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Independent Pricing and Regulatory Tribunal
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Dear Sir/Madam

Review of the Local Government Rating System

Yass Valley Council appreciates the opportunity to provide input to IPART's review of the Local Government Rating System. On review of the questions posed in the issues paper by IPART, the following feedback is provided to form Yass Valley Council's submission to IPART. As Yass Valley Council is not subject to amalgamation no comment has been made regarding the questions relating to rating treatment for newly merged councils.

Taxation principles

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

Council Response

The Benefits Principle conflicts with the Equity Principle at the individual Council level. One could argue that a disproportionately high level of Council services are pitched/provided to the lower socio-economic areas/residents within a LGA and generally these areas would pay lower rates because it would be expected that the land values in these areas are lower. This meets the Equity Principle but contradicts the Benefits Principle.

The rating system as it stands enables individual Councils to influence the application of taxation principles by allowing them to choose the wholly ad valorem method, minimum with ad valorem or a base rate. By choosing the Base Rate method, Councils are effectively promoting the application of the Benefits Principle and reducing the application of the Equity Principle. Application of taxation principles should be legislated and not be able to be influenced by Council decisions. That's not to say that Councils shouldn't have flexibility and choice in rating – just not in the application of taxation principles.

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?

Council Response

Each valuation method has pros and cons however using the unimproved land value (UV) method will at least ensure consistency at the neighbourhood level and provide equity in rating consistent with access to services (assuming access to service is dependent on locality) which will at least partly consider the Benefits Principle (also assuming that access to services is akin to receiving a benefit from the service). Using the capital improved value (CIV) method removes consideration of the Benefits Principle altogether and therefore does not meet the given taxation principles.

The valuation method should be mandated which will ensure consistent application of rates in NSW and to allow comparison and benchmarking to be carried out between LGAs.

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 Response

Councils should be able to procure valuation services as they can any other service.

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 Response

Mandating the use of base rates will ensure consideration is given to the benefits taxation principle and setting a maximum percentage of the base rate will continue to consider the equity taxation principle provided base rates can be set at varying levels for locations within an LGA dependent on access to services. This is particularly important for large LGAs or those with disparate and perhaps distant communities.

Base rates should be applied to vacant properties or each separate dwelling (regardless of strata title status) which would see multi-dwelling buildings being rated in accordance to the number of dwellings rather than the number of separate titles. This is consistent with access/service charges applied under the NSW Water Management Act. While this would require Councils to acquire information they do not currently hold (ie number of dwellings in a property that is under one title) it is a one-off effort then ongoing information can be gained via the DA process.

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

Council Response

Consideration could be given to vacant land being a separate category – this would enable Councils to apply rates that would encourage development in some areas and discourage the holding of vacant land in economic centres.

Sub-categorisation for residential land should be more flexible than only the prescribed rural residential or centre of population. There should be allowance for sub-categorisation based on common defined criteria in all categories. For example, an area may have a number of flood affected properties that hamper development but they could be classed as residential and rated the same as any other residential block despite the fact that they cannot be utilised as a place of residence and generally will have development limits. These blocks are not always contiguous and therefore cannot be described with the current allowance for sub-categorisation as a 'centre of population' but could be adequately described via set criteria.

Clearer definition should be provided in Section 515 Categorisation as Farmland in the Local Government Act 1993 as the current wording 'dominant use' is subjective. With the introduction of large scale land use for wind farms and solar farms, it is difficult to determine 'dominant use' as in many cases farming still continues. For example, if you base the categorisation on the size of land used then the dominant use would remain farming but if you base it on income generation, the 'dominant use' would possibly shift to the wind farm/solar farm. This would make the categorisation business. There are significant implications to rates with the interpretation of that one phrase 'dominant use' and it is not clear. Another example here could be vineyards with a restaurant and cellar door. Based on land use size, the categorisation as farmland would be suitable as 'dominant use' however based on income generation, the categorisation may be business. It is our view that large scale commercial land use regardless of the overall footprint should be categorised for rating purposes as business.

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

Council Response

Yes, as LGAs with relatively high rates that provide higher levels of service may entice service users from outside the LGA to take advantage of the better services/higher service levels. No changes to the rating system will ever eliminate this effect as democracy will determine that LGAs can make autonomous decisions that may encourage use of services/infrastructure by non-residents therefore the rating review should weigh this item of reference too heavily.

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?*

Council Response

In an ideal world, Council would support the removal of rate-pegging, however it is acknowledged that there may need to be some protection for ratepayers from exorbitant and unwarranted increases. Earned autonomy based on consistent high performance is theoretically attractive however the performance could be subject to the current elected officials or current staff which may periodically change and therefore affect performance after which decisions regarding rating increases are made. This may mean a legislated ability for higher review by OLG or other party and an ability to order rectification be provided in the Act.

There should definitely be scope to streamline the process for a SRV. Currently Councils who can least afford it are subject to considerable cost to develop a SRV submission. A more prescribed process, eg Q&A, templates and checklists should ensure that assessment is simplified and Councils are clear on the requirements.

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

Council Response

As previously mentioned, more flexibility in sub-categorisation based on common criteria and separate categorisation of vacant land can facilitate rating that can encourage development.

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

Council Response

The rating system currently provides flexibility in payment arrangements to spread the burden across the year – this should not be lost in any rating system review. This flexibility is the main driver in keeping outstanding rates relatively low when there are few immediate consequences able to be applied for non-payment (such as restriction of services as happens with other service providers eg phone and electricity).

The process of sale of land for unpaid rates (SOLFUR), while the absolute last resort to recover outstanding debt, is often not carried out regularly resulting in outstanding debts being many years old. One of the reasons for this is that while the legislation allows for it (SOLFUR), the process is unclear, cumbersome and extremely long to implement with many grey areas. Best practice notes should be developed to manage this process. One example is that the legislation says that Councils may buy the properties at the auction eg:

716 Sale of land by public auction

- (1) Any sale of land under this Division must be by way of public auction, except as provided by this section.
- (2) Land that fails to sell at public auction may be sold by private treaty.
- (3) Land may be sold under this Division to the council, a councillor, a relative of a councillor, a member of staff of the council or any relative of a member of staff of the council in the case of sale by public auction, but may not be so sold in the case of sale by private treaty.

However, the Property, Stock and Business Agents Act 2002 Section No 66 states that the seller/vendor can only make one bid through the auctioneer. In the case of SOLFUR, Council is listed as the vendor on the contracts making it unlawful for Council to participate actively in the auction process as a buyer. This conflict needs clarity and amendment in the Act.

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?***

Council Response

Exemptions for State-owned properties are not appropriate. These properties are rarely distributed evenly across LGAs and generally service a greater area than the LGA in which it is found. For example, public hospitals generally cater to multiple LGAs however the LGA where the property is situated carries the burden of the exemption. In addition, the LGA where these properties exist generally would be required to manage additional non-resident visitors in terms of amenities and traffic considerations at a cost to only the LGA where the property is located. The rates burden for State-owned properties should be held by the State and not transferred to the LGA. These exemptions do not meet the taxation principles.

Exemptions that favour specific industries such as land for oyster cultivation and cattle dipping do not provide equity and should be removed.

Exemptions for religious purposes are not equitable and should be removed.

Exemption for public places that are Council owned should remain as exempt as these properties are generally specific to LGAs and it is equitable that exemption burden be held by the LGA.

Exemptions for registered charities or public benevolent institutions is reasonable but should be a decision of the LGA dependent on the level of support the charity provides to the LGA. An exemption for a national charity should not be borne solely by a LGA just because the charity chooses to be located in a particular LGA. This ensures the benefits and equity principles are maintained.

Exemptions on land vested in an Aboriginal Council should be rated except for those areas of declared spiritual or cultural significance. The reason is that even if land is not currently being used for commercial or residential purposes, it can be at any time or can be liquidated and therefore should be treated no different to any vacant land.

The difficulty in applying rebates instead of exemptions is that exemptions normally shift the burden of the exempted rates across all other ratepayers in the LGA while maintaining the notional income of a Council. Rebates on the other hand, would see a loss in real income for Councils and therefore jeopardising sustainability.

- 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?***

Council Response

While ever payroll tax is exempted for non-profit organisations set up for the public benefit, local government should remain exempt on the grounds that it meets that criteria. The same logic should be applied to all other State & Federal taxes. It is not equitable that local government be taxed even though it meets the exemption criteria just because it is local government.

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

Council Response

The objective of the pensioner concession scheme should be to subsidise the cost of rates so as to not unduly burden a pensioner in a way that would cause the 'average' pensioner to be forced to sell their home in order to remain in the LGA. The current system is adequate.

In addition to the above, Council would like to raise the following three matters for consideration:

1. There is a perception in the community that rural landholders are 'taxed' twice for land-use, once for Council rates and second by Local Land Services (LLS). Assuming that Council may find itself the collection agent for LLS there needs to be clear distinction around the purpose, methods of calculation and responsible agency.
2. Current rate-peg based on the IPART derived local government index is not keeping pace with the costs of councils. Even allowing for a productivity factor, there is a widening gap due to a sizeable proportion of council costs being associated with volatile products such as those that are petroleum based (bitumen) and construction. Using a base for the local government index that doesn't reflect these volatile items which invariably increase well above the underlying inflation rate is contributing to councils progressing towards unsustainability.
3. Consideration be given in the review of the rating system to allow for service of notices by a variety of means including but not limited to BPay View and electronic mailboxes. Currently it is not clear whether these methods are acceptable which results in Councils having to provide hard copy notices to demonstrate service. This is costly and time consuming and is evidence of the legislation not being flexible enough to adopt new technologies.

Once again, thank you for the opportunity to improve the systems councils work under to ultimately support a more sustainable future for local government.

Yours sincerely


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General manager