

12 May 2016

Review of Local Government Rating System
Independent Pricing and Regulatory Tribunal
PO Box K35
HAYMARKET POST SHOP NSW 1240

Our Ref: #2016/147348

Dear Sir/Madam

Re: Review of Local Government Rating System

Please find attached a submission from Warringah Council to the IPART Issues Paper
- ***Review of Local Government Rating System***.

Generally the overall approach is still prescriptive and does not effectively allow innovative approaches in relation to providing services to benefit the community or selective parts of the community who are willing to pay more for increased service levels. Such heavily prescriptive measures do not provide incentives for councils or their officers to be accountable as they can blame the rate peg.

Please contact David Walsh on [REDACTED] if you require further information or clarification of the points made in the Submission

Yours faithfully,

[REDACTED]
Rik Hart
General Manager
Warringah Council



IPART ISSUES ON WHICH COMMENT IS SOUGHT:

TAXATION PRINCIPLES

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

Response:

We generally agree that the proposed tax principles, however, we believe the principal of flexibility should be added. Taxation systems should be flexible and dynamic enough to ensure they keep pace with technological and socioeconomic developments. It is important that the system is dynamic and flexible enough to meet current revenue needs while adapting to changing needs on an ongoing basis.

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?**

Response:

Capital Improved Value (CIV) may be more equitable and is likely to be more easily understood by the public than other methods, however the cost implication for setting up and maintaining the necessary information databases may be not be cost effective and would need to be consistent with other forms of property based taxation.

The use of Unimproved Land Values (UV) for assessing rates highlights inequities when levying rates on multi unit developments particularly apartment buildings. Most strata units within a building are levied a Minimum Rate despite very different market values of those units. This inequity could be addressed by introducing new sub-categories of the ordinary residential rate rather than moving to CIV for assessing rates.

We believe the use of UV should remain the basis for assessing council rates atleast until such time as a cost effective and reliable system for CIV is developed and issues with inconsistencies with the other forms of taxation such as land tax are resolved.



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)?

Response:

The service currently provided by the Valuer-General adequately meets council needs and should be retained. Giving councils the option however of choosing a private firm is not opposed.

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?

Response:

Base and minimum amounts should be retained. Equitably determined base and minimum amounts can provide a fair method to recover the cost of common services as well as basic general administration costs. Base and minimum amounts can be used to flatten out the incidence of rates across ratepayers where, for example, land values vary greatly within categories of ratepayers or there is disproportionate variations arising from a new valuation. By taking into account the particular features of the distribution of rateable values in its local government area the base or minimum amounts can be set to achieve the best possible balance between the "benefit principle" and the "ability to pay principle".

On the basis that base and minimum amounts have been equitably determined the act should be amended to provide greater flexibility by removing(or increasing) the 50% cap on base amounts and by removing uncertainties relating to limits on revenue derived from minimum amounts following the decision in Sutton v Blue Mountains CC (1977) 40 LGRA 51.

While Minimum amounts can already be increased above the legislated amount by application to IPART consideration should be given for legislative changes to allow newly amalgamated council to set minimum amounts above the statutory limit without the requirement to apply to IPART in order to efficiency facilitate the equalisation process which will be required.

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

Response:

Developments such as apartment building developments (strata title units), secondary dwellings and strata storage units were not contemplated when the current act was drafted. This highlights the requirement for greater flexibility in relation to rating categories or subcategories so that Councils can efficiently and effectively adapt or respond to changing circumstances and continue to produce fair and equitable outcomes for ratepayers.



The present system includes only four rating categories and this often results in properties being categorised by default (for example as business) rather than reflecting the underlying actual or intended use of the land such as recreational clubs and small strata title storage units. Different rate categories based on land use are consistent with the principles of efficiency and equity and can more accurately reflect the consumption of council services.

Further rating categories should be introduced such as splitting the residential category into detached housing, vacant land and apartment properties. Presently a sub-category for the residential category may only be determined according to whether the land is rural residential land or within a centre of population. The Act should provide greater clarity as to the definition of "centre of population" and greater flexibility for Councils to determine sub-categories based on the principles of equity, fairness and ability to pay.

The growing trend in relation to secondary dwellings highlights the requirement for greater flexibility within the Act to accommodate such developments and provide the capacity for Council's to determine an appropriate basis for levying rates on such developments. The Act should provide the greater capability for Councils to determine sub-categories that reflect new developments that reflect the use of the land so that constant amendments to the Act are not required to deal with new developments.

The Act presently provides that sub-categories of the business category may be determined according to a "centre of activity". Only limited guidance is provided in the Act as to the definition of "centre of activity" and this restricts the applicability of such sub-categories to specific geographical areas (such as an industrial estate). As a consequence a Council may have to determine separate sub-categories for each such separate "centre of activity" within its LGA rather than determining a sub-category that applies across the whole of its LGA. The definition of "centre of activity" needs to be more accurately and more practically defined within the Act to provide greater flexibility and efficiency for Councils in determining business sub-categories.

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

Response:

Whilst the underlying principles of equity and capacity to pay are key objectives within the rating system the current system does cause equity and efficiency issues. In many council areas there are a growing number of asset rich and cash poor individuals such as in relation to self-funded pensioners and retirees.

This can become evident following a general land revaluation which can alter the distribution of the rate burden with the effect on individual properties going up or down by far more than the rate cap/allowable increase depending on how much an individual property's value has changed relative to the average change in value within the LGA.

Such a change in valuation does not necessarily reflect a change in an individual's "capacity to pay" and increased rate assessments based on increased relative valuations can cause financial and emotional stress to some taxpayers, particularly those ratepayers that might be asset rich but cash-poor self-funded pensioners and retirees.



Further anomalies are created as a result of significant swings in land values that can occur between valuations.

Recent developments such as the growth of unit/apartment developments can also cause equity and efficiency issues relative to other ratepayers such as compared to residential homes. These developments can consume a significant level of council services compared to a residential home. This further supports the requirements for the rating system to provide councils with the flexibility and capability to determine an appropriate basis for assessing rates in relation to such developments.

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?*

Response:

Rate pegging is a “one size fits all” approach and as such may not be consistent with the principles of efficiency, flexibility and sustainability or reflect individual council requirements. The special rate variation process can take a considerable time to work through and as such it does not provide Councils with an efficient mechanism to respond to and/or to react to local requirements.

In the Final Report of the NSW Independent Local Government Review Panel issued in October 2013 a principal recommendation was to either replace rate-pegging with a new system of ‘rate benchmarking’ or streamline current arrangements to remove unwarranted complexity, costs, and constraints to sound financial management. It noted that the full abolition of rate-pegging was unachievable at present. It should be noted IPART suggested increased flexibility for councils to set rates within a margin of 3% above the rate-pegging limit. However, based on TCorp’s assessments, the Panel considered that a margin of up to 5% would be more realistic where councils need to make significant short-medium term inroads into infrastructure backlogs and correct operating deficits.

Under this approach IPART would continue to review and determine applications for SRVs of more than 5% pa above the peg. It would also advise the Minister on which councils might be exempted from rate-pegging.

The current guidelines for the preparation of an application for a special variation to general income provide no clear indication of how IPART will effectively consider applications which attempt to increase service levels reflecting community needs and demands. The current guidelines appear to reflect the need for a clear path for consulting with its communities on its needs and priorities and their willingness to pay rates at levels above the projected rate peg. However, it appears that this path is principally tied to correcting revenue deficiencies to deal with infrastructure backlogs and operational deficits rather than providing a means of actually increasing service levels to reflect community needs and demands.

Consideration should also be given for legislative changes to allow a newly amalgamated council to set rate amounts above the rate peg limit without the



requirement to apply to IPART in order to efficiently facilitate the equalisation process which will be required.

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

Response:

Urban renewal is an important consideration for councils and for other levels of government. To create more affordable housing in strategic centres planners will need to decide whether medium or high density housing is more desirable and efficient and how allowances can be made for affordable key worker or student housing to encourage a more appropriate population mix.

Urban renewal can be encouraged by making the adoption of special rates and/or the process relating to special rate variations simpler in relation to urban renewal projects. The special rate variation process can take a considerable time to work through and as such it does not provide Councils with an efficient mechanism to respond to and/or to react to local requirements. Greater access to grants and other funding sources for urban renewal projects would also encourage urban renewal.

The importance of encouraging urban renewal and the subsequent completion of urban renewal projects (such as affordable housing) further highlights the requirement for greater flexibility in relation to rating categories or subcategories so that Councils can efficiently and effectively adapt or respond to changing circumstances and continue to produce fair and equitable outcomes for ratepayers. This is necessary in order to ensure that councils have the capability to levy appropriate rates in relation to such projects in order to recover the cost of common services as well as basic general administration costs.

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

Response:

Councils have a responsibility to their communities to ensure rates are paid in a timely manner in order to maintain cash flow. In regards to the assumption that councils are pursuing relatively low claims it needs to be stated that the claims of \$2,000 or less can represent more than 2 years of rates.

The Issues Paper seems to indicate that some councils are clogging up the local courts with litigation for debt recovery, and that councils could alternatively offer more flexible payment options.

Councils already offer a number of alternative payment arrangements to the four legislated due dates. The majority of councils send several reminder letters encouraging owners to contact council to make alternative arrangements should they be in financial difficulty.



A number of councils also do not pursue rates owing by pensioners recognising the large number of pensioner ratepayers in the community and the difficulties some pensioner ratepayers have in meeting their Rates and Annual Charges payments. Councils generally allow outstanding for eligible pensioner's rates, charges and interest to accrue against their estate.

The local courts have recently significantly increased the filing fee for summonses. Accordingly, most councils will only go to litigation when the overdue rates amount is several hundred dollars and includes two overdue instalment amounts (i.e. the debt is over four months overdue for payment).

Using the local court for debt recovery is the last resort, not the first.

Unlike water and electricity utilities, councils cannot motivate owners to make payment by reducing or ceasing the provision of goods or services.

Interest charges on overdue amounts could be set at a higher rate than presently occurs in order to motivate owners to pay. (Noting that council can already reduce or write off interest where acceptable payment arrangements are adhered to.)

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?***

Response:

In order to achieve competitive neutrality, rate exemptions should cease to be available to owners who use land that competes with the private sector. Examples include retirement villages and child care centres. This not only gives the owner a competitive advantage but requires the remainder of ratepayers to carry this financial burden every year.

- 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?***

Response:

The Final Report of the NSW Independent Local Government Review Panel in October 2013 noted that local government does have legitimate concerns about rating exemptions and concessions, and the way some fees and charges are fixed below cost. Cost-shifting has been a significant issue for local government and it would not be appropriate to consider the exemptions from certain state taxes (such as payroll tax) that councils in a review of the exemptions for certain categories of ratepayers without considering the overall impact of cost shifting.



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

Response:

Maintain the real value of the pension rebate over time by increasing it annually by either the rate peg or CPI.

Additionally, change the funding source so that it is in line with every other State in Australia, i.e. 100% funded by the State Government.

The Final Report of the NSW Independent Local Government Review Panel in October 2013 noted some concessions for disadvantaged ratepayers are justified, but social welfare should not be a local government responsibility; arrangements for pensioner concessions should be reviewed

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?

Response:

We agree with this interpretation; however it is noted that the NSW Government's aim to provide rating certainty for four years will be challenging given that new land values are typically provided to councils every three years. The impact of assessing rates on new land values always results in significant movement (up and down) in individual rate assessments.

Additionally, there will be numerous instances where merged councils are currently using different base date land values which inevitably will need to be harmonised, again resulting in individual rate assessment movement.

Inequities will also occur where already approved Special Rate Variations (SRVs) result in some areas of the new council having higher rate increases than other areas where rates increases are limited to the rate peg.

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?**



Response:

Yes, councils should be able to apply for a new Special Rate Variation (SRV) in each of these circumstances as four years is too long for the rate freeze as expected harmonisation of service levels and infrastructure backlogs will need to be addressed.

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

Response:

Yes, If there is a specific need identified by the community within the merged Council then an application should be allowed.

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)?

Response:

This would seem appropriate in order to assist the NSW Government in achieving rating certainty for four years.

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)?**

Response:

As noted in the Issues Paper the rate freeze policy acts as a 'ceiling' on rate increases, in that it determines the maximum rates that merged councils can charge in each pre-merger council area during the freeze period.

It is not uncommon to have changes between rating categories in any year particularly in circumstances where areas are rezoned as part of the priorities for a strategic centre such as those under A Plan for Growing Sydney.

It would not be appropriate to limit Council ability to take these changes into account which would result from the either or approach taken in this paper. Applying a combination of both alternatives reflecting for example land use changes between business and residential would result in the rates burden being consistently applied year on year and not result in a transfer of the rates burden between categories.



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?

Response:

The 'ceiling' is achieved via the rate peg. Councils already have the discretion to set their rates below the rate peg. If savings do eventuate from council mergers then councils will pass on these savings to the ratepayers by setting their rates below the rate peg.

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

Response:

Councils should be able to commence rate equalisation from year two of the merger if there are no material differences in the rating structures, minimum and ad valorem rates of the pre-merger councils.

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?

Response:

This option would seem to be the most appropriate given the need to provide flexibility in the implementation of an appropriate rate-setting mechanism that may require adjustment during the merger process and some certainty around the rate freeze policy. It will permit councils to levy rates and charges without the threat of a challenge by a ratepayer to the validity of the rates levy.

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?

Response:

As noted earlier presently a sub-category for the residential category may only be determined according to whether the land is rural residential land or within a centre of population. The Act should provide greater clarity as to the definition of "centre of



population” and greater flexibility for Councils to determine sub-categories based on the principles of equity, fairness and ability to pay

The transition to a new rating system will be assisted by changes to rate exemptions and new sub-categories of rates. The current rating burden can be lessened on ratepayers if fewer rating exemptions are allowed.

After the 4-year rates freeze, councils must be able to immediately implement changes to their rating structures. Given that there are no distinct centres of population within a metropolitan council’s boundary, no change should be made to the sub-category ‘centre of population’. All properties within the localities of a metropolitan council will have access to goods and services provided by the council.

It is noted that ratepayers are already aware of and experience significant fluctuations in rates assessments when councils are required to assess rates on new land values every three years.

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?

Response:

If the approved Special Rate Variation (SRV) was to add to the revenue base of the pre-merger council going forward, then yes this SRV should be included in the revenue base of the new council after the 4-year rate path freeze.

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

Response:

It will be necessary to ensure land revaluations for merging councils are aligned, which will create significant resourcing issues for the Valuer General