

**Submission  
No 1**

## **INQUIRY INTO FIRE AND EMERGENCY SERVICES LEVY**

**Organisation:** Campbelltown City Council

**Date received:** 6 October 2017

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The Director  
Portfolio Committee No.4 – Legal Affairs  
Parliament House  
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Dear Sir or Madam

**Campbelltown City Council submission into the Fire and Emergency Services Levy (FESL)**

I am pleased to make this submission on behalf of Campbelltown City Council and the community that we represent and have addressed herein each of the terms of reference as provided in July this year.

Campbelltown City Council had been an active participant in the reform process with staff involved in the FESL workgroup that commenced in May 2016. Primarily we see an opportunity to continue in fostering the strengthening of relationships between local and state government and to improve the alignment of taxation principles shared across the sector.

**Submission:**

*(a) the policy process and financial modelling underlying the provisions of the Fire and Emergency Services Levy Act 2017,*

Council had not been privy to the financial modelling underlying the provisions of the FESL.

*(b) the policy and financial implications for all stakeholders of repealing this Act,*

The Portfolio Committee would be aware that councils were provided a choice in reimbursement of costs over a series of identified cost heads. The choice between 'formula' or 'cost recovery' had a degree of flexibility and councils could change between each methodology. The cost heads associated with implementation were based on pre-determined averages subsequently applied to each council based on quantum, size or level of effort required.

The formula model had been identified as the default method with an option to use cost recovery if a council was of the opinion that the formula method represented an insufficient representation of costs. It is our understanding that providing evidence could be provided the full cost of any FESL related cost head could be recovered by choosing the cost recovery method.

Campbelltown City Council identified the need for a full-time resource to implement the changes to its internal systems and ensure proper procedures were included in training documentation and advice to staff. Circumstances allowed for an additional temporary resource to be repositioned which was fully funded by the formula payments received.

Importantly material costs for tangibles such as direct postage, printing and computer software upgrades were all compensated in full through a combination of formula payments or cost recovery.

The repeal of the legislation did not have a significant adverse financial implication on Campbelltown City Council. However following the repeal Council received numerous enquiries from landowners who were confused by the change in policy. Many of these people contacted Council for information or guidance on the next steps and or on who will be collecting future FESL contributions.

[Recommended improvements: Predetermined and or advanced timeframe to allow Council to estimate and allocate an appropriate level and type of resources required to deliver the FESL.](#)

*(c) alternative models for ensuring that fire and emergency services are fully funded in a fair and equitable manner;*

#### Council contribution

Presently NSW councils contribute from consolidated funds an amount equal to 11.7% of the total cost in operating state-wide fire and emergency services (excludes Police and Ambulance). Discontinuing the council contribution and including this into any future levy would represent a clearer and fairer funding model to landowners across the state.

Our community is essentially paying this contribution however they are not aware of how it impacts them at a personal or ratepayer level and this change would increase visibility in equity.

#### Land valuation basis

The FESL has strong links to the model used in Victoria where the basis for calculating both the Emergency Services Levy (ESL) and land rates is on improved or capital values. In August 2016 the Independent Pricing and Regulatory Tribunal (IPART) recommended in its draft report that NSW councils be provided with a choice in using either unimproved values or capital values when determining land rates.

Council is unaware of any further developments from this report however given the government's deferral of the FESL, time has now become available to formulate an appropriate methodology and mandate the transition of all NSW councils to capital values.

## Vacant land

Application of the FESL on vacant land where fire related services effort to extinguish scarcely fuelled land makes sense for these to be set at a lower rate. It is understood that this had been the basis of the 50% discount/reduction for all classifications other than for Farmland.

Should there be no change to land valuation methodology consideration to one of the following may resolve the equity issue:

1. Increase discount by a further 25% to 75%.
2. Set a cap on the maximum chargeable amount.
3. Scale the fees based on land area or land value.

Revised financial modelling across all councils would be required to determine equity and may result in a combination of the above items.

In the event that a shift to capital improved values were to be mandated vacant land would naturally attract lower rates negating the need for any discounting.

## Non-vacant classifications:

All land recorded in councils systems (including Government land) needed to be classified according to a list of nine classifications. This work had been completed by NSW councils within the four months of notice being granted with an accuracy of 98% match to the data held by Valuation Services NSW.

The Victorian model uses classification codes determined in accordance with standards under the Australian Property Classification Codes (AVPCC) which are allocated upon determination of each capital value assessment. The information is simply uploaded into the council's database and recognised when calculating levies. Transitioning to capital values in NSW may require changes to the classifications however as they are included alongside each valuation record the need to report back to Valuation Services would become obsolete.

Should there be no change to land valuation methodology consideration to one of the following may resolve the equity issue:

1. Set a cap on the maximum chargeable amount.
2. Scale the fees based on land area or land value.

Further consideration to a holistic alignment to both the FESL classifications and LG Act categorisations could be given which would reduce landowner confusion and strengthen the relationship in the legislation.

### Recommended improvements:

- Dissolve the 11.7% council contribution into the total collection formula.
- Consult relevant stakeholders with a view to transitioning all NSW councils to capital improved values as the basis for land rates and the FESL.
- If land values retained, increase the vacant land discount, consider capping or variable scale of rates and charges.
- Use AVPCC coding to align land use with levy classifications.
- Finalised data modelling to understand the impacts well before implementation.

*(d) any other related matter.*

### Exemptions

It is notable that the FESL contains no exemptions other than to avoid internal payments between government agencies.

The FESL is designed to meet the operational costs to the NSW government in funding a service to landowners whether the service is used or not used. This taxation principle is not substantially different to that of council land rates. In reality access to works, services, facilities or activities funded by local councils are most certainly regularly used by landowners (or their tenants) and where an exemption applies these landowners are exempt from making a contribution through land rates.

Council acknowledges that this item is not strictly in line with the terms of reference, primarily it is the clear inequity issue in taxation principles between state taxes and local government taxes that the matter is considered to be important.

The matter of exemptions has most recently been identified as inefficient, inequitable administratively complex and unsustainable in the NSW Independent Local Government Review Panel (October 2013) and the IPART Review of the Local Government Rating System (August 2016).

### Reporting to Revenue NSW formerly Office of State Revenue – (OSR)

The OSR imposed a regime of reporting considered by the local government sector to be extremely onerous, inefficient and burdensome. The amount of detailed information required down to a transaction level represented the majority of costs incurred in the sectors corporate software modifications.

Councils deal with complex rating matters daily and the land based FESL had been established to align itself in many ways as existing land rates. The legislation has been written with the input of local government rating practitioners who deal with such matters on a regular basis. Importantly specific sections within the FESL Act empower council's with the responsibility of levying and collecting payments on behalf of the state.

The following is an extract from the FESL legislation providing councils with the responsibility to levy and collect on behalf of the State (see also Part 6 FESL Act).

*12 Council must charge and collect levy on behalf of State*

- (1) A council is responsible for charging the levy on land situated in the council's area and for collecting the levy.*
- (2) A council charges and collects the levy on behalf of the State.*
- (3) The council must account for amounts collected by paying collection instalments to the Chief Commissioner in accordance with this Act.*

Councils should be provided autonomy in performing its duties under the legislation subject to annual audits by the NSW Auditor General. Councils could easily provide certification by the General Manager, Responsible Accounting Officer and Auditor General of compliance as part of its annual financial reporting. The amounts collected less any costs incurred in collection (not yet determined) would then be payable to the OSR.

The efficiency gains are estimated to significantly and substantially exceed any revenue leakage due to error or miscalculation together with reducing the on-going costs in software maintenance and internal council costs in preparing and maintaining each quarterly report.

Retrospective classification/categorisation

Under Division 7 of the FESL protection has been legislated against retrospective classification changes which if not included may have resulted in adjustments for previous financial years.

Within Part 3 of Chapter 15 of the Local Government Act 1993 are the provisions for categorising council land rates. These provisions do not prevent the retrospective application of a rating category which can result in considerable unrecoverable financial adjustments.

Based on the similarity in the taxation principles applicable to both land rates and the FESL changes in legislation to avail the same protection may be considered for the Local Government Act.

Commonality in land categories/classifications

In August 2016 the IPART review draft report of the local government rating system identified land categorisation as limited and recommended to add new categories as well as changes to the existing four.

In summary these included:

- Allowing for sub-categorisation of the 'Business' category into 'Commercial' and 'Industrial',
- Allowing 'Farmland' to be sub-categorised based on geographic location reflecting ratepayer access to services.
- Adding new categories for 'environmental' and 'vacant' land.

Council would encourage a review of the alignment between the current rating categories defined in the Local Government Act 1993 and the classifications defined in the Fire and Emergency Services Levy Act 2017 and the recommendations made by IPART in their August 2016 draft report.

Commonality would assist the community in their understanding of the basis for rating and help to avoid confusion. Commonality could also provide greater flexibility through an increase in the number of 'shared' categories and consistency in the description of each category.

#### Stakeholder participation

Involvement in the development of the recommended improvements should involve key stakeholders for the local government sector including but limited to interested local council staff, the NSW Revenue Professionals and Local Government NSW.

Consideration of the IPART 'Review of the Local Government Rating System' recommendations should also be investigated and melded into a holistic approach to change that adds value to efficiency and fairness for both land rates and the FESL.

#### Recommended improvements:

- Removal of exemptions from council rating on the same basis as afforded to the FESL.
- Remove or reduce the burdensome reporting mechanisms requested by OSR to improve efficiency.
- Legislative amendments to align the FESL classification and council categorisation processes, i.e. removal of retrospective changes.
- Commonality in land categorisation and classification types.
- Stakeholder participation in the recommended improvements.