back to them, alright, not as cost shifting, where we have to do extra things or we don't get revenue, not the component of the pensioner rebate we have to contribute. That's just straight-out taxes and charges straight back to them. And then they're over here trying to pretend that they're protecting you ratepayers by restricting our revenue.

There's some real fundamental misunderstandings of the way local government works. When we talk about things like productivity factors. It's not a case of us understanding the quantum of work and getting more work done for less money, and that being a measure of efficiency.

Fundamentally, the position we take every day. We don't decide what needs doing. That's not our professional job. Most of the time our professional skills are used on risk management, which is to decide what are the things that I can afford that I have an appetite for the risk of not being able to do. That's the decision we make every day. What are we not going to do this year because we don't have enough money to do it.

It's not fair. Our community expects us to do more things for them. Not do less things. This idea that there's a set productivity is deeply flawed when it's measured using cost. Not quantum and output.

Mr Nicholls: Great. Thank you Graham for those comments. I might throw to Andrew.

Mr Butcher: Yeah, thanks, Andrew. I just wanted to support those comments from Graham too, that productivity cannot and will not ever be a measure for statutory compliance that the local government has as well. So there's a lot of statutory obligations that we are required to do whether they're efficient or not.

But just in regards to the questions the raised or that you've posed. So the separation of the ESL factor we fully support that and it's in our submission. It's a cost for council. It's sometimes a hidden cost, it's not visible to the community. It will be now as an additional factor as well what is proposed and it is a separate identifiable cost and a significant one.

In regards to the population factor, we've long been supporters of an alternative or the original IPART model for the use of CIV, as a more efficient process in regards to the population factor.

We're not supporters of the removal of the prison population for a number of reasons, and one of those is that the prison population then extrapolates down into other types of population similar to student accommodation, so where do you draw the line for those sorts of clusters. So prison population should be retained for that and a number of other reasons.

And just coming back again to the efficiencies. Exemptions from land rates were another area that was raised by the IPART in its original rate review. And we don't see them coming. Quite often it's only through experience that you see a rate exemption coming and some councils could be facing losses of up to $5 million a year in transition from rateable land to non-rateable land. And that is not really fair on the rest of the community who are then left to pick up that gap. So in regards to those comments, to the questions raised. That’s our comments, Thanks.

Mr Nicholls: Thank you for those comments Andrew. And I think Carmel wants to respond.

Ms Donnelly: Thank you. Yes, I will. Just a little bit of a glitch. Andrew, I just wanted to pick up on your comment about exemptions, and say that with all of the consultation that we've done, not just in this, but special variations. I noted submissions from ratepayers as well who were unhappy with a special rates variation. But added in other concerns, which you know, made me feel very much inclined to as we have, suggest a broader investigation.

And exemptions was one of those where individual ratepayers would say, well you know I'm a person of you know, a certain age, got my particular responsibilities, got my limited fixed income perhaps, and I can see that there are people who because they live in a different sort of residential development they're exempt from rates and I'm not and I'm paying for the services that they receive. So people were giving, you know, live examples of where they felt that the exemptions are unfair.

And from councils also that some councils have a very large amount of unrateable land that they still need to maintain the roads going through and to that land so large cost in terms of their assets. And It’s the other ratepayers that are paying for it. So I have an open mind about it, but it was one of those factors that, as you mentioned, IPART has recommended be reviewed before and it has been coming up quite frequently through our consultation this year. And so it could be one of the things that could be investigated in looking at the financial model.

Mr Nicholls: Great, thanks Carmel. Elizabeth or Shaun?

Mr McBride: Yeah, just further to what Carmel was saying. And it’s not always an argument about whether recipients of exemptions deserve them or not. The argument is often who should be funding the exemptions. I mean it's a welfare funding issue. And local government is often not best, doesn't have the revenue base to provide that welfare. That belongs to the State or Federal level. So just to put yes, this is not just a question of whether they are valid exemptions or not, the question is often a matter of who funds the cost of those exemptions.

Mr Nicholls Great, thanks for those comments.

Ms Donnelly: Andrew, I might just jump in. I know that Merilyn's asked a question of me and I'm thinking back to some of those particular submissions and some of the ratepayers put in submissions were talking about people who were in more retirement villages. And you could see that someone who's a pensioner who's not, even though they're getting a discount. They're still paying rates, and they're feeling that other people are not. So that was that particular example from submissions. Sorry, Andrew, I'll go back to you.

Mr Nicholls: No, no, that's a good point of clarification, thank you Carmel. Are there any other last questions, we're just about to go for a break according to my agenda. If there's no one jumping in with their hand up right now. Oh, we've got City of Sydney, Bill or?

Mr Carter: Yeah, just on the exemptions. Just because there's a vast range of exemptions in the Local Government Act as it currently stands. But there's new exemptions that are growing in nature and the community housing providers is a sector now that are exempt, whereas social housing by Department of Housing they've already always paid when they had residents in tenure. So as this is going to be growing in different local government areas, it's just less and less people actually sharing that burden.

It's no different to the state government agencies or all the Crown Land, they're all exempt they don't pay rates, but they will use the facilities. The Entertainment Centre down at Darling Harbour, however many million people come through there. They're all exempt. So there's a lot of different issues in that whole area that really need to be examined because it's an equity question.

Mr Nicholls: Great. Thanks Bill for those comments and certainly I can see that there are some comments online as well about this issue of exemption and also some comments about productivity. So thank you for those comments. Well that brings us to the scheduled break. So we're scheduled to have a 20-minute break, that sees us coming back at 4:10 pm sharp, so feel free to switch off the cameras and microphone and go have a cup of coffee or something and come back at 4:10 pm. I'll see you then.

[BREAK]

Session 3: Transitional arrangements and matters for further consideration

Mr Nicholls: Welcome back everyone. We are right on 4:10 pm and we might kick off for the next session, which is session 3 , which is about the 4 options that we've considered for transitioning to the new rate peg methodology and then we'll discuss some of the future considerations, such as the concerns many stakeholders have raised about the current financial model for councils which can't be fully addressed by the rate peg methodology alone. And I should note that we are recommending to the NSW Government that there be commissioned an independent review of the financial model for councils. But first I'll hand over to Simon to provide a short presentation which reviews these matters in a bit more detail.

1.7 IPART presentation

Mr Thomas: Thanks, Andrew. So on the screen at the moment is a recap of how we propose to change the methodology. As you can see, we're proposing to move from the LGCI based methodology to the BCC based method. And this method is a forward-looking measure with fewer cost components.

The new model would treat the ESL as a separate adjustment, as opposed to how it is currently captured as a component of the LGCI. We would revise the population factor and would retain the productivity factor and our approach for making other adjustments, as in the current methodology.

We have proposed 4 viable options for the transition to the new rate peg system. These are on your screen now. Option 1 is a soft transition to the new method implemented over 2 years. In this option, in 2024-25, we would use the LGCI, set separate ESL factors, and prison populations would be removed from the population factor. Then, in 2025-26, we would implement the full BCC model. This is our preferred option, and we think that it's a balanced approach which allows some changes to it take effect sooner, and for the recent economic volatility to be reflected in the cost index.

Option 2 is a delayed hard transition in which no changes are to be made in 2024-25 and then the full BCC model is to be implemented in 2025-26.

Option3 is an immediate hard transition with the BCC model, and all associated changes implemented in 2024-25.

And finally, Option 4 is a soft transition in which we implement the BCC model in 2024-25 with the addition of a one-off adjustment for the difference between the LGCI and the BCC, to capture the recent inflationary impacts on council costs.

We are encouraging feedback from stakeholders on these, or other options, and would welcome a lively discussion at the end of the presentation.

We're also proposing to review our rate peg methodology at least every 5 years with a transparent and consultative review process.

As part of our Rate Peg Review, stakeholders expressed serious concerns about funding local government services and regulating rates in NSW. While the revised Rate Peg Methodology is expected to address some of these issues, additional changes to the regulatory framework are needed. Therefore we recommend that the NSW Government commission an independent review of the financial model for councils, encompassing the broader issues that we have highlighted.

To support the potential review of the financial model for NSW councils, we proposed 3 measures which may enhance the equity of the rating system. Firstly, target eligibility criteria for rates exemptions to avoid subsidising services for unjustified properties and ensure consistent treatment for similar land uses. Secondly, allow councils to use Capital Improved Value method for setting variable rates to ensure equity across residential and business ratepayers. And lastly, adjust the statutory charges to reflect actual costs relieving the burden on rates income for service provision. Although IPART has identified these as measures which would improve the rating system, they each require legislative change and cannot be implemented by IPART.

We've also identified 6 measures which warrant further investigation, and these are displayed on your screen now.

The first of these is strengthening incentives for councils to deliver outcomes for ratepayers. This could include clearer accountability which may help drive performance and efficiency.

Two is addressing financial sustainability challenges faced by some councils to help enable councils consistently meet OLG benchmarks.

Three. Improving communications between councils and ratepayers to enhance understanding of how rates revenue is utilised.

Four. Exploring alternative funding sources for community services beyond the Rate Peg framework.

Five. Reviewing pensioner concessions to alleviate cost pressures for ratepayers, particularly in the context of high inflation. And finally six, considering additional constraints within the Rate Peg system to provide greater stability and confidence for individual ratepayers.

Further analysis and consideration is necessary to determine the feasibility and potential impact of these 6 areas of interest.

We would now like to invite participants to vote on options for how we could transition to the new rate peg methodology. For this we will use the polling feature in Zoom. I'd like to stress again that all answers are anonymous, and we cannot see who has responded or any specific individual's response. We will not be sharing these responses; however, we will consider these responses in preparing our Final Report. You can also add your preference in the chat box if you would like.

The question is: what implementation option would you prefer for the changes to the rate peg methodology.

1. Use the Local Government Cost Index but remove the Emergency Services Levy component and develop separate Emergency Service Levy factors and amend the population factor to remove prison populations.
2. Delay implementing all changes until the 2025-26 rate peg

3. Implement all changes in 2024-25 rate peg.
4. Implement all changes in the 2024-25 rate peg and include a one-off adjustment for the difference between the Local Government Cost Index and the Base Cost Change model (excluding the Emergency Services Levy)
5. Some other option that you might propose.

Please select your preferred option and press the submit button when you're ready. That concludes Session 3 and I now hand back to Andrew to help facilitate the discussion on any further matters.

1.8 Questions and discussion

Mr Nicholls: Thank you Simon and as previously, while you're just voting there. I'll now open the discussion to the floor and again encourage everyone to share their views by raising their hand or dropping the comments into the chat box. And I think, Carmel, you might have had your hand up to jump in. So I might throw to you. And then I think Kevin is next.

Ms Donnelly: Well, I was just going to ask that I know Professor Drew's made an interesting comment in the chat about Capital Improved Value and I think also he may need to leave early, so I wondered whether we might ask for him to talk a little about his comment.

Mr Drew: I'm trying to remain anonymous as much as possible but you keep asking me to speak. The basics of an unimproved land value is, what you're really capturing is the increase in the value of land that you did nothing to earn. It's not capturing your building that you build, your house you've renovated, your gardens or anything else. It goes back to the time when Henry George came out here in 1869, he was married to an Australian called Matilda and he did a presentation to the NSW Economics Society, and that's why we adopted it.

And the idea goes back to natural law philosophy principles. If you're going to tax someone. It's fairer to tax them on unearned wealth. If my unimproved land value goes up, it's because maybe suddenly got an international airport or great big industry or something like that. It's nothing I did. So that's fair enough for me to hand over some of that value.

You change to a CIV. You lose that. All of a sudden you're taxing things I did. I build a house. I built a fence. I did some landscaping. So you, entirely removing that really strong moral foundation for a tax and that's something that I don't think people realise, and it will also affect people's decisions.

And then there's lots of scholarly evidence from the US showing it affects people, how many rooms they build, how big the house is and all those sorts of things as these thoughts, economic decision making, to which is what economists don't particularly like.

Ms Donnelly: Okay, thank you for that.

Mr Nicholls: Thanks so much, Professor. Just before I jump to Kevin. I understand there are a couple of people who are online using the telephone, which until today was something I didn't realise you could do in Zoom. So I'm learning something too today. Now I understand that if you are on the phone and you'd like to raise or lower your hand you press *9 on your landline telephone pad and to mute or unmute you use *6, so that *9 to raise/lower your hand and *6 to mute or unmute. So if you wanted to jump in and you on a landline, that's the way to do it, so I might just hand now to Kevin.

Mr Brooks: Hello, Chair, can you hear me?

Mr Nicholls: We can indeed Kevin.

Mr Brooks: Thank you. I'd like to talk about this recommendation that you've made for a review of the councils funding framework. I think it's probably one of the few parts of the report that might actually be helpful to ratepayers. So I can be perhaps a bit positive about it.

But I would like to see some additional things added in. Now in the Draft Report I notice that IPART comments on council financial positions. It comments the councils financial positions have been deteriorating as represented by operating deficits and operational performance ratios. I think it looks at deterioration in those over 10 years.

But the Draft Report, as far as I can see, doesn't provide any evidence whatsoever that this decline in financial performance has been caused by insufficient rates revenue. In fact, during the decade between 2010-11 and 2020-21 average rate increases across NSW were 3.8% per annum which is roughly double the rate of CPI inflation over the same period, we would suggest shortage of revenues not really been the problem.

And nor has the review, as far as I'm aware, investigated other possible causes of deteriorating financial performance such as the quality of management across the local government sector, inefficiency, low productivity, insufficient prioritisation, poor innovation, culture or indeed insufficient links between rapidly growing executive pay and performance.

Now given that there is a danger that some may draw an incorrect inference from your Draft Report. I'm hoping that you will make it clear that you're not in this report, and you will clear this up in the Final Report saying that the deteriorating financial performance that you have evidence that is caused by insufficient rates income.

But where I think there is an opportunity is in your recommendation for a wider review. And what I would like to see rather than just talking about the funding model. I would like to see that review including other potential issues affecting the local government sector, such as the ones I've mentioned around quality of management, efficiency, productivity, prioritisation culture, links between executive pay and performance and so on.

The reason I think it's important that those are specifically called out now as being included in the review. One is so they don't get lost sight of between now and review taking place, but also because I think it does put councils on notice that the review is not just going to be another opportunity, for you know, for further rate hikes. But in fact, councils are actually going to be accountable for you know, how it incentivises council perhaps to raise their own game before that review.

So I'm asking really, if IPART rather than just talking about the funding model for that as terms of reference for that review, would also include these other factors that I've mentioned as I think that would help get to the bottom of precisely what is causing the deterioration in financial performance.

And obviously, once we identify the real cause of that. We're in a better position to come up with solutions rather than always just passing the burden onto the ratepayer.

Ms Donnelly: I'll just jump in Andrew. Absolutely noted. And ultimately it'll be a decision for Government as to whether they commission an independent investigation and what the terms of reference are, but where I think the Tribunal's most certainly consider all those broader issues, and we haven't indeed really had an opportunity in this review to be looking at you know what is caused financial sustainability issues. And it's more that we think that a further investigation into the financial model would do that considering a broad range of things, and considering that councils are quite diverse, and there may be a range of different causes, but also we certainly heard from many ratepayers.

You know that they want to see good financial management. They understand that some councils have got particularly sort of remote councils and rural councils have got quite different challenges to metropolitan ones, and so on. So yeah, without talking for too long here. It's clearly not a simple thing, and that's why it would need an in-depth review.

Mr Nicholls: Great, thanks Carmel. Thanks, Kevin for your full comments there as well. I might ask Rob to jump in.

Mr Pearce: Yeah, thank you. Alright. I'll really support a review into the financial model for councils. I think there's definitely scope for that. And I think one of the problems that councils face is prioritisation of spending. And if say, address needs ahead of wants would be far better off.

But unfortunately, they often get involved in a lot of things which are really wants ahead of needs as Professor Drew said that earlier in the chat like when you put your IP&R documents on display, it's often people who want something who respond and councils have a responsibility, while they must listen to what all the ratepayers are saying, they ultimately must make decisions that are affordable into the long term.

So I think that's something that needs to be addressed and as far as the amalgamation problems go, some of that, I honestly believe, is because when they got that money they spent it on wants ahead of needs. So I would always support a review into the financial performances of councils.

Mr Nicholls: Thank you, Rob. We'll take that as a comment. Any other comments from the floor, Kevin I'm not sure if that's a legacy hand?

Mr Brooks: Sorry, that's a legacy hand.

Mr Nicholls: Okay thanks Kevin and thanks for your comments in the chat. They've been very helpful. Any other comments, there's obviously a few things in the chat. Graham, I think had to go. He's dropped out. But he put in a few comments there about some of his thoughts and financial sustainability and cost control. Does anyone want to talk to that. We're all running out of steam this hour on a Tuesday, Kevin this time I'll take it as it's not a legacy hand if you would like to jump in.

Mr Brooks: Yeah, I did want to say something, only if there was time about IPART itself. But I don't, I've realised I've had 3 quite lengthy contributions. So I'm happy for you to defer, and you to consider other people. But if no one else wants to speak, and then yes there is one other thing I probably like to talk on.

Mr Nicholls: Okay. Why don't I come back to you if there's not, if we have time based on other people's raised questions. Thanks Kevin. Professor Drew.

Mr Drew: I've actually put up my hand for once so I just wanted to comment on the need for a review for financial sustainability as well and truly overdue and I applaud IPART for this work and also for recommending that review. And I just please underline the fact that Destination 2036 started off as an evidence-based review. And it ended up having very little evidence and ended up quite poorly for a lot of the communities.

We need to make sure it is actually evidence-based. It's quite scary when you think about it. We've got 7 financial ratios. In Victoria they have 20 or 30. If I review financial sustainability, I think the minimum of 50, including econometric and FDH and DEA analysis are necessary.

It's quite hard to believe that you could actually measure sustainability with 7 ratios, particularly our arbitrary benchmarks. And really we're wandering along this little, I sometimes talk about sleep walking we are sleep walking into little disasters everywhere. We've had several disasters in our state, and none of those disasters have been predicted. So until we actually have a robust way of measuring financial sustainability, know what the situation is and then come up with some truly evidence-based recommendations. Not thought bubbles. We won't have an improvement. So thank you IPART for pushing that agenda.

Mr Nicholls: Thank you for that, Professor Drew. I see Meg has made some comments about build-to-rent, happy to take those comments as written unless someone wanted to respond to those feel free, or any other comments. George, I think you wanted to say something earlier too, so yeah feel free to put your hand up as well.

Mr Cowan: Thank you, Andrew, I might just make a couple of comments. I think it was Kevin that had a comprehensive list of things that might be causing the financial position of local government.

In my experience one of the things that has happened in councils particularly since 1993 when the new Local Government Act was introduced, but more particularly since IP&R came into our world in 2011 is the general expansion of the council's role in the community into social and environmental areas that were not part of our lives prior to those things. And those expectations continue.

As I mentioned earlier, we are a council in a rural setting but our community demands and expects services and facilities of the highest quality. I need an engineer, for example, that can build a bridge. I need a town planner that can assess a solar farm with many millions of dollar. I need environmental specialists that can handle the sort of circumstances that we face here in the rural environment. So I've got to be able to attract those people and not just retain them, but motivate them.

And I want a council that is capable of responding to the community's expectation. So if I walk down the street and get a cup of coffee at the local cafe or one of the cafes you know. It will be nothing for me to get in a conversation with people about what's the council doing about economic development, stimulating business in the main street. What role are we playing in tourism, how are we going about attracting new developments and new businesses to our community because our population is not growing. These are all very subtle factors and expectations on local government that are nevertheless very real.

And councils are finding it more and more and more impossible to respond to those circumstances, because we have a dwindling capacity, not just in our financial capacity, but in our resources and those things that are available now, I guess I had great hopes that IPART might at least talk about some of those things in the report, and hope, and perhaps this is something that State Government could include any review that they might undertake but their track record in undertaking these things is not particularly good.

I remember 2011 and 2012 and conferences that were held that started in Dubbo, you know with the golden handshake from the Minister and 4 years later there were the most ridiculous round of amalgamations in NSW history. So you know, we may not be overly happy with the outcome of a review, because one of the things that the review is absolutely bound to find is that the current situation is unsustainable.

So what are the solutions to that. Well those solutions might involve all sorts of things like restructuring and the very real threat that communities like Gundagai can lose their local government and that's what councils are, they are the local government and not just a service provider looking after water, sewer, waste etc.

Although we do all of those things, and we do them fairly well but we have the responsibility to look after our community in terms of representing it to our friends at the State and a really large proportion of my time is spent doing exactly that lobbying the State to improve their services to our community.

I know a lot of that stuff is outside the realms of this review. This you know the rate pegging mechanism, but they're all real things that every council faces on a regular basis. And our councillors face those challenges. It's a lot more than just dollars and cents.

Mr Nicholls: Great. Thank you very much George for those comments.

Mr Pearce: Yeah, I just like to respond to George there, while I understand what he's saying, I think he's also highlighted some of the problems that we face. I think councils have got involved in way too many services which is made it unaffordable to supply them all. I think you've got to go back to the basics, core infrastructure number one, and if you've got money left over, then you focus on those wants, because at the end of the day there's a limited amount of money.

And I think the more you supply things that used to be done voluntarily by the community, the more the community expects. So I just think that there needs to be a focus back to the core essential services that councils used to and still should provide. Thank you.

Mr Nicholls: Thank you, Rob. We will go to Bill and then Alison.

Mr Carter: So thanks. Yes, we just wanted to note IPART's work and the discussion we had about the sustainability indicator and climate change costs that many coastal councils, and that and others that are being forced to fund.

And, as we know, council is the provider of last choice, because they're on site and everything like that. So it's an issue that I think they did a good job of exploring an Appendix E there explaining, you know, trying to find the balance between who should fund what additional costs, what are the different sources that could fund it. It can't be a cost that is just a pushed on to the ratepayer because the ratepayer is already in financial stress at this point in time to, and a lot of those council areas. So we understand that. But it is an issue that just can't go away because it's real. And it's something that everybody's got to deal with. So we appreciate that. And we would like to see obviously that part of any future review of financial sustainability and local government.

Mr Nicholls: Thank you, Bill. I appreciate those comments. Alison.

Ms Balind: Thanks very much, Andrew. I just wanted to respond. And I really don't want to sound overly critical of those ratepayers who've given up their time to make comment on this but the reality is local governments moved on from roads, rates and rubbish. And I seem to get the sense that that focusing on whatever it is that councils are supposed to do it would fall within that category.

The reality is Bland Shire out in Central West NSW. It's got the second largest road network of all of the councils in NSW. We've got a very dispersed community living in small villages. We endeavour to provide the services that our community tells us they need. Yes, that's roads. Yes, that's rubbish, probably not so much on the rates. But there are other things that our community tells us that they need. And that's the whole part of the IP&R process is to have an ongoing dialogue with the communities, identify those projects, program, services whatever you want to call them, and try and build your budgets to adequately provide those services.

Trying to do that under the current rate peg is virtually impossible. Councils are stretched exceedingly thinly. I heard George talking about needing an engineer and needing a planner, and it's like hello, that's the case for most councils out in this part of the world, sourcing staff who have the skills and capacity to do that work is a challenge for councils, and also I acknowledge in metropolitan areas. They have their own staffing issues.

But the fact of the matter is to say that councils need to focus on the core business. It's no longer that the case, that it's just the roads, rates, and rubbish. And the other point that I would like to make is quite often, councils will receive funding to deliver specific services or programs or projects over a number of years and then that funding is gradually cut back from whether it's from the State or the Federal Government.

In that period of time, the community's expectations have grown substantially, and they expect that service to continue, regardless of whether it's funded externally, or whether it has to come from council. If council has to pay for it, how do they do that, when they're hamstrung but by rate pegging, and that's why I said earlier in the peace, fixing the rate peg is a fantastic start, but it's only the start. There's a whole host of other things that need to be looked at. Otherwise, yeah, councils will go out backwards.

So I appreciate your comments, Kevin, Rob, but the reality is in my experience, and I've worked at 4 regional councils. I've actually sat as an elected representative on a council. So I've been on both sides of the table, and I can actually understand the struggles that council staff and councillors have when it comes to budget time, and they have to decide what projects they're not going to deliver to their communities. It's not. It's not a fun exercise.

Mr Nicholls: Thanks Alison for those comments. And I think, Shaun is coming up.

Mr McBride: Just getting my voice. Sorry, and trouble with the mute. Just adding to what Alison and others have said, I would just add the extra point too that in terms of councils moving beyond their core capacities their core functions. Much of that hasn't been by choice. It's been new roles and responsibilities imposed upon them over the years by primarily under State legislation, and so on.

So there is a load by State of extra responsibilities on to councils. And councils don't really have a say in that. And often with that comes the costs of delivering those extra responsibilities or meeting those extra responsibilities. And you know that feeds into the broader issue of you know cost shifting, which should also form part of the broader review.

Mr Nicholls: Great. Thanks very much for those comments as well Shaun. Are there any other comments. I'm conscious that Kevin has been very respectful and patient in allowing others to speak and I would be keen to allow you to make the comments you wanted to make. So, perhaps we might go to you, Kevin now.

Mr Brooks: Thanks for that Chair. The last point I really wanted to make today, and I suppose is also on that. I think the review, the wider review, should also look at the role, the performance, and the independence of IPART itself. I don't mean to be disrespectful here, but I've said all along that I can see a case for a pricing regulator, because councils are monopoly service providers at the end of the day.

But that case is only really strong I think if the pricing regular genuinely protects ratepayers from monopoly pricing. And I've probably now reached the stage where I don't see IPART performing that function.

I mentioned earlier rates of reason twice as fast as CPI over the last decade, and that was before these recent special variations of 30%, 40%, 50%, 60% that went through last month. And of course before this review, which I believe will push the rate peg and rates up further. So I don't see IPART protecting ratepayers from monopoly pricing.

So you then have to ask what good is it doing. And the problem, I perceive, is that what IPART is doing is it's protecting councils from accountability and in the sense that councils will say you know, don't blame us for the rate peg it is set centrally by IPART, and when every other council is putting up rates by the same amount so we're not really accountable for the ballot box for that anymore.

And they do say this, I mean, they certainly say up here. So we reach the State, I think, where IPART is no longer protecting ratepayers but it is protecting councillors, if you like, blurring the lines of democratic accountability between the councillors and their voters.

Now, Alison mentioned her experiences at council. I'm actually a former councillor as well I was a council leader in the UK many years ago and the system there was quite different, as I remember it might be different again now. But back then rate pegging was only really reserved for about 10-15% of councils at the really high end of rate increases.

The vast majority of councils were not impacted by rate pegging. There was no IPART setting a uniform rate across the UK. What councils had then, I remember well, we had 2 incentives when we came to set our rates. There was an economic incentive and there was a political incentive.

Now, the economic incentive was the government withdrew block grant in proportion to your rate increase. So if you wanted to raise $100 million, you might have to raise $120 million to compensate for the cost block grant.

But the other, and more importantly, the political incentive was because you set your rates and every other council near you will be setting a different rate, ratepayers could compare and they could therefore ask questions as to whether the rate you were setting was really justified. So there was a democratic accountability to that, which I don't think you have in the NSW system with IPART, because it's too easy for council to blame the rates on IPART saying it's set somewhere else.

So I think there is now. And I think this is something else I would like to see added to the review is the role and performance of IPART because I think now we've got to the stage now, where there is so little protection to ratepayers from IPART that we will be better off relying on democratic accountability. Where councils have to explain the rate increases, their own individual rate increases to their ratepayers.

I notice someone in the chat early from one of the councils actually made the point. It's politically difficult to get an SRV, therefore we want IPART to get us the extra money through the rate peg. Well it should be politically difficult to get an SRV. You should have to explain that. I think that's what I would like to see included in the review and examination of alternative models of incentivising councils.

I can tell you again to Alison and her comments earlier, that I inherited accounts when I was a leader back then. I inherited a council with financial difficulties. We solved the problem through reforms on it, internal reforms on efficiency and productivity, but also really rigorous prioritisation.

We have people doing surveys, going into people's individual houses, almost like with monopoly money in a board, with people trading between rates and services, and between individual services, and we formed a really good idea of what the priorities in the community were.

And I think when you're accountable, when you know that you're likely to be voted out, the rates are too high, you're forced to do that sort of thing. Unfortunately, what IPART has done is created a bailout culture for councils where it's just far easier for them to keep turning up at IPART for more ratepayer's money, rather than doing that hard work on reform. So I think there's models there of how rates are set that should also be included in that wider review.

Mr Nicholls: Okay, thank you very much Kevin, for those comments and certainly we are advocating a wide range in review. So all those views are certainly welcome. Carmel, did you want to respond to that.

Ms Donnelly: Look if I can. I know that we're nearing the time for my closing remarks, so I might just make a few comments in response to Kevin's points there and then I've been scanning. I don't think we've got any other hands up, so I might take us into closing up so that people can get away on time.

Kevin, you know, acknowledge that I think the Tribunal members. I think I can speak, for all of them are aware that by saying that there should be a review, an independent investigation into the financial model, and by saying publicly, you know, including how the SRV process works by saying that we've heard very clearly from ratepayers and councils that there are problems that can't be solved through the rate peg.

We're taking the view of not defending the status quo and including our own role. Our role is delegated to us from the Minister. It's couched in legislation that hasn't been amended for many years. And I think I can reassure you that in a future review, we would be committed to listening, learning being part of improvement, not defending the status quo, not defending whatever functions are given to us by the Government of the day.

It's been something that we've been aware of, that we have a role that is structured in a particular way because of legislation and because of guidelines and so on. If it needs to be changed and improved then we would see it as our role to call out that it's time to be looked at and that's what we're doing. So we won't be defending ourselves in this we'll be wanting to be part of listening, learning, and improving.

1.9 Closing remarks

Ms Donnelly: So with that I might just also, on behalf of all the Tribunal. Thank you very much everybody for the participation today. I think it's been a very useful and constructive discussion. I'm pleased with how much we've got through. I'm aware that we've got a lot of comments in the chat as well as what's come out in the discussion and also probably, you know, we haven't seen but people will have put in anonymous comments, etc., through the Zoom poll function as well.

So I want to thank you everybody for all of your input. A transcript of our discussion and our slides will be available on our website in a few days, and we'll be considering everything that's been said today in our final decisions and recommendations.

In terms of next steps we are at the at the red bubbles here, with the Draft Report having come out and public hearing. We will now consider everything and prepare a Final Report which is provided to the Minister in August, and it'll then be up to the Government to consider that.

One other thing that you may be interested in. So we have submissions. We are considering those once the Tribunal has had time to consider and actually formally meet and discuss them, as soon as practical, we will also make those submissions that are not confidential public, and publish those as well in time. Just not sure exactly when that will be.

But that's you know, in the coming couple of months, as we work through developing our Final Report and giving that to Government. So with that, let me just again, on behalf of the Tribunal, thank you all for making the time and for being so forth right and open in your views, and also respectful and courteous. Given that certainly there's a range of views, and you know we want everyone to feel that they can contribute and be respected. And I think everyone's done that very well. So thank you again, and we'll let you get on with your day.

Ms Cope: Thank you very much everyone, much appreciated.

Ms Gamble: Thanks from me too.