

IPART – Review of the Local Government Rating System

Randwick City Council welcomes the opportunity to provide a submission to the Independent Pricing and Regulatory Tribunal (IPART) on the Review of the Local Government Rating System.

Randwick City is located in the eastern suburbs of the Sydney metropolitan area bounded by Centennial Park in the north, the Pacific Ocean in the east, and to the south by Botany Bay. It has an area of 37 square kilometres and contains 13 different suburbs with housing density highest in Randwick, Coogee and Kingsford.

The current merger proposal to merge Randwick, Waverley and Woollahra councils will see the creation of Sydney's third largest council and the home of 274,000 people. The population is housed in 126,350¹ dwellings which are mostly medium or high density with some low density in the southern suburbs. The number of dwellings in the new council is projected to grow to 147,050² by 2031.

Randwick, Waverley and Woollahra all maintain rates collection ratios well below the metropolitan industry benchmark of 5%.

Randwick City Council's responses follow to the various issues raised in IPART's Issues Paper.

Taxation principles

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

Randwick City Council agrees with the proposed principles of taxation.

Assessing the current method for setting rates

2. What valuation method should be used as the basis for determining the ad valorem amounts in council rates? Should councils be given more choice in selecting a valuation method, as occurs in other states, or should a valuation method continue to be mandated?

Randwick Council has long advocated for a switch to Capital Improved Value (CIV) for the following reasons:

- CIV is a comparatively better indicator of capacity to pay than UV
- CIV is more easily understood by ratepayers than UV
- CIV would allow metropolitan councils to levy a more appropriate level of rates on apartments and in doing so achieve a more equitable distribution of the rating burden.

¹ and ² Randwick City Council merger proposal – Fit for the Future submission, 2016

The high number of apartment dwellings with relatively low land values in the Randwick LGA is contrasted with the relatively high eastern suburbs land values that are assigned to stand-alone dwellings. This is particularly significant in the beachside suburbs where there are numerous residential properties paying several thousand dollars in rates each year. This has created a situation where there is significant disparity in rates paid between stand-alone dwellings and units/apartments. The average house price within the Randwick LGA is now \$1.9 million with the average apartment price \$0.82 million. (*Dept. of Housing Dec 2015*)³.

With high density urban areas and rates being determined on the land value, the ‘capacity to pay’ concept within the equity principle fails to capture the ability to pay of ratepayers that own luxury apartments where the land value component may be significantly less than the land value of a stand-alone property.

Using UV and a minimum rate, a modest \$1.5 million house and a luxury \$1.5 million dollar apartment have very different rates despite having the same purchase price as shown in the pictorial example below with Randwick’s 2015-16 rating structure.

\$1.5M modest home = rates \$1,375



\$1.5 M luxury unit = rates \$726.18



We do not support the use of a mix of valuation methodologies or councils being able to elect which methodology they use. If UV, then UV for all property types for all councils, not CIV for apartments and then UV for houses. Tandem use would be inconsistent and contradict the simplicity principle.

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)

If NSW was to move to CIV then it may be relevant and appropriate to be able to access private property valuation services in the future. This opportunity should be explored more thoroughly at a later date if need be.

³ NSW Department of Housing, December quarter, 2015

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?

Randwick Council has undertaken extensive rates modelling over the past four years both locally and for various merger options. It is our observation that the following changes are needed in regard to minimum and base rates:

- Removal of the 50% cap on the base rate. Increase the maximum base rate to 80%. (S.500).
- Introduction of maximum (residential) rates in addition to minimum rates. (S.548)

A report by The Research and Innovation Office of UTS, commissioned by Randwick Council in 2013, validated Randwick's conclusions, commenting that *"greater flexibility is needed in rating structures in NSW so that councils can design a system that best fits their LGA. The current limits on minimum rates and base rates, in addition to ad valorem rates based on land values, are too restrictive. This is a rising issue in inner city LGA's where there are a growing number of high rise dwellings and vast disparity in land values"*.⁴

Capping the base rate at 50% is resulting in a situation where rates paid far outweigh the benefits and services received by owners of highly valued properties. Further, if NSW remains with UV, then the issue of the base rate 50% cap being insufficient will be exacerbated as merged councils move to equalise rates.

It is also Randwick's view that the option of a 'maximum' rate would be a useful tool during transition and beyond. *"A rating system that would allow a greater base rate and the option to set a maximum rate would enable a council to establish its rating structure based on the LGA's residential mix."*⁵

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

Randwick supports being able to sub-categorise on the basis of property type, especially in relation to residential multi-occupancy properties (including, strata units and company title units) as distinguished from free-standing dwellings situated on torrens-titled land.

It is Randwick's view that residents of units/apartments tend to generate a higher demand on council services than residents of stand-alone properties, particularly recreation and leisure facilities, parking management schemes, storm water system capacity and the incidence of illegal dumping.

Within Randwick, units and apartments make up approximately half of the housing stock with 54% of properties paying the minimum rate of \$726.18 in 2015-16. The total yield from the residential minimum rate accounts for only 35% of the overall residential yield – ie; more than half the ratepayers contribute a little over a third of all residential rates.

⁴ and ⁵ A Review of Rating Residential Land in the Randwick City Council LGA: UTS, Sydney 2013

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

Yes, it is Randwick’s view that the current rating system can cause equity and efficiency issues in relation to the rating burden across communities.

See our response to Q2 and Q3 for more information on our views of CIV and changes to base rates, including the introduction of maximum rates.

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?

Rates increases should be strategically aligned with Integrated Planning and Reporting (IPR) and long-term financial sustainability. Randwick has made best use of special variations in collaboration with the community to achieve very high levels of customer satisfaction whilst also achieving and maintaining financial sustainability.

Randwick’s recent case history is summarised in the Table 1 below:

TABLE 1: Randwick City Council - Timeline of rates increases over the past 12 years.

Year	Approved Increase	Notes
2016-17	3.590%	Final year - special variation IPR rate
2015-16	3.590%	Third year - special variation IPR rate
2014-15	9.590%	Extend the 6% Environmental Levy for further 5 years. (Rates increased by 3.59% for second year of IPR rate as 6% already in place)
2013-14	3.590%	First year - special variation IPR rate
2012-13	6.280%	Final year - special variation incorporating the Buildings for Our Community Program
2011-12	6.240%	Second year - special variation incorporating the Buildings for Our Community Program
2010-11	5.290%	First year - special variation incorporating the Buildings for Our Community Program
2009-10	9.810%	Extend the 6% Environmental Levy for further 5 years. (Rates increased by 3.81% as 6% already in place).
2008-09	3.200%	Rate peg only
2007-08	8.480%	Make permananet special variation from 2002-03. (Rates increased by 3.51% as 4.97% already in place).
2006-07	3.600%	Rate peg only
2005-06	3.519%	Rate peg only (includes 0.019% Crown Land adjustment)
2004-05	14.730%	6% - Environment Levy introduced for 5 years 5.19% - Infrastructure Renewal & Maintenance (Permanent) 3.50% - Rate peg 0.04% - Catchup
2003-04	3.662%	Rate peg only (includes 0.062% Crown Land adjustment)

In 2013, S.508(a) of the Act was amended to allow applications for special variations that were not explicitly tied to a specific project or purpose. This change enabled councils with demonstratively sound IPR to apply for rates increases above the rates peg in line with community expectations of agreed service levels and long term financial needs.

Randwick applied for and secured a S.508(a) permanent increases of 3.59% each year for four years from 2013-14 to 2016-17 in alignment with the four year delivery cycle.

Later in 2013, the Independent Local Government Review Panel (ILGRP) introduced the concept of 'streamlining rate pegging arrangements' and IPART later endorsed the merits of a streamlined approach.

Being an early adopter, it follows that Randwick is in favour of a streamlined approach and process that will allow councils to access modest increases above the rates peg. In regard to the actual process, Randwick endorses the process and criteria proposed by IPART in their 2013 submission to the ILGRP 'Future Directions' paper.⁶

See also our response to Q15 for further information about the Randwick approach to special variation.

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

Remove postponed rates as per S.585 that provides rates postponement and long-term rates abandonment in cases where land is being used for a purpose less than its highest and best use.

Postponed rates discourage urban renewal. The process is convoluted, poorly understood and under applied.

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

Randwick City Council manages rate arrears to a very low level. This has been achieved without being overly litigious, preferring to communicate with customers and facilitating payment arrangements and taking court action as a last resort.

Randwick welcomes the development of an industry guideline that promotes best practice for the recovery of rates and charges within local government.

S.712(1) of the Act, is driving unnecessary behaviour within the industry and therefore we advocate for the removal of the twenty-year rule for the instigation of recovery proceedings.

This view is prefaced on the understanding that some councils have interpreted S.712(1) to mean that a court judgement is necessary to secure debt in cases where a pensioner is accruing rates

⁶ IPART Response to the ILGRP submission 'Future Directions', 2013.

against their estate in agreement with a council. This practice means that the courts are being used, legal fees incurred, and the credit rating of ratepayers adversely impacted – all unnecessarily. As rates and charges are a secured debt against the land, there is no need for a twenty-year rule, especially when rates have accrued in agreement.

In reviewing penalties for non-payment and comparing councils to utilities like electricity and water, it may be time to explore whether local government could make use of a late payment fee. Councils already have the discretion to charge simple daily interest at a rate determined by the Minister however, bill payment behaviour has shifted in the last 20 years to the extent that penalty interest does not act as the deterrent that it once did.

Limited use of a fixed late fee is consistent with other industries and has the potential to influence household bill payment behaviour. The option of a late fee would be a useful tool in the recovery of rates. It is not proposed that the current ability to charge interest be removed but does suggest that some delineation between the tools would be needed, possibly based on the age of the debt. For example, a late payment fee could be used for current debts no older than 12 months and then interest could apply to debts greater than 12 months.

Assessing exemptions, concessions and rebates

10. Are the land uses currently exempt from paying council rates appropriate? If a current exemption should be changed, how should it be changed? For example, should it be removed or more narrowly defined, should the level of government responsible for providing the exemption be changed, or should councils be given discretion over the level of exemption?

The exemption of properties from rating is a welfare measure and the provision of welfare is not a responsibility of local government.

All organisations contribute to the financial impost associated with the provision of council facilities and services. Exemptions from rating defy and/or distort many if not all of the taxation principles.

This view extends to the provision of S.600 rebates to select entities and as such Randwick advocates for the removal of S.600 rebates.

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?

No comment.

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

The provision of a rebate on rates and charges for pensioners is a welfare measure and the provision of welfare is not a function of local government.

Randwick does acknowledge that reform is long overdue as the \$250 maximum rebate has not increased since its inception in the late 1980's. Randwick has previously lobbied for an increase in the pension rebate on the grounds that any increase be fully funded by the state government.

Freezing existing rate paths for newly merged councils

13. We have interpreted the rate path freeze policy to mean that in the four years after a merger, the rating path in each pre-merger council's area will follow the same trajectory as if the merger had not occurred. Do you agree with this interpretation?

We agree with the use of the words 'path' and 'trajectory' but differ in interpretation and application. Difficulties emerge putting the policy into practice. See our response to Q15.

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?

Yes, special variations should be permitted during the 4-year freeze for Crown land adjustments. Further, Randwick agrees with IPART's view that legislative change is needed to allow the catch-up of Crown land adjustments within the annual notional yield calculations in Special Schedule 8. The current process is unnecessary red-tape.

– To recover amounts that are 'above the cap' on development contributions set under the Environmental Planning and Assessment Act 1979?

Yes.

– To fund new infrastructure projects by levying a special rate?

Yes, to fund new infrastructure, but also to continue existing projects and programs that were already covered by a special rate and special variation prior to the freeze. See our response to Q15.

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

There are two additional situations where merged councils should be able to apply for new special variation during the 4-year freeze period.

1. To replace a special variation for a special rate that existed prior to the 4-year freeze but is due to expire within the freeze period.

Randwick City Council has levied an Environmental levy subject to multiple S.508(a) temporary special variations for the past 12 years. The levy funds Randwick's city-wide 'Sustaining our City' program of environmental works, programs and initiatives and is levied on all rateable properties.

The levy was first implemented in 2004-05 for a 5 year period to 2008-09, calculated at 6% of overall income, before expiring in full in June 2009. With community support the levy was continued by special variation in 2009-10 for a further five years before expiring once more in June 2014. The levy was replaced again in 2014-15 for another five years and will expire in full (approx. \$4M) in June 2019.

Randwick has not pursued a S.508(a) permanent special variation to fund this levy and program indefinitely because our approach to this levy has always been about allowing a newly elected Council the opportunity to revisit the community's support of the program and ultimately to assess the community's willingness to continue to pay the levy.

Despite the replace/expire/replace reality of the levy, its continuation is part of our strategic vision and is included in our current long term financial planning assumptions for Randwick and for the merged entity of Randwick/Waverley/Woollahra.

The current special variation will expire during the 4-year freeze period with the effect of reducing rates for former Randwick ratepayers. It is suggested that the Randwick/Waverley/Woollahra merged entity be permitted to apply for a special variation during the freeze to continue this levy. The nett effect on a ratepayer's burden will be zero as the event of expiry and replacement will simply maintain the status quo for former Randwick ratepayers.

2. To continue a council's sustainable rating path in alignment with a council's long term financial planning projections in response to service level expectations as negotiated with the community.

Councils should be able to apply for modest special variation increases of a strategic nature during the freeze period.

As described in our response to Q3, Randwick demonstrates a strategic approach to special variations in alignment to IPR, community expectations and the four year delivery cycle. Our current special variation for our colloquially referred 'IPR rate' will finish next year at the end of

2016-17. In normal circumstances, without a merger and without a rates freeze, later this year Randwick would be talking to the newly elected Council and the community, before revising and updating the IPR suite in determining if a modest special variation was needed to adequately fund the projects and programs of the next delivery cycle.

Council notes the State Government's intentions regarding the rate path freeze policy however is of the view that rather than removing access to IPR linked S.508(a) rate increases, additional requirements could be placed on Council's during the four year period to ensure excessive S.508(a) special rate increases were not permitted. These additional requirements could include any combination of the following:

- Limiting special variation applications to within 2 or 3% of the rate peg
- Limiting special variation applications to less than a fixed percentage eg; 5%
- Introducing a Minister's gateway approval before lodgement with IPART
- Increasing the current requirements for demonstration of community awareness
- Limiting special variation applications to those Councils who have achieved an agreed percentage of financial and asset management performance indicators
- Limiting special variation applications to those Councils who have demonstrated a history of linking S.508(a) special rate increases to their Integrated Planning & Reporting process

In the event of a merger, the Randwick/Waverley/Woollahra entity would receive a \$10 million merger grant from the Stronger Communities Fund. However, the financial analysis underpinning the merger shows that the cost of the merger is estimated to be \$25M over four years (after deducting the \$10 million grant). Whilst Council has identified that savings and efficiencies will be created by the merger, they will take some time to be fully realised, therefore, it is appropriate that councils be able to continue to use S.508(a) to access modest increases above the rate peg during the 4-year period if appropriate.

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)?

Yes, the minimum rate and the base rate should be capped by either the rate peg or any approved special variation percentage during the freeze. Any council levying the statutory minimum should be able to continue with the statutory minimum at its maximum limit.

Capping these increases will demonstrate some certainty at rate-notice-level within the freeze period.

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)?**

Neither of the methods presented are workable in that they are both too simplistic. The quantity of properties within each category is not fixed as changes occur throughout the rating year that act to increase or decrease overall yields and re-distribute the rating burden within categories. Routine events that shift the rating burden include:

- when a property is subdivided or consolidated.
- when a rating category changes.
- when a property becomes exempt from rating, or when an exempt property becomes rateable.
- when catch-up income from previous year/s is taken-up.
- when land values change, either by revaluation of all properties or re-ascertainment of individual properties.

A significant measure of controlling the rating burden during the freeze would be to ensure that councils do not continue to set annual rating yields by using some kind of ratio/cap/formula during the freeze. For example, a council could have a revenue policy that stipulates that the Residential ad valorem has to be set at three times less than that of the business rate, while another council may have a policy whereby the Business category has to yield 30% of overall rates.

As an alternative to the methods presented, councils should attempt to best ‘control’, rather than attempt to ‘fix’ the burdens during the freeze, by adhering to the following guidelines in setting rates:

- Cap increases to the minimum rate and the base rate by the rate peg or any approved special variation.
- Prohibit councils from using a ratio/cap/formula to set rates to achieve a specific yield with a category.
- Allow councils to distribute catch-up relative only to its original category, ie; if the income was lost to objection and the property was Residential then distribute the catch up within the Residential category and so on for Business catch-up and other categories. Do not allow the catch-up Residential income to be distributed within the Business category, etc.

- Permit councils to conduct business-as-usual throughout the freeze – ie; changing categories, creating new properties, adjusting rates following land value objections, and declaring exemptions and rateability. Allow the income from these movements to be taken up within their relative categories using the same approach as catch-up described above.
- Allow councils to set the ad valorem for each category relative to their projected year-end position using the Statement of Compliance papers as per Special Schedule 8. ie; using the council's notional year-end property count and property yields as per Schedule 1 as the base before applying the rate peg increase and/or any special variation percentage to determine category yields.

This alternative although practical, will not produce a perfect balance of the burden but will contain the relativity of the burden within a defensible process. The process being business-as-usual while barring councils from making decisions that would result in significant changes to rates policy during the 4-year freeze. This will allow ratepayers to observe certain movements in their minimum or base rate from one year to the next while their ad valorem component (if any) remains relative to the previous year, notwithstanding the effect of any special variation expiration or the application of new land values during the same period.

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?

Yes, the rate path freeze policy should act as a ceiling. Councils have always had the discretion to adopt rates at a level less than the approved maximum increase.

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

If the aim of the freeze is to cap increases each year for each ratepayer so that each increase can be measured and verified from one year to the next, then it is important to note that this outcome will not be achieved due to the land value revaluation cycle.

Take the merger of Randwick/Waverley/Woollahra councils for example. All three councils have recently received new land valuations which will take effect for rating on 1 July 2016. Irrespective of mergers, a redistribution of the rates burden across all ratepayers always occurs in the first year following a revaluation.

If 2016-17 is the first year of freeze, the newly merged council will issue rates using a different valuation than was used in 2015-16. This will mean that over 100,000 ratepayers will receive a rates notice that bears no measurable relationship with the previous rating year. Because of the new values and despite a freeze, some Randwick ratepayers will face rates increases in excess of 35% in 2016-17.

This issue is not isolated to the Randwick/Waverley/Woollahra merger as most councils receive a revaluation every three years all merged entities will face this dilemma sometime within the freeze period. In fact, because of the timing of the three-year valuation cycle coupled with the 4-year freeze, ratepayers in the merged Randwick/Waverley/Woollahra area will twice experience a redistribution of the burden within the freeze period – once in 2016-17 (year 1) and again in 2019-20 (year 4).

There will be considerable difficulty presented to councils in managing community expectations in applying new values within the freeze policy. It will appear that the objectives of the policy are not being achieved and individual ratepayers will not experience “certainty”.

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?

A ministerial instrument may be sufficient initially, although legislative change may be necessary in time dependent upon finalisation of implementation options.

Establishing new, equitable rates after the 4-year freeze

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?

The alignment of rating structures should be phased in over a number of years following the 4-year freeze. Transitional tools will be required to enable councils to move towards their ‘one’ best rating structure.

The requirement of having to set the same residential rate within a centre of population should remain as it is dangerous to delineate between one area and another, taxing one less than the other, especially within an homogenous area like metropolitan Sydney. If areas within the same residential populous have the same access to council services and/or benefit from the same level of services it would be hard to defend differential rating except in the case of stand-alone housing v apartments/units.

Randwick City Council supports being able to access the following transitional mechanisms in equalising rates:

1. Rate capping
2. Maximum rate

Rates capping was used in NSW in the mid 2000's, in regard to the removal of the water right component from land value. At the time it was legislated that the Farmland ad valorem rate had to be the lowest rate within any council rating structure. With many farmland valuations reduced significantly by the removal of the water right value, the government and industry acted quickly to change the law (farmland no longer needs to be the lowest rate) and add a transitional measure (rates capping) into the Regulation.

The capping worked to limit individual property increases to a maximum of 20% from one year to the next for a period of four or five years. In practice, councils were required to abandon rates above the cap in the year they were levied and then were permitted, via the annual Statement of Compliance (Special Schedule 8) process, to catch-up the abandoned rates in the following year.

A maximum rate is used in other jurisdictions and would also be a useful tool as discussed in Q4.

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?

This situation will not affect the Randwick/Waverley/Woollahra merger during the freeze period, however our outsider view is that affected councils should have the flexibility to choose whether or not they continue with their already approved (but not-yet-applied) annual special variation increases.

The affected community will be already informed and expectant of the increase/s. It could also be the case for some mergers that the continued application of approved annual special variation increases may act to ease equalisation post freeze.

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

Randwick's vision for NSW rating reform both for the 4-year freeze and beyond is reiterated in the points below:

- Shift to CIV
- Increase the 50% restriction on the base rate to 80%
- Introduce an optional maximum rate
- Increase the pensioner rebate, fully funded by the State Government
- Remove S.712(1) twenty-year rule
- Introduce an optional late fee
- Remove S.600 rebates
- Remove S.585 postponed rates
- Introduce transitional rate capping following the 4-year freeze
- Permit new councils to apply for a special variation within the 4-freeze to replace an expiring on-going levy with zero nett effect on the ratepayer
- Permit modest strategic special variations for new council entities during the 4-year freeze

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