



Mr H Harmstorf  
Chief Executive Officer  
Independent Pricing & Regulatory Tribunal (IPART)  
P O Box K35  
HAYMARKET POST SHOP NSW 1240

TRIM No.: 16/22260

12 May 2016

Dear Mr Harmstorf

**REVIEW OF THE LOCAL GOVERNMENT RATING SYSTEM**

I refer to the above Review currently being undertaken by IPART and have attached Council's submission in this regard.

Should you have any questions regarding the submission, please do not hesitate to contact Mr Ian McCallum, Deputy General Manager – Corporate, Governance and Community on [REDACTED]

Yours sincerely

[REDACTED]

**MICHAEL MCMAHON**  
General Manager

attach



# *Burwood Council*

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## **SUBMISSION TO IPART - REVIEW OF THE LOCAL GOVERNMENT RATING SYSTEM**

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## **IPART - REVIEW OF THE LOCAL GOVERNMENT RATING SYSTEM**

[Local Government – Issues Paper April 2016]

The Independent Pricing and Regulatory Tribunal (IPART) is conducting a review of the Local Government rating system in NSW. Our aim is to recommend reforms to improve its efficiency and equity so as to ensure councils can implement sustainable fiscal policies over the longer term.

This review is part of an ongoing process of review and reform, aimed at improving local government's strength and effectiveness. Among other things, this process has included the Independent Local Government Review Panel's wide-ranging review and recommendations in 2013, and the NSW Government's response to these recommendations, including its Fit for the Future reform package in 2014, and proposals to create new councils by merging existing councils.

The purpose of this Issues Paper is to outline how we propose to approach this review, explain how stakeholders can provide input, and to discuss the issues on which we seek comment.

<b>Taxation principles</b>		
<b>Question</b>	<b>Page</b>	<b>Burwood Council Comments</b>
<p><b>1. Do you agree with our proposed tax principles? If not, why?</b></p>	15	<p>We agree with the taxation principles used to assess the rating system being: <b>efficiency; equity; simplicity</b> and <b>sustainability</b>.</p> <p>However, the relevance of the principle of <b>competitive neutrality</b> is questioned because Councils are not competing with each other for the provision of their services to their residents and ratepayers.</p> <p>Finally, the amount of the annual rates payable on a property would have little or no effect on a decision to buy a house in a particular location. Other factors influence this decision and therefore the principle does not apply.</p>

<b>Assessing the current method for setting rates</b>		
<b>Question</b>	<b>Page</b>	<b>Burwood Council Comments</b>
<p><b>2. What valuation method should be used as the basis for determining the ad valorem amounts in council rates?</b></p> <p><b>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?</b></p>	20	<p>Torrens Title properties should continue to use unimproved land value (UV) because we believe this basis of valuation distributes the rate burden <i>equitably</i>.</p> <p>Multi-unit dwellings should use capital improved value (CIV) for each individual unit because under the current system of UV prorated by strata plan unit entitlement does not, in our belief, distribute the rate burden <i>equitably</i> (See response to Q5).</p> <p>However, Councils should be given a choice as in other jurisdictions.</p>

**Assessing the current method for setting rates**

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<p><b>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)?</b></p>	<p>20</p>	<p>We acknowledge that current practice in NSW is for private valuation firms to contract to the NSW Valuer General to perform valuations services. We prefer that the NSW Valuer General continue to supervise this process and employ their statistical models to ensure data integrity within the valuation process across NSW.</p> <p>However, we would like the valuation lead-time to improve markedly.</p>
<p><b>4. What changes (if any) should be made to the <i>Local Government Act</i> (the Act) to improve the use of base and minimum amounts as part of the overall rating structure?</b></p>	<p>22</p>	<p>Section 500 of the <i>Local Government Act 1993 (the Act)</i> specifies that no more than 50% of the rate yield from a category or sub-category be raised from the base amount.</p> <p>We have received advice from the Office of Local Government (OLG) that the same limit applies to the yield from the minimum rate however this is not mandated in the Act. This should be addressed.</p>
<p><b>5. What changes could be made to rating categories?</b></p> <p><b>Should further rating categories or subcategories be introduced?</b></p> <p><b>What benefits would this provide?</b></p>	<p>23</p>	<p>The mining category (Section 517 of <i>the Act</i>) should not be limited to just coal extraction or metalliferous mining, but expanded to include, but not limited to, gemstone, mineral sands extraction and natural gas extraction.</p> <p>Serviced apartments or a time-share scheme should not be mandated to be residential (Clause 122 – <i>Local Government (General) Regulation 2005 (the Regulation)</i>) because we believe the itinerate nature of the residency gives rise to that of a business enterprise, much in the same way as a motel/hotel.</p> <p>A multi-unit dwelling sub-category</p>

**Assessing the current method for setting rates**

Question	Page	Burwood Council Comments
		<p>should be allowed vis-à-vis the use of CIV as the valuation base for each individual unit and may better support the <i>capacity to pay</i> principle.</p> <p>The farmland category needs to be thoroughly reviewed and deal with the categorisation ambiguity regarding wind or solar farms.</p> <p>The benefits of the above support the proposed taxation principles as per Question 1.</p>
<p><b>6. Does the current rating system cause any equity and efficiency issues associated with the rating burden across communities?</b></p>	<p>24</p>	<p>We agree with IPART's comment at 4.4 including '... (rates in one Council area) should not be used to fund services provided by councils in other local government areas...' User pay fees should be utilised in those instances.</p>
<p><b>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?</b></p>	<p>25</p>	<p>The Special Variation application and approval process should be streamlined.</p> <p>We believe that the current rate pegging regime should be abolished and Councils be left to determine an appropriate rating structure and yield by way of the Integrated Planning &amp; Reporting (IP&amp;R) process.</p>
<p><b>8. What changes could be made to the rating system to better encourage urban renewal?</b></p>	<p>26</p>	<p>Special rates pursuant to Section 495 of the Act may be adequate to support infrastructure renewal.</p> <p>Specific planning proposals and initiatives encourage urban renewal, not the rating system. For example, the Burwood Town Centre is deemed a metropolitan growth centre and the appropriate Development Control Plans (DCP) and Local Environmental Plans (LEP) have been predicated on urban growth and renewal.</p>

**Assessing the current method for setting rates**

<b>Question</b>	<b>Page</b>	<b>Burwood Council Comments</b>
<b>9. What changes could be made to the rating system to improve councils' management of overdue rates?</b>	26	<p>Councils do not have the ability to withhold <i>public goods</i> to those that do not pay, so other means must be used to modify payment behaviour. For example:</p> <ul style="list-style-type: none"><li>▪ the maximum interest rate on overdue rates must be set comparable or higher than the interest rate on other lines of credit so that the rates assessment does not become a quasi-credit facility;</li><li>▪ each year ratepayers are issued with a rates notice inclusive of a quarterly interest free payment plan. To encourage use of this payment plan we suggest that if a payment of an instalment is missed then the remaining instalments become due &amp; payable in full and are interest bearing. Council could grant a grace periods to take into account delays in the postal service or electronic processing;</li><li>▪ if a rates assessment is subject to a conveyance then the remaining rates &amp; charges liability for the year should be paid-out in full on settlement.</li></ul>

**Assessing exemptions, concessions and rebates**

Question	Page	Burwood Council Comments
<p><b>10. Are the land uses currently exempt from paying council rates appropriate?</b></p> <p><b>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?</b></p>	<p>33</p>	<p>The Issues Paper at 3.1.2 describes income raised from rates is used to fund the provision of <i>public goods</i>. At 3.2.1., the Issues Paper describes the <i>ability to pay (equity)</i>.</p> <p>To this end, we suggest that all the exemptions be critically reviewed in a 21st century context as they were carried over from the <i>1919 Local Government Act</i>. As well as the notion of charity &amp; public benevolence, the review should take into account how these are dispensed in today's modern society and whether any of the assets are deriving some income or revenue from their use.</p> <p><i>The Act</i> should be limited in scope to <u>exclude</u> residential development or residential occupation. This will address some immediate and unintended exemption anomalies.</p>
<p><b>11. To what extent should the exemptions from certain sales taxes (such as payroll tax) that councils receive be considered in a review of the exemptions for certain categories of ratepayers?</b></p>	<p>33</p>	<p>There should be no changes.</p>
<p><b>12. What should the objectives of the pensioner concession scheme be?</b></p> <p><b>How could the current pensioner concession scheme be improved?</b></p>	<p>35</p>	<p>The objectives of the pensioner concession scheme should provide some rates burden relief for low income eligible pensioners.</p> <p>The NSW Government is committed to providing rate concessions to pensioners and as such, the scheme should be fully funded by the State Government.</p> <p>We would only support an increase to the mandatory pensioner concession that is currently capped at \$250 if that</p>



**Assessing exemptions, concessions and rebates**

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		funding was matched by the State Government.

**Freezing existing rate paths for newly merged councils**

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<p><b>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?</b></p>	36	<p>We agree that a rate path freeze policy means that the rating path in each pre-merger council's area will follow that same trajectory/ mathematical formulation.</p> <p>For example, under the Burwood/Canada Bay/Strathfield merger proposal:</p> <ol style="list-style-type: none"> <li>1. pre-merger rating categories or sub-categories would continue to be applied to pre-merger areas;</li> <li>2. existing SRVs would continue to be applied as per 1; or</li> <li>3. minimums/base amounts and ad-valorem rates would be adjusted for the rate peg as per 1,</li> </ol> <p>for the four years after a merger.</p> <p>A precondition would be a freeze on the application of new valuation bases, in order to preserve the pre-merger rating path trajectory.</p> <p><b>Note:</b> We <u>do not</u> agree with a rates freeze path policy and Councils should be able to continue to set applicable rating revenue policy by way of the IP&amp;R process.</p> <p>We believe that the rating structure be reviewed within the first term of the new Council, as was the case with the City of Sydney and City of South Sydney merger in February 2004.</p>

**Freezing existing rate paths for newly merged councils**

Question	Page	Burwood Council Comments
<p><b>14. Within the rate path freeze period, should merged councils be permitted to apply for new variations:</b></p> <ul style="list-style-type: none"> <li>▪ <b>For Crown Land added to the rating base?</b></li>   <li>▪ <b>To recover amounts that are 'above the cap' on development contributions set under the <i>Environmental Planning and Assessment Act 1979</i>?</b></li>   <li>▪ <b>To fund new infrastructure projects by levying a special rate?</b></li> </ul>	<p>39</p>	<p><b>Note:</b> We <u>do not</u> agree with a rates freeze path policy and Councils should be able to continue to set applicable rating revenue policy by way of the IP&amp;R process.</p> <p>Yes – newly rateable Crown Land should continue to be added to the rate base as it does now.</p> <p>Presently we have a Section 94A Contributions Plan in place under the <i>Environmental Planning &amp; Assessment Act 1979</i> and the cap does not apply.</p> <p>However, as a general planning objective for the provision of infrastructure and services, it is considered that the cap should be removed in order to achieve full cost recovery through the “user pays principle”.</p> <p>Yes – new special rating variation applications should be permitted to fund new infrastructure projects by levying a special rate.</p>
<p><b>15. Are there any other situations where merged councils should be able to apply for new special variations within the rate path freeze period?</b></p>	<p>39</p>	<p>Yes – in any situation where the IP&amp;R process predicates the need to apply for a new special rate variation.</p>
<p><b>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)?</b></p>	<p>41</p>	<p>No – in a true rate path freeze scenario, Councils must be able to maintain the rating path by adjusting base/minimums <u>and</u> the <i>ad valorem</i> rate accordingly as outline in our response to Question 13.</p> <p>A pre-merged Council SRV rate path as per the Part A projections has to be able to be maintained for the reasons outlined in our response to Question 13.</p>

**Freezing existing rate paths for newly merged councils**

Question	Page	Burwood Council Comments
<p><b>17. During the rate path freeze period, should merged councils be able to allocate changes to the rating burden across rating categories by either:</b></p> <ul style="list-style-type: none"> <li>▪ <b>relative changes in the total land value of a rating category against other categories within the pre-merger council area, or</b></li> <li>▪ <b>the rate peg (adjusted for any permitted special variations)?</b></li> </ul>	41	<p>During the rate path freeze period, Councils must be able allocate changes in order to preserve the pre-merger rate freeze path trajectory as outlined in our response to Question 13.</p>
<p><b>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?</b></p>	41	<p>Yes.</p> <p><b>Note:</b> We <u>do not</u> agree with a rates freeze path policy and Councils should be able to continue to set applicable rating revenue policy by way of the IP&amp;R process.</p>
<p><b>19. What other discretions should merged councils be given in setting rates during the rate freeze period?</b></p>	41	<p>If a situation arises where there has to be a move away from the rates path freeze policy, then the Council should be able to apply to the Minister for a waiver.</p>
<p><b>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?</b></p>	44	<p>No comment.</p> <p><b>Note:</b> We <u>do not</u> agree with a rates freeze path policy and Councils should be able to continue to set applicable rating revenue policy by way of the IP&amp;R process.</p>

**Establishing new, equitable rates after the 4-year freeze**

<b>Question</b>	<b>Page</b>	<b>Burwood Council Comments</b>
<p><b>21. Should change be made to the <i>Local Government Act</i> to better enable a merged council to establish a new equitable system of rating and transition to it in a fair and timely manner?</b></p> <p><b>If so, should the requirement to set the same residential rate within a centre of population be changed or removed?</b></p>	48	<p>The rates freeze path freeze policy should not be implemented. Councils have the appropriate legislation and expertise to survey the community via the IP&amp;R process to establish and transition a fair and equitable new rating system for the merged community.</p>
<p><b>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?</b></p>	49	<p>Yes - and the IP&amp;R process can be used to ask the community how that SRV revenue should be distributed and expended.</p>
<p><b>23. What other rating issues might arise for merged councils after the 4-year rate path freeze expires?</b></p>	49	<p>No doubt the new entity may require a significant adjustment to the rating structure to compensate for such a low rate that emerges from the four year freeze.</p>