

## **Penrith City Council - Draft Submission – IPART Final Report**

### **Note:**

Council, is required to submit feedback to the Final Report by way of an online form that in relation to each IPART Recommendation that we select an option as to whether we:

Support;  
Partially Support;  
Don't Support; or  
Unsure.

There is also room for a comment of up to 100 words in response to each Recommendation.

The Government has disallowed responses to some of the Recommendations which they have either ruled out implementing (eg removing some exemptions and changing the pension rebate scheme) or where they have already implemented the recommendations (eg Guidelines for Debt Recovery were implemented in September 2018). For any of these that apply, the OLG has provided a comment of **“Not for Consultation”** and has not allowed room for any comments. There is a general comments section at the end where we can still include a comment about the “not for consultation” items.

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### **Submission:**

1. The Local Government Act 1993 should be amended to mandate Capital Improved Value (CIV) as the basis for setting ad valorem rates in the metropolitan council areas as defined by IPART.

\*Partially Support

**Comment: Council supports this change, but only if the changes to residential sub-categorisation are enacted as well. We also expect that a state-wide campaign be run by the Government to educate property owners as to why the changes are being made, and that adequate funding is provided to councils to implement the changes.**

2. The Local Government Act 1993 should be amended to allow non-metropolitan councils to choose between the Capital Improved Value and Unimproved Value (UV) methods as the basis for setting ad valorem rates at the rating category level.

\*Unsure

**Comment: Penrith City Council is a metropolitan council so no comment is provided.**

3. (Inter-related to Recommendations 1 and 2)

If Recommendation 1 and/or 2 are supported by the NSW Government, should the Local Government Act 1993 be amended to facilitate a gradual transition of rates to a Capital Improved Value method?

**OLG Comment:**

**The amount of rates that any ratepayer is liable to pay to the council should increase by no more than 10 percentage points above the rate peg (as adjusted for Special Variations) each year as a result of a council adopting a Capital Improved Value method for setting rates. Councils could apply to IPART to exceed this 10% limit.**

\*Partially Support

**Comment: – No details have been provided as to how this will be implemented. In some cases increases above 10% may be unavoidable. If councils are required to write-off amounts above 10% if other measures are not able to be used to avoid this happening, the amount written off should be added to the next year permissible amount before the rate peg is applied.**

4. (Inter-related to Recommendations 1 and 2)

If Recommendation 1 and/or 2 are supported by the NSW Government, should section 497 of the Local Government Act 1993 be amended to remove minimum amounts from the structure of a rate, and section 548 of the Local Government Act 1993 be removed?

\*Partially Support

**Comment: This is supported only if minimum rates are removed at the same time or after Capital Improved Values are implemented.**

5. (Inter-related to Recommendations 1 and 2)

If Recommendation 1 and/or 2 are supported by the NSW Government, should the Local Government Act 1993 be amended so that the growth in rates revenue outside the rate peg is calculated using the formula based on changes in CIV, as defined by IPART?

**OLG Comment:**

**For non-metropolitan councils, this formula would be independent of the valuation method chosen as the basis for setting ad valorem rates.**

\*Support.

**Comment: Penrith City Council is a metropolitan council so no comment is provided.**

6. (Inter-related to Recommendations 1 and 2)

If Recommendation 1 and/or 2 are supported by the NSW Government, should the NSW Government fund the NSW Valuer General for the upfront cost of establishing the database to determine Capital Improved Values?

Recommendation 6 Options

\*Support

**Comment: We agree that councils and ratepayers should not have to fund this shift in State revenue policy.**

7. (Inter-related to Recommendations 1 and 2)

If Recommendation 1 and/or 2 are supported by the NSW Government, should the NSW Government fund the cost for a non-metropolitan council to set up a Capital Improved Value database for the purposes of implementing IPART's recommended formula for calculating growth in rates revenue outside the rate peg, where the Unimproved Value method for setting rates is maintained?

\*Support

**Comment: We agree that councils and ratepayers should not have to fund this shift in State revenue policy.**

8. The Local Government Act 1993 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.

\*Partially Support

**Comment: This is supported as long as it is not used as a cost shifting mechanism.**

9. Section 511 of the Local Government Act 1993 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.

\*Support

**Comment: This is supported.**

10. The Local Government Act 1993 should be amended to remove the requirement to equalise residential rates by 'centre of population'. Instead, the Local Government Act 1993 should allow councils to determine a residential subcategory, and set a residential rate, by:

separate town or village, or

residential area.

11. The Local Government Act 1993 should outline that:

A 'residential area' is an area within a contiguous urban locality that has, on average, different access to, demand for, or costs of providing council services or infrastructure (relative to other areas in that locality).

Councils could use geographic markers to define the boundaries for a residential area, including postcode boundaries, suburb boundaries, geographic features (eg, waterways, bushland) and/or the location of major infrastructure (eg, arterial roads, railway lines).

\*Support

**Comment: Boundary definitions should be expanded to give greater flexibility to Councils include zoning boundaries, fence-lines and roads. Any area determined as being an area for sub-categorisation should be at the discretion of Councils to avoid court appeals as to the validity of the sub-category. This change does not need to wait until CIV is brought in so it should be brought in immediately.**

12. The Local Government Act 1993 should be amended so, where a council uses different residential rates within a contiguous urban locality, it should be required to:

ensure the highest rate structure is no more than 1.5 times the average rate structure across all residential subcategories (ie, so the maximum difference between the highest and

average ad valorem rates and base amounts is 50%), or obtain approval from IPART to exceed this maximum difference, and

publish the different rates (along with the reasons for the different rates) on its website and in the rates notice received by ratepayers.

\*Partially Support:

**Comment: We do not support having to list the information on a rates notice as there is already a long list of required information on a rates notice and the reasons for differential rates are unlikely to be able to be explained with one or two paragraphs of information. It is best rather that this information be provided in the Operational Plan and on Council's website.**

13. At the end of the 4-year rate path freeze, new councils determine whether any pre-merger areas are separate towns or villages, or different residential areas.

In the event that a new council determines they are separate towns or villages, or different residential areas, 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 in the report.

In the event that a new council determines they are not separate towns or villages, or different residential areas, 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 Special Variations) each year as a result of this equalisation. The Local Government Act 1993 should be amended to facilitate this gradual equalisation.

\*Unsure

**Comment: Penrith City Council is a non-merger council so no comment is provided.**

14. Sections 555 and 556 of the Local Government Act 1993 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.

OLG Comment:

Not for consultation - see Pg 1 for details

**Note: As comments are not allowed on the feedback form, no comment is able to be made by Council, so a general comment will be made at the end of the feedback form, in line with our submission to the Draft report as follows:**

**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.**

**Council recommends that the exemption provisions in relation to public benevolent institutions, particularly for community housing providers, be removed and or subsidised by other levels of government as there is no direct benefit to the ratepayers of the Council involved to be wholly subsidising the exemptions.**

**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.**

**Partial exemptions could also be introduced, with Councils 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.**

15. Land that is used for residential care as defined in Section 41-3(1) of the Aged Care Act 1997 (Cth) be proportionally rateable according to the share of places whose maximum Refundable Accommodation Deposit is above the level set by the Minister for Health and Aged Care (currently \$550,000).

OLG Comments:

Not for consultation - see Pg 1 for details

16. Section 556(1)(i) of the Local Government Act 1993 should be amended to include land owned by a private hospital and used for that purpose.

\*Don't Support

**Comment: Penrith City Council previously supported this recommendation believing that other exemptions would be removed. Although Council believes that the exemption for private hospitals may be warranted, adding in additional exemptions without removing other exemptions would further deplete the rates base and increase rates for ratepayers. Council therefore does not support this additional exemption if no other exemptions are removed.**

17. The following exemptions 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 section 555(1)(c) and section 555(1)(d))
- Land that is below the high water mark and is used for the cultivation of oysters (Local Government Act 1993 section 555(1)(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 section 556(1)(g)), and
- Land that is managed by the Teacher Housing Authority and on which a house is erected (Local Government Act 1993 section 556(1)(p)).

**OLG Comment:**

**Not for consultation – see Pg 1 for details.**

18. Section 555(1)(b1) of the Local Government Act 1993 should be amended to remove the current rating exemption for land that is the subject of a conservation agreement and instead require it to be rated using the Environmental Land category.

\*Partially Support

**Comment: This is supported as long as only the part of the land that is subject to a conservation agreement is subject to this category. If land is only partly subject to a conservation agreement it should be able to be partly categorised according to its other uses and rated accordingly, similar to the way mixed development properties are currently rated.**

19. The following exemptions 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 section 556(1)(m))
- Land that is leased by the Royal Agricultural Society in the Homebush Bay area (Local Government (General) Regulation 2005 reg 123(a))
- Land that is occupied by the Museum of Contemporary Art Limited (Local Government (General) Regulation 2005 reg 123(b)), and
- Land comprising the site known as Museum of Sydney (Local Government (General) Regulation 2005 reg 123(c)).

The NSW Government should consider whether to fund these local rates through State taxes.

**OLG Comment:**

**Not for consultation – see Pg 1 for details.**

20. 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.

**OLG Comment:**

**Not for consultation – see Pg 1 for details.**

21. 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.

**OLG Comment:**

**Not for consultation – see Pg 1 for details.**

22. A council's maximum general income not be modified as a result of any changes to exemptions from implementing IPART's recommendations.

\*Unsure

**Comment: As the Government is not supporting changes to exemptions, it is unlikely that this recommendation is required.**

23. A council may apply to IPART for a Special Variation to take account of the changes in exemptions using a streamlined process in the year that IPART's recommended exemption changes come into force. The council would need to demonstrate:

it satisfies the first criteria for Special Variation applications in the OLG guidelines relating to the need for and purpose of a different revenue path for the council's General Fund, and

that any subcategory rating structure applied to previously exempt properties is no greater than the average rate structure across the relevant rating category.

\*Unsure

**Comment: As the Government is not supporting changes to exemptions, it is unlikely that this recommendation is required.**

24. The Local Government Act 1993 should be amended to remove the current exemptions from water and sewerage special charges in section 555 and instead allow councils discretion to exempt these properties from water and sewerage special rates in a similar manner as occurs under section 558(1).

\*Unsure

**Comment: Penrith City Council is not a water supply council and therefore does not provide any comment.**

25. At the start of each rating period, councils calculate the estimated value of rating exemptions within the council area. This information should be published in the council's annual report or otherwise made available to the public.

\*Partially Support

**Comment: Exempt properties are not categorised so doing this would require additional administrative work from Councils to determine if an exempt property is either Business or Residential as the value of the exemption depends on what rating category it would be in if it were rateable.**

26. For new and existing eligible pensioners, introduce a rate deferral scheme operated by the NSW Government, where:

Eligible pensioners would be allowed to defer payment of ordinary council rates up to \$1,000 per annum and indexed to CPI, or any other amount as determined by the NSW Government

**OLG Comment:**

**Not for consultation – see Pg 1 for details.**

27. (Inter-related to Recommendation 26. If you do not support Recommendation 26, continue to Recommendation 29.)

If the NSW Government supports Recommendation 26, should the NSW Government give existing eligible pensioners the option to access, either:

- The current pensioner concession, or
- The rate deferral scheme, as defined in Recommendation 26.

**OLG Comment:**

**Not for consultation – see Pg 1 for details.**

28. (Inter-related to Recommendation 26. If you do not support Recommendation 26, continue to Recommendation 29.)

If the NSW Government supports Recommendation 26, should the NSW Government support funding pensioner assistance through:

Continuing the current pensioner concession funding arrangements.

The rate deferral scheme (defined in Recommendation 26) funded by the NSW Government. The loan should be charged interest at the NSW Government's 10-year borrowing rate, and could become due when property ownership changes.

**OLG Comment:**

**Not for consultation – see Pg 1 for details.**

29. Section 493 of the Local Government Act 1993 should be amended to add a new environmental land category and a definition of 'environmental land' should be included in the Local Government Act 1993.

Note: Land subject to a state conservation agreement is categorised as 'environmental land' for the purposes of setting rates.

\*Partially Support

**Comment: This would only be supported if land that is partly subject to a conservation agreement can be partly categorised as Conservation and partly categorised according to its other uses and rated accordingly, similar to the way mixed development properties are currently rated.**

30. Section 529(2)(d) of the Local Government Act 1993 should be amended to allow business land to be subcategorised as 'industrial' and or 'commercial' in addition to centre of activity.

\*Partially Support

**Comment: There were some practical issues when looking at this type of differentiation with the classifications done for the Fire & Emergency Services Levy workings as it was administratively cumbersome to determine how each property was being used. With the turnover of occupation of business properties it would require significant resources to review sub-categorisations on an ongoing basis and would increase chances of reviews and appeals where the categorisation was not correct. Strict criteria needs to be enacted including when changes can be made, the effective date of any change to category and when property owners need to advise Council if their category changes.**

31. Sections 493, 519 and 529 of the Local Government Act 1993 should be amended to add an optional vacant land subcategory for residential, business and mining land.

\*Support

**Comment: This is supported as long as it is optional. Clear definitions of what vacant land is will be required and details on when a property's vacant land status is changed to non-vacant should be clearly defined. Is it when a construction certificate is issued, is it when works commence or is it when an occupation certificate is issued. Is a parcel of land which has been partly sealed by gravel and used as a temporary car-park vacant or non-vacant. Is a property solely with a garden shed on it vacant? Is a property with a larger machinery shed on it vacant? If a house burns down and is demolished to be rebuilt, is this vacant land?**

**It should specifically be noted that the vacant land category does not have to be a lower rate than the non-vacant residential category (specifically as the recommendation points to the vacant land category being used to encourage urban**

**renewal) otherwise a property owner may expect that vacant land should be a lower rate.**

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

**\*Support**

**Comment: We support further sub-categorisation options, but further definitions are also required to existing criteria as it is vague and has led to numerous court cases. At the very least, the Minister should be given the right to set regulations that stipulate minimum land areas and grazing animal numbers for grazing properties. Such regulations could be enacted with the Department of Primary Industries and/or from case law.**

33. Section 518 of the Local Government Act 1993 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 4-year period.

If a council does not determine a residual category, the business category should act as the default residual rating category.

**\*Support**

**Comment: Council agrees with this recommendation**

34. 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.

**\*Don't Support**

**Comment: Although Penrith city Council does not contain any mining properties, councils should be able to choose how their differential rates are set based on the make-up of their rates base.**

35. Councils have the option to engage the State Debt Recovery Office to recover outstanding council rates and charges.

**OLG Comment:**

**Not for consultation – see Pg 1 for details.**

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

**\*Support**

**Comment: we support this recommendation as it will give councils extra options for debt recovery.**

37. All councils adopt an internal review policy, to assist those who are late in paying rates, before commencing legal proceedings to recover unpaid rates.

**OLG Comment:**

**Not for consultation – see Pg 1 for details.**

**Refer to the Debt Management and Hardship Guidelines**

38. The Local Government Act 1993 should be amended or the Office of Local Government should issue guidelines to clarify that councils can offer flexible payment options to ratepayers.

**OLG Comment:**

**Not for consultation – see Pg 1 for details.**

**Refer to the Debt Management and Hardship Guidelines**

39. The Local Government Act 1993 should be amended to allow councils to offer a discount to ratepayers who elect to receive rates notices in electronic formats, eg, via email.

**OLG Comment:**

**Not for consultation – see Pg 1 for details.**

**Refer to the Debt Management and Hardship Guidelines**

40. The Local Government Act 1993 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.

\*Partially Support

**Comment: This is supported as long as there are transitional arrangements for property owners with current postponed rates so that they are not adversely impacted.**

41. The valuation base date for the Emergency Services Property Levy and council rates 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.

**OLG Comment:**

**Not for consultation – see Pg 1 for details.**

42. (Inter-related to Recommendation 1)

After the NSW Valuer General has established the database to determine Capital Improved Values for rating purposes, councils be given the choice to directly buy valuation services from private valuers that have been certified by the NSW Valuer General.

**\*Don't Support**

**Comment: We are unsure what benefit this would provide. This would reduce the economies of scale and could increase prices.**

Thank you for taking the time to provide your feedback. If you have any further comments, please provide them in the box below. The NSW Government will take your views into account as it prepares its response.

## **General Comment**

**We support a majority of the recommendations as long as there are transitional arrangements in place for vulnerable owners, particularly owners with postponed rates.**

**We strongly support the changes to sub-categories as these will give us greater flexibility with setting appropriate rates for our rural and urban owners and we ask that these sub-categorisation changes be brought in as soon as possible.**

**We strongly oppose the lack of Government support for IPART's recommended changes to exemptions and pensioner rebates, as the current legislation is unfair and impacts ratepayers adversely already. For the same reasons that the Fire & Emergency Services Levy was planned to fix an unfair tax, the unfair and hidden imposition of exemptions and rebates on ratepayers needs to be fixed so that all property owners throughout NSW contribute to these fairly, not just the council areas where properties are occupied by exempt bodies or where pensioners live.**

**In relation to exemptions, 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 would be more equitable for the State government to share the funding costs of the exemption, or provide no exemption in these circumstances.**

**Council recommends that the exemption provisions in relation to public benevolent institutions, particularly for community housing providers, be removed and or subsidised by other levels of government as there is no direct benefit to the ratepayers of the Council involved to be wholly subsidising the exemptions and it is essentially cost shifting.**

**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. Partial exemptions could also be introduced, with Councils 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.**

**For pension rebates, Penrith City Council supports a pensioner concessions scheme, however any such scheme should be fully funded by other levels of government as a welfare measure as the existing scheme affects local government areas with greater population of pensioners. We do not support either of the pension schemes recommended by IPART, but in place we support a pension rebate scheme fully funded by the NSW Government, as is the case in other states, which is indexed each year in line with inflation.**