City of Sydney
Town Hall House
456 Kent Street
Sydney NSW 2000

Telephone +61 2 9265 9333
council@cityofsydney.nsw.gov.au

GPO Box 1591 Sydney NSW 2001
cityofsydney.nsw.gov.au

18 October 2016

Our Ref: 2016/450310
File No: X003359

IPART
PO Box K35
Haymarket Post Shop
Sydney NSW 2140

Dear Sir/Madam

The reform of local government rating and revenue is an issue that has been the subject of reviews for the last decade, including the 2006 Local Government Inquiry into Financial Sustainability, the NSW Treasury Corporation Financial Assessments, the Independent Local Government Review Panel, the Local Government Act Review and now the Review of Local Government Rating System.

The City believes that rating provisions should reflect the critical need to realise adequate funding for infrastructure, facilities and services in Sydney, especially in our growing urban renewal areas. The needs of medium and high density communities cannot be sustainably funded under the existing rating legislation and within the existing rate cap regime. ***A rezoning of industrial to residential land, only marginally lifts total rate revenue while significantly increasing the infrastructure and service delivery needs of the community and demands of council.***

The redevelopment of the Green Square urban renewal area provides a perfect example. Development of green field sites following rezoning, can facilitate new residential and commercial properties that become rateable for the first time, and thereby provide a new funding source for the services required by the new residents and tenants. Urban renewal and redevelopment of brown field sites however, replace existing industrial tenants with significant numbers of new residents and commercial tenants that require new and increased infrastructure and expect high quality service levels in respect of roads, footpaths, parks, pools, libraries and community centres.

This is particularly true in the City, where the vast majority or around 75% of the residential strata unit owners, pay only a minimum contribution rate based on the current unimproved land value basis of rate distribution. While the move to a capital improved value basis will improve the equity of this distribution, the overall rate cap, which was not included within IPART's terms of reference, impedes councils from generating sufficient revenue to cover the rising costs of providing services and facilities to the community. The current legislation and the rate cap, with its inherent limitations, has a marked impact and adversely impacts the long term financial sustainability of NSW councils.

The City supports the proposals of significant reform, including the major recommendations to:

- Changing the rating basis from unimproved land value to capital improved value
- Growing general income to support growth
- Broadening rating categorisation and sub-categorisation criteria
- Shifting the rate exemption basis from ownership to use

The attached submission indicates the individual recommendations that the City supports, the rationale for this support, and any particular concerns or qualifications.

Yours sincerely,

Bill Carter,
Chief Financial Officer
E: [redacted]

# City of Sydney Submission on the Draft Report of the IPART Review of the Local Government Rating System

## Allow councils to use CIV as an alternative to UV in setting rates

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.*

The City supports this major reform. NSW local government areas incorporate a very diverse property base, and introducing the option of CIV will allow councils to develop more sustainable and equitable rating strategies that are appropriate for their own particular needs. It will also harmonise NSW's rating basis with that of other Australian states, and many other countries that have had the option to utilise CIV for many years.

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 City does not support the removal of the ability to set and levy minimum rates. The determination of a minimum amount that ratepayers must contribute to the cost of council operations, regardless of land value, remains a valid rating strategy. The use of a base plus ad valorem rate means that some smaller and/or less valuable strata units will not contribute sufficient rates for the value of community facilities and services that they require and consume.

The City prefers that the Act retain the current flexible approach of allowing councils the choice of retaining minimum rates, base rates and ad valorem rates as valid rating structures. This better aligns with the previous recommendation to allow a flexible and appropriate choice of rating valuations.

## 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.*
    - *This formula would be independent of the valuation method chosen by council's for rating.*

The City supports this recommendation in principal, as rates revenue growth above the rate peg, based on CIV increases will improve the limited revenue growth allowed under the current Act and enable councils to better respond to growing community needs. The calculation methodology however may need further enhancement, such as being subject to a minimum growth factor (e.g. the average rate for every additional rateable property), to ensure that the rates revenue growth is sufficient to meet the additional cost of servicing the new properties. Otherwise existing property owners will have to continue subsidising the owners within the new growth areas.

It is also recommended that Councils like the City of Sydney, who have already experienced a high growth period but have been unable to adequately grow their rate revenue due to the existing legislative limitations, be supported to apply for a permanent variation to capture the foregone revenue growth and re-establish a more equitable and appropriate rating base.

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*

The City supports the idea of enabling funding partnerships between local and state or federal government. It is foreseeable that innovative and essential infrastructure projects would be significantly more likely to occur if ratepayers were willing to partially fund such a joint venture. The City is however cautious of extending this support to services, or infrastructure that is already funded by other levels of government, given the history of cost shifting over the past decade. It is therefore critical that the commitment and quantum of support would always need to be at the discretion of each council.

A slightly more structured recommendation would be preferred, including requirements for any potential joint project to stipulate to ratepayers within the relevant Integrated Planning & Reporting documents:

- the benefit of the project to the community
- the total value and life of the total project
- the various federal and/or state and local contributions
- the value and distribution of rates to be levied, and over how many years
- mandatory community engagement as for a Special Rate Variation.

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.*

The City supports this recommendation and would like to see it extended to include:

- The ability to catch-up income lost due to:
    - new rate exemptions granted (both current and prior years)
    - changes in rating category (both current and prior years), and
    - valuations re-ascertained (reflecting other ratepayer's objections).

## Give councils greater flexibility when setting residential rates

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.*

The City disagrees with the recommendation to differentiate rates based only on it being a separate town or village. The boundary of a town or village does not in itself warrant a rating differentiation. There must be a need such as different servicing levels or different access to amenities that may warrant the different rate. The City can see no need in a metropolitan council environment to differentiate based on this criteria as was suggested by IPART.

However, the sub-categorisation of a community of interest is supported. It is not dissimilar to the current subcategorisation requirement of a centre of population.

The current option to subcategorise based on a centre of population must also be retained as the regional and rural councils will have need to subcategorise other than just for contiguous urban development.

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.*

The City supports this definition.

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.*

The City does not support this recommendation as the "*1.5 times*" is arbitrary and has no rational basis. A subcategory that has been defined by the need for such a subcategory should not then be limited in its application based on an arbitrary number. The amount of the differential should be determined by the Council based on the degree of difference in the access to, demand for, or cost of the services and infrastructure in the area.

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 the 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.*

The City is not directly affected by this recommendation, however does not support the recommendation.

Other than specific diverse communities of interest who enjoy either significantly different service levels or where the cost of the service provision is vastly different to the general community, the general principles of taxation (efficiency, equity, simplicity, sustainability and competitive neutrality) should apply. It is therefore important that all ratepayers should contribute equitably to the running and servicing of the council area, through as simple an ad valorem structure as possible, with the individual rates contribution to be determined and differentiated based upon the individual land values as a proxy for wealth and capacity to pay.

The four year freeze on rate paths prohibits ratepayers from paying an equal share based on their land value, as is the requirement in every other council. To further delay rating equalisation allows the inequity and unfairness of some ratepayers subsidising others to continue longer without any reasonable rationale.

The City has previously capped any rate increases to a maximum percentage of the rates paid on any individual property, for the first year, in accordance with s52A of the *City of Sydney Act, 1988*, with the ratepayer responsible for the entire rates as determined by the ad valorem calculation in the following year. New councils should be able to determine how rates will best be harmonised in the same manner as they do with inherited fees and charges, but the underlying principles of taxation should be respected, and it's difficult to comprehend how as gradual a harmonisation as 10% per annum accomplishes this.

## Better target rate exemption eligibility

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.*

The City supports this recommendation and questions why it does not extend to include all government land so that it too is rated based on actual use rather than ownership.

The City understands that IPART has previously queried whether all levels of government should pay their share of all taxes.

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.*

The City is unsure why these four exemptions have been grouped together. A more thorough review and detailed discussion of this area in the final report would be appreciated.

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.*

The City is unsure that this recommendation is in keeping with equity, fairness and transparency and would appreciate a more thorough review and detailed discussion of this area in the final report. It is also noted that while the draft report infers that only not-for-profit private hospitals would be exempt from rates, the recommendation does not mention that requirement.

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)).*

The City agrees with this recommendation as it believes that the overriding exemption principles should be sufficient.

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.*

The City agrees with this recommendation as it believes that the overriding exemption principles should be sufficient, and the removal of these specific exemptions will not preclude the impacted bodies from applying for exemptions based on the principals of use determined for all land. The City notes however that the Museum of Sydney exemption was specifically included in the Act as they partially occupy privately owned lands that did not satisfy the general exemption criteria, and this caused significant financial distress for that entity.

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.*

The City supports this recommendation. It is acknowledged that this is already available to Councils by applying for a separate valuation for the rateable portion of land under the Valuation of Land Act 1916. However, alignment in the Local Government Act would clarify and possibly extend the application.

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.*

The City supports the recommendation and the methods suggested in the draft report, however the mechanism for council application and approval of partial exemption should be open to Council's own policy adoption rather than being prescribed.

A self-assessment is likely to be useful for the initiation of an application, but the determination and quantum of exemption should be based on inspection and conclusions drawn by council staff.

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

The City understands that IPART is attempting to avoid windfalls by Councils as a result of the changes to exemption, however exceptions may be required where losses due to exemptions granted are not able to be recovered. Councils should have the opportunity to make a one-off recovery of lost income due to previously granted rating exemptions.

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)*

The City is not directly impacted by this recommendation and therefore makes no comment.

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.*

The City supports this recommendation, but suggests that estimates of this calculation would be sufficient to limit any unintended and onerous administrative burden of compliance.

### 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 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.*

The City does not support this recommendation.

IPART should recognise that the concession is only given to those who meet the means tested criteria for a Commonwealth concession card and therefore it should be assumed that we are dealing with those less fortunate. The graph submitted by IPART in the draft report suggests that most pensioners are still wealthy because the older age bracket of society on a whole is wealthier than many in younger age brackets. However this analysis is flawed because only approximately 30% of pensioners are age pensioners and of the older age bracket only those meeting the Commonwealth concession card criteria will receive the rebate.

The City believes a better recommendation is to retain the mandatory concession, with full funding from the State as is done in most other Australian states. At the very least the amount paid by the State should be increased each year to reflect rising costs.

The City believes that the failure of the State government to increase the pensioner concession in line with CPI has left many pensioners with increasingly high rate bills. To alleviate the burden the City has granted a full rebate to all eligible pensioners, writing off every dollar above the mandatory $250 rebate. The City believes that the State government should carry the full burden of the mandatory rebate as do most other states.

Many Councils have tried various rate deferral schemes over the time. Experience shows that most pensioners do not wish to leave a burden for others or themselves in future years. The weight of a growing rates debt is not dismissed lightly and the overwhelming majority of pensioners tend to pay their rates each year.

## Provide more rating categories

*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.*

The City supports this recommendation. It provides a potential resolution for Councils with parcels of land that are essentially useless for which it may be more appropriate for the Council to charge a lower differential rate.

*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*

The City supports this recommendation. It provides Councils with the opportunity to recognise vacant land that potentially should be rated differently than occupied land. It also allows the rating categories to better align with the proposed Emergency Services Property Levy land classifications.

*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*

The City does not support this recommendation because it is unclear how a Business category would be defined if another category was to be nominated as the residual category.

*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.*

The City supports this recommendation. It will also allow the rating categories to better align with proposed land classifications for the Emergency Services Property Levy.

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.*

The City has no comment.

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.*

The City has no comment.

## Recovery of council rates

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

The City support this in principal and would like to be part of a working party to resolve the potential mechanism for this. It aligns with a potential option flagged by NSW Treasury for recovering Emergency Services Property Levies from other rate exempt properties.

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.*

This is supported in theory. However, it is not recommended that the sale of any land be made mandatory after any period of time, as has been done in other states.

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.*

This is supported, although it should be noted that councils generally already have such policies in place.

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.*

This recommendation to alter the Act is unnecessary. The Act already allows for payment arrangements and the ability to utilise this option to assist ratepayers is well understood by local government staff. Guidelines providing clarity to Councils and the community would however assist in providing consistent practices in the industry.

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.*

The City does not support the idea of providing rating discounts. The current rate peg incorporates a deduction for assumed efficiencies and therefore a reduced rate is already enjoyed by all ratepayers whether or not they take up the innovations. It is however worth considering the introduction of a fee for issuing paper notices as this will serve as a disincentive better aligned to other service and utility providers.

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.*

The City supports this recommendation.

## Other draft recommendations

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.*

The City supports this recommendation. A state-wide levy using the same ad valorem and base rating structure can only be equitable if the same valuation basis for all properties is used.

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

The City supports this recommendation. Flexibility and choice in this area will allow Councils to ensure they receive effective and efficient services and value for money.