

Council Ref:  
Your Ref:

13 May 2016

Review of Local Government Rating System  
IPART  
PO Box K35  
HAYMARKET POST SHOP NSW 1240

Attention: Derek Francis

Dear Mr Francis

**Submission  
Review of Local Government Rating System**

Please find enclosed Woollahra Council's submission in response to IPART's Issues Paper on the Review of Local Government Rating System.

Should you require clarification of any of the matters raised in the submission, please Contact Council's Chief Financial Officer, Don Johnston [REDACTED]  
[REDACTED]

Yours sincerely

[REDACTED]  
Gary James  
General Manager

Encl.

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## Submission to IPART – Review of the Local Government Rating System 13 May 2016

### Taxation principles

#### **1. Do you agree with our proposed tax principles? If not, Why?**

Yes.

### 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?**

Unimproved land value (UV) should be retained as the basis for determining the ad valorem amount in council rates. A move to the alternative capital improved value (CIV) would be an expensive exercise and should be subject to a separate cost-benefit analysis. Applying the tax principles agreed above, UVs provided by the Valuer General based on mass valuations is certainly efficient and, arguably, simple.

The context in which the Independent Local Government Review Panel (ILGRP) raised the prospect of CIV related to the rating of apartments. It was regarded as a 'value capture' opportunity to provide councils with additional revenue and, perhaps indirectly, to redistribute financial assistance grants (FAG) to areas of greatest need.

Perceived inequities in the rating of apartments, which will vary from council to council, could alternatively be managed through sub-categorisation (see 5 below). If it is intended to replace FAG with rates, councils could pass all, or part, of this additional rate burden onto apartments if they were sub-categorised.

This would achieve the same outcome without the need for an expensive transition to CIV.

#### **3. Should councils be required to use the Valuer General's property valuation services, or should they be able to use a private valuation firm (as occurs in Victoria and Tasmania)?**

Yes. The 'value-for-money' argument would strongly support councils being required to use the services of the Valuer General (VG). Presumably the State would continue to use the VG for its valuation services, providing significant scale efficiencies to both spheres of government. It is also suggested that there is merit in having a consistent, independent valuer across local government and indeed the State for the purposes of taxation.

**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?**

While we are comfortable that Woollahra makes good use of the existing provisions of the LG Act to fairly and equitably distribute its rate burden across its community, there may be benefit going forward in making changes to the sub-categorisation provisions, discussed in more detail in my response to Q5 below.

It is noted in this regard, however, that the LG Act is silent on defining the bases of sub-categorisation with councils guided by the Office of Local Government's (OLG) interpretation of these bases which are enunciated in its *Rating and Revenue Raising Manual*.

Relevantly, the OLG also makes its views on the use of base amounts and minimums in the Manual.

*While the Act makes provision for "base amounts", the overriding characteristic of local government rating is that the assessments that are produced will be **primarily and predominantly determined via the ad valorem method** whereby the incidence of any rate burden is split differentially according to the value of rateable property: see Sutton v Blue Mountains CC (1977) 40 LGRA 51.*

*Although the Sutton case dealt with minimum rates, it is still relevant in answering the question of why a base amount is limited to 50% of the total income from a category or sub-category. In Sutton, it was held that rates levied by the council were invalid if, in most cases the minimum rate paid by a ratepayer was greater than that which would otherwise have been payable had the rate been calculated on an ad valorem basis.*

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

There is merit in broadening sub-categorisation opportunities within the residential category. As already noted the sub-categorisation of apartments is a logical change to existing legislation and would provide councils with an opportunity to address any perceived inequities relating to rates paid by apartments versus stand-alone residential dwellings.

It is also opportune to recommend changes to the OLG's guidance in relation to residential 'centres of population' which effectively preclude sub-categorisation in metropolitan areas.

*In the view of the Department, the words **centre of population** as they occur in section 529(2)(b) of the Act have their ordinary Dictionary meaning.*

*It is for council to consider the definition when making decisions about sub-categories for the purpose of residential rating.*

*Nevertheless the following guidelines are provided for councils:*

- *Separate towns or villages may be regarded as discrete centres of population.*



- *Wherever contiguous urban development exists the criteria that should be present in order to constitute a centre of population are:*
  - *that there is a discernible community of interest amongst the residents which differs from those living outside that part of the area; and,*
  - *that part of the council area is independently serviced by infrastructure which reflects the focus of that part of the area as a centre of population.*
- *A centre of population should not be a device intended to enable rating variations within an homogeneous suburb or suburbs, or by street, or by any special feature such as proximity to water.*

*It is clear that sub-categorisation on the basis of centres of population may have limited application within the suburbs of the main urban centres.*

An issue confronting a number of proposed merger partners is the impact of disparate land values between merger partners. Widely known as the 'Woollahra Issue', when land values in one council area are significantly more than its merger partners there will be an inevitable shift in the rate burden, albeit postponed for 4 years under the rate freeze policy.

In this context, why cannot a former council area be determined as a sub-category within the residential category of a merged council? Or, at a more granular level, why cannot suburbs within the merged council area be sub-categorised. Changes along these lines will provide merged councils with sufficient flexibility to mitigate the 'Woollahra Issue' in an equalised rating structure.

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

It will certainly cause equity issues, refer to comments on the 'Woollahra Issue' above. Woollahra's merger proposal partners, Randwick and Waverley currently have similar average residential rates and, arguably, provide similar services. At the same time, the three councils are quite a way apart when it comes to average business rates while, arguably, providing similar services.

Under councils' charter in the LG Act, each council is charged with the responsibility to raise funds for local purposes by, among others, the fair imposition of rates. Each council has taken a different approach to discharging this in the form of different rating structures across both residential and business rates.

IPART recognises in its issues paper that:

*As a merged council within Sydney would comprise one centre of population, it could not set different residential rates within the post-merger area after the 4-year freeze expires. Instead, it would have to instantaneously set the **same** residential rate structure for the whole area... ..*

*The requirement to equalise residential rates within a centre of population could expose some Sydney residential ratepayers to large increases...*

It is clear that the current legislation will cause equity issues in a merged council area following the equalisation of rates, perhaps less so with business rates as a consequence of the current sub-categorisation provisions.

**7. *What changes could be made to the current rate pegging arrangements to improve the rating system, and, in particular to better streamline the special variation process?***

The best 'change' to the current rate pegging arrangements would be their abolition. The ILGRP's research indicated that rate pegging has had significant consequences including excessive cuts in expenditure on infrastructure maintenance and renewal, leading to a mounting infrastructure backlog. Some councils including Woollahra, have successfully applied for special variations to assist with funding infrastructure renewal. The need to apply for such variations should not be the case. If councils have established a robust revenue path in consultation with their communities through their integrated planning and reporting processes, they should be allowed to implement it.

Understanding that there is probably no appetite for that within the State Government, the sensible suggestions made by the ILGRP regarding a streamlined special variation process are supported (Box 12, page 44 – Final Report of the NSW ILGRP – October 2013).

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

No submission is made.

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

The vigour with which councils pursue overdue rates is often driven by the OLG's performance benchmark of, for metropolitan councils, having less than 5% of rates collectible outstanding.

While flexible payment arrangements in cases of financial hardship are supported, and indeed implemented at Woollahra within a policy framework, the management of overdue rates should remain at the discretion of councils.

**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 current exemptions from rates are generally supported.

Woollahra has a number of high profile independent schools in its council area that enjoy rate exemption yet unquestionably place a demand on infrastructure and services. Your issues paper suggests that:

*In general, who should pay for an exemption should relate to who receives the public benefits from the goods and services provided by the exempt land use...*

*And*

*...if the benefits are distributed beyond the local council area, it may be more equitable for the state government to share the funding costs of the exemption*

These concepts are supported and, to facilitate implementation of same, the replacement of exemptions with rebates is also supported.

It is submitted that there is also scope to narrow the current exemptions. As noted earlier, the current exemptions are generally supported. However, the scope of the exemption could be more tightly aligned to the land associated with direct service delivery of the exempt institution. For example, exemptions could be limited to the land upon which schools and churches sit and not the 'associated' properties owned by the schools and churches to house clergy or staff. In this regard, the zoning of the land could be a guide to determining the exemption.

In the interest of equity, simplicity and consistency it is submitted that councils should not be given discretion over the level of exemptions.

***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?***

Tax exemptions as they currently apply to local government should remain.

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

No submission is made regarding the objectives of the pensioner concession scheme as they should be considered in a much broader context to facilitate pensions and pension concessions keeping pace with the cost of living in real terms and strategies to increase the number of self-funded retirees, making the current pension and concession arrangements more sustainable.

In regard to improvements, it is submitted that the maximum \$250 rebate should be indexed by the rate peg limit each year. In the first instance, a retrospective calculation should be made to 'catch up' on indexation. It is also submitted that the rebate should be 100% funded by the State, consistent with other jurisdictions.

Specific consideration needs to be given to managing the increase in pensioners' rates following the 4-year rate freeze.

***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 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 freeze period?***

Yes. If a merged council, through its integrated planning and reporting processes, identifies a need for a special variation for any purpose, that is supported by its community, it should be able to apply for a special variation.

**16. *During the rate freeze period, should merged councils only be able to increase base amounts and minimum amounts each year by the rate peg limit (adjusted for any permitted special variations)?***

Yes. It is suggested, however, that the limitation for base amounts be that the percentage of the rate burden recovered remain unchanged, e.g. 50%, rather than indexing the pre-merger base amount. Depending on movements between rate categories and supplementary valuations, indexing the pre-merger base amount may produce a different percentage of the rate burden.

**17. *During the rate 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 permitted special variations)?*

Relative changes in land values.

**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.

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

None that would change the rate burden proportions of the pre-merger councils. Discretion should be available to implement a lower rate path or approved special variations.

**20. *We considered several options for implementing the rate 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?***

If pre-merger council areas are proclaimed as ‘centres of population’ for residential rates and ‘centres of activity’ for business rates (where they are not already sub-categorised) then the merged council would be able to implement the 4-year rate freeze without the need for specific legislative change or Ministerial instrument.



In the absence of such a proclamation, the Ministerial instrument option would appear to provide the most flexibility and certainty around successful implementation of the 4-year rate freeze.

**Establishing new, equitable rates after the 4-year freeze**

- 21. Should changes be made to the LG Act to 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?***

In earlier responses Council notes the flexibility that sub-categorisation based on pre-merger council areas, or at a more granular suburb level, would greatly assist in a merged council being able to establish a fair and equitable system of rating. At the same time, creating a sub-category for apartments would allow a merged council to address any perceived inequities in rates paid by apartments.

- 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, if they are permanent increases. Time limited approvals may also need to be included depending on the timing of their expiry, but should only be included to the date of their expiry.

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

There is no escaping the 'Woollahra effect'. Pre-merger councils with higher land values than their merger partners will end up paying more in rates. This will invariably create a disharmony where currently none exists.

It will also depend on the views of a new council as to what constitutes a fair and equitable rating structure. With a minority representation on a merged council, it may be difficult for councillors representing the current Woollahra council area to influence the decision when the majority of councillors representing the majority of the population may well support rate decreases for the majority as a direct consequence of increased rates in Woollahra.