

## Submission to IPART – Review of the Local Government Rating System

### Taxation principles

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

**Comment:** Council agrees with the key tax principles being Efficiency, Equity, Simplicity, Sustainability and Competitive Neutrality. Council strongly supports IPART's comments in regard to income from rates required to be sustainable. Whilst rates income is reliable and certain for a council, the growth in this income over time to support the future needs of government is currently limited by rate-pegging and the complex process involved in seeking additional revenue through a Special Rate Variation. The evaluation of the current Rating system in NSW against the tax principle of "Sustainability", is therefore critical.

### Assessing the current method for setting rates

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?

**Comment:** Council supports the option to allow councils to set a new rating category for multi-unit apartments, and mandating the use of a Capital Improved Value method (CIV) method for that Category. This would support a more equitable method to rate multi-unit dwellings. The legislation could potentially allow for a process whereby certain councils with specific characteristics relating to multi-unit dwellings could be subject to exemption from the relevant mandatory clauses. All other Categories would continue to be rated on the Unimproved Land Value (UV). Allowing councils to choose a valuation method could cause inequity across communities and increase the likelihood of challenges by ratepayers against councils.

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)?

**Comment:** Council supports the continued use the Valuer General's property valuation services. This will ensure land valuations are undertaken in a consistent and transparent manner across all councils in NSW and reduces the likelihood of challenges by ratepayers against councils. The Valuer General has an established process to undertake valuations and to handle objections and other enquiries. It would be difficult for all different private valuation firms to establish and maintain a similarly consistent process.

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?

**Comment:** Section 548 of the Local Government Act 1993, should be removed, discontinuing the use of a Minimum Rate. Whilst potentially costly to implement and administer, a Base Amount, calculated on the indicative cost of an estimated "minimum bundle of services" a ratepayer is likely to use or benefit from, and based on a framework issued by the relevant body, would represent a fairer distribution of the rating burden to fund the cost of public goods. Costs could be reduced, and consistency ensured, if the criteria and relevant costing guidelines were set by an external body, and mandated for all councils. Whilst the current limit of 50% of the total revenue from any particular category could be allowed some flexibility, it would still be preferable to have a limit. This would ensure the rates tax still reflects capability to pay based on asset ownership.

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

**Comment:** *Changes could be made to rating categories relating to Vacant Land, the Rural Residential Sub- Category and the Farmland Category. In relation to Vacant Land, it is suggested that a new Category for Vacant Land is introduced. This would allow flexibility to impose a lower rate for vacant land to reflect the lower impost this type of land has on council resources.*

*In relation to the Rural Residential Land sub-category, it is suggested that it is removed from the Act. The Rural Residential Sub- Category, as currently defined, fails to achieve a simple and fair way to levy rates by limiting the number of properties to be included, by the Area of the land and whether the land is Vacant or the Site of a Dwelling. Whilst this Sub-Category may have been intended to capture properties outside Town Centres, the use of land size and whether a dwelling exists, to categorise properties, may not reflect access to services. Properties that are less than 2 hectares in area, may have the same services, and the same access to services, as the property that is 2 hectares or over, may be subject to a different rate. The same principle applies for the use of "The Site of a Dwelling" in the current definition. Vacant land draws less on Council services, yet they may be subject to a different rate compared to the property with a dwelling on it that does not fall within the definition of Rural Residential Land. The current definition can also cause inequity in terms of potentially differentiating between properties where the owner's capacity to pay is similar, as reflected by the land values, but fall in a different rating category due to a marginal difference in land size and/or whether there is a dwelling on the site.*

*A way to achieve a much fairer method of implementing differential rates to reflect access to services already exists in the Act by allowing councils to create a Centre of Population for say a Town Centre and then create a sub - category for all land outside the defined Town Centre.*

*The definition of the "Farmland" Category requires tightening to minimise subjective assessments and room for discretion, and consequently the likelihood of challenges. The Act should clearly stipulate what constitutes "dominant use" for the various farming activities. The definition could include minimum land size and minimum stock or plantation levels required to qualify for a farmland category. A definition of what constitutes "significant and substantial commercial purpose or character" is also required. The determination of whether the farming activity is being undertaken for the purpose of a profit on a continuous or repetitive basis is difficult to assess, especially in light of the area of expertise of rating professionals not likely to be farming.*

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

**Comment:** *Yes. The current rating system causes equity issues across communities. The current distribution of the rating burden across a community is driven by that specific council's capacity to generate revenue; this capacity can be limited by factors outside of Council's control such as flood prone land, bush fire zones, and natural reserves. Other factors impacting on the distribution of the rates between the various categories within a community, and consequently across communities, is the type of development in that local government area, for example an area with a high proportion of business properties is in a better position to offer reduced rates to residential properties. These differences are not necessarily reflected in land values.*

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?

**Comment:** *Rate-pegging should be removed. A council should be responsible for determining its own level of rate income in consultation with its community like in other states. 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. The Integrated Planning and Reporting (IPR) Framework allows councils to establish an appropriate resourcing strategy, including a long-term financial plan, to deliver their Community Strategic Plan. To place a limit on the revenue that can be generated is contrary to the approach to sound and sustainable long-term planning fostered by the IPR Framework. The current rate-pegging and the level thereof is simply insufficient to sustain councils' services. The current framework is not conducive to councils raising sufficient revenue and therefore consuming their assets. A better outcome would be that ratepayers contribute a fair amount towards the cost of the consumption of assets.*

*Councils should be able to determine their own level of income, and as long as increases sought are well documented, justified and possibly audited, should not be required to seek approval from another body. If rate-pegging was abolished, there would be no requirement for a Special Rate Variation process and the costs associated with the process would be abolished.*

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

**Comment:** *Special Rates support urban renewal. Council agrees that the current process for a Special Rate is appropriate to ensure the community benefiting from the specific project / initiative / characteristics pays for the benefit, and there is no undue additional burden on the remaining ratepayers. The process also provides councils with an avenue to generate the revenue required for the project.*

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

**Comment:** *No comment.*

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

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?

**Comment:** *A property should be rateable regardless of ownership as all such properties utilise a council's services – in some cases properties which are currently non-rateable provide a greater drain on a council's resources than rateable properties. Sections 555 and 556 of the Local Government Act 1993, covering the provision of rate exemptions are at times vague and difficult to understand. The current legislation has not kept pace with changes in society and the way that some organisations operate in today's society. This has resulted in councils having difficulty in interpreting and applying these Sections, which leaves councils open to legal challenges. These Sections should be modified to give greater clarity and certainty, particularly in regard to the accepted practices of today. Some of the areas of concern are:*

- *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 of the Local Government Act 1993. 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 could make a claim for non-rateability under the Local Government Act 1993. If non-rateability is granted, then the rest of the community is required to pay additional rates in order that the council's 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 Local Government Act 1993, has not kept pace with what is happening in the community and needs updating.

- The growth of private schools, particularly in established areas.
- Properties owned by various statutory authorities e.g. RAAF, Universities
- Religious Institutions and Minister's residences

*These organisations use a council's services and should therefore contribute towards the council's revenue required to fund those services.*

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?

**Comment:** *Whilst it would be appropriate for certain taxes to become payable by councils, it is likely that these increased costs would ultimately be passed on to ratepayers. Whilst difficult to quantify, it could be argued that ratepayers are somewhat carrying an increased rate burden already, due to the current provisions of Section 555 and 556 of the Local Government Act 1993.*

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

**Comment:** *Council agrees that the pensioner concession scheme meets current welfare objectives and is consistent with the NSW Government's commitment to providing rate concessions to pensioners. Taxpayers already contribute to the State's welfare system through various taxes. Rate concessions impose a further impost on non-pensioners who carry the additional rates burden to compensate for the concession to pensioners. The current concession should be retained, but fully funded by the State Government, like in all other states, and an increase in the amount potentially considered, reflecting the current cost of living.*

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

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?

**Comment:** *Council's interpretation of the "Rate Freeze" is that the income from each respective pre-merged area can only be increased by rate-pegging or already approved Special Rate Variations and applicable growth. Council's interpretation is that the rating structure cannot be altered during the freeze period.*

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?

**Comment:** *The existing Crown Land adjustments should continue to apply for merged councils. A Special Rate, applicable to ratepayers within the development area, may be appropriate to recover amounts that are 'above the cap' on development contributions set under the Environmental Planning and Assessment Act 1979.*

*A Special Rate to fund new infrastructure appears contrary to the commitment of maintaining existing rate paths. In addition, it would be more appropriate for most councils to invest in renewing existing infrastructure, rather than creating new infrastructure.*

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

**Comment:** *The ability to apply for special variations within the rate path freeze appears contrary to concept of a "freeze". However, if there was no freeze, the Special Rate Variation would increase councils' revenue generating capacity and consequently financial sustainability, as well as providing an avenue to equalise rates across the merged areas, in a more equitable manner without the delay that would result from the freeze.*

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)?

**Comment:** *Any adjustments over and above rate-pegging, or that results in altering what the base amount would have been should no merger have occurred, appears contrary to the "freeze" concept. However, if there was no freeze, it may be appropriate to adjust Minimum Rates and Base Amounts to equalise rates across the merged areas, in a more equitable manner without the delay that would result from the freeze.*

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)?

**Comment:** *Any redistribution of the rating burden would be likely to cause movements to individual properties' rates, again appears contrary to the "freeze" concept. Should merged councils be allowed to reallocate the rating burden, the preferred option is to do it by way of the relative change method.*

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?

**Comment:** *It is unlikely that any council would choose to set their rates below the current rates trajectory. The rate freeze could act as a ceiling for the first 12 months of a new entity to allow sufficient time for a comprehensive review of the merged entities' respective rating structure, so as to determine an appropriate strategy to introduce a new rating structure for the new entity.*

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

**Comment:** *In the event the rate freeze applies for the proposed four year period, councils should be given discretion to review their respective rating structures, in preparation for a potential new structure. This would support a staged introduction of any rating changes, therefore minimising excessive rates movement for individual properties.*

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?

**Comment:** *No comment.*

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

21. Should changes be made to the Local Government Act 1993, 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?

**Comment:** *During the transition period, it may be appropriate to phase in changes to reflect a more equitable rating structure. This could result in the centre of population requirement not being met for a certain time. The Local Government Act 1993, should be changed to support this situation.*

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?

**Comment:** *It would be more appropriate and equitable for any Special Rate Variations to cease after the 4-Year rate freeze. The new entity may then consider a fresh Special Rate Variation based on the merged entity's requirements.*

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

**Comment:** *A number of issues might arise, including but not limited:*

- *Widened gap between rating structures due to freeze period*
- *Alignment of structures*
- *Land valuation issues*
- *Rates Administration*
- *Rates Database and systems consolidation*
- *Alignment of Rates Policies*
- *Ratepayers complaints*

### **Other Issues not addressed within IPART's Review and Council's Comments:**

#### **Postponed Rates**

**Comment:** *Section 585 of the Local Government Act 1993, 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 old fashioned and causes confusion for ratepayers, council staff and solicitors.*

#### **Mixed Developments Apportionments**

**Comment:** *Section 518B of the Local Government Act 1993, should be amended to also allow councils to use "Mixed Use Apportionment Factors" (MUAF's) for rating purposes. With changes to the acceptance by society of property uses, the legislation has not kept pace with reality. There are now many properties which are part Farmland and part Business and a determination is required as to the dominant category for rating purposes, therefore not reflecting the different uses of part/s of the property.*

## **Conservation Agreements**

**Comment:** *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. If such a change is not possible then there should be provision for two (2) valuations to be made by the VG, one for the part of the property affected by the agreement and another for the part not affected.*