

The Office of the General Manager

11 October 2016

IPART
PO Box K35
Haymarket Post Shop
NSW 1240

To Whom It May Concern

RE: Review of Local Government Rating System – Draft Report

I refer to the above and advise that at its meeting on 10 October 2016, Council was presented with a report on the *IPART Review of The Local Government Rating System Draft Report* and:

1. Endorsed the lodging of a submission on the IPART Draft Report based on responses outlined within the list of draft recommendations and the body of the report and
2. Delegated authority to the General Manager to finalise the submission

Please find a copy of both the Council Report and the list of draft recommendations as Council's submission to the Draft Report.

Any enquiries should be directed to Council's Chief Financial Officer, Mark McDonald, on

Yours sincerely



Debra Just
GENERAL MANAGER

16.7 SUBMISSION TO THE IPART NSW LOCAL GOVERNMENT RATING REVIEW

ATTACHMENTS:	1. IPART REVIEW OF THE NSW LOCAL GOVERNMENT RATING SYSTEM DRAFT REPORT (LINK: DRAFT REPORT AUGUST 2016) 2. RECOMMENDED SUBMISSION
RESPONSIBLE OFFICER:	MARK MCDONALD – ACTING CUSTOMER & CORPORATE DIRECTOR
AUTHOR:	MARK MCDONALD – ACTING CUSTOMER & CORPORATE DIRECTOR
CITY STRATEGY LINK:	6.1.1 A COUNCIL THAT IS OPEN, ACCOUNTABLE AND REPRESENTS ITS CONSTITUENTS
MEETING DATE:	10 OCTOBER 2016

Purpose of Report

To seek Council's endorsement of a submission on the recommendations outlined within the Independent Pricing and Regulatory Tribunal (IPART) Draft Review of the NSW Local Government Rating System.

Background

At the Council meeting on 9 May 2016 (Item 16.2 IPART Review of the Local Government Rating System Issues Paper), Council was advised that IPART was undertaking a review of the NSW Local Government Rating system and had published an issues paper which invited interested parties to provide submissions by 13 May 2016.

The aim of the review was to recommend reforms to improve rates efficiency and equity to ensure councils can implement sustainable fiscal policies over the longer term.

The Terms of Reference provided to IPART by the Premier also included that it:

- Recommend a legislative or regulatory approach to achieve the Government's policy that there will "*be no change to the existing rate paths for newly merged councils for four years*".

A response to the 23 questions raised by IPART was prepared by staff and attached to the 9 May 2016 report whereby Council resolved to:

1. "*Endorse the lodging of a submission on the IPART Issues Paper based on responses outlined within Attachment 2 and the body of this report and*
2. "*Delegate authority to the General Manager to finalise the submission.*"

Discussion

In August 2016, IPART released its Draft Report of its Review of the NSW Local Government Rating System.

The Report sets out 34 Draft recommendations and has called for submissions by 14 October 2016.

Staff have addressed each of the recommendations within the submission and the following information provides Council with a sample of a number of key recommendations and the relevant response.

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.*

Response:

- Council agrees with the introduction of CIV for levying rates. Rates levied on a CIV would be more realistic for units and would be better understood by ratepayers. This would provide more equitable rating for units and would mean that a 3 bedroom unit in say Chatswood would pay more than a one bedroom unit in Artarmon. CIV would also be more reasonable for rating small pieces of land ie boat jetties and single car spaces. Council understands that there will be an initial cost involved in moving to CIV.

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.*

Response:

- Council agrees with the removal of minimum rates provided that CIV is introduced. Without CIV, base rates would not work in a high rise metro council. Rates on lower Land Values (LV's) ie high rise penthouses would fall, as would properties with higher valuations. The increase would be for mid-range properties resulting in inequities if the CIV isn't also introduced.

Recommendation 3:

- *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. – This formula would be independent of the valuation method chosen by councils for rating.*

Response:

- Council agrees. Council has previously increased minimum rates in order to achieve the growth in income required to service the increased numbers of households.

Recommendation 6:

- *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.*

Response:

- Council agrees. This would allow Council to have different residential rates within a contiguous area, depending on demand or cost of providing Council services.

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 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.

Response:

- Council agrees. This protects the ratepayer from any large increases as a result of a merger and also affords council more choice and flexibility in its rating structure. Council can apply to increase the differential to reduce the equalisation period.

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

Response:

- Council agrees with this proposal. Council is required to provide the same services with the same resources should a property used for residential purposes become non rateable. The burden of additional rates should not be transferred to the remaining ratepayers.
- Properties that become rateable as a result of this proposed amendment are retirement villages and social housing owned by Public Benevolent Institutions (PBI's). In NSW the State government has been transferring ownership of its social housing to PBI's who qualify for exemption for rates, whereas the NSW Housing Department is rateable. This is a more equitable treatment.
- Private schools would remain exempt from rates in the proposal. However, houses purchased for residential use by teachers etc should become rateable.

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.*

Response:

- Whilst it is considered that the proposed introduction of a state funded deferral scheme for pensioners has merit and would align NSW with other states systems such as in Western Australia and South Australia, Council has queries as to the actual process and the impact it may have on some pensioners who elect to pay their annual rates in full rather than to defer a portion to their estate.
- In addition Council is unsure of the benefits to pensioners in rural areas accruing debts against their land compared with possibly low annual growth in the value of their property.
- The report does not address the circumstance where a pensioner leaves a property with the liability then becoming a State rather than a Council matter.
- It is suggested that this item needs further discussion and clarification prior to the abolishment of the current system.

Council's Revenue Manager attended an IPART Forum on 19 September 2016, which provided an overview of its draft findings and invited comment.

Submissions close on 14 October 2016.

IPART will provide a Final Report to the Minister for Local Government in December 2016.

Financial Implications

The IPART review, and subsequent Ministerial decision on the NSW Local Government Rating system, will have a potentially significant impact on how Council will levy its rates in the future.

Policy Implications

Council's existing rating policies will need to be reflective of any recommended statutory changes.

Community Notification

A Council report will be prepared following the release of IPART's final response.

Conclusion

IPART'S review of the NSW Rating system has potentially significant ramifications for Council, including positive benefits.

OFFICER'S RECOMMENDATION

That Council:

- 1. endorse the lodging of a submission on IPART's Draft Review of the NSW Local Government Rating System based on the responses outlined within Attachment 2 of this report; and**
- 2. delegate authority to the General Manager to finalise the submission.**

DRAFT SUBMISSION ON IPART RECOMMENDATIONS:

List of Draft recommendations

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 agrees with the introduction of CIV for levying rates. Rates levied on a CIV would be more realistic for units and would be better understood by ratepayers. This would provide more equitable rating for units and would mean that a 3 bedroom unit in say Chatswood would pay more than a one bedroom unit in Artarmon. CIV would also be more reasonable for rating small pieces of land ie boat jetties and single car spaces. Council understands that there will be an initial cost involved in moving to CIV.

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 agrees with the removal of minimum rates provided that CIV is introduced. Without CIV, base rates would not work in a high rise metropolitan council. Rates on lower land values (LV's) ie high rise penthouses would fall, as would properties with higher valuations. The increase would be for mid-range properties resulting in inequities if the CIV isn't also introduced.

3. 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. – This formula would be independent of the valuation method chosen by councils for rating.

Council agrees. Council has previously increased minimum rates in order to achieve the growth in income required to service the increased numbers of households.

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 peg, nor
- require councils to receive regulatory approval from IPART.

Council agrees however the parameters are unclear, particularly in regard to community consultation.

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.

Council agrees. It is unlikely to be used in Willoughby City Council, the example is in a regional Council where there may be a drought, and the Council could defer the increase until better times for farmers.

6. 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.

Council agrees. This would allow Council to have different residential rates within a contiguous area, depending on demand or cost of providing Council services.

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.

A clear definition of "community of interest" is required. This may work in some areas although there is a possibility of being deemed unfair in others.

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.

Council agrees. The ratepayer will be protected by the differential between the highest and lowest rate structure.

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.

Council agrees. This protects the ratepayer from any large increases as a result of a merger and also affords council more choice and flexibility in its rating structure. Council can apply to increase the differential to reduce the equalisation period.

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.

Council agrees with this proposal. Council is required to provide the same services with the same resources should a property used for residential purposes become non rateable. The burden of additional rates should not be transferred to the remaining ratepayers.

Properties that become rateable as a result of this proposed amendment are retirement villages and social housing owned by Public Benevolent Institutions (PBI's). In NSW the State government has been transferring ownership of its social housing to PBI's who qualify for exemption for rates, whereas the NSW Housing Department is rateable. This is a more equitable treatment.

Private schools would remain exempt from rates in the proposal. However, houses purchased for residential use by teachers etc should become rateable.

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.

The report doesn't specifically refer to residences for Ministers of religion although under the land use it would appear that this would be rateable. The legislation should ensure that this is clear.

The report states that religious and charitable institutions may have limited ability to pay rates and exemption from rates could allow them to spend more on public goods. The Council would argue that many churches have ample funds and do have the ability to contribute to paying rates.

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.

In Council's opinion, private hospitals should remain rateable. The report states that "private hospitals are serving the same population, are often co-located with public hospitals, and provide significant public benefits. In addition, as their activities are comparable to public hospitals, they should be treated the same way for rating purposes".

Private hospitals are a business intending to make a profit - most have shareholders. Private hospitals do not provide emergency services and exclude members of the public that cannot afford private health cover.

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)).

Council agrees

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 (*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.

Council agrees.

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.

Council agrees. An example is where a church runs a child care centre on part of its property. The portion for the child care centre should be rateable.

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 agrees. An example is where a charitable institution uses a premise for a few days a week and rents it out for the rest of the week. The report supports a self-assessment test by the owner to minimise compliance and administration costs. Councils could conduct investigations on a risk basis. The report also supports bands of council rates for mixed-use exempt land depending on the percentage of use.

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

IPART considers that Councils should not receive a one off increase or decrease as a result of changes to exemptions. IPART also states that removing some exemptions means that rates would go down for ordinary ratepayers.

Willoughby City Council currently receives \$87K in annual rates from private hospitals and should be protected for any loss in rate income if rates for new exemptions outweigh those no longer exempt.

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).

Not applicable to Willoughby City Council.

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.

IPART considers that this would improve public awareness about exemptions. It is unclear how much traction this would have with ratepayers.

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.
- **Whilst it is considered that the proposed introduction of a state funded deferral scheme for pensioners has merit and would align NSW with other states systems such as in Western Australia and South Australia, Council has queries as to the actual process and the impact it may have on some pensioners who elect to pay their annual rates in full rather than to defer a portion to their estate.**
- **In addition Council is unsure of the benefits to pensioners in rural areas accruing debts against their land compared with possibly low annual growth in the value of their property.**
- **The report does not address the circumstance where a pensioner leaves a property with the liability then becoming a State rather than a Council matter.**
- **It is suggested that this item needs further discussion and clarification prior to the abolishment of the current system.**

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.

Council agrees where there is land that cannot be developed due to geographic or regulatory restrictions.

Serviced apartments do not appear to have been addressed in this report. Developers are calling de facto hotels (complete with concierge service) serviced apartments with the ability to avoid paying business rates.

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 Agrees. This would provide Council with more flexibility in rating. A higher rate on vacant land in a metropolitan area (particularly with a Capital Improved Value) may encourage development, although rates would be a minor cost in the scheme of things. Levying a lower rate on vacant land in a regional areas may be more appropriate.

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.

Council agrees.

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 Agrees. This would provide Council with more flexibility in rating.

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.

Not applicable to Willoughby City Council.

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.

Not applicable to Willoughby City Council.

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

Willoughby City Council is happy with its current recovery process. Council employs a debt recovery agency for part of the process and is satisfied with the agency's flexibility in dealing with different scenarios. Council appreciates the means the SDRO will have at its disposal; however there is some concern over a the possible perceived automated and impersonal nature of the recovery process.

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 Agrees.

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 Agrees. Refer to Council's Financial Hardship Policy- Rates and Charges.

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 already offers flexible payment arrangements for ratepayers.

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.

Given that the saving to Council is estimated at \$1.00 per notice, would the discount therefore be \$1.00? This does not appear to be administratively economical.

Utilities such as Telstra charge per paper notice, however they are in the business of making a profit for their shareholders.

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.

Council Agrees, the process of administering rate postponements is complex, often costing councils more than the postponed rates.

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.

Council Agrees, the cost of the emergency services relates more closely to the assets rather than the land. There is little detail on the proposal though.

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

Council agrees as long as the Valuer General remains in place to ensure the integrity of the system.