

Review of the Local Government Rating System NSW
Local Government – Draft Report August 2016

Independent Pricing and Regulatory Tribunal IPART



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Introduction

As part of the restructure of local government NSW, the rating system, structure of rates and the baseline on which rates are assessed are under review as part of the local government amalgamation initiative. While it is possible to provide commentary on individual points, the circumstances that apply to rating systems within existing and proposed local government areas will vary geographically, demographically and economically.

Rating reforms will require a number of options to be made available to local government and what may be suitable for one local government may not be the best fit for all. To this end, facilitation in the transition phase of the rating system will be iterative and the key areas for reform among other considerations are the bases of value on which rates are assessed, exemptions and concessions with particular reference to the aging population over the next 15-20 years.

Bases of value, public awareness and transparency of information

There is choice under IPART's Draft Report Findings and Recommendations for councils to adopt the basis of value that best suits the assessment of rates in respective local government areas. The option for councils to retain Land Value (LV) or adopt Capital Improved Value (CIV) is a progressive step for reforming the base on which rates are assessed.

The option for councils to adopt either basis of value should not be cast solely within the context of the units versus house debate, as this is just one example of the potential distortive outcomes of continuing with land value as the base of rates as a tax in high urbanised locations. The need to ensure property is rated on value and not minimum rates is but one example of the need for an alternate bases of value.

Outside the focus of residential property, the perverse determination of unimproved value of commercial and retail use land is best demonstrated in Queensland,¹ being the only other state that retains a single basis of value for assessing rates, now known as Site Value. The ability to produce land values in highly urbanised locations and in particular of non-residential property was demonstrated a decade ago in NSW² to which improvements were made to the valuation system. However, Land Value is again become redundant in many parts of the Sydney basin, where a large proportion of rate revenue is raised.³

The Valuer-General plays a continually important role in the oversight of the valuation process. This oversight must continue regardless of whether valuations are undertaken by the Valuer-General or by individual councils that choose to contract direct with accredited rating and taxing valuers. The role of the Valuer-General while independent, must lead the way in facilitating valuation bases that meet the principles of 'good tax design' and underpin the integrity of the rating system in NSW. To this end, the Valuer-General and Land and Property Information Services must be adequately funded and financially de-siloed from their existing valuation commitment.

The Valuer-General must be adequately resourced both financially and logistically in expanding their role through the introduction and or oversight of the introduction of CIV where councils choose to directly engage accredited statutory valuers. To this end, the time exists for the review of rating and

¹ *PT Limited & Westfield Management Limited v The Department of Natural Resources and Mines* [2007] QLAC 77

² NSW Ombudsman, *Improving the quality of land valuations issued by the Valuer-General* (2005).

³ Mangioni, V. 2016 *Land Tax in Australia: Fiscal Reform of Subnational Government*, Routledge Abingdon and New York.

taxing valuation tendering process and the frequency of the valuation cycle.⁴ The additional funding needed by the Valuer-General should be supported by state government as part of the Fit-For-The-Future funding available for the reform of local government. Councils should not be deterred from adopting CIV where they choose this basis of value due to costs associated with the valuation process.

Rates are a value based tax and local government awareness, understanding and ability to convey how values are determined underpins the integrity of the rating system in NSW and aligns with the tax principles of simplicity, transparency and equity. To this end a standard form of reporting to ratepayers of how values are determined and rates are assessed will need to be adopted across NSW.⁵

This requirement should be available in the information accompanying rate notices and online in an easily accessible location on council's webpage. Further, each year in a simple spreadsheet, each council should publish the following information on their rates which should be made a requirement included in the rating provisions of the Local Government Act:

1. A list of the land use categories that rates are assessed on across a local government area.
2. The rate-in-the-dollar applied to the values in each of the categories across a local government area.
3. The total revenue raised from rates across a local government area.
4. The rate revenue raised from each land use category and sub-category across a local government area.

In the case of a vacant land or an unused land use category being adopted, councils should be able to demonstrate the rationale for applying a higher rate-in-the-dollar to this category where demand exists for bringing unproductive land into production. This will be synonymous with the valuation process which should define the highest and best use of the land when determining each bases of value.

The concession and deferment scheme

The review of the rating system is about facilitating options for local government and their communities that account for the social, economic, demographic and geographic factors that differentiate councils across NSW, while driving reform. The and / or option of concessions and deferment is an important reform that councils are best placed to decide upon. The ability for pensioners to be able to defer rates above a defined threshold funded by the state is an important reform that councils should be free to adopt. It is noted that not all councils would adopt a rate deferral scheme while others might. Councils that do not use this option at present, may in the future find that this option may work for their communities.

The temporal and evolving population changes across NSW over the next 20 years underpins the rationale for councils to be given the option of adopting a rate deferral scheme funded by the state. The examples in the Draft Report provides the breadth of options across Australia, with deferral of rates an option in three jurisdictions. As more Australians choose to retire in their homes and bring in assistance if needed, the incentive to assist retirees and councils in facilitating residents who wish

⁴ Ibid, Pg 322.

⁵ Mangioni, V. 2011, 'Transparency in the valuation of land for land tax purposes in New South Wales', *eJournal of Tax Research*, vol. 9, no. 2, pp. 140-152.

to take this path has never been greater. While there are conceptual challenges in accruing a financial obligation against the home, the practical dimension is a progressive optional reform.

Better targeting of exemptions

As is the case in the assessment of state land tax, the ability to better define and target mixed use land that warrant a rating component is achieved through statutory provisions⁶ with great effect. A question arises as to which use should be rated where a particular use is ancillary to the primary use that is exempt. In the case of housing that is an adjunct use to a primary use that is exempt in highly urbanised locations, is but one example that warrants councils having the option to impose rates. This is particularly relevant in locations where there are acute housing affordability challenges, of which these challenges are further exacerbated by tax concessions.

Councils should be given the option to impose rates on such uses and where necessary, apply a means test of which the onus is on the exempt entity to show why the tax concession is justified. There is no blanket justification for exemptions under the principles of 'good tax design' that does not call to account an exempt entity from justifying its exemption across ancillary uses that utilise the public benefit provided by a council. The benefits provided through the exempt primary use land to the community should attract the rate exemption. As ancillary uses evolve, the primary exemption cannot extend to an ancillary use without scrutiny and review by local government.

Conclusion

Local government rates are a tax, and the challenge in the reform of any tax system is in the transition and options for reform. The strength of the IPART review of the NSW Rating System is the availability of options in reforming key areas that will steer the rating system in NSW and financially contribute to the reform of the Australian federation. The transition over the next five years is complex and the facilitation of change will need to be adaptive in catering for the potential factors that cannot yet be predicted. The flexibility available to local government set out in the options in this review, gives considerable control in shaping and strengthening their fiscal and financial future. This said, responsibility also rests with state government in facilitating reform through financial support in the transition phase.

⁶ ss14X-14Y Valuation of Land Act 1916, Mixed Development Apportionment Factors.