

Responses to Questions on Notice from Standing Committee on State Development

Inquiry into the Ability of Local Government to Fund Infrastructure and Services By

Local Government Professionals NSW

Question 1:

Transcript:

The Hon. PETER PRIMROSE: Could I ask about something like, for example, emergency services. In terms of the emergency services, subsidies and other resources are provided by other levels of government. Councils are also expected to provide that. For instance, if a council wished to put on an emergency services levy to increase the resources, training and facilities available to its various emergency services, whatever they may be—be it for flood or fire or whatever—is that restricted in any way by any legislation?

RICHARD SHERIDAN: I think that's a hard one.

The Hon. PETER PRIMROSE: I can quote you a few examples of where it has been used, but not for many decades. I'm just curious as to what it is now.

CRAIG SWIFT-McNAIR: We certainly don't, as local government in New South Wales, have the ability just to apply a levy because it's a good idea; we would have done it. We would need to apply through the appropriate channels—IPART or whomever. That's a bit of a complex one, actually, because we're already in the middle of an emergency services levy regime.

The Hon. PETER PRIMROSE: I wasn't aware of that.

CRAIG SWIFT-McNAIR: We would need to apply if we were going to do something different like that as a permanent levy. That would be my initial response.

The Hon. PETER PRIMROSE: May I ask, because it's a question that's been on my mind for a while, if you could possibly take that on notice?

CRAIG SWIFT-McNAIR: Yes, certainly.

Local Government Professionals NSW Response:

Under the *NSW Local Government Act 1993* (the Act), Council has three ways of creating revenue; these being through rates, fees & charges, noting that other sources of revenue may come from grants, developer contributions or commercial ventures.

The Act enables councils to charge and recover an approved fee for any service it provides, with Councils able to impose various charges for specific services or activities. The Act outlines different categories of charges as follows:

- **Annual charges:** These are fixed yearly fees associated with services like waste collection, stormwater management, and water/sewer (if Council-provided).
- **User charges and fees:** These are variable charges based on usage, like fees for building permits, parking, leisure centres, or childcare services.

The services for which an approved fee may be charged by the Council include the following services provided under the Act or any other Act or the regulations:

- Supplying a service, product or commodity.
- Giving information.
- Providing a service in connection with the exercise of the council's regulatory functions--including receiving an application for approval, granting an approval, making an inspection and issuing a certificate.
- Allowing admission to any building or enclosure.

For your information, the Office of Local Government (OLG) Council Rating and Revenue Raising Manual, 2007, provides a comprehensive overview of the different elements of charges, fees and rates. Link: <https://www.olg.nsw.gov.au/wp-content/uploads/Council-Rating-And-Revenue-Raising-Manual-January-2007.pdf>

The Emergency Services Levy (ESL) is governed by the Emergency Services Levy Act 2017.

If a Council was able to apply an ESL (or similar) as a separate levy, in order to be able to do this, each Council would need to go through a formal Special Rate Variation (SRV) process, as that is the only mechanism open to a Council to introduce a new levy. This would involve meeting the relevant OLG guidelines for an SRV and then submitting a formal application to the IPART. This means each Council would need to be able to provide evidence of the community need for the levy, demonstrate what other options were considered and whether existing costs could be reduced via efficiency savings etc on top of taking into consideration the community's capacity to pay.

Noting all the above, if an ESL levy was approved via an SRV process, then one would assume that it could then become rate pegged. If into the future a Council needed to increase the ESL levy by anything more than the rate peg, then Council would need to apply for another SRV. This of course also then introduces a lag effect i.e. at least 6–12-months minimum before any increase might be approved and able to be implemented.

Many Councils would not likely be willing to suffer a negative community engagement process that often accompanies any SRV process in order to collect revenue on behalf of the State Government, noting that Councils have no ability to improve efficiencies or management of Emergency Services in their area. Further to this and for absolute clarity, a Council does not have management responsibility for the emergency services of the SES, RFS and FRNSW. Also, Councils do not have any say in the delivery of these emergency services nor the replacement, acquisition and use of their assets. Any charging and collection of an ESL should be managed by the NSW Government directly with the public.

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Question 2:

Transcript:

Dr AMANDA COHN: You also mentioned earlier that the statutory fees don't align with CPI, or the cost of providing those services. I'm interested in understanding that in more detail. We've also had other submissions that mention those fees. Have you got a list of them? Have you got data to support that they're not keeping up with the cost of providing those services, or case studies or anecdotes of that impact?

RICHARD SHERIDAN: Yes. The first one I can think of—and we were talking about this yesterday—is the stormwater fee has been set at \$25 forever. I think now our equivalent at the water would charge four times that for that access-to-stormwater fee. But there is a whole list of statutory fees. We had issues with development application fees for a lot of years. They were just stagnant; they didn't go up at all. They've started to increase now but, similar to what IPART was saying, we've got this massive catch-up. Most councils' development services—the ratepayers are probably subsidising it in our council up to \$5 million, just to run the development services at the moment, because of that huge catch-up. We can definitely get a full list of all those fees.

The other one that we particularly talk a lot about in the affordability to pay is the poor old pensioner rebate, which has been \$250 since 1989. Obviously, we can't afford to increase it, and I don't think the State Government want to increase it because it's going to cost a lot more in terms of the rebate. So things like that. At the moment we're getting a lot of pensioners who are now falling into our unpaid list. That's an intergenerational problem, because if they don't pay those rates then it's going to pass onto the property when they pass it down to the next generation. So things like that, where you'd think it would be sensible to provide that subsidy to pensioners, but every year it's getting less and less for them because it hasn't had an increase in 30 years.

Dr AMANDA COHN: Those are both excellent examples. I'm interested in any more you can provide us on notice

Local Government Professionals NSW Response:

Following are some examples of statutory fees that have not kept pace with CPI:

Pensioner Rebates

Councils provides the mandatory rebate to eligible pensioners under section 575 of the *NSW Local Government Act 1993* (the Act), up to a maximum of \$250 per rate assessment. Current holders of a Pensioner Concession Card who own and occupy a rateable property are eligible for a pensioner concession.

This amount has not changed since 1993. Had the rebate been increased in line with CPI, this amount would now be in excess of \$450 as at 2021.

Under the State's mandatory Pensioner Concession Scheme, the NSW Government requires Councils to fund 45% of the pensioner rebate. The table below provides an overview of the funding provided by the governments of other States and Territories across Australia:

	Type of Relief	Value of funding	Funding Source
NSW	Concession only	50% discount, up to \$250 pa	55% state, 45% council
VIC	Concession only	50% discount, up to \$218.30 pa	100% state
QLD	Concession only	20% discount, up to \$200 pa	100% state
NT	Concession only	62.5% discount, up to \$200 pa	100% NT govt.
TAS	Concession only	30% discount, up to \$425 pa	100% state
WA	Concession or rate deferral	50% discount, up to \$750 pa	100% state
SA	Rate (postponement) deferral only	All rates in excess of \$500 pa	100% state
ACT	Concession and rate deferral	50% discount, up to \$700 pa, deferral on rates in excess of \$700	100% ACT govt.

As can be seen from the above table, under the current scheme, the NSW Government funds 55% or about \$78.5 million per annum of the cost of the mandatory rebate and local Councils are obliged to fund 45% or \$64.2 million per annum.

The IPART recently undertook a review of the local government rating system. The final report from the IPART recommended:

- For new and existing pensioners, introducing a \$1,000 rate deferral scheme that is indexed by CPI.
- Give existing pensioners the option to access either the current concession or the deferring scheme.
- That the current pensioner concession funding arrangement continue in its current form.
- That the NSW Government fund the rate deferral scheme.

The IPART outlined that the objective of the recommendation was to maximise the cash-flow relief to pensioners so they could comfortably meet their bills, whilst minimising the costs of this enhanced assistance to other rate payers, Councils, and the NSW Government.

Stormwater Charge

Clause 125AA of the Local Government (General) Amendment (Stormwater) Regulation 2006, prescribes the maximum charge that may be levied on rateable land is:

- \$25 for land categorised as residential.
- \$25 per 350 square metres (or part thereof) for land categorised as business, plus an additional \$25 for each 350 square metres or part of 350 square metres by which the area of the parcel of land exceeds 350 square metres.

If the Stormwater charge were to have had CPI applied to it since 2006, then the maximum charge for land categorised as residential would now be around **\$40.50** and equate to an increase of approximately **62%** since 2006. However, this charge has been fixed since 2006 and has not increased.

For your information, the Office of Local Government, Council Stormwater Management Service Charge guidelines are linked here for information:

<https://www.olg.nsw.gov.au/wp-content/uploads/Stormwater-Management-Service-Charge-Guidelines.pdf>

Audit Fees

Since 2016-2017, the NSW Audit Office has undertaken audits of local Councils. During this time, the cost of audit to Councils has increased substantially.

For the period 2016-2017 to 2022-2023, the average cumulative increase in audit fees over those 6 years for all Councils is **84.7%**.

Please note that the actual cost of audit varies greatly between Councils, hence why we are talking here about percentage increases only, rather than actual dollars.

Other Fees

Currently there is no central data kept on all regulated fees, therefore it is not always easy to capture and report on the fees currently in place across the sector. Perhaps one recommendation to come from this Inquiry could be that there be a centralised review of direct & indirect costs associated with the services provided by Councils, to ensure the charge is adequate and the setting of that charge is transparent. Some examples of 'Other Fees' that are regulated include:

- Council's Development Control Plans & Development Contribution Plans
- Section 10.7 (formerly Section 149) Planning Certificates
- Development and Building - Development Application (DA) Fees
- Modification of Development Consent Application (Court approved / \$4.55(2))
- Review of Determination Development Application or Modification to Development Consent
- Advertised and Re-advertised Applications (in addition to notification fees)
- Development and Building - Building Assessment and Development Engineering
- Swimming Pools (Private Swimming Pool)
- Public Health
- Companion Animal Fees
- Annual Specified Animal Permit Fees
- Food Premises Retail and home business
- Protection of the Environment Operations Legislation
- Section 603 Certificate
- Government Information (Public Access) Act access applications
- Waste charges i.e. Liquid Trade Waste, Food Waste disposal, Excess Mass Charges, Non-Compliance Charges

As can be seen from the information provided in this response, Councils have very little scope to increase revenue outside of rates, user fees and charges and this is at the core of why many Councils face a range of financial sustainability challenges.

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Question 3:

Transcript:

The Hon. PETER PRIMROSE: Thank you, I might take that up. My other question is totally speculative in terms of what we're hearing about the numbers of zombie DAs being reactivated at the moment. In terms of being conditioned up, are those old conditions affecting, in any way, costs onto councils or is it totally negligible? If conditions are based upon DAs that are 20 years old then, obviously, in terms of obligations on the applicants, it may not meet the current requirements which may then fall onto local councils. Or is that just not really an issue in terms of the numbers? Again, please feel free to take that on notice if you wish.

CRAIG SWIFT-McNAIR: I think we'll take that on notice. It's not something that has come to my attention in Woollahra, so we'll take it on notice.

Local Government Professionals NSW Response:

It is our understanding that the term 'Zombie DAs' (Development Applications) relates to are old development consents that have not been acted upon for years (often decades), but are suddenly reactivated. This can lead to several costs and challenges for Councils such as:

- **Compliance and Regulation Changes:** Councils may have to spend considerable resources reviewing these applications to ensure they meet current environmental, safety, and urban planning standards.
- **Environmental and Community Impact:** Reactivated projects may not align with current environmental or community plans, leading to potential conflicts and the need for re-assessment. These issues can require environmental impact studies and community consultations, which impact Council resources.
- **Legal and Administrative Costs:** Councils can face legal and administrative expenses when dealing with zombie DAs, especially if the reactivation of a DA leads to legal challenges or appeals in court. This not only involves direct costs like legal fees but also indirect costs such as staff time and resources diverted from other projects.

Unfortunately, at this stage there is little collective information available to us in relation to costs that Councils are currently facing in relation to 'Zombie DA's'.