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13 May 2016 Our reference: IEM/23523

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

Dear Sir / Madam,

RE: Submission on the Review of the Local Government Rating System

Reference is made to your correspondence dated 13 April 2016 regarding the above review in process.

Please find attached Council's submission for your process.

Council would like to thank you for the opportunity to contribute to a review of such an important and integral aspect of local government.

Should you wish to discuss any aspect of this paper or require clarification of matters raised please contact the undersigned on telephone 6368 2104.

Yours faithfully,

[redacted]

Anton Franze
Director Corporate Services

Submission to the Review of Local Government Rating

1.Do you agree with our proposed tax principles? If not, why?

Council supports the first 4 "recognised principles of taxation".

However, council asserts that competitive neutrality is not a taxing principle, but rather a policy relevant to how government entities compete with private sector entities based on the "level playing field concept". This policy is important for considering rating exemptions for government owned commercial enterprises.

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?

Council supports the flexibility for councils to select which valuation method as in some other states. The basis for this is as outlined below.

The merits of the capital improved value (CIV) method are recognised. The reasons are that, compared to the unimproved capital value (UV) method:

- *In relation to residential property:*
  - *it best meets the benefits principle because generally speaking there is the likely to be a correlation between a higher CIV and a higher number of residents, with each resident getting benefits from services provided by the rates paid (e.g. a 4-bedroom house will pay more rates than a neighbouring 1-bedroom house (or a vacant block if this is not a separate sub category), whereas each pays the same under UV;*
  - *it best meets the ability to pay principle (vertical equity), because of the likelihood that a higher value house correlates with higher wealth (similar to the progressive basis of income tax)*
- *When comparing residential with farmland, it best provides fairness between these categories (the horizontal equity principle). This is because farmland valuations will generally correlate more closely with actual sale value, whereas residential values will be well below actual sale value.*
- *It is easily understood, because people generally have a good idea of the value of their property (with all improvements) but not the UV of the property*

The main case against CIV is that it is akin to a wealth tax. But councils will always have power to introduce elements of wealth tax because of their ability to set the ad valorem rate in the $. The best solution is a mix of base rate and ad valorem based on CIV – in essence a combination of a poll tax and a wealth tax. In fact, if CIV were the basis of ad valorem rates, less reliance is needed on base or minimum rates to meet the benefits principle.

Council also acknowledges the merits of retention of the unimproved capital value method. The reasons are that, compared to the capital improved capital value (CIV) method:

- *It better satisfies the efficiency principle and will not discourage "productive investment" by property owners so as to keep their land value low.*
- *It will minimise the cost impost upon the community at commencement, from implementation of a new valuation method, and ongoing, from more frequent valuations being required to account for property improvements and associated council administration.*

Council supports the retention of 50% cap on base rates on the bases:

- *This allows councils to strike a fair balance between the benefits principle and capacity to pay.*
- *Greater flexibility would be allowed if the 50% rule applied across all ordinary rates revenue, not separately by each category*

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)?

Council supports the retention of the role of the Valuer General in its current role. Currently the Valuer General's office contracts out to the private sector to complete valuations. It is argued that there would be no cost saving benefit for Councils to be involved in this process.

Furthermore, the current method adds to the integrity of work undertaken and is consistent with the approach recommended by the Independent Local Government Review Panel to the state government to have such authorities having oversight of integral functions e.g. Auditor General oversight of audits of NSW councils.

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?

The option of minimum rating should be removed as per the original intention of the 1993 legislation. This would be less confusing to ratepayers. However, changes would be required to the rating of strata units and apartments, especially if the unimproved capital value (UV) method is retained, so as to ensure that there is fairer rating structure for these ratepayers.

5. What changes could be made to rating categories? Should further rating categories or subcategories be introduced? What benefits would this provide?

Council supports the approach that provides it the greatest flexibility with establishment of rate categories and sub-categories, similar to the Victorian Councils approach, that requires "the objectives of the differential rate and the criteria on the basis of which that rate was declared" to be specified.

The basis for this is that there are unique cases for establishment of categories / sub-categories that should not rely upon 'centre of population / activity' e.g. windfarms; coal seam gas and non-metalliferous mining activities.

Council should be able to sub categorise business on the basis of property use across the whole of the local government area rather than have a need to have different sub categories as is the case now

At the very least there needs to additional rating categories to accommodate split of types or activities for example:

- *Commercial and industrial activities. Industrial land tends to be more punishing on transport infrastructure, not easily recouped from VPAs. Commercial is more passive (offices and shops) and therefore subsidises industrial when grouped into one category (particularly when basis of valuation is UV).*
- *Extending the categories to include type of residential accommodation such as high rise or single dwellings.*
- *The Mining category should be expanded to allow for other types of mines than metalliferous and coal.*

Such an approach will provide fairer equity in attribution of rates across a Council's rate base and benefit the community overall.

6. Does the current rating system cause any equity and efficiency issues associated with the rating burden across communities?

No comment.

7. 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?

Council supports the adoption of a stream-lined rate-pegging process whereby community consultation is considered satisfactory without the need then to also obtain IPART approval. This could be supplemented with boundaries and measures limiting council exploitation, such as mandating that increases greater than a certain percentage e.g. 6% require IPART approval.

The basis for this is that similar approaches are in place in local government in a number of states and equivalent authorities e.g. water authorities. This could also be underpinned by controls such as councils being required to disclose proposed rate increases for future years in its long term financial plan and increases effected then are not to exceed this amount without IPART approval.

Council also supports streamlining of the Special Rate Variation process to assist Councils to respond to significant supplementary valuation adjustments that may have detrimental impacts to Council rating structures, rate revenue bases and financial sustainability. For example, a supplementary valuation adjustment for a mine that reduces its valuation by $30m results will result in the immediate reduction to permissible income yield of say $1.7m the

following year. If this event were to occur in March, Councils require the autonomy and flexibility to respond with a streamlined SRV process - possibly using newly established "extenuating circumstances" provisions that will facilitate councils to respond without significant impact upon the community." Another example would be a General Revaluation where a favourable valuation adjustment occurs to a mine of $30m – that has no impact upon permissible income yield, yet the outcome would be that the Mine Rate could be less that the Residential Rate in the $.
Accordingly, having streamlined "extenuating circumstances" SRV process for councils to would be in the community interest to ensure that councils (and communities) are financially sustainable.

8.What changes could be made to the rating system to better encourage urban renewal?

Council supports simplification of the approval process for special rate variations for urban renewal projects.

9. What changes could be made to the rating system to improve councils' management of overdue rates?

Council supports a number of reforms to improve autonomy of councils to recover overdue rates including the following:

- *An ability to be able to request payment from the mortgagee once 12 months' rates are overdue per the New Zealand model.*
- *Amendment of the electronic notice of sale form to mandate the capture of e-mail addresses and phone numbers to assist in debt management.*
- *The ability for Councils, in their debt recovery process, to increase debt amount sought to current balance owing at that date. For example, an outstanding debt pursued at November 30 may take up to six months to progress through the various stages of debt recovery from "warning letter" to "judgement" and in this timeframe two further instalments will become overdue. This results in a new separate debt recovery action having to be commenced for recovery of the two further outstanding instalments, further legal costs imposed on the debtor and additional council administration.*
- *The ability to enter into multiple payment options without the restrictions of Local Government Act s.564.*
- *Amendment of the Local Government Act to legislate the ability issue rate notices in an electronic format.*
- *Streamlining the process for sale of land for unpaid rates, and associated costs imposed on the community, such as the elimination of requirement for publication of such notices in the Government gazette; not requiring a valuation of vacant land to demonstrate that rates outstanding exceed the land value (VG valuation should be reliable and sufficient to this end); elimination or extension of the requirement that "council needs to sell such land within six months of the date of receipt of the independent valuation".*
- *The ability for council to sell all land, not just vacant land, once rates exceed land value. This would assist to minimise the revenue lost and cost impost upon the community.*
- *Reduction of timeframe for sale of land for unpaid rate provisions to trigger from 5 years' rates arrears to 3 years' rates arrears.*

10. 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?

Council supports the review of rate exemption provisions and particularly the flexibility that could be achieved either by allowing councils to determine the level of exemption for certain activities, or allowing them to make additional rating categories and subcategories for these activities.

All property categorised as residential and occupied should be rateable regardless of ownership as all such properties utilise a Council services – in some cases properties which are currently non rateable provide a greater drain on a Council resources than rateable properties.

If subsidies remain, they should be in the form of a partial rebate rather than full exemptions. Such a rebate should be standardised across local government areas to ensure consistency and reduce the likelihood of localised disputes and costly and time intensive negotiations and lobbying.

Councils should be given the ability to request property owners to demonstrate through activities undertaken how they satisfy the provisions rather than reliance solely on wording of a constitution or charter.

All government owned commercial trading enterprises and State Government crown land that is used for a commercial purpose should be rateable, e.g. State Forestry logging, based on principles of competitive neutrality.

There is also a case that government services, e.g. education, should be rateable in some capacity but not exempt.

11. 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?

Council supports retention of existing exemptions to state taxes and that imposition of such taxes would not be in the community interest resulting further costs imposts or service reduction on the community.

12. What should the objectives of the pensioner concession scheme be? How could the current pensioner concession scheme be improved?

Council is of the view that pensioner concessions should be 100% rebated to local government by the state government as in other states. The NSW Independent Local Government Review Panel (October 2013:38) questioned welfare measures being the responsibility of local council and the appropriateness of funding.

Further, current arrangements discriminate against and are unfair to councils that have a high proportion of pensioners, who will also have a higher demand on relevant services.

13. 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?

Council agrees with the interpretation by IPART however does not agree with this to be appropriate path to go down.

State government control over a council's discretion to raise rates has always been at a whole-of-council level, not on individual assessments. Councils, even the most 'Not Fit', have always had a discretion to adjust rates within their local government area (LGA), either horizontally (between categories/sub-categories) or vertically (between base/minimum and ad valorem). This is consistent with the fundamental principles of taxation: fairness and equity

Council is of the view that the government could not have intended to depart from these principles in this policy. For example, if there is a fundamental inequity between categories (such as is currently being debated in Mid-Western Regional Council re the farmland category), the freeze – if interpreted in the way that IPART contends – would mean that the inequity would need to continue for 4 years. Such fundamental inequities may also arise from revaluations in one former LGA but not all in a merged council area, where the category (e.g. farmland) cover the entire new LGA.

Council asserts that the freeze should be interpreted as putting a freeze on overall rate rises for merging councils. This is supported by the making of grants to cover merger costs, so that none of these are passed on to ratepayers via rate increases.

There should be no SRVs available for general rate rises on all ordinary rates to cover e.g. infrastructure backlogs. The only rises above the rate peg should be those listed in para 6.1.1.
This is consistent with the government approach that merged councils who are 'Fit' will have greater discretion in relation to rate setting and a more light-handed approach to approval of special rate variations.

Newly merged councils should be able to "establish a new equitable rating system and transition to it in a fair and timely manner". This is one of the very issues that IPART must consider in its terms of reference!

A freeze on individual assessments (if that is how the "rate path" is interpreted) is not only internally contradictory in these terms of reference, but total contradictory to the government policy of "earned autonomy" for council's showing "consistently high performance". The blanket assumption is that merged councils "can't be trusted".

The Minister's Merger Proposal for Blayney, Cabonne and Orange councils said:

> *"In addition, the proposed merger will bring together a range of farmland, residential and business premises across the area, providing the new council with a larger rate base on which to set ratings policies and improve the sustainability of council revenue." (Blayney, Cabonne and Orange Merger proposal - January 2016:10)*

If the rates path freeze were interpreted as IPART suggests, this ability to set ratings policies would be totally undermined. This cannot have been the intention.

A 4-year transition period, in contradistinction from a freeze, is more consistent with both the merger proposal and the IPART terms of reference and in addition assists with removing any shocks at the end of the freeze

Council asserts that the rate path should be planned by the newly merged council to cover a four-year plan to align rates, so the burden is not extreme in the final year. Council also strongly urges that a single valuation base date be determined for the newly merged council that falls in year two and require the Valuer General to issue such to the merged councils.

14. Within the rate path freeze period, should merged councils be permitted to apply for new special variations:

– For Crown Land added to the rating base?

– To recover amounts that are 'above the cap' on development contributions set under the *Environmental Planning and Assessment Act 1979*?

– To fund new infrastructure projects by levying a special rate?

Council supports the view that all the types of special rate variations mentioned above should be allowed to be applied for.

15. Are there any other situations where merged councils should be able to apply for new special variations within the rate path freeze period?

Council supports the autonomy for a newly merged council to determine whether there is a specific need identified by the community and whether a special rate variation should be lodged.

16. 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)?

Council supports the autonomy of a merged council to make adjustments providing it is part of a four-year transition plan to merger of rating structures.

17. During the rate path freeze period, should merged councils be able to allocate changes to the rating burden across rating categories by either:

– relative changes in the total land value of a rating category against other categories within the pre-merger council area, or
– the rate peg (adjusted for any permitted special variations)?

Council does not support the ability for a newly merged council to shift the rate burden to or from categories solely by reference to the former LGA in which they are located. This approach is considered too simplistic and does not take into account existing council rating structures and how the rating burden is proportioned within individual Councils. Long term planning is required.

18. 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?

Council supports the autonomy of councils to determine its rating structure. Just as the freeze should not remove council discretion in relation to the allocation of the overall rate burden, so it should not restrict councils in setting rates below the ceiling nor indeed of allocating the benefit of such a reduction across categories or components of a rate within a category.

19. What other discretions should merged councils be given in setting rates during the rate freeze period?

Merged councils should have the same discretions as non-merged councils, provided rates are set in accordance with a 4 year rates harmonisation plan.

Councils should be able to commence a transition plan towards rate equalisation from year two of the merger as part of a four year rating plan.

20. 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?

As raised earlier, Council does not support a rate freeze policy but rather the autonomy for a newly merged council and its community to make such determinations.

21. 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?

Council supports the removal of reference to 'centre of population" etc.

22. 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?

No comment.

23. What other rating issues might arise for merged councils after the 4-year rate path freeze period expires?

No comment.