

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

14 October 2016

Dear Sir/Madam,

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

Thank you for your invitation to make a submission in response to the Review of the Local Government rating system draft report released by IPART on 22 August, 2016. Due to the timing of the submission period and recent Local Government elections, it was not possible to refer this matter to the elected Council for a resolution. Accordingly, as Council's General Manager I welcome the opportunity to submit comment on the items detailed below.

1. Allow Council's to use Capital Improved Valuations (CIV) as an alternative to Unimproved Valuations (UV) in setting rates

Council agrees with this draft recommendation and that council's should have the flexibility to determine the best valuation method to use.

2. Remove minimum amounts from the Local Government Act

Council's current rate structure is a minimum/ad valorem rate structure. Removal of minimum rating from the Local Government Act (LGA) would have a significant impact on Council's rate structure and significantly change the burden of rates payable between individual rate assessments.

Without CIV's being held it is difficult to predict how a move to CIV as the basis for rating and a base rate structure would change the burden of rates payable between individual rate assessments. Council therefore supports an option for Council's to be given the option to retain minimum amounts if UV was maintained as the basis for rating.

3. Levying a special rate for joint delivery of new infrastructure projects

Council supports this draft recommendation providing that any new special rate is initiated by Council only and not used as a mechanism for other levels of government to force funding of new infrastructure projects through council rates.

4. Amendments to section 511

Council supports the draft recommendation that section 511 be amended to allow a ten (10) year period to recoup lost income as this is consistent with Integrated Planning and Reporting (IP&R) framework and should form part of Council's ten year Long Term Financial Plan.

5. Amendments to remove the requirement for residential sub-category by centre of population and add ability to determine a residential subcategory for an area by separate town or village or a community of interest

Council supports this draft recommendation providing that a definition of Community of Interest is added to the LGA to avoid misinterpretation and potential categorisation appeal.

Council would however like it noted that the draft recommendations do not go far enough with curing inconsistencies in the LGA. Larger issues relevant to section 516 exist which have not been addressed.

These issues include:

No recommendation to clarify the requirements of section 516(1)(c) of the LGA has been made. The requirements for the Rural Residential sub-category are interpreted and applied inconsistently between council's.

There is no recommendation to amend clause 122 of the Local Government (General) regulation 2005.

If dominant use of land is for a retirement village, serviced apartment or a time-share scheme clause 122 requires that the land be categorised as residential for rating purposes

Serviced apartments and time-share schemes are in direct competition with hotels and motels which councils are required to categorise as business yet this regulation prevents council's from categorising serviced apartments and time-share resorts as business. Clause 122 should be amended to allow councils to categorise such properties as business.

There is no recommendation for additional residential subcategories based on property use.

Uses such as holiday lettings, Bed and Breakfasts and other short term accommodation are again in direct competition with hotels/motels yet current legislation requires that they be categorised as residential and no provision for a residential sub-category for these properties exist. This is inequitable.

6. Amendments to section 555 & 556 (exemption from rates provisions)

Council supports the recommendation that sections 555 and 556 of the LGA be amended to exempt land on the basis of use rather than ownership.

The proposed amendments to section 555 and 556 would ensure that all properties used for residential and commercial purposes pay their share of rates and that it is

not left to the rest of the community to subsidise these properties. This change will increase the equity of rate exemptions.

7. Enable greater transparency on the level of exemptions

Council does not support the draft recommendation requiring Council to calculate the actual cost of providing rate exemptions and for this information to be published in the annual report of otherwise made available to the public.

Council's do not currently individually categorise non-rateable properties for rating purposes. Categorising these properties for these purposes and calculating the ad valorem rate twice, once with all land being rated and once with exemptions removed would be a significant administrative task.

8. Replace the pensioner concession rebate with a rate deferral scheme

Council does not support the draft recommendation that the current mandatory pension rebate be replaced with a rate deferral scheme.

Limited information about how the scheme would be administered has been provided and Council has concerns about the complexities of administering the proposed scheme, if Council would be required to carry the deferred debt and how the scheme would impact on other sections of the LGA, such as section 603, section 712 and section 582.

It is also believed that the deferral scheme would not be popular with ratepayers and that pensioners would be unlikely to defer and accrue a debt against their estate.

Council supports retaining a pension concession rebate that is fully funded by the State Government as is the case in other states.

9. Rating Categories

Council does not support adding additional rating categories such as Environmental Land and Vacant Land to the LGA. Adding rate categories will increase the complexity of administering rates and identifying and maintaining properties within these categories.

10. Ability to subcategorise business land as Industrial or commercial

Council supports amendments to section 529(2)(d) to allow business land to be subcategorised as industrial and/or commercial in addition to centre of activity.

11. Restrictions for councils in determining mining rates

Council does not support restrictions to the amount of rates that can be raised from mining properties.

If such restrictions are imposed a significant time period to allow council's to equalise rates over a number of years should be allowed.

12. Recovery of council rates

Council does not support the option for Council's to engage the State Debt Recovery Office (SDRO) to recover outstanding council rates and charges.

The draft report provides limited information about how collection of rates would be administered by the SDRO and how personal debts and property debts (rates and charges) could be consolidated and collected by the SDRO as a single debt.

Council has concerns about the cost of this service, the complexities of administering debts referred to the SDRO and the impact that referral of these debts would have on Council processes such as section 603 certificates.

The benefits outlined by SDRO such as their ability to negotiate flexible payment arrangements and their links with Land and Property Information (LPI) and Local Government data are all processes that Council's already have in place.

Council supports legislation that enables Council's to refer outstanding rates, charges and other property debts to mortgagees as an alternative to litigation for mortgaged properties.

If the draft recommendation to reduce the time for sale for unpaid rates from five (5) years to three (3) years outstanding rates is adopted such legislation would also be in the interests of the mortgagee.

13. Reduce the period of time before a property can be sold to recover rates from five years to three years

Council supports this recommendation however is not of the belief that this amendment alone will streamline Council's recovery processes in most circumstances.

The sale of land process is a difficult and lengthy process and Council's are often reluctant to proceed to sale unless all other avenues (including litigation) have been exhausted.

Council supports legislation that enables Council's to refer outstanding rates, changes and other property debts to mortgagees as an alternative to litigation and sale for unpaid rates. This would also be in the interests of the mortgagee for properties proceeding to sale.

It is noted that no draft amendments have been proposed to make section 713 easier to administer.

Current issues with section 713 include, if a Council proceeds to sale of land for unpaid rates and then accepts an arrangement for payment prior to the sale and the arrangement is not adhered to Council is forced to commence the sale of land process again.

If the arrangement is defaulted on and the provisions of the section are still met, Council should be able to relist the property for sale under this section without the need to commence the process again.

If a property is sold Council is able to recoup any costs associated with the sale.

However, if a ratepayer pays the rates outstanding after council has commenced sale processes but prior to the sale Council is not able to recoup any of the costs associated with preparing the property for sale such as advertising, search and solicitor fees. Section 550 of the LGA should be amended so that Council's reasonable costs incurred in commencing proceedings under section 713 are recoverable from the ratepayer.

14. Discount to ratepayers who elect to receive rate notices in electronic format

Council does not support this recommendation. The saving between a paper notice and an electronic notice is approximately \$1.00 per notice. The administration of this discount may result in higher administrative costs than the electronic notice saving and would not be an incentive to entice ratepayers to shift to electronic notices.

15. Abolishing the postponement of rates due to rezoning

Council supports the draft recommendation to remove sections 585 to 595 of the LGA providing that it is replaced with another mechanism to assist ratepayers in circumstances where rates have increased as a result of valuation increases due to rezoning.

Whilst postponed rates are difficult to administer and not easily understood, land rezoning often results in a significant increase in land value and subsequent increase in rates. Unless postponed rates or another mechanism to assist ratepayers is available an increase in rates may result in ratepayers forced sale of their property.

Postponed rates are a disincentive to develop land but promotion of growth and development needs to be balanced with some ratepayers desire to stay in their home and not be forced to sell or develop. Increased rates that result from rezoning also leads to an incorrect community perception that Council is raising rates to force ratepayers out of their homes to collect more rates from developments.

Council would therefore support an amendment to the Valuation of Land Act to provide a valuation allowance similar to section 14 that would result in lower rateable valuations whilst a property remained occupied as a single dwelling and undeveloped by the current owner.

16. The valuation base date used as the basis for collecting revenue for the Emergency Service Property Levy (ESPL) and collecting council rates should be aligned

Council is in support of this recommendation as it promotes simplicity and consistency.

17. CIV should be used as the basis for levying the ESPL

Council does not support this recommendation if UV is retained as the basis for rating. If Council opts to continue using UV as the basis for rating this would be inefficient and require Council to maintain two sets of valuation data and would not promote simplicity and consistency with other rates levied.

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

Council supports the draft recommendation providing that the Valuer General would retain responsibility for all administration functions relating to valuations, including processing of objections and valuation notices.

Council would also like to make note that various points of concern in the LGA have not been addressed in the draft report. These include:

Rate pegging should be removed and Council should be responsible for determining its own level of rate income in consultation with its community and be accountable to its community as is the case in other states in Australia.

The LGA currently only allows catch-up of income lost as a result of valuation objections. Re-ascertained valuations also result in lost income but councils currently have no provision to catch-up this lost income.

Under current legislation unless a Mixed Development Apportionment Factor (MDAF) can be applied council's currently have to decide the dominant category of land and apply it to the whole property. The use of MUAF's similar to how the Office of State Revenue (OSR) uses MUAF's for land tax purposes would allow properties to be categorised correctly according to each use on the property.

Section 604 of the LGA requires that notice of a sale or transfer of land be given to council within one month but no penalties apply if this notice is not provided. Situations often arise where a notice of transfer has not been lodged which prevent councils from issuing rate notices correctly. Section 604 needs strengthening and penalties should apply to prevent this from occurring.

Currently section 517 of the LGA only allows assessments used for a coal or metalliferous mine to be categorised as mining. This section requires amendment to allow other mining types such as coal seam gas to be included in the mining category.

If any further information is required please do not hesitate to contact Council's Revenue Team Leader, Simone Fisher on [REDACTED].

Yours faithfully,

[REDACTED]

Luke Johnson
General Manager