

11 October 2016

Review of Local Government Rating System
Independent Pricing and Regulatory Tribunal
PO Box K35
HAYMARKET POST SHOP NSW 1240

Our Ref: 2016/333949

**Submission: Review of the Local Government Rating System - Draft report
August 2016**

Please find attached a submission from Northern Beaches Council to the IPART **Local Government – Draft Report August 2016**.

Please contact David Walsh [REDACTED] if you require further information or clarification of the points made in the Submission

Yours faithfully

[REDACTED]
Mark Ferguson
General Manager

No	IPART Recommendation	Northern Beaches Council (NBC) submission
1	<p>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.</p>	<p>Supported.</p> <p>Giving councils a choice between using UV or CIV will provide flexibility to councils in relation to determining an equitable rating structure. It is thought that whichever of the methods chosen, it should apply to all rating categories and subcategories used by council.</p> <p>It is noted however that Recommendation 33 calls for the new Emergency Services Property Levy to eventually be assessed on CIV. This would either force councils to also use CIV for assessing rates, or to potentially have to use both UV and CIV. Having two different valuations on the Rates Notice will lead to ratepayer confusion, and be administratively challenging and costly to maintain.</p>
2	<p>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.</p>	<p>Not supported.</p> <p>If a council has the choice of using UV or CIV as the basis for assessing rates, then (for consistency) the choice of Minimum Rates or Base Amounts should also be available to councils when determining a fair and equitable rating structure. If minimum amounts were abolished then Council would be forced to use base amounts in order to fairly rate strata title units. Prior modelling shows that moving from a residential rating structure that is subject to a minimum amount to a base amount structure results in 70% of ratepayers forced to pay more rates (with over 25% paying more than 15% extra).</p> <p>This is contrary to IPART's desire to protect ratepayers from excessive rates and can be avoided by retaining the option to use minimum rates.</p>
3	<p>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.</p> <ul style="list-style-type: none"> - This formula would be independent of the valuation method chosen by councils for rating. 	<p>Supported.</p> <p>This recommendation supports the financial sustainability of councils.</p>

No	IPART Recommendation	Northern Beaches Council (NBC) submission
4	<p>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. The special rate should be permitted for services or infrastructure that benefit the community, and funds raised under this special rate should not:</p> <ul style="list-style-type: none"> - form part of a council's general income permitted under the rate peg, nor - require councils to receive regulatory approval from IPART. 	Supported.
5	<p>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.</p>	<p>Supported.</p> <p>The recommendation encourages councils to be more responsive to changing ratepayer circumstances due to the potential of fluctuating economic conditions.</p>
6	<p>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:</p> <ul style="list-style-type: none"> - a separate town or village, or - a community of interest. 	<p>Supported.</p> <p>This provides flexibility to councils in determining an equitable rating structure. Northern Beaches Council (NBC) has areas that fit the description of a community of interest, for example communities on Scotland Island and numerous Community Title neighbourhoods. This recommendation gives council the option to tailor a rating structure that suits these communities.</p> <p>A merged council like NBC also currently has different business rates throughout the new local government area. The Local Government Act 1993 (NSW) also currently requires council to equalise business rates after the 4-year rate path freeze. The legislation should be amended to allow councils to have the option to keep the existing business rates structures in each pre-merger area.</p>

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7	<p>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.</p>	<p>Supported, with amendments.</p> <p>The Local Government Act 1993 (NSW) should be amended to include clear definitions and guidelines in relation to a “community of interest” and around interpreting whether properties have different access to, demand for, or costs of providing services. This will ensure consistent implementation and avoid legal challenges.</p> <p>See also Item No.24 relating to the requirement to provide greater clarity in relation to “centre of activity” for the business subcategory as well.</p>
8	<p>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:</p> <ul style="list-style-type: none"> - 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. 	<p>Supported, with amendments.</p> <p>For consistency, a differential should also apply to the difference between the lowest and highest business rates.</p>

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9	<p>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.</p> <ul style="list-style-type: none"> - 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. 	<p>Not supported.</p> <p>The gradual equalisation of residential rates as prescribed will not be able to be followed given:</p> <ul style="list-style-type: none"> (1) the need to use new land values for assessing rates every three years; and (2) if council is forced to move from using minimum rates to levying base amounts. <p>Following a revaluation of the properties in a council area, the ad valorem rate for every rating category has to change significantly in order to adhere to the rate peg increase for total income. Because the change in land values from one base date to another is not consistent for every property, individual rate assessments can vary considerably. The recent revaluation of most of the NBC area resulted in residential rate fluctuations from 2015/16 to 2016/17 of between -62% and +174%. This recommendation will have little to no impact on these regular amendments to rating assessments.</p> <p>Similarly, if at the end of the 4-year rate path freeze council is forced to abandon levying minimum rates and move to base amounts this recommendation will not be able to be implemented given the substantial consequential change required to the ad valorem rate.</p>

No	IPART Recommendation	Northern Beaches Council (NBC) submission
10	<p>Sections 555 and 556 of the Local Government Act 1993 (NSW) should be amended to:</p> <ul style="list-style-type: none"> - 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. 	<p>Point 1: Not supported.</p> <p>This recommendation is not supported in its current form primarily because it would be problematic for a council to determine whether there had been any change in circumstances relating to the basis of use and thereby in the continued eligibility for an exemption.</p> <p>In regards to the first point, NBC does not agree that a property leased to a Public Benevolent Institution (for instance) but owned by an individual should be able to claim a rate exemption. Additionally, the administration of this scenario would be problematic, particularly if the lease were to be terminated and council received no notification of this, leading to the exemption continuing.</p> <p>However, if this recommendation is to be implemented then the legislation must require that the exempt lessee must provide an annual statement or confirmation of exemption in order to continue to be eligible for the exemption.</p> <p>Point 2: Supported</p> <p>Land use activities such as for residential purposes and commercial use which produce a private benefit to the resident or owner should not be exempt from council rates.</p>
11	<p>The following exemptions should be retained in the Local Government Act 1993 (NSW):</p> <ul style="list-style-type: none"> - 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. 	<p>Supported.</p> <p>These exemptions continue to generate net benefits for the community.</p>

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12	<p>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.</p>	<p>Not supported.</p> <p>Like privately owned nursing homes, private hospitals are commercial ventures. Given the public benefit component however, consideration should be given to a new subcategory of the business category, whereby a lower business rate could be levied on these properties.</p> <p>Additionally, the exemption afforded non-government schools should be discontinued. These schools include students who either live out of the area or internationally, yet they are utilising the services and resources provided by council. A change in rateability would have a very small impact on these schools when measured against annual school fees. Like private hospitals, consideration should be given to a new subcategory of the business rate.</p>
13	<p>The following exemptions should be removed:</p> <ul style="list-style-type: none"> - 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)). 	<p>Supported.</p> <p>These properties are being used for commercial purposes.</p>

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14	<p>The following exemptions should not be funded by local councils and hence should be removed from the Local Government Act and Regulation</p> <ul style="list-style-type: none"> - 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)). <p>The State Government should consider whether to fund these local rates through State taxes.</p>	Supported as a principle, given this recommendation does not apply to NBC.
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.	Supported. This recommendation is consistent with section 555 of the Act which covers similar scenarios occurring on land owned by a religious body.
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.	Supported. (As above.)
17	A council's maximum general income should not be modified as a result of any changes to exemptions from implementing our recommendations.	Not supported. Council should be able to increase their general income as a result of changes to rating exemptions. Some of the affected properties are significant residential developments, contributing to the demand on council services.
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).	Supported as a principle, given this recommendation does not apply to NBC.

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19	<p>At the start of each rating period, councils should calculate the increase in rates that are the result of rating exemptions. The information should be published in the council's annual report or otherwise made available to the public.</p>	<p>Not supported.</p> <p>Many rate exempt properties are currently unvalued in accordance with the provisions of the Valuation of Land Act. In order to implement this recommendation council would need to have all exempt land valued, involving an upfront and ongoing annual cost. The administration and cost of this recommendation does not appear to be warranted.</p>
20	<p>The current pensioner concession should be replaced with a rate deferral scheme operated by the State Government.</p> <ul style="list-style-type: none"> - 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. 	<p>Not supported.</p> <p>The recommendation removes the annual write off of part of the rates owed by an eligible pensioner. It adds to the debt of the pensioner. After a review of the level of rates owing at year end, it is considered that many eligible pensioners will be reluctant to defer payment of their rates. This effectively adds up to \$250 per annum to their assessment.</p> <p>Additionally, the deferment of rates will likely be perpetuated when deceased estates are inherited by eligible pensioners who again elect to defer payment.</p>
21	<p>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.</p>	<p>Not supported.</p> <p>Land that has development restrictions is valued less than other land and accordingly is already assessed lower rates. There does not appear to be a need for this recommendation.</p>
22	<p>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.</p>	<p>Supported.</p> <p>Currently two parcels of land with the same land value can be levied the same rate despite one being vacant land and the other developed with a residential house. This recommendation will allow councils the option to levy a different rate on the vacant land if UV is used for rating.</p>

No	IPART Recommendation	Northern Beaches Council (NBC) submission
23	<p>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.</p> <ul style="list-style-type: none"> - 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. 	<p>Supported.</p> <p>The current mandatory residual category is the Business category which can be inequitable, for example a jetty on separate title. This recommendation appears to address this issue.</p> <p>This recommendation should go further, with an amendment allowing the residual category to be selected on a case by case need. E.g. car parking spaces and storage units on separate title (both residential and business developments) need to be categorised based on the dominant development use.</p>
24	<p>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.</p>	<p>Supported, with amendments.</p> <p>This recommendation should go further, with the amendment allowing further subcategories of business and residential land, for example multi-dwelling non-strata title residential land; car parking spaces and storage units on separate title (both residential and business developments).</p> <p>The Act presently provides that subcategories of the business category may be determined according to a "centre of activity". Only limited guidance is provided in the Act as to the definition of "centre of activity" and this restricts the applicability of such sub-categories to specific geographical areas (such as an industrial estate). As a consequence a Council may have to determine separate sub-categories for each such separate "centre of activity" within its LGA rather than determining a sub-category that applies across the whole of its LGA. The definition of "centre of activity" needs to be more accurately and more practically defined within the Act to provide greater flexibility and efficiency for Councils in determining business sub-categories. Councils should be able to establish one sub-category that can be applied across multiple identical developments based on the predominant use.</p>
25	<p>Section 529(2)(a) of the Local Government Act 1993 (NSW) should be replaced to allow farmland subcategories to be determined based on geographical location.</p>	<p>Supported as a principle.</p>

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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.	Supported as a principle, given this recommendation does not apply to NBC.
27	Councils should have the option to engage the State Debt Recovery Office to recover outstanding council rates and charges.	Supported, with amendment. The engagement of the SDRO should always remain as an option for Councils and should not become mandatory.
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.	Supported. Brings the legislation in line with most other states.
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.	Supported with amendment. Rather than having two different policies, this recommendation should be incorporated into a Hardship Policy rather than having a separate internal review policy. The OLG should issue guidelines in that regard to require Hardship Policies to include this requirement.
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.	Supported. Most councils already offer payment arrangements to ratepayers when interacting with them individually.
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.	Not supported. This recommendation is proposed as a cost-saving solution. Councils still incur costs when delivering rates notices electronically. Any savings generated however would be insufficient to enable council to offer a meaningful discount. Additionally there are concerns about being able to locate ratepayers if legal proceedings are required to recovery outstanding debt.

No	IPART Recommendation	Northern Beaches Council (NBC) submission
32	<p>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.</p>	<p>Supported.</p> <p>Currently these sections provide little benefit to the ratepayer; they are difficult for the ratepayer to understand and for council to administer.</p>
33	<p>The valuation base date for the Emergency Services Property Levy and council rates should be aligned.</p> <ul style="list-style-type: none"> - 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. 	<p>Supported, with amendment</p> <p>The alignment of valuation base dates is supported. However, councils should continue to have the option to use UV for assessing the ESPL if they are using UV for assessing rates, otherwise there will be added costs and administrative burdens in carrying and maintaining both UV and CIV.</p>
34	<p>Councils should be given the choice to directly buy valuation services from private valuers that have been certified by the Valuer General.</p>	<p>Supported.</p>