

## **MEETING NOTICE**

The **Extraordinary Meeting** of  
**Bayside Council**  
will be held in the Rockdale Town Hall Auditorium  
Ground Level, 448 Princes Highway, Rockdale  
on **Wednesday 3 February 2021** at **7:00 pm**.

## **AGENDA**

**1 ACKNOWLEDGEMENT OF COUNTRY**

**2 OPENING PRAYER**

**3 APOLOGIES**

**4 DISCLOSURES OF INTEREST**

**5 MAYORAL MINUTES**

- 5.1 Mayoral Minute - Local Roads and Community Infrastructure Funding -  
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**6 PUBLIC FORUM**

Members of the public who have applied to speak at the meeting will be invited to address the meeting. Written submissions which are made by members of the public will be provided to Councillors prior to the meeting.

Any item the subject of the Public Forum will be brought forward and considered after the conclusion of the speakers for that item.

The meeting will be live streamed on Council's Facebook page for the benefit of the public.

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The meeting will be video recorded & live streamed to the community via Council's Facebook page, in accordance with Council's Code of Meeting Practice.

Meredith Wallace  
**General Manager**

## **Extraordinary Council Meeting**

**3/02/2021**

Item No	<b>7.1</b>
Subject	<b>Submission on Draft Changes to Rates Legislation</b>
Report by	Paul Reid, Corporate Planner
File	SF21/130

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### **Summary**

The NSW Office of Local Government and IPART undertook a Local Government Rating System Review in September 2019. From this review, IPART then delivered a range of recommendations back to the Office of Local Government.

The IPART recommendations have been under review by the Office of Local Government. In November 2020, the Office of Local Government released a circular asking for all NSW Councils to provide submissions on the proposed draft legislative changes to the Local Government Act relating to the rating system.

This report details Council staff submissions as well as associated comments to each question in the review. Council is required to provide their submission by 5 February 2021.

In light of the rate harmonisation process that is currently underway the submission below details Councils support for the gradual harmonisation of rates across former council areas over four years. Our submission includes a staged approach for both the minimum rate change as well as the advalorem amounts.

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### **Officer Recommendation**

That Council endorse the making of a submission to the Office of Local Government on the Exposure Draft Bill on local government rating in the terms as set out in the attachment to this report.

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### **Background**

#### **Extracts from NSW Government response to IPART Review**

In NSW, council rates generate over \$4.3 billion each year. This equates to around 38 per cent of the annual operating revenue for all NSW councils although, in general, councils in metropolitan areas have larger rating bases and receive more of their income from rates.

Even though rates are commonly considered a fee for service, they are in fact a form of taxation. Under the Local Government Act 1993, a rate may consist of:

- an ad valorem amount (i.e. a percentage – which may be subject to a minimum amount)
- a base amount to which an ad valorem amount is added.

## The Review Process

In 2013, the Independent Local Government Review Panel recommended the Government commission IPART to undertake a further review of the rating system focused on:

- options to reduce or remove excessive exemptions and concessions that are contrary to sound fiscal policy and jeopardise councils' long-term sustainability (recommendation 6.2)
- more equitable rating of apartments and other multi-unit dwellings, including giving councils the option of rating residential properties on Capital Improved Values, with a view to raising additional revenues where affordable (recommendation 6.3)

On 18 December 2015, the (then) Premier, the Hon. Mike Baird MP provided IPART with terms of reference for the Review, framing it as a key component of the Government's Fit for the Future reforms. The two broad aims of the Review were to:

- explore options to redistribute the rating burden within council boundaries to develop recommendations to improve the equity and efficiency of the rating system, in order to enhance councils' ability to implement sustainable fiscal policies over the long term
- explore options for a legislative or regulatory approach to support the Government's rates path freeze policy

The Terms of Reference specifically excluded consideration of the rates peg.

IPART carried out significant public and stakeholder consultation during the Review, including public hearings in Sydney and Dubbo between April and October 2016. A draft report was released for comment in August 2016. IPART received over 300 submissions in relation to this Review. IPART delivered its final report to the (then) Minister for Local Government in December 2016, which was publicly released on 21 June 2019 together with an interim Government response. IPART made 42 recommendations in total. The Office of Local Government (OLG) undertook further public consultation on 28 of these recommendations. Consultation feedback was open for 12 weeks and closed on 13 September 2019. A total of 110 submissions were received. OLG released a summary of submissions on 28 February 2020.

The final report of the Review restates the major proposals outlined in the draft report, with some minor adjustments. IPART's key proposals are that:

- councils be allowed to shift to a Capital Improved Value (CIV) system of calculating rates, which considers the value of capital improvements (in contrast to the current system which uses the unimproved value of the land)
- exemptions from the rating system be based on the use of land rather than the ownership (for example, that aged care facilities owned by charitable organisations would pay the same rates as their commercial competitors)
- changes to pensioner rate concessions enable rate payments to be deferred and recouped from the pensioner's estate at a later date
- restrictions on council differential rating powers be lifted to enable improved rates harmonisation across council areas

Following extensive consultation with the local government sector and the community, the NSW Government has recently released for further comment an Exposure Draft of the Local

Government Amendment (Rates) Bill 2021 to implement the NSW Government Response to IPART's review of the local government rating system.

The Exposure Draft Bill, and other key rating reforms, if implemented, will help to improve the equity and efficiency of the rating system and enhance councils' ability to implement sustainable fiscal policies over the long term.

A consultation guide, "Towards a Fairer Rating System", has been released to explain the proposed changes in the Exposure Draft Bill and to assist councils and others to provide feedback on this and other rating reforms.

The proposed Bayside Council response to the Exposure Draft Bill is attached. The Table below outlines some areas of comments.

Question	Council Response
Q2. Do you agree with the proposal to enable relevant councils to gradually harmonise rates across former council areas over four years?	<ul style="list-style-type: none"> <li>• We fully support a staged implementation as this would support our residents during this change in rating structure</li> <li>• We would suggest that there needs to be a minimum % each year to ensure a smoother transition of any increase.</li> <li>• Flexibility to have different transition periods for residential and business rates would be beneficial taking into account community needs and the prevailing economic conditions</li> <li>• We support the harmonisation, over four years as a minimum transition period, on both the minimum rate increases as well as the ad valorem increase in terms of fairness and equity</li> </ul>
Q4. Do you agree with the proposal to allow for different residential rates in contiguous urban areas?	<ul style="list-style-type: none"> <li>• Council does not support the idea of villages.</li> <li>• There would be serious concerns that this proposal would lead to the creation of different communities of interest within one local government area and perceptions in inequity in the way rates are levied and services are delivered.</li> <li>• Ultimately it may evolve to one 'village' subsidising the other parts of the LGA that have a lower level of rating</li> <li>• The current IPART SRV process already allows for special rates to be applied to different areas within an LGA</li> <li>• This proposal would also create difficulty in the day to day management of delivering services at different levels across the same LGA (where the service is essentially the same)</li> <li>• There would be an excessive administrative burden as different financial systems and budgets would need to be created for different 'villages' to ensure service levels are reflective of the amount paid in rates</li> <li>• There would be unreasonable operational complexity in implementing the proposal (potential duplication of effort and loss of benefits from economies of scale)</li> </ul>

Question	Council Response
Q9. Do you agree with the proposal to allow subcategories for vacant land to be created for residential, business and/or mining land, including the proposed factors set out above?	<ul style="list-style-type: none"> <li>• We do not support this as currently vacant land is generally rated by its prior use and/or planning instrument i.e. zoning. The current rating system is based on land being valued on its unimproved capital value. Existing provisions enable councils to reduce rates on vacant land e.g. stormwater, domestic waste charges.</li> <li>• The new legislation should ensure the principles established in the Court of Appeal case in Bayside Council v Karimbla Properties (No 3) Pty Ltd [2018] NSWCA 257 (and similar appeals by two other councils) are captured including: <ul style="list-style-type: none"> <li>○ Clarifying the timing and what should occur when land transitions from one category to another</li> <li>○ Including a definition of vacant land. The ATO definition has weaknesses in the local government context as it is meant for business deduction purposes. It should be clear and workable for local government. The fact that there is a structure on the land but not occupied (e.g. say not rented out) does not work e.g. holiday home. The definition should also relate to use of land as it may be vacant but used for storage etc.</li> <li>○ Clarifying where there is prior year adjustments due to re-categorisation that Councils are able to recover notional income lost</li> </ul> </li> </ul>

It is proposed to make a submission to the Office of Local Government in the terms as outlined in the attachment to this report with any amendments as determined by Council.

## Financial Implications

Not applicable ☒

Included in existing approved budget ☐

Additional funds required ☐

## Community Engagement

Not applicable

## Attachments

- 1 Consultation Guide [↓](#)
- 2 Copy of NSW Government response to IPART Review [↓](#)
- 3 Council s Proposed Submission v1.3- Changes to Rates Legislation [↓](#)

# Towards a fairer rating system

December  
2020

A consultation guide  
to local government  
rating reform



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## MESSAGE FROM THE MINISTER FOR LOCAL GOVERNMENT

As foreshadowed at the Local Government NSW Annual Conference, I am delighted to release an Exposure Draft of the *Local Government Amendment (Rating) Bill 2020* to implement the NSW Government's response to IPART's review of the local government rating system.

The release of this Bill for consultation represents a milestone in the Government's reform agenda to ensure a fairer and more flexible rating system for councils and ratepayers across NSW.

This consultation guide, *Towards a Fairer Rating System*, has been released to explain the proposed changes and assist councils and others to provide feedback by the February 5 deadline.

The Government is committed to providing greater flexibility in the current rating system to improve distribution of the rating burden in local communities. This will make rates fairer and help councils cater for population growth and infrastructure costs.

Whilst some will want us to go further, these sensible adjustments to the rating system are the first step to help ensure councils have a stable and reliable revenue base to deliver services for their communities and that ratepayers pay a fairer contribution.

I am now seeking feedback on this Bill from councils, communities and other interested individuals and organisations to help us understand whether we have struck the right balance. Your responses will be carefully reviewed as the final Bill is prepared for introduction to Parliament early next year.

I encourage you to have your say by reading this Consultation Guide, together with the Exposure Draft Bill, and answering the targeted questions, as well as providing any further, general feedback.

Your responses will be carefully reviewed as a final Bill is prepared for introduction. It is important that we hear from councils, communities and as many other interested individuals and organisations as possible.

I look forward to hearing your views.

The Hon. Shelley Hancock MP  
**Minister for Local Government**

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## Introduction

At the request of the former NSW Premier, the Independent Pricing and Regulatory Tribunal (IPART) undertook a significant review of the local government rating system in NSW. The purpose of this review was to identify how to improve the equity and efficiency of the rating system, in order to enhance councils' ability to implement sustainable fiscal policies over the long term.

On 18 June 2020, the Government released its [Final Response](#) to IPART's [Final Report](#). This response acknowledged that local government and the communities they serve need to have a more flexible rating system, whilst ensuring rates are applied fairly and more equitably to local communities. It also committed to reforming the rating system to address issues identified during the review.

To deliver on the Government's commitments, a Bill has been prepared to seek to amend the *Local Government Act 1993* (the Act). Through this Bill, the Government proposes to implement the key reforms from its response in a way that is fair and reasonable for both councils and ratepayers.

To make sure we get the details right, an Exposure Draft of the Bill, together with this consultation guide, *Towards a Fairer Rating System*, have been released for public consultation. This provides a further opportunity to obtain essential feedback from councils, communities and other interested individuals and organisations until **COB 5 February 2021**.

The Government will introduce the Bill into Parliament in early 2021. In part, this will enable councils formed in 2016 to take up options provided by greater rating flexibility as they prepare for 1 July 2021.

## How to read this paper

The consultation guide has been divided into three sections, beginning with a short section explaining the local government rating system. The following two sections provide an explanation of how the Government is implementing its response to the IPART report through the Exposure Draft Bill and other key rating reforms. The three sections are:

- **Section One** – Understanding local government rating
- **Section Two** – the Exposure Draft Bill, and
- **Section Three** – other key rating reforms.

Sections two and three set out each of the Government's commitments, including background information, and a summary of how it is proposed to implement that commitment.

## How to have your say

First, read the [Privacy Notice](#) online or at [Appendix A](#), which explains the personal information being collected through this consultation. To provide feedback, you will need to provide some information about yourself and whether you are responding as an individual or on behalf of an organisation.

Importantly, specific consultation questions are also posed to obtain your feedback on key issues, and you are able to provide general comments if you have other feedback to provide. Feedback can be provided via an online submission form, located on Office of Local Government (OLG) website, [www.olg.nsw.gov.au](http://www.olg.nsw.gov.au). You do not need to answer every question and can skip to sections of interest.

Alternatively, an identical feedback form is provided at **Appendix A** to this Consultation Guide. This form allows you to respond to the targeted consultation questions and make any further general comments. You are able to post or email the completed form **by COB 5 February 2021** to:

Office of Local Government, NSW Department  
of Planning, Industry and the Environment  
*Towards a Fairer Rating System*  
Locked Bag 3015  
Nowra NSW 2541

[olg@olg.nsw.gov.au](mailto:olg@olg.nsw.gov.au)

## Executive Summary

The NSW Government is committed to implementing a package of reforms to ensure the rating system is equitable and responsive to changing community needs. This package comprises those recommendations made by IPART in the [Final Report](#) on its local government rating system review of that were accepted by the Government in its [Final Response](#).

Most of these reforms require amendments to the *Local Government Act 1993*, which sets out how councils may levy rates from property owners. Other reforms will be implemented by change to regulations and by issuing new guidance.

### Local Government Amendment (Rating) Bill 2020

A Bill to make these amendments has been prepared – the *Local Government Amendment (Rating) Bill 2020* (the Bill). If passed by the NSW Parliament, this Bill would:

- allow seventeen councils created in 2016 to gradually harmonise rates over four years, to protect ratepayers from excessive and sudden rate rises
- allow councils to levy special rates above the rate peg for infrastructure jointly funded with other levels of government without IPART approval
- create a new rating category for environmental land for properties that cannot be developed

- allow councils to create more flexible residential, business and farmland rating subcategories to enable them to set fairer rates
- allow councils to create separate rating subcategories for vacant residential, business and mining land to provide additional flexibility for councils to tailor rates for local communities
- remove the rating exemption for land subject to new conservation agreements and allow it to be rated under the new environmental land category
- allow councils to choose whether to exempt certain land from special rates for water and sewerage
- require councils to publicly report the value of any rating exemptions they choose to grant
- limit postponement of rates on rezoned land and let councils decide whether to write off any debts, and
- allow councils to sell properties for unpaid rates after three years rather than five years.

Through the Bill, the Government proposes to implement the key reforms in a way that is fair and reasonable for both councils and ratepayers. An Exposure Draft of this Bill has been released, together with this consultation guide to explain the proposed changes and to seek public feedback.

## Other key rating reforms

The rates reform package also includes measures that do not rely on legislative amendments. As part of the Final Response to the IPART rating review, the Government committed to aligning rating income growth with population growth within the rate pegging system. This will help councils provide for growing communities while still protecting residents from sudden, excessive rate rises.

To kick-start this reform, the Minister for Local Government, with the approval of the Premier, has asked IPART to recommend a new rate peg methodology that allows the general income of councils to be varied annually in a way that accounts for population growth. This is consistent with the Productivity Commission's recommendations on its review of the infrastructure contributions system. The Government will not consider any further changes to the rate peg or allowable income at this time.

In addition, the Government supported IPART's recommendation that any difference between mining and business rates should primarily reflect differences in the councils' costs of providing services. This will be implemented through future guidance to the local government sector rather than legislation.

Finally, it is proposed to not progress any change to the residual rating category arrangements, and to limit the requirement for councils to report the value of exemptions to only those they choose to grant each year.

## Next steps

The Office of Local Government will receive feedback from councils, local communities and other interested individuals and organisations until **COB 5 February 2021**.

After making any changes in response to this feedback, the Government will introduce the Bill into the Parliament in early 2021. In part, this will enable councils formed in 2016 to take up opportunities provided by greater rating flexibility as they prepare to harmonise rating structures from 1 July 2021.

## Proposed Rating Reforms

### Section One – Understanding local government rating

#### Ordinary and special rates help to fund council services

Local councils provide important services and facilities to communities across NSW. These are as varied as community services, local road construction and maintenance, sporting and recreational facilities, planning, environmental protection and waste recovery and disposal.

The *Local Government Act 1993* (the Act) and Local Government (General) Regulation 2005 set out how councils levy rates from property owners (ratepayers).

To pay for services, councils must levy property owners in their area for ordinary rates and may also apply additional special rates in certain circumstances. Some types of properties are wholly or partly exempt from paying rates under the Act. Councils also raise revenue by charging user fees, receiving grants, borrowing or other revenue e.g. from fines, developer contributions and interest.

#### The rate pegging system restricts councils from increasing their income from rates

Under the Act, the total income that a council can raise from rates each year cannot increase by more than a specific percentage – this is called the 'rate peg'. The rate peg does not apply to charges for services like waste management, water, sewerage and stormwater.

The Independent Pricing and Regulatory Tribunal (IPART) determines the rate peg that applies to councils' general income each year. For the 2020/21 financial year IPART set the rate peg at 2.0%.

Councils can apply to IPART for a 'special variation' to increase their general income above the rate peg, e.g. to provide further services, replace ageing assets or improve financial sustainability.

#### Councils can determine which rates apply to different property types in consultation with local communities

The Act enables councils to determine different ordinary rates for residential, business, mining and farmland properties (the four rating categories). Councils can choose how they calculate and distribute rates among the properties in these categories.

Council decides which category each property should be in based on its characteristics and dominant use. Councils can also choose to create certain subcategories within each of these four categories, and to apply different rates to properties in each subcategory.



### Councils must undertake rate setting as part of their Integrated Planning and Reporting (IP&R)

Councils must set a Revenue Policy each year as part of their Operational Plan. This sets out the combination of rates, charges, fees and pricing policies that will be applied to fund the services it provides to the community. It also contains a rating structure that determines rates and charges each type of ratepayer will pay, and how they will be calculated. Councils must consult on this structure as part of setting their annual Operational Plan and budget before it is finalised.

### Councils can choose to apply rates to unimproved land values in different ways

Rates are calculated on the value of the land only, and do not factor in any improvements, such as buildings. For each rating category or sub-category, rates can be calculated based on:

- the (unimproved) land value of the property times the ***ad valorem*** (a rate in the dollar)
- a combination of the land value and a fixed rate per property (**base amounts**), or
- on the land value, but with each property paying at least a set amount (**minimum rates**).

The Act applies some restrictions however, for example – councils must calculate residential rates for all properties with a single 'centre of population' in the same way.

Land values are determined by the Land and Property Information Division of the Department of Finance and Services on behalf of the NSW Valuer General.



## Section Two – the Local Government Amendment (Rating) Bill 2020

### 1 ALLOWING GRADUAL RATES HARMONISATION

IPART recommendation	Key sections of the Act	To come into effect
Recommendation 13	s.506, s.508	On assent

#### The Government's commitment

In 2017, the *Local Government Act 1993* (the Act) was amended to 'freeze' the rates path of new councils created in 2016 for a period of four years. This was to ensure that their ratepayers would pay the same rates as they would have if the council had not merged for this initial period only.

In 2019, the Act was amended so that the Minister could allow councils formed in 2016 a further year to harmonise their rates, until 1 July 2021, to allow an additional year for this process. Ultimately, seventeen of the twenty relevant councils took up this option, so that the rates path freeze will now end for their communities on 30 June 2021.

At the end of the rates path 'freeze', each council will need to harmonise to a single rating structure – in practice, this means that all residential ratepayers will pay the same rate in the dollar on their properties unless councils choose to charge different rates for different 'centres of population'. At present, the Act only permits councils to harmonise rates across their area in a single financial year, being 2021/22.

As part of its response to IPART's review, the Government agreed to IPART's recommendation to allow new councils to gradually harmonise rates across their former council areas over time. IPART suggested that rates increases be limited to 10% a year.

#### The proposal in the Bill

It is proposed that each council formed in 2016 have the option to gradually harmonise new rates for residential and farmland rates from 2021-2022 over four years. Those councils and communities that do not wish to gradually harmonise over the four-year period would still be able to harmonise their rates all at once in 2021-22.

Councils that take up the gradual harmonisation option will need to apply no more than 50% of the total increase in rates at the rating category level over the period, in any one of the four financial years. Importantly, councils that choose to harmonise gradually will be required to set out their intended approach over the full four years in their IP&R documents.

The proposed four-year period is designed to allow for gradual change, while setting a reasonable period to limit how long some ratepayers are subsidising others. It also takes into account both an unusual three-year council term, with elections in 2021 and 2024, as well as the fact that all land is to be revalued before rates are levied for 2023-24.

Rather than setting a maximum percentage increase each year, it is proposed to allow affected councils to set rates each year according to community needs and prevailing economic conditions. This allows councils with different legacy rating structures to harmonise in consultation with their communities according to local circumstances and conditions, under the IP&R framework.

The proposed '50% in any one year' cap will ensure that councils that choose this option take a gradual approach that protects ratepayers against sudden and excessive rate rises in any specific year. This will not,

however, preclude rates from increasing due to changes in land valuation, special rates or any special variation.

**Consultation question/s**

**1. Are you from a local government area newly formed in 2016 that has not yet harmonised rates?**

☐ Yes

☐ No

**2. Do you agree with the proposal to enable relevant councils to gradually harmonise rates across their former council areas over four years?**

☐ Yes

☐ No

☐ Neutral

**Comment:**

## 2 ALLOWING COUNCILS TO LEVY SPECIAL RATES FOR JOINTLY FUNDED INFRASTRUCTURE

IPART recommendation	Key sections of the Act	To come into effect
Recommendation 8	s.495	By proclamation

### The Government's commitment

Under the Act, councils can levy special rates, in addition to ordinary rates, on any subset of rateable land in its area to meet the costs of delivering additional works, services, facilities or activities to ratepayers. This is limited, however, to funding local government functions.

Councils are increasingly entering into arrangements to jointly fund infrastructure projects with the NSW Government and the Australian Government. To generate additional revenue to contribute to these projects, which may be a condition of the project going ahead, councils are applying to IPART for a special variation. This imposes a high regulatory burden that extends timeframes and can deter councils from helping to deliver projects that benefit their local communities.

The Government is committed to establishing an equitable and effective funding framework for infrastructure associated with development, and, ensuring that growing communities have adequate and effective infrastructure needed to support that growth.

The Government therefore supported IPART's recommendation that councils be able to levy a new type of special rate for new infrastructure, where it is of clear benefit to the community, jointly funded with other levels of government.

### The proposal in the Bill

It is proposed to clarify that special rates may be levied to pay for goods, services and infrastructure that are not covered by chapters 5-6 of the Act if the specific purpose of the special rate is to co-fund or contribute to infrastructure or services being jointly provided with another level of government.

Income from this special rate will not form part of a council's general income under the rate peg and councils will not need to seek IPART's approval before levying the special rate.

Importantly, councils will be prevented from levying a special rate for costs that are being met by a developer under the infrastructure contributions framework or by another funding arrangement. Special rates must only be used for the purpose for which they are levied.

Before applying this special rate, a council will need to consult its community through IP&R about anticipated benefits of the project and special rate, anticipated total project costs, council's contribution to those costs, the contributions to be made by others, the total special rate that would be levied, and how, and for what time period, the rates are to be levied.

Councils will also need to provide information in their annual reports on project outcomes, actual costs to council of this project, costs reported by other parties (where available) and the total revenue generated by the special rate. Where this differs from a council's initial estimates, an explanation is to be provided. The intention is to create a monitoring and reporting framework that maximises transparency, public accountability and community benefit from these special rates.

**Consultation question/s**

**3. Do you agree with the proposal to allow councils to levy special rates for jointly funded infrastructure?**

☐ Yes

☐ No

☐ Neutral

**Comment:**

### 3 INCREASING FLEXIBILITY THROUGH NEW RATING CATEGORIES AND SUBCATEGORIES

#### 3.1 Allowing councils to set different residential rates in contiguous urban areas

IPART recommendation	Key sections of the Act	To come into effect
Recommendations 10-12	ss.529-530	On assent

##### The Government's commitment

Currently, the Act prevents councils from applying different residential rates on properties within a single 'centre of population.' This is difficult to apply in practice and has effectively prevented councils in urban areas, like Greater Sydney, from setting different rates in different locations across their local government area, as occurs in regional and rural NSW.

Given this, IPART recommended councils be able to set different residential rates in contiguous urban areas, but only where there is on average, different access to, demand for, or cost of, providing services and infrastructure. It proposed that councils use geographic markers to define these areas, including postcodes, suburbs, geographic features (e.g. waterways, bushland) and/or major infrastructure (e.g. arterial roads, railway lines).

Importantly, IPART also recommended that a limit apply so the highest rate structure is no more than 1.5 times the average rate structure across all residential subcategories (i.e. so the maximum difference between the highest and average rates, including *ad valorem* rates and base amounts, is 50%) except any new vacant land subcategory (see 3.4 below). To exceed this limit, councils would need to seek IPART approval.

The Government believes that councils should be able to explore different options to distribute the rating burden more equitably, in consultation with their communities, and supports enabling greater use of differential rating in urban areas. It supported these recommendations 'in principle'.

### The proposal in the Bill

It is proposed to allow councils to create different rating subcategories for residential land in contiguous urban areas, while also continuing existing provisions that allow different residential rates to be set by 'centre of population', as used by regional and rural councils.

Under the proposal, a council may only set different residential rates in a contiguous urban area if there is on average, different access to, demand for, or cost of, providing services and infrastructure.

For this purpose, 'contiguous urban area' will capture a portion of an area that is urban in nature and comprises residential land where the properties within that area, taken together, are not entirely separated by land that falls within other rating categories.

Further, in these cases, councils will be required to use geographic names published by the Geographical Names Board to objectively define different residential areas to which to apply different residential rates, rather than being enabled to simply draw 'lines on a map'.

A limit will also apply so the highest rate structure is no more than 1.5 times the average rate structure across all residential subcategories, with the capacity to change this ratio in future by regulation. "Average rate structure" includes *ad valorem* amounts, minimum rates and/or base amounts, as relevant. To exceed this limit, councils would need to seek the Minister's approval.

Councils will be required to undertake community consultation under IP&R, in determining residential rating subcategories, setting rates for each subcategory and making any future amendments to these arrangements. Councils will also be required to publish the different rates and their rationale for charging different rates in their Revenue Policy.

The Minister will be able to issue guidelines that must be followed by councils in setting these rates, including how the provisions may be used appropriately by councils.

Consultation question/s	
<p><b>4. Do you agree with the proposal to allow for different residential rates in contiguous urban areas?</b></p> <p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p><input type="checkbox"/> Neutral</p> <p><b>Comment:</b></p>	<p><b>5. Do you agree with the proposal to limit the highest rate structure across all residential subcategories to no more than 1.5 times the average rate structure?</b></p> <p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p><input type="checkbox"/> Neutral</p> <p><b>Comment:</b></p>



### 3.2 Creating a new rating category for environmental land

IPART recommendation	Key sections of the Act	To come into effect
Recommendation 29	s.493, s.514, s.518, s.529	By proclamation

#### The Government's commitment

Under the Act, before making an ordinary rate, a council must have declared each parcel of rateable land in its area to be within one of four rating categories – farmland, residential, mining or business. If a parcel of land does not fall within the residential, farmland or mining rating categories, it is treated as business land (the residual category).

There are concerns that these four rating categories are not sufficient to ensure that specific types of land are being rated at an appropriate level. In particular, IPART heard that this has resulted in land that cannot be developed, and therefore not falling with the residential, farmland or mining land categories, being rated as business land. As a result, a higher rate is often levied.

IPART recommended that a new, fifth rating category be created for environmental land to provide for appropriate rating of land that cannot be developed due to geographic or regulatory restrictions. The Government accepted this recommendation 'in principle', noting that it closely relates to IPART's further recommendation (No. 18) in relation to conservation agreements (see further below at 4.1).

#### The proposal in the Bill

It is proposed to create a new rating category for environmental land, and to define *environmental land* as that:

- for which current and future use of the land is constrained as it:
  - has limited economic value relative to its size and location, or
  - cannot be developed, or
  - has low development potential for a business, residential or farming activity, and
- is subject to *geographic restrictions* or *regulatory restrictions*.

It is proposed that, in determining whether land cannot be developed or has low development potential, councils must have regard to factors including the zoning of the land under the EP&A Act and regulations and relevant instruments, and any other matter prescribed by regulation.

It is also proposed that *geographic restrictions* include, but not be limited to, the presence of significant water areas, mud flats, swamps, marshlands, steep slopes and other terrain on which residential or commercial development is virtually impossible due to physical limitations.

Further, it is proposed that *regulatory restrictions* be defined as laws or other permanent constraints imposed or agreed to in relation to the land that prevent development. This would include, but not be limited to, restrictions due to the land being subject to an *environmental agreement or instrument* prescribed by regulation, and being not otherwise exempt from rates.

Where a parcel of land is determined to be mixed use land, like rating of business land, councils will be able to apportion rates based on the portion of the land that falls within each rating category, as currently set out under the *Valuation of Land Act 1916*. This is currently not provided for under that law. Comment is sought on the manner of determining the apportionment of rates where a parcel of land could properly be categorised as environmental and the remainder could be categorised under one or more other rating category.

It is also proposed that, as for land in other rating categories, councils may create subcategories for environmental land to allow different environmental land rates to be set.

For this purpose, it is proposed that councils be enabled to create different rating subcategories based on whether or not there is a conservation agreement or similar instrument in place, and/or, based on geographic location.

Where a council chooses to rely on geographic location to create subcategories, it will need to define the different residential areas by reference to geographic names published by the Geographical Names Board, rather than by drawing 'lines on a map'.

Consultation question/s	
<p><b>6. Do you agree with the proposal about how to create a new rating category for environmental land, including how environmental land is proposed to be defined?</b></p> <p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p><input type="checkbox"/> Neutral</p> <p><b>Comment:</b></p>	<p><b>7. Do you agree that a portion of land that is subject to a conservation agreement or other similar instrument should be categorised by councils according to the proposed definition of environmental land?</b></p> <p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p><input type="checkbox"/> Neutral</p> <p><b>Comment:</b></p>



### 3.3 Enabling different business rates to be set for industrial land and commercial land

IPART recommendation	Key sections of the Act	To come into effect
Recommendation 30	s.529	By proclamation

#### The Government's commitment

Currently, the Act only allows councils to create different categories of business rates according to whether business land falls within a 'centre of activity'. This is essentially, therefore, limited to location, rather than the activities taking place on each property. It also means that, where businesses are not clustered together, they are most often only charged a general business rate.

IPART recommended, and the Government supported, changing this so that different rating subcategories can also be created for land where industrial and commercial activities are occurring.

This recognises that land where these activities take place typically have different access to, demand for or cost associated with providing council services and infrastructure. It also recognises that these parcels of land may, or may not, be clustered together within a local government area.

#### The proposal in the Bill

It is proposed that councils be given the option of setting different rates for business land based on whether it is industrial or commercial land. This would apply in addition to maintaining the current option of setting different rates based on whether there is a 'centre of activity'.

It is proposed that councils that choose to take up this option determine whether business land is industrial or commercial, as necessary, based on whether industrial activities are predominantly taking place. This approach means that property zoning is relevant but not determinative for rating purposes, as intended by IPART, and creates a clear approach for councils and ratepayers that can be updated as necessary over time.

It is further proposed that, if the 'dominant' activity conducted on a parcel of land does not fall within a list of *industrial activities* prescribed in regulations, they may be categorised as commercial. Activities which may be prescribed as industrial include, for example, manufacturing, warehousing, abattoirs and works depots.

**Consultation question/s**

**B. Do you agree with the proposal about how to enable different business rates for industrial and commercial land?**

☐ Yes

☐ No

☐ Neutral

**Comment:**

### 3.4 Enabling different rates for residential, business or mining land that is vacant

IPART recommendation	Key sections of the Act	To come into effect
Recommendation 31	s.519, s.529	By proclamation

#### The Government's commitment

Under the Act, before making an ordinary rate, a council must have declared each parcel of rateable land in its area to be within one of four rating categories – farmland, residential, mining or business. As above, it is now proposed to create a fifth rating category for environmental land (see 3.2).

At present, councils must rate a parcel of land as residential, farming or mining land if it determines the land falls within one of those categories whether or not it is vacant. If the land does not clearly fall into one of these categories, council must rate it according to its designated use under an environmental planning instrument or, in the absence of such an instrument, based on the predominant surrounding land.

In either case, councils are not permitted to rate land differently because it is vacant. For example, an empty block of land in a residential estate is charged the same rate as the houses in the estate.

IPART recommended that, after completing the current rating categorisation process for vacant land, councils be able to set a different rate for vacant land to that set for other land in the same rating category for residential, business and mining land.

The Government has accepted this recommendation, which would provide additional flexibility for councils to tailor their rates to the needs of local communities.

#### The proposal in the Bill

It is proposed to give effect to this reform by allowing councils to create rating subcategories for vacant land within the residential, business or mining land categories. This type of rating subcategory will not be able to be created for environmental or farming land.

In determining whether a parcel of land is vacant, a council will need to have regard to factors including whether the land has a *substantial and permanent* structure. For this purpose, a building or other structure may be considered substantial and permanent if it is:

- significant in size or value
- not incidental to the purpose of another structure or proposed structure
- not related to, reliant on, or existing to support use or function of a structure, and
- fixed and enduring, rather than built for a temporary purpose.

These proposed factors build on relevant aspects of the approach taken by the Australian Tax Office definition of vacant land for income tax purposes.

It is also proposed to provide guidance to councils about:

- how councils may determine whether a specific parcel of land is to be treated as vacant land and, where relevant, to which rating category it belongs
- factors councils should take into account in setting the rate to be paid for vacant land, and
- how high or low the rate for vacant land should be relative to the principal rating category.

**Consultation question/s**

**9. Do you agree with the proposal to allow subcategories for vacant land to be created for residential, business and/or mining land, including the proposed factors set out above?**

☐ Yes

☐ No

☐ Neutral

**Comment:**

### 3.5 Allowing different farmland rates to also be set based on geographic location

IPART recommendation	Key sections of the Act	To come into effect
Recommendation 32	s.529	By proclamation

#### The Government's commitment

Currently, councils can only sub-categorise farmland according to intensity of land use, 'irrigability' of the land or economic factors affecting the land.

Concern has been raised that, while some regional and rural councils are able to rely on these factors, it is inflexible, subjective and difficult to apply in many local government areas in an equitable way. IPART found that the majority of councils with farmland properties do not create subcategories and are applying a single rate even if there are substantial differences in the intensity of farming.

IPART therefore recommended that councils should be able to set different farmland rates based on geographic location. This reflects the view that location-based rating for farmland, like residential and business land, can better reflect access to council infrastructure and services as well as the productivity of land. It suggested that areas may be defined by locality or geographical markers (such as a riverbank or escarpment) or major infrastructure (such as a highway).

The Government supported this recommendation. This will allow councils flexibility to more fairly distribute the rating burden by creating rating subcategories that better reflect productivity, are easier to assess and may be more likely to reflect access to council services by landholders.

#### The proposal in the Bill

It is proposed that councils be given the option of setting different rates for farmland based on geographic location. If this option is chosen, councils will need to:

- create subcategories by reference to the geographic names published by the Geographical Names Board rather than drawing 'lines on a map', and
- have regard to certain matters prescribed by regulation in creating subcategories for farmland and determining rates to be levied for each geographic location.

This new option would apply in addition to maintaining the current option of setting different rates based on intensity of land use, 'irrigability' or economic factors affecting the land. This approach is intended to minimise disruption for councils in regional and rural NSW with rating structures that rely on the current provisions.

Relevantly, the new approach to creating rating subcategories for farmland may also be utilised by relevant councils to assist with harmonisation, or, to maintain current farmland rating structures across their former council areas, should they choose to do so, in consultation with their communities.

**Consultation question/s**

**10. Do you agree with the proposal to enable councils to also set farmland rates based on geographic location?**

☐ Yes

☐ No

☐ Neutral

**Comment:**

## 4 CHANGING SPECIFIC EXEMPTIONS FROM ORDINARY AND SPECIAL RATES

### 4.1 Removing mandatory rates exemptions for land with new conservation agreements

IPART recommendation	Key sections of the Act	To come into effect
Recommendation 18	s.529, s.555, s.558	By proclamation

#### The Government's commitment

Under the Act, land subject to certain conservation agreements is exempt from all rates. This exemption was introduced to provide a financial incentive for land holders to enter into agreements for future conservation which impose costs and reduce the development potential of their land.

Over a period of time, different types of conservation agreements and similar instruments have been created and used to manage potential impacts of proposed developments on native species, cultural heritage or to address other environmental, community or development-based concerns. Some of these arrangements are exempt from rates while others are not.

IPART recommended removing rating exemptions for private land with conservation agreements and that councils rate the land under the new environmental land rating category (see above at 3.2). This reflected the finding that these parcels of land should not always be exempt from rates as owners have exclusive possession, derive private benefits, use services and impose other costs on the council and broader community.

The Government accepted IPART's recommendation in part, subject to further consultation on issues with respect to the range of agreements in force and the preservation of environmental, historical and Aboriginal cultural heritage outcomes.

#### The proposal in the Bill

It is proposed that there no longer be a mandatory rating exemption for private land for which a new conservation agreement is entered into after this reform comes into effect.

Instead, these properties will be categorised for rating purposes by the relevant council and may be rated under the new environmental land rating category. Further, as set out above at 3.2, councils will be permitted to create rating subcategories, and therefore to set different rates for environmental land based on whether or not there is conservation agreement or other instrument prescribed by regulation.

Importantly, to ensure fairness for parties to existing conservation agreements, it is proposed that those lands that currently benefit from this exemption continue to do so. This maintains a significant financial incentive that was taken into account by land holders when deciding whether to enter into an agreement which, in the vast majority of cases, is now binding on themselves and future owners.

**Consultation question/s**

**11. Do you agree with the proposal to remove the requirement for councils to apply a rating exemption for land subject to new conservation agreements?**

☐ Yes

☐ No

☐ Neutral

**Comment:**



#### 4.2 Removing certain mandatory exemptions from special rates for water and sewerage

IPART recommendation	Key sections of the Act	To come into effect
Recommendation 24	ss.555-558	By proclamation

##### The Government's commitment

Some councils are responsible for providing water and sewerage services, particularly in regional and rural NSW. To fund these services, in addition to regular service charges, councils may levy special rates as a fee for service, in addition to ordinary rates. These special rates appear on rates notices.

Under the Act, councils are prevented from levying special rates for water and sewerage on the whole, or part, of a range of specific types of property, including:

- Crown land not leased for a private purpose
- land within a National Park, historic site, nature reserve, state game reserve or karst conservation reserve, whether or not the land is affected by a lease, licence, occupancy or use,
- land that is subject to a conservation agreement
- land that is vested in, owned by, held on trust by or leased by the (now) Biodiversity Conservation Trust
- land that is within a special area or controlled area for Sydney Water that is either Crown land or land vested in Sydney Water
- land that is within a special area for Hunter Water that is Crown land or vested in Hunter Water
- land that is vested in or owned by Water NSW that is in, on or over which water supply works are installed
- land that is within a special area for a water supply authority that is Crown land or vested in that authority

- land that belongs to a religious body and is occupied and used in connection with:
  - a church or other building used or occupied for public worship, or
  - a building used or occupied solely as the residence of a minister of religion in connection with any such church or building, or
  - a building used or occupied for the purpose of religious teaching or training, or
  - a building used or occupied solely as the residence of the official head and/or the assistant official head of any religious body in NSW or any diocese in NSW,
- land that belongs to and is occupied and used in connection with a government school, non-government school or certain schools with exemptions under s.78 of the *Education Act 1990*
- a playground that belongs to and is used in connection with the school, and
- a building occupied as a residence by a teacher, employee or caretaker of the school that belongs to and is used in connection with the school,
- land that is vested in the NSW Aboriginal Land Council (ALC) or a local ALC if it is declared under the *Aboriginal Land Rights Act 1983* to be exempt from rates,
- land vested in or owned by Residual Transport Corporation NSW or a public transport agency and in, on or over which rail infrastructure facilities are installed,



- land vested in or owned by Transport Asset Holding Entity of New South Wales and in, on or over which rail infrastructure facilities are installed,
- land that is vested in or owned by Sydney Metro and in, on or over which rail infrastructure facilities are installed, and
- land below the high-water mark used for aquaculture relating to the cultivation of oysters.

Under the Act, councils are also able, but not required, to choose to exempt other types of land from these types of special rates – this includes, for example, public reserves, hospitals and charities.

IPART found that it may not be appropriate for some parcels of land that fall within the above list to be exempt from paying special rates for water and sewerage as they would receive these services for free with significant private benefit. Instead, IPART recommended that the Government allow councils discretion to choose whether to exempt these properties from special rates. The Government accepted this recommendation.

It is understood, however, that in practice very few councils in regional and rural NSW levy special rates for water and sewerage, as compared to annual or service charges.

#### The proposal in the Bill

It is proposed that councils be able to choose whether to exempt those properties listed above from special rates, noting that these special rates are unlikely to be applied.

Importantly, it is intended that the Government provide guidance to any councils levying special rates about how best to exercise their discretion in relation to whether to continue to exempt specific types of land that were previously required to be exempt from these special rates. This guidance may specify relevant factors to consider, for example, the type of land, the land's permitted use, the land's actual use/s and access to relevant council infrastructure and services.

#### Consultation question/s

**12. Do you agree with the proposal to remove certain mandatory exemptions from special rates for water and sewerage?**

- ☐ Yes
- ☐ No
- ☐ Neutral

**Comment:**

## 5 IMPROVING PUBLIC CONFIDENCE IN THE RATING SYSTEM

### 5.1 Narrow scope to postpone rates and let councils choose whether to write them off

IPART recommendation	Key sections of the Act	To come into effect
Recommendation 40	s.585, s.595	By proclamation

#### The Government's commitment

Under the Act, a ratepayer is able to postpone paying higher rates if their land is rezoned, the rates payable increase after rezoning and the ratepayer does not intend to redevelop the land according to the new land uses that are permitted under the new zoning. Further, councils are required to write-off any rates and accrued interest postponed under this process after five years.

This postponement option allows people to retain properties with higher permitted uses without paying higher council rates. It is available to land consisting of a single dwelling house or rural land zoned to allow subdivision and applies to both ordinary and special rates.

IPART found that the cost to councils of administering postponement arrangements is high and is inconsistent with the taxation principles of simplicity, efficiency and equity. In particular, the postponement option:

- does not acknowledge the wealth gained in land value from rezoning
- does not recognise that the increased rates are a small proportion of the increased value of the land asset, and
- acts as a disincentive to develop land and does not promote growth and urban renewal.

IPART therefore recommended that the option to postpone rates in these circumstances should be removed, and that councils no longer be required to write-off postponed rates after five years. This would not affect the continuing ability for ratepayers to apply for rates relief on hardship grounds. The Government accepted this recommendation.

#### The proposal in the Bill

It is proposed to provide appropriate limits on the postponement of rates. These include:

- limiting who can postpone rates to those ratepayers that would face substantial hardship as a result of paying the higher rates attributable to rezoning
- restricting the amount of rates that can be postponed under the postponement of rates provisions to the difference between the rate applied under the former zoning, and the amount that will apply under the new zoning, and
- removing the requirement for councils to write off postponed rates after five years, while still giving them flexibility to do so in appropriate circumstances.

The Government understands that, if the provisions in relation to the postponement of rates were simply removed, ratepayers may face significant rate increases and, if unable to pay, may need to sell their properties.

These proposals are designed to limit the potential significant financial impact for some owners of properties when they face a zoning change in relation to their land. The proposals also acknowledge potential hardship for some of these ratepayers, particularly owner occupiers of residential or rural residential land already facing financial stress.

Importantly, to ensure fairness, it is proposed that those ratepayers that currently benefit from such an arrangement, or have applied to do so, continue to do so under the current provision after the reform comes into effect.

The Government believes that these proposals will create a fairer rates postponement framework that enables ratepayers needing to postpone rates for legitimate reasons to do so,

while enabling councils to collect much needed rates to meet the cost of services provided to that land, and to lessen the burden on other ratepayers.

Consultation question/s	
<b>13. Do you agree with the proposal to restrict who can seek postponement of rates?</b>	<b>14. Do you agree with the proposal to remove the requirement to write off rates debts?</b>
<input type="checkbox"/> Yes	<input type="checkbox"/> Yes
<input type="checkbox"/> No	<input type="checkbox"/> No
<input type="checkbox"/> Neutral	<input type="checkbox"/> Neutral
<b>Comment:</b>	<b>Comment:</b>

## 5.2 Allow councils to sell properties for unpaid rates after three years

IPART recommendation	Key sections of the Act	To come into effect
Recommendation 36	s.713	On assent

### The Government's commitment

Under the Act, a council may seek to sell a property that is not vacant to recover the cost of rates and charges, including interest, that remain unpaid after five years in certain circumstances. Specific provisions set out when properties may be sold and the process that must be followed by councils.

IPART recommended that the period of time after which these properties may be sold should be reduced from five years to three years. The Government accepted this recommendation, which is designed to improve the simplicity of the rating system, bring NSW in line with other States, and is likely to reduce costs and delays currently experienced by councils in recovering outstanding rates.

### The proposal in the Bill

It is proposed that councils be permitted to seek to sell properties that are not vacant for unpaid rates and charges after 3 years rather than 5 years.

This would apply from the date of commencement of the provision and would not apply in respect of properties for which a ratepayer already owes unpaid rates and/or charges to council at that time.

Importantly, the *COVID-19 Legislative Amendment (Emergency Measures-Miscellaneous) Act No.2 2020* currently operates to prevent councils from commencing legal action to recover rates and charges for six months unless certain specific matters have been considered.

This temporary measure was put in place to help households that are under significant pressure to remain sustainable during the COVID19 pandemic and as steps towards economic recovery begin. It is therefore not intended to commence these new provisions while this temporary measure remains in place.

### Consultation question/s

15. Do you agree with the proposal to enable councils to sell properties for unpaid rates after 3 years?

☐ Yes

☐ No

☐ Neutral

Comment:

## Section Three – Other rating reforms

### 1 ALLOWING COUNCILS' GENERAL INCOME TO RISE IN LINE WITH POPULATION GROWTH

#### The Government's commitment

The Minister, under the Act, may specify the percentage by which councils' general income may be varied for a specific year – the 'rate peg'. IPART performs this function under delegation.

IPART has traditionally calculated the Rate Peg by reference to the Local Government Cost Index (LGCI) and improvements in productivity (a productivity factor). The LGCI measures price changes for operational inputs—including labour—used by an average council over the previous year. This overall approach to calculating the rate peg has been in place since 2010.

IPART does not take into account, directly or indirectly, the differing impacts of population growth between councils in setting the rate peg. Instead, the current methodology implicitly assumes that the cost of serving each ratepayer will be, on average, the same, or that a special rate may be levied in areas where serving groups of ratepayers involve higher and special costs. Alternatively, councils may apply to IPART for a Special Rate Variation to levy rates above the rate peg.

While this rate peg model means that council areas with higher populations can levy a greater number of ratepayers and, therefore, will have higher revenue, it is not able to take into account that certain types of residents associated with population growth (such as young families) increase demand for services more than the same number of residents in an established area, and that councils often face these costs before the future ratepayers can begin to pay for them.

The Government has committed to allowing councils to align their income with population growth. This will be achieved by adjusting how the rate peg is calculated. This will help to

ensure that adequate local infrastructure and services are provided in local government areas with growing populations.

#### How this reform will be delivered

The Minister for Local Government, with the approval of the Premier, has asked IPART to deliver a report recommending a rate peg methodology that allows the general income of councils to be varied annually in a way that accounts for population growth. Terms of Reference have already been provided to IPART for this review, which is expected to be completed within nine months.

The Terms of Reference for IPART's review clarify that the methodology proposed by IPART should not negatively impact the income growth that councils with stable or declining populations would have achieved under a rate peg calculated using the LGCI and productivity factor. They also state that the Government will not consider further change to the rate peg or maximum allowable income at this time.

In undertaking the review, IPART has been asked to have regard to matters including:

- the Government's commitment to protecting ratepayers from sudden or excessive rate rises, while improving the financial sustainability of local government
- ensuring the rate peg model can be understood by councils and the communities they serve
- the differing needs and circumstances of councils and communities in metropolitan, regional, and rural areas of the State, and
- any other matter it considers relevant.

To ensure that this reform may be given effect as simply and clearly as possible, the Bill puts beyond doubt that more than one rate peg can be applied to the local government sector, if required.

## 2 ENCOURAGING COUNCILS TO LEVY RATES ON MINING LAND TO REFLECT ADDITIONAL COSTS

### The Government's commitment

Under the Act, before levying an ordinary rate, a council must have declared each parcel of rateable land in its area to be within one of four rating categories – farmland, residential, mining or business. The council then determines what rate to levy for land that falls in each of these categories.

IPART analysed the rates applied by councils to mining land and found that they varied widely. Further, IPART found that the different rates that applied to land within this category was unlikely to reflect differences in costs of providing council services to these types of properties. Rather, it appeared that some councils may be setting rates based primarily on 'capacity to pay' principles.

In principle, IPART recommended that mining rates should be set, relative to rates for business land, primarily to reflect differences in the cost of providing council infrastructure and services to these properties. The Government accepted this recommendation.

### How this reform will be delivered

This reform will be implemented through guidance rather than seeking to amend the Act through the Bill. This will provide maximum flexibility to make adjustments in future and to cater to the different circumstances of local councils and communities across NSW.

Guidance will be issued to specify that councils should set mining rates, relative to rates for business land, primarily to reflect differences in the cost of providing council infrastructure and services. Further, if a council does apply a higher rate to mining land than business land in a specific financial year, that council should explain, as part of its Revenue Policy:

- how the rate has been set and why, and
- any additional costs in providing services to mining properties.

#### Consultation question/s

16. Do you agree with the proposal to implement this reform through guidance?

- ☐ Yes
- ☐ No
- ☐ Neutral

**Comment:**



### 3 RETAINING THE RATING CATEGORY FOR BUSINESS AS THE 'RESIDUAL' RATING CATEGORY

#### The Government's commitment

Under the Act, before making an ordinary rate, a council must have declared each parcel of rateable land in its area to be within one of four rating categories – farmland, residential, mining or business. If a parcel of land does not fall within the residential, farmland or mining rating categories, it is treated as business land (the residual category).

IPART noted that using the rating category for business as the residual category may, in some areas, lead to certain properties being more highly rated than is equitable. It therefore recommended that councils should have flexibility to choose a different 'residual' category based on the profile of local properties. The Government supported this recommendation.

#### How this reform will be delivered

Following further consultation and consideration of how each reform of rating categories and subcategories may be implemented by councils, this reform will not be progressed at this time. There is a real risk that allowing alternative residual categories could result in perverse outcomes, inconsistency and uncertainty for councils and ratepayers, particularly given the complexities of categorising and subcategorising land for rating purposes.

#### Consultation question/s

17. Do you agree with the proposal to retain the business land rating category as the residual category?

- ☐ Yes
- ☐ No
- ☐ Neutral

Comment:

#### 4 REQUIRING COUNCILS TO REPORT THE VALUE OF EXEMPTIONS THEY GRANT EACH YEAR

##### The Government's commitment

IPART has identified that councils, generally, do not have a strong indication of the 'cost' of exemptions because they do not affect council's total general income, which is limited by the rate peg. As such, the cost of the exemption is effectively made up for by other ratepayers.

As rates are a tax, this should be as transparent a process as possible so that all parties involved can understand the costs and benefits of providing for exemptions.

With that in mind, IPART recommended that councils publish the estimated value of rating exemptions within their local government area in their annual reports or other information made available to the public. The Government accepted this recommendation, which is designed to improve consistency between councils as well as improving transparency of the rating system for ratepayers.

##### How this reform will be delivered

It is understood that most councils do not have ready access to information on the value of all exemptions and that obtaining this information would impose a significant additional burden, particularly where that would require additional land valuations at council expense.

Given this, it is proposed that councils include in their annual report an estimate of the value of those exemptions granted as a result of a decision of that council. This estimate need only be made by applying a simple, prescribed methodology based on information on each parcel of land that is available to council at the time of its decision to grant the rating exemption.

As those matters that must be included in a council's annual report may be prescribed by regulation, this reform does not feature in a provision of the Bill.

##### Consultation question/s

Do you agree with the proposal that councils report on the value of exemptions they choose to grant through their annual reports?

☐ Yes

☐ No

☐ Neutral

Comment:



**Glossary & Abbreviations**

**The Act**      *Local Government Act 1993*

**OLG**            Office of Local Government

**Regulation**    Local Government (General) Regulation 2005

**DPIE**           NSW Department of Planning, Industry and Environment

**IPART**          Independent Pricing and Regulatory Tribunal

## Appendix A

### Template feedback form – *Towards a Fairer Rating System* consultation

#### Privacy Notice

When you give us your feedback, the Office of Local Government (OLG) in the NSW Department of Planning, Industry and Environment (DPIE) will collect some personal information about you, including:

- your name
- your email address
- the name of your organisation (if provided), and
- any personal information you decide to put in additional 'general comments' fields.

All feedback received through this consultation process may be made **publicly available**. Please do not include any personal information in your feedback that you do not want published.

This information is being collected by OLG as part of the **Towards a Fairer Rating System consultation** to help the Government develop a final Bill to amend the *Local Government Act 1993* and supporting regulations, as necessary. As part of that process, we may need to share your information with people

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#### Submitting this completed feedback form

Please print your completed form and mail or email by **COB 5 February 2021** to:

Office of Local Government, NSW Department of Planning, Industry and the Environment  
*Towards a Fairer Rating System*  
 Locked Bag 3015  
 Nowra NSW 2541

[olg@olg.nsw.gov.au](mailto:olg@olg.nsw.gov.au)

#### About you

TYPE	PLEASE SELECT ALL APPLICABLE
Council – Metropolitan	<input type="checkbox"/>
Council – Metropolitan Fringe	<input type="checkbox"/>
Council – Regional	<input type="checkbox"/>
Council – Rural	<input type="checkbox"/>
Council – Large Rural	<input type="checkbox"/>
Private sector organisation	<input type="checkbox"/>
Ratepayer	<input type="checkbox"/>
NSW State agency	<input type="checkbox"/>
Other	<input type="checkbox"/>

#### FEEDBACK FORM – Towards a Fairer Rating System

Section Two – Local Government Amendment (Rating) Bill 2020	
<b>1. Allowing gradual rates harmonisation</b>	
<b>Q.1.</b>	Are you from a local government area newly formed in 2016 that has not yet harmonised rates?
<b>A.1.</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>Q.2.</b>	Do you agree with the proposal to enable new councils to gradually harmonise rates across former council areas over four years?
<b>A.2.</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Neutral <b>Comment:</b>

<b>2. Allowing councils to levy special rates for jointly funded infrastructure</b>	
<b>Q.3.</b>	Do you agree with the proposal in relation to levying special rates for jointly funded infrastructure?
<b>A.3.</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Neutral <b>Comment:</b>
<b>3. Increasing flexibility through new rating categories and subcategories</b>	
<b>3.1 Allowing councils to set different residential rates in contiguous urban areas</b>	
<b>Q.4.</b>	Do you agree with the proposal to allow for different residential rates in contiguous urban areas?
<b>A.4.</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Neutral <b>Comment:</b>
<b>Q.5.</b>	Do you agree with the proposal to limit the highest rate structure across all residential subcategories to no more than 1.5 times the average rate structure?
<b>A.5.</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Neutral <b>Comment:</b>
<b>3.2 Creating a new rating category for environmental land</b>	
<b>Q.6.</b>	Do you agree with the proposal about how to create a new rating category for environmental land, including how environmental land is proposed to be defined?
<b>A.6.</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Neutral <b>Comment:</b>

<b>Q.7.</b>	Do you agree that a portion of land that is subject to a conservation agreement or other similar instrument should be categorised by councils according to the proposed definition of <i>environmental land</i> ?
<b>A.7.</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Neutral <b>Comment:</b>
<b>3.3 Enabling different business rates to be set for industrial land and commercial land</b>	
<b>Q.8.</b>	Do you agree with the proposal about how to enable different rates for industrial and commercial land?
<b>A.8.</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Neutral <b>Comment:</b>
<b>3.4 Enabling different rates for residential, business or mining land that is vacant</b>	
<b>Q.9.</b>	Do you agree with the proposal to allow subcategories for vacant land to be created for residential, business and/or mining land, including the proposed factors set out above?
<b>A.9.</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Neutral <b>Comment:</b>

<b>3.5 Enabling different rates for residential, business or mining land that is vacant</b>	
<b>Q.10.</b>	Do you agree with the proposal to enable councils to also set farmland rates based on geographical location?
<b>A.10.</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Neutral <b>Comment:</b>
<b>4 Changing specific exemptions from ordinary and special rates</b>	
<b>4.1 Removing mandatory rates exemptions for land with new conservation agreements</b>	
<b>Q.11.</b>	Do you agree with the proposal to remove the requirement for councils to apply a rating exemption for land subject to new conservation agreements?
<b>A.11.</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Neutral <b>Comment:</b>
<b>4.2 Removing certain mandatory exemptions from special rates for water and sewerage</b>	
<b>Q.12.</b>	Do you agree with the proposal to remove certain mandatory exemptions from special rates for water and sewerage?
<b>A.12.</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Neutral <b>Comment:</b>

5 Improving public confidence in the rating system	
5.1 Narrow scope to postpone rates and let councils choose whether to write them off	
<b>Q.13.</b>	Do you agree with the proposal to restrict who can seek postponement of rates?
<b>A.13.</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Neutral <b>Comment:</b>
<b>Q.14.</b>	Do you agree with the proposal to remove the requirement to write off rates debts?
<b>A.14.</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Neutral <b>Comment:</b>
5.2 Allow councils to sell properties for unpaid rates after three years	
<b>Q.15.</b>	Do you agree with the proposal to enable councils to sell properties for unpaid rates after 3 years?
<b>A.15.</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Neutral <b>Comment:</b>



### Section Three – Other rating reforms

#### 2 Encouraging councils to levy rates on mining land to reflect additional costs

**Q.16.** Do you agree with the proposal to implement this reform through guidance?

- A.16.** ☐ Yes  
☐ No  
☐ Neutral

**Comment:**

#### 3 Retaining the rating category for business as the 'residual' rating category

**Q.17.** Do you agree with the proposal to retain the business land rating category as the residual category?

- A.17.** ☐ Yes  
☐ No  
☐ Neutral

**Comment:**

#### 4 Requiring councils to report the value of exemptions they grant each year

**Q.18.** Do you agree with the proposal that councils report on the value of exemptions they choose to grant through their annual reports?

- A.18.** ☐ Yes  
☐ No  
☐ Neutral

**Comment:**

#### General Comments







# IPART REVIEW OF THE LOCAL GOVERNMENT RATING SYSTEM

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GOVERNMENT RESPONSE

JUNE 2020

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NSW Government

## Executive Summary

The NSW Government understands the need to provide local councils with a flexible rating system, whilst ensuring rates are applied fairly and more equitable to local communities.

Any review of the rating system, like any taxation system, inevitably results in strong, often opposing views from various stakeholder groups.

IPART provided the Government with a substantial [final report](#) that recommends significant reforms addressing a number of complex issues, including the current structure of the rating system. IPART's recommendations, if implemented in full, would substantially change our system of local government and impact directly upon communities. Having consulted extensively with the sector and the community, and carefully considered IPART's findings and recommendations at length, the Government has decided on the following way forward:

Position on recommendations	Total Number
Support	13
Support in principle	6
Support in part	1
Noted	21
For further consideration and analysis	1

A complete list of IPART's recommendations and the Government's response can be found at Table 1 at the end of this document.

The Government has already ruled out, in its interim response of 21 June 2019, implementing major recommendations made by IPART related to pensioner concessions and rating exemptions where these would adversely impact vulnerable members of the community or have a substantial financial impact upon taxpayers or the broader community.

The Government also remains unconvinced of the merits of moving to a system of valuation based on Capital Improved Value (CIV) at this time, given the significant potential impact to local residents, substantial implementation costs and the inconclusiveness of extensive public consultation. Feedback received indicates both support and opposition to such a change. Additionally, it is unclear how the introduction of CIV may unfairly impact particular groups of ratepayers or result in unintended, real-life consequences for families and businesses.



The Government will focus on providing greater flexibility in the current rating system through the creation of additional rating categories and sub-categories, and ensuring councils can align income growth with population growth.

Through the Office of Local Government, the Government will make the current rating system easier for councils to navigate, highlighting the variety of mechanisms already available to councils in designing a fairer and more equitable rating structure for their local government area (LGA).

We look forward to working with the Local Government sector and the community to deliver fairer, and more equitable rates to residents and business.

## Background

In NSW, council rates generate over \$4.3 billion each year. This equates to around 38 per cent of the annual operating revenue for all NSW councils although, in general, councils in metropolitan areas have larger rating bases and receive more of their income from rates. Even though rates are commonly considered a fee for service, they are in fact a form of taxation.

Under the *Local Government Act 1993*, a rate may consist of:

- » an ad valorem amount (i.e. a percentage – which may be subject to a minimum amount)
- » a base amount to which an ad valorem amount is added.

In NSW, an ad valorem amount is a variable charge set as a proportion of the unimproved land value of the property – that is, the value of the property without any buildings, houses or other capital investments.

A minimum amount, where applied, is a flat charge which applies instead of the ad valorem amount, when it is greater than the ad valorem amount. A base amount, where applied, is a fixed

charge that is levied equally against all rateable properties within a given rate category, or subcategory of land use.

Councils may vary the way they calculate rates for different categories of property. For example, they can use a different percentage of the unimproved land value to calculate the ad valorem amounts, apply different minimum amounts, or add different base amounts.

The *Local Government Act 1993* sets out a process regulating the amount by which councils increase their general income, the main component of which is rates revenue from ordinary and special rates.

Each year, the Independent Pricing and Regulatory Tribunal (IPART), determines the maximum percentage by which a council may increase its general income in the coming year, known as the 'rate peg'. The rate peg does not apply to stormwater, waste collection, water and sewerage charges.

The rate peg is based on the Local Government Cost Index measured by IPART, which measures price changes over the previous year for the goods and labour an average council will use, adjusted for any improvements in productivity.

Once the rate peg is known, councils set their rates for each rating category so that their annual general income does not increase in percentage terms by more than the rate peg for that year. This gives councils some flexibility to vary the increase in rates across categories (e.g. to increase residential rates by a higher percentage than farmland rates), as long as the total increase in revenue does not exceed the rate peg.

Councils can apply to IPART for a 'special rate variation' to allow them to increase general income above the rate peg for a range of reasons. OLG sets guidelines for this process, but the process is administered independently by IPART.

## The Review Process

In 2013, the Independent Local Government Review Panel recommended the Government commission IPART to undertake a further review of the rating system focused on:

- » options to reduce or remove excessive exemptions and concessions that are contrary to sound fiscal policy and jeopardise councils' long-term sustainability (recommendation 6.2); and
- » more equitable rating of apartments and other multi-unit dwellings, including giving councils the option of rating residential properties on Capital Improved Values, with a view to raising additional revenues where affordable (recommendation 6.3).

On 18 December 2015, the (then) Premier, the Hon. Mike Baird MP provided IPART with terms of reference for the Review, framing it as a key component of the Government's Fit for the Future reforms. The two broad aims of the Review were to:

- » explore options to redistribute the rating burden within council boundaries to develop recommendations to improve the equity and efficiency of the rating system, in order to enhance councils' ability to implement sustainable fiscal policies over the long term; and
- » explore options for a legislative or regulatory approach to support the Government's rates path freeze policy.

The Terms of Reference specifically excluded consideration of the rates peg.

IPART carried out significant public and stakeholder consultation during conducting the Review, including public hearings in Sydney and Dubbo between April and October 2016. A draft report was released for comment in August 2016. IPART received over 300 submissions in relation to this Review.

IPART delivered its final report to the (then) Minister for Local Government in December 2016, which was publicly released on 21 June 2019 together with an interim Government response. IPART made 42 recommendations in total. The Office of Local Government (OLG) undertook further public consultation on 28 of these recommendations. Consultation feedback was open for 12 weeks and closed on 13 September 2019. A total of 110 submissions were received.

OLG released a summary of submissions on 28 February 2020.

The final report of the Review restates the major proposals outlined in the draft report, with some minor adjustments. IPART's key proposals are that:

- » councils be allowed to shift to a Capital Improved Value (CIV) system of calculating rates, which considers the value of capital improvements (in contrast to the current system which uses the unimproved value of the land);
- » exemptions from the rating system be based on the use of land rather than the ownership (for example, that aged care facilities owned by charitable organisations would pay the same rates as their commercial competitors);
- » changes to pensioner rate concessions enable rate payments to be deferred and recouped from the pensioner's estate at a later date; and
- » restrictions on council differential rating powers be lifted to enable improved rates harmonisation across council areas.

## Interim Response

The Government released an interim response concurrently with the release of the three IPART reports on 21 June 2019. In it, the Government has ruled out accepting recommendations that have adverse impacts on vulnerable members of the community, affect regional jobs and economies, and/or substantially increase costs for taxpayers and the broader community.

In NSW, rate exemptions are based on a mix of land ownership and land use. Changes to the rating exemptions framework would redistribute the rating burden within a community and removal or change will be sensitive with many interest groups, such as charities, not for profit social housing providers, churches, schools and universities.

During IPART's public consultation process the issue of rating exemptions prompted significant public and stakeholder comment. Most exemptions still have a strong and abiding public interest and concern remains about the significant impact removal of exemptions may have on the operations of these entities.

The *Local Government Amendment Act 2019* was assented to on 24 June 2019 and several provisions came into effect on 25 June 2019. This included amending the *Local Government Act 1993* to enable the Minister to extend the rates path freeze for an additional 12 months for those councils formed in 2016 that need more time to consult with communities about rating harmonisation. This may also allow some of those councils to factor in the Government's response to the Review when developing their rates harmonisation strategy – some recommendations deal specifically with rates harmonisation.

# Theme 1: Use of the CIV valuation method to levy council rates

## Current situation

Currently, NSW councils are required to use the unimproved land value (UV – the value of the land without improvements) of a property to calculate rates. This is the value of the property without any buildings, houses or other capital investments.

## What IPART recommends

IPART recommends that the Government mandates the use of Capital Improved Value (CIV) for metropolitan councils while retaining it as an option for non-metropolitan councils.

IPART recommends a gradual transition to CIV entailing an annual limit of 10 per cent above the rate peg to any rates increase resulting from a move to CIV. Individual rating amounts may still increase beyond 10 per cent depending on the impact of other factors such as changes in land valuations.

## Government response

The NSW Government continues to strongly support rate pegging for local councils across NSW. It believes this is the best model to ensure that councils keep a focus on efficiency and ensuring that residents are not paying more rates than necessary. The Special Rate Variation framework enables councils to make the case for a larger rise than the current rate peg to their community and then to IPART.

The NSW Government notes that many local government stakeholders support the introduction of CIV. However, it also notes that many residents and property owners do not support any change.

Introducing CIV within the current rate pegging framework will bring about a redistribution of the rating burden rather than an increase in rates and therefore council income. It will also come with significant disruption and because there is no overall database of CIV data within NSW, it is not possible to model the impacts on different types of property owners. Implementation would take several years before a potential improvement to the equitable distribution of rating revenue would be evident.

Given the unclear distributional impacts along with the high cost of implementation and prolonged transition timeframes, the NSW Government does not believe there is a clear case in support of implementation and further development of CIV at this time.

The Government will focus on providing greater flexibility in the current rating system through the creation of additional rating categories and sub-categories, and ensuring councils can align income growth with population growth, in order to improve the distribution of the rating burden at significantly less cost, and low impact to the community.

## Use of minimum rate

Many councils use minimum rate amounts in relation to apartments and other strata complexes to more accurately reflect the use of council services because the UV of individual apartments is often very low. However, this can mean that most apartments in a council area are paying a very similar rate amount irrespective of the property value. An example of the use of minimum rates is Sutherland Council below.

### Example – Sutherland Council

Sutherland Council applied to IPART to increase its general income by 8.76 per cent in 2019-20, including the rate peg, which is to be applied to minimum ratepayers only, through an increase in the minimum rate from \$602.30 in 2018-19 to \$900.00 in 2019-20. This increase will be retained permanently in the rate base, affecting around 25 per cent of the ratepayers in Sutherland and bringing their rates closer to the average residential rate charged across the LGA.

Based on the Council's application, ratepayers on the minimum rate will have a rate increase of \$298 in 2019-20, while rates for ratepayers who are not on the minimum will increase by the 2.7 per cent rate peg, reducing the gap between rates paid by minimum ratepayers and other ratepayers to better reflect equity in the services received.

The previous minimum rate (\$602.30) was 59.2 per cent lower than the average residential rate of ratepayers who were paying above the minimum (\$1,476). According to IPART, the new minimum rate is the 9th highest residential minimum rate compared to the current minimum rate charged by other councils in the Sydney metropolitan area and 14.5 per cent higher than the estimated average (\$786) of councils in the Sydney metropolitan area.

It is recognised that not all metropolitan councils could apply a similar process due to differences in housing mix and socio-economic factors. However, the Government believes that councils should be willing to explore different options to improve the equity of their rating distribution, in consultation with their communities.

## Differential residential rating subcategories

The NSW Government supports the potential to enable greater use of differential rating within urban residential rating.

This issue is further discussed below.

## Theme 2: Allow councils' general income to grow as the communities they serve grow

### Current Situation

In NSW, councils are subject to a rate peg that determines the maximum percentage amount by which a council may increase its total general income for the year. The main component of general income is rates revenue. IPART is responsible for determining the rate peg each year. As long as the total general income remains within the set maximum increase, councils have discretion to determine how to allocate the rate peg increase between different rating categories. Councils can seek additional increases in general income beyond the annual rate peg by applying to IPART for a special rate variation (SRV).

The increase in income generated by a supplementary valuation process using UV ("growth outside the rate peg") often does not allow councils to maintain current service levels due to increasing demand for council services and the upfront costs of new residential developments. IPART contends that current ratepayers are shouldering an unfair proportion of the rating burden compared to new residents.

### What IPART recommends

IPART examined options to assist councils experiencing high levels of population growth to more equitably fund services to these new ratepayers, and made the following recommendations:

- » using a CIV-based formula to calculate increases to council general income outside the rate peg that is proportional to the increase in costs of providing services;

- » introducing a new type of special rate for joint delivery of infrastructure projects. Income raised from this special rate would be on top of general income within the rate peg and would not require approval from IPART. Such a special rate category would make it clear that councils could co-fund infrastructure or services that are the responsibility of state or federal government, as long as the projects benefit the local community; and
- » removing minimum rates

### Government response

With the Government decision not to support a move to CIV at this time, the NSW Government will implement recommendations to facilitate council income growth outside the rate peg, while preserving the policy objectives of the rate capping system. This will include better aligning council income growth with population growth and reforms to the infrastructure contributions framework to enhance councils' ability to implement sustainable fiscal policies over the long term.

This reflects that for many councils one of the key challenges they face is population growth, which often is not easily captured within the existing rate pegging framework.

The NSW Government, in conjunction with the broader work around developer contributions, will examine options to establish an equitable and effective funding framework for infrastructure associated with development. It is important that as communities grow, they have adequate and effective infrastructure to support that growth.

## Theme 3: Give councils greater flexibility when setting residential rates

### Current Situation

Councils levy rates using four different categories depending on the primary use of the land: residential, farmland, mining and business. These categories can be further split into subcategories.

A long-standing issue with the current rates framework is the difficulty of metropolitan councils to set different residential rates. This is due to the requirement for councils to set equal rates across the one "centre of population". Non-metropolitan councils can do this based on the different townships in their area but for metropolitan councils with a single contiguous population centre, the current legal framework is difficult to apply with certainty. This can result in potential cross subsidies where demand for services may vary across an LGA but only a single ad valorem amount applies to all residential properties.

### What IPART recommends

IPART recommends adding a fifth rating category, 'environmental land', which they define as land that cannot be developed due to geographic or regulatory restrictions. They also recommend introducing the following changes to increase flexibility when determining council rating structures:

- » 'commercial' or 'industrial' subcategories for business land;
- » a vacant land subcategory option for residential, business and mining land;
- » the ability to subcategorise farmland based on geographic location; and
- » allowing councils to determine which rating category should act as the 'residual' category.

IPART argues that providing more flexibility will allow councils to be more responsive to local needs and enable a more equitable and efficient distribution of the rating burden, while also encouraging urban renewal.

To facilitate rates harmonisation, particularly for metropolitan councils, IPART proposes to remove the "centre of population" requirement for residential rates and instead have councils equalise rates based on separate towns or villages or "residential areas". An LGA could have multiple residential areas using geographic markers to define their boundaries.

### Government response

The NSW Government recognises the challenges that come from the current legal framework and the limited capacity to apply a differential rating structure. However, it is also cognisant of the view of some stakeholders that they are paying higher rates than they should, with councils effectively using them as a 'golden goose'.

This emphasises the importance of councils undertaking strong and effective community consultation when they implement and modify their rating framework. It is also important that the NSW Government, when expanding the ability to establish differential rating structures, builds in effective safeguards to ensure that the community retains confidence in the local government rating system.

### Rates Harmonisation

The NSW Government is currently supporting new councils created in 2016 during the forthcoming rates harmonisation process, to be implemented at the end of the rates path protection in either mid-2020 or mid-2021 (depending on the choice of the individual council).

As part of this process, in addition to practical implementation support, the NSW Government is assisting new councils identify options specific to their LGA to undertake rates harmonisation following the end of the rates path protection. IPART's recommendations regarding residential rates equalisation and gradual harmonisation of rates is integral to this process.



## Theme 4: Better target rate exemption eligibility

### Current Situation

In NSW, rate exemptions are based on a mix of land ownership and land use. There are numerous exemptions from paying local council rates such as for land owned by charities, not for profit social housing providers, churches, schools and universities.

Consideration needs to be given to the public benefits that some exempt landowners provide. Most exemptions still have a strong and abiding public interest and concern remains about the significant impact removal of exemptions may have on the operations of these entities.

### What IPART recommends

The central recommendation is to amend the *Local Government Act 1993* so that exemptions are based on land use only rather than ownership. In addition, all land used for commercial activities or residential purposes should be rateable, unless it is explicitly exempted. In this regard, IPART recommends private hospitals be exempted in the same way public hospitals are. Conversely, IPART recommends the removal of exemptions for land owned by a number of entities, including certain residential care facilities, certain sporting and cultural organisations and certain water utilities, and land subject to a conservation agreement.

### Government response

In its interim response, the Government has already ruled out implementing recommendations related to exemptions, where these would adversely impact vulnerable members of the community or have a substantial financial impact upon taxpayers or the broader community.

The NSW Government does not support wholesale reform of the exemptions framework as it considers the abiding public interest is to keep the existing exemptions framework largely in place, with anomalies being addressed on a case by case basis.

The NSW Government, after considering feedback from stakeholders and the community, will undertake further work on the existing conservation rating exemption.

### Land subject to a conservation agreement

Traditionally, most conservation agreements have been entered into in relation to environmental issues under section 69C(1)(a) and (e) of the *National Parks and Wildlife Act 1974 (NPW Act)*. The use of conservation agreements for these environmental purposes has now largely been replaced by the provisions for Conservation Agreements, Wildlife Refuge Agreements and Biodiversity Stewardship Agreements under the *Biodiversity Conservation Act 2016 (BC Act)*. Some programs established under the BC Act provide funding to assist with conservation efforts while others do not. For example, landholders who are successful under the Conservation Management Program are eligible for annual conservation management payments to undertake agreed conservation management activities such as pest and weed control, and fencing. However, there remain a number of agreements which exist in perpetuity and for which funding is not provided.

Conservation agreement provisions in the NPW Act remain a significant mechanism for conserving Aboriginal cultural heritage and historic heritage of national significance that is located on privately owned land. Unlike for environmental conservation, there are very limited other financial incentives available to private landholders to act to conserve and protect Aboriginal Cultural Heritage or nationally significant historic heritage on private land.

Given the issues above, further consultation and assessment will occur to ensure that the issues associated with protection of Aboriginal cultural heritage and historic conservation agreements are adequately considered and addressed, while recognising there may be potential to address anomalies with the existing exemption brought about by the introduction of the BC Act.

## Theme 5: Assistance to pensioners

### Current Situation

Under the *Local Government Act 1993*, eligible pensioners are provided concessions on their ordinary rates and domestic waste management services charge. The cost of providing these concessions is shared between the State Government (55 per cent) and local councils (45 per cent). Councils can provide concessions above the regulated amount, but this must be funded by the council alone.

### What IPART recommends

IPART recommended the implementation of a rate deferral scheme to be operated by the NSW Government. This would allow new and existing eligible pensioners to defer payment of ordinary council rates up to \$1,000 per annum and indexed to CPI, or any other amount as determined by the NSW Government (becoming due when ownership changes). This would be mandatory for new pensioners and would be optional for existing pensioners (who could choose to defer or opt for the existing concession).

### Government response

The NSW Government has made it clear that it will not take any action that would disadvantage pensioners in its response to the IPART Rating Review.

Given this, and the experience of other jurisdictions that have established a rate deferral scheme where take up is reportedly low, the Government does not believe the case for wholesale change to the existing rates concession framework has been made. Therefore, the NSW Government will not support the introduction of a state-wide rate deferral framework.

## Theme 6: Recovery of council rates

### Current Situation

NSW councils collect rates and charges each year in line with relevant provisions of the *Local Government Act 1993*. Councils receiving funds on time are in a better position to be financially sustainable and continue to deliver the services and facilities local communities need and expect. The volume of overdue rates and charges across NSW councils varies markedly primarily based on circumstances within individual councils and communities.

Likewise, unpaid debt also places an unreasonable burden on both the community and potentially the local court system. There are a range of existing powers available to councils under the *Local Government Act 1993*.

### What IPART recommends

IPART suggested several changes to the practice of councils and the regulatory framework to improve the management and processing of overdue and unpaid rates and charges. The goal of such changes is to improve the efficiency and effectiveness of local government debt management and therefore removing undue burden on local councils and ultimately local courts.

### Government response

The NSW Government released the [\*Debt Management and Hardship Guidelines\*](#) in November 2018 for local councils to provide best practice advice on how to manage debt recovery and hardship within their community.

The Guidelines assist councils to develop proactive measures to ensure prompt payment, minimise default, follow up ratepayers, recover debts fairly, assess hardship claims and monitor debt. Each council should adopt robust, fair and transparent policies and procedures outlining how they will communicate with ratepayers, collect monies owing, assess hardship claims and, where necessary, recover overdue payments to manage debt.

The Guidelines, which are part of the NSW Government's Civil Justice Strategy, have been issued by the Office of Local Government under Section 23A of the *Local Government Act 1993*. This means all NSW councils must take them into account when developing and implementing debt management and hardship policies and procedures.

The NSW Government is committed to local councils having best practice debt management and hardship policies and frameworks for the recovery of all debts, including rates. Also, NSW councils can now use the Revenue NSW to recover their debts should they elect to do so.

The Government will continue to monitor the effectiveness of the Guidelines and associated regulatory and legislative framework.

# Table 1: List of Recommendations and Government Response

	Recommendation	Government Response
1	The <i>Local Government Act 1993</i> should be amended to mandate Capital Improved Value (CIV) as the basis for setting ad valorem rates in the metropolitan council areas defined in Box 3.1.	Noted.  Given the lack of a clear case in support of introducing CIV, the significant implementation costs involved and the strong stakeholder views, the Government will not implement CIV as a basis for setting ad valorem rates at this time.
2	The <i>Local Government Act 1993</i> should be amended to allow non-metropolitan councils to choose between the Capital Improved Value and Unimproved Value (UV) methods as the basis for setting ad valorem rates at the rating category level.	Noted.
3	The <i>Local Government Act 1993</i> should be amended to facilitate a gradual transition of rates to a Capital Improved Value method.	Noted.
4	Section 497 of the <i>Local Government Act 1993</i> should be amended to remove minimum amounts from the structure of a rate, and section 548 of the <i>Local Government Act 1993</i> (NSW) should be removed.	Noted.
5	The <i>Local Government Act 1993</i> should be amended so that the growth in rates revenue outside the rate peg is calculated using the formula based on changes in CIV, defined in Box 4.1.	Noted.
6	The NSW Government fund the NSW Valuer General for the upfront cost of establishing the database to determine Capital Improved Values.	Noted.
7	The NSW Government fund the cost for a non-metropolitan council to set up a Capital Improved Value database for the purposes of implementing our recommended formula for calculating growth in rates revenue outside the rate peg, where the Unimproved Value method for setting rates is maintained.	Noted.

	Recommendation	Government Response
8	<p>The <i>Local Government Act 1993</i> should be amended to allow councils to levy a new type of special rate for new infrastructure jointly funded with other levels of Government. This special rate should be permitted for services or infrastructure that benefit the community, and funds raised under this special rate should not:</p> <ul style="list-style-type: none"> <li>» form part of a council's general income permitted under the rate peg, nor</li> <li>» require councils to receive regulatory approval from IPART.</li> </ul>	<p>Support.</p> <p>The Government will examine how this recommendation can complement current reforms being made to the infrastructure contributions framework.</p>
9	<p>Section 511 of the <i>Local Government Act 1993</i> should be amended to reflect that, where a council does not apply the full percentage increase of the rate peg (or any applicable Special Variation) in a year, within the following 10-year period, the council can set rates in a subsequent year to return it to the original rating trajectory for that subsequent year.</p>	<p>Support (already adopted).</p>
10	<p>The <i>Local Government Act 1993</i> should be amended to remove the requirement to equalise residential rates by 'centre of population'. Instead, the <i>Local Government Act 1993</i> should allow councils to determine a residential subcategory, and set a residential rate, by:</p> <ul style="list-style-type: none"> <li>» separate town or village, or residential area.</li> </ul>	<p>Support in principle</p>

	Recommendation	Government Response
11	<p>The <i>Local Government Act 1993</i> should outline that:</p> <ul style="list-style-type: none"> <li>» A 'residential area' is an area within a contiguous urban locality that has, on average, different access to, demand for, or costs of providing council services or infrastructure (relative to other areas in that locality).</li> </ul> <p>Councils could use geographic markers to define the boundaries for a residential area, including postcode boundaries, suburb boundaries, geographic features (eg, waterways, bushland) and/or the location of major infrastructure (eg, arterial roads, railway lines).</p>	Support in principle
12	<p>The <i>Local Government Act 1993</i> should be amended so, where a council uses different residential rates within a contiguous urban locality, it should be required to:</p> <ul style="list-style-type: none"> <li>» ensure the highest rate structure is no more than 1.5 times the average rate structure across all residential subcategories (ie, so the maximum difference between the highest and average ad valorem rates and base amounts is 50%), or obtain approval from IPART to exceed this maximum difference, and</li> <li>» publish the different rates (along with the reasons for the different rates) on its website and in the rates notice received by ratepayers.</li> </ul>	Support in principle

Recommendation	Government Response
<p><b>13</b> At the end of the 4-year rate path freeze, new councils determine whether any pre-merger areas are separate towns or villages, or different residential areas.</p> <p>» In the event that a new council determines they are separate towns or villages, or different residential areas, it should be able to continue the existing rates or set different rates for these pre-merger areas, subject to metropolitan councils seeking IPART approval if they exceed the 50% maximum differential. It could also choose to equalise rates across the pre-merger areas, using the gradual equalisation process outlined below.</p> <p>» In the event that a new council determines they are not separate towns or villages, or different residential areas, or it chooses to equalise rates, it should undertake a gradual equalisation of residential rates. The amount of rates a resident is liable to pay to the council should increase by no more than 10 percentage points above the rate peg (as adjusted for Special Variations) each year as a result of this equalisation. The <i>Local Government Act 1993</i> should be amended to facilitate this gradual equalisation.</p>	<p>For further analysis and consideration, as part of the development of a rates harmonisation framework.</p>



	Recommendation	Government Response
14	<p>Sections 555 and 556 of the <i>Local Government Act 1993</i> should be amended to:</p> <ul style="list-style-type: none"> <li>» exempt land on the basis of use rather than ownership, and to directly link the exemption to the use of the land, and</li> <li>» ensure land used for residential and commercial purposes is rateable unless explicitly exempted.</li> </ul>	<p>Noted.</p> <p>As per the interim Government response, the Government has ruled out implementing recommendations that would adversely impact vulnerable members of the community, such as pensioners or charities, or have a substantial financial impact upon taxpayers or the broader community.</p> <p>The Government will continue to examine exemptions over time to address clear anomalies and inequities.</p>
15	<p>Land that is used for residential care as defined in Section 41-3(1) of the <i>Aged Care Act 1997 (Cth)</i> be proportionally rateable according to the share of places whose maximum Refundable Accommodation Deposit is above the level set by the Minister for Health and Aged Care (currently \$550,000).</p>	<p>Noted.</p>
16	<p>Section 556(1)(i) of the <i>Local Government Act 1993</i> should be amended to include land owned by a private hospital and used for that purpose.</p>	<p>Noted.</p>

Recommendation	Government Response
<p><b>17</b> The following exemptions be removed:</p> <ul style="list-style-type: none"> <li>» land that is vested in, owned by, or within a special or controlled area for, the Hunter Water Corporation, Water NSW or the Sydney Water Corporation (<i>Local Government Act 1993</i> section 555(1)(c) and section 555(1)(d))</li> <li>» land that is below the high water mark and is used for the cultivation of oysters (<i>Local Government Act 1993</i> section 555(1)(h))</li> <li>» land that is held under a lease from the Crown for private purposes and is the subject of a mineral claim (<i>Local Government Act 1993</i> section 556(1)(g)), and</li> </ul> <p>land that is managed by the Teacher Housing Authority and on which a house is erected (<i>Local Government Act 1993</i> section 556(1)(p)).</p>	<p>Noted.</p> <p>As per the interim Government response, the Government has ruled out implementing recommendations that would adversely impact vulnerable members of the community, such as pensioners or charities, or have a substantial financial impact upon taxpayers or the broader community.</p> <p>The Government will continue to examine exemptions over time to address clear anomalies and inequities.</p>
<p><b>18</b> Section 555(1)(b1) of the <i>Local Government Act 1993</i> should be amended to remove the current rating exemption for land that is the subject of a conservation agreement and instead require it to be rated using the Environmental Land category.</p>	<p>Support in part.</p> <p>Subject to further consultation on implementation issues with respect to the range of agreements in force and the preservation of environmental, historical and Aboriginal cultural heritage outcomes.</p>

	Recommendation	Government Response
19	<p>The following exemptions not be funded by local councils and hence should be removed from the Local Government Act and Regulation:</p> <ul style="list-style-type: none"> <li>» land that is vested in the Sydney Cricket and Sports Ground Trust (<i>Local Government Act 1993</i> section 556(1)(m))</li> <li>» land that is leased by the Royal Agricultural Society in the Homebush Bay area (<i>Local Government (General) Regulation 2005</i> reg 123(a))</li> <li>» land that is occupied by the Museum of Contemporary Art Limited (<i>Local Government (General) Regulation 2005</i> reg 123(b)), and</li> <li>» land comprising the site known as Museum of Sydney (<i>Local Government (General) Regulation 2005</i> reg 123(c)).</li> </ul> <p>The NSW Government should consider whether to fund these local rates through State taxes.</p>	<p>Noted.</p> <p>As per the interim Government response, the Government has ruled out implementing recommendations that would adversely impact vulnerable members of the community, such as pensioners or charities, or have a substantial financial impact upon taxpayers or the broader community.</p> <p>The Government will continue to examine exemptions over time to address clear anomalies and inequities.</p>
20	<p>Where a portion of land is used for an exempt purpose and the remainder for a non-exempt activity, only the former portion should be exempt, and the remainder should be rateable.</p>	<p>Noted.</p> <p>As per the interim Government response, the Government has ruled out implementing recommendations that would adversely impact vulnerable members of the community, such as pensioners or charities, or have a substantial financial impact upon taxpayers or the broader community.</p> <p>The Government will continue to examine exemptions over time to address clear anomalies and inequities.</p>

Recommendation	Government Response
<p><b>21</b> Where land is used for an exempt purpose only part of the time, a self-assessment process should be used to determine the proportion of rates payable for the non-exempt use.</p>	<p>Noted.</p> <p>As per the interim Government response, the Government has ruled out implementing recommendations that would adversely impact vulnerable members of the community, such as pensioners or charities, or have a substantial financial impact upon taxpayers or the broader community.</p> <p>The Government will continue to examine exemptions over time to address clear anomalies and inequities.</p>
<p><b>22</b> A council's maximum general income not be modified as a result of any changes to exemptions from implementing our recommendations.</p>	<p>Noted.</p>
<p><b>23</b> A council may apply to IPART for a Special Variation to take account of the changes in exemptions using a streamlined process in the year that our recommended exemption changes come into force. The council would need to demonstrate:</p> <ul style="list-style-type: none"> <li>» it satisfies the first criteria for Special Variation applications in the OLG guidelines relating to the need for and purpose of a different revenue path for the council's General Fund, and</li> <li>» that any subcategory rating structure applied to previously exempt properties is no greater than the average rate structure across the relevant rating category.</li> </ul>	<p>Noted.</p>

	Recommendation	Government Response
24	The <i>Local Government Act 1993</i> should be amended to remove the current exemptions from water and sewerage special charges in section 555 and instead allow councils discretion to exempt these properties from water and sewerage special rates in a similar manner as occurs under section 558(1).	Support.
25	At the start of each rating period, councils calculate the estimated value of rating exemptions within the council area. This information should be published in the council's annual report or otherwise made available to the public.	Support.
26	For new and existing eligible pensioners, introduce a rate deferral scheme operated by the NSW Government, where: » eligible pensioners would be allowed to defer payment of ordinary council rates up to \$1,000 per annum and indexed to CPI, or any other amount as determined by the NSW Government.	Noted.
27	Give existing eligible pensioners the option to access, either: » the current pensioner concession, or » the rate deferral scheme, as defined in Recommendation 26.	Noted.
28	Funding pensioner assistance: » the current pensioner concession funding arrangements would continue. » the rate deferral scheme (defined in Recommendation 26) would be funded by the NSW Government. The loan should be charged interest at the NSW Government's 10-year borrowing rate, and could become due when property ownership changes	Noted.

	Recommendation	Government Response
<b>29</b>	<p>Section 493 of the <i>Local Government Act 1993</i> should be amended to add a new environmental land category and a definition of 'environmental land' should be included in the <i>Local Government Act 1993</i>.</p> <p>Land subject to a state conservation agreement is categorised as 'environmental land' for the purposes of setting rates.</p>	<p>Support in principle.</p> <p>Refer to recommendation 18.</p>
<b>30</b>	<p>Section 529(2)(d) of the <i>Local Government Act 1993</i> should be amended to allow business land to be subcategorised as 'industrial' and or 'commercial' in addition to centre of activity.</p>	Support.
<b>31</b>	<p>Sections 493, 519 and 529 of the <i>Local Government Act 1993</i> should be amended to add an optional vacant land subcategory for residential, business and mining land.</p>	Support.
<b>32</b>	<p>Section 529 (2)(a) of the <i>Local Government Act 1993</i> should be replaced to allow farmland subcategories to be determined based on geographic location.</p>	<p>Support in principle.</p> <p>Subject to further consultation and analysis with respect to implementation and potential unintended consequences.</p>
<b>33</b>	<p>Section 518 of the <i>Local Government Act 1993</i> should be amended to reflect that a council may determine by resolution which rating category will act as the residual category.</p> <ul style="list-style-type: none"> <li>» the residual category that is determined should not be subject to change for a 4-year period.</li> <li>» if a council does not determine a residual category, the business category should act as the default residual rating category.</li> </ul>	Support.

	Recommendation	Government Response
34	Any difference in the rate charged by a council to a mining category compared to its average business rate should primarily reflect differences in the council's costs of providing services to the mining properties.	Support.
35	Councils have the option to engage the State Debt Recovery Office to recover outstanding council rates and charges.	Support. Already adopted.
36	The existing legal and administrative process to recover outstanding rates be streamlined by reducing the period of time before a property can be sold to recover rates from five years to three years.	Support.
37	All councils adopt an internal review policy, to assist those who are late in paying rates, before commencing legal proceedings to recover unpaid rates.	Support. Already adopted.
38	The <i>Local Government Act 1993</i> should be amended or the Office of Local Government should issue guidelines to clarify that councils can offer flexible payment options to ratepayers.	Support. Already adopted.
39	The <i>Local Government Act 1993</i> should be amended to allow councils to offer a discount to ratepayers who elect to receive rates notices in electronic formats, eg, via email.	Support. Already adopted.
40	The <i>Local Government Act 1993</i> should be amended to remove section 585 and section 595, so that ratepayers are not permitted to postpone rates as a result of land rezoning, and councils are not required to write-off postponed rates after five years.	Support in principle.

	Recommendation	Government Response
41	<p>The valuation base date for the Emergency Services Property Levy and council rates be aligned.</p> <p>» The NSW Government should levy the Emergency Services Property Levy on a Capital Improved Value basis when Capital Improved Value data becomes available state-wide.</p>	Noted.
42	<p>After the NSW Valuer General has established the database to determine Capital Improved Values for rating purposes, councils be given the choice to directly buy valuation services from private valuers that have been certified by the NSW Valuer General.</p>	Noted.







**Council's Proposed Submission**

<b>Section One - Local Government Amendment (Rating) Bill 2020</b>	
<b>1. Allowing Gradual Rates Harmonisation For New Councils</b>	
Q1. Are you from a new local government area newly formed in 2016 that has not yet harmonised rates?	<b>Yes/No</b>
Q2. Do you agree with the proposal to enable relevant councils to gradually harmonise rates across former council areas over four years?	<b>Yes/No/Neutral</b>
Comment:	<ul style="list-style-type: none"> <li>- We fully support a staged implementation as this would support our residents during this change in rating structure.</li> <li>- We would argue that there needs to be a minimum % each year to ensure a smoother transition to any increase rather than setting a maximum.</li> <li>- Flexibility to have different transition periods for residential and business rates would be beneficial taking into account community needs and the prevailing economic conditions.</li> <li>- We support the harmonisation over four years, on both the minimum rate increases as well as the ad valorem increase in terms of fairness and equity.</li> </ul>
<b>2. Allowing Councils To Levy Special Rates For Jointly Funded Infrastructure</b>	
Q3. Do you agree with the proposal to allow councils to levy special rates for jointly funded infrastructure?	<b>Yes/No/Neutral</b>
Comment:	<ul style="list-style-type: none"> <li>- We fully support this proposal.</li> </ul>

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	<ul style="list-style-type: none"> <li>- We agree that to ensure the financial sustainability of councils moving forward there needs to be a way in which councils can fund their half of the cost, especially when the project has positive community outcomes</li> <li>- We agree with recommendation for all tiers of government to work cooperatively, although this option should be at discretion of Councils and should only be used for services or infrastructure not core to Council activities. But it should not be used as additional funding source by the State/Federal governments.</li> </ul>
<b>3. Increasing Flexibility Through New Rating Categories And Subcategories</b>	
<b>3.1 Allowing Councils To Set Different Residential Rates In Contiguous Urban Areas</b>	
<b>Q4. Do you agree with the proposal to allow for different residential rates in contiguous urban areas?</b>	<b>Yes/No/Neutral</b>
Comment:	<ul style="list-style-type: none"> <li>- Council does not support the idea of villages.</li> <li>- There would be serious concerns that this proposal would lead to the creation of different "communities of interest" within one local government area and perceptions in inequity in the way rates are levied and services are delivered.</li> <li>- Ultimately it may evolve to one 'village' subsidising the other parts of the LGA that have a lower level of rating.</li> <li>- The current IPART SRV process allows for special rates to be applied to different areas within a LGA.</li> <li>- This proposal would also create difficulty in the day to day management of delivering services at different levels across the same LGA (where the service is essentially the same).</li> </ul>

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	<ul style="list-style-type: none"> <li>- There would be an excessive administrative burden as different financial systems and budgets would need to be created for the different 'villages' to ensure service levels are reflective of the amount paid in rates.</li> <li>- There would be unreasonable operational complexity in implementing the proposal (potential duplication of effort and loss of benefits from economies of scale).</li> <li>- The proposal would lead to stronger arguments for de-amalgamation.</li> </ul>
Q5. Do you agree with the proposal to limit the highest rate structure across all residential subcategories to no more than 1.5 times the average rate structure?	Yes/No/ <b>Neutral</b>
Comment:	<ul style="list-style-type: none"> <li>- As previously mentioned Council does not support the proposal of creating different areas and subcategories.</li> <li>- The proposal would increase the complexity within the rating management system.</li> <li>- It is considered that the 1.5 times is restrictive and reduces the capacity for Council to manage its own affairs within its own community. Councils should be given the discretion to determine the rate structure and rate setting through consultation with its community in the IPR framework as the accountability process.</li> </ul>
<b>3.2 Creating a New Rating Category For Environmental Land</b>	
Q6. Do you agree with the proposal about how to create a new rating category for environmental land, including how environmental land is proposed to be defined?	Yes/No/ <b>Neutral</b>
Comment:	<ul style="list-style-type: none"> <li>- Agree, Council sees the merits of introducing a new 'Environment Land' category.</li> </ul>

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Q7. Do you agree that a portion of land that is subject to a conservation agreement or other similar instrument should be categorised by councils according to the proposed definition of environmental land?	Yes/No/Neutral
Comment:	<ul style="list-style-type: none"> <li>- Council sees the merits of the proposal as properties zoned environmental or recreation, are unable to build upon. An environmental category would better represent the rating principles that the review was based on.</li> <li>- There are some concerns that land reserved for 'Bio-banking' will fall under the category the definition within the final report, 'Regulatory restrictions could include laws or agreements preventing development of property in order to conserve nature. For example, private land under conservation agreements with the NSW Office of Environment and Heritage would fall under this category.'</li> <li>- Council suggests an amendment to exclude bio-banking agreements as these agreements often represent a significant or substantial commercial gain for the land owner.</li> </ul>
<b>3.3 Enabling Different Business Rates To Be Set For Industrial Land And Commercial Land</b>	
Q8. Do you agree with the proposal about how to enable different business rates for industrial and commercial land?	Yes/No/Neutral
Comment:	<ul style="list-style-type: none"> <li>- For this to be administered, clarification is required to demonstrate how classification of different business rates for industrial and commercial land are determined.</li> <li>- Council supports the ability to make one of classifications e.g. A café or restaurant within an industrial area (and vice versa).</li> <li>- Council would support the use of Local Environment Plan (LEP) zonings or the Australian Valuation Property Classification Codes (AVPCC) to assist with <b>identifying</b> properties that may be subject of the sub categories. The rating rationale would be easy to define.</li> </ul>

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<b>3.4 Enabling Different Rates For Residential, Business Or Mining Land That Is Vacant</b>	
Q9 Do you agree with the proposal to allow subcategories for vacant land to be created for residential, business and/or mining land, including the proposed factors set out above?	Yes/No/Neutral
Comment:	<ul style="list-style-type: none"> <li>- We do not support this as currently vacant land is generally rated by its prior use and/or planning instrument i.e. zoning. The current rating system is based on land being valued on its unimproved capital value. Existing provisions enable councils to reduce rates on vacant land e.g. stormwater, domestic waste charges.</li> <li>- The new legislation should ensure the principles established in the Court of Appeal case in Bayside Council v Karimbla Properties (No 3) Pty Ltd [2018] NSWCA 257 (and similar appeals by two other councils) are captured including: <ul style="list-style-type: none"> <li>• Clarifying the timing and what should occur when land transitions from one category to another</li> <li>• Including a definition of vacant land. However the ATO definition has weaknesses in the local government context as it is meant for business deduction purposes. It should be clear and workable for local government. The fact that there is a structure on the land but not occupied (e.g. say not rented out) does not work e.g. holiday home. The definition should also relate to use of land as it may be vacant but used for storage etc.</li> <li>• Clarifying where there is prior year adjustments due to re-categorisation that Councils are able to recovery notional income lost.</li> </ul> </li> </ul>
<b>3.5 Enabling Different Rates For Residential, Business Or Mining Land That Is Vacant</b>	
Q10. Do you agree with the proposal to enable councils to also set farmland rates based on geographic location?	Yes/No/Neutral

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Comment:	- This approach is consistent with other rate categories.
<b>4. Changing Specific Exemptions From Ordinary And Special Rates</b>	
<b>4.1 Removing Mandatory Rates Exemptions For Land With New Conservation Agreements</b>	
11. Do you agree with the proposal with regard to remove the requirement for councils to apply a rating exemption for land subject to new conservation agreements?	<b>Yes/No/Neutral</b>
Comment:	- This proposal is consistent with the introduction of an environmental land rating category.
<b>4.2 Removing certain mandatory exemptions from special rates for water and sewerage</b>	
Q12. Do you agree with the proposal to remove certain mandatory exemptions from special rates for water and sewerage?	<b>Yes/No/Neutral</b>
Comment:	- No comment.
<b>5. Improving Public Confidence In The Rating System</b>	
<b>5.1 Narrow Scope To Postpone Rates And Let Councils Choose Whether To Write Them Off</b>	
Q13. Do you agree with the proposal to restrict who can seek postponement of rates?	<b>Yes/No/Neutral</b>
Comment:	- This is supported on the basis that there will be an objective criterion outlined that can be used to determine an application.

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	- The proposal to have the postponement remain on the property is supported.
Q14. Do you agree with the proposal to remove the requirement to write off rates debts?	<b>Yes/No/Neutral</b>
Comment:	<ul style="list-style-type: none"> <li>- We fully support the proposal to remove the requirement to write off rates debts.</li> <li>- Clarification would be required as to how councils would resolve the current debt being held should the proposal be implemented.</li> <li>- Council acknowledges that residents should not be placed in a position of financial hardship where a property is adversely affected by zoning changes. Council therefore suggests that provision be included to allow a valuation concession/allowance (similar to developer's allowance) for a period of time to allow the transition from current use to actual use.</li> </ul>
5.2 Allow councils to sell properties for unpaid rates after three years	
Q15. Do you agree with the proposal to enable councils to sell properties for unpaid rates after 3 years?	<b>Yes/No/Neutral</b>
Comment:	- We fully support the proposal as this will assist financial sustainability.
<b>Section Two - Other Rating Reform</b>	
<b>1. Encouraging Councils To Levy Rates On Mining Land To Reflect Additional Costs</b>	
Q16. Do you agree with the proposal to implement this reform through guidance?	<b>Yes/No/Neutral</b>

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<b>Section Three - Retaining The Rating Category For Business As The 'Residual' Rating Category</b>	
Q17. Do you agree with the proposal to retain the business land rating category as the residual category?	<b>Yes/No/Neutral</b>
Comment:	<ul style="list-style-type: none"> <li>- This seems to be the most logical approach that can be taken.</li> <li>- The residual category should be kept simple and straightforward</li> </ul>
<b>Section Four - Requiring Councils To Report The Value Of Exemptions They Grant Each Year</b>	
Q18. Do you agree with the proposal that councils report on the value of exemptions they choose to grant through their annual reports?	<b>Yes/No/Neutral</b>
Comment:	<ul style="list-style-type: none"> <li>- We fully support this proposal in principle on the basis of transparency.</li> <li>- Implementation issues would need to be resolved including: <ul style="list-style-type: none"> <li>• Arrangements with the Valuer-General (VG) as it would need to supply valuations for properties not currently valued in order to calculate impact. This may increase costs incurred by a council though the annual fees charged by the VG.</li> <li>• Assessing and resolving the complexity of obtaining the information having regard to existing systems and processes.</li> </ul> </li> </ul>

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## **MINUTES**

of the **Extraordinary Meeting of  
Bayside Council**  
held in the Rockdale Town Hall Auditorium,  
Level 1, 448 Princes Highway, Rockdale  
on **Wednesday 3 February 2021 at 7:07 pm.**

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### **Present**

Councillor Joe Awada, Mayor  
Councillor James Macdonald, Deputy Mayor  
Councillor Liz Barlow  
Councillor Ron Bezic  
Councillor Christina Curry  
Councillor Tarek Ibrahim  
Councillor Ed McDougall  
Councillor Scott Morrissey  
Councillor Michael Nagi  
Councillor Vicki Poulos  
Councillor Dorothy Rapisardi  
Councillor Bill Saravinovski (arrived at 7:13 pm)  
Councillor Paul Sedrak  
Councillor Andrew Tsounis

### **Also Present**

Meredith Wallace, General Manager  
Peter Barber, Director City Futures  
Michael Mamo, Director City Performance  
Colin Clissold, Director City Presentation  
Debra Dawson, Director City Life  
Matthew Walker, Chief Financial Officer  
Liz Rog, Manager Executive Services  
Bruce Cooke, Coordinator Governance  
Christine Stamper, Communications & Events Lead  
Lauren Thomas, Governance Officer  
Taif George, IT Technical Support Officer

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The Mayor opened the meeting at 7:07 pm.

The Mayor informed the meeting that it is being video recorded and live streamed to the public via Council's Facebook page, in accordance with Council's Code of Meeting Practice.

## 7 Reports

### 7.1 Submission on Draft Changes to Rates Legislation

#### RESOLUTION

Minute 2021/003

Resolved on the motion of Councillors Nagi and Tsounis

That Council endorses the making of a submission to the Office of Local Government on the Exposure Draft Bill on local government rating in the terms as set out in the attachment to this report **and subject to clarifying in the submission that Council supports the gradual harmonisation process for all rating categories.**

Division called by Councillors Tsounis and Bezic

For: Councillors Curry, Morrissey, Sedrak, Ibrahim, Nagi, Rapisardi, Saravinovski, Tsounis, Barlow, Bezic, Macdonald, McDougall, Poulos and Awada

The division was declared carried.

## 8 Notices of Motion

### 8.1 Notice of Motion - Roundabouts at Clareville Avenue, Sandringham

#### MOTION

Moved by Councillors McDougall and Saravinovski

That Council prioritises identifying the location, design and costing for a series of new roundabouts on Clareville Avenue, Sandringham in preparation for the Council decision about the projects to be funded from the \$5.18m Australian Government's Local Roads and Community Infrastructure Grant.

#### AMENDMENT

Moved by Councillors Nagi and Tsounis

That the decision on this project be deferred until after tonight's GM Briefing.

Division called by Councillor Awada

For: Councillors Sedrak, Nagi and Tsounis

Against: Councillors Curry, Morrissey, Ibrahim, Rapisardi, Saravinovski, Barlow, Bezic, Macdonald, McDougall, Poulos and Awada

The division was declared lost.