

12 October 2016



Office of the General Manager

Reference File: F10101

Dr Peter Boxall AO
Chairman
NSW Independent Pricing and Regulatory Tribunal
PO Box K35
Haymarket Post Shop
NSW 1240

Via online submission: www.ipart.nsw.gov.au

Dear Dr Boxall

SUBJECT Review of the Local Government Rating System – Draft Report

Thank you for the opportunity to respond to the Local Government - Draft Report. Blue Mountains City Council (BMCC) agrees with the importance of improving Local Government's strength and effectiveness so that we can enhance our ability to implement sustainable and equitable fiscal policy.

In principle BMCC supports the majority of the recommendations included in the Draft Report (with some exceptions).

Of significant note, is the fact that the Pensioner Concession Rebate has not been indexed by the Federal Government since around 1993, albeit that Blue Mountains City Council and most NSW councils have advocated for some level of increase in the rebate amount to keep pace with inflation. Blue Mountains City Council therefore recommends that the State Government consider increasing the current \$250 Pensioner Rebate amount and fully fund the rebate, as is the case in all other State Governments.

Our detailed response to each relevant issue can be found in the table in Attachment 1 below.

BMCC supports the NSW State Government in its reform of the Local Government Rating System, and is keen to work in partnership and support this important review so that the best way forward to ensure fairness across the whole local community is agreed.

Yours faithfully

A solid black rectangular box redacting the signature of Rosemary Dillon.

ROSEMARY DILLON
Group Manager Integrated Planning & Finance

**BLUE MOUNTAINS CITY COUNCIL
SUBMISSION ON RECOMMENDATIONS
LOCAL GOVERNMENT - DRAFT REPORT
REVIEW OF THE LOCAL GOVERNMENT RATING SYSTEM
OCTOBER 2016**



DRAFT RECOMMENDATION	INITIAL RESPONSE	BLUE MOUNTAINS CITY COUNCIL COMMENTS
<p>ALLOW COUNCILS TO USE CIV AS AN ALTERNATIVE TO UV IN SETTING RATES.</p> <p>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. 26</p> <p>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. 38</p>	<p>Agree</p> <p>Agree</p>	<p>CIV will allow a greater share of rates to be paid by strata subdivisions and properties with significant improvements. Given the relatively low amount of strata subdivisions in the BMCC LGA, BMCC may choose to continue to use UV as its basis for rating, however this change will allow Council's the choice for the best option for their particular LGA.</p>
<p>ALLOW COUNCILS' GENERAL INCOME TO GROW AS THE COMMUNITY THEY SERVE GROWS</p> <p>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. 44</p> <p>4 The Local Government Act 1993 (NSW) should be amended to allow councils to levy a new type of special rate for new</p>	<p>Agree</p> <p>Agree</p>	<p>This recommendation will ensure rates revenue increases in proportion to the increased cost of providing services over time.</p> <p>As councils become larger and achieve long term financial sustainability, they will be better positioned to co-fund infrastructure projects with State and</p>

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<p>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"> – form part of a council’s general income permitted under the rate peg, nor – require councils to receive regulatory approval from IPART. 51 		<p>Federal governments. Council's should be mindful however, of committing community funds to infrastructure initiatives outside of the Council's charter and for projects that should be funded fully by higher levels of government. Rates used to fund these projects should be outside a council's general income so long as there is community support for the project.</p>
<p>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. 53</p>	Agree	<p>This will enable Councils to recoup unused rate peg over a longer period on a more flexible basis. Also allows Councils to tailor annual rating increases more specifically for their LGA with a lower risk of losing revenue over the long term.</p>
<p>GIVE COUNCILS GREATER FLEXIBILITY WHEN SETTING RESIDENTIAL RATES</p>		
<p>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:</p> <ul style="list-style-type: none"> – a separate town or village, or – a community of interest. 60 	Disagree	<p>Successful sub-categorisation relies heavily on clear definitions of the physical and/or contextual boundaries between sub-categories. The definitions should be easy to understand, explain and apply, to maintain public confidence. There is also a case to allow sub-categorisation on actual use of land, and not rely on "centres of activity" whether these centres are labelled as towns, villages or communities. For example, holiday lets are scattered throughout an LGA, and therefore cannot be sub-categorised because they do not belong to a "centre of activity", a town or a community. Similarly, flexible sub-categories for vacant land; or strata unit developments, would allow councils to set different tax rates for these developments to ensure they contribute their fair share to the local taxation burden.</p> <p>Greater flexibility for sub-categorisation will also allow councils to tailor rates to local preferences for services; minimise any cross subsidies and provide incentives for urban renewal.</p>

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<p>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. 60</p>	Disagree	Greater flexibility for councils would be provided if sub-categorisation was based on land use, rather than designated "areas".
<p>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:</p> <ul style="list-style-type: none"> – 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. 69 	Disagree	<p>Under the current legislation, if development is contiguous then there should be no difference in the residential rate because all the contiguous land should form a "centre of population" ie. Where is the boundary?</p> <p>However if sub-categorisation of contiguous urban development is allowed then this proposal seems an artificial constraint. The tax rates should be left for councils to decide based on the unique characteristics of their particular LGA, especially since the council has already reasonably determined a need for the sub-categorisation. If the community feels that the principals of taxation have been fairly applied and agrees to the need for the sub-category, then why artificially constrain the tax rate? Let the council and community decide what is a fair tax rate for a rating sub-category.</p>
<p>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.</p> <ul style="list-style-type: none"> – 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 	Disagree	<p>BMCC is not a merging Council.</p> <p>However there should be no 4-year rate freeze and the newly formed councils, in strong consultation with their community; in the interest of fairness and equity; and in line with the individual circumstance of the newly formed council areas, should be allowed to reform their rating structures as soon as practicable after the merger.</p>

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<p>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. 70</p>		
<p>BETTER TARGET RATE EXEMPTION ELIGIBILITY</p>		
<p>10 Sections 555 and 556 of the Local Government Act 1993 NSW should be amended to:</p> <ul style="list-style-type: none"> – 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. 76 	Agreed	<p>Exemptions should be based on land use. All land used for residential and commercial purposes should be rateable (ie with no exemptions).</p>
<p>11 The following exemptions should be retained in the Local Government Act 1993 (NSW):</p> <ul style="list-style-type: none"> – 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. 80 	Disagree	<p>This appears to contradict 10 above. Land should be exempt based on its use, not its ownership, therefore the land uses should be defined, not the vested interests. All land owned and used by religious bodies should be rateable. Mine rescue companies should be rateable. NSW Aboriginal Land Council and cattle dipping leased to Crown are reasonable exemptions.</p>
<p>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. 81</p>	Disagree	<p>Private hospitals operate for commercial purposes and should be rateable.</p>
<p>13 The following exemptions should be removed:</p>	Agree	<p>See 10 above.</p>

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<ul style="list-style-type: none"> – 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)). 82 		
<p>14 The following exemptions should 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"> – 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)). <p>The State Government should consider whether to fund these local rates through State taxes. 83</p>	Agree	See 10 above.
<p>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</p>	Agree	The exemption could be based on land area similar to conservation agreement exemptions or the exemption could be based on an

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be exempt, and the remainder should be rateable. 83		apportionment factor determined by the Valuer and similar to mixed developments.
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. 83	Disagree	This is too difficult to administer and not transparent. Land should be rated unless it is used 100% of the time for an exempted purpose.
17 A council's maximum general income should not be modified as a result of any changes to exemptions from implementing our recommendations. 87	Disagree	Council's should be given the opportunity to increase their rating base by the same amount as the extra rates payable due to the exemptions being removed.
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). 88	Undecided	This recommendation does not affect BMCC because we do not administer water and sewer.
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. 88	Agree	Although this would create extra administration, this change will increase transparency and public awareness of exempted properties.
REPLACE THE PENSIONER CONCESSION WITH A RATE DEFERRAL SCHEME		
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	Disagree	The Deferral Scheme should not replace the Rebate Scheme. Moreover the current \$250 rebate amount should be increased and be fully funded by the State Government. The Deferral Scheme may be offered in addition to the rebate and should be fully funded by State Government. An advantage of the Deferral Scheme is

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<p>10-year borrowing rate plus an administrative fee. The liability would become due when property ownership changes and a surviving spouse no longer lives in the residence. 92</p>		<p>that it significantly reduces the cost to the State Government whilst allowing cost effective assistance to be better targeted to low income pensioners. Evidence suggests that pensioners will be reluctant to defer rates and a Deferral Scheme will most likely have a low take up.</p>
<p>PROVIDE MORE RATING CATEGORIES</p>		
<p>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. 99</p>	Agree	<p>So long as 'Environmental Land' is clearly defined.</p>
<p>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. 100</p>	Disagree	<p>If councils could sub-categorise on land use then this change would be unnecessary. This will be unnecessary if CIV is used for rating.</p>
<p>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 102</p>	Agree	<p>This gives Councils greater flexibility in choosing a residual rate.</p>
<p>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. 103</p>	Agree	<p>All sub-categories should be based on land use (see above comments).</p>
<p>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. 104</p>	Agree	<p>This will have little effect for BMCC. In principal this allows councils greater flexibility to meet local community needs and may be one exception to sub-categorisation not based on land use.</p>

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<p>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. 105</p>	Disagree	Councils should be free to set any tax rate for all rating categories and sub-categories that best serve the interests of their community.
RECOVERY OF COUNCIL RATES		
<p>27 Councils should have the option to engage the State Debt Recovery Office to recover outstanding council rates and charges. 108</p>	Agree	
<p>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. 109</p>	Agree	Sale of land is a very sensitive political issue and as such, councils should be allowed the flexibility to tailor options that best suit their community needs.
<p>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. 110</p>	Disagree	This should not be mandatory under legislation. Let individual councils and their community decide what is best practice. A departmental policy guiding document/manual should be adequate for this purpose.
<p>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. 111</p>	Agree	Bill smoothing is a common occurrence in the finance industry and flexible payment plans assist both ratepayers and councils. The legislation should clearly allow this.
<p>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, eg, via email. 112</p>	Agree	This may disadvantage some ratepayers who may not have access to digital technology however, like the existing section of the Act offering a discretionary discount for prompt payment, this may be offered as a discretionary section in the legislation and let each council decide.
<p>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</p>	Agree	Increased values resulting from zoning changes ultimately benefit the land owner. There is no need to offer tax concessions because the ratepayer is not ultimately disadvantaged. At the least, councils should not be required to

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<p>councils are not required to write-off postponed rates after five years. 113</p>		<p>write-off rates after 5 years, but those rates should be deferred on the land until sold when Council should be paid in full.</p>
<p>OTHER DRAFT RECOMMENDATIONS</p>		
<p>33 The valuation base date for the Emergency Services Property Levy and council rates should be aligned. – 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. 116</p>	<p>Agree</p>	<p>The valuation base date should be aligned and ESPL should be based on CIV.</p>
<p>34 Councils should be given the choice to directly buy valuation services from private valuers that have been certified by the Valuer General. 118</p>	<p>Agree</p>	