

Ref: MH:AFS

6 May 2016

Dr. Peter J Boxall AO - Chairman  
Independent Pricing and Regulatory  
Tribunal of New South Wales  
PO Box K35,  
HAYMARKET POST SHOP NSW 1240

*Heart of the  
Southern Riverina*

Dear Dr. Boxall,

Please find below a submission from Berrigan Shire Council responding to the Issues Paper released in April 2016 for IPART's Review of the Local Government Rating System.

The table below sets out the 22 issues for which IPART have sought comment along with the Council response

When addressing each of these issues, the Council has considered the following general principles which it has expressed in earlier submissions made in the Local Government reform program:

1. A general opposition to the rate-pegging system in general.
2. If the rate-pegging system must remain, the system needs to be more flexible and less bureaucratic
3. A general position for more flexibility for Councils to determine their own rating structure in consultation with its community.
4. Opposition to the 4-year rates path freeze for newly merged Councils

Issue for which IPART is seeking comment	Proposed position
1. Do you agree with our proposed tax principles? If not, why?	<p>In principle agreement with the principles.</p> <p>Important not to combine with welfare principles – deal with welfare issues separately, not through rating system</p>
2. What valuation method should be used as the basis for determining the ad valorem amounts in council rates? Should councils be given more choice in selecting a valuation method, as occurs in other states, or should a valuation method continue to be mandated?	<p>UV meets the Council's needs at present, however a CIV approach may assist with equitable distribution of rates if there is growth in the number of multi-dwelling properties in the Shire.</p> <p>CIV on the other hand would see much reduced rates for vacant lots, reducing pressure to develop these lots in a timely manner.</p>
3. Should councils be required to use the Valuer General's property valuation services, or should they also be able to use a private valuation firm (as occurs in Victoria and Tasmania)?	<p>Valuation services are expensive.</p> <p>The existence of private firms in the market may put some market pressure on the NSW V-G.</p>
4. What changes (if any) should be made to the Local Government Act to improve the use of base and minimum amounts as part of the overall rating structure?	<p>The Council does not use a base rate or minimum amount</p>
5. What changes could be made to rating categories? Should further rating categories or subcategories be introduced? What benefits would this provide?	<p>While additional flexibility with categorisation may assist with fine tailoring of the rating burden, much of this is able to happen under the existing framework.</p> <p>Consistent rating categories across NSW allow for simpler comparison of rates across jurisdictions and are more transparent.</p>
1. Does the current rating system cause any equity and efficiency issues associated with the rating burden across communities?	<p>No objection to IPART's position</p>
2. What changes could be made to current rate pegging arrangements to improve the rating system, and, in particular, to better streamline the special variation process?	<p>Council's preferred position is to abolish rate pegging in toto but this is unlikely to be politically acceptable.</p> <p>Council could support all three proposals put forward by ILGRP and could suggest an further position of only requiring formal approval for increases over the rate peg if a threshold amount of objections are received.</p>

Issue for which IPART is seeking comment	Proposed position
3. What changes could be made to the rating system to better encourage urban renewal?	No relevance to Council
4. What changes could be made to the rating system to improve councils' management of overdue rates?	<p>There are serious concerns with the position taken by IPART here.</p> <p>Firstly, IPART make it clear that their assessment of Council rates is based on rates being treated as a tax – a common sense position. Yet IPART are suggesting that Councils' approach to collection of overdue rates should be in line with service providers such as utilities – all of which have a final option of cutting off service.</p> <p>The Council is of the position that a more appropriate comparison should be made with collection methods used by the Australian Taxation Office and the NSW State Revenue Office.</p> <p>Non-payment of rates is not just a financial burden for the Council; it is a distortion of the equitable basis on which the rating system is founded.</p> <p>There appears to be a fundamental misunderstanding of Councils' approach to recovery of overdue rates. In general Councils seek to collect rates as soon as possible and use the legal system as a last resort when a ratepayer is either refusing to respond or is actively non-co-operative.</p> <p>IPART should consider the approach of other states and make the whole amount due and payable if an instalment payment is missed.</p> <p>IPART should also consider reform to streamline the process for selling up properties for outstanding rates under s713 of the <i>Local Government Act 1993</i> to prevent the gaming of the system that happens now.</p>
5. Are the land uses currently exempt from paying council rates appropriate? If a current exemption should be changed, how should it be changed? For example, should it be removed or more narrowly defined, should the level of government responsible for providing the exemption be changed, or should councils be given discretion over the level of exemption?	<p>Exemption from rates is not a matter of great significance to this Council.</p> <p>As a general position, exemption from rates should be kept as minimal as possible.</p>

Issue for which IPART is seeking comment	Proposed position
6. To what extent should the exemptions from certain state taxes (such as payroll tax) that councils receive be considered in a review of the exemptions for certain categories of ratepayers?	Requiring State government bodies to pay rates may be a Pyrrhic victory if Council is then required to pay payroll tax and land tax.
7. What should the objectives of the pensioner concession scheme be? How could the current pensioner concession scheme be improved?	<p>The level of pensioner concession granted by the Council is an issue now and one that is likely to grow as our community continues to age.</p> <p>There is a genuine argument that the concession subsidises towards wealthy homeowners (and their heirs!) at the expense of working families</p> <p>The Council could consider supporting either the assets test or the rates deferral scheme. It should be noted when considering a rates deferral scheme that Councils don't necessarily have the working capital to carry large amounts of deferred rates, especially Councils with ageing populations. Councils should not be forced to become in effect reverse mortgage providers to large sections of their communities.</p> <p>The Council should not be obliged to provide a subsidy over and above the amount funded by the state government, however the Council should have the ability to provide a subsidy if it wishes.</p>
8. We have interpreted the rate path freeze policy to mean that in the four years after a merger, the rating path in each pre-merger council's area will follow the same trajectory as if the merger had not occurred. Do you agree with this interpretation?	<p>Agree with the interpretation but do not agree with the policy position.</p> <p>The interpretation should also include provision for natural growth in the rate base.</p>
9. Within the rate path freeze period, should merged councils be permitted to apply for new special variations: <ul style="list-style-type: none"> <li>- For Crown Land added to the rating base?</li> <li>- To recover amounts that are 'above the cap' on development contributions set under the Environmental Planning and Assessment Act 1979?</li> <li>- To fund new infrastructure projects by levying a special rate?</li> </ul>	Support all three exemptions.

Issue for which IPART is seeking comment	Proposed position
10. Are there any other situations where merged councils should be able to apply for new special variations within the rate path freeze period?	Council does not support the policy position of a rates path freeze. That said, if one is implemented, there needs to be some discretion to Council/IPART to be able to adjust to correct glaring and obvious inequity where a delay of four years would be unreasonable.
11. During the rate path freeze period, should merged councils only be able to increase base amounts and minimum amounts each year by the rate peg (adjusted for any permitted special variations)?	<p>The Council does not use a base rate or minimum amount; however its proposed merger partner does use base rates.</p> <p>Again, the Council's general position would be to allow for more flexibility rather than less.</p>
12. During the rate path freeze period, should merged councils be able to allocate changes to the rating burden across rating categories by either: <ul style="list-style-type: none"> <li>- relative changes in the total land value of a rating category against other categories within the pre-merger council area, or</li> <li>- the rate peg (adjusted for any permitted special variations)?</li> </ul>	<p>If the State Government's objective is "rates certainty", shifting rating burdens across categories would frustrate this objective.</p> <p>That said, the Council would support more (rather than less) flexibility available to a merged Council to adjust its rating burden.</p>
13. Do you agree that the rate path freeze policy should act as a 'ceiling', so councils have the discretion to set their rates below this ceiling for any rating category?	No objection to this, but unlikely to be taken up as research has shown that the expected "substantial financial savings" will not be realised –certainly not within the rate path freeze timeframe.
14. What other discretions should merged councils be given in setting rates during the rate freeze period?	<p>The Council's position is that the newly merged Council should be able to develop and implement a unified rating structure as soon as possible and without further hindrance over and above the rate pegging system. Delays in implementation of a new structure are not in the interest of the new Council or its ratepayers.</p> <p>The Council acknowledges this is contrary to the State Government policy position.</p>
15. We considered several options for implementing the rate path freeze policy. Our preferred option is providing the Minister for Local Government with a new instrument-making power. What are your views on this option and any other options to implement the rate path freeze policy?	<p>A new power provided to a Minister may potentially lead to its use in unintended circumstances.</p> <p>Legislation would be more certain and minimise the potential of government frustrating the will of parliament when establishing the rate freeze.</p>

Issue for which IPART is seeking comment	Proposed position
20. Should changes be made to the LG Act to better enable a merged council to establish a new equitable system of rating and transition to it in a fair and timely manner? If so, should the requirement to set the same residential rate within a centre of population be changed or removed?	<p>The Council's general position is that more flexibility to adjust its rating structure post-merger is preferable.</p> <p>That said, the Council has also expressed a general preference in the case of a merger to move to a unified rating structure as soon as possible.</p>
21. Should approved special variations for pre-merger councils be included in the revenue base of the merged council following the 4-year rate path freeze?	Support this interpretation.
22. What other rating issues might arise for merged councils after the 4-year rate path freeze period expires?	<p>Berrigan Shire Council does not support the proposed 4 year rate path freeze for merged Councils. It is poor policy made for political expediency rather than any genuine policy objective.</p> <p>It will entrench for four years, inherent unfairness and inequity in the rating systems of the new Councils. It forced Councils to "kick the can down the road" rather than allowing them to actually deal with the difficult issues around rating immediately.</p> <p>The end of the 4-year freeze will likely see a rating "free-for-all" as this pent up pressure from communities comes to the surface. IPART would be well advised to ensure that resources are available to manage this process from their end.</p>

The Council would be happy to provide further comment or to clarify any point above on request.

If you have any queries, please do not hesitate to contact me.

Yours faithfully



**MATTHEW HANSEN**  
**DIRECTOR OF CORPORATE SERVICES**