



11 October 2016

Review of Local Government Rating System
IPART
PO Box K35
HAYMARKET POST SHOP NSW 1240

Dear Mr Boxall

Submission to the Review of the Local Government Rating System

In regards to the Independent Pricing and Regulatory Tribunal's draft report, 'Review of the local government rating system' and wish to advise that Council welcomes the opportunity to address the recommendations discussed.

Campbelltown/Macarthur has been identified in the NSW Governments 'A plan for growing Sydney' as a regional city centre and has a strong residential community that is increasingly emerging as a city of choice. We continue to work with our community towards achieving greater sustainability supported and funded through fair and equitable rating strategies.

Council is mostly supportive of the draft report and we have elaborated on each item in the attached document. The common sense reforms proposed regarding exemptions being significantly reduced are especially supported. The proposal to replace the current pensioner concession with a rate deferral scheme is a recommendation that we are unable to support.

We look forward to the outcomes of the final report due to be submitted in December. If we are able to assist with any additional information or be of any assistance please do not hesitate to contact Mr Michael Sewell, Director City Governance.

Yours sincerely



Lindy Deitz
GENERAL MANAGER
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Review of the Local Government Rating System submission

Campbelltown City Council responses to the Draft Recommendations

- 1. Councils should be able to choose between the Improved Capital 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.*

It is agreed that councils should have the choice in selecting the 'best fit' valuation methodology for their community. Transition to CIV addresses a number of equity issues in the distribution of the rate burden across the community. Capital investment correlates with the ability and capacity to pay principles and we believe ratepayers will associate better with CIV which also aligns well with the taxation principle of simplicity.

It is important that CIV creates a mechanism for councils to align growth through capital investment with their rating structures further improving sustainability, particularly for those councils in high growth areas.

CIV will need to be the standard across NSW to accommodate the Emergency Services Property Levy and rate setting outside of the pegging limits currently in place. The type of valuation method may therefore need to be mandated to minimise confusion and create stability and consistency within the industry.

We have some concerns regarding the cost in obtaining new CIV values, however as the methodology has not yet been determined we would seek to recommend a simple method that is easily understood by the community, is robust and has minimal impact on the Valuer-General.

Agree that the Notional Yield of Council should be unaffected by changes in land values from UV to CIV.

- 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.*

The use of minimums should be removed from the *Local Government Act 1993*. Minimum amounts are regressive, often poorly structured, difficult to apply across the current rating categories and are often misunderstood by the community.

Base rating provides councils with the capacity to capture the essential services that it provides and set a fixed value 'charge' or base amount on all ratepayers equally, improving the rates distribution. Ratepayers often look for a correlation between the services they are receiving and the rates that they pay, base rating better aligns with this principle as all land within a category pays a fixed value plus a value added component based on their individual land value. Accordingly the community contributes towards fixed costs equally plus a capacity to pay component.

It is important to note that should there be a shift to CIV this would help to broaden the rating base and more appropriately apportion the amount payable across the community.

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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 council's for rating.*

Agree with this principle as it allows a better process of aligning growth with capital investment in our area.

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 council's to receive regulatory approval from IPART*

Agree with the opportunity to gain efficiencies in the process of levying special rates for services or infrastructure that benefit the community through joint funding with the State or Federal government.

It is also agree that the component represented by ratepayer's contribution should not require regulatory approval from IPART and that such arrangements operate outside of any pegging limits.

There is a need for caution in this recommendation to avoid an avenue for cost shifting onto local councils by the State or Federal Government. Services or infrastructure funding that may be withheld, limited or withdrawn subject to councils agreement to fund the balance for projects that would normally be fully funded by those other levels of government.

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.*

Councils should be able to recover income lost from the current two year restriction to the proposed 10 year period. This principle aligns with the current Integrated Planning and Reporting framework and individual councils 10 year financial plan. It acknowledges any unforeseen downturn in the local economy and enables councils to make changes to its rating base within the projected 10-year period.

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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.*

Agree with this recommendation as centres of population are difficult to justify particularly in metropolitan areas where definitions of differential rates may be applied subjectively or to remedy fluctuations in land valuation movements, which is their intended use.

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.*

Agree with this recommendation to shift from 'centre of population' to 'community of interest' and the principle definition, i.e. residential land within a contiguous urban development that has different access to, demand for or costs of council services relative to other areas. We would like to see a definition to be included in any legislative changes to this effect.

It is recommended that a definition be added to Section 516 of the *Local Government Act 1993* to address short term accommodation to include similar words to "that at least one person must be living on the property for a period greater than 3 months for the property to qualify for residential rating". Property of this nature is generally accepted as operating for profit commercial premises rather than as a residential home.

In addition the Rural Residential subcategory should be removed as it is poorly understood and applied. Alternatively the definition of Rural Residential in the *Local Government Act 1993* could be changed to remove the current land size and vacant land restrictions that apply.

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.*

Agree with the structure and accountability principle, however do not see any merit in the 50% variation between subcategories. All councils are required to publish and consult with their communities through the Operational Plan in accordance with the Integrated Planning and Reporting framework and this forum should remain the basis of councils setting rates. The accountability and consultation process that allows for community input should be the driver for change and flexibility to apply discretion should be provided.

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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 area, 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.*

Agree with flexibility to establish a transitional policy enabling councils to gradually merge their rating structure and in consultation with their community address the core elements of the tax principle of equity. The restriction to equalise rates by no more than 10% should be removed as this amount could in real terms be as little as \$100 - \$150 per annum and stifle the equalisation process.

Councils are accountable to their communities and community input is important in the determination of rating structures within each local government area variation on merging councils.

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.*

Agree with the recommendation to grant exemptions on the basis of use rather than ownership.

Agree with the recommendation for all land used for residential and or commercial purposes should be rateable, irrespective of ownership.

The *Local Government Act 1993* includes two basic principles of taxation which are 'fairness' and 'appropriateness' of local land rates. These two criteria can be expanded into the following;

1. The extent to which those who receive the benefits of Council's services also pay for those services – 'benefits principle',
2. The extent to which those who pay for Council's services have the ability to pay for those services – 'ability to pay principle'.

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It makes sense to the community that everyone who receives a benefit from local expenditure should contribute in proportion to the benefit received and their ability to pay. The current exemptions have moved significantly away from this principle and the recommendation will apply a higher level of fairness to the rating system.

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.**

In regards to section 555(e) – Agree with this provided the terminology ‘occupied and for that purpose’ is limited to places of public worship and the residential home of a member of the religious laity or clergy. Sites could be caught up in the ‘explicitly exempt’ terminology referred to in recommendation 10 when they are used for a residential or commercial purpose by a religious body.

In regards to section 555(g) – Support retaining the current exemption process for land owned by an Aboriginal Land Council as outlined in the *Aboriginal Land Rights Regulation 2014*. These sites could be caught up in the ‘explicitly exempt’ terminology referred to in recommendation 10 when they are used for a residential or commercial purpose.

In regards to section 555(o) – Support mines rescue board being exempt.

In regards to section 555(q) – Support exemptions for land used for cattle dipping.

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.

Do not agree with this recommendation as private hospitals do not offer emergency services or triage services to the general public. We suggest that private hospitals come under the ‘commercial purpose’ as identified in recommendation 10. We also believe that ratepayers would expect the free public hospital system to be exempt from land rates and therefore support an exemption to continue for public hospitals.

The private hospital operating in the Campbelltown City Council local government area reported in its FY 2016 annual report group revenue of \$2.3billion representing an increase of 6.2% on the previous year and an operating net profit after tax of \$195million.

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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)).*

This recommendation is fully 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– 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.

Agree with the recommendation, although Campbelltown City Council is not directly affected by these exemptions it is generally accepted that the land described draws attendance from across not only the local council but national and international visitors. These visitors will impact on the local community as such and in accordance with the principle of local taxation for local purposes these entities should contribute to the local economy through land rates.

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.

Agree with this recommendation which aligns well with the taxation principles of benefit and ability to pay.

It is important to note that provision exists in the *Local Government Act 1993* for religious institutions to be rated in accordance with this principle. It is agreed that it should be expanded to enable the same process to be applied to any land exempt from paying rates.

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- 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.**

Agree with this recommendation however we have some concerns about the 'self assessment' process. In order to remedy this it is recommended that some rigor in the form of guidelines or practice notes be developed by councils in conjunction with the Office of Local Government.

- 17. A council's maximum general income should not be modified as a result of any changes to exemptions from implementing our recommendations.**

Do not agree with this recommendation. Councils should be able to recoup income that has been lost due to exemptions being applied in the past. There is a process of recovering lost income due to valuation objections and it may be prudent to follow this model in recouping the amounts lost.

In practice councils levy rates annually and a request for an exemption can be received at any time. If the request meets current exemption requirements the rates are written off therefore reducing current income streams for the council. The amounts and timing of exemptions being received are unpredictable resulting in budgeting and financial reporting difficulties. In the rating year following written off rates a redistribution is able to occur however the initial write off is permanently lost and should under this recommendation be recoverable.

- 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)**

Agree with the recommendation, although Campbelltown City Council is not directly affected by these exemptions the added discretion and choice for councils that are affected is considered appropriate.

- 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.**

Agree with this recommendation, however suggest that an estimate approach should be taken. Most council's do not record the rating category for exempt land, accordingly this recommendation could be problematic. However it is achievable and applies a common sense approach to informing the community on the amount that exemptions are subsidised by the rest of the community.

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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 ownership changes and a surviving spouse no longer lives in the residence.

We strongly do not agree with this recommendation as it will disadvantage pensioners. We recommend that the pensioner rebate be retained but fully funded by the NSW Government. We also recommend that the government review the way the system operates which includes being fully funded by the NSW Government.

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.

Agree that "Environmental Land" is acknowledged in any amendments to the *Local Government Act 1993*. It is recommended that environmental land should be introduced as a sub-category and be at the discretion of each council.

The present reductions for conservation agreements in accordance with Section 555(1) and calculated in accordance with Section 555(3) should be removed and separate valuations determined for the relevant area be sub-categorised 'environmental land'.

If land is used for a residential purpose it should be excluded from being sub-categorised environmental land.

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

Do not agree with a separate category for 'vacant land' and separate sub-category for vacant land of the Mining category.

Agree that 'vacant land' be introduced as sub-categories of Residential, Farmland and Business. Changes to the *Local Government Act 1993* should be at the discretion of each council. This will enable each council to make decisions on rate setting based upon the level of services provided to vacant land.

It is important to note that if councils transition to capital values the rates on vacant land would be significantly less than that of improved land which is not case when using the current unimproved land values. This recommendation will allow councils to address those differences.

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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*

It appears that this recommendation is primarily to remedy some aspects of the 'rate path freeze' affecting merger councils and as such may not add value to any process for Campbelltown City Council.

Agree with the ability to provide councils with discretion and that if no resolution is made the default will continue to be the business category as is the current situation.

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.

Agree with this recommendation as it provides councils with a system that will be better understood by the community by aligning the rating categories with the permitted use.

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.

Agree with this recommendation as it will provide councils with greater flexibility in their rating structures. Discretion and the current community engagement strategies through the Integrated Planning and Reporting framework allows community input into the structuring of land rates, this recommendation aligns well with this strategy.

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.

Do not agree with this recommendation. Councils should be levying land rates to the extent that those who benefit from council services are contributing in accordance with their capacity to pay for those services.

Council's rating structures should be part of a holistic community engagement and communication strategy within the Integrated Planning and Reporting framework.

27. Councils should have the option to engage the State Debt Recovery Office to recover outstanding council rates and charges.

Agree with the option to engage with the State Debt Recovery Office (SDRO). However wish to note that most councils seeking external assistance with debt recovery issue requests for tenders or quotes and this avenue currently offers an opportunity for the SDRO should they wish to compete or engage with local government within this market.

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- 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.***

Agree with this recommendation.

- 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.***

Agree with this recommendation, Campbelltown City Council has a Financial Hardship Policy and Rate Recovery Policy.

- 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.***

Agree with this recommendation, Campbelltown City Council advises ratepayers on this matter in two distinct ways.

1. Encourage ratepayers to establish direct debit payments of an amount that is affordable to them each fortnight or month which may not clear the amount due by the due date but does make the instalment more affordable. This is received positively and appears to be of assistance to ratepayers in reducing bill shock.
2. Engage with ratepayers to negotiate smaller regular payments designed to bring their accounts up to date as soon as possible.

Communication with ratepayers is the most problematic issue in recovery of unpaid rates and charges. Often Councils are supplied incorrect mailing information and/or no other forms of communication such as email or telephone to follow-up defaulters.

- 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.***

Do not agree with this recommendation as councils could not afford the expense in offering a discount to the value that would influence ratepayers to change their behaviour. The cost savings to Council in serving notices electronically has not yet been fully realised due to fixed costs in set-up and programming being distributed across relatively low participation rates.

The average cost of printing and mailing a paper notice is around \$1 per item (including postage) at best the breakeven point when including a discount would need to be less than this amount. It is unlikely that a ratepayer would change from hard copy to softcopy for an amount less than \$1 and any amount above this would represent additional costs to the council and ultimately the community.

Changes to legislation should include references to email to be 'delivered electronically' thus enable councils to enforce service of a notice by My Post Digital Mailbox and BPAYView.

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Also any efficiency gains from engaging with ratepayers through electronic means should enable those councils to be exempt or a reduction in the IPART productivity factor when applying the Local Government Cost Index.

- 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.***

Do not agree with the removal of postponed rates due to land re-zoning. Ratepayers are adversely affected by significant valuation spikes on property that they have an emotional attachment to, such as the family home. In these cases the land rates may increase to levels well in excess of the owners annual income and force them from their land.

Council appreciates the additional capital value that the owner has access too as a result of changes in permitted use above the actual use. In most cases and particularly if land becomes overlooked or part of a new suburb due to subdivision the owner will sell within the current 5 year period. In these cases councils receive their rates in full together with penalty interest.

The only change recommended is to increase the period of postponed rates from 5 years 7 or 10.

- 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.*

It is agreed that this will need to occur so that NSW Treasury are able to calculate the Emergency Services Property Levy.

- 34. *Councils should be given the choice to directly buy valuation services from private valuers that have been certified by the Valuer General.***

Agree that councils should be provided with the option to engage with private valuers or the NSW Valuer-General.

Other recommendations

- Changes to the re-ascertainment of land valuations resulting in unrecoverable lost income to councils. This should be changed to be at least the same process as the lost income process due to valuation objections.
- Clarification of the part-year rating matter that is open to interpretation needs to be clarified through changes to the *Local Government Act 1993* and *Valuation of Land Act 1916*.