

REVIEW OF THE LOCAL GOVERNMENT RATING SYSTEM

IPART LOCAL GOVERNMENT – ISSUES PAPER

SUBMISSION (Due 13 May 2016)

Taxation principles

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

They seem logical and equitable.

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?

Whilst no valuation method is perfect, too much choice is subject to manipulation, especially if easily changed.

The CIV would seem to be a better option for capturing rate income from Strata subdivisions. This may be more advantageous to Councils, as opposed to applying a higher rate in the \$\$ to the Unimproved Capital Value. It is noted however that CIV values would potentially have higher administrative costs than the Unimproved Capital Valuation method.

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)?

The use of the Valuer General allows for one public body to oversee all of the administration of valuations. This is especially important when considering issues such as valuation objections and allowances for special use land. It is assumed that the VG can compare valuations across a wider area to gain better equitability.

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?

One change which would allow Councils greater flexibility would be to remove the requirement that base amounts only make up a maximum of 50% of the total yield from rates. Alternatively the

legislated ceiling could be removed from the minimum rate allowed to be charged by Councils across NSW.

Another alternative used in both Ireland and Singapore see valuations split into ranges (or bands). Under this method, properties that fall within a certain valuation band (eg. Between \$600,000 - \$700,000) would pay the same rates regardless of whether the property valuation is \$600,001 or \$699,999.

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

Giving Councils the ability to levy an ordinary rate sub-category, outside of the current requirement that it must be either 'rural residential' land or land within a 'centre of population' may be beneficial to spreading the rate burden more equitably across the Local Government Area. An example of this would be giving Councils the discretion to charge a higher minimum or base charge for strata units. This would be an alternative to changing the valuation method to CIV in order to more equitably distribute the rating burden across these types of developments (which make up over 40% of properties in Sydney according to the Australian Bureau of Statistics).

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

Whilst Council rates are considered to be an effective and efficient broad based tax, the current system is perceived to cause some equity and efficiency issues. Base rates may not be totally equitable as they may not truly reflect the benefits received by the land owner. This is largely due to the fact that the owner of a dwelling with one occupant pays the same base amount as the owner of a dwelling with five occupants. Alternatively minimum rates can also result in the owner of lower valued properties effectively paying a higher rate of tax (as illustrated below).

Graph 1: Illustrative impact of base charge and minimum rate on rates payable relative to property value



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?

As found in recommendation 120 of the Henry Tax Review (2010), “because Councils are answerable to ratepayers, there is no need for rate pegging to be imposed”. Therefore, rate pegging should be abolished, and a more equitable system (such as income being varied by the CPI) should be implemented.

The ratepayers of NSW expect a high level of service from their councils, and by continuing to limit rate income the government is severely restricting the ability of councils to deliver services and attract quality staff.

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

Whilst not a change to the “current” system, it is noted that the proposal to fall in line with other states such as Victoria and South Australia and give NSW Councils the option of moving to the Capital Improved Valuation (CIV) method for rating purposes may effectively discourage urban renewal. There is a perception that, whilst deemed better able to meet both the ‘benefits’ and ‘ability to pay’ principles, it may discourage property owners from investing in and making capital improvements to their land.

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

Council has a solid legal **position** regarding the recovery of rates due to the fact that they are a debt on the land and can always be collected on settlement. Whilst Council has the ability to sell land for unpaid rates of five years or longer, it should be noted that under Section 713 of the Local Government Act, there is a requirement that for vacant land, the rates outstanding must exceed the value provided by the Valuer General before any sale can be sanctioned. Further to this, Section 712 states that recovery proceedings can only be commenced within twenty years of the date the rates became payable. There is scope to vary these restrictions to better enable Councils to manage long term overdue rates.

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?

Too many properties are eligible for non-ratability under the current legislation. Rationalisation could be by way of removing exemptions where the exempt property does not provide sufficient public benefit to the community, is being used partly for commercial activities, or if the land is contributing to extra costs to Councils.

Other options would be to narrow rating exemptions. Where a commercial activity is located on exempt land, it may be appropriate to levy rates on the portion of land used for profit generating activities (or remove the exempt status altogether). Alternatively it may be appropriate to replace some exemptions with rebates. A rebate could be a partial reduction in rates, which is typically a more transparent method which provides a mechanism to give varying levels of rate relief rather than the “all or nothing” approach under the current rating exemptions.

Councils should not be given discretion over the level of exemption. In order to meet the ‘simplicity’ tax principle, there should be a definite list of criteria that must apply to the property before it is granted the ‘exempt’ status.

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?

It should not be considered as it is not relevant. Exemptions from rates shift the rating burden from the exempt property to the ratable majority of properties. This does not have any effect on Councils overall income from rates (under rate pegging) and therefore should be considered as a separate issue to state taxes.

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

The objective of the pensioner concession scheme should be to assist pensioners (who are in some cases financially challenged) to achieve the objective of paying the rates on their properties.

The current scheme could be improved by introducing an asset test to prevent pensioners who are asset rich from accessing the concession, and by the State Government reimbursing Council 100% of the concession granted rather than the existing 55%.

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?

Yes

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?*

Yes

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

Yes, there should be discretion for Councils to apply for a special variation in circumstances that are unique to only that newly merged Council and for the submission to be considered outside the established criteria. Newly merged Councils are bound to face extra challenges that have not been previously considered, and should be given some flexibility to apply for a special variation under these circumstances.

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. If this is what was previously put forward in public consultation processes, it would seem unfair to increase minimum and base rates above this limit.

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)?*

Yes. The more discretion Council is given to allocate changes to the rating burden, the better able it will be to meet the individual needs of the local government area and its rate paying public.

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. If Councils are able to set rates below the legislated ceiling and still be economically sustainable, this option should be available to each individual Council.

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

During the four year rate freeze, merged Councils could be exempt from rate pegging, but use some other index (for example the CPI) as a means to limit the revenue generated through rates income.

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?

This seems the most feasible option as it gives the most flexibility. The Minister can make amendments to legislation contained in the Local Government Act as it applies to newly merged Councils if and when required.

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?

It is inevitable that changes will be made to the LG Act and one of the most restrictive is the requirement that Councils set the same residential rate within a centre of population. For an urban Council this means that residential rates must be the same across the city. Removing this Legislative requirement may provide alternative methods for rating strata titled multi-unit

Dwellings that are located in the same Centre of population of single unit dwellings. This could help Councils achieve the goal of making the rate burden more equitable across a local government area.

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?

Yes

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

The main concern is that once the four year rate path freeze expires, and rate equalization comes in to play, individual properties may be subject to fluctuations greater than the rate cap.

If the requirement to set the same residential rate within a centre of population was removed, a merged urban council would be able to prevent such rate rises by setting different residential rates within the enlarged post-merger area. This raises the question whether rate equalisation within a population centre remains an appropriate principle.