

Council Ref: HB/dd

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

13 October 2016

Dear Sir / Madam

Re: Review of the Local Government Rating System

Council would like to submit the following comments in relation to the 34 draft recommendations within the Draft Report for the *Review of Local Government Rating System*.

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.

Comment: It is pleasing to see that Councils will be given a choice in this matter. A concern expressed in Council's submission was that besides the introduction of CIV being of no benefit to rural Councils, Councils should be given a choice of the valuation method and not have one dictated to them.

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.

Comment: Currently, Council charges a minimum amount or an ad valorem amount on all rateable land types except farmland rates, which has a base amount and an ad valorem amount applied.

Therefore, this change will have an impact on certain ratepayers depending on the level the fixed component of the charge will be set at, but IPART:

“..concluded that base amounts are a superior method to recover the fixed costs of providing council services, as they better correlate with ratepayers’ benefits received and ability to pay. In addition, if our draft recommendation to give councils the choice to use CIV is adopted, the abolition of minimum rates will not financially constrain councils.”

Importantly, the comment is also made that:

“We consider minimum amounts should be phased out from 2020-21. This would allow councils sufficient time to move to new rate structures. It would also align with the end of the rate path freeze period for newly merged councils, when these councils would shift to new rate structures.”

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.

Comment: IPART make the point that:

“Under the current UV methodology, the current ‘growth outside the rate peg’ process results in an increase in general income from new development that is typically much lower than the increase in costs of servicing new residents and businesses. This is because the land value will not increase as apartments are built unless there is land rezoning which increases land value. Therefore, councils will only receive additional income by levying fixed charges (base or minimum amounts) across a larger number of properties.”

This means that the CIV of properties needs to be provided to all Councils regardless of the methodology used to calculate rates. This seems like a reasonable recommendation and it is likely that CIV will also be used for the calculation of the Emergency Services Property Levy when that is introduced from 1 July 2017.

It is Council’s expectation that the cost of obtaining Capital Improved Valuations for the purpose of the Emergency Services Property Levy calculations be borne by the State Government and not Glen Innes Severn Council;

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.

Comment: Council would expect that the existing ability for Councils to levy special rates in their own right under Section 495 of the *Local Government Act 1993*, be retained and that the limitations on Council to co-fund joint venture projects (where there is a benefit to the local community) with other levels of Government be removed; therefore that if Councils fund such joint venture projects with other spheres of Government an explicit rate can be collected for this purpose as well.

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.

Comment: Council agrees with this recommendation.

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.

Comment: Currently, the *Local Government Act 1993* (NSW) requires Councils to equalise residential rates by setting the same ad valorem rate within a single 'centre of population'. This means that it can only set different rates where it can identify different centres of population within its area. This is really designed for metropolitan Councils as the existing methodology is still captured under the proposed amendments (setting a rate by a separate town or village). Therefore, Council agrees with this recommendation.

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.

Comment: This is linked in with recommendation 6, and Council agrees with this recommendation.

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.

Comment: This is linked in with recommendations 6 and 7, and Council agrees with this recommendation.

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 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.

Comment: This recommendation is not applicable to Glen Innes Severn Council as we are not a new Council.

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.

Comment: Council supports the exemption of land based on use rather than ownership, except that as was included in Council's submission to IPART, GISC believes that Councils should be exempt from paying rates to themselves unless it is for an area of operations that is commercial in nature.

In Council's submission to IPART the comment was made that:

"..it is ludicrous that Councils have to pay themselves rates on their own properties; this is unnecessary and is bureaucracy and red tape at its finest. If any organisation should be exempt from paying rates, Local Government itself should top the list. The wording of the Northern Territory, South Australia or other States' legislation could be looked at to see how this can be achieved easily, for example:

Section 144 (1) (b) of the Local Government Act (NT) states that: " land of the council, other than such land leased for a purpose that does not give rise to an exemption under some other provision of this section" is exempt from rates.

Similarly in the Local Government Act (SA), Section 147 (2) (f) an exemption is provided for: "land occupied or held by the council, except any such land held from a council under a lease or licence."

"Similar provisions apply in Western Australia - refer Section 6.26 (1) (b) of the Local Government Act (WA), Victoria - refer Section 154 (2) (b) of the Local Government Act (Victoria), Queensland - refer Section 93 (3) (g) of the Local Government Act (Qld); Tasmania – refer Section 87 (1) (e) of the Local Government Act (Tasmania)."

Council stands by this view and will be requesting again that this be considered. Crown land is exempt; so should Council owned land be exempt (except if used for a commercial purpose).

The table below extracted from the Draft Report, highlights the impact of the amending Sections 555 and 556 of the *Local Government Act 1993 NSW*:

Impact on current exemptions

Remains exempt	Becomes rateable
Land used by Universities for educational purposes	Commercial logging in State Forests
Hospitals both public and private	Retirement villages
Land used by government and non-government schools for educational purposes	Child care centres charging market rates
Passenger rail lines	University student or other residential accommodation
Land occupied and used in connection with religious purposes	Land used by a water corporation
Charities and Public Benevolent Institutions where the activity is not residential or commercial in nature	Freight Rail lines
Crown Land not used for commercial purposes or privately leased	Social housing owned by Public Benevolent Institutions

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.

Comment: The Draft Report comments that rate exemptions should apply:

“Where an activity provides substantial public benefits to the community, it may be equitable and efficient to exempt it from paying rates. For example, schools and hospitals generate public benefits. Requiring them to pay rates may result in them reducing their services below a socially optimal level.

It may also be equitable to provide exemptions where the organisation has limited ability to pay. For example, granting exemptions to religious or charitable institutions – which may have limited ability to pay rates – could allow them to spend more on public goods such as helping the disadvantaged, which results in better outcomes for society”.

In Council’s submission to IPART, the comment was made that:

“Arguably, most exemptions should be removed, but it is understood that there is some sensitivity to organisations such as Churches, Educational Facilities and Public Benevolent Institutions. Perhaps payments based on capacity to pay (i.e. a means test) could be applied to some of the organisations presently exempt from paying rates.”

The assumption in the recommendation is that religious bodies do not have the capacity to pay rates which may or may not be correct. However, as mentioned there is some sensitivity around these areas and therefore Council supports this recommendation.

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.

Comment: This recommendation is not applicable to Council as there are no private hospitals within the Glen Innes Severn Local Government Area.

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)).

Comment: This recommendation is not applicable to Council.

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.

Comment: This recommendation is not applicable to Council.

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.

Comment: This seems like it would be quite cumbersome to track. To simplify this, an option would be to follow the example of s144 of the *Local Government Act* (NT) which states with regard to exempt land:

“(2) If land is used for 2 or more different purposes, and 1 or more but not all the purposes are exempt, the land is not exempt from rates unless the non-exempt purpose is merely incidental to the exempt purpose.”

Example

An allotment consists of a public museum containing a cafeteria. The existence of the cafeteria would not negative the exemption. However, if it were a restaurant attracting customers in its own right, it would do so.

(3) In deciding whether land is used for a commercial or non-commercial purpose, the fact that the user is a public benevolent institution or a public charity is irrelevant: the question is to be decided according to the nature of the use and not the nature of the user.”

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.

Comment: Refer to comments against recommendation 15 above.

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

Comment: The Draft Report states that:

"Under the Local Government Act, a council's maximum general income is modified to take into account changes in exempt properties. When a non-rateable property becomes rateable – for example if a charity was to close down and a new owner takes over the land – the council's general income is adjusted to reflect the additional revenue from the new rateable property."

This recommendation has been included so that any windfall gains or losses do not impact on Councils income as a result of changes to exempt classes of land as outlined in Recommendation 10. Council supports 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).

Comment: The Draft Report explains that:

"Sections 555 and 556 of the LG Act both outline a range of exemptions from council rates. The principal difference between the two sections is that land in section 555 is exempt from all rates, while land in section 556 is exempt from normal rates but not special water and sewerage charges."

The change would give councils discretion to provide exemptions for water and sewer special charges rather than making it mandatory. Council supports 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.

Comment: Council supports this recommendation.

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.

Comment: The current cost to Council of subsidising Pensioner Rate Concessions is \$178K (after State Government funding). A rate deferral scheme operated by the State Government would free up these funds for the provision of services to the local community. Council supports this recommendation.

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.

Comment: It was noted in the Draft Report, that in many council areas,

"...there is land that cannot be developed due to geographic or regulatory restrictions. At present, land that is undevelopable is categorised under one of the four existing categories for rating purposes. It was further noted, that undeveloped land typically imposes low costs on councils, which may not be fully reflected by differences in land value. Environmental land will typically impose lower costs on a council than inhabited land of similar value. Hence, councils should have the flexibility to be able to levy lower rates on environmental land to reflect these lower costs."

Council supports this recommendation.

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.

Comment: This category is available in most other States and Territories and is consistent with the proposed methodology for land classification associated with the introduction of the Emergency Services Property Levy. Council supports this recommendation.

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

Comment: Council supports this recommendation.

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.

Comment: It is noted in the Draft Report, that the sub categorisation of business land is consistent with the proposed methodology for land classification associated with the introduction of the Emergency Services Property Levy. Council supports this recommendation.

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.

Comment: The Draft Report states that currently the classification of land as Farmland is quite subjective, looking at features such as 'intensity of land use', 'the irrigability of the land' and 'economic factors affecting the land'. Council believes farmland categories could be determined by geographical area relatively easily and therefore supports 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.

Comment: It would appear that this has been brought in due to lobbying by the mining industry. The income Council receives from mine rates is negligible so this really is not applicable.

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

Comment: Council supports 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.

Comment: Council supports 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.

Comment: Council is always willing to enter into arrangements with ratepayers who are in financial difficulty and attempts to contact debtors to assist them before commencing legal action. Council supports 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.

Comment: 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.

Comment: Section 710 of the *Local Government Act 1993* (NSW) requires Councils to issue paper based notices to a ratepayer, unless the ratepayer has, in writing, allowed these notices to be sent through other means such as e-mail. The Draft Report states that "Distributing bill notices and other correspondence only through paper based notices and letters may not be cost effective. In addition, paper based notices may not reach the ratepayer when they change their address (e.g. moves interstate or overseas, and Councils do not have access to their updated contact details)." Council agrees with this recommendation and notes the potential large saving in postage costs should a paperless solution be implemented.

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.

Comment: Council agrees with this recommendation.

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.

Comment: The valuation basis used by the NSW Government to levy the Emergency Services Levy is a matter for the NSW Government. However, whatever valuation method is used, as long as GISC is provided access to it and any costs of obtaining the information (apart from information used for the purpose of rating) are paid for by the NSW Government, GISC agrees with this recommendation.

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

Comment: There is a safeguard built into this recommendation, that should Councils not wish to use a private supplier they may still use the Valuer-General to provide valuation. Council agrees with this recommendation.

Other Comments - Removal of Rate Capping

In its submission GISC commented on rate capping that:

"Public finance theory and practice implies that taxation revenue whether it is at the Federal, State/Territory or Local level is generally used to finance various forms of "public goods, services and community obligations" not necessarily in direct relation to user benefit, but ultimately of benefit to the community as a whole. In this respect, rates are a general purpose levy not linked to user pays principles.

Given the importance of rates to Council as an "Own Source" revenue stream and given that the Own Source Revenue Ratio is one of the key financial indicators used by Government to determine if Council's are financially viable, it is a more than a little ironic that rates are referred to as "Own Source Revenue" but they are then capped by the State Government and in so doing impedes a Council's ability to achieve the benchmark, also set by the State Government with regard to this performance indicator.

It is therefore GISC's strong contention that rate capping should cease and that each local Council should be able to set its own rates each year giving consideration to:

- *Understanding the impact of rate and fee increases on the community;*
- *Maintaining existing services in light of increased costs (often above CPI), for example Building or Construction Price Index's;*
- *Implementing new initiatives for the benefit of the Community;*
- *Providing funding to address the existing Infrastructure backlog (for example the additional \$400,000 allocated in GISC's draft 2016/17 budget for Road Maintenance). Noting that the infrastructure backlog has been caused in large part by rate pegging.*

The removal of the rate peg is particularly important for rural or road heavy Councils such as GISC for the reasons outlined above.

Despite the push for Local Government to be recognised as the third level of Government in Australia in the Constitution not proceeding at this stage, it is clear that Local Councils should be more autonomous bodies than is presently the case in NSW with regard to the setting of rates.

Glen Innes Severn Council is at the forefront of providing services to the local community and therefore is best placed to determine the resourcing requirements to fund that service provision and to understand the community's capacity to pay for those services."

The issue of rate capping/pegging was not addressed in the Draft Report (probably because it fell outside of the terms of reference, notwithstanding

comment was invited on any other matters considered relevant.) Glen Innes Severn Council still sees the removal of the rate peg or giving councils greater flexibility in the setting of rates and charges as the only way that councils will be able to become and remain self-sufficient into the future.

There had been some suggestions that one of the draft recommendations would have been to enable Councils to increase rates by up to five percent (5%) per annum without the need to apply for a Special Rates Variation. It is disappointing that this was not included as a draft recommendation and is something that Glen Innes Severn Council believes should be considered.

If you require any further information regarding this submission please feel free to contact me on [REDACTED]

Yours faithfully



Hein Basson
GENERAL MANAGER