



**IPART Review of the
Local Government Rating System**

May 2016

**NSW Farmers' Association
Level 6 35 Chandos Street
St Leonards NSW 2065**

Ph: (02) 9478 1000
Fax: (02) 8282 4500

NSW Farmers' Association Background

The NSW Farmers' Association (the Association) is Australia's largest State farmer organisation representing the interests of its farmer members – ranging from broad acre, Livestock, wool and grain producers, to more specialised producers in the horticulture, dairy, egg, poultry, pork, oyster and goat industries.

Executive Summary

The *Fit for the Future* reform agenda for Local Government Areas (LGAs), particularly its application in rural and regional areas, is a significant issue for the Association's members and their local communities. NSW Farmers was actively involved in the review of Local Government and will continue to comment on issues directly affecting the farming community.

The Association is primarily concerned with how Local Government services contribute to sustainable and productive agriculture. The local road leads to the farm gate, and therefore the efficient upkeep of local roads and services is dependent upon councils that understand the needs of the farming community.

Farmers often contribute high council rates when set against the services that they are able to readily access. Amalgamations that result in marked decreases in the proportion of farmers in an LGA could cause a decrease in engagement in key agricultural issues, or a decrease in the representation of farmers on local councils.

Amalgamations intended to make councils 'fit for the future' can have unintended impacts on the unity and cohesion of LGAs through the creation of rival communities within a single LGA. The potential for this is particularly acute in rural areas where the tyranny of distance can create very real geographic and psychological differences between communities.

There is a general frustration within the farming community that Local Government rates from rural landholders support local community infrastructure and services that those landholders do not derive full benefit from. By contrast, services such as road maintenance and infrastructure are often cited as poor and inadequate.

Consequently, the Association's membership believes that the rates they contribute are subsidising the cost of infrastructure and services in regional centres. Our members are therefore focused on achieving a more efficient system of rating that achieves a stronger, fairer rate base and allows councils to focus on core business (e.g. roads and road maintenance).

The following submission supports greater equity in the treatment of farmland rates (particularly in the comparison with mining) and, when considering potential mergers of council areas and a change to the rate base, IPART should be mindful of this general principle of equity when special variations are proposed.

The submission makes three key recommendations in relation to rate structures and categories: that farmland rates be set more equitably (including that sub-categories for mining operations be employed to account for their full impact on public infrastructure); that there be an independent panel for ratepayers to appeal decisions in regard to rates, rate categories and special variations; and that there be consideration given to farmers who have difficulty meeting rate payments when in drought or other extreme seasonal conditions.

In addition, the submission emphasises that land that is below the high water mark and is used for any purpose relating to the cultivation of oysters, should remain exempt from payment of Local Government rates.

TABLE OF CONTENTS

Executive Summary.....	2
TABLE OF CONTENTS	3
1. Taxation Principles	4
1.1 The proposed principles	4
2. Assessing the current method for setting rates.....	5
2.1 Valuation methods and services.....	5
2.2 Rating structure.....	5
3. Assessing exemptions concessions and rebates.....	7
3.1 Land use exemptions	7
4. Freezing existing rate paths for newly merged councils.....	9
4.1 Defining the rate path freeze	9
4.2 Special variations	9
4.3 Increasing base amounts or changing the rating burden across categories?	9
4.4 Setting a ceiling.....	9
4.5 Discretionary powers.....	9
4.6 Legislative process.....	9
5. Establishing new, equitable rates after the 4-year freeze.....	10
5.1 Centres of population	10
5.2 Special variations and other rating issues	10
Conclusion	11

1. Taxation Principles

1.1 The proposed principles

The Association broadly agrees with these principles but notes with regard to rating, the objectives of the *Local Government Act* are to:

- provide a system of local taxation, based on rates levied on property, which is simple, fair, broadly uniform, and which promotes local accountability;
- permit the use of particular rates for the provision of specific services or facilities
- provide that councils will annually justify to their community their proposed revenue raising decisions in an open manner;
- allow reasonable flexibility in the administration of the local taxation and charging regime; and
- reinforce council's accountability and responsibility for local revenue raising to the local community to provide for councils to set their own fees and charges for services.

In particular, a council's charter under section 8 of the Act includes the following: "to raise funds for local purposes by *the fair imposition of rates, charges and fees*". Farmers, who receive fewer Local Government services, should not be subsidising other ratepayers.

2. Assessing the current method for setting rates

2.1 Valuation methods and services

The Association holds that farmland rates should be the lowest *ad valorem* rate given the relatively few services provided to them directly. Local government rates from rural landholders support local community infrastructure and services that those landholders do not derive full benefit from. By contrast, services such as road maintenance and infrastructure are often cited as poor and inadequate despite being essential to the productivity of farming enterprises.

The Association holds that the method used for determining the valuation method should be fair and equitable and reflect the purpose of which the land is being used. Current UCV calculations are based upon market rates with the addition of easements and works, such as the potential to irrigate. However, this is not an ideal system because it does not always cater for the discrepancies caused by adverse affects of mining. Therefore the Association argues that it is critical that if the potential to irrigate is included in the case of farmland, that the potential for mineral extraction is included where farmland is bought by a mining company.

For example, in the case of mining, land may be purchased with a long term goal of mining but can be held as farmland for many years, whilst only mining a small area of the total land parcel. This creates a considerable strain on local infrastructure when surrounding roads are heavily used but lower rates are paid.¹ The system must allow for variations in these cases to ensure equitable treatment – valuation should reflect purpose.

Equally, in coastal regional areas a block of units may have same unimproved capital value (UCV) as a farm enterprise. However, the residential units will create greater wear and tear on roads and services as well as the owners' greater capacity to pay. This again leaves councils without the appropriate revenue to manage utilities and road maintenance. Caravan parks are another example of where a large number of 'permanent' residents use council services but do not contribute fairly to rates.

The Association acknowledges the role of the Valuer General and believes it is a core function of government to provide impartial valuation advice. We also notes that there has been a history of disputes in regard to appeals, particularly in relation to irrigation water. It is important that the appeals process is simple and fair.

2.2 Rating structure

The Association holds that local councils should provide for the following core functions:

1. provision and timely maintenance of essential services (water, sewerage, roads etc.) in the local community; and
2. provision of local planning services.

These functions must be achieved in a financially sustainable framework. LGAs must have access to alternative and sustainable revenue streams so that the provision of

¹ The Valuer General has to set aside the prices paid in order not to corrupt genuine farmland values, so subsequently mining companies do not pay rates on such land with any commensurate or related calculation to the prices they pay or potential of the land in question on an agricultural basis, contrary to farmers.

essential services can continue. In a context where Local Government has been asked to provide increasing levels of services, it is appropriate that alternative funding to provide these services is explored. The Association believes that Local Government should receive a fixed share of federal goods and services tax revenue such as through Specific Purpose Payments to fund the essential services provided by Local Government. The Association also supports the base charge providing 70 per cent of general rate income, noting that the 50 per cent ceiling provides some rate relief for certain ratepayers.

As noted above, the Association supports provision for allowable variations to be made within the mining category as exists within the residential category. This would allow Councils to make sub-categories in order to deal with production increases and for mining within different areas which can have a variable impact on public infrastructure.

This would allow the government to redress the ridiculous situation where you have an industry 20 times greater in gross production (in dollar terms) paying less than half the rates that farmers do, as is the case in Mid-Western Regional Council. Restrictions caused by State Government or Local Government policies, and the adverse effect that mining may have on the areas should be taken into account. Concessions and rebates are an important factor that should be included and able to be reasonably applied within in any rating structure.

The Association supports such changes on the basis where they would allow better targeted infrastructure projects to ensure farmland ratepayers are not disadvantaged in the provision of infrastructure maintenance and renewal. However, there should not be too many variations or sub-categories or the system becomes unwieldy.

Recommendation 1: *That farmland rates be levied more equitably, and that sub-categories for mining operations be employed to account for their full impact on public infrastructure.*

Regional councils are disadvantaged in a number of ways and funding should be equitable – importantly, farmland rates are a significant impost on farm businesses and are substantially higher than the rate burden experienced by residents across all council types [cost shifting]. The above factors mean that the current system does not reflect the Division of *Local Government Act* that states that rates should be fair and equitable.

By way of example, 1098 rural assessments consisting of 363 farmers in the Wellington Shire pay 58 per cent of the rates whilst 2086 Wellington residential assessments pay 22 per cent of the rates. In coastal areas there can be a very large number of bridges needing upgrades, e.g. Nambucca LGA, these upgrades can be a priority for farmers, who need higher load bridges to manage their businesses, but such upgrades could be considered a drain on resources by town dwellers. Farmers are frustrated when they contribute a lot but do not see significant upgrades in infrastructure that benefits farmland ratepayers.

Rate pegging should continue in order to manage the rise of rate income, and our members believe that pegging is important to ensure that rate rises are equitable.

3. Assessing exemptions concessions and rebates

3.1 Land use exemptions

The Association believes as a general principal that rates should be paid on the basis of those who most use Local Government services or amenities or receive the most value from their use relative to their contributions towards the provision of the services or amenities.

As such, the Association's membership believes that government agencies, parks *etc.* should pay rates. In the case of Wellington approximately 30 per cent of the shire does not pay rates. Local Government land-based rates should be tenure blind e.g. visitors and government agencies using National Parks or Crown Lands use roads for access, required to be maintained by Local Government, putting greater impost on Councils and consequently individual ratepayers in LGAs required to pay higher rates.

Noting that buildings and infrastructure in National Parks are not provided by the Local Government but are provided under the *National Parks Act*, the Association notes that the broader interest is for the NSW Government to put Local Government on a solid funding base.

In contrast, the NSW oyster industry accounts for nearly 70 per cent of the value of NSW aquaculture production and is invaluable in providing employment and economic opportunities to NSW coastal communities.² The Association is firmly of the view that, far from creating further service needs and costs for Local Government, the NSW oyster industry assists local councils in managing and monitoring estuarine water quality and in managing foreshore areas.

Therefore, the Association strongly opposes imposing Local Government rates on oyster leases, which are operated by the Department of Primary Industries (DPI). Pursuant to Section 555 (h) of the *Local Government Act 1993*, land that is below high water mark and is used for any aquaculture (within the meaning of the *Fisheries Management Act 1994*) relating to the cultivation of oysters, is exempt from payment of Local Council rates.

The Association also submits that the exemption from Council rates of land that is below high water mark and is used for any aquaculture relating to the cultivation of oysters should remain.

The Association submits that IPART should also give recognition to the fact that the NSW oyster industry does not operate with a complete exemption from payment of Council rates. Rates are paid by the landholders on all land above the high water mark, including on all infrastructure.

It is submitted that imposing further rates on the industry would unfairly increase the operating costs for the industry. In addition, the Association also notes that the oyster industry pays the DPI for oyster leases and in return, DPI carries out NSW aquatic habitat protection and compliance agency and develops policies and guidelines for the industry that are consistent with habitat protection objectives. By involving the DPI in this way, the industry further takes pressure off LGAs to manage and protect estuaries and foreshores.

² *NSW Oyster Industry, Sustainable Aquaculture Strategy 2006*, NSW Department of Primary Industries, iv.

The benefits provided by the NSW oyster industry to the community environmentally, economically and socially are significant and involve minimal additional costs to local government. Indeed, the Association submits that the industry in many ways alleviates pressures on Local Governments, particularly in an environmental context.

Recommendation 2: *Land that is below the high water mark and is used for any purpose relating to the cultivation of oysters, should remain exempt from payment of Local Council rates.*

In regards to exemptions for particular ratepayers, the Association notes that farmers in drought can often be in significant financial hardship for periods. See Section 5.2 (below) in regards to consideration of their seasonal circumstances.

4. Freezing existing rate paths for newly merged councils

4.1 Defining the rate path freeze

If the rate freeze is set when the council is on the right base (see Section 2.2, above), then it would be reasonable that the rating path for a rate payer follow the same trajectory as if the merger had not occurred. The Association recognises that the Government should ensure fairness for ratepayers within merging councils.

4.2 Special variations

Merged councils should be able to apply for new special variations, provided they honour the special variations previously granted and these should be only spent within the original council area.

4.3 Increasing base amounts or changing the rating burden across categories?

Rating changes should only be allowed where the percentage burden decreases (see below 4.4). As stated above, farmland ratepayers pay a significant percentage of the rate base and the Association supports a reduction of the rates charged on farmland and would never support an increase.

4.4 Setting a ceiling

The Association agrees with IPART that the combined notional rate should be the ceiling.

4.5 Discretionary powers

Merged councils should be made to conduct early public information and response information meetings – draft proposals should be put up well in advance and well publicised.

4.6 Legislative process

The Association is strongly opposed to forced amalgamations unless clear benefits can be demonstrated. We have been consistent in putting that case to government. Our members are primarily concerned that larger scale councils will dilute the farmer voice and therefore lose touch with the rural pulse.

5. Establishing new, equitable rates after the 4-year freeze

5.1 Centres of population

If removing the requirement to set the same residential rate within a centre of population provides greater equity for ratepayers, this should occur.

5.2 Special variations and other rating issues

Special variations, Section 94 and Section 96 charges from for pre-merger councils should be included in the revenue base of the merged council, but these should be mandated for the LGA in which they were originally granted. Likewise, investments raised previously for particular purposes should not go back into the consolidated revenue.

The Association notes that some councils have traditionally not taken up the rate peg maximum and are running behind in current rate revenue. This may result in rapid increases when the freeze is removed. The Association recommends some degree of smoothing of rate increases and recognition of farmland ratepayers who may be in special circumstances which may affect their capacity to absorb the changes, e.g. capacity to pay after prolonged seasonal conditions (e.g. drought or flood).

Recommendation 3: *That the Government impose regulation to ensure that rate rises are not too rapid to be absorbed by farmland ratepayers following the four year freeze.*

Whilst it is up to councillors to sign off on how sub-categories are treated in the rate base the existing consultation process is failing farmers. The constant appeals from farmers have fallen on deaf ears, e.g. Mid-Western Regional Council.

Recommendation 4: *The Government should establish an independent panel for ratepayers to appeal decisions in regard to rates, rate categories and special variation. This will be particularly important in situations where a category of ratepayers are in the minority whilst paying a significant portion of the rates.*

Conclusion

The Association supports greater equity in the treatment of farmland rates (particularly in comparison with mining). When considering mergers of LGAs and a change to the rate base, IPART should be mindful of this general principle of equity when special variations are proposed.

We have made three key recommendations in relation to rate structures and categories: that farmland rates be set more equitably (including that sub-categories for mining operations be employed to account for their full impact on public infrastructure); that there be an independent panel for ratepayers to appeal decisions in regard to rates, rate categories and special variations; and that there be consideration given to farmers who have difficulty meeting rate payments when in drought or other extreme seasonal conditions. In addition, we have also emphasised that oyster leases should remain exempt from Local Government rates.

These recommendations flow from the Association's primarily concern with sustainable and productive agriculture. Farmers often contribute high council rates when set against the services that they are able to readily access. Amalgamations that result in marked decreases in the proportion of farmers in an LGA could cause a decrease in engagement by councils in key agricultural issues, or a decrease in the representation of farmers on local councils.

Amalgamations intended to make LGAs 'fit for the future' can have unintended impacts on the unity and cohesion through the creation of rival communities within a single, larger LGA. The potential for this is particularly acute in rural areas where the tyranny of distance can create very real geographic and psychological differences between communities.

In short, IPART must recommend a system that is fair and equitable and farmers, who receive fewer Local Government services, and should not be subsidising other ratepayers.