Submission
Review of Local Government Rating System – Issues Paper

10 May 2015

Queanbeyan City Council welcomes the opportunity to provide feedback on IPART's Issues Paper, *'Review of the Local Government Rating System'*. Council notes that this review is part of the ongoing process of review and reform of the local government sector arising from the Independent Local Government Review Panel's final report in October 2013 with the aim of improving the sector's strength and effectiveness. We welcome this initiative and believe it will deliver significant efficiency gains for the sector.

Council notes that IPART has been requested to:

1. *Review the current rating system and recommend reforms that aim to enhance councils' ability to implement sustainable and equitable fiscal policy, and*
2. *Recommend a legislative or regulatory approach to achieve the Government's policy that there will "be no change to the existing rate paths for newly merged councils for four years.*

In responding to this review Council has structured its submission on the following basis:

Part 1: General Comments about the rating system review, and
Part 2: Responses to the specific questions raised by the review.

Part 1: General Comments on the Rating System Review

The final report of the Independent Local Government Review Panel (ILGRP), *Revitalising Local Government (October 2013)* noted that *'a number of significant changes are warranted in order to strengthen councils' revenue base within the overall framework of fiscal responsibility'*. In particular the ILGRP recommended:

1. *Councils have more rigorous Revenue Policies that set out a clear rationale for the way their rating systems are structured, what they are designed to achieve and how taxation principles have been applied*
2. *An examination of exemptions and concessions be undertaken, and*
3. *An examination of equity issues relating to rating (multi-unit developments vs individual dwellings, rating variations between local government areas etc*)

Council supports the general thrust as proposed by the Independent Local Government Review Panel's Final Report and welcomes a review of the rating system to allow for an examination of how councils' revenue base can be strengthened. We congratulate IPART on taking such a participative approach to the development of this review and welcome the opportunity to answer the questions raised within the *Issues Paper*. Council is generally supportive of the initiatives proposed by IPART within Chapters 1-5 of the Issues Paper.

However, Council does have very deep concerns over that which is proposed in Chapters 6 & 7 relating to the rate path freeze and rate equalisation within newly merged councils. We wish to stress that this is not a criticism of IPART but rather we are extremely critical of what constitutes a 'bad policy' being advocated by the State Government. We recognise that IPART has not been responsible for the creation of this policy but rather has been tasked by the NSW Government to

recommend a legislative or regulatory approach to its implementation. The rate path freeze policy as set out places the whole underlying thrust of the local government reform at risk. It runs counter to the underlying philosophy which the Government has been advocating as part of its Fit for the Future initiative. Chapters 6 and 7 set up merged councils as 'second class citizens' within the local government sector denying them the ability to raise required revenue to deliver services to their communities on the same basis as the non-merged councils. The implementation of this policy will introduce another layer of rigidities into the operation of the newly established councils which will severely impact upon their long term viability. This policy runs counter to a number of key themes and principal recommendations of the Independent Local Government Review Panel which in particular are:

- *The overarching imperative is to ensure the long-term sustainability and effectiveness of NSW local government*
- *The focus of policy should be on strengthening 'strategic capacity' – ensuring that local government has the right structures, governance models, skills and resources to discharge its responsibilities and realise its potential.*
- *Major new initiatives are required to tackle underlying problems of financial weakness and infrastructure backlogs.*
- *Reforms must be pursued as an integrated package, not one-off measures.*
  (ILGRP Final Report – Revitalising Local Government Oct 2013 p.15)

The NSW Government seems to have lost sight of these themes as the introduction of a rate path freeze policy and its associated equalisation process will:

- Impair the long term sustainability and effectiveness of the newly merged councils
- Will actually reduce strategic capacity of these new councils by strangling their resource base within a 4 your straight-jacket
- Will limit the new councils ability to tackle infrastructure backlogs and even consider major new initiatives, and
- By introducing this 'one-off measure' see merged councils treated as a new class of under-resourced council that runs counter to the development and implementation of an integrated reform package for the sector.

RECOMMENDATIONS

1. **That the Government reconsider its Rate Path Freeze Policy as it runs counter to the underlying principles for local government sustainability as advocated by the Independent Local Government Review Panel and the Fit for the Future Roadmap.**

2. **That if the Government persists in in implementing some form of rate restriction path for newly merged councils this this be within a more flexible framework based around 'earned exemption' as advocated by the Independent Local Government Review Panel and the Fit for the Future Roadmap.**

Part 2: Responses to the specific questions raised by the review

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

Council supports the proposed 'principles of taxation' of:

- Efficiency
- Equity

- Simplicity
- Sustainability, and
- Competitive Neutrality

However, it does ask whether there is a weighting applied to some or all of these principles. Are all of them 'equally important' or are some less important than the others? This point is raised on the basis that if *competitive neutrality* is seen as being equally important with all the other principles then how can there be any justification for state owned entities that function on a commercial basis still being able to be exempt from rating.

If IPART, and more importantly the NSW Government agree that these principles are equally important then they need to ensure that these principles underpin all the decisions they finally adopt arising from this rate review.

RECOMMENDATION

3. Council agrees with the principles of taxation ad outlined by IPART

2.2 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?

Council believes that councils need more flexibility in what valuation method they apply to determining rates. This would bring us into line with the majority of other States and Territories across Australia. However, this flexibility is worth nought if we do not attack the issue of restrictions on notional income as set out within rate-pegging. If the Government is truly serious about addressing the issue of local government funding then it needs to remove this onerous restriction which has directly contributed to many of the sustainability issues facing councils.

We believe this flexibility of rate determination should also be applied within a local government area. For example in Queanbeyan's case we are essentially an urban council at the moment. However, we are slated to merge with some or all of Palerang Council which is essentially rural. Our urban area contains a large number of multi-unit apartments which the ILGRP identified as a major source of inequity in terms of sharing the rate burden. Unimproved Land Value (UV) rating provides for more equitable sharing of a rate burden within rural areas so it may be appropriate within a newly merged local government area for that council to be able to identify areas where CIV may be more appropriate and where UV may be as well. This would allow those new councils to actively work towards achieving an equitable sharing of the rate burden across the newly created LGA.

A similar argument could be made for ARV (Annual Rental Value) to be applied for business rates within a local government area.

However, it was with great alarm that we noted the Valuation NSW representative at the IPART Hearing on 26 April 2016 state that they are ill-prepared to deal with the introduction of CIV within NSW as they currently do not have the required data to provide for CIV valuations. If we are to move towards a more flexible approach to how councils can determine rates then urgency needs to be given by the NSW Government to address this situation and adequately resource the Valuation Department to collect this data. There will be no point in the Government making legislative changes to allow councils to choose their rating method only to find out that Valuation NSW is incapable of providing the required data to implement such.

RECOMMENDATIONS

4. Council supports the introduction of more flexibility in the valuation method for determining rates.

5. Council should be given the option of deciding whether they apply UV, CIV or ARV methodologies and also that they should be given the ability to apply a mix of such options within their local government area to assist in achieving greater equity in sharing the rate burden within their community.

2.3 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)?

Council supports the use of the Valuer General to provide a uniform system across the state in respect of property valuation. This would be consistent with other reforms which the Government is implementing. In the Phase 1 amendments to the Local Government Act 1993 an argument was put forward for the Auditor General to undertake audits for all councils to ensure consistency. In that case it was argued that it is important that a consistent approach be taken to the auditing of councils' accounts to allow for greater comparability between councils. This same argument needs to apply to the role of the Valuer General and how properties are valued across the state. This would ensure consistency of valuation data which is very important if the Government is going to be using councils to collect some of its levies (eg. Emergency services levy).

RECOMMENDATION

6. Council believes that a uniform system of valuation should be created for the State based around the provision of the service by the Valuer General. This will ensure consistency of valuations across NSW and will be in line with the process of standardisation of audits using the Auditor General as set out in the Phase 1 amendments to the Local Government Act.

2.4 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?

Council notes that one of the original intents of the 1993 Local Government Act was to remove minimum amounts from rates. However, this decision was quickly reversed and a political decision was made to reinstate minimum amounts. We believe minimums should be removed and that this would increase the use of Base Amounts which was the original intent advocated within the 1993 Act.

RECOMMENDATION

7. Council supports the removal of minimum amounts in line with the original intent of the Local Government Act when it was introduced in 1993.

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

Council supports a broadening of rating categories. This would allow greater flexibility in how rates are applied across a LGA. We believe that councils should be able to apply sub-categories without relying on the 'centre of population' requirement.

Council also suggests that the rural/residential sub-category should be removed because it is currently poorly understood and applied, particularly in respect of the current land size approach. Also Council believes the Mining Category should be expanded to allow for other types of mining rather than just metalliferous and coal.

RECOMMENDATION

8. Council supports a broadening of rate categories to allow for greater flexibility in how rates are applied across a local government area.

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

Council agrees that the current rating system does have significant issues in respect of equity. These were identified by the Independent Local Government Review Panel consisting of:

1. The equitable rating of apartments, and
2. The wide variation between local government areas in the level of rates paid as a proportion of property values.

Council supports the general recommendations as advocated by the ILGRP which are:

In respect of apartments this issue, *'…can be addressed to some extent by increasing minimum rates and by changing the way the value of the land is distributed amongst the owners of strata-titled properties. However, these are only partial solutions and do not enable a council to capture significantly increased revenues from apartments overall. The only way both objectives can be achieved is by changing the valuation base to Capital Improved Value (CIV).'* (p.40 ILGRP Final Report)

In respect of the wide variation between LGAs, *'…that more weight should be given to relative levels of rates – and hence the potential financial capacity of different councils – when decisions are made about allocating grants; and when consideration is being given to the responsibilities different councils can reasonably be expected to undertake.'* (p.41 LLGRP Final Report).

RECOMMENDATION

9. Council agrees that the current rating system has equity and efficiency issues particularly in respect of the rating of apartments and variations between local government areas. Council believes the former can be addressed via the introduction of flexibility in respect of valuation method (ie. The introduction of CIV). In respect of the latter Council agrees that the variability between local government areas can be addressed by the State Government via the grant process as noted by the ILGRP

2.7 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?

In answering this question Council believes that the more important question which should be answered first up is ***whether rate pegging should exist at all***. Rate-pegging is a major rigidity which has impacted upon the long term viability of councils since the late 1970s. It has had a compounding negative effect on councils' ability to deliver services and facilities to their communities. It has also provided a convenient 'out' for councils in terms of their need to better engage their communities on service expectation and standards of service delivery. Rate pegging has no place within a modern integrated local government system which the NSW Government is advocating the need to be established. Indeed, the ILGRP noted in its Final Report that:

> '*The Panel's conclusion is that, whilst there is certainly a case for improving efficiency and keeping rate increases to affordable levels, the rate—pegging system in its present form impacts adversely on sound financial management. It creates unwarranted political difficulties for councils that really can and should raise rates above the peg to meet genuine expenditure needs and ensure their long term sustainability.' (Final Report p.42)*

Council believes that the advent of Integrated Planning & Reporting makes the concept of rate pegging redundant. The concept of IP&R is based around comprehensive community engagement between a Council and its community to determine the levels of service to be provided and how they will be paid for. The Government recognises the importance of IP&R and is moving it to a more prominent position in the revised Act. If we are serious about the importance of IP&R and how this will form the core of any new Local Government Act which drives the outcome of any reform, then rate-pegging has no place within this model.

Integrated Planning & Reporting is based upon the concept of community planning where councils undertake comprehensive and meaningful dialogue with their communities to determine where the community wishes to head in the long term; what services and facilities they want; and how much they are willing to pay for this. Having a 'paternalistic' State Government still maintaining a constraint system over councils only undermines the long term effectiveness of Integrated Planning & Reporting and continues to send a message to councils that 'they cannot be trusted to manage their finances and deal directly with their communities to determine their ability and 'willingness to pay' and that they are NOT a true partner in the government of this State.

There is no question that rate pegging is long overdue for removal. But what it should be replaced with is the important question. We believe it would be better to move towards a system of rate benchmarking. But it may be necessary to transition to rate benchmarking by streamlining first with the added possibility of a complete "earned exemption" if consistent high performance is demonstrated in asset and financial management. Box 12 of the ILGRP Final Report (see p.44) sets out the possibility of **'earned exemption'** via a mechanism to allow councils to increase their rates by up to 5% above the rate-pegging limit based around meeting specific quality control criteria in respect of their Delivery Programs. Indeed, the Government recognised this 'earned exemption' concept in the early phases of its Fit for the Future initiative. In the Fit for the Future – *A Road Map for Stronger Councils* (September 2014) the Government states:

> *Councils that have made the changes necessary to become Fit for the Future will have the capacity, strength, expertise and credibility to help shape the future of NSW. In recognition of this, the NSW Government will give Fit for the Future councils:*
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> - *Access to a streamlined IPART process **for rate increases above the rate pegging limit**, particularly focussed on infrastructure funding needs, making it easier for councils to increase rates to fund services and infrastructure the community has said it wants and is willing to pay for; (p.15)*

A substantial number of councils are moving towards strong competency in integrating their Community Strategic Plans, Delivery Programs, Long Term Financial Plans, Asset Management Plans and their community engagement and hence we believe this outcome is achievable. Therefore if the NSW Government is still committed to some form of rate pegging then the concept of 'earned exemption' should be pursued as advocated by the ILGRP and promoted within the Fit for the Future initiative.

However, if the Government is not prepared to move towards the 'earned exemption' in rate pegging we believe that another option is to have some sort of reform on how **the calculation of Notional General Income and how we arrive at the figure for Total Permissible Income**. This calculation is at the very core of the rate pegging issue and is the crux of the problem with how rate pegging works in NSW. Professor Dollery's 2009 paper, *Rate Pegging in New South Wales Local Government* explains the impact of this where he notes:

> *'…a given council's overall rates revenue cannot increase by more than the percentage increase approved by the Minister. Indeed, even if land values in a local government area rise in aggregate, local councils may have to reduce or otherwise adjust the amounts levied per dollar so that total revenue does not increase by more than the percentage increase stipulated by the Minister (Department of Local Government, 2007).*
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> *A simple example will serve to illustrate the operation of rate-pegging. Suppose the value of total rateable land in a given local council area is equal to $250 million in year 1. If the rate is 10 cents in the dollar for all categories of property, then income would be equal to $25 million. If total land value increased to $300 million, due to a 'growth factor', such as land being sold to the public, then notional 'general income' from land would be $30 million beginning year 2. But if the Minister set a rate-pegging limit at 2.5 percent for year 2, then the maximum permissible level of income in year 2 would be $30,750,000 on a land base of $300 million. Assuming a general revaluation of land occurred at the beginning of the fiscal year 2, which raised total land value to $500 million in the local government area, with 'general income' limited to $30,750,000, then the council would have to set its rate at 6.15 cents in the dollar to accrue the permitted maximum of $30,750,000 from a land base of$500 million. In other words, owing to a land valuation increase stemming from a 'growth factor' and a 'general valuation', the rate had to fall from 10 cents in the dollar for all categories of property to only 6.15 cents in the dollar (Department of Local Government, 2007, p.75* (Dollery 1 August 2009 pp3-4)

As can be seen here Professor Dollery illustrates how regressive the concept of Notional General Income is and how it ultimately impacts upon a council's Total Permissible Income by restricting the 'size of the cake' and how it can grow. If IPART is serious about *making changes to the rate pegging system to improve the rating system* then there needs to be a level of flexibility introduced as to how Notional Income is calculated and applied. A level of flexibility needs to be introduced to allow councils to increase their total permissible income within the rate pegging framework.

RECOMMENDATIONS

10. Council believes that the more important question is whether rate pegging should exist at all within the newly established integrated planning and reporting environment. Council strongly believes rate pegging is an outdated mechanism severely impacting upon

councils' long term sustainability. Under IP&R it should be left to an agreement between the community and its council to determine the funding required to deliver the desired level of service. Council has no problem if the Government were to introduce some sort of audit process to ensure that the community engagement process is both robust and comprehensive.

11. If the Government persists on the retention of some form of rate pegging then it needs to be moved towards a more flexible approach based around 'earned exemption' as advocated by the ILGRP and the Fit for the Future Roadmap.

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

Council agrees that the rating system should be given greater ability to encourage urban renewal. One way this could be achieved is for a council to apply a higher ad valorem to vacant land than is applied to occupied land. However, Council recognises that this is an issue which needs a broader approach at both the Commonwealth and State levels which is not just specific to rating legislation. The attached letter from Leichhardt Council highlights the need for changes to both Commonwealth and State legislation in order to give Councils greater ability to encourage urban renewal. (See attachment 1)

RECOMMENDATIONS

12. Council supports changes being made to the rating system to better encourage urban renewal and supports giving Councils the ability to apply a higher ad valorem to vacant land.

13. Council believes that this issue is brander than just a rating issue and that better progress in this area could be made by IPART advocating changes to both Commonwealth and State legislation as advocated by Leichhardt Council consisting of:

(a) Proposed Commonwealth Legislation Amendments

Possible amendments to the Income Tax Assessments Act (1936 & 1997), including:

- **The removal of the provision to offset business losses for untenanted commercial properties against other income. This provision would have to be tightly defined to untenanted commercial properties and not to properties undergoing redevelopment.**
- **Toughening up the definitions and criteria on property being "available for rent" — ie bring in time limits on how long a property is unoccupied. Alternatively, stipulate specific requirements defining the steps required to be undertaken to make the property available — eg benchmarked rental pricing, advertising spend to attract tenants etc.**
- **Tighten up the Tax Act to hold that the long–term (say greater than 3 years) untenanted property is not being held on income account, rather, it is being held on capital account (ie the property is being held purely for the purposes of sale). Hence, the tax deduction available to these businesses for rates, losses, etc would no longer be available.**
- **Make the "margin scheme" (s 75–5 Goods and Services Tax Act 1999) unavailable for use in commercial property supplies if the property has been untenanted for a specified period of time (say 2 years etc). Broadly, the margin scheme effectively (in limited circumstances) reduces the GST payable on the supply of real property so that GST is levied on the margin rather than the sale price.**
- **Remove the GST on the sale of untenanted properties. Under current rules the sale of commercial property that is untenanted is subject to GST. Whereas, if the property is**

tenanted, then the "going concern" (subdivision 38J GSTA 1999) principle applies, meaning that the transaction is not subject to GST. Removal of these and other disincentives could encourage the sale of untenanted properties.

(b) Proposed State Legislation Amendments

- **Amendments to the *Local Government Act 1993* including:**

- **Provision for differential rating (eg Special Rate) for tenanted and untenanted commercial properties. In support, the Henry Review of Australia's Taxation System in 2010, stated that "States should allow local governments a substantial degree of autonomy to set the tax rate applicable to property within their municipality." http://taxreview.treasury.gov.au/content/FinalReportaspx?doc=html/Publications/Papers/Final_Report_Part_2/chapter_g3.htm.**

- **Changes to Stamp Duty and to Land Tax Legislation, including (but not limited to):**

- **Removal of Stamp Duty on the sale of high street commercial properties and on conveyances conditioned upon the property being "fully occupied" with a specified time period eg 12 months and remaining tenanted for a defined period (say 5 years). In support, in 2010, the Henry Taxation Review found that Stamp duties on the transfer of commercial and residential land and buildings are "poor taxes" it found that "Stamp duties on conveyances are inconsistent with the needs of a modern tax system." http://taxreview.treasury.gov.au/content/FinalReport.aspx?doc=html/Publications/Papers/Final_Report_Part_2/chapter_c2.htm.**

- **Amend the *Land Tax Act 1956* to provide for the possible imposition of a premium rate on commercial properties that remains untenanted for a defined period of time (eg 3 years).**

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

Council believes that the current provisions relating to the recovery of overdue rates are adequate as they stand. Most councils seek a Court Order as a matter of last resort. Prior to reaching this stage councils generally try to come to an agreement with property owners on how to recoup arrears. Many councils also have in place a Rates Hardship Policy which specifically has the aim of meeting the legislative requirements of Sections 567 and 582 of the Local Government Act 1993 (NSW) and to establish an accountable and objective process for determining applications for rate relief due to financial hardship.

Council believes it is important to remember that rates are a tax and as such are not an 'optional expense'. Therefore like all other levels of Government councils need sufficient powers to recover these unpaid taxes. However, the existence of Rates Hardship Policies does allow councils to exercise a degree of discretion and to come to an arrangement with the property owner on how to recoup the arrears.

RECOMMENDATION

14. Council believes that no changes are required to the current provisions to recoup overdue rates. However, it is recommended that all councils should have in place a Rates Hardship Policy to ensure that they can apply a level of discretion to collecting these arrears rather than resorting to the Courts as a first option.

2.10 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?

Council believes there is a need develop a consistent approach as to how exemptions are applied. The ILGRP Final Report, *Revitalising Local Government* noted that *'NSW legislation has progressively established a long list of properties exempt from local government rates.'* (p.39) The ILGRP Report referenced the Deloitte Access Economics Report *Review of Local Government Rating Exemption Provisions (May 2013)* which examined the issue of rating exemptions. Council agrees with the conclusion of this report which notes:

> *Exemptions from local government rating in New South Wales have typically been motivated by notions of equity, concession for charitable activities or public good/service provision. Over time, these exemptions have evolved and, when analysed against an appropriate public policy framework, it is apparent that the principles of optimal taxation are compromised in a variety of respects –*
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> - *Efficiency, to the extent that land use decisions are distorted from their socio-economic optimum.*
> - *Simplicity, to the extent that councils are obligated to undertake additional and burdensome administrative activities.*
> - *Equity, to the extent that exemptions are granted where capacity to pay exists or where the recipient is a material beneficiary of council services.*
> - *Fiscal sustainability, to the extent that they generate material revenue losses and/or generate scope for revenue bases to be unduly eroded over time.*
> - *Cross-border competitiveness, where they impact decisions to invest or reside within a particular jurisdiction.*
> - *Competitive neutrality, where they are provided to government-owned enterprises in competition with commercial businesses.*
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> *Regardless of the original intent, the use and application of exemptions provided in the New South Wales legislation has over time expanded to a point where their eligibility cannot universally be justified. It is apparent that there is a need for reform, either via the abolition of prescribed exemptions or via the clearer specification of eligibility criteria.* (Deloitte Access Economic Report p.29)

The Deloitte Report goes on set out a number of recommendations in respect of exemptions currently available to entities within NSW. The report recognises there is still a case for exemptions but rather they need to be better refined to ensure that the concept of equity is not compromised from both a benefit principle and from a capacity to pay perspective. This report made a number of recommendations in respect of exemptions for particular Land Use Categories consisting of:

Group	Land Use Category	Recommendation and reform considerations
1	Crown land not held under a private lease	**Refine** At the very least, commercial enterprises such as the Forestry Corporation of NSW should be required to make payments related to the benefits they receive from the provision of services and performance of functions by councils. See case study in section 5.2.2 – State Forests pp22-23.
2	National parks and conservation areas	**Refine** An amendment to the wording of the legislation should be made which creates the obligation for rates payments for areas within parks that are used for commercial activities

Group	Land Use Category	Recommendation and reform considerations
		(see case study in Section 5.2.2). This could also take the form of a partial payment/rebate. Provisions should also be made to accommodate the impact of National Park expansion on rating bases.
3	Water corporation land	**Refine** Retain for special areas but consider removal for controlled areas and land which has installed water supply works, where the nature of activity is more commercial.
4	Land used for certain religious purposes	**Refine** • Religious institutions and charitable institutions should be treated equivalently. • Consider amending the legislation to allow for a minimum rebate on applicable rates. Additional rebates could be granted at council discretion, provided that there is a demonstrable community benefit.
5	Land used for charitable purposes	**Refine** • Religious institutions and charitable institutions should be treated equivalently. • Establish stricter qualification criteria to ensure that exempt land is not used for commercial purposes. • Consider amending the legislation to allow for a minimum rebate on applicable rates. Additional rebates could be granted at council discretion, provided that there is a demonstrable community ben
6	Land used in connection with education	**Retain with consideration of refinement** • Retain exemption for core educational purposes of schools. • Consider removing exemption for building occupied a residence by teachers, employees or caretakers. • Consider removing exemption for Teacher Housing Authority. • Refine treatment of universities to ensure competitive neutrality with private tertiary education providers and TAFE and remove exemptions for commercial precincts within universities (this may be most practically achieved via a partial rebate).
7	Land vested in an Aboriginal land council	**Retain**
8	Land occupying rail infrastructure facilities	**Refine** Consider refinement such that all land use directly associated with commercial activity is rateable.
9	Oyster cultivation and cattle dipping areas	**Remove** There is little justification for such exemptions on efficiency or equity grounds. There are no comparable exemptions in SA or QLD.
10	Public places, cemeteries or libraries	**Retain**

Group	Land Use Category	Recommendation and reform considerations
11	Land leased for granted mineral claims	**Remove** There is little justification for such exemptions on efficiency or equity grounds.
12	Land used for health or safety purposes	**Retain**
13	Land assigned to listed groups and societies	**Remove** These are all primarily commercial purposes.

(Source Deloitte Access Economic Report pp33-34)

As can be seen here the Deloitte Report calls for a better refinement of exemptions rather than a wholesale removal of them. Council believes there is a good argument for exemptions to be retained as there are equity issues and public good issues which are still relevant. Council, like the Deloitte Report, sees merit in refining the current exemption system and in some cases removing certain exemptions. Accordingly it feels the recommendations of this 2013 Report as set out in the above table still hold true and should be implemented.

RECOMMENDATION

15. Council supports the retention of an exemption system for rates, however, it believes its original intent has been distorted over time and urgently needs to be refined. It is recommended that IPART implement the refinement recommendations as set out in the 2013 Deloitte Access Economic Report – *Review of Rating Exemption Provisions – (see Table above)*

2.11 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?

As Council is calling for a refinement of rating exemptions rather than their abolition, it believes in the interests of 'equality' that a similar refinement of the local government taxation exemptions would be appropriate as well. Such a refinement process should be subject to an extensive consultation process with the sector to determine the bottom-line impact.

Part of this taxation exemption refinement should also involve an examination of councils being able to recoup the cost of collecting levies and charges on behalf of other arms of government. Quite often legislation is created where other arms of Government regulate or pass legislation requiring councils to be their collection agency without compensating councils for the cost of providing this service. The *In Our Hands* study notes, *"…in recent years many state governments have introduced fire and emergency services and natural resources management levies which have the effect of being additional property taxes. Indeed in some cases these are collected via council rate notices."* (2013 p.36) Councils should be given the right to recoup administrative costs in acting as the agencies collection agents. Council raised this concern within its submission on the reporting and compliance burdens on local government. In that submission we advocated councils being given a percentage of the fees/levies collected to offset administration costs.

RECOMMENDATION

16. Council supports a review of the Local Government taxation exemptions but that this must consist of an extensive consultation with the sector to quantify the bottom-line impact of such.

17. Council requests the Government should consider providing councils with the ability to charge other levels of government fees to recoup the costs associated with being the collection agency.

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

Council believes the Pensioner Concession Scheme needs to be urgently addressed as it is a ticking demographic time-bomb for local government which will significantly impact upon councils' funding base as our population ages. Council notes that John Comrie in his paper *NSW Local Government Rating & Charging Systems & Practices (April 2013)* noted:

> *'Given that council rates are a tax, it is appropriate that some concessions be available for disadvantaged ratepayers. However, it needs to be borne in mind that local government rates represent only 3.5% of total tax revenue by all Australian governments. Other spheres of government are far better placed to effectively achieve income redistribution and social justice objectives because they have both more income and a broader base of taxpayers across which to equalise than do individual councils.' (Comrie p.11)*

Council agrees with this sentiment and notes that the cost of these mandated concessions are met by the state governments in all states except NSW. Table 5.3 of the Issues Paper highlighted Pensioner concessions across Australia showing how NSW is the 'odd man out' in respect of this scheme.

State	Type of Relief	Value of Relief	Funding Source
NSW	Concession only	50% discount, up to $250 pa 55% state	55% state 45% council
VIC	Concession only	50% discount, up to $213 pa	100% state
QLD	Concession only	20% discount, up to $200 pa	100% state
WA	Concession or rate deferral	50% discount	100% state
SA	Rate deferral only	All rates in excess of $500 pa	100% state
NT	Concession only	62.5% discount, up to $200 pa	100% state
TAS	Concession only	30% discount, up to $425	100% state

Accordingly, as highlighted by the table above Council believes such a concession scheme should be 100% State funded as occurs in the rest of the country. Also we believe it would be more appropriate for the State Government to administer and apply pensioner concessions. As Comrie notes:

> *'The public policy rationale requiring NSW councils to incur the cost of a large share of the mandated pensioner concessions is hard to understand. The cost is effectively being funded disproportionately by ratepayers that live in councils that have a higher percentage of eligible pensioners in them than the state average. It would be more equitable if this concession was funded by the state government or perhaps even through a uniform State-wide levy against all properties. The current policy if not varied is likely to become more inequitable over time with the expected demographic ageing of the NSW population.'*
> (Comrie p.11)

RECOMMENDATIONS

18. Council believes the current pensioner concession scheme is inequitable as it places a burden on other ratepayers. Council recommends that NSW needs to pull itself in line with other states and apply the same level of concession as occur there.

19. Council recommends that it would be far more equitable if the concession was funded by the State Government.

2.13 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?

Council agrees with IPART's interpretation of the intent of the rate path freeze policy, however, as noted in Part 1 of our submission, we have real concerns over what is a essentially a 'bad policy' and its potential impact upon the long term viability of the newly established councils. Council questions why we need a rate path freeze policy in the first place. We realise that IPART is not the instigator of this policy but rather has been tasked by the Government to look at how it can be implemented.

Council recognises that one of the most significant challenges faced by newly merged councils is to set in place a manageable program to allow for the integration of staff and systems as well as to allow for rate harmonisation across the new LGA. We strongly believe this needs to be achieved in the least disruptive way possible but also that councils need to be given maximum flexibility to achieve this outcome and be able to establish a sustainable business platform upon which to operate as soon as possible.

The rate path freeze policy does not do this but rather introduces another layer of rigidities in respect of the operation of the newly established councils consisting of:

- Freezing council rates to the rate peg level for their first four years, and
- Proposing a staged equalisation process (with a possible 5% ceiling limit) to be implemented from year 5 onwards

The impact of these proposals needs to be seen in association with these other rigidities which will also apply to the newly merged councils to highlight the potentially devastating combined effect these will have on the new councils' bottom line.

The NSW Government has stated in its Blueprint for Fit for the Future that it *'…wants communities to have confidence that their council is financially sound, operating efficiently and in a strong position to guide community growth and deliver quality services.*' (Fit for the Future Blueprint p.6). However, the current local government reform process seems to be heading in the opposite direction to this by imposing a series of constraints or 'rigidities' upon the newly established councils consisting of:

- Employment protection requirements as set out in S354F of the LG Act – all non-senior staff positions are protected for 3 years
- Limitations on the transfer of work base of non-senior staff as set out in S354I of the LG Act – where staff members work bases cannot be changed without the written consent of staff, and
- The maintenance of staff numbers in rural centres as per S218CA of the LG Act.

The first two dot points apply to all the newly merged councils, but it is S218CA which is of special relevance within regional NSW and has the potential to cause the most damage to a newly established regional council's long term viability. For example in Queanbeyan City Council's case we are currently slotted for either a partial or full merge with our neighbouring council of Palerang.

The S218CA provision entrenches the requirement ***to keep staff numbers in rural centres with populations of less than 5000 which are subject to a merge at the premerger level in perpetuity***.

This very requirement runs counter to the concept of 'flexibility' which has been advocated in the Phase 1 amendments to the Local Government Act and literally hog-ties any newly created council in how they will deal with their staff structure.

Council believes the purpose of S218CA is noble in its original intent with the aim of protecting small economies in isolated rural communities. Queanbeyan City Council strongly supports this intent. However, its universal implementation across the State does not necessarily reflect the state of some rural centres. If you are talking about small centres in the far west of the State then S218CA has validity and should be retained in respect of them. However, if you are applying it to rural centres which are within the commuter belt of metropolitan centres then such provisions should not be a requirement to apply to any newly created councils.

In the case of the Queanbeyan- Palerang proposed merge the new LGA potentially contains three rural centres as currently defined under the Act (Bungendore, Braidwood and Captains Flat). Therefore, depending on which of the two merge options the Government finally adopts for this area, Queanbeyan may have to deal with up to three rural centres protected by S218CA. We accept that Braidwood constitutes a true rural centre due to its relative isolation and socio-economic challenges and therefore should be entitled to S218CA protection. However, Bungendore constitutes another case. It is within 25kms of the Canberra/Queanbeyan metropolitan area and the vast majority of its residents work within the Canberra/Queanbeyan metropolitan area. In contrast to most rural centres, Bungendore is a growth centre and has a higher level of social advantage (as measured through the SEIFA Index and income data) compared to many affluent areas within Metropolitan Sydney. Bungendore's statistics (see below) paint a picture of advantage rather than disadvantage:

Social Measure	**Bungendore Data**	**Comparison Data**
SEIFA Index Score	1102.8	NSW Average 995.8 Hunters Hill 1092.2 Pittwater 1094.4
% Households earning more than $2500 per week	36%	Hornsby 33% Barham (Wakool) 5.57%
Unemployment rate	0.7%	NSW Regional Rate 7.34% ACT 3.6%

Council believes that there is a place for S218CA but that it should **not** be universally applied across the State. We strongly advocate that there needs to be a better definition of what constitutes a 'rural centre' within the Act. Currently there is just one provision which defines a rural centre which is *they are centres with populations of less than 5000 residents*. We have requested the Government to consider a revision of this definition within the Local Government Act to broaden it to include additional criteria which consist of:

- **The SEIFA index measure of disadvantage** (that any rural centre **must have a level of disadvantage score below the average for NSW** – which is currently 995.8), and
- **Must fall within the RRMA, ARIA and ASGC classifications** as being deemed 'remote'

The Rate Path Freeze Policy needs to be seen in context with these other rigidities in order to appreciate the potential cumulative effect of this policy on the any newly established council's long term sustainability. The Government needs to be aware that the rate path freeze policy should not be looked at in isolation but rather must be seen in association of the potential impacts of the other rigidities.

Council believes that a more flexible approach needs to be taken if the Government insists on applying some form of rate control over merged councils for the next four years. Under its current policy the Government is setting up the new councils to fail. We propose an alternative model where the Government should go back to its original intent of 'earned exemption' as set out in its *Fit for the Future Road Map* of September 2014. In this Roadmap the Government indicated that they would give 'fit' councils greater flexibility within the rate peg structure if they had robust Delivery Programs. This principle could be picked up and applied by IPART towards the newly merged councils. We believe that IPART could allow for a 'banding' of the rate peg. For example IPART could still fix the base rate peg amount per annum on the same basis as they do now. However, a series of bands could be introduced consisting of the following:

BAND 1 The base percentage as set by IPART

BAND 2 **0.5%** above the base percentage

BAND 3 **1.0%** above the base percentage

BAND 4 **1.5%** above the base percentage

Under a Band approach IPART could set the criteria to determine the level of earned exemption. For example, if a council was seeking approval for a rate level within Band 4 (1.5% above rate peg) then their business case would need to be more extensive and robust. The business case for establishing which band could apply to a newly merged council could be established by Councils producing a **Rate Path Integration Strategy** (RPIS).

The RPIS would be required to set out:

(i) The program of rate equalisation for the newly established local government area commencing from Year 2

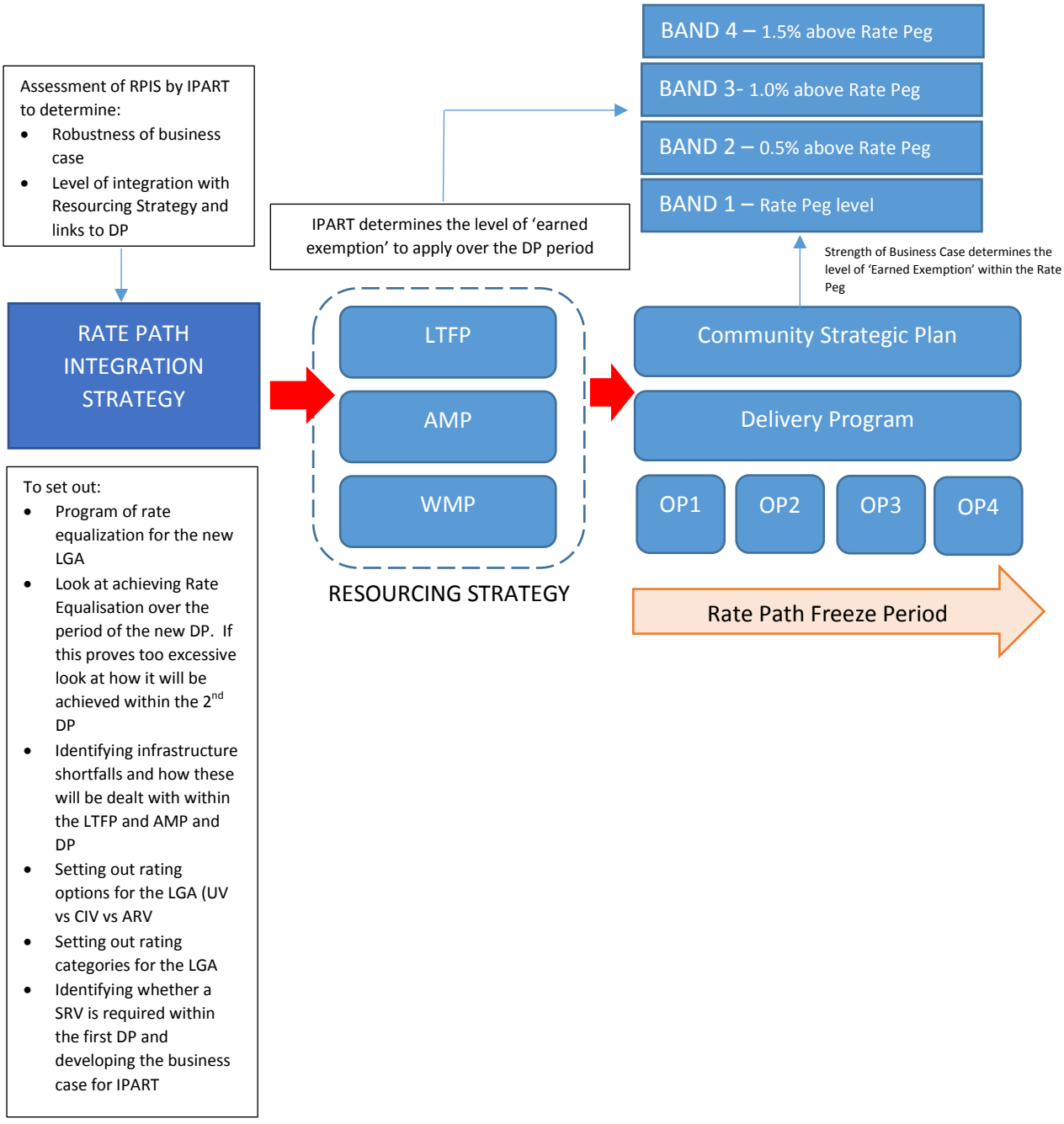
(ii) Look at achieving rate equalisation over the period of the new Delivery Program. If this proves to be too excessive due to significant variations then they could look to extending this over the period of their second Delivery Program

(iii) Identifying any infrastructure shortfalls and maintenance gaps and how these will be dealt with within the Long Term Financial Plan (LTFP) and the Asset Management Plan (AMP)

(iv) Setting out rating options that will be applied within the new LGA and defining the range of rating categories they would require

(v) Identifying whether a Special Rate Variation (SRV) would be required and developing he business case for such

(See Figure below)



RECOMMENDATIONS

20. Council is strongly opposed to the proposed Rate Path Freeze Policy as currently proposed because it introduces another level of rigidity into the operation of newly merged councils. The Government needs to consider this rigidity in association with other existing rigidities such as S218CA, S354F and S354I of the LG Act to determine their cumulative effect on the long term sustainability of the newly merged councils.

21. Council recommends that the Government needs to take a more flexible approach to the rate path freeze policy by implementing an 'earned exemption' element as advocated by the Fit for the Future Roadmap.

22. Council recommends that the flexible approach could be achieved by developing a 'banding system' for the rate peg consisting of:

- **Band 1 - the base rate peg**

- **Band 2 – 0.5% above the rate peg**
- **Band 3 – 1.0% above the rate peg**
- **Band 4 – 1.5% above the rate peg**

23. That the level of exemption earned by councils would be dependent upon a business case to be assessed by IPART against a Rate Path Integration Strategy which is closely integrated into the councils' Resourcing Strategy and Delivery Program

2.14 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? 39**

Council strongly advocates for a level of flexibility to be built into the rate path freeze period to ensure that the newly merged entities are financially sustainable. If the Government is not prepared to introduce a level of flexibility as proposed in Council's option outlined above then it would support the three options as proposed by IPART. We would also strongly advocate for the additional option of newly merged councils being able to apply for a Special Variation as a result of extenuating circumstances. We would envisage these circumstance being:

- The identification of financial 'black holes' arising from the integration of the merged councils' financial systems.
- Unforeseen events impacting upon council infrastructure (eg. Natural disaster damage)

RECOMMENDATION

24. Council supports IPART's proposal for merged councils to have the ability in certain circumstances to apply for a Special Variation. However, Council strongly believes that an additional category needs to be added to this list to allow the newly merged councils to deal with extenuating circumstances.

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

Council believes it is important to recognise that there could be extenuating circumstance where a newly merged council may need to apply for a Special Variation during the Rate Path Freeze Period. As per our previous comments we strongly believe newly merged councils should be treated on the same basis as all other councils and as such should not be restricted within a four year framework which has the potential to severely damage their long term financial sustainability.

RECOMMENDATION

25. Council recommends that newly merged councils should be treated on the same basis as all other councils and as such should have the ability to apply for a Special Rate Variation as happens with non-merged councils.

2.16 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)?

Again, Council believes that newly merged councils should be treated on the same basis as other councils and as such should be able to increase base amounts and minimum amounts via the same process as happens with non-merged councils.

RECOMMENDATION

26. Recommend that newly merged councils should be able to seek increases in the base and minimum amounts on the same basis as non-merged councils.

2.17 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)?**

Council believes it is critical for newly merged councils to commence the equalisation process as soon as practicable after the merge. We believe the most ideal time to commence this process would be from year 2, in recognition that the first year of existence for a newly merged council will be taken up with trying to integrate staff and systems. However, Council is strongly opposed to the Rate Path Freeze Policy operating as a 'ceiling' as this would mean any council attempting commence rate equalisation will effectively need to take a cut to their notional income which in turn could have an impact upon service delivery. Council is advocating a more flexible approach within this policy by the introduction of an 'earned exemption' mechanism which would allow council to operate within a 'band' system for the rate peg.

This approach would allow councils to stage in the equalisation process within the rate freeze path period. The Government needs to recognise that if they are wanting the newly merged councils to operate sustainably then they need to be able to move fully into their new rating structure as soon as possible. Council agrees that it wants to avoid massive rate shocks for ratepayers, but, under the current policy as it currently stands some newly merged councils may take over 10 years to achieve rate equalisation within their new LGA. This approach runs counter to the underlying principles of both the Independent Local Government Review Panel Final Report and the Government's Fit for the Future Roadmap.

RECOMMENDATION

27. Recommend that Councils should be given the opportunity to commence rate equalisation from year 2 of their existence without the need to reduce nominal income.

28. To achieve this Council strongly recommends that the Government introduce a form of 'earned exemption within the Rate Path Freeze Period based upon t 'band' approach for the rate peg system which would be assessed by IPART.

2.18 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?

As noted previously Council is strongly opposed to the Rate Path Freeze Policy acting as a ceiling as the implementation of such would require councils to reduce their notional income. This could have negative impacts upon the provision of services and facilities within the newly merged council area.

RECOMMENDATION

29. Council does not support the rate path freeze policy acting as a ceiling as this is effectively asking any council wishing to commence rate equalisation to take a cut in their notional income which could adverse impacts upon the delivery of services within the newly merged council area.

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

Please see our submission in respect of 2.13 where we are advocating the introduction of an 'earned exemption' model based around a 'band' system for the rate peg.

2.20 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?

In terms of the three proposed options as outlined by IPART Council believes the option which provides for the greatest level of accountability and transparency for the Minister would be Option 3. This option requires the clear setting out of the Minister's authority within the framework of the Act and the Regulation.

However, Council does recognise that this is the most time consuming option and due to the time sensitivity of the reform process might not be practical to achieve without creating additional delays to the reform process. In recognition of this sensitivity Council would be willing to support Option 1 ONLY if there is a sunset clause applied to the powers given to the Minister. Council would be strongly opposed to this option if no sunset clause is provided as it could give the Minister unnecessary power to continue such restrictive provisions.

RECOMMENDATION

30. Council provides conditional support to Option 1 on the basis that there would be a sunset clause set out in terms of the Minister's ability to apply these powers. If no sunset clause is forthcoming then Council would support Option 3 which would require amendments to both the Act and Regulation.

2.21 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?

Council supports changes being made to the Local Government Act to enable merged councils to establish a new equitable system of rating and transition to it in a fair and timely manner. However Council believes it is important for the newly merged councils to be able to determine how they achieve this rather than having a rigid policy framework imposed upon them. In particular the new councils need to have the ability to commence the equalisation process as of Year 2 of their existence and allow them to transition in to the new rating structure within a timeframe of their first two Delivery Programs. Council does not support the imposition of an arbitrary percentage ceiling (eg. 5% p.a.) as the level of equalisation required will be very much dependent upon the level of variation between the pre-merged councils.

Council also supports the removal of the 'within a centre of population' requirements. Councils need greater flexibility in how they set their rates and having the centre of population requirement is an unnecessary restriction.

RECOMMENDATIONS

31. Council supports changes to the Local Government Act to enable merged councils to establish a new equitable system of rating and to transition to this. However, Councils must be given flexibility in setting this transition process without the constraint of a set percentage ceiling.

32. Council supports the removal of the 'centre of population' requirement for setting rates.

2.22 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?

Council believes that pre-approved variations for pre-merger councils should be included in the revenue base of the merged council. A pre-merged council which has an approved special rate variation would have gone through the extensive approval process required by IPART. Therefore the approved increase in income should be permitted.

RECOMMENDATION

33. Council recommends that approved Special variations for pre-merge councils should be included in the revenue base of the new entity.

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

In respect of other rating issues Council believes that there needs to be some form of recognition for those councils which have undertaken a robust approach to review their Long Term Financial Plan and Asset Management Plan to develop a pathway towards financial sustainability within the Government's financial sustainability criteria.

If a Council can clearly show it has taken such a robust approach clearly showing that it has ring-fenced the funds for specific infrastructure then shouldn't need to go through the SRV application process. This approach ties directly back to the Government's attempt to ensure that councils develop more robust Delivery Programs and could form another level of 'earned exemption for 'fit' councils.

Attachments:

1. Leichhardt Council letter seeking amendments to legislation