

## Greater Taree City Council – submission

### Review of Local Government Rating System – IPART – April 2016

IPART have released the Local Government – Issues Paper seeking commentary/feedback by 13 May 2016

Council's response:

#### Taxation principles

##### Item 1

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

Response:

- As stated, the proposed taxation principles (transparency, accountability, fairness & equity), appear reasonable.

#### Assessing the current method for setting rates

##### Item 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?*

Response:

1. Valuation method
  - Unimproved value of land (UV) is working well for Greater Taree City Council (GTCC) - simple and cost effective.
  - Any imposition of Capital Improved Value (CIV) may create inequities across the local government area and discourage capital developments on certain properties
  - Use of annual rental value (ARV) is not explained fully in the document and appears to be implemented in WA (Perth) and Tasmania so no informed comment can be made
2. Choice of valuation method
  - Council's should be able to choose the valuation methodology (UV or CIV) that aligns the principles of the taxation methodology across their local government areas – this would provide optimum outcomes for each LGA (noting valuation methodology may vary between city, regional and rural council). Councils need to model each valuation method across its community, analyse the impacts of change and variations between options and select the valuation method that best aligns to the taxation principles as per Item 1 above.
  - CIV is viewed as aligning equity in high density areas (fee for service), the cost and impact of both change and how these values are actually determined/implemented has not yet been established –UV base may be more equitable in rural/regional councils however increase in UV in some coastal areas may impact affordability where UV may rise considerably – flexibility should be provided to each council to implement the valuation method most suitable for their rating base and manage exceptions by use of categories (including differential base/minimums for these categories).
  - Section 518B LGA (mixed development land) should be amended to allow councils that may wish to utilise 'Mixed Use Apportionment Factors' for rating purposes

where there is a cost benefit to council. Council's need to retain the option to use dominant use (as per S515-517 LGA) where practical.

### Item 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)?*

Response:

- A Cost Benefit Analysis is critical to understand impact is required prior to use of a private valuation firm.
- Recommendation is for IPART to undertake an independent cost benefit analysis for NSW at state level which may provide greater savings/efficiencies than local/regional reviews.
- If a statewide review is not undertaken by IPART, council's should be able to undertake this cost benefit analysis at individual or group levels to make a decision as to whether to continue to use the Valuer General or utilise another external valuation service to obtain the best outcomes for their ratepayers.
- Currently using the Valuer General's property valuation services is working well with minimal number of successful objections Council is unable to benchmark VG services against use of private valuation firm due to lack of current data.

### Item 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?*

Response:

- S548 (minimum amounts) is effective and should be retained when rating those properties of low value that are generally located in the rural areas. These properties tend to be closed roads that do not meet building requirements. They also tend to be parcels of land attached to larger parcels that were not transferred many years ago (sometimes +50 years) and have now been identified by LPI and ownership listed as it was at the time of the original transfer. Many of these owners are deceased and properties are acquired by neighbouring owners through possessory title or sold up for unpaid rates.
- Retaining the base amount (not exceeding 50%) provides a fairer option to distribute the cost of providing baseline services across the community. Ad Valorem added to the base amount assists in distributing the remaining portion of the rates based on value of property (which in general aligns to affordability). The use of a combination of base and ad valorem provides a fairer and equitable rate distribution accounting for service delivery and affordability.
- The impact of revaluation changes are also reduced on individual rate payers when combining the base amount and ad valorem.
- State owned land that is currently exempt from rates but has access/use of council services should be subject to at least a base or minimum rate to make some contribution to the cost of services being utilised.

### Item 5

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

Response:

- Rating Categories and sub-categories generally work well. These allow a council the ability to set a different rate for each category and sub-category and let the council levy higher rates on areas that have a greater need for resourcing.
- Creation of sub-categories could also be broadened to allow subcategories by the type of building and occupancy (e.g. the ability to have a different rating structure on units/flats to houses etc.) which would allow councils to set differential rates to obtain a better balance between the rating principles of “benefit” and “capacity to pay”.
- Deletion of Section 516(1)(c) LGA (rural residential land) or clarification of the requirements of this section as there is confusion amongst councils and ratepayers as to the correct interpretation and application of this Section and therefore generally not used. This confusion relates to being able to interpret the 5 conditions and apply consistently. For e.g. the use of the wording significant and substantial is subjective when dealing with ratepayers.

#### Item 6

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

Response:

- GTCC acknowledges that varying levels of services are utilised and/or provided in different areas across the community. Use of rating categories/sub categories enables council to better align the service delivery requirements by applying different rates for areas defined as towns, villages and rural for business and residential purposes.

#### Item 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?*

Response:

- A council should be responsible for determining its own level of rate income in consultation with its rate payers and community. This would alleviate the necessity for rate pegging. Other states in Australia do not have rate pegging and councils in those states are able to function successfully, with greater control over their financial sustainability. These councils are able to make informed decisions about both the short and long term needs of their communities together with what their ratepayers can afford to pay. This is achieved via a strong consultation process prior to any long term decisions being made. Ultimately councils are held accountable by their constituents and the success or otherwise of their decisions will be reflected in the next election.
- Should rate pegging remain, amendments are required to allow for catch up provisions for lost income due to changes in category of rateable properties. There is currently provision for councils to catch up lost income due to properties becoming non rateable and this needs to be extended to changes in category e.g. when a property moves from business to residential the revenue lost due to this change is lost to council forever. Councils should be able to recoup the difference as part of this process in the same way it recoups revenue due to changes in rateability.
- Currently councils are able to recoup lost revenue due to Objections to Valuations under Valuation of Land Act (VLA) as part of the annual process. However there is no similar provision for valuations which are amended by way of re-ascertainment under VLA. A re-ascertainment is a ‘valuation objection’ by a different name and is instigated by the Valuer Generals Office (VG) as a consequence of a discrepancy

found in the valuation data by the VG. These re-ascertainment's can cover many properties and have a significant effect on a councils forward revenue/income.

#### Item 8

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

Response:

- Section 495 LGA currently provides options for council to levy a special rate to assist with and encourage urban renewal. This provision should be accessible to all councils to engage with their communities regardless of amalgamations. Councils should have access to Section 495 LGA at all times regardless of merger outcomes to enable them to work with their community to continue to develop and encourage urban renewals.
- This is particularly pertinent when councils are implementing local strategies that seek to facilitate urban renewal.

#### Item 9

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

Response:

- Centralisation of debt recovery in NSW – one system specialised for rate recovery to be consistent, cost effective, timely and efficient. Low cost debts could be better managed without litigation. Community would be better placed in understanding they have a legal obligation to pay their rates (community funds) if centrally managed as opposed to disputing with individual councils that they simply can't pay and request/demand council to carry the debt in perpetuity as part of their community responsibility.
- Sale of land should also be streamlined across the state and centrally managed. As well as the benefits outlined above, this would also allow ratepayers to deal with a centralised body with some anonymity and retain their dignity within the local community.
- Legislation to enable councils to recoup lost rates where rates have been levied to a business operating on crown land and where that business has become bankrupt. There being no avenue left to council for sale of land and recoup rates due to it being crown land, the rate revenue is then lost.

### **Assessing exemptions, concessions and rebates**

#### Item 10

Response:

*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?*

- Sections 555 (land exempt from rates) covers the provision of rate exemptions is at times vague and difficult to understand. The current legislation has not kept pace with changes in society and has resulted in Councils having difficulty in interpreting and applying these sections which leaves the Councils open to legal challenges. This section should be modified to give greater clarity and certainty in areas such as:

- The growth in public benevolent institutions (PBI's) and the much looser interpretation being applied by the courts. The definition needs to be more conclusive or similar to the public charity exclusion clause in Section 559 LGA. There have been a large number of what were Public Housing properties handed over to various Housing Groups. These groups are registered as PBI's and then make a claim for non rateability under the LGA. If non rateability is granted then the rest of the community is required to pay additional rates in order that the councils revenue base does not decrease. It is understood that it was never intended that such properties were to be granted non rateability and that the provisions of Section 560(4) were to continue to apply however the LGA has not kept pace with what is happening in the community and needs updating.
  - Where a PBI claims entitlement for a rate exemption under the current legislation and not only receives funding to provide their service but are also able to receive lease income from full or partial rental of these premises that they have claimed the full rate exemption needs to be addressed by amendment to the existing legislation. Properties subject to rental/lease income should not also be entitled to claim a rate exemption.
  - The growth of private schools, particularly in established areas. There are many private schools and other organisations which are acquiring entire precincts and requesting and being granted non rateability. This currently transfers the rate liability to the other ratepayers within the council area. Private schools place an impost on council resources and services regardless of the LGA of their student base.
  - Houses owned by various statutory authorities e.g. National Parks & Wildlife Service, Teacher Housing Authority etc. are claiming non rateability even though there is a private lease or agreement in place and the building is not occupied by the authority. The LGA needs to be amended to ensure that the necessary rating contribution is made for such properties and that National Competition Policy principles are met. These properties do make use of various council services, assets and facilities.
  - Section 555(g) should be clarified and the list of "declared properties" in schedule 1 "Aboriginal Land Rights Regulation 2002 – Reg. 7" should be easily identifiable. Currently Councils are having difficulty obtaining this information from the Dept of Aboriginal Affairs.
- Section 563 LGA (discount for prompt payment in full) should be removed as no council's utilise this due to the restrictions of rate pegging. Any revenue lost by way of discounts cannot be recouped via another means which means the council will lose that revenue forever. If rate pegging was not in place a Council could raise revenue based on the granting of discounts and not have their income streams affected.
  - Section 548A LGA (aggregation of values of certain parcels subject to rates containing base amounts) should be removed. All separately titled properties particularly those in Strata Plans should be rated individually. The administrative burden of applying and complying with this section are onerous. Recommendation that it should be up to the ratepayer to apply to the VG Department to provide one valuation to council therefore removing the burden on council.
  - Section 585 LGA (postponed rates) should be removed due to the difficulty Councils have in administering the section. If such a provision is to remain in the legislation, it should be treated in a similar way to a Section 14 VLA allowance and result in the rates being levied on a lower value whilst ever the property meets the requirements. The current process of levying rates and having part of them suspended/postponed until the use of the property changes is inefficient, outdated and causes confusion for ratepayers, council staff and solicitors.

- The use of Conservation Agreements is against all rating ideology. If a property has a residence on it and also has a conservation agreement then the property should at least be liable for the minimum rate, not the situation as it applies today where they only pay a proportion of such a rate. There is no reduction in the levels of service provided to the ratepayer and this shows the system to be unfair and inequitable.

#### Item 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?*

Response:

- While not classified as a PBI (public benevolent institution), council sole purpose is to deliver services to its community – council's charter outlines its obligation and accountability to its community.
- Council's are currently required to calculate and lodge an FBT return - management, reporting and tax expense is a burden on council and ultimately borne by its community.
- It is recommended that consideration be given to either extend the provision of the current PBI to include councils or by new provisions allowing councils to be extended the same or similar exemptions from FBT.
- Councils conducting a commercial business will then manage and report on these separately from their main community focused operations to ensure they make contribution to relevant taxes.

#### Item 12

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

Response:

- The centralisation of the granting of mandatory pensioner rebates as happens in other state and is administered by the relevant state government. This would streamline the process and ensure efficiency, accountability and compliance. This would also remove the onerous burden on council to ascertain eligibility from the Dept of Human Services and the extensive compliance and audit requirements. The rebates could be managed more effectively outside of the rating process.
- Review to bring NSW in alignment with other states and receive 100% funding for pension rebates. The imposition of partial funding on GTCC is approximately \$475,000 for 2015/16 which is an erosion of council's general revenue and capacity to deliver services.
- Any introduction of an asset test or rate deferral scheme would place an onerous burden on council. The asset test should only be considered if pension rebates were effectively managed by a centralised department.

#### Item 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?*

Response:

- We agree with the general interpretation, but believe this needs to be expanded to account for the timing of council's that have applied for a SRV following extensive community consultation only to find that following the lodgement of their SRV applications, they may now be subject to a merger. The trajectory should be determined for each council to include any SRV applications made prior to proclamation of an amalgamation. To consider a trajectory without the inclusion of an SRV in this case would substantially disadvantage a council and its community in achieving financial sustainability.

#### Item 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?*

Response:

- Crown land added to the rating base should not disadvantage council and allow council to increase its rate base as a "catch up" without applying for a special rate variation as such.
- *To recover amounts that are "above the cap" on development contributions set under the Environmental Planning and Assessment Act 1979?*

Response:

- Yes, infrastructure required to meet the needs of an increasing population should be able to be levied onto new development so that existing ratepayers are not unduly burdened with the cost of infrastructure to support population growth.
- *To fund new infrastructure projects by levying a special rate?*

Response:

- Yes, all councils should retain the right to apply for a special rate in conjunction with community consultation and engagement for specific project works. This would assist particular works to be undertaken within the newly formed council area that may address disparities between former LGA's or to progress/meet community expectations for specific infrastructure included in an operational/delivery or community plan. Our understanding is that you are referring to S495 LGA in relation to a special rate as opposed to a special rate variation so have added further comments below to support our view that councils should also retain the right to a special rate variation provided it is successful in gaining community support.

#### **OTHER COMMENTS**

- Further, this should be extended to include special rate variations either where a council has:
  - Lodged and SRV application prior to being included in any merger provisions and if not approved, should retain the right to lodge again the following year noting community support outlined within the application and the disadvantage to council and its community in achieving operational outcomes and progress to attaining financial sustainability.
  - Where a council has general support from its community, it should not be prevented from making application for additional special rate

variations either in relation to a pre-emerged council area for the newly merged council area to achieve agreed community outcomes or remove disparity in service delivery (or community infrastructure) within the newly merged council area.

#### Item 15

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

Response:

- Councils should have the opportunity to consult with their community and make application for special rate variations on a case by case basis as outlined above. No council should be disadvantaged from applying and gaining an approval for special variations where application was made prior to consideration of a merger. Should these applications not be successful, then the community should expect that their council would be able to resubmit or apply for a new variation following merger provisions. The timing of announcements to include a council for consideration of a merger should not disadvantage the community and undermine the consultative process already completed as this would disadvantage the council and its community in achieving agreed financial and operational outcomes.
- All councils should retain the right to consult with their community within the rate path freeze period. During this period of change, councils will need to retain their staff, undergo significant transformation, bring communities together and consider the needs within the revised community boundaries. There may be instances where funded works could progress the transition to one community and break down pre-existing barriers.

#### Item 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)?*

Response:

- Merged councils should be able to increase base amounts and minimum amounts to the same degree as if it were an independent council – this would comply with remaining on the same trajectory but allow the council to work towards an equitable rating base for the merged council.

#### Item 17

*During the rate path freeze period, should merged councils be able to allocate changes to the rating burden across the 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*

Response:

- Merged councils should have flexibility to remodel the rating categories across their LGA during the rate freeze period to work towards the optimum fair and equitable distribution of rates for the new entity.
- Councils need to be able to move towards a common valuation date and levy similar rates sooner rather than later to align equity for service, account for distance and ensure the principles of taxation are applied. Delays in this ability for

a council to consider how best to manage relative changes in total land value of pre existing categories will create a division in the community.

- Council should also be able to take into consideration (where applicable) what changes to categories & sub categories should be implemented during the rate freeze period that consider proportion of existing rates of the newly merged councils to commence transition to align equity for the newly emerged councils and minimise impact of pre emerged council's ratepayers.
- *The rate peg (adjusted for any permitted special variations)?*

Response:

- Councils should be considering a transition that is fair and equitable staged from year one including determination of categories, sub categories, land valuations (and relative changes) without having to rely on distributing rate peg (adjusted for any permitted variations) only for a period of 4 years as to delay the transition process across the newly merged LGA will create divisions within the one LGA.

#### Item 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?*

Response:

- Attaining both financial sustainability and being fit for the future for the newly merged council would unlikely result in a council setting rates below the "ceiling", as any savings will unlikely be realised in the initial years, particularly given employee protections of 3-5 years, investment required to amalgamate or replace systems, additional resources that may be required to review and align practice and process and in the case of regional mergers, the imposition that the tyranny of distance creates in providing service to a significantly larger area. In the case of the GTCC, Gloucester and Great Lakes merger, the geographical area becomes almost three times the largest of the councils and the retention of depots and administration is a real possibility.
- While council's **may** set rates below the ceiling to enable them to progress the revision of their rating structure for the merged council, it is not considered this option is in the best interest of achieving long term financial sustainability or readily communicable to its community by reducing rate growth that is not in alignment for being fit for the future modelling.

#### Item 19

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

Response:

- Councils are working closely with their communities to ensure they manage their infrastructure and provide services to the level of community expectations and attain long term financial sustainability. To limit council's ability to increase rates during the rate freeze period halts this process. In fact, for GTCC we have been proactive in obtaining operational efficiencies by over \$3m per year and still require the ability to work with our community to increase rates revenue to bring our extensive road and bridge network up to satisfactory standard. A rate freeze with no flexibility or discretion to work with our community would disadvantage our community and add to our growing backlog of infrastructure works. Special rate applications under S495 LGA do not provide flexibility to undertake various infrastructure renewals/upgrades across the LGA, therefore councils need to have

discretionary power to work with the community during the period of the rate freeze and make application for a variation to rates to undertake infrastructure works that require renewal/upgrade and will have a major impact on the community if works were to be delayed to after the rate freeze period. Councils therefore need to retain the right to apply for a special rate variation or other levy that would deliver outcomes for the community in consultation with their community.

- Discretionary powers should be applied to merged entities that involve rural centres under 218(CA), given the need to retain staffing numbers, to ensure that service levels can continue until such time as the new entity is fully operational. Where the newly merged council's LGA is extensive and covers existing remote operational centres/depots that will need to be retained and at least maintain current services in the interim, this has significant impact on the newly merged council to fund and maintain these services in these locations that would otherwise not be undertaken if the council had the powers to make decisions based on the financial sustainability of the new entity.

#### Item 20

*We considered several options for implementing the rate path freeze policy. Our preferred option is providing the Minister of 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?*

Response:

- We do not agree, because fundamentally, GTCC does not agree with the rate path freeze for merged councils.
- Should a rate path freeze be inevitable, it should be applied on a case by case model considering the impact that the rate path freeze would have on the financial sustainability of the merged entity and its capacity to meet the State Government's Financial Sustainability benchmarks.

#### Item 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?*

Response:

- Currently a centre of population as per Section 592(b) (2) of the LGA allows councils to equitably apply rates to homogenous areas (suburbs, town groupings etc.).
- The disadvantage is when the newly merged council is required to equalise the first year rates after the rate freeze across the centre of population within its LGA which will create anomalies with potential significant rate increases/decreases across the LGA. This is a result of the merging of different rating structures of the previous councils.
- The requirement to set the same residential rate across the centre of population would not comply with the equitable principle where rates may increase in some areas with no increase in service delivery. If the requirement to for rate equalisation across the LGA remains, the rate distribution across the centre of population would be inequitable and unfair and should be amended to allow for equitable principle to align with level of services provided.
- It is recommended that councils have the ability to set differential residential rates to align equity with service delivery.

#### Item 22

*Should approved special rate variations for a pre-merger councils be included in the revenue base of the merged council following the 4-year rate path freeze?*

Response:

- Yes – community expectations that agreed community works/outcomes tied to special rate variations approved for a pre-merger council would continue and would require funding.
- Councils that have applied for a special rate variation prior to announcement of consideration of a merger have worked extensively with their community and in preparation of the special rate variation submission. These councils have been advised that these submissions will be assessed by IPART and if approved, should be included in the revenue base regardless of the timing of any announcement of a merger. No merged council or its community should be disadvantaged by timing of any announcement of a merger once a special rate variation application has been submitted prior to a merger proposal and subsequently approved.

### Item 23

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

Response:

- Councils should not be delaying for 4 years, the transition towards an equitable rate base for the new LGA. A newly formed council should be proactively working with its new community to establish a new rate structure that is based on equity and accounts for service delivery and distance (including the taxation principles) in relation to existing levels of service delivery and potential changes to levels of service delivery within the 4 year rate freeze period.
- Council needs to be able to bring the community together to work towards establishing the best model for its community that meets the varying levels of service delivery across the new LGA which is a dynamic approach and not retaining a static approach which will create divisions within the new LGA.