

12 May 2016

Review of Local Government Rating System
IPART
PO Box K35
HAYMARKET POST SHOP NSW 1240

Dear Mr Boxall

Submission to the Review of the Local Government Rating System

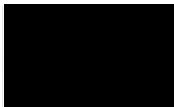
I refer to the Independent Pricing and Regulatory Tribunal's issues paper, 'Review of the local government rating system' and wish to advise that Council welcomes the opportunity to submit comment on the items identified.

Campbelltown/Macarthur has been identified in the NSW Governments 'A plan for growing Sydney' as a regional city centre and has a strong residential community that is increasingly emerging as a city of choice. We continue to work towards achieving greater sustainability supported and funded through fair and equitable rating strategies.

Principally the most significant and regressive issue for our Council is the growth in rate exemptions that we believe are no longer appropriate and out of touch with the original legislation's intention. We have provided comment on these and the potential impact on our community and trust that they will be of assistance.

We look forward to the draft report due for release in August. If we are able to assist with any additional information or be of any assistance please do not hesitate to contact Mr Michael Sewell, Director Business Services.

Yours sincerely

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Lindy Deitz
GENERAL MANAGER
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Response to the Independent Pricing and Regulatory Tribunal on the review of the Local Government Rating System

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

Yes, Council agrees with the proposed tax principles on the following basis.

- Efficiency: Council land rates have been proven to be extremely efficient in their nature and generally benefit those in the community that are contributing through the levies on their land.
- Equity: The ability to pay principle is aligned to the value of land and through a property based taxation system the extremes are somewhat addressed. Capital improvements are not included and the correlation between wealth and ability to pay is to an extent diminished and should be addressed to make the system fairer. Issues that remain unresolved are the perceived inconsistencies and inequities between Councils.
- Simplicity: Land rates are well understood and the calculation process is simple from a Council officer position however at times the general community are confused by the rating burden distribution methodology. Land rates are an encumbrance on the land and therefore difficult to avoid.
- Sustainability: Growth in a Council through development aligns itself with the principles of sustainability.
- Competitive neutrality: Councils are not in a competitive market in the collection of rates thus not competitive, however exemptions from land rates creates an advantage to some ratepayers which is misaligned with this principle. The principles of competitive neutrality are supported by Council in business activities it is involved in such as child care, property development, learn to swim and community based support networks.

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?

The transition to Capital Improved Value or CIV addresses a number of equity issues in the distribution of the land rate burden across the community. Increases in market value due to capital improvements by the land owner correlate to a greater capacity to pay which aligns well with the benefits principle and capacity to pay. Also the CIV is better understood by the general populous which aligns well with the taxation principle of simplicity.

The type of valuation method should be mandated to minimise confusion and create stability and consistency within the industry. For example a ratepayer that owns properties across many council areas is able to identify with the calculation method.

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)?

No, there should be choice. Under the current system valuations made for the Valuer-General are contracted creating a competitive environment that councils should be able to tap into.

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 use of minimums should be removed from the Local Government Act. Minimum amounts are often poorly structured, difficult to fluctuate and are often misunderstood by the community.

Base rating provides councils with the capacity to capture the essential services that it provides and set a fixed value 'charge' or base amount on all ratepayers equally, improving the rates distribution. The capacity to pay principle is also improved through the ad-valorem amount payable on the land value. It is important to note that should there be a shift to CIV this would help to broaden the rating base and more appropriately apportion the amount payable across the community and be better understood.

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

The current sub-categorisation restrictions should be removed and council's should be able to set their own principles based sub-categories relevant to the Local Government Area.

In regards to residential land, changes to allow for categories by type of residential accommodation such as high-rise or single dwellings. There is an argument for higher rates on multi-unit dwellings that impose more on the delivery and maintenance of open space provided by councils, unlike a residential home that has some form of garden or back yard enjoyed by its occupants. Sub-categorisation down to this level will help to augment the fair distribution of local government rates.

The 'Rural Residential' subcategory should be removed or at a minimum the definition changed to remove the restriction on area (between 2 and 40ha) and that it must be the site of a dwelling. Changing or removing these restrictions would enable urban fringe councils (such as Campbelltown) to provide a fairer more equitable rating structure on non-urban land.

In regards to business land, the current restrictions on 'centre of activity' are difficult to justify and in-flexible. Removing this restriction will enable councils to sub-categorise to a level that is more conducive with the type of industry and level of intensity across the council area.

In regards to mining, the definition should be expanded to include other types of mining activities and not limited to coal and metaliferous. The possibility exists to further expand this category to also deal with extractive industries such as gas which are currently categorised business.

These changes would provide councils with greater flexibility in setting rates that are easier to understand and more acceptable to the community's expectations.

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

It is agreed with IPART's view that land rates *'should be used to fund the provision of infrastructure and services in that local government area..'* *'They should not be used to fund the services provided by council's in other local government areas.'* This is often difficult to measure or assess especially when regional facilities, services and infrastructure (eg Rail Stations, Educational Institutions) are located within the LGA accessed by residents living outside of the LGA. This has a large impact directly on local infrastructure however the offset from increased economic development can't be ignored.

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?

The introduction of the Integrated Planning and Reporting framework should allow less involvement by IPART in determining rate-pegging on local councils. For example where a council has demonstrated a strong community acceptance to fund projects and report back to its community on its achievements variations of up to 5% (including rate-peg) should be allowed without the need for the current application process.

We are proposing that provided councils can demonstrate community support exists, which may be in the form of a recent special variation application approval based upon disclosure in the delivery program and revenue pricing policy and agreed upon by IPART should be adequate for the Minister of Local Government to approve the council recommended increase. As above these should be no more than a 5% (including rate-peg) variation and supported.

Council supports the recommendations by the *Independent Local Government Review Panel* to 'rate benchmarking' where a shift to more fiscal responsibility on councils and their reporting mechanisms would result in greater flexibility and consequently greater autonomy in the setting of land rates.

In regards to special rates, allowances should be made that enable a council to exceed its permissible yield by less than an additional 5% (above rate-peg) if the community has identified a work, service, facility activity that they are prepared to meet the costs in funding.

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

We agree with IPART's preliminary view. It has been suggested that councils may be given the ability (through categorisation) to apply a higher ad-valorem rate to vacant land than is applied to occupied land to reduce 'land banking'.

Urban renewal is defined by the Department of Planning & Environment as *'the process of planning and delivering changes in infrastructure, streets and the public domain to deliver the greatest community benefit'* which can only be achieved through special rates. Such rates could be justified in advance of the delivery on the bases of value capturing the improvements to land owners property values.

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

Efficiencies could be achieved through changes to the Local Government Act that enables formalising a request for payment from the mortgagee once twelve months rates are overdue. This model is successful in New Zealand, however is flawed where property is not mortgaged.

It is difficult to apply a single tier solution to this matter, ratepayers have many and varied reasons for not paying least of all determining capacity to pay. In Campbelltown Local Government Area there are two extremes, affluent suburbs and extremely low socio-economic areas. For example the suburb of Macquarie Links has a SEIFA index (2011 Index of relative socio-economic disadvantage) of 1114 whereas Claymore is at the opposite end of the scale with an index of 495. This index has been considered in our recovery policies, ratepayer engagement strategies and Financial Hardship Relief Policy.

Determining debt recovery based on a monetary amount does not fit the local government industry as the reasons for not paying are quite often not based upon the capacity to pay but an unawareness of the debt. There are many properties within our LGA that to reach the quoted \$2000 threshold would consist of almost three years rates to be overdue.

This area is difficult to manage as ratepayers sometimes forget to advise of changes to their mailing address and in other cases the incorrect information is supplied by an agent or conveyancer. Councils are working harder to gather more information such as phone numbers and email addresses and a request to Land and Property Information has been made to change the data collection (i.e. notice of sale or eNOS) to include these details on land transfers.

Councils should be able to enter into multiple payment options without the restrictions of Section 564 of the Local Government Act 1993.

Council's should be allowed to issue notices in an electronic format using the information gathered above. Currently service of notices electronically is restricted to requests being made in writing.

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?

No, the current exemptions are out of date and in-appropriate.

All land categorised residential should be rateable, this addresses the taxation principles of **equity, sustainability and competitive neutrality** most appropriately at a local level. Exemptions do not meet the benefits principle of efficiency as the works, services, activities and facilities that land rates are levied to fund are available to the same extent to exempt land occupiers as those that contribute through paying rates.

It is also important to note that under the current 'statement of compliance' rates calculation framework reductions in revenue due to exemptions is re-distributed across the remaining community in future years which do not believe is sustainable.

In this response we have identified three main areas of exemptions that we do not believe reflect the original intentions of the Local Government Act and also do not meet the taxation principles identified above. These key issues are outlined in the following case studies.

Case study one:

The 'objects and functions' of a university were changed so that the '*university may exercise commercial functions comprising the commercial exploitation or development, for the University's benefit, of any facility, resource or property.*'

The university proceeded with a residential development of up to 800 homes on land originally gifted by the NSW Government. During the subdivision phase the university approached Council seeking an exemption on the development land on the basis that the '*land that is vested in a university, or a university college, and is used or occupied by the university or college solely for its purposes*'.

The Council served its notices on the land being developed for residential accommodation and the university agreed 'under protest' to pay and still maintains that it is entitled to an exemption. The site of the campus and surrounds that are vacant and undisturbed by the residential development including student accommodation continues to be exempt.

Council has argued that it does not believe the LGAct was written with this intention and is in opposition to the council charter in particular;

- To exercise its functions in a manner that is consistent with and promotes social justice principles of equity, access, participation and rights, and
- To raise funds for local purposes by the fair imposition of rates.

Case study two:

Campbelltown City Council is affected by significant urban renewal of land owned by Housing NSW. During the re-development stage large numbers of homes have been demolished and left vacant whilst still held in the ownership of Housing NSW up until sale to the public. Land held this way is exempt from land rates as it is owned by a statutory body and is not being leased for private purposes.

In this case the Council incurred losses to its revenue base of up to \$500,000 in some years as Housing NSW land is cleared of residential stock and being re-developed. Within the same local government area (and within the requirements of the LGAct) a private developer would continue to pay land rates on land under development.

Council perceives this to be opposed to its charter, in particular;

- To raise funds for local purposes by the fair imposition of rates, and
- To ensure that, in the exercise of its regulatory functions, it acts consistently and without bias, particularly where an activity of the council is affected.

Case study three:

Campbelltown City Council has a significant number of Housing NSW properties within its area and expresses concerns regarding the transition by Housing NSW from bricks and mortar into a more strategic management role by transferring some of its responsibilities to community housing providers (CHP's).

In accordance with the funding arrangement changes recommended by the Henry Tax Review in 2009 affordable/social housing has been classified as public benevolent in nature. This identity has filtered down into the local government arena and consequently interpreted as exempt in accordance with Section 556(h) of the Local Government Act 1993 as *'land that belongs to a public benevolent institution or public charity and is used or occupied by the institution or charity for the purposes of the institution or charity'*.

NSW councils have challenged the consequence of this change for a number of reasons not least of all that homes used for the same purpose yet held by Housing NSW are subject to land rates.

In a recent precedent case a CHP was successful in its claim for an exemption on the basis that its purposes are charitable.

Council has already experienced a shift in the number of residential parcels being held outrightly (i.e. clear title to ownership) or via vesting provisions in the local government area however to date has not conceded to any applications for exemptions. The risk though is significant with around 5,500 individual parcels currently held by Housing NSW and rated and close to 350 parcels held by CHP's the exposure to Campbelltown City Council could be as much as \$6.5million per annum in lost land rates revenue.

It is believed that claims for exemption in accordance with the above are opposed to its charter in particular with regards to;

- To exercise its functions in a manner that is consistent with and promotes social justice principles of equity,
- To raise funds for local purposes by the fair imposition of rates.

It is recommended changes mandating that all residential land is rateable with consideration to mandatory rebates at a level determined by the State Government for non-residential land. For example a state funded public school may be entitled to a rebate of 75% that would be applied to the annual rates notice as a credit reducing the amount payable by 75%.

The total amount of rebates should form part of each council's IP&R documentation (Revenue Pricing Policy) and also appear in the Financial Statements and Annual Report enabling full public disclosure of the extent that local government revenues are reduced.

The extent to which exemptions are applied at Campbelltown City Council are provided in the following table. This information has been calculated using the current Residential and Business rates applicable to the land valuations supplied as at May 2016. The column headed 'residential rate' represents the amount of rate revenue that would apply using the 2015-2016 'Residential' rate and the column headed 'Business rate' is based on our current 'Business' rates structure. Council applies a special rate for infrastructure renewal which has also been applied to be consistent with the rest of the community.

Non-rateable reason	Residential rate	Business Rate
Church	369,055	669,527
Housing NSW	766,364	1,222,605
Indigenous Cultural Site	34,731	63,194
Public Benevolent Institution	127,156	230,659
State Government - Crown Land	1,430,524	2,510,357
University or School	1,482,682	2,697,791
	\$4,210,512	\$7,394,132
Council owned	2,425,826	4,226,237
Total	\$6,636,338	\$11,620,369

There are over 2400 properties in the above list that have variable uses, as we grant exemptions we attempt to categorise land according to ownership or use. The amount of revenue that is lost due to exemptions to external organisations is therefore between \$4.2 and \$7.4million per annum.

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?

Local councils have a responsibility to collect rates as its own source funding to fund local infrastructure, services, activities and facilities to its community. State taxes are collected to fund the activities responsible by the state government, these exemptions should remain on the basis that the state does not fund local government functions.

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

It is agreed with the *Independent Local Government Review Panel's* view that pensioner concessions are a welfare measure and form of tax relief. Land rates are based on capacity to pay through the land valuation process and as such improvements to the system should be aligned with this principle with via a process of asset testing.

It is also agreed with the *Independent Local Government Review Panel* that in line with the other states the state government should fully fund pensioner concession rebates.

Consideration should also be given to an inflationary adjustment being made on an annual basis to the rebate to maintain the relevance and proportion of the rebate to the properties annual rates levy.

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?

Although Campbelltown City Council is not directly affected by merger proposals we do agree with IPART's interpretation.

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?***

Although Campbelltown City Council is not directly affected by a merger proposal it is our opinion that provided there is strong community support all the types of special 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?

Although Campbelltown City Council is not directly affected by a merger proposal it is our opinion that provided there is strong community support all the types of special variations should be allowed to be applied for.

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)?

Although Campbelltown City Council is not directly affected by a merger proposal it is our opinion that once merger councils have a full picture of the land valuation affect, effect on categorisation sub-categories an appropriate rating system may require changes in the base amount or minimum above the statutory limit.

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)?***

Although Campbelltown City Council is not directly affected by a merger proposal it is our opinion that this is too high level and does not take into account existing council rating structures and how the rating burden is proportioned within individual Councils.

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?

Although Campbelltown City Council is not directly affected by a merger proposal we agree with this option as it allows councils to apply their rating structures and equitably spread the rating burden.

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

Although Campbelltown City Council is not directly affected by a merger proposal we believe that councils should be able to commence rate equalisation from the second year of the merger. There should be transitional legislation implemented similar to that which was in place when water values were excised from land values.

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?

Although Campbelltown City Council is not directly affected by a merger proposal our response is the same as for the above item 19.

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?

Although Campbelltown City Council is not directly affected by a merger proposal we believe that only once a merged council is formed will it properly be in a position determine the requirements in meeting the needs of its community. Time should be allowed to transition the rating structures of the merger councils commencing in the second year through transitional changes to the LGAct.

The reference to Centre of population will need to be removed to facilitate a fair and timely transition.

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?

Although Campbelltown City Council is not directly affected by a merger proposal we believe that approved unapplied SV's should be cancelled from the date of the merger. It is important that the community has input into the special variation process and not all ratepayers within the newly merged Council had the opportunity to be part of the decision yet will be expected to contribute to that decision going forward.

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

Although Campbelltown City Council is not directly affected by a merger proposal we suggest that valuations as at the same base date are supplied in time for the merged council to determine a fair and equitable rating structure.

Only when councils have been merged and established will there be an opportunity to establish the effect of transition or equalisation on the community.