REROC

RIVERINA EASTERN REGIONAL ORGANISATION OF COUNCILS

Response to the Draft Report into Review of the Local Government Rating System

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Riverina Eastern Regional Organisation of Councils
RESPONSE TO THE DRAFT REPORT
REVIEW OF THE LOCAL GOVERNMENT RATING SYSTEM

The Riverina Eastern Regional Organisation of Councils (REROC) is a strategic alliance of eleven local government bodies located in the eastern Riverina region of NSW. Originally formed in 1994 the aim of the organisation is to assist councils to operate more efficiently and effectively through working together to achieve economies of scale and scope and present a better informed and representative voice for its members.

The members of REROC are the councils of Bland, Coolamon, Cootamundra-Gundagai, Greater Hume, Junee, Lockhart, Snowy Valleys, Temora and Wagga Wagga as well as Riverina Water and Goldenfields Water County Councils. The REROC region covers an area in excess of 40,000 sq kms and a population base of approximately 140,000 people.

This submission responds to the questions raised in the Draft Report and is prepared following consultation with our member councils.

Allow councils to use CIV as an alternative 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.***

REROC supports this recommendation. However as stated in our previous submission, councils must be free to choose the valuation method they want to use. We agree with IPART's summation that providing choice will allow councils to take account of local conditions which is likely to lead to better economic outcomes.

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.***

REROC does not support this recommendation.

IPART states that using UV forces councils to rely on minimum amounts in order to recover sufficient revenue from apartments and that using CIV will render minimum amounts unnecessary. However, regional and rural LGAs cover such wide and diverse geographic areas that the valuations can fluctuate widely. The ability to use base and minimum amounts as part of the overall rating structure is an important tool in ensuring an equitable distribution of the rating burden.

The utilisation of Minimum Rates allows councils to smooth out the vagaries and inequities that will always be created through the use of a levy that is based on valuation. The capacity to levy a Minimum Rate is therefore very important to rural and regional communities.

The recommendation, if adopted, would force some rural and regional councils to use CIV which is counter to Recommendation 1, which was to give councils a choice of UV or CIV. Therefore REROC believes that where a council has chosen UV it should also be able to use a Minimum Rate.

Allow councils' general income to grow as the communities they serve grow

3. ***The growth in rate 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.***

REROC supports this recommendation.

We agree with IPART's assessment that as communities grow councils need to provide infrastructure and services to new people and businesses in a council area and therefore that revenue from rates needs to grow to allow councils to meet those needs while maintaining their financial sustainability.

We agree that if the change in CIV arising from the new development was used to calculate the growth outside the rate peg, the increase in general income would better reflect the increase in costs associated with servicing new ratepayers.

In supporting this recommendation we wish to ensure that with its adoption councils will retain the right to choose a UV or CIV approach for rating.

4. ***The LG Act 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.

REROC supports this recommendation, with the caveat that this should not provide an avenue for State or Federal governments to offset their obligations with regard to the provision of community infrastructure.

We believe that levies of this type should be used to fund infrastructure that is identified in a council's Community Strategic Plan. In this way councils can ensure that funds raised through the levy will be applied to infrastructure that their communities have identified as being of importance.

Our members are concerned that this new mechanism could be used to cost-shift State or Federal infrastructure obligations onto ratepayers. Therefore it is imperative that joint projects funded through the levy are not projects that should have been funded in their entirety from State or Federal budgets.

We are concerned by IPART's statement:

"if infrastructure built by State and/or Federal Government directly benefits the local community then a special rate could be permitted to collect revenue for this explicit purpose..."

Surely all infrastructure built by State and/or Federal Government should directly benefit a local community in addition to residents of the State as a whole and/or Australia as a country. Where the

local community is identified as the primary beneficiary of the infrastructure then the special rate should be permitted. However where the local community is a beneficiary merely because its residents are reside in the State or indeed Australia it should not be permitted.

5. **Section 511 of the *LG Act* 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.**

REROC supports this recommendation. REROC believes that councils should have complete control over the setting of rates and this includes removing rate pegging. Therefore the ability to have some flexibility around setting rates as recommended is supported.

We agree that this recommendation will increase the ability of councils to respond to community experiences such as short-term downturns resulting from drought or a fall in commodity prices while providing more time for councils to return to their sustainable long-term rates' trajectory.

6. **The *LG Act* 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.

REROC supports this recommendation. Our members agree that councils should be able to create sub-categories within the four main categories that reflect local land use circumstances. More flexibility to sub-categorise properties by type rather than by locality would provide more equitable results in distributing the rating burden. It would also address the challenges rural and regional councils which have populations spread over large geographic areas face in trying to distribute the rate burden.

We believe councils should have the flexibility to select the most efficient option to fund services and infrastructure in their LGA.

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.**

REROC supports this recommendation. As stated above our councils believe that councils should have greater flexibility in setting different residential rates including the ability to set rates that are tailored to local preferences of services and minimise any cross-subsidies.

8. **The *LG Act* should be amended so, where a council uses different residential rates within a contiguous urban development, it should be required to:**
   - ensure the highest rate structure is no more than 1.5 times the lowest rate structure across all residential subcategories (i.e., so the maximum difference for ad valorem rates and base amounts it 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.

REROC supports this recommendation. Our members agree that if this recommendation is adopted that there be a review period after 3 years in order to identify whether the suggested parameters are achieving the recommendation's intended outcomes.

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 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 for 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 *LG Act* should be amended to facilitate this gradual equalisation.

REROC supports this recommendation. REROC does not agree with the rate freeze policy, therefore we believe that merged councils should not be limited in the way that they determine their rating burden. Councils should have the flexibility to select the most efficient option to fund services and infrastructure in their LGA.

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 use for residential and commercial purposes is relatable unless explicitly exempted.

REROC supports this recommendation. Our members agree that rating should be based on the use of the land, not its ownership. This approach would support the principle of competitive neutrality by ensuring that the same land uses were rated the same way regardless of the ownership of the property.

Our members do not believe that it is appropriate that ratepayers in the LGA pay for the exemptions that are provided to organisations that are carrying on income generating activities. For example the business activities of charities and the residents of community housing create demands for council services and infrastructure, the cost of which are being met by other ratepayers.

In some instances the exempt enterprises are in direct competition with private providers, for example two nursing homes may operate side-by-side, the one operated by the private provider is paying rates, and the one operated by the registered charity is not. Only one received the exemption, yet both have comparable demands on council's services and facilities and both are competing for market share.

We do not believe that the exemptions as they currently stand meet the principles of equity, simplicity, sustainability or competitive neutrality.

11. The following exemptions should be retained in the *LG Act:*
- 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 recue company, and
- section 556(q) Land that is leased to the Crown for the purpose of cattle dipping.

REROC supports this recommendation, providing that the land is not used for commercial purposes. Land should be rated on use not on ownership.

Therefore the land used for a religious body must be used for religious purposes only, such as a church or a church residence that is used for residential purposes by persons that are directly working in the church. Land vested with a NSW Aboriginal Land Council should only be exempt if it is not used for a commercial purpose such as farming or other business activities.

12. Section 556(i) of the *LG Act* should be amended to include land owned by a private hospital and used for that purpose.

REROC does not support this recommendation. IPART has made this recommendation based the view that private hospitals serve the same essential purpose as public hospitals. Our members do not agree with this view.

Many private hospitals are now operated by private enterprise and not charitable organisations, as was once the case. In addition most private hospitals do not offer Accident and Emergency services which sets them apart from public facilities.

Our members would support private hospitals that are run by registered charities being exempt from rates; all other private hospitals should pay rates.

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 (*LG Act 1993* section 555(h))
- land that is held under a lease from the Crown for private purposes and is the subject of a mineral claim (*LG Act* section 556(g)), and
- land that is managed by the Teacher Housing Authority and on which a house is erected (*LG Act* section 556(p)).

REROC supports this recommendation. Our members agree with IPART's assessment that the land is being used for commercial or residential purposes and therefore should be rateable. In supporting this recommendation we also note that the water county councils in our region are currently paying rates.

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 (*LG Act* section 556(m))
    - land that is leased by the Royal Agricultural Society in the Homebush Bay area (LG (General) Regulation 2005 reg 123(a))
    - land that is occupied by the Museum of Contemporary Art Limited (LG (General) Regulation 2005 reg 123(b))
    - land compromising the site known as Museum of Sydney (LG (General) Regulation 2005 reg 123(c))

REROC supports this recommendation. Our members believe the above organisations provide valuable services to the community; however we agree that local councils should not be funding their exemptions from rates.

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.**

REROC supports this recommendation. Land should be rated on use not on ownership, therefore where land is used for a non-exempt purpose it should be rated.

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.**

REROC supports this recommendation; however we question how this will work in practice. Councils will not be in a position to "police" this arrangement nor is it likely that the rate revenue derived as a result of the implementation of this recommendation is likely to be sufficient to meet compliance costs.

In addition councils may find that the adverse publicity that arises from attempting to enforce this recommendation outweighs the benefits of the income.

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

REROC does not support this recommendation. There is no question that rate revenue in regional and rural areas is insufficient to meet the increasing demands on councils. This together with their limited capacity to generate own-source income means that it is imperative that the removal of exemptions results in an increase in the maximum general income for rural and regional councils.

We do not agree with IPART's assessment that councils should not receive a "one-off permanent increase or decrease in their income" as a result of the recommendations. Our councils question the point of removing the exemptions if it does not result in an increase in income.

18. **The *LG Act* 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 similar manner as occurs under section 558(1)**

REROC does support this recommendation. Our members agree that councils should have the discretion in relation to levying these charges.

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.

REROC does not support this recommendation. While our members see that the publication of this information would provide much greater transparency in relation to the exemptions it would involve substantial work and cost to councils.

Each parcel of exempt land would have to be valued and classified in order to determine the value of the exemption. Printing the information in annual reports could result in the production of substantial amounts of data. Our members do not believe there is an appetite for this information amongst ratepayers.

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.

REROC supports this recommendation. REROC believes that the pensioner concession is a form of welfare assistance and consequently the cost of the concession should be 100% met by the State Government. We support this recommendation because it removes the burden of funding this State-legislated payment from councils to users. However, our members remain concerned that it may cause confusion for older Australians and therefore be inconsistent with the taxation principles of simplicity and sustainability.

REROC recommends that in addition to providing pensioners with the option to defer their rates they should also be able to choose to take up a pensioner rebate, which is fully funded by the State Government. We believe many older Australians would be comfortable with the option to pay-as-they-go providing they also received a rebate for doing so.

Provide more rating categories

21. Section 493 of the *LG Act* should be amended to add a new environmental land category and a definition of 'Environmental Land' should be included in the *LG Act.*

REROC supports this recommendation. Our members agree that this land category should be included in the *LG Act.*

22. Sections 493, 519 and 529 of the *LG Act* should be amended to add a new vacant land category, with subcategories for residential, business, mining and farmland.

REROC supports this recommendation. Our members agree that this land category should be included in the *LG Act.*

23. Section 518 of the *LG Act* 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.

REROC supports this recommendation. Our members agree that councils should have the power to determine which rating category will act as the residual category, further we agree that the default residual category should be the Business category.

24. Section 529 (2)(d) of the *LG Act* should be amended to allow business land to be subcategorised as 'industrial' and or 'commercial' in addition to centre of activity.

REROC supports this recommendation. Our members believe it is appropriate to allow councils to use sub-categories for business land and that business land which does not meet the definition for industrial activity should be categorised as "commercial". Our members agree with IPART's proposal that the definition of industrial activity should be drawn from the *Standard Instrument – Principal Local Environment Plan* as this will provide consistency with local planning instruments.

In addition we note that this approach is consistent with the proposed Emergency Services Property Levy.

25. Section 529 (2)(a) of the *LG Act* should be replaced to allow farmland subcategories to be determined based on geographic location.

REROC supports this recommendation. We believe that councils should be able to create sub-categories within the four main categories that reflect local land use circumstances. More flexibility to sub-categorise properties is, we believe, of particular importance to merged councils which have much larger geographic areas to cover as result of mergers.

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.

REROC supports this recommendation.

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

REROC supports this recommendation. We support this recommendation providing that it remains an "option" for councils and is not mandated.

28. The existing legal and administrative process to recover outstanding rates should be streamlined by reducing the period of time before the property can be sold to recover rates from five years to three years.

REROC supports this recommendation. Our members agree that that the sale of land provisions should be reduced from the current five years to three years in arrears. This would better reflect the time it takes to exhaust all other avenues of collection and it would also reduce the ratepayer's level of indebtedness before the sale of the asset.

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.

REROC does not support this recommendation; our members believe that this recommendation is not necessary. Our member councils already have Debt Recovery and Hardship policies in place. We believe the addition of an internal review policy will create another layer of policy that is superfluous because the two that are already in place address the issues raised by IPART.

30. The *LG Act* should be amended or the Office of Local Government should issue guidelines to clarify that councils can offer flexible payment options to ratepayers.

REROC does not support this recommendation. Our members agree that the *LG Act* should be modified to provide clarity in relation to the ability of councils to offer flexible payment options. The amendment should reflect the practices that most councils already have in place to deal with this issue.

We do not believe it is necessary for the OLG to provide guidelines, providing the *LG Act* is clear as to what councils are able to do then the production of an additional guideline would be superfluous.

31. The *LG Act* should be amended to offer a discount to ratepayers who elect to receive rates notices in electronic formats, eg via email.

REROC supports this recommendation; this is only supported on the basis that the Act be amended to allow councils to offer a discount. Councils should be able to choose whether or not this is an appropriate action for their operations. The provision of a discount if rates notices are sent by email must not be mandated by legislation.

32. The *LG Act* 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.

REROC supports this recommendation, our members agree with IPART's assessment that the recommendation would simplify the rating system by reducing councils' administrative burden, provide a better incentive to develop land and ensure a more equitable distribution of the rating burden.

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.

REROC supports this recommendation. Our councils are concerned however that this approach may force councils into using the CIV rather than UV. This seems to be counter to the recommendations that support councils having the power to choose their rating method and be provided with greater flexibility in rating. We are unsure how this will work when there is a mismatch between council using UV and the ESPL using CIV, particularly as the Levy will appear on council rate notices.

Other Recommendations

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

REROC supports this recommendation. Councils should have the option of using private valuers who have been certified by the Valuer General. We agree that it is important to ensure the integrity of the data and to achieve efficiency in the valuation process. Therefore we believe that the Valuer General should set agree standards for the valuation service and maintaining a data base of valuations as well as put into place a regular audit of private valuers to ensure they are complying with the required standards.