

4 November 2022

Ms Carmel Donnelly PSM  
Chair  
Independent Pricing and Regulatory Tribunal  
PO Box K35  
HAYMARKET POST SHOP NSW 1240

### **Review of Rate Peg Methodology**

Dear Chair,

Thank you for the opportunity to make a submission in response to the Independent Pricing and Regulatory Tribunal (IPART) *Review of Rate Peg Methodology* (the Review).

The Shopping Centre Council of Australia (SCCA) represents Australia's major owners, managers, and developers of shopping centres.

#### **POSITION**

Our submission addresses question 7 of the Issues Paper, '*Has the rate peg protected ratepayers from unnecessary rate increases?*'

The short answer is no. Rate pegging has not protected ratepayers from unnecessary rate increases. In fact, it can result in a discriminatory and disproportionate rate burden being applied to a small number of ratepayers.

As we note below, we provide evidence of 8 LGAs that apply a shopping centre-specific differential rating category, where the average premium in rates charged is 134 percent, or 2.3 times the base business ad valorem rate. Some of the individual premiums are as high as 901 percent, or 10 times the base business ad valorem rate.

We note that the primary purpose of rate pegging is to protect ratepayers from excessive increases.

While the SCCA supports the principle of a rate peg system, our primary concern is that while rate pegging notionally protects ratepayers collectively, it does not protect individual ratepayers (i.e. residential vs. commercial) from unnecessary or excessive increases by virtue of councils' application of a discriminatory differential rating policy.

Any consideration of rate pegging methodology must take into account its inequitable application to different ratepayers to ensure its primary purpose is achieved.

#### **RECOMMENDATION**

IPART should formally recognise that rate pegging does not protect all ratepayers from excessive rate increases, by virtue of councils' application of a discriminatory differential rating policy, which is counter to its intent. As such, IPART should impose a condition on councils that they cannot selectively target individual ratepayers for a significant proportion of the rate peg, including through the creation of single property ratings categories.

#### **CONTEXT**

The SCCA has a longstanding engagement in state-based reviews and parliamentary inquiries with regard to statutory valuations, ratings, and taxation. This includes the recent consultation on local government rating reforms, *Towards a Fairer Rating System: A Consultation Guide to Local Government Rating Reform*, undertaken by IPART in 2021.

Our submission to that process highlighted that the rate peg does not provide ratepayer protection against a discriminatory rating policy, as the peg does not apply at a category level, which allows councils to unfairly target a single ratepayer or group of ratepayers.

Currently, IPART sets the rate peg, and/or approves a special variation, and councils then distribute the total rate base as it chooses. This can include targeting a small number of property owners under

a certain rating sub-category. We note that the issue of special rate variation is not being considered in this Review.

Regardless, our members have frequently experienced rate increases which are considerably higher than the prevailing rate peg or special rate variation, or increases in many other measures/indicators (e.g. the Consumer Price Index).

Such increases are counter to the intent of the rate peg and we note commentary in the Issues Paper which specifies that the 'role of the rate peg is to protect ratepayers from excessive rate increases.' This protection should apply to all ratepayers.

## KEY ISSUES

*The application of rates should be fair and equitable*

**Appendix 1** contains data provided to the aforementioned *Towards a Fairer Rating System* Review that demonstrates how councils utilise categories to specifically target shopping centres for unnecessary rate increases.

Figure 1 shows those councils that apply a shopping centre land use category. Figure 2 references those SCCA member centres rated under a centre-specific differential category, i.e. the shopping centre is the only property in the category.

Of the 59 councils with SCCA member centres in FY2021, the 11 LGA's listed applied business sub-categories for shopping centres (either at a category level or on a centre-specific basis). Of these, 3 LGA's applied a shopping centre land use category, with the average premium in rates charged (based on the applicable ad valorem rate) being 184 per cent, or 2.8 times the base business ad valorem rate. These shopping centre differential rating categories target larger scale centres only and therefore effectively resemble a centre-specific differential category as the number of impacted properties is nominal.

The remaining 8 of the 11 LGA's that apply a discriminatory rating adopt centre-specific differential categories where the average premium in rates charged is 134 percent, or 2.3 times the base business ad valorem rate. Some of the individual premiums are as high as 901 percent, or 10 times the base business ad valorem rate.

Our view is that differential rating categories should be limited to primary land use (i.e. residential, business, farmland and mining in the case of NSW), with sub-categories limited to established subsets of the core land use category and, where applicable, further delineation of the land use categories based on geographic location. Other non-core primary land use categories (such as recreation, environmental and airport etc.) may also apply where applicable. The creation of sub-categories should not be a means to target a single ratepayer for a disproportionate rate increase.

Councils' ability and flexibility to increase rates through differential ratings categories disproportionately impacts commercial properties, particularly as there is no legislative protection to prevent this. Our view is that this 'flexibility' is inequitable and excessive.

While we understand that the purpose of the Review is to evaluate the methodology applied to calculating the rate peg, IPART should also consider the subsequent application of that rate peg and the disproportionate burden being placed on certain ratepayers.

This aligns with commentary from *IPART Review of the Local Government Rating System: Government Response* June 2020, which stated that 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.'

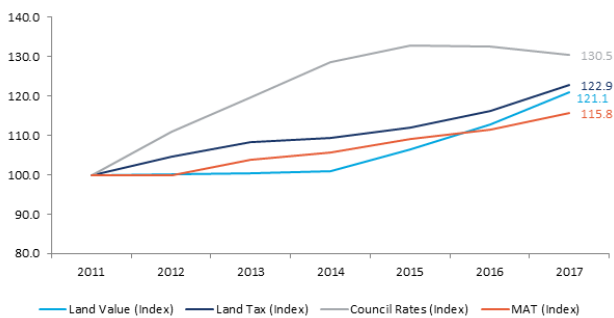
*The growth of council rates is disproportionate to other key metrics*

As highlighted above, the current application of rate peg methodology does not protect all ratepayers from unnecessary rates increases, including via the creation of other categories. This is also shown in the way that increases in council rates for our members has outstripped all other indicators such as unimproved land valuation and retail sales (Moving Annual Turnover).

The graph below shows the growth in land tax, land value, council rates and retail sales from 2011 to 2017 across a sample of SCCA member centres to highlight the difference in growth when compared to council rates.

The disproportionate increase between council rates and other metrics highlights the application of a discriminatory rating policy, and ultimately a methodology that has no correlation to the costs pressures of commercial businesses, in the same way that it should be mindful of cost of living increases for residential ratepayers.

SCCA Sample Pool Land Value vs. Land Tax & Council Rates  
New South Wales Index of Total Value 2011 to 2017



## CONCLUSION

Thank you for the opportunity to provide this submission.

In conclusion, IPART's evaluation of the rate peg methodology should take into consideration the subsequent application of the rate peg by councils, including the disproportionate burden that is placed on certain ratepayers, and ultimately whether the rate peg achieves its purpose in a way that protects all ratepayers from unnecessary rate increases. Our view is that discriminatory ratings policies adopted by councils run counter to its intent, rendering rate pegging methodology redundant, which we encourage IPART to consider and review.

Please note that **Appendix 1** only is provided as **commercial in confidence**.

Please do not hesitate to contact me to discussion this submission [REDACTED]

Kind regards,

[REDACTED]  
[REDACTED]