

INQUIRY INTO FIRE AND EMERGENCY SERVICES LEVY

Organisation: NSW Revenue Professionals Inc

Date received: 21 November 2017

21 November 2017

Portfolio Committee No.4 – Legal Affairs
Parliament House
Macquarie Street
SYDNEY NSW 2000

portfoliocommittee4@parliament.nsw.gov.au

Dear Committee,

**Submission to Inquiry into the Fire and Emergency Services Levy (FESL)
NSW Revenue Professionals Inc.**

Thank you for the opportunity to present this submission on behalf of the NSW Revenue Professionals Inc. (NSWRP's) in accordance the terms of reference provided in July this year.

The NSW Revenue Professionals Inc. is the peak body of NSW Local Government revenue employees and was formed in order to:

- unite in a common organisation, those Local Government employees who are engaged in rating and revenue functions.
- improve and elevate the technical and general knowledge of Local Government employees who are engaged in rating and revenue functions.
- distribute amongst its members, and the regional NSWRP groups, information on all matters affecting or pertaining to the profession of rating and revenue management within Local Government by way of meetings, newsletters, conferences, or any other method available to the Committee.
- promote a professional image of Rating and Revenue practitioners in Local Government New South Wales.
- promote quality services to Local Government in New South Wales through the dissemination of best practice.
- encourage members to keep up to date with finance related activities and legislative changes through continuing professional development.
- identify the skills and knowledge needed by employees and facilitate training and education.
- make the expertise of members available to professional bodies and government departments as required.

Advancing Professionalism in Revenue Raising

www.rp.nsw.gov.au

Representatives from the NSWRP's executive, along with other Council staff and staff from Local Government NSW, were active participants in the reform process through the FESL workgroup that commenced in May 2016. While the policy direction was clearly being set by Government, we believe our contribution to the process was significant in harmonising the levy, as best as possible, with Local Government legislation and practice, and also providing information and training to the broader industry.

We submit that this consultative process model was highly successful, despite the ultimate fate of the FESL. We encourage Government to continue to use this consultative approach into the future as there is clearly opportunity to foster and strengthen relationships between local and state government and to improve the alignment of taxation principles.

Submission:

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

As an active workgroup participant, we acknowledge the policy direction leading up to the introduction of the FESL as being set by Government through NSW Treasury. The NSWRP's were not privy to the detailed financial modelling undertaken.

We submit, however, that the timeframes allowed in this project were possibly not sufficient to fully analyse the impacts, prior to the actual implementation of the levy. The work required by councils to provide information needed for the detailed financial examination could not be undertaken until the broad legislative parameters were set. By the time this work was completed, the legislation was largely complete due to the need to present the bill to parliament. The final modelling was likely being undertaken at the time the legislation was passed.

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

We believe the postponement of the FESL did not have widespread significant policy or financial implications for councils.

As I'm sure you would appreciate, councils undertook significant work in the lead-up to the proposed implementation of the levy. This work included classification of properties in line with the FESL requirements, data exchanges with the Valuer-General, software modifications and testing and the issue of FESL notices to our property owners. This large amount of work in a relatively short timeframe imposed significant resourcing issues to councils. The Governments' decision to postpone the introduction of the levy also imposed additional tasks in order to then prevent the levy being raised, to "de-FESL" computer systems and deal with customer enquiries.

The costs associated with undertaking this work were reimbursed to councils via a formula or cost recording methods on a cost recovery basis, set against a series of identified cost heads.

The formula model was based on pre-determined averages subsequently applied to each council based on quantum, size or level of effort required and was the default cost reimbursement method. The cost recovery method required recording of actual costs which were subject to audit before the funds were remitted. It is our understanding that the formula method was adopted by most councils, and that the amount reimbursed did mostly cover the actual costs. The postponement of the legislation therefore did not have a significant adverse financial implication to councils as a whole.

It is the view of the NSWRP's that having councils undertake the levying and collection of this, or any other property based levy on behalf of the Government, is an extremely cost effective approach. We submit however, that doing so should see remuneration in excess of mere cost recovery. It is highly likely the current insurance based scheme sees insurance retailers set premiums to recoup a commercial margin over and above actual costs. This should also be the case if councils were acting as the Government's agency. Any additional income councils receive would be returned to the payers of the levy through additional services at the local level. Local communities can then benefit from a share in the savings made by changing to the more efficient Local Government model.

Recommendations:

- Continue to consider Local Government as a vehicle to levy and collect property related charges on behalf of the NSW Government or its agencies.
- Renumerate Local Governments to a level that includes a margin above actual costs. This could be achieved by a payment for each assessment (including non-rateable and exempt land) based on a fee set by IPART on an annual basis. This provision would allow payment for all new assessment created during the year and would be paid on a pro rata basis.

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

The NSWRP's generally support the funding of fire and emergency services through the imposition of a property based levy. This model is used by most other states, and we submit that it is a fairer system that sees a contribution being made by a larger number of potential users of the services.

The difficulty in implementing a policy shift of this magnitude is the change in the amounts paid at the individual level. Anyone who is paying more will not see the new system as fair. Given the large diversity of land values across the state, it was inevitable that some individuals would be adversely affected.

The challenge is to flatten the peaks and troughs as best as possible, and/or phase in the change over time, to allow those affected to adjust to the impacts.

Differential levy rates

Land valuations obviously differ greatly across the state. The application of common ad-valorem rates across the state will therefore see the largest levies in areas with the highest values. It is clear to us that metropolitan or city environments will be the main contributors whereas the opposite will apply for lower valued areas in country regions, regardless of the cost of providing services in those areas.

The Victorian model sees the state separated into two regions due to separate agencies servicing those areas. The Metropolitan Fire Service (MFS) services the Melbourne area and the Country Fire Authority (CFA) services the regional areas. Separate rates are set to recoup costs within those areas.

This setting of differential rates in the areas where land values are very different, would flatten the peaks and troughs in the amounts levied and would redistribute the levy payable across the state. The split could be made on the basis of property location (metro/regional) or possibly by the service provider, such as NSW Fire and Rescue and Rural Fire Service. Adding a fixed component to both, to accommodate the costs incurred by the State in funding the State Emergency Service, may be the same or different.

There may also be scope to set higher, or differential fixed components although this mechanism is likely to result in minimal re-distribution of the levy.

Other mechanisms to redistribute the levy could include:-

1. Increase pensioner and vacant land discounts.
2. Set a cap on the maximum and/or minimum chargeable amounts.
3. Scale the levy based on land area or land value.
4. Review distribution of the total contributions across the classification sectors.

Land valuation basis

The Independent Pricing and Regulatory Tribunal (IPART) recommended in its draft report on the NSW rating system of August 2016 that NSW councils be provided with a choice in using either unimproved land values or capital values when determining land rates. We note that 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.

The use of capital improved values would increase the equitable distribution of both the FESL and council rates. Highly developed properties who benefit most from the availability of services would contribute more to the cost of those services in comparison to lesser developed properties. It would also negate the need to separately classify vacant land.

The deferral of the FESL now provides an opportunity to implement the transition of all NSW councils to capital improved values.

The Victorian model uses classification codes based on the Australian Property Classification Codes (AVPCC) which are allocated when individual properties capital improved valuations are made. The codes are then used by councils to classify properties for the purposes of the levy. Transitioning to capital improved values in NSW would therefore negate the work required in classifying properties creating significant savings.

Council contribution

NSW councils currently contribute from consolidated funds an amount equal to 11.7% of the total cost in operating fire and emergency services. We submit that discontinuing the council contribution and including full cost of the services into any future levy would represent a clearer and fairer funding model to landowners across the state.

We submit that this change could be implemented over time. We believe the emergency services budgets could produce efficiency and productivity savings in the region of one to two percent per annum in order to facilitate this transition, rather than increasing levy rates. As a result, councils should retain the savings resulting from reducing 11.7% contribution and return these to their local communities through increased services.

Vacant land

The FESL legislation provided a discount on vacant land. We understand the reasoning for this to be that vacant land has no improvements or assets needing a high level of protection in the event of fire. There are also no additional hazards to fire personnel as opposed to non-vacant properties (e.g. gas bottles, liquid fuels, etc.).

The effort, and cost, to councils in identifying and classifying vacant land varied across the state. Generally speaking, the more urban Councils were able to undertake this task much more easily than rural and regional councils.

As mentioned above, a shift to the use of capital improved values and use of the AVPCC codes would remove the necessity to identify vacant land. This would greatly reduce the administrative burden on councils and create significant savings in the administration of the levy.

Land Classifications:

In working toward the implementation of the FESL, all land recorded in councils systems (including Government land) needed to be classified according to the nine classification definitions. This work was completed by NSW councils within the short period required with outstanding accuracy. This was a huge undertaking and it is a credit to local councils that this was achieved.

We submit that further consideration should be given to the alignment of the FESL classifications and rating categorisations made under the Local Government Act 1993. The process of establishing separate FESL classifications was, and would continue to be, very costly and administratively burdensome. This would also reduce landowner confusion and strengthen the relationships between the two sets of legislation.

Recommendations:

- Consider the use of differential levy rates, fixed charges, discounts and capping to produce a more equitable distribution of the levy.
- Transition the NSW valuation system to capital improved values as the basis for land rates and the FESL.
- Remove the 11.7% council contribution and include that amount in the property levy.
- Simplify and align land classifications with Council rate categories.
- Conduct detailed data and financial modelling to understand the impacts well before implementation.

(d) any other related matter.

Local Government is best equipped to efficiently and effectively levy and collect the tax through its rates notice. Although, concern remains about the manner in which State Government was heading in terms of mandatory report formatting requirements and promotion of State affairs via legislation through council rate notices.

Exemptions

The FESL legislation contains no exemptions from payment of the levy other than to those provided to the different levels of government and their 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. 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.

There is a clear inequity in taxation principles between the levy and local government rates and we submit that there should be better alignment in the two sets of legislation.

NSW Independent Local Government Review Panel (October 2013) and the IPART Review of the Local Government Rating System (August 2016) both addressed the matter of rate exemptions and identified the current arrangements as inefficient, inequitable, administratively complex and unsustainable.

Reporting to Revenue NSW (formerly Office of State Revenue - OSR)

During the FESL implementation process, OSR imposed a regime of reporting considered by the local government sector to be extremely onerous, inefficient, burdensome and unnecessary. The detailed information required, drilled down to a transaction level.

The majority of costs incurred in the sectors corporate software modifications and testing was consumed with ensuring compliance with these requirements.

Councils routinely deal with complex legislative, transactional and compliance matters and should be provided autonomy in performing its duties under the FESL legislation. Council processes and financial accounts are already subject to audit by the NSW Auditor General.

Advancing Professionalism in Revenue Raising

www.rp.nsw.gov.au

We submit that confirmation of Councils compliance with the requirements of the FESL legislation would better be proven via certification by the General Manager, Responsible Accounting Officer and Auditor General as part of the annual financial reporting. The amounts collected less any costs incurred in collection could then be remitted to OSR.

The efficiency gains in adopting these compliance measures would significantly exceed any revenue lost due to error or miscalculation. It would also reduce the ongoing costs in software maintenance and internal council costs in preparing and maintaining quarterly reports. OSR, and therefore the NSW Government, would also make significant savings in not having to oversee the great bulk of data they would have been receiving.

Retrospective classification/categorisation

The FESL legislation provides protection against retrospective classification changes, which if not included, may have required adjustments for previous financial years. Similar provisions are not in place within the Local Government Act 1993 which can result in considerable unrecoverable financial adjustments.

Based on the similarity in the taxation principles applicable to both land rates and the FESL, we submit that the Local Government 1993 Act should be amended to align these provisions.

Local Government Rating System review

The NSW Government has received the IPART report on the Review of the Local Government Rating System, which recommends wide ranging changes to the current rating model.

The postponement of the FESL now allows an opportunity for the recommendations to be fully considered and any accepted changes to be made. In considering these potential changes, the FESL requirements should also be considered and further aligned with the rating changes.

Stakeholder participation

As stated in our introduction, we believe the consultative approach used in the FESL project has been highly successful. We submit that further development of the levy should involve key stakeholders from the local government sector, including local council staff, the NSW Revenue Professionals and Local Government NSW.

The NSW Revenue Professionals Inc. welcomes any opportunity to contribute to the improvement of revenue raising functions at all levels.

Recommendations:

- Alignment of exemptions between those in the Local Government Act 1993 and the FESL legislation.
- Remove the burdensome reporting mechanisms required by OSR and align compliance audit and certification in line with current Council requirements.
- Align the Local Government Act 1993 to the FESL classification and council rate category non-retrospective limitations.
- Consider the IPART report on the Review of the Local Government Rating System and further align any proposed Local Government Act changes with the FESL legislation.
- Continue to undertake industry stakeholder consultation, including the NSW Revenue Professionals Inc., in any proposed improvements.

Yours sincerely

Robert Hay
President
NSW Revenue Professionals