

Document No:
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XX October 2016

IPART
Review of Local Government Rating System
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Dear Panel

Review of Local Government Rating System

Penrith City Council welcomes the opportunity to make this submission in response to the Draft Report released in August 2016 for the Review of the Local Government Rating System.

These responses are in relation to the list of recommendations commencing on Page 19 of the Draft Report.

- 1. Councils should be able to choose between the Capital Improved Value (CIV) and Unimproved Value (UV) methods as the basis for setting rates at the rating category level. A Council's maximum general income should not change as a result of the valuation method they choose.**

Penrith City Council

Penrith City Council does not support the move to a Capital Improved Value as it will be a costly exercise, and it is Council's view that land value proves the best practice for the ability to pay for ratepayers. We would recommend the continued use of the Unimproved Land Valuation method.

The drawback with the unimproved valuation method is the restrictions that it imposes on Council being able to equitably rate owners of strata properties when compared to owners of similarly market valued freestanding houses. Council recommends other measures be introduced to provide Council with an equitable way of rating strata title properties, while still using a land value, such as enabling sub-categorisation of strata titled properties.

If a CIV is to be adopted for use, the ability to use different valuation types will cause confusion for property owners – a single method would provide a standard base for all rateable properties. If both LV and CIV are retained, Council will be required to maintain a register of both valuations types, even if they are not used which will be onerous and in some cases duplicating work efforts.

We agree that a Council's general income should not change as a result of which valuation method is used.

- 2. Section 497 of the Local Government Act 1993 (NSW) should be amended to remove minimum amounts from the structure of a rate, and section 548 of the Local Government Act 1993 (NSW) should be removed.**

Penrith City Council

Disagreed. Councils that have been using minimum rates should be able to continue to use minimum rates if they choose, until it decides that transitioning to the other methods is beneficial to do so.

3. The growth in rates revenue outside the rate peg should be calculated by multiplying a Council's general income by the proportional increase in Capital Improved Value from supplementary valuations.

- This formula would be independent of the valuation method chosen by Councils for rating.

Penrith City Council

Agreed.

4. The Local Government Act 1993 (NSW) should be amended to allow Councils to levy a new type of special rate for new infrastructure jointly funded with other levels of Government. This special rate should be permitted for services or infrastructure that benefit the community, and funds raised under this special rate should not:

- Form part of a Council's general income permitted under the rate peg, nor require Councils to receive regulatory approval from IPART.

Penrith City Council

Agreed. This should be at the discretion of Council who has knowledge of their area's characteristics and not forced by other levels of government. It also should not be in lieu of developer contributions.

5. Section 511 of the Local Government Act 1993 (NSW) should be amended to reflect that, where a Council does not apply the full percentage increase of the rate peg (or any applicable Special Variation) in a year, within the following 10-year period, the Council can set rates in a subsequent year to return it to the original rating trajectory for that subsequent year.

Penrith City Council

Agreed.

6. The Local Government Act 1993 (NSW) should be amended to remove the requirement to equalise residential rates by 'centre of population'. Instead, Councils should be allowed to determine a residential subcategory, and set a residential rate, for an area by:

- A separate town or village, or
- A community of interest.

Penrith City Council

Agreed. The legislation should however state that the boundary of such "community of interest" is as defined by the Council at its own discretion, to avoid court appeals. Property owners should still be given a right to request Council review their category or sub-category.

7. An area should be considered to have a different 'community of interest' where it is within a contiguous urban development, and it has different access to, demand for, or costs of providing Council services or infrastructure relative to other areas in that development.

Penrith City Council

Agreed. The legislation should however state that the boundary of such "community of interest" is as defined by the Council at its own discretion, to avoid court appeals.

- 8. The Local Government Act 1993 (NSW) should be amended so, where a Council uses different residential rates within a contiguous urban development, it should be required to:**
- Ensure the highest rate structure is no more than 1.5 times the lowest rate structure across all residential subcategories (i.e., so the maximum difference for ad valorem rates and base amounts is 50%), or obtain approval from IPART to exceed this maximum difference as part of the Special Variation process, and
 - Publish the different rates (along with the reasons for the different rates) on its website and in the rates notice received by ratepayers.

Penrith City Council

Agreed, however the requirement to also include the reason on a rates notice should be removed, due to the high number of requirements already to be included on rates notices.

- 9. At the end of the 4-year rate path freeze, new Councils should determine whether any pre-merger areas are separate towns or villages, or different communities of interest.**
- In the event that a new Council determines they are separate towns or villages, or different communities of interest, it should be able to continue the existing rates or set different rates for these pre-merger areas, subject to metropolitan Councils seeking IPART approval if they exceed the 50% maximum differential. It could also choose to equalise rates across the pre-merger areas, using the gradual equalisation process outlined below.
 - In the event that a new Council determines they are not separate towns or villages, or different communities of interest, or it chooses to equalise rates, it should undertake a gradual equalisation of residential rates. The amount of rates a resident is liable to pay to the Council should increase by no more than 10 percentage points above the rate peg (as adjusted for permitted Special Variations) each year as a result of this equalisation. The Local Government Act 1993 (NSW) should be amended to facilitate this gradual equalisation. 70

Penrith City Council

Penrith City Council is not a merger Council so does not offer any commentary in relation to this.

Better target rate exemption eligibility

- 10. Sections 555 and 556 of the Local Government Act 1993 NSW should be amended to:**
- Exempt land on the basis of use rather than ownership, and to directly link the exemption to the use of the land, and
 - Ensure land used for residential and commercial purposes is rateable unless explicitly exempted.

Penrith City Council

Council supports exemptions from rates in some cases where the benefits of an exempt activity are largely confined within the local government area.

However, 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, or provide no exemption in these circumstances.

If exemptions are to be granted, Councils should be given the discretion to decide if the use of the property provides local benefits and warrants an exemption.

Strong definitions should be used including a non-exhaustive list to reduce any grey areas, particularly for what constitutes a “commercial” use. Does a second-hand clothing store meet the criteria for being commercial?

Exemptions should only be where the land is owned and used by an exempt organisation and not just used as one. Exemptions on land use only will be a high maintenance for Councils as there will be reliance on property owners that lease their properties to provide the details on tenant and lease change-over. This system does not presently work well with Crown properties that are leased, or newly occupied NSW Housing properties.

11. The following exemptions should be retained in the Local Government Act 1993 (NSW):

- Section 555(e) Land used by a religious body occupied for that purpose
- Section 555(g) Land vested in the NSW Aboriginal Land Council
- Section 556(o) Land that is vested in the mines rescue company, and
- Section 556(q) Land that is leased to the Crown for the purpose of cattle dipping.

Penrith City Council

Agree in principal. Partial exemptions could also be introduced, with Council given the ability to grant partial exemptions rather than full exemptions, with the current exemptions list expanded to accommodate ownership or use which are presently not entitled such as owners of heritage properties.

Also, land should be owned and occupied by the religious bodies (not just used and occupied) to receive the exemption. Vacant land that is owned by a religious body but not occupied should be explicitly excluded from an exemption to avoid land banking. Parts of land owned and used for religious purposes which are also used for non-religious use (e.g. cafés) should not be exempt and should be only partly exempt. If “occupation” is a requirement to receive the exemption a definition of “occupation” should be clearly defined.

12. Section 556(i) of the Local Government Act 1993 (NSW) should be amended to include land owned by a private hospital and used for that purpose.

Penrith City Council

Disagreed. This appears to be against the taxation principles. Whilst there is a public benefit provided by the private hospitals, the benefits are not contained wholly within the boundary of the local government area in question and therefore should not be fully subsidised by that Council only.

13. The following exemptions should be removed:

- Land that is vested in, owned by, or within a special or controlled area for, the Hunter Water Corporation, Water NSW or the Sydney Water Corporation (Local Government Act 1993 (NSW) section 555(c) and section 555(d))
- Land that is below the high water mark and is used for the cultivation of oysters (Local Government Act 1993 (NSW) section 555(h))

- Land that is held under a lease from the Crown for private purposes and is the subject of a mineral claim (Local Government Act 1993 (NSW) section 556(g)), and
- Land that is managed by the Teacher Housing Authority and on which a house is erected (Local Government Act 1993 (NSW) section 556(p)).

*Penrith City Council
Agreed.*

14. The following exemptions should not be funded by local Councils and hence should be removed from the Local Government Act and Regulation

- Land that is vested in the Sydney Cricket and Sports Ground Trust (Local Government Act 1993 (NSW) section 556(m))
- Land that is leased by the Royal Agricultural Society in the Homebush Bay area (Local Government (General) Regulation 2005 regulation 123(a))
- Land that is occupied by the Museum of Contemporary Art Limited (Local Government (General) Regulation 2005 regulation 123(b)), and
- Land comprising the site known as Museum of Sydney (Local Government (General) Regulation 2005 regulation 123(c)).
- The State Government should consider whether to fund these local rates through State taxes.

*Penrith City Council
Agreed.*

15. Where a portion of land is used for an exempt purpose and the remainder for a non-exempt activity, only the former portion should be exempt, and the remainder should be rateable.

*Penrith City Council
Agreed.*

16. Where land is used for an exempt purpose only part of the time, a self-assessment process should be used to determine the proportion of rates payable for the non-exempt use.

*Penrith City Council
Agreed, however Councils should be able to make a final and binding determination.*

17. A Council's maximum general income should not be modified as a result of any changes to exemptions from implementing our recommendations.

*Penrith City Council
Disagreed. Some level of compensation should be provided to Councils.*

18. The Local Government Act 1993 (NSW) should be amended to remove the current exemptions from water and sewerage special charges in section 55 and instead allow Councils discretion to exempt these properties from waste and sewerage special rates in a similar manner as occurs under section 558(1).

*Penrith City Council
Council is not a provider of water and sewerage charges so does not offer a comment in relation to this.*

19. **At the start of each rating period, Councils should calculate the increase in rates that are the result of rating exemptions. This information should be published in the Council's annual report or otherwise made available to the public.**

Penrith City Council

Agreed.

Replace the pensioner concession with a rate deferral scheme

20. **The current pensioner concession should be replaced with a rate deferral scheme operated by the State Government.**
- Eligible pensioners should be allowed to defer payment of rates up to the amount of the current concession, or any other amount as determined by the State Government.
 - The liability should be charged interest at the State Government's 10-year borrowing rate plus an administrative fee. The liability would become due when property ownership changes and a surviving spouse no longer lives in the residence.

Penrith City Council

Council agrees that any pensioner concession scheme should be funded by the State Government. A deferral scheme is very unlikely to be welcomed by pensioners as it will only defer their rates payments out of their estate.

Provide more rating categories

21. **Section 493 of the Local Government Act 1993 (NSW) should be amended to add a new environmental land category and a definition of 'Environmental Land' should be included in the LG Act.**

Penrith City Council

Agreed.

22. **Sections 493, 519 and 529 of the Local Government Act 1993 (NSW) should be amended to add a new vacant land category, with subcategories for residential, business, mining and farmland.**

Penrith City Council

Disagreed. For Councils with a high number of greenfield release areas, a vacant land category will require a high level of maintenance by Councils. A vacant land category should be a sub-category of the main categories, with Councils able to choose to sub-categorise vacant land if they see benefit.

23. **Section 518 of the Local Government Act 1993 (NSW) should be amended to reflect that a Council may determine by resolution which rating category will act as the residual category.**

- The residual category that is determined should not be subject to change for a 5-year period.
- If a Council does not determine a residual category, the Business category should act as the default residual rating category.

Penrith City Council

Agreed.

- 24. Section 529 (2)(d) of the Local Government Act 1993 (NSW) should be amended to allow business land to be subcategorised as ‘industrial’ and or ‘commercial’ in addition to centre of activity.**

Penrith City Council

Agreed, however it is not clear if this means there will be two sub-categories, or one main category and one sub-category.

- 25. Section 529 (2)(a) of the Local Government Act 1993 (NSW) should be replaced to allow farmland subcategories to be determined based on geographic location.**

Penrith City Council

Agreed. For Farmland, Council recommends strict criteria be placed on eligibility such as minimum land area, actual grazing numbers or some kind of “profit to property value” ratio. Perhaps regulations could be adopted with recommendations of eligibility by the NSW Department of Primary Industries. The present definitions are vague and offer no real assistance to owners or Councils and cause many court appeals.

- 26. Any difference in the rate charged by a Council to a mining category compared to its average business rate should primarily reflect differences in the Council’s costs of providing services to the mining properties.**

Penrith City Council

Disagreed. This may be difficult to ascertain, and could change from year-to-year and could result in great fluctuations to other rating categories if the mining rate is required to be changed, and could cause costly and lengthy court cases where there is a difference of opinion as to what costs are included. Perhaps this clause could apply if Councils wish to adopt a mining rate which is more than 50% above the business rate.

Recovery of Council rates

- 27. Councils should have the option to engage the State Debt Recovery Office to recover outstanding Council rates and charges.**

Penrith City Council

IPART states that the SDRO has a success rate of 75%, however the present benchmark for recovery of overdue rates for Councils is 95%. Penrith City Council’s present recovery level is 97% (i.e. only 3% of rates outstanding). The 75% success rate is not considered a high success rate in comparison to Council.

Although the costs would be “passed on” to the ratepayer, it appears that these costs would be paid to the SDRO and not to Councils. Councils will still have costs associated in sending the debts to the SDRO and monitoring the accounts which would therefore have to be subsidised by other ratepayers.

If Councils can use (or are mandated to use) the SDRO, Councils should be able to receive additional charges payable by the property owner, so that recovery action is not borne by other ratepayers. Also, if accounts that are referred to the SDRO are not paid within 3 months, that they should be returned to Councils so that further recovery action can be taken by the Council, including court action.

- 28. The existing legal and administrative process to recover outstanding rates should be streamlined by reducing the period of time before a property can be sold to recover rates from five years to three years.**

*Penrith City Council
Agreed.*

- 29. All Councils should adopt an internal review policy, to assist those who are late in paying rates, before commencing legal proceedings to recover unpaid rates.**

*Penrith City Council
Agreed, as long as the onus sits with the owner to contact the Council to request assistance under the policy.*

- 30. The Local Government Act 1993 (NSW) should be amended or the Office of Local Government should issue guidelines to clarify that Councils can offer flexible payment options to ratepayers.**

*Penrith City Council
Agreed, as long as any such agreement is optional and not mandatory and clearly states that interest may still be payable.*

- 31. The Local Government Act 1993 (NSW) should be amended to allow Councils to offer a discount to ratepayers who elect to receive rates notices in electronic formats, e.g., via email.**

*Penrith City Council
This should only be for the first two years of the new legislation. The legislation should then say that after two years, that Councils can charge a fee where property owners elect to receive their notices by post.*

- 32. The Local Government Act 1993 (NSW) should be amended to remove section 585 and section 595, so that ratepayers are not permitted to postpone rates as a result of land rezoning, and Councils are not required to write-off postponed rates after five years.**

*Penrith City Council
Agreed.*

Other draft recommendations

- 33. The valuation base date for the Emergency Services Property Levy and Council rates should be aligned.**

- The NSW Government should levy the Emergency Services Property Levy on a Capital Improved Value basis when Capital Improved Value data becomes available state-wide.

*Penrith City Council
Agreed.*

- 34. Councils should be given the choice to directly buy valuation services from private valuers that have been certified by the Valuer General.**

Penrith City Council

Disagreed. We believe that the current system of receiving valuations from the Valuer General is working and that there would be little to gain by changing the system. The present system has a rigorous procurement process which should bring about better economies of scale for pricing, than if individual Councils were allowed to procure their own contract valuer.

Penrith City Council thanks IPART for this opportunity to make this submission and we look forward to a modernised rating system that is efficient, equitable and sustainable.

Yours faithfully,

Matthew Saunders
Rates Coordinator