



14 October 2016

Reference: 1781708
Contact: Matthew Sykes

Review of Local Government Rating System
Independent Pricing and Regulatory Tribunal
PO Box K35,
Haymarket Post Shop NSW 1240

Dear Sir/Madam

Review of Local Government Rating System - Submission

On 22 August 2016 IPART released its Draft Report for the *Review of Local Government Rating System*. IPART has invited written comment on the recommendations in the Draft Report and has encouraged all interested parties to provide submissions addressing the matters discussed. Submissions are due by 14 October 2016. Along those lines Clarence Valley Council provides the below responses to those recommendations applicable to Clarence Valley Council.

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.*

Council submission

Determination of the CIV will be problematic as there is only limited amount of sales data available to substantiate CIV. Greater clarity is required on the implementation process and the implementation timeframe.

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.*

Council submission

Council agrees with IPART's recommendation. The removal of minimums impacts 2 rating sub categories in Clarence Valley Council's rating structure i.e. Residential "Outside Town Areas" and Residential A – "Coastal Villages". The impact of this recommendation is a shift in the rate burden within those sub categories from owners of lower value properties to owners of higher value properties. However, if minimums are removed the limit on 50% of income from base amounts for categories and sub categories should also be removed so

that there are no restrictions on Council's ability to cover the cost of core services.

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 councils for rating.

Council submission

Agree but there are concerns regarding substantial data being available to properly determine CIV.

4. *The Local Government Act 1993 (NSW) should be amended to allow councils to levy a new type of special rate for new infrastructure jointly funded with other levels of Government. This special rate should be permitted for services or infrastructure that benefit the community, and funds raised under this special rate should not:*

*– form part of a council's general income permitted under the rate peg, nor
– require councils to receive regulatory approval from IPART.*

Council submission

Council has concerns that the levying of a special rate for infrastructure jointly funded with other levels of Government will be used as an instrument to cost shift more infrastructure responsibilities to Local 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.*

Council submission

Council agrees with this recommendation.

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.

Council submission

Council's current rating sub categories are set by sub categories aligned to towns or villages. Clarification on what is a "community of interest" is required.

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.*

Council submission

Clarification on what is a "community of interest" is required.

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 (i.e. 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.*

Council submission

The proposed methodology is contrary to the key tax principle of simplicity.

9. *At the end of the 4-year rate path freeze, new councils should determine whether any pre-merger areas are separate towns or villages, or different communities of interest.*
 - *In the event that a new council determines they are separate towns or villages, or different communities of interest, it should be able to continue the existing rates or set different rates for these pre-merger areas, subject to metropolitan councils seeking IPART approval if they exceed the 50% maximum differential. It could also choose to equalise rates across the pre-merger areas, using the gradual equalisation process.*
 - *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.*

Council submission

Council agrees with the options provided for residential rate structures after the 4-year rate path freeze expires, however clarification on what is a community of interest is required.

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*

Council submission

Council agrees with this recommendation.

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.*

Council submission

Council agrees with this recommendation.

12. *Section 556(i) of the Local Government Act 1993 (NSW) which states that land that belongs to a public hospital land is exempt from all rates, other than water supply special rates and sewerage special rates, should be amended to include land owned by a private hospital and used for that purpose.*

Council submission

Council does not agree with this recommendation. Land owned by private hospitals is used for commercial purposes and therefore should not be exempt from rates.

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))*

Council submission

Council agrees with this recommendation. Land that is below the high water mark and is used for the cultivation of oysters (Local Government Act 1993 (NSW) section 555(h)) should not be exempt as this land is being used for commercial purposes and to exempt it from rates would be contrary to the key taxation principle of equity.

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:

Council submission

Council agrees with this recommendation.

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.*

Council submission

Council agrees with this recommendation.

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.*

Council submission

Council agrees with this recommendation.

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

Council submission

Council agrees with this recommendation.

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).*

Council submission

Council agrees with this recommendation.

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.*

Council submission

Council agrees with this recommendation.

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.*

Council submission

Council does not support the recommendation. The pension rebate concession has not increased in line with the "cost of living" since the implementation of the Local Government Act 1993. If the maximum pension rebate had been increased in line with the annual "rate pegging" increases each year (on average) by 3%, the rebates for the 2015/16 financial year would be \$485.00. It's Council's strong view pensioner concession must be fully funded by State Government. A rate deferral scheme is problematic in local government areas with a high proportion of pensioners and low property values as it may result in less than full recovery of deferred debts from sale of properties and create cash flow issues for the Council.

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.*

Council submission

Council agrees with this recommendation.

22. *Sections 493 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.*

Council submission

Council agrees with this recommendation generally however sub categorisation of vacant land into residential, business, farmland or mining should be changed to align with the 'vacant' land sub classifications for Emergency Services Property Levy (ESPL) purposes i.e. Residential/Commercial/Industrial.

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.*

Council submission

Council agrees with this recommendation.

24. *Section 529 (2)(d) (Rate may be the same or different within a category– A sub category may be determined for the category "business" - according to a centre of activity) 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.*

Council submission

Council agrees with this recommendation.

25. *Section 529 (2)(a) (Rate may be the same or different within a category– A sub category may be determined for the category "farmland" - according to the intensity of land use) of the Local Government Act 1993 (NSW) should be replaced to allow farmland subcategories to be determined based on geographic location.*

Council submission

Council agrees with this recommendation.

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.*

Council submission

Council agrees with this recommendation.

Recovery of council rates

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

Council submission

Council agrees with this recommendation.

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.*

Council submission

Council agrees 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.*

Council submission

Council agrees with this recommendation.

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.*

Council submission

Council agrees with this recommendation.

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.*

Council submission

Council agrees with this recommendation.

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.*

Council submission

Council agrees with 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.*

Council submission

Council agrees with the recommendation in relation to alignment of valuation dates from simplicity aspects but disagrees with the recommendation in relation to use of CIV due to the shortcomings of available data to reliably substantiate CIV.

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

Council submission

Allowing private valuations increases the risk of inconsistency in valuations between local government areas and within a local government area as service providers may change over time. Removing the economies of scale the Valuer General can achieve will lead to increased costs to local government.

Other issues relevant to the review

Rate Peg

IPART in Section 4.5.1 of the Draft Report made comment on stakeholder feedback which disagreed with current rate pegging arrangements, however made no indication of removing the current rate pegging arrangements.

Council's feedback from its 13 May 2016 IPART submission remains, i.e. remove rate pegging. Our view on removing rate pegging is based on the belief that a Council should be responsible for determining its own level of rate income in consultation with its community as part of the long term decision making process. We also recognise that the majority of the states in Australia do not have rate pegging and Councils in those states are able to function successfully. Ultimately democracy prevails and Councils are held accountable by their constituents through the election process.

Change in use

When a property moves from Business to Residential (change in use not in value), the revenue lost because of this change is lost to Council forever and a Council should be able to recoup the difference as part of this process.

Special variations

In relation to the special variation process where a Council strongly believes that their rejected plan for special variation is in the best interests of their community, an appropriate avenue for appeal should be established, outside of a judicial review.

If you require further information regarding this submission please contact Matthew Sykes on [REDACTED]

Yours faithfully,

[REDACTED]

Spencer Greenhill
General Manager