Berrigan Shire Council

Submission – IPART draft report on the Review of Local Government Rating System

Draft Recommendation	BSC Comment
1 Councils should be able to choose between the Capital Improved Value (CIV) and Unimproved Value (UV) methods as the basis for setting rates at the rating category level. A council's maximum general income should not change as a result of the valuation method they choose	**Support**. The introduction of CIV will provide many Councils with a solution to the issue of fairly rating multi-unit developments such as apartments etc. IPART and Councils should be aware that a change to CIV will create "winners" and "losers" and this will need to be managed The ability to make a choice between the two valuation methods is welcome. Berrigan Shire Council and its community may be better off sticking with UCV and this should be available to this Council. On the other hand, there may be concerns with confusion in the community if the proposed ESPI moves to CIV and Councils choose to stick with CIV. In addition, the use of CIV in later recommendations may require the Council to have two sets of valuations.
2 Section 497 of the Local Government Act 1993 (NSW) should be amended to remove minimum amounts from the structure of a rate, and section 548 of the Local Government Act 1993 (NSW) should be removed	**Oppose**. While this Council does not set a minimum rate in any rating category and CIV would address some of the fairness issues for which many Councils use minimum rates, as a general rule the rating system should provide Councils with maximum flexibility to determine its own rating framework – in consultation with its community. However, this is not a matter of direct importance for this Council

3	The growth in rates revenue outside the rate peg should be calculated by multiplying a council's general income by the proportional increase in Capital Improved Value from supplementary valuations. – This formula would be independent of the valuation method chosen by councils for rating.	**Support.** This is a more consistent method of assessing growth in the underlying rating base of the Council and certainly is a better method of assessing capacity to pay. An issue of concern is the need for a Council to maintain two sets of valuations if it chooses to move to UCV
4	The Local Government Act 1993 (NSW) 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: – form part of a council's general income permitted under the rate peg, nor – require councils to receive regulatory approval from IPART.	**Support.** This continues the principle that Councils should be given the maximum possible flexibility to set their own rating schedule in discussion with their community. This Council would question why the exemption from IPART approval is so narrow, however. If the Council and the community agree on the need for a new special purpose infrastructure item, the Council should be able to follow the normal Integrated Planning and Reporting procedure without requiring yet another IPART review.

5	Section 511 of the Local Government Act 1993 (NSW) 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	**Support.** The lack of flexibility with the use of previously unused rate peg allocations prevents Councils having a serious conversation about annual rate-setting. At the moment, a Council would be derelict in its duties if it implemented even a one-year "pause" in taking up the entire amount of the rate peg as it would severely limit their ability to adjust their rate in future. This recommendation would allow the Council to discuss sensibly with its community the option of a pause in rate increases in times of economic difficulty, with the ability to recover that pause in future. While ideally rate pegging would be abolished *in toto*, this recommendation works to increase Council autonomy and flexibility and is supported.
6	The Local Government Act 1993 (NSW) should be amended to remove the requirement to equalise residential rates by 'centre of population'. Instead, councils should be allowed to determine a residential subcategory, and set a residential rate, for an area by: – a separate town or village, or – a community of interest.	**Support.** This recommendation provides additional autonomy and flexibility for Councils to consider the access to services of various areas and ensure equity where property valuations in a certain area may lead to a perverse outcome.
7	An area should be considered to have a different 'community of interest' where it is within a contiguous urban development, and it has different access to, demand for, or costs of providing council services or infrastructure relative to other areas in that development	**Support.** This recommendation relates to the identification of areas where differing residential rates could be charged as per Recommendation 6. It is supported in line with that earlier recommendation

8	The Local Government Act 1993 (NSW) should be amended so, where a council uses different residential rates within a contiguous urban development, it should be required to: – ensure the highest rate structure is no more than 1.5 times the lowest rate structure across all residential subcategories (ie, so the maximum difference for ad valorem rates and base amounts is 50%), or obtain approval from IPART to exceed this maximum difference as part of the Special Variation process, and – publish the different rates (along with the reasons for the different rates) on its website and in the rates notice received by ratepayers.	**Support T**his recommendation relates to the identification of areas where differing residential rates could be charged as per Recommendation 6 and is supported in line with that earlier recommendation

9	At the end of the 4-year rate path freeze, new councils should determine whether any pre-merger areas are separate towns or villages, or different communities of interest. – In the event that a new council determines they are separate towns or villages, or different communities of interest, 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. – In the event that a new council determines they are not separate towns or villages, or different communities of interest, 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 permitted Special Variations) each year as a result of this equalisation. The Local Government Act 1993 (NSW) should be amended to facilitate this gradual equalisation.	**Support in part** This recommendation applies to newly amalgamated Councils and thus does not apply to Berrigan Shire (at this stage). That said, in the main the recommendation allows the newly merged Council to develop its own rating strategy – in consultation with its community. The requirement that equalisation of rates should only be done gradually is difficult to support however. Gradual equalisation of rates in the main only serves to drag out the process and lead to greater community division and confusion. It also allows to the continuation of a regime where some residents are paying substantially higher rates than others for access to the same services – which is arguably unfair. Newly merged Councils should have the ability to immediately equalise rates – should they determine it is in the best interest of **all** its community. This would be consistent with the Council's position throughout the Fit for the Future proposal
10	Sections 555 and 556 of the Local Government Act 1993 NSW should be amended to: – exempt land on the basis of use rather than ownership, and to directly link the exemption to the use of the land, and – ensure land used for residential and commercial purposes is rateable unless explicitly exempted	**Support** The recommendation is more internally consistent with the overall purpose of rates exemptions than the current practice and is supported

11	The following exemptions should be retained in the Local Government Act 1993 (NSW): – section 555(e) Land used by a religious body occupied for that purpose – section 555(g) Land vested in the NSW Aboriginal Land Council – section 556(o) Land that is vested in the mines rescue company, and – section 556(q) Land that is leased to the Crown for the purpose of cattle dipping.	**Oppose.** There is no valid reason why these specific purpose exemptions are required. If the use of the land meets the test of not being used for residential or commercial purposes, then it should be exempt – if not then Council should have the option to rate it
12	Section 556(i) of the Local Government Act 1993 (NSW) should be amended to include land owned by a private hospital and used for that purpose.	**Oppose.** There is no valid reason why this specific purpose exemption are required. The basic test of "residential or commercial" could apply quite easily in this case. While many private hospitals are run by charitable organisations, some are "for profit" organisations. Why should a "for-profit" hospital be given a rates exemption?

13	The following exemptions should be removed: – 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 (Local Government Act 1993 (NSW) section 555(c) and section 555(d)) – land that is below the high water mark and is used for the cultivation of oysters (Local Government Act 1993 (NSW) section 555(h)) – land that is held under a lease from the Crown for private purposes and is the subject of a mineral claim (Local Government Act 1993 (NSW) section 556(g)), and – land that is managed by the Teacher Housing Authority and on which a house is erected (Local Government Act 1993 (NSW) section 556(p)).	**Support.** The removal of these exemptions is consistent with the general principle set out in Recommendation 10 and is supported

14	The following exemptions should not be funded by local councils and hence should be removed from the Local Government Act and Regulation – land that is vested in the Sydney Cricket and Sports Ground Trust (Local Government Act 1993 (NSW) section 556(m)) – land that is leased by the Royal Agricultural Society in the Homebush Bay area (Local Government (General) Regulation 2005 reg 123(a)) – land that is occupied by the Museum of Contemporary Art Limited (Local Government (General) Regulation 2005 reg 123(b)), and 82 – land comprising the site known as Museum of Sydney (Local Government (General) Regulation 2005 reg 123(c)). The State Government should consider whether to fund these local rates through State taxes.	**Support in part.** The basic test for exemptions per Recommendation 10 should apply to all these facilities. The Council has some concerns about its community being asked to further contribute via a new tax to the upkeep of community assets that largely benefit residents of Sydney however.
15	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.	**Support.** Note that in practice the Valuer-General (or the private valuer) will need to separately value the portions of land that are exempt and rateable.
16	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.	**Oppose.** The Council is not opposed to the general principle but it has concerns about how a self-assessment is likely to work in practice and work involved in "auditing" self-assessments.
17	A council's maximum general income should not be modified as a result of any changes to exemptions from implementing our recommendations.	**Support.** In principle, this is supported.

18	The Local Government Act 1993 (NSW) 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.** It provides Councils with more flexibility and discretion in setting rates and charges.
19	At the start of each rating period, councils should calculate the increase in rates that are the result of rating exemptions. This information should be published in the council's annual report or otherwise made available to the public	**Oppose.** While the desire for transparency is commendable, the purpose of informing the public is unclear. Rating exemptions are not in the main set by Council policy – they are mandated by state government legislation, even under the model for exemptions proposed in this report. It is unclear what the public can do with this information to effect change. This would be an additional burden on Councils for zero community gain.
20	The current pensioner concession should be replaced with a rate deferral scheme operated by the State Government. – Eligible pensioners should be allowed to defer payment of rates up to the amount of the current concession, or any other amount as determined by the State Government. – The liability should be charged interest at the State Government's 10-year borrowing rate plus an administrative fee. The liability would become due when property ownerships changes and a surviving spouse no longer lives in the residence.	**Oppose.** The Council strongly considers that an actual concession should be provided to eligible pensioners. This concession should be increased or indexed to keep up with inflation. However, funding this concession should be the responsibility of the NSW government as it is a state wide commitment to fairness. Councils should only be responsible for funding a concession if they choose to offer one over and above the NSW concession.
21	Section 493 of the Local Government Act 1993 (NSW) should be amended to add a new environmental land category and a definition of 'Environmental Land' should be included in the LG Act.	**Support.** It provides Councils with more flexibility and discretion in setting rates and charges. That said, if the NSW government wishes to support landholders holding land for environmental purposes, it could do so outside the rating system.

22	Sections 493, 519 and 529 of the Local Government Act 1993 (NSW) should be amended to add a new vacant land category, with subcategories for residential, business, mining and farmland	**Support.** The proposal does allow Councils additional flexibility to determine its own rating structure – although the use of CIV would address concerns about vacant land paying for services it isn't using in any case
23	Section 518 of the Local Government Act 1993 (NSW) should be amended to reflect that a council may determine by resolution which rating category will act as the residual category. – The residual category that is determined should not be subject to change for a 5-year period. – If a council does not determine a residual category, the Business category should act as the default residual rating category	**Support.** This recommendation gives Councils more flexibility in determining its rating system
24	Section 529 (2)(d) of the Local Government Act 1993 (NSW) should be amended to allow business land to be subcategorised as 'industrial' and or 'commercial' in addition to centre of activity	**Support.** This recommendation provides more flexibility to Councils and should be supported. This categorisation is already a requirement under the proposed Emergency Services Property Levy (ESPL).
25	Section 529 (2)(a) of the Local Government Act 1993 (NSW) should be replaced to allow farmland subcategories to be determined based on geographic location.	**Support.** This recommendation provides more flexibility to Councils and should be supported. The use of sub-categories in this instance may lead to some equity issues unless tied to service levels.

26	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.	**Oppose.** In this review IPART classified rates as a wealth tax and not as a fee-for-service. This recommendation contradicts this basic classification. Councils, in consultation with their community, should be able to set their rating system to spread the overall rating burden as they see fit. Note also that a mine may only operate for a short time but the Council may need to deal with the externalities created by the development and the operation mine for some time after.
27	Councils should have the option to engage the State Debt Recovery Office (SDRO) to recover outstanding council rates and charges.	**Support.** This option would be very useful for the Council, especially when collecting smaller debts. Council staff have little confidence in the service provided by private debt collection firms – especially for smaller and longer-term debt
28	The existing legal and administrative process to recover outstanding rates should be streamlined by reducing the period of time before a property can be sold to recover rates from five years to three years.	**Support.** This is a reform that the Council and NSW local government as a whole has been seeking for many years. By the time an outstanding debt gets to three years, a general pattern of refusal (or inability) to pay has been established, one that is unlikely to change in the following two years. Some land in Berrigan Shire is valued at such a low level that even after two years, the value of the outstanding rates exceeds the market value of the land in question. It is unlikely that it will have a direct impact on the Council's use of legal action to collect rates but it will assist in dealing with ratepayers who wait until the five-year period is up to pay all their outstanding rates.

29	All councils should adopt an internal review policy, to assist those who are late in paying rates, before commencing legal proceedings to recover unpaid rates.	**Support.** This would formalise the Council's existing process where legal action requires the approval of the Director Corporate Services and issuing a warrant requires the approval of the General Manager
30	The Local Government Act 1993 (NSW) should be amended or the Office of Local Government should issue guidelines to clarify that councils can offer flexible payment options to ratepayers.	**Support.** The Council considers these options are available now but for the avoidance of doubt formalising via guidelines would be appropriate.
31	The Local Government Act 1993 (NSW) should be amended to allow councils to offer a discount to ratepayers who elect to receive rates notices in electronic formats, e.g., via email.	**Support in part.** The Council is currently introducing a system to issue electronic rates and charges notices. This will provide some encouragement for ratepayers to move to the new, less expensive system. The Council considers a more appropriate reform would be to allow the Council to levy an additional charge for a paper notice rather than a discount for an electronic levy.
32	The Local Government Act 1993 (NSW) 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.** This recommendation is in line with the views of local government and consistent with basic principles of fairness
33	The valuation base date for the Emergency Services Property Levy (ESPL) and council rates should be aligned. – The NSW Government should levy the Emergency Services Property Levy on a Capital Improved Value (CIV) basis when Capital Improved Value data becomes available state-wide.	**Support.** The principle that the ESPL should be based on the value of the assets to be protected (as opposed to simply the unimproved land) is logically consistent and fair. Note that this would require all properties in a Council to be valued on a CIV basis, even if that Council chose to stick with its Unimproved Value rating system as per Recommendation 1

34	Councils should be given the choice to directly buy valuation services from private valuers that have been certified by the Valuer General.	**Support.** While most Councils will likely remain with the Valuer General, the availability of a private sector option will assist in placing some market pressure on the amount charged by the Valuer General for the service