



Mr H Harmstorf
Chief Executive Officer
Independent Pricing & Regulatory Tribunal (IPART)
P O Box K35
HAYMARKET POST SHOP NSW 1240

TRIM No.: 16/48086
10 October 2016

Dear Mr Harmstorf

REVIEW OF THE LOCAL GOVERNMENT RATING SYSTEM

I refer to the above Review currently being undertaken by IPART and have attached Council's submission in this regard.

Should you have any questions regarding the submission, please do not hesitate to contact Mr Ian McCallum, Deputy General Manager – Corporate, Governance and Community on [REDACTED]

Yours sincerely

[REDACTED]

MICHAEL MCMAHON
General Manager

attach



Burwood Council

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SUBMISSION TO IPART - REVIEW OF THE LOCAL GOVERNMENT RATING SYSTEM

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**BURWOOD COUNCIL SUBMISSION
INDEPENDENT PRICING & REGULATORY TRIBUNAL (IPART) -
REVIEW OF THE LOCAL GOVERNMENT RATING SYSTEM**

Allow Councils to use CIV as an alternative to UV in setting rates			
	Draft Recommendations	Page No.	Comments
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>Councils should be able to choose between CIV and UV as a basis for setting rates but at the sub-category level.</p> <p>We believe that Torrens Title properties should continue to use the UV because we believe this basis of valuation distributes the rate burden <i>equitably</i>.</p> <p>Multi-unit dwelling should use the CIV for each individual unit because under the current system of UV prorated by strata plan unit entitlement does not, in our belief, distribute the rate burden <i>equitably</i>.</p> <p>It follows that a multi-unit dwelling category sub-category should be allowed vis-à-vis the use of CIV as the valuation base for each individual unit and may better support the <i>capacity to pay</i> principle.</p> <p>All other things being equal, a Council's maximum general income should not change as a result of valuation method they choose. A Council's maximum general income will continue to change by way of land subdivisions and the application of supplementary valuations, and a property may move from a UV based valuation system to a CIV valuation due to subdivision.</p>
2	Section 497 of the <i>Local Government Act 1993</i> (NSW) 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.	38	<p>We do not agree with the removal of minimum amounts from the structure of a rate <i>per se</i>.</p> <p>If minimum amounts were removed we would have to have the ability to use CIV valuations for</p>

Allow Councils to use CIV as an alternative to UV in setting rates		
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		multi-unit dwellings and be allowed a multi-unit dwelling sub-category.

Allow Councils' general income to grow as the communities they serve grow		
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.	44 We are not comfortable with the suggested growth equation, particularly in years where there are low increases in land values versus a high increases in the Local Government Cost Index.
4	The <i>Local Government Act 1993</i> (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: <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 In addition to special rates pursuant to Section 495 of the Act, we agree with a new type of special rate proposed and that it not be subject to the rate peg or IPART approval.
5	Section 511 of the <i>Local Government Act 1993</i> (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 Catching up of shortfall in general income should be allowed within a 10-year period and not the current 2-year period. A 10-year catch-up horizon is consistent with the Long Term Financial Planning process as well as a short-term rates relief provision.

Give Councils greater flexibility when setting residential rates		
6	The <i>Local Government Act 1993</i> (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: <ul style="list-style-type: none"> ▪ A separate town or village, or ▪ A community of interest. 	60 We agree with the idea that a residential subcategory be based on a <i>community of interest</i> .

Give Councils greater flexibility when setting residential rates			
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	We agree with the idea that a residential subcategory be based on a <i>community of interest</i> .
8	<p>The <i>Local Government Act 1993</i> (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 (i.e., so the maximum different 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	<p>We <u>do not</u> agree.</p> <p>The rates-setting process should not be constrained by arbitrary rule-of-thumb percentages or otherwise. This could complicate the metrics of the rates calculation and be distortive.</p> <p>Furthermore, there is already enough information in the Statement of Revenue Policy published on Council's website and already sufficient information required on the rates notice.</p> <p>The rates notice, from 1 July 2017, will be further complicated with the introduction of the Emergency Services Property Levy requirements.</p>
9	<p>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 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. 	70	<p>We agree that pre-merger area rating categories be reviewed.</p> <p>We agree with this principle, but not with the 50% rule or any other percentage.</p> <p>When you add arbitrary percentage limits you constrain the flexibility of the rating metrics.</p> <p>A gradual equalisation of rates is preferred but we do not agree with arbitrary percentage constraints.</p>

Give Councils greater flexibility when setting residential rates

	The <i>Local Government Act 1993</i> (NSW) should be amended to facilitate this gradual equalisation.		
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Better target rate exemption eligibility

	Draft Recommendations	Page No.	Comments
10	<p>Sections 555 and 556 of the <i>Local Government Act 1993</i> (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	<p>We agree.</p> <p>We agree that land that is used for residential and commercial purposes should be rateable. This will address some immediate and unintended exemption anomalies.</p>
11	<p>The following exemptions should be retained in the <i>Local Government Act 1993</i> (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	<p>We agree that:</p> <p>Section 555(e) should be retained as per current wording.</p> <p>Section 555(g) should be retained as per current wording.</p> <p>Section 556(o) should be retained as per current wording.</p> <p>Section 556(q) should be retained as per current wording, on the basis that all other exemptions pursuant to Section 555 and 556 of <i>the Act</i> are removed.</p>
12	Section 556(i) of the <i>Local Government Act 1993</i> (NSW) should be amended to include land owned by a private hospital and used for that purpose.	81	We agree.
13	<p>The following exemptions should be removed:</p> <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 (<i>Local Government Act 1993</i> (NSW) Section 	82	Section 555(c) and Section 555(d) of <i>the Act</i> should be removed.

Better target rate exemption eligibility

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	<p>555(c) and Section 555(d))</p> <ul style="list-style-type: none"> ▪ 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> (NSW) Section 556(g)), and ▪ Land that is managed by the Teacher Housing Authority and on which a house is erected (<i>Local Government Act 1993</i> (NSW) Section 556(p)). 		<p>Section 556(g) of <i>the Act</i> should be removed.</p> <p>Section 556(p) of <i>the Act</i> should be removed.</p>
14	<p>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 (<i>Local Government Act 1993</i> (NSW) Section 556(m)) ▪ Land that is leased by the Royal Agricultural Society in the Homebush Bay area (<i>Local Government (General) Regulation 2005</i> reg 123(a)) ▪ Land that is occupied by the Museum of Contemporary Art Limited (<i>Local Government (General) Regulation 2005</i> reg 123(b)), and ▪ Land comprising the site known as Museum of Sydney (<i>Local Government (General) Regulation 2005</i> reg 123(c)). <p>The State Government should consider whether to fund these local rates through State taxes.</p>	<p>82</p> <p>83</p>	<p>It does follow that land used for commercial purposes not be exempt from rates and the following exemptions be removed.</p>
15	<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>	83	We agree.
16	<p>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>	83	Self-assessment regarding temporal exception could be administratively cumbersome.

Better target rate exemption eligibility			
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17	A Council's maximum general income should not be modified as a result of any changes to exemptions from implementing our recommendations.	87	Councils should be allowed a one-off adjustment to maximum general income in much the same way as the Newly Rateable Crown Land return process, otherwise the pre-existing rateable properties still continue to subsidise the property.
18	The <i>Local Government Act 1993</i> (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	No comment, as this is not appropriate to Council.
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	We do not agree – the calculation in itself would be administratively cumbersome and serves no real purpose.

Replace the pensioner concession with a rate deferral scheme			
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20	<p>The current pensioner concession should be replaced with a rate deferral scheme operated by the State Government:</p> <ul style="list-style-type: none"> ▪ 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 ownership changes and a surviving spouse no longer lives in the residence. 	92	<p>We believe that if the NSW Government is committed to providing a rate concession scheme to pensioners then the scheme should be fully funded by the State Government.</p> <p>We do not agree with a rates deferral scheme, however we welcome further detailed analysis regarding the workings of the funding system to Council, for the 'deferred' amount, before we make a final comment.</p>

Provide more rating categories			
	Draft Recommendations	Page No.	Comments
21	Section 493 of the <i>Local Government Act 1993</i> (NSW) should be amended to add a new environment land category and a definition of 'Environmental Land' should be included in the <i>Local Government Act 1993</i> (NSW).	99	Noted.
22	Sections 493, 519 and 529 of the <i>Local Government Act 1993</i> (NSW) should be amended to add a new vacant land category, with subcategories for residential, business, mining and farmland.	100	We agree.
23	Section 518 of the <i>Local Government Act 1993</i> (NSW) should be amended to reflect that a Council may determine by resolution which rating category will act as the residual category. <ul style="list-style-type: none"> ▪ 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	We see no need for any amendment.
24	Section 529(2)(d) of the <i>Local Government Act 1993</i> (NSW) should be amended to allow business land to be subcategorised as 'industrial' and or 'commercial' in additional to centre of activity.	103	This amendment would be consistent with the proposed land classification under the new Emergency Services Property Levy (ESPL).
25	Section 529(2)(a) of the <i>Local Government Act 1993</i> (NSW) should be replaced to allow farmland subcategories to be determined based on geographic location.	104	No comment, as this does not apply to Council.
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	No comment, as this does not apply to Council.

Recovery of Council rates			
	Draft Recommendations	Page No.	Comments
27	Councils should have the options to engage the State Debt Recovery Office to recover outstanding Council rates and charges.	108	We agree.
28	The existing legal and administrative process to recover outstanding rates should be	109	The existing legal and administrative process to recover

Recovery of Council rates			
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	streamlined by reducing the period of time before a property can be sold to recover rates from five years to three years.		outstanding rates should be streamlined and the time period before a property can be sold to recover rates should be reduced to three years.
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	This is irrelevant. Most Councils already have internal policies in place regarding Hardship and Debt Recovery, that includes collections conversations with the ratepayer before commencement of legal action to recover rates.
30	The <i>Local Government Act 1993</i> (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	This is unnecessary because Section 564 of <i>the Act</i> – <i>Agreement as to periodical payment of rates and charges</i> already offers flexible payment options.
31	The <i>Local Government Act 1993</i> (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.	112	We <u>do not</u> agree. Not every ratepayer has access to electronic formats and would therefore be excluded from receiving a discount.
32	The <i>Local Government Act 1993</i> (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.	113	The provision in <i>the Act</i> relating to the postponement of rates should be removed.

Other draft recommendations			
	Draft Recommendations	Page No.	Comments
33	<p>The valuation base date for the Emergency Services Property Levy and Council rates should be aligned.</p> <ul style="list-style-type: none"> ▪ The NSW Government should levy the Emergency Services Property Levy on a Capital Improved Value basis when Capital Improved Value data becomes available statewide. 	116	<p>The ESPL base date will have to be the same as the levying Council's base date.</p> <p>The ESPL will have to be levied on the same valuation basis as the underlying rates assessment – either UV or CIV</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	We acknowledge that current practice in NSW is for private valuation firms to contract to the NSW Valuer General to perform valuation service.

Other draft recommendations			
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			<p>We would prefer for the NSW Valuer General to continue to supervise this process and employ their statistical models to ensure data integrity within the valuation process across NSW.</p> <p>However, we would like the valuation lead-time to improve markedly.</p>