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Council Submission
IPART Review of the
Local GovernmentRating System

12 October 2016

Introduction

Council is delighted to have the opportunity to comment on the IPART Draft Report – Review of Local Government Rating System.

Generally Council is supportive of the large majority of recommendations which will provide local councils with increased flexibility when setting rates but are disappointed that the report has not fulfilled the objectives of Final Report of the NSW Independent Local Government Review Panel to increase the revenue raising capacity of local government authorities, particularly those in rural and remote NSW.

Clearly the removal of rate exemptions and concessions should enable councils to increase revenue rather than just resulting in a redistribution of total rate income.

Below is Council's response to the 34 recommendations contained within the Report.

Allow councils to use CIV as an alternate 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 rate category level. A council's maximum general income should not change as a result of the valuation method they choose.
Response: The recommendation is supported as it provides councils with flexibility, however the CIV must be at the discretion of Council.

2. Section 497 of the Local Government 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.
Response: The recommendation not be supported as it should remain available as an option for Council to maximise flexibility.

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.
Response: The recommendation is supported.

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.
Response: The recommendation is not supported, as Council is concerned that it could be used by other levels of government (State and Federal) to shift the cost burden of major projects back onto local communities.

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.
Response: The recommendation is supported as the current restrictions as are disincentive for councils to set rates below ratepegging. Increasing the period of time to 10 years to return to the rate trajectory provides Council with additional flexibility.

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.
Response: The recommendation is supported as it uses simpler terminology by referring to a town or village rather than a 'centre of population'. It also introduces the ability for larger councils to determine different rating structures by 'community of interest'.

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.

Response:
The recommendation is supported as the introduction of 'community of interest' does provide greater flexibility in rate setting and could be advantageous to metropolitan councils and large regional councils (e.g. Albury) that would find differentiating rates on a 'centre of population' basis almost impossible.

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.

Response:
The recommendation is supported. Whilst this recommendation is unlikely to impact Greater Hume in the short to medium term if the recommendation makes its way into legislation and it is possible to levy differential rates within a contiguous urban area, then the restrictions on the difference between the highest rate and the lowest is reasonable.

It is further recommended that a review be undertaken in 3 or 4 years to ensure that the amendment to the Local Government Act is achieving its intended outcome.

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.

Response:
Council does not support the 4 year rate path freeze, however in the event that a new Council does not use differential rating provisions within the Local Government Act, the recommendation, particularly in relation to rates of a resident not increasing by more than 10 percentage points above rate pegging in each year is sound.

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.
Response: The recommendation is supported based on the definitions provided in Table 6.1 (page 80) of the IPART report.

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.
Response: The recommendation is broadly supported. However in relation to the NSW Aboriginal Land Council rateability should still be determined on <u>use</u> rather than <u>ownership.</u>

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.
Response: The recommendation is not supported.

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)).
Response: The recommendation is 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.

Response:
No comment as has no impact on rural councils.

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.

Response:
That the recommendation is supported as its supports the principle that use rather than ownership of the key determinate of rateability.

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.

Response:
The recommendation be supported, however where Council is in receipt of information that identifies the non-exempt use, that information should also be used in determining rates payable.

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

Response:
This recommendation is not supported.

The thrust of Chapter 6 of the Final Report of the NSW Independent Local Government Review Panel (the Panel) was to strengthen the revenue base of councils, particularly councils in rural NSW. If a council's maximum general income cannot be modified as a result of any changes to rate exemptions then it is not consistent with the recommendations of the Panel and will not strengthen the revenue base of councils.

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).

Response:
The recommendation is supported.

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.
Response: The recommendation is not supported as it increases council's work load with very little, if any, benefit to the ratepayer.

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.
Response: The recommendation is not supported. However, Council would support the introduction of a model similar to Western Australia where the pensioner has the option of a pensioner concession (fully funded by the State) or a rate deferral model.

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.
Response: The recommendation is not supported as either the extent of the environmental land and/or restrictions on development would be reflected in the valuation or exempt under section 555 (3) of the Local Government Act.

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.
Response: The recommendation is supported providing the levying of a vacant land rate is optional and not mandated and can be either higher or lower than the category rate.

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.
Response: The recommendation is supported as it provides councils with additional flexibility.

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.
Response: The recommendation is supported.

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.
Response: The recommendation is supported however council does not believe that geographic location is sufficient in all instances. Additional flexibility should be included in the Act to enable reasons for sub categorisation of farmland to be outlined in Council's Revenue Policy and subject to community consultation.

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.
Response: The recommendation is supported.

Recovery of council rates

27. Councils should have the option to engage the State Debt Recovery Office to recover outstanding council rates and charges.
Response: The recommendation is supported.

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.
Response: The recommendation is supported.

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.
Response: The recommendation is not supported as the large majority of councils have a Debt Recovery Policy and a Hardship Policy which is sufficient in guiding Council staff in the collection of outstanding rates. Experience indicates that the best outcome for both Council and the ratepayer is early intervention when a ratepayer is experiencing difficulty in paying rates.

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.
Response: The recommendation not be supported as it is not necessary to amend the Act or for the Office of Local Government to issue payment option guidelines.

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.
Response: The recommendation is supported 'in principle' providing it is not mandated and at the discretion of Council.

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.
Response: The recommendation is supported.

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.
Response: The recommendation is supported, however it could lead to confusion if council rates were levied on Unimproved Value and the ESPL is levied on Capital Improved Value.

34. Councils should be given the choice to directly buy valuation services from private Valuers that have been certified by the Valuer General.
Response: The recommendation is supported.

Cr Heather Wilton

MAYOR