

Review of Local Government Rating System  
Independent Pricing and Regulatory Tribunal  
PO Box K35  
Haymarket Post Shop NSW 1240

12<sup>th</sup> October 2016  
Ref: D16/319537  
02 4429 3322

To whom it may concern

Please find attached Shoalhaven City Councils response to the recommendations on the review of the Local Government Rating System

Feedback in terms of the 34 draft recommendations which have come out of the Draft report on the Local Government Rating System, are below. Where Council is in agreement with the recommendation – minimal comment is made. Where Council thinks there are other issues to consider, comments have been made to state Councils position.

#### **Recommendations**

1. Councils would be able to choose either the Capital Improved Value, based on its market value (ie land value plus capital improvements) or Unimproved Value method to set a property's rates. A council's maximum general income should not change as a result of the valuation method they choose.
  - a. This recommendation is in line with Councils Submission to the review and is a much more equitable approach
  - b. It caters for undeveloped land, strata property and multi-story building issues
  - c. However may impact on investment within the Local Government area, as rates increase when capital constructions are carried out.
  - d. AGREE
  
2. Minimums amounts should be removed from the rate structure, as councils would have the option to use CIV there would be no need to retain this fixed rate component in the system. 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.
  - a. Council does not currently utilise Minimum rates and therefore is not impacted by this recommendation

- b. Given the changes to the Valuation method and also the inclusion of new categories for land, this inferior method of recovering fixed costs would no longer be required.
  - c. It will simplify the rating structure
  - d. AGREE
3. Councils' general income would increase (outside the rate peg) in line with the growth in CIV which arises from new development in their area. 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.
- a. This would allow rates to increase to match costs of new development
  - b. Councils Income would increase in line with the increase in rateable properties
  - c. Would not impact on rates per household
  - d. Special Rates would only be required when increases in service levels are required or for major infrastructure projects
  - e. AGREE
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, nor
  - Require councils to receive regulatory approval from IPART
- a. More information is required on how this would work and what would be required if not a Special Rate Variation.
  - b. AGREE in principle
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.
- a. This would increase flexibility in setting rates and effectively increase the catch-up period to be 10 years rather than a 2 year period.
  - b. AGREE
6. Council's would have the option to set different residential rates to reflect differences in access, demand or costs across their area. 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
  - a. This recommendation is in line with Councils Submission to the review and is a much more equitable approach, particularly for Merger Councils
  - b. It allows for different residential rates for new developments as opposed to established suburbs or for different levels of service in disparate villages.
  - c. AGREE
  
- 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. New Councils, formed by the recent mergers, would also be able to choose to keep existing rate structures where there are different communities of interest, or equalise residential rates and transition to the new rates over time.
  - a. This was highlighted as an issue as part of Councils submission, so this approach will allow a smoother transition for merged councils
  - b. AGREE
  
- 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.
  - a. Council sees no issue with this recommendation
  - b. AGREE
  
- 9. At the end of the 4-year rate path freeze, new councils should determine whether any pre-merger areas are separate towns or villages, or different communities of interest.
  - In the event that a new council determines they are separate towns or villages, or different communities of interest, it should be able to continue the existing rates or set different rates for these pre-merger areas, subject to metropolitan councils seeking IPART approval if they exceed the 50% maximum differential. It could also choose to equalise rates across the pre-merger areas, using the gradual equalisation process outlined below.
  - In the event that a new council determines they are not separate towns or villages, or different communities of interest, or it chooses to equalise rates, it should undertake a gradual equalisation of residential rates. The amount of rates a resident is liable to pay to the council should increase by no more than 10 percentage points above the rate peg (as adjusted for permitted Special Variations) each year as a result of this equalisation. The

Local Government Act 1993 (NSW) should be amended to facilitate this gradual equalisation.

- a. Shoalhaven City Council are not affected by this recommendation
- b. AGREE in principle

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.
  - a. This is a good start to correcting the inequities currently in place around exemptions, both result in private benefit and therefore should not be eligible for exemptions at all
  - b. A pro-rata approach to rates is a fairer model
  - c. We need further clarity around Defence and the types of activities they carry out on currently exempt land, these activities can have a detrimental impact on council services and there is no recovery, resulting in higher rates for all other rate payers.
  - d. Making non rateable properties now rateable should be reflected in an overall increase in Council income, rather than having to be built in with no increase, resulting in a reduction of rates to all other ratepayers.
  - e. AGREE to part of the recommendation but there are specific areas which are still unclear and the restriction on an increase to the Councils income should not be part of the 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.
  - a. Section 555(g) applies only to vacant land so should not apply to land that is being used for a commercial or residential purpose.
  - b. AGREE

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.

- a. Agree to this change, as long as the land used is not for commercial purposes, if however the land is used for Commercial purposes than it should be rateable.
- b. Clarity may also be required for Nursing Homes linked to Private and Public Hospitals.
- c. CLARITY required.

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))
    - a. Shoalhaven City Council does have some oyster leases that would be rateable if this exemption is removed
    - b. AGREE
14. The following exemptions should not be funded by local councils and hence should be removed from the Local Government Act and Regulation
- Land 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.
    - a. Shoalhaven City Council are not impacted by this recommendation.
    - b. AGREE
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.
- a. This was part of Shoalhaven City Councils submission
  - b. Clarity around how will this be audited
  - c. AGREE in principle
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.
- a. More detail is required on appeals to assessments/audits.
  - b. Clarity required around the method of self-assessment and how this will work.
  - c. AGREE in principle

17. A Council's maximum general income should not be modified as a result of any changes to exemptions from implementing our recommendations.
- a. The recommendation includes a statement that "Removing some exemptions means that rates would go down for ordinary ratepayers"; however if exemptions increase one would assume that rates would go up for ordinary ratepayers, is this correct.
  - b. Council's position is that regardless of changes in categories the current base rate and ad valorem would not change and any changes to rateability would be picked up in either less revenue or additional revenue.
  - c. DISAGREE with this
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).
- a. No issues from a Shoalhaven Water perspective
  - b. AGREE
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.
- a. To allow this to be calculated we would need to maintain a register to record the land values of the exempt properties along with the rating category applicable if there was no exemption.
  - b. This will increase the administrative burden
  - c. DISAGREE
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.
- a. This recommendation needs more information on how this scheme would operate ie:
    - i. Clarity around who would be responsible for what components and when these concessions would be "reimbursed" is required?
    - ii. In which books will the interest from deferred rates sit?
    - iii. The draft is unclear whether the reference to 'liability' is the State Government or Council. Will the State be providing payments of the deferred rates to councils or will they simply be paying interest? Or is the interest to be charged

to the pensioner or Council? If the State does not pay Council the amount of the deferred rates what happens to the interest charged by Council?

- iv. Would this information then need to go on the Section 603 certificates, as it will ultimately be a debt to the property?
  - v. How will this debt be communicated from the Office of State Revenue to Council
  - vi. This would slow the Section 603 certificate process down considerably
  - vii. Would/could this be managed by a caveat on the property?
- b. From a Water perspective, the recommendation has not made reference to the water and sewer concession. As water and sewerage charges are directly necessary for the provision of this essential service, it is not recommended that it be treated in the same manner as the general rate.
  - c. Submissions to the LG Act review have previously been made to alter the method of calculating the concession for eligible pensioners in respect of water and sewerage charges. The concession available being allowed on the basis of 50% of a charge should be removed to ensure the concession can be applied efficiently and in a manner understood by concession holders.
  - d. AGREE in principle to the NSW Government fully funding the rebate scheme but further detail required, particularly with regards to impacts on Council's cash flow and operating result.

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.

- a. This would replace the "Residential – Non Urban" category which Council currently has in place
- b. This would allow a reduced charge against this land, the use of which is restricted.
- c. AGREE with the change

22. Section 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.

- a. As part of Council's submission it was highlighted that there was a need for a vacant land category
- b. However Council did raise issues of speculative holding of land by developers, if they had lower rates for vacant land ie this may lower development
- c. However if rates on vacant land are made higher it might encourage development and urban renewal but is not consistent with taxation principles when assessing the level of council services provided. As per the recommendations guidelines should be introduced to ensure these rates are not excessive.
- d. AGREE in principle but very aware of the implications for ratepayers and getting the balance correct.

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.
- a. At present the business category acts as the default location for all properties difficult to classify.
  - b. Most of these properties fall into the definitions of jettys, burial plots etc
  - c. The introduction of choice will allow greater flexibility
  - d. The introduction of a vacant land sub category will assist in this area more than a choice of residual category.
  - e. AGREE in principle.
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.
- a. This was covered in Council's submission, particularly with regard to the current restriction of having to use a "centre of activity" for subcategorization
  - b. This will assist with equitable allocations based on the level of service provided in the two different types of business activities.
  - c. AGREE
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.
- a. Council had not requested changes in this area in its submission, as this level of subcategorization is not required
  - b. A further categorisation by geographic area may assist if like farming enterprises are centred around different locations but this may not always be the case
  - c. A subcategorization based on farmland type might be a better indication of intensity of usage eg dairy farmers, wineries etc
  - d. NOT REQUIRED
26. Any difference in the rate charged by 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.
- a. No mining properties in the Shoalhaven, so Council are not impacted
  - b. AGREE in principle

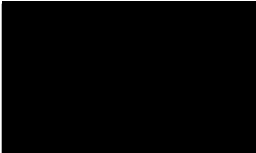


27. Councils should have the option to engage the State Debt Recovery Office to recover outstanding council rates and charges.
- a. It is unclear how this would operate in practical terms
  - b. There are some concerns about the recovery rate of 75% of all debt through the SDRO, Council currently recovers 94.5% of all debt
  - c. How would this debt be transferred or will factoring arrangements be put in place?
  - d. There are substantial volumes of debt which council currently chases up, what would be the cost if these debts were transferred to the SDRO, or would this all be recovered as part of the debt?
  - e. What time limit would be put in place before a debt would be transferred to the SDRO?
  - f. What would be the mechanism to ensure that debts with the SDRO are shown as part of the Section 603 process and recovered when properties are sold.
  - g. When the SDRO negotiates flexible payment plans will they take into consideration that instalments fall every 3 months. Council would not want an extended payment period which would then lead to the ratepayer accruing more overdue rates and again be subject to debt recovery action.
  - h. The idea is worth considering but does need more detail to allow Councils to make an informed decision.
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.
- a. AGREE – this would improve recovery times for outstanding rates
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.
- a. Councils Hardship Policy does allow ratepayers to apply for hardship and put payment plans in place to pay off outstanding Debt
  - b. Council will not take any further action if payment plans are maintained
  - c. Council will waive interest if payment plans are met
  - d. Council has a hardship committee which reviews any hardship applications and what plans are put in place for payment
  - e. This committee always takes a lenient view to ratepayers who are genuine in terms of their circumstances.
  - f. DISAGREE – the internal review policy should be part of the Hardship and Debt Recovery Policies
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.
- a. Clarity around the Local Government Act 1993 (NSW) would be beneficial

- b. Council does currently offer flexible options to ratepayers, but it would be good if this were consistent with the Act or Local Government Guidelines.
  - c. It would also be beneficial for all other payment options and garnishee arrangements to be covered in the LG Act.
  - d. AGREE
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.
- a. This would result in a saving to Council of approximately \$4 per ratepayer, so any discount offered would be minimal
  - b. Clarity around issuing electronic notices needs to be covered as part of the Local Government Act 1993 (NSW) review. Particularly where services such as BPay View are used. This service sends an SMS or email advising a bill is available to be paid and the ratepayer needs to login to their internet banking portal to download the rate notice.
  - c. Amendments are required in relation to requests in writing to commence or withdraw the electronic delivery of notices. Most systems in place at the moment seem to allow the ratepayer to opt in or out of the service electronically.
  - d. AGREE, but perhaps not enough incentive for individual ratepayers to change to electronic notices, an alternative may be to charge more for paper notices, as is the case with Telstra
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.
- a. This would decrease administrative burden of Council
  - b. AGREE
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.
  - a. Levying at a different time would be confusing for ratepayers
  - b. It would add additional costs of sending out separate notices, it just makes sense to align the two dates.
  - c. Councils need clarity around whether the Capital Improved Value or the Unimproved Land Value will be used. This will need to be flexible in the Act.
  - d. AGREE
34. Councils should be given the choice to directly buy valuation services from private valuers that have been certified by the Valuer General.

- a. This is in line with Councils submission to the review
- b. Valuation services need to be accredited and align to the Valuer Generals approach for consistency
- c. AGREE

Regards



Pamela Gokgur

Chief Financial Officer