

## **SUBMISSION**

NSW Independent Pricing and  
Regulatory Tribunal

Issues Paper - Review of the Local  
Government Rating System

**NSW MINERALS COUNCIL**

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## Executive Summary

The NSW Minerals Council (NSWMC) welcomes the *Review of the Local Government Rating System* (the Review), which aims to improve the efficiency and equity of the rates mechanisms.

The Independent Pricing and Regulatory Tribunal's (IPART's) Issues Paper (April 2016) identified various significant issues with the current rating system. The mining industry's major concerns with the current rating system are that:

- The mining category is inequitable, unsustainable and isn't competitively neutral. It does not meet the benefits principle and the mining sector is unfairly penalised according to its presumed ability to pay.
- There is no methodology or consistent approach to determining mining rates. Mining rates differ significantly across councils and are much higher than other rates categories, despite variable provision of services.
- Moving to a Capital Improved Value method could create unintended effects and complications for mining because capital investments can be considered a long-term liability for companies due to their requirement to be decommissioned and rehabilitated at the end of the mine life.
- Greater flexibility should be introduced to more accurately reflect actual land use and value. This includes exempting private conservation areas from rates; introducing a rates category for vacant land; providing a concession for mines that are closed / under care and maintenance or in a construction / establishment phase; and, allowing individual lots to be split into various rates categories.
- Substrata land with no value should be exempt from mining rates.

The NSW Minerals Council looks forward to discussing the various aspects of this submission with IPART to assist with the development of an efficient and equitable local government rates system.

# 1. Introduction

## 1.1. About the NSW Minerals Council

The NSW Minerals Council (NSWMC) is the peak industry association representing the NSW minerals industry. Our membership includes approximately 80 members, ranging from junior exploration companies to international mining companies, as well as associated service providers.

The mining industry is a significant ratepayer, with mining companies in NSW paying more than \$45 million in council rates in 2014-15 (NSWMC 2016<sup>1</sup>).

## 2. Key issues

### 2.1. The mining category of rates is inequitable, unsustainable and is not competitively neutral

The mining industry fully supports IPART's commitment to the tax principles of equity, simplicity, sustainability and competitive neutrality. Under the current system, application of these principles is not clearly evident in the 'mining' category of rates. Areas of concern relate to:

- **Equity** – one component of the equity principle is the 'benefits principle', which states that each entities' share of funding for public goods should be proportional to the benefits they receive from these goods. Rates pay for infrastructure and services such as water, sewerage, roads and waste. However, mining companies almost always have their own water, waste and sewerage managements systems, and pay for roads and other infrastructure through Voluntary Planning Agreement developer contributions. This is inequitable and is at odds with the fundamental purpose of rates, which are historically tied to *specific* services being delivered in exchange for the 'rate', in accordance with the benefits principle.

The second component of the equity principle is the 'ability to pay' principle, which states that entities should contribute to funding public goods according to their ability to pay. Although mining companies do at times have some greater ability to pay than other ratepayers, they are often required to pay rates that are many times higher than other rates categories (for example, the mining rate at Wyong Shire Council is 41 times higher than the farmland rate) on the basis of their perceived 'ability to pay'. Given that rates generally reflect the delivery of specified services, very high mining rates are arguably operating as a de facto royalty..

The mining sector is facing new taxes and charges, stiff global competition, and softer global demand for some of its key products. Commodity prices have fallen dramatically in recent years and some mines are operating at a loss. The reality is that like any industry or business, there is a point at which costs become too high and begin stifling investment and growth. Mining companies also bring in new ratepayers to a region, and this benefit isn't considered in determining an appropriate rate amount.

- **Sustainability** – Rates income from the mining sector will reduce when a mine reaches closure or goes into 'care and maintenance'. If a council is overly reliant upon the mining sector for its revenue, changing circumstances could create financial difficulty.

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<sup>1</sup> NSW Minerals Council 2016, 'NSW Mining Industry Economic Impact Assessment - 2014/15', p14.

- **Competitive neutrality** – Mining rates are highly variable – this creates unfair advantages for mines to be operating in one council over another when they should be operating on a level playing field within the context of the NSW regulatory regime. A consistent approach to determining mining rates across NSW would create a more level playing field and improve competitive neutrality.

### Recommendation

- Ensure that the mining category of rates meets the key tax principles i.e. equity (the benefits principle and ability to pay); sustainability; and, competitive neutrality.

## 2.2. There is no methodology or consistent approach to determining mining rates

There is significant inconsistency between mining rates across LGAs with no methodology or consistent approach to determining their value. The mining rate varies significantly between councils, with the highest mining rate being at least 15 times higher than the lowest mining rate (as demonstrated in the table below).

Council	Mining rate (cents in \$ of VG value)	Mining rate (\$ in \$1 million of VG value)
Wyong Shire	14.5904¢	\$145,904
Lithgow City	9.5557¢	\$95,557
Mid-Western Regional	7.7783¢	\$77,783
Cabonne	7.132732¢	\$71,133
Wollondilly	6.286191¢	\$62,862
Dubbo	6.0¢	\$60,000
Blayney	5.186375¢	\$51,864
Narromine	4.81895¢	\$48,189
Wollongong	3.187594¢	\$31,876
Lake Macquarie City	2.0862¢	\$20,862
Wingecarribee	1.11¢	\$11,100
Campbelltown	0.9499¢	\$9,499

### Recommendations

- Ensure that a consistent methodology is used for determining mining rates across councils.

## 2.3. Moving to a Capital Improved Value method could create unintended effects and complications for the mining category

The mining industry prefers the use of the unimproved value (UV) because of its simplicity and minimal variance (providing certainty) from year to year. Using the Capital Improved Value (CIV) method for mining would add significant complexity to the valuation process and may require a

valuation to be undertaken almost every year. This is because capital investments at mine sites vary significantly from year to year.

IPART should also be aware that in a mining context, capital investments are not necessarily 'improvements'. Almost all infrastructure and other capital works at a mine site are actually a liability for the company in the long term. This is because most of the land (potentially with the exception of some roads) has to be rehabilitated once resource extraction is completed. Any buildings, landform changes and other capital are required to be decommissioned, demolished and rehabilitated to a condition that is safe, stable and non-polluting (and often with other required landform improvements). To cover the costs of this in case of company liquidation, a rehabilitation security is held by the NSW Department of Industry (Division of Resources and Energy) to cover the full cost of final rehabilitation. From a valuation perspective, introducing a CIV method could reduce the value of mining land – which would lead to a reduction in mining rate payments. Despite these potential savings for mining companies, they are unlikely to be offset by the level of complexity and effort that would be required in undertaking ongoing annual engagements with valuation consultants and local councils. There would in fact likely be a worse outcome for councils as well, not only due to a reduction of mining rate revenue, but also because of the administrative burden of administering a more complex rates system.

### Recommendation

- Maintain an unimproved value method for calculating mining rates.

### 2.4. Exemptions and other flexibilities

There are a number of changes that should be introduced to improve the accuracy and equity of rates applicable to mining operators, specifically:

- Exemptions (or concessions) should apply to private conservation land. For example, land subject to a BioBanking Agreement is subject to rates, despite it being used for conservation (in perpetuity).
- There is substantial vacant land that is subject to significant rates as it may be inaccurately categorised as mining land or farmland. A new mining rate category should be established to reflect this unused land.
- Large lots should be able to be split into various rating categories, for example mining, farmland, business, vacant etc. to allow rates amounts to more accurately reflect the actual use of a particular piece of land.
- Similarly mining companies can be levied mining rates once a Mining Lease is granted. However mines that are closed, in care and maintenance or are in a construction / establishment phase (i.e. not yet producing minerals) should be entitled to a concession on the mining rate. This creates a financial burden on Greenfield or closed/on hold developments that have a much lower ability to pay than producing mines.

## Recommendations

- Exempt private conservation areas from rates.
- Introduce a rates category for vacant land.
- Allow lots to be split into various rates categories.
- Provide a concession on mining rates for mines that are either closed or in care and maintenance or are still in a construction / establishment phase.

### 2.5. Substrata land with no value should not be liable to mining rates

Prior to the introduction of the *Coal Acquisition Act* in 1981, coal mining companies could own Freehold Substrata (Substrata) and subsequently own the coal resource. However with the introduction of the Coal Acquisition Act, the ownership of the coal resource transferred to the State. Subsequently, legacy substrata land has no value for underground mining companies. Nevertheless this Substrata land can attract a value from the Valuer General of NSW. Councils rate this Substrata at the mining rate. There have been instances where a parcel of Substrata has a Valuer General value of \$1 but have been rated at a minimum rate of several hundreds of dollars. This disparity is unfair and inequitable.

## Recommendation

- Exempt Substrata land from mining rates.