



11 October 2016

Dr Peter Boxall  
Chairman  
Independent Pricing and Regulatory Review Tribunal  
PO Box K35  
Haymarket Post Shop NSW 1240

Dear Dr Boxall

**Subject: Submission – Review of the Local Government Rating System**

Thank you for the opportunity to provide feedback on your *Review of the Local Government Rating System Draft Report*. At its meeting of 10 October, Lake Macquarie City Council resolved to make this submission to you in relation to that review.

In summary, we support the general intent of your proposed amendments to the local government rating system in NSW and provide specific comments on your recommendations below.

***Recommendation 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 is of the view that the method of setting rates is relatively immaterial in circumstances where rates are capped. Removal of the rate cap in NSW to return this State to the same standing as other Australian jurisdictions would provide councils with greater flexibility to deliver services that meet community expectations and willingness to pay. Council understands that review of the rate cap was not within IPART's terms of reference.

Regardless of whether rates continue to be capped in NSW, Council supports application of a common system for determination of individual rates (such as applies in NSW and QLD at present) rather than a variable system (as applied in VIC, SA, WA and TAS). Application of a common system reduces confusion for ratepayers, particularly those with landholdings in more than one local government area (LGA).

In our previous submission, we suggested that detailed modelling of the cost to produce and maintain a capital improved value (CIV) database and the impact of CIV on the development industry, compared to the current unimproved value (UV) method, would be necessary to determine the relative merits of the two methods.

We note that your draft report provides a qualitative assessment of the benefits and costs of collecting CIV information, and concludes that application of a CIV method has significant benefit. On this basis, we support the application of a CIV method. It is not clear to us under what circumstances a council would elect to continue to collect UV data (beyond the transition period to CIV), given that your

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*"Quality Lifestyle"*

Office of the General Manager - Lake Macquarie City Council

126-138 Main Road Speers Point NSW 2284 Box 1906, Hunter Region Mail Centre NSW 2310

Phone: 02 4921 0220 Fax: 02 4921 0215 Email: council@lakemac.nsw.gov.au Website: www.lakemac.com.au

Recommendation 33 is for the Emergency Services Property Levy to be based on CIV. If councils elect not to use CIV, they would be required to duplicate their effort to collect both CIV and UV datasets.

***Recommendation 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 supports your recommendation to remove minimum amounts from the structure of a rate.

***Recommendation 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 supports your recommendation for growth in rates income outside the rate cap to be calculated on a CIV basis. In Lake Macquarie City, between 400 and 1,000 supplementary valuations are calculated each year. The percentage of rates income from these supplementary valuations using a CIV method is approximately equal to the percentage of population growth in the City, and therefore more closely aligns with the cost to deliver services to our growing population.

We note that this approach reduces costs for both councils and IPART to prepare and process Special Variations to accommodate population growth. It does, however, potentially increase costs for councils to track increases in land capital value through the development assessment system, and provide this information to the valuer to inform CIV valuations.

***Recommendation 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 supports the concept of special rates for specific locations where infrastructure investment by a council (or other levels of government) provides a financial benefit to landowners through increases in amenity, economic efficiency, transport accessibility, or land value.

We support your recommendation to capture value from public investment in infrastructure through a special rate without regulatory approval from IPART. We seek further clarification about whether your intention is for this special rate to apply to the full value of public investment or only that portion that is contributed by local government.

We caution that the recommendation has the potential to further shift costs to local communities for services that are currently provided by higher levels of government, and paid for through the taxation system.

We are of the view that the special rate could apply to the full value of public investment, but that a necessary step in this process is for local communities, subject to the special rate, to be consulted about any specific infrastructure financing proposal through the Integrated Planning and Reporting framework.

***Recommendation 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 supports your recommendation for flexible rate paths to be set over a 10-year period, rather than the current two-year period. This is particularly relevant for rural communities, where capacity to pay for council services can vary widely in response to environmental conditions.

***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*

Council supports your recommendation to remove equalisation of rates over a centre of population, but considers that councils should have the capacity to set rates across a much wider range of sub-categories. For example, in our earlier submission, we proposed introduction of sub-categories based on land use zoning within the Residential and Business categories, similar to the sub-categorisation of the Farmland category. These sub-categories should be additional to your proposed separate town, village, or community of interest.

These additional non-mandatory sub-categories would provide councils with more flexibility to address equity in response to changing land use profiles across an LGA and would more effectively target changes in rates to relevant users of Council services.

***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.***

Council supports your recommendation for different communities of interest to be rated differently where they are within a contiguous urban area. However, we note that, in practice, increased use of subcategories by land use zone would be easier for councils to apply than determining rates based on access to, demand for, and cost of providing services and infrastructure.

***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 (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.*

Council supports this recommendation from an equity perspective, but notes that it is inconsistent with other recommendation(s) in relation to matching costs for services to those that receive them.

***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***

The NSW Government has not made a merger proposal for Lake Macquarie City Council. On this basis, Council considers that its views are not material to the debate on the arrangements for merging councils.

***Recommendation 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 supports application of rates to the widest possible rate base, as all landowners consume council services in one form or another. Should higher levels of government wish to subsidise the costs of land ownership for one or more sectors of the community, then a system of rate rebates, funded by that level of government, such as operates in South Australia, would be more equitable. Such a rebate system would spread the subsidy across the whole tax basis rather than a single LGA. A rebate system would also make it easier to capture the cost of rates foregone, which is currently extremely difficult to determine.

However, your recommendation to exempt land on the base of use rather than ownership, and to apply rates to the proportion of otherwise exempt land used for residential or business purposes is an improvement on the existing exemptions provided in sections 555 and 556 of the *Local Government Act 1993*.

***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 acknowledges that your proposed recommendation to limit exempt categories of land to these four is an improvement on the current 20 exempt categories of land. However, as mentioned in response to Recommendation 10, Council supports application of rates to all land that benefits from council services and infrastructure.

***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***

Council acknowledges that, from an equity perspective, public and private hospitals should receive the same rate treatment; however, as mentioned above, Council is of the view that all land that benefits from council services or infrastructure should be rateable.

***Recommendation 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 supports the removal of rate exemption from these classes of land, as these lands benefit from council services or infrastructure.

***Recommendation 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 supports the removal of rate exemption from these classes of land in principle for the reasons mentioned above; however, in practice these lands are not relevant to Lake Macquarie City.

***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 supports the principle that land should be rated based on its use rather than its ownership. Your recommendation to apply rates to the portion of otherwise exempt land that is used for a non-exempt activity is consistent with that principle, although we would prefer that it be applied to all land that benefits from council services or infrastructure.

***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.***

In principle, Council supports an opt-in approach for landowners to identify that they are using land for an exempt purpose. In practice, however, it is likely that, in the absence of any other information, Council officers would continue to apply the current exemptions to those categories of land that you propose should remain exempt. There is therefore no incentive for owners of land identified in Recommendation 11 to apply for a rate exemption. An alternative approach could be for an assessment of the rateable portion of a property conducting an exempt use to be initiated by either the landowner or the council.

***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 supports this recommendation in relation to the one-off impact of transitioning to the proposed new rating system, and notes that broadening the rate

base more equitably distributes the cost of providing services to those that receive a benefit from those services. However, we suggest that subsequent adjustments to rates for properties subject to full or partial exemption could be dealt with through the process applied for valuation objections.

***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 does not have a view about this, as we are not a water and sewer authority.

***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 is not convinced that reporting of this information is in the public interest. Ratepayers will have no capacity to change the rating system in response to this information, and it has the potential to create conflict in the community by drawing attention to those that do not make a financial contribution to council services and infrastructure. We suggest that this recommendation be excluded from your final report, as it creates work for councils for no material benefit to the community.

***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.*

Council supports the introduction of a rate deferral scheme in principle, but seeks further clarification about how the proposed system would be applied.

Although this recommendation would result in a short-term impact on Council's revenue, in the long-term it would be more equitable than the current system as the beneficiaries of the sale of land would be responsible for outstanding rates, rather than all ratepayers and taxpayers.

Councils should be obliged to report the financial implications of deferred rates to affected individual landowners on an annual basis, so that those landowners can make an informed decision about the level of debt with which they are comfortable.

In the event that the NSW Government is unwilling to support this recommendation, we support full funding of the pensioner rebate by the NSW Government, in line with the practice in other Australian jurisdictions.

***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.***

Council supports your recommendation to include environmental land as a new category of ordinary rates and rateable land. We suggest that sub-categories for environmental land be included in section 529 of the *Local Government Act 1993*, such as National Parks and Nature Reserves, Environmental Conservation, Environmental Management and Environmental Living.

It would be useful for councils to be able to separately rate portions of land used for residential and environmental purposes.

***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.***

Council does not support introduction of vacant land as a new category of ordinary of rates and rateable land. Instead, we propose that vacant land be a sub-category of the five other categories of land (farmland, residential, business, mining and environmental land).

***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*

Council supports your recommendation for councils to be able resolve which category of land is the residual category. We note, however, that a specific definition of the business category, as well as the proposed new environmental category would be required.

***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.***

Council supports the recommendation in principle, but would prefer a wider range of sub-categories, for example those based on the NSW Government's standard Local Environmental Plan template (ie Neighbourhood Centre, Local Centre, Commercial Centre, Industrial Centre).

***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.***

Council supports your recommendation in principle, but notes that, as Lake Macquarie City has little farmland, the recommendation would have limited application in our city.

***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 generally supports your recommendation, but notes that the cost to councils to service mining-related activity is not restricted only to mining properties. For example, councils accrue costs to offset mining impacts on the wider community, such as maintaining the road network used by coal haulage vehicles and mitigating impacts on the natural environment. We suggest that the recommendation be broadened to include the indirect services councils provide to offset mining impacts.

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

Council does not object to this recommendation, but notes that it is unlikely to utilise these services.

***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 supports this recommendation.

***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 supports this recommendation in principle, but notes that the majority of councils have these policies in place and there does not appear to be any direct evidence that the quality of these policies is correlated to the frequency of court action relating to unpaid rate claims.

***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 supports this recommendation, but notes that, if the provisions of the Act regarding flexible payment options are sufficiently clear, the Office of Local Government may determine that guidelines are not required.

***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, eg, via email.***

Council supports the intent of this recommendation to reduce councils' costs to issue rates notice, but suggests that penalty for hard copy notices rather than a discount for soft copy notices (with appropriate exemptions for low income households) would be a more effective way to encourage uptake of electronically distributed rates notices.

***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 supports this recommendation.

***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.*

Council supports this recommendation, but notes that if councils are required to calculate the Emergency Services Property Levy based on CIV, there is little to gain from providing councils with the flexibility to use either CIV or UV for rating purposes, as proposed in Recommendation 1.

Council also supports the harmonisation of categorisation, exemptions and administration between rates and Emergency Services Property Levy.

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

Council does not support the recommended arrangements for councils to directly engage private valuation services described in Figure 10.2. This model requires significant effort by councils to engage valuation service providers and pass valuation data through to the Valuer-General. It is not clear that this additional effort would be offset by cost savings in valuation services. The model you proposed also creates additional complexity for the Valuer-General to maintain and verify valuation standards, while being at arms-length from the contract to provide valuation services.

Should you require further information, please contact me on [REDACTED]

Yours sincerely

[REDACTED]  
**Brian Bell PSM**  
General Manager