

Muswellbrook Shire Council
Submission to IPART
Review of the Local Government Rating System

Muswellbrook Shire Council welcomes the opportunity to make a submission in relation to the Review of the Local Government Rating System by IPART and the recommendations contained therein. Council is of the view that many of the recommendations represent sensible, and in some cases overdue, reforms to the rating system but also wishes to raise a number of concerns particularly with respect to mine rating.

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's submission

Bearing in mind that rates are a form of tax based on property valuations as an indicator of capacity to pay, Council acknowledges that CIV is a better indication of a ratepayer's capacity to pay than the UV method currently used. In addition to this, if it is proposed that the Emergency Services Levy is to be based on the CIV, then it would be sensible to use this valuation consistently across all amounts shown on the rates notice.

However Council also notes that the use of CIV is particularly relevant in metropolitan areas due to the trend towards apartment developments and has less relevance in rural and regional areas. Council therefore submits that if CIV is to be introduced as a basis for rating, that Councils be provided with a choice, as IPART has recommended, and that the use of CIV is not mandated for all councils.

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's submission

Council utilises Base Amounts in its rating structure and has no plans to impose minimum rates. As such, Council has no objection to this recommendation. However, Council would support a review of the requirement that the Base Amount generate no more than 50% of the amount of rates raised from a Category. Adjustments to this base amount can be helpful in minimising the degree of variations that can occur as the result of General Revaluations especially where there are large degrees of inconsistency in valuation changes. For example, as a result of Council's last general revaluation, ratepayers were faced with changes between 2015/16 and 2016/17 ranging from 30% decreases to 45% increases. By allowing the base amount to generate a greater proportion of the rating amount and making

the calculation less reliant on the land value, Council's will have greater flexibility to minimise the degree of the change and then better transition toward the situation where rates levied on individuals can be more reliant on the land value.

Recommendation 3

The growth in rates revenue outside the rate peg should be calculated by multiplying a council's general income by the proportion increase in Capital Improved Value from Supplementary valuations.

Council's submission

Council supports the recommendation insofar as it is designed to address the situation where population growth outstrips revenue growth and the current procedure for calculating growth outside the peg results in an increase that is typically lower than the costs of servicing new residents.

However once again Council believes the recommendation is particularly beneficial for local government areas experiencing strong growth in residential apartments and less so for councils in rural and regional areas.

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 fund raised under this special rate should not:-

- *Form part of a Council's general income permitted under the rate peg nor*
- *Require Council's to receive regulatory approval from IPART.*

Council's submission

The report states on page 52 rates, "cannot be used to co-fund infrastructure or services that fall within another sphere of governments sphere of service functions, even if they benefit the local community". On the face of this, government infrastructure such as schools, hospitals, police stations etc. could be seen to fit this definition. Is it IPART's intention that local government rating be used as a form of taxation by other levels of government to fund this kind of infrastructure? Or is the intention to allow Councils to raise funds in order to fund a Council's contribution to a Council derived initiative that higher levels of government are willing to grant fund? For example, Muswellbrook Shire Council applied for and received grant funding (\$4M) for the construction a new campus for TAFE (total cost \$5.8M), in this case would Council be able to potentially raise rates to fund its contribution? Council is of the view that this recommendation needs to be further detailed before it can be supported.

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 ten year period, the Council can set rates in a subsequent year to return it to the original rating trajectory for that subsequent year.

Council's submission

Council believes this recommendation will encourage longer term financial planning. Council believes that if this recommendation is to be adopted then conversely, councils should be allowed to increase rates above the rate pegging amount provided that the Council returns to its original rate trajectory over the course of the ten year period. This would allow Council's some flexibility to be able to deal with current and pressing issues and then return to the planned rating trajectory.

For example, a Muswellbrook Shire Council could raise approximately \$230K by imposing a rate increase 2% greater than the rate pegging limit. This additional revenue could fund an increased level of special intervening roads maintenance designed to allow ongoing maintenance costs to be reduced creating an "efficiency dividend" that would allow Council to increase rates by around 0.25% less than the rate pegging amount for the next nine years.

Recommendation 6

The Local Government Act should be amended to remove the requirement to equalise residential rates by "centre of population", and set a residential rate for an area by:-

- *A separate town or village or*
- *A community of interest.*

Council's submission

Council supports the recommendation as it provides councils with more flexibility and the ability to set rates according to local conditions.

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's submission

Accepting that local government rates are a form of taxation, they should be levied in accordance with the principles that generally apply to taxation in Australia. There is no other major form of taxation in Australia that is levied in regard to demand for, access to or cost of the associated service provision. Local government rating should not be used as an exception to these principles. Instead, it should be accepted that local government services are made available equally to the whole community and should be funded accordingly.

Recommendation 8

The Local Government Act 1993 (NSW) should be amended so, where a Council uses different rates within a contiguous urban development, it should be required to:-

- *Ensure that the highest rate structure is no more than 1.5 times the lowest rate structure across all residential sub categories (so that the maximum difference for ad valorem rates and base amounts is 50%) or obtain approval from IPART to exceed 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 notices received by ratepayers.*

Council's submission

The fact that limitations are sought to be imposed indicates to Council that the view that rates should be based on demand for, access to or cost of the associated service provision does not have an overwhelming validity. If it did, no limitations would be sought. As such, this further confirms Council's non-support for recommendation 7.

Council maintains that if such a provision is introduced, justification for exceeding the maximum difference should be limited to publishing the different rates (along with the reasons for the different rates) on its website and in the rates notices received by ratepayers and not require IPART approval. This "self-assessment" approach incorporates transparency and accountability to the community and would be consistent with the approach proposed in relation to Recommendation 26 which is based on similar principles (refer to response given by IPART to a question from Muswellbrook Shire Council at the Public Hearing held at Dubbo on 10 October 2016).

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 that 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 that 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% (as adjusted for Special Rating Variations) each year as a result of this equalisation. The Local Government Act 1993 (NSW) should be amended to facilitate this gradual equalisation.*

Council's submission

Council is not impacted by this recommendation and makes no comment.

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.*
- *Ensure land used for residential and commercial purposes is rateable unless explicitly exempted.*

Council's submission

Council supports the view that rate exemptions should be based on land use and not land ownership. Council agrees that land used for residential or commercial purposes should not be exempt regardless of ownership and therefore subsidised by other rateable properties.

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 555 (o) land vested in the mines rescue company*
- *Section 556 (q) land that is leased to the Crown for the purpose of cattle dipping.*

Council's submission

Council supports this recommendation.

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's submission

Whilst this recommendation appears inconsistent with the principle that rate exemptions should be based on land use and not land ownership i.e. land used for residential or commercial purposes should be rateable, Council supports the proposal. This would treat private hospitals in the same manner as private schools and acknowledges the public benefits these institutions provide.

Recommendation 13

The following exemptions should be removed:-

- *Land that is vested in or owned by, or within a special controlled area for the Hunter Water Corporation, Water NSW or the Sydney Water Corporation.*
- *Land that is below the high water mark and is used for the cultivation of oysters.*
- *Land that is held under a lease for private purposes and is the subject of a mineral claim.*
- *Land that is managed by the Teacher Housing Authority and on which a house is erected.*

Recommendation 14

The following exemptions should not be funded by local councils and hence should be removed from the Local Government Act 1993 (NSW):-

- *Land that is vested in the Sydney Cricket and Sports Ground Trust.*
- *Land that is leased by the Royal Agricultural Society in the Homebush Bay Area.*

- *Land that is occupied by the Museum of Contemporary Art Limited.*
- *Land comprising the site known as Museum of Sydney.*

Council's submission.

For the most part Recommendations 13 and 14 do not impact on Council however, Council supports the recommendations insofar as they are premised on the principle that rate exemptions should be based on land use and not land ownership i.e. Council supports the view that land used for residential or commercial purposes should not be exempt irrespective of ownership.

Recommendation 15

Where a portion of land is used for an exempt and the remainder for a non-exempt activity, only the former portion should be exempt and the remainder should be rateable.

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's submission

Council supports this recommendation on the basis of fairness and equity and believes that it is consistent with the earlier recommendation that rate exemptions should be based on land use and not land ownership.

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's submission.

Council does not support this recommendation. IPART's recommendation that these previously non-rateable properties should now be rateable indicates that the non-rateable status that was bestowed in the cases was inappropriate. As a result, Council and the broader rate paying community has been subsidising these organisations for a considerable period of time. As such, it is only fair that Council is now able to recoup these lost revenues and provide increased levels of service to the broader community.

Recommendation 18

The Local Government Act 1993 (NSW) should be amended to remove the current exemptions from water and sewer special charges in Section 555 and instead allow councils discretion to exempt these properties from water and sewerage special charges in a similar manner as occurs under section 558 (1).

Council's submission.

Council supports the recommendation. Whereas ordinary rates are a local tax based on capacity to pay with no direct correlation between the amount levied and the degree of services accessed, water and sewerage charges on the other hand are a fee for service.

For this reason, it is considered inappropriate to have a mandatory exemption from water and sewerage rates.

Recommendation 19

At the start of each rating period, councils should calculate the increase in rate 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's submission.

Council supports the recommendation.

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's submission.

Council supports this proposal noting that rate concessions provided to pensioners is essentially a State government social welfare policy and as such should be funded by the State. Council agrees with the view that local council rates should be used for funding local services and not for funding State Government social policy.

Council also notes that NSW is the only State where the cost of the concession is shared between State and Local Government and that in all other jurisdictions the cost is met by the State Government.

Council submits that if a rate deferral scheme is not introduced, the existing pensioner concession scheme should be totally funded by the State Government for the reasons outlined above.

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 Act.

Council's submission.

Recommendations such as this one, along with recommendations 7 and 22 for example seem to be directed towards moving rates away from the principle of being a local form of taxation and more towards being a fee for service. This is a trend that Council does not support. There is very little direct correlation between access to services or the cost of servicing individuals inherent in any of Australia's major taxation methodologies. As such, it is important to maintain rating as a local tax designed to allow for the funding of local

services and not have to be related in any way to the degree of services that any individual landholder might choose to utilise.

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's submission.

Currently vacant land is required to be categorised as residential, business, farmland or mining considering the underlying zoning or the predominant categorisation of adjacent land.

Council supports the introduction of a vacant land category provided there are subcategories for residential, business, mining and farmland.

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 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 rating category.*

Council's submission.

Council supports the recommendation both in terms of allowing councils to determine which category should act as the residual category and the business category remaining as the default category if no such determination is made.

Councils are best placed to decide which type of property best fits the residual category.

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's submission.

Council supports this recommendation noting that it will enable councils to address issues where a diverse range of businesses are situated in the same centre of activity.

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's submission

Council supports the recommendation as the current provisions which allow sub-categorisation according to intensity of land use, irrigability of the land and economic factors affecting the land can be difficult to assess. Having farmland sub-categories based on

location is a simpler approach that would also be consistent with the sub-categorisation of residential and business properties.

Recommendation 26

Any difference in the rate charged by a Council to mining category compared to its average business rate should primarily reflect differences in the council's cost of providing services to the mining properties.

Council's submission.

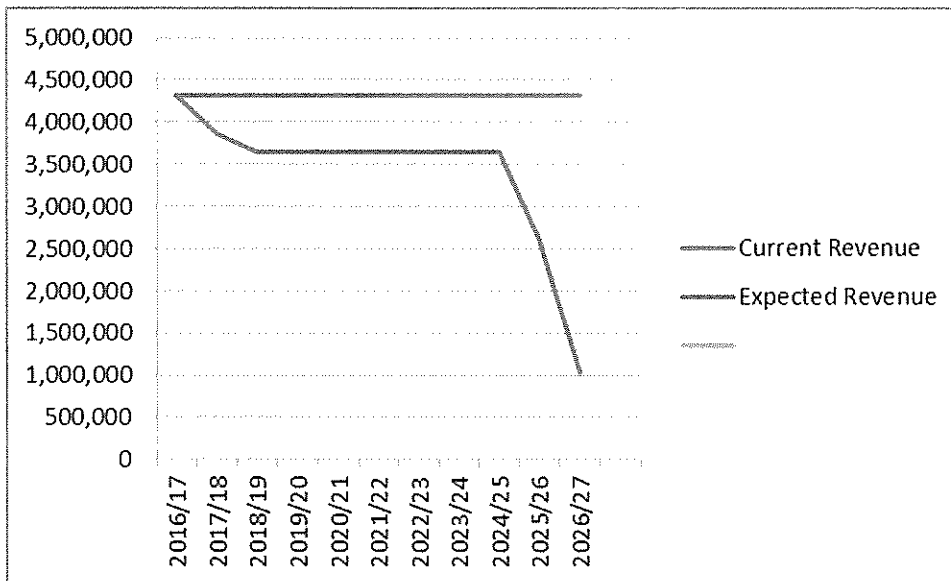
Council strongly opposes this recommendation. The Local Government Act creates a separate and distinct "Mining" category. This reinforces the view that mines are a unique activity that cannot be categorised in the same manner as other business or commercial activities. Mining can cause issues with increased road traffic in terms of size and number, air quality issues, noise related issues, disproportionate train movements through town and the social issues related to a significant proportion of employees being employed on shift work arrangements.

The recommendation also represents a departure from the long held view that rates are a form of tax based on capacity to pay and seeking to link specific rates to specific levels of service provided to specific properties is problematic.

Muswellbrook Shire Council is home to seven (7) coal mines. For 2016/17, these mines will contribute \$4.313M in rating revenue equating to 35.5% of the revenues generated from the General Fund rate. As such, it can be seen that this industry makes a significant contribution toward the financial sustainability of Muswellbrook Shire Council. This level of rating revenue that is able to be raised from this sector is based upon two (2) factors. The first is that the rate levied on land categorised as mining for rating purposes is significantly higher than that levied on the other categories. However Council's mining rate relative to its business rate is not out of step to other councils with mining properties.

The second is that land being used for mining purposes as defined in accordance with Section 14f (4) of the Valuation of Land Act attracts a significantly higher land value. As you will be aware, however, Council's overall rating is 'pegged' by virtue of section 509 of the Local Government Act (1993).

Council has sought legal advice in regard to how to calculate its General Rate Notional Amount in the event of a mine closing resulting in the land impacted being re-categorised and re-assessed at a lower value after section 14F (4) no longer applies to the land. Based upon this advice, Council has been able to forecast the impact of the closure of mines on the mining rate revenues over the next eleven (11) years based on current closure dates for a number of these mines having regard to their respective development consents and their expiry dates.



All figures on which this graph is based are calculated in 2016/17 dollars and all land values not impacted by mining are assumed to remain the same over the eleven (11) year period covered. It should be noted that the future land values used in these calculations are based on an estimate, however, the basic principle of reduced revenues and their impact is beyond doubt.

The effect of these reduced revenues will be significant and will impact on Council's long term financial sustainability. Recommendation 26 will only exacerbate this problem.

Currently, the only means by which Council could recoup these lost revenues is via a Special Rating Variation. This is a very onerous process and it could be seen as unfair to ask Council to undertake this process not in pursuit of additional revenues, but instead to maintain their current revenue levels.

It is important to ensure that Council's potentially impacted by possible and planned mine closures can be provided with a means that they can mitigate the impact of a major event such as a mine closure without having to resort to significant service level reductions or significant increases in other fees and charges. As such, Council submits that IPART consider recommending the streamlining of the Special Rating Variation process for councils impacted by the closure of a mine.

Recommendation 27

Council's should have the option to engage the State Debt Recovery Office to recover outstanding council rates and charges.

Council's submission

Council supports the recommendation provided it is indeed based on providing another option and the requirement to engage the State Debt Recovery Office is not mandated.

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's submission

This recommendation is supported. In many cases properties that are eligible to be sold to recover unpaid rates involve untraceable owners, deceased estates and the like with no likelihood of payment and the current situation allows unpaid rates to accumulate for a longer period unnecessarily.

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

Councils generally have checks and balances in their internal administrative processes, including higher level authorisation before commencing legal proceedings in any matter, and therefore Council considers this recommendation unnecessary.

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's submission

Council already offers the option of paying the whole amount or making quarterly instalment payments by the prescribed due dates. In addition Council also offers weekly, fortnightly and monthly payments by direct debit, payroll deductions, garnishee where ordered and by deduction from Centrelink payments. Council would support any changes that offer more options or greater flexibility for councils provided the changes are indeed based on providing choice and are not mandated.

Recommendation 31

The Local Government Act 1993 (NSW) should be amended to allow Council to offer a discount to ratepayers who elect to receive rates notices in electronic formats e.g. via email.

Council's submission

Council supports the recommendation provided it remains a council's choice as to whether any discount is offered.

Recommendation 32

The Local Government Act 1993 (NSW) should be amended to remove sections 585 and 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's submission

Council supports the recommendation.

Recommendation 33

The valuation date for the Emergency Services Property Levy and Council rates should be aligned:-

- *The NSW government should levy the Emergency Services Property Levy on the CIV basis when CIV data becomes available state wide.*

Council's submission

Council supports the recommendation.

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 submission

Ratepayers should be assured that the values used in the calculation of local government rates have been derived from an independent and impartial source. This is vital if rates are to be seen as a credible form of taxation. Having private valuers dependant on Council's for ongoing work and revenues could easily create the impression that Council is interfering in the valuation process. If the aim of this recommendation is to allow for greater participation in this area by private valuers, they should be appointed to Council for fixed terms in accordance with the process proposed for the appointment of auditors.

Conclusion

Council appreciates the opportunity to make a submission in relation to IPART'S review of the Local Government Rating System.

If further information is required in relation to Council's submission, please contact Council's Director Planning, Community and Corporate Services, Peter Veneris, on [REDACTED] or Manager of Corporate Services, Mr Grant O'Leary, on [REDACTED]

[REDACTED]

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14 October 2016