

Title:	Tourism Conference 2016
Date:	9-11 March 2016
Venue:	Elements of Byron Bay
Theme:	Embracing a Changing Tourism Landscape
SCC Representatives:	Councillors Lynne Kearney, Patricia White, Karen Anstiss, Mark Kitchener Council staff Christie Mayhew, Board Members Catherine Shields, Michelle Bishop
Conference Format:	Keynote address and other presentations in the mornings, question panels, site visits and concurrent topic streams in the afternoon.
Keynote Presentations:	Sandra Chipchase, Angela Smith

Report:

Tourism has a significant role to play in the economic prosperity of all regional towns. Tourism is worth \$29 billion to the economy and represents 13% of all businesses Australia wide.

Tourism is different to other sectors because it needs help to help itself. Those working in the tourism industry are so busy working on their front counter they can't get out to promote tourism. Integrated planning tourism budgets try to enhance the financial support of those in the tourism industry.

Sandra Chipchase in her key note address asked how best, can the money provided by governments be used to attract more tourists to Australian cities and regional areas? Events, programs and attractions help to increase visitation, grow physical capacity, improve experience, increase visitor spend and make NSW price competitive and exciting again.

Professional tourism sectors help to market destinations and have a major impact on tourism generally. Tourism plans and strategies need to be reviewed and developed while new councils need to develop new policies.

Australia offers a huge range of experiences and events worth travelling to see. Great train journeys, outback adventures, modern affluent cities, unpolluted natural assets, sector products like food and wine, Aboriginal onshore excursions and high end cruise products are available but in some circumstances have barriers blocking their full potential.

Limited action plans, lack of export ready product, high costs of regional airfares, international competition utilizing low cost carriers, lack of new attractions, lack of quality regional hotels, all contribute to the blockages that hinder Australian tourism.

Rodger Powell states, there are too many low budget low impact campaigns, lack of capabilities and digital space that is restraining the forward movement of Australian tourism.

Sue Harper indicated that most regions are targeting overseas markets. China is not the great hope and Sister Cities are not the answer. Chinese tourists will come because there are more Chinese with disposable incomes but Chinese travelers also want to go to Europe and America and competition in a global market is increasing as different nations all compete for the same tourist dollar.

For Australian tourism to grow into the future it is necessary to reposition thinking from holidays to the visitor economy. Short breaks not annual holidays will further contribute to the growth of tourism by increased visitation through increased frequency and desirability.

It is recognized that 95% of inland visitation is domestic. There is a growing need to reinvigorate visitor experiences so it is worth travelling the distance. Make these experiences welcoming, natural, authentic, and vibrant and create memories from contrasts of the unexpected.

Rodger Powell in his presentation on the 'Role of Local Government in Tourism' stated traditional models to fund tourism are no longer useful. There is a need to form new and larger partnerships. Operators and councils are looking to other towns and regions to supplement accommodation offerings for conferences or festivals including coach transfers, event leveraging and expanding the marketing spend.

There is a growing trend to create larger whole region collaborative campaigns like the south coast's 'Experience Unspoilt.' There is a growing inclination to develop a united approach to tourism advocacy.

Continuing Rodger Powell said there is a need to focus on Regional Australia and narrow the focus to increase domestic tourism. Advocacy will attract infrastructure investment and better assets will attract more travelers who will stay longer.

Claire Madden spoke about how to engage different generations in the changing tourism landscape. Demographic shifts, social change, generational change, technological shifts and the advent of Google has changed the tourism landscape forever.

All generations are using technology but younger generations have integrated technology into their daily lives. Technology allows people to be able to make decisions subject to a better offer or to make 'on the day bookings' so they can spontaneously go at the last minute.

Use of the internet has grown exponentially and is the core booking medium for holidays destinations. 90% of tourists use the internet to search for travel.

Empowered consumers are comfortable booking directly with providers and the mobile phone is now the most important communication device.

Word on the street is increasingly important. Positive word of mouth is critical. 65% of internet users are influenced by other people's posts on face book. Peer reviews are trusted over advertising and decisions are influenced by a bad post. Consumers know what is available and there is no hiding if the offering is poor.

Clearly councils must get on top of digital marketing and give it the support it needs to conquer online marketing. Develop an online communication just for the tourism industry. Allocate resources to create a quality web presence. Airline websites and Trip Advisor are the most popular travel websites for Australians.

A web-site has now become the shop front and must be stylish and easy to navigate. Those in the tourism industry are utilizing social media to drive people to the local market. They are building digital capability by having a dedicated digital officer lead the direction in the local area.

There is widespread growth in all kinds of websites. This is creating a fragmentation and down ward pressure on prices, a natural result of technology and more empowered consumers. There is a downward trend for print media, an increase in internet users and a rise in new technology products.

The tourism landscape is increasingly about the digital era but the digital world is not the enemy. The digital world is a transitional stage moving industry thinking from what is to what could be. During this transitional stage a balance is necessary between the old and the new. Visitor Information Centres are increasingly using online internet services to meet the demand of national and international tourist populations.

The Australian population is changing and is looking for new and convenient products but still relies on Visitor Information Centres. Baby boomers make up 25% of the Australian population, generation X make up 31 %, generation Y make up 34%, generation Z make up 9 % all with different needs and demands.

Generation Z believe, why read it when you can watch it. Generation Y don't want professional advice but rather peer reviews and they like to make spontaneous decisions to attend such events as the Shoalhaven River Festival. Baby Boomers even though they are increasingly using the internet still like to speak face to face to professionals.

Angela Smith in her keynote presentation on the 'Australian Tourism Industry Enters a New Era,' says economic issues still dominate for Australians. In the issues facing Australia today the economy is of most concern. Few Australians believe the economy is improving.

The economy and all its components has a large impact on tourism. People are changing their spending habits by cutting down and are worried about interest rates. Participating in 'out and about' activities has seen large declines while comfort with online commerce has increased even further.

Understanding consumers and their needs is imperative. If tourists can have their needs met in a particular shire they will stay otherwise they will move on. Tourists are not interested in a particular shire but are enticed to a particular event, attraction or natural asset that aligns with their personal interests.

Tourists don't go to the Deniliquin Ute Muster because they are going to Deniliquin, they go because of the Ute Muster. The more unique attractions provided the more the community will prosper. Major destination attractions like the Blessing of the Fleet in Ulladulla, the Huskisson Triathlon, Brodie Park Time Walk or the newly constructed privately owned Equestrian Centre at Bawley Point will attract those who are interested in these activities.

Public and private enterprises are focussing on establishing new experiences, diversifying events and enhancing attractions to activate a locality and engage the tourist and resident populations. These experiences and activities give people things to talk about. 93% of the time Australians are talking to each other and only 7% of the time they are communicating digitally.

Stories from holidays come out of the ordinary but people remember the remarkable. Stories start with time and place markers and grow from contrasts and the unanticipated and change experience seekers into story tellers. Experience seekers stay longer in a locality.

Story telling triggers story listening and it is through the simple act of story-telling that visitors inspire others to come and stay. The attractions, activities and events of the many outlying towns and villages in the Shoalhaven disperse the visiting population and increase their overall stay and spend.

Christian Hampson in his presentation of 'Art, Heritage and Culture' stated Heritage Tourism brings a different story, an informed layered story. A story that is not a static snap shot in time but rather a story that is continually contributed to by the Australian people. 'True representation of Australia and Australians cannot be realized without recognizing Aboriginality and Regional Australia.'

International and domestic tourists are interested in how people lived every day in the past and how humans have innovated at different times. Culture and Heritage Tourism is authentic, enriching, tied to place, unique by contrast or similarity, respectful, inclusive and connected.

Aboriginal people have a verbal culture that links places with stories and their stories are the keys to identifying local heritage. These images and stories can be connected across a region and across the state.

The State Government recognizes the value of Culture and Heritage Tourism because statistics show visitors spend an estimated 9 billion dollars a year and represent 58% of international travelers that come to NSW. Large numbers of people who travel to Australia include heritage characteristics in their itinerary and consequently they want to experience aspects of the longest surviving continuous civilization in the world.

The government recognizes Cultural Tourism as a growth market and to that end has created three new grants worth \$8 million over the next 3 years. These grants can be applied for by individuals and small groups who are prepared to work in partnership with the Office of Environment and Heritage to make their proposals reality.

Collaborative partnerships between government departments and agencies, local councils, local lands councils, and individual groups can enhance tourism activity in the Shoalhaven by building special interest and activity based markets incorporating the regions natural assets.

Activities such as 'Walking Tourism: A Concept Proposal for the Shoalhaven' prepared on behalf of the Shoalhaven Bushwalking Advisory Group to brand, improve facilities and promote the Southern Shoalhaven Coast Walk (SSCW) and the 'Berry District Bush Walking Trails' proposed by the Berry Chamber of Commerce to help activate the precinct in response to the impending impact created by the construction of the Berry Bi-Pass are currently being proposed to further augment the Shoalhaven as a tourist destination.

"A series of iconic walks can be developed and promoted to specifically position Shoalhaven as a national and international walking destination, thereby increasing visitor numbers, generating additional income and employment for local businesses and enhancing awareness of the local natural environment of the region."

"This has obvious advantages for infrastructure planning but also ensures that local businesses have more predictable revenue throughout the entire year, rather than the current 'boom and bust' cycle."

Maybe now is the right time to suggest that the Shoalhaven Bushwalking Advisory Group, the Berry Chamber of Commerce, representatives from the Yuin nation and the Shoalhaven City Council work together to bring 'Walking Tourism' to the Shoalhaven. Incorporate cultural aspects of the nomadic lifestyle of the indigenous peoples of the South Coast into 'Walking Tourism' and further develop a united approach to tourism advocacy. Together as a truly representative whole region collaborative group apply for Cultural Heritage Tourism grants to improve the tourism product offered in the Shoalhaven and further activate the City as a tourist destination.

Councillor Mark Kitchener

3RD QUARTERLY

REPORT

DELIVERY PROGRAM
ACTIVITIES & HIGHLIGHTS

FROM 1 JANUARY 2016 TO 31 MARCH 2016
FOR ALL COUNCIL KEY PRIORITIES & ACTIVITIES





INTRODUCTION

Welcome to the third quarter report for Shoalhaven City Council.

This report provides a snapshot of how the organisation has performed against targets during the third quarter of this financial year (2015/2016).

It includes highlights that showcase some of the important work Council is doing and the status of current activities from the Delivery Program.

Council will continue to monitor its performance to ensure it remains on track to achieve its key priorities.



HIGHLIGHTS

- In conjunction with local youth services and organisations, Council held an overwhelming amount of events and activities for Youth Week 2016, including forums, competitions, theatrical performances, gym workouts, waterslides, swims, awards and art workshops.
- Thirty five newly designed Aboriginal town signs, acknowledging the long and rich history of Aboriginal people and their continued spiritual and diverse cultural connections were installed by Council in conjunction with Shoalhaven Tourism and the Aboriginal Advisory Committee.
- In partnership with the Australian Breastfeeding Association, Council updated and upgraded the popular 'Breastfeeding Friendly Shoalhaven' resource card. The updated card has been streamlined to include a QR code that can be scanned by a smartphone.
- As part of Seniors Week, Council installed a large 'As I Age' chalkboard at the entrance of the Shoalhaven Entertainment Centre, for local residents to share their thoughts on getting older. The board was used to ignite conversation and help break down attitudes to ageing.
- The community were encouraged to celebrate Neighbour Day - an initiative aiming to create safer, healthier and more resilient communities.

Engage the community in all we do

Support and develop community facilities	On Target
Establish/support Community Pride groups in communities throughout the Shoalhaven	On Target
Develop and implement a Child Friendly Cities Strategy/Plan <i>Comment: Resources have not been available to commence this strategy</i>	Off Target
Develop and implement the Positive Ageing Strategy <i>Comment: Resources are currently not available to complete this Activity</i>	Off Target
Review Library strategy <i>Comment: Library strategy placed on hold given the merger proposal</i>	Off Target
Document Council's cultural assets for ongoing public access and as a cultural resource	On Target
Establish the Shoalhaven City Arts Centre (SCAC) as a conduit for arts information	On Target
Disseminate arts information throughout the Shoalhaven	On Target
Promote maintenance schedules to the local community	On Target
Consistent implementation of Council's Community Engagement Strategy throughout the life of a project	On Target
Seek input from the community on maintenance issues in their area and develop maintenance programs accordingly	On Target
Provide details and updates of Council's construction and maintenance programs to the community	On Target
Undertake community consultation/engagement in regard to estuary, coastal, bushfire, natural area, bushcare and flood management projects	On Target
Improve communication of all water quality monitoring results to the community	Completed
Actively engage with the community in decision making	On Target
Undertake joint inspections of all service station sites in the Shoalhaven with the EPA	Completed
Community Engagement within the evacuation context <i>Comment: Progression of this Activity has been hindered by the Integrated Emergency Management Centre extensions and refit</i>	Off Target

A safe & caring community

Develop, implement and revise strategic plans and policies that contribute to sustainable community health and wellbeing	On Target
Create and foster a range of opportunities on Council owned and / or managed land which encourage community cohesiveness and fairness	On Target
Develop and implement strategic plans for youth, aboriginal people, people with disabilities, the aged and other target groups to support the CSP <i>Comment: Resourcing issues have delayed the completion of the strategic plans</i>	Off Target
Review tree policy and tree risk assessment procedure	Completed
Increase the provision of recreational and other facilities that meet the needs and expectations of young people	On Target
Implement Bush Fire Risk Management Strategies	On Target
Develop, implement and review Floodplain Risk Management Plans	On Target
Develop, implement and review Coastal Management Plans	On Target
Develop, implement and review Local Emergency Management Plan (EMPLAN)	Completed



HIGHLIGHTS

- Greenfields Beach was named as one of the '12 best beaches in the world', by readers of the UK Guardian. It was also the only Australian beach named in the list. Not only is Greenfields an exceptional beach but all our beaches in Shoalhaven have received a 'Good' rating, the highest score that can be received under the Beachwatch monitoring system.
- Council commenced dredging works around Sussex Inlet and Lake Conjola. Sand is being removed from the Riviera Keys, Sussex Inlet Channel and Lake Conjola, while rock is being removed from Currambene Creek. The project also includes beach nourishment and protection works along Sussex Inlet Channel and Blackwater Creek in Mollymook.
- Council cleared Mollymook Oval Creek of rubbish and sediment that has built up over many years. As a result, the flood risk to nearby houses has been substantially reduced.
- Council joined with the Community to officially open Whiteley's Walk, recognising the numerous hours of volunteer labour and tireless work from the community, in partnership with Council, to make significant improvements to the Howell Faulks Reserve. The pathway has been named after John Whiteley, who was instrumental in completing the project.

Bring CBDs alive and activate our waterfronts

Engage more users through an enriched program of events	On Target
Promote the arts Centre as an accessible, convenient destination suitable for regular visitation	On Target
Ensure consistent contemporary branding – Arts & Culture <i>Comment: Merger proposal has placed this Activity on hold</i>	Off Target
Complete the waterfront strategy and implement priority actions	On Target
Ensure appropriate land use zones and associated planning controls for key town centres reflect endorsed master plans, strategies or Council direction	On Target
Ensure appropriate land use zones and associated planning controls are in place for key waterfront sites and locations	On Target
Spread the word about the Nowra CBD Revitalization Strategy	On Target
Improving traffic and parking in the CBD	On Target
Keeping the CBD clean and maintained	On Target
Improving safety in the CBD	On Target
Coordinate the Nowra CBD Revitalisation Strategy	On Target
Activating the CBD	On Target

Build road and footpath connections

Advocate and support improved external transport links to and from the City	On Target
Undertake traffic modelling for new urban and industrial growth areas	On Target
Develop prioritised strategies for public parking, road safety and traffic facilities program	On Target
Review Pedestrian Access Mobility Plan (PAMP) / Bike plan	On Target

Showcase our unique environments

Ensure that important environments are protected through the planning controls while facilitating development where appropriate	On Target
Implement strategies to support and increase agricultural production	On Target
Develop, implement and review Natural Area Management Strategic Plan	On Target
Develop, implement and review Estuary Management Plans	On Target



HIGHLIGHTS

- Internationally-renowned, New Zealand artist Owen Dippie created Nowra CBD's third large scale mural as part of Council's 'Nowra Alive' initiative. The latest mural can be found on the side of the Sturgiss Newsagency in Schofields Lane and is a photorealistic image of late artist Arthur Boyd in his London studio in the 1960s.
- Council has continued to receive a record number of development applications. There is significant interest in the Shoalhaven region, particularly in the property market and this is clearly being shown through the increase in both residential and commercial applications.
- In partnership with Roads and Maritime, Council carried out improvements to Huskisson Wharf, with facilities being upgraded to meet the increased demand from both commercial and recreational vessels. Improvements have been made to provide a more user friendly wharf facility, with upgraded access, lighting and ramp facilities.
- Council joined the Mollymook Outrigger Canoe Club in hosting the Single and Double Outrigger Canoe Marathon State Titles and the six man Outrigger Canoe Ocean Regatta in Ulladulla. The event attracted hundreds of competitors from across the state.

A "destination" for tourists, business and events

Program innovative, relevant exhibition content for tourist, business and community sectors	On Target
Facilitate progressive cultural development & activities through collaboration with business, community services and art practitioners	On Target
Acquire, develop, maintain and market appropriate stocks of employment lands	On Target
Attract and facilitate the development of built tourist assets consistent with the Tourism Master Plan	On Target
Advocate for and facilitate key project investment with priority on employment generating projects across a range of industry sectors	On Target
Develop and implement the events strategy in line with the Tourism Master Plan	On Target

Partner with industry, government and business

Develop strategies and partnerships to enhance key Shoalhaven economy sectors.	On Target
Maintain and enhance Shoalhaven's economic base through collaboration between all levels of government, other relevant agencies, and the broader Shoalhaven community	On Target
Partner with local industry to promote Shoalhaven Water	On Target
Work with others to achieve positive land use planning outcomes for the City	On Target
Develop and implement a plan to pro-actively identify and engage with private industry on future infrastructure needs	On Target
Encourage local community organisations to enhance facilities on public land to benefit visitors and locals	On Target

Promote Shoalhaven's positives

Develop, launch and implement a city branding strategy	Completed
Develop a comprehensive communication strategy for Council	Completed



HIGHLIGHTS

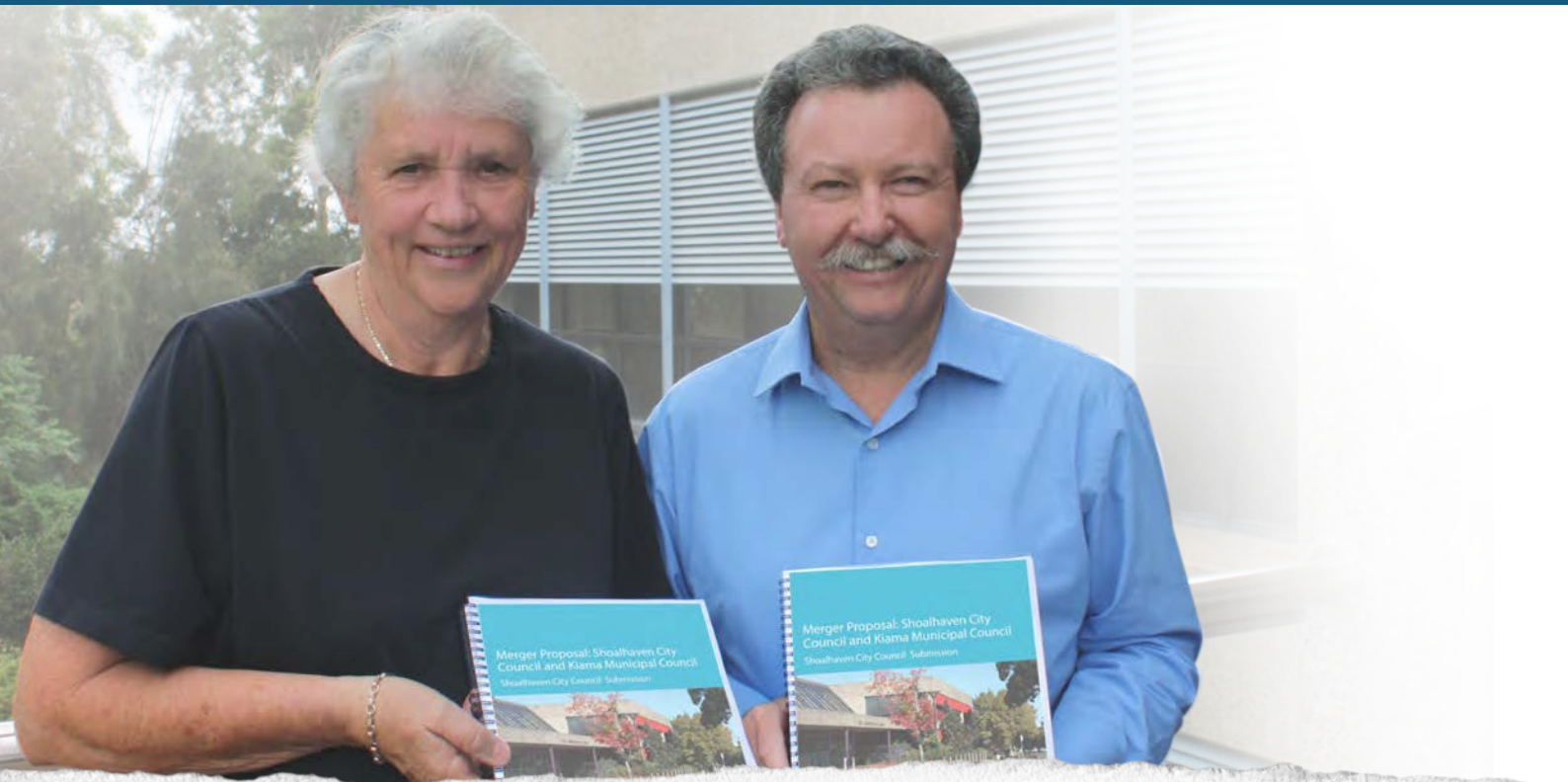
- Significant roadworks continue to be carried out throughout the City, as part of Council's ongoing commitment to improving road assets. Recently completed works include Golf Avenue, Turpentine Road, Naval College Road, Flinders Road, Lake Conjola Road, Sussex Inlet Road and Bolong Road.
- As part of Council's ongoing commitment to improving access, streetscape and footpath upgrade improvements were undertaken on the western side of Kinghorne Street, Nowra between Schofields Lane and Pumpkin Patch.
- Significant infrastructure works continue to occur throughout the City include flood remediation works at Huskisson Community Centre, upgrades to Bomaderry Sports Complex, upgrades to Erowal Bay Tennis Courts and Orion Beach Shared User Pathway.
- Council also continues to support a number of community led infrastructure projects, including footpath works, Bushcare projects, Parkcare projects and working with our emergency services on the new Integrated Emergency Management Centre.
- Council recognised and supported leaders in our community, presenting the 2016 Australia Day Awards at a prestigious function held at the Ulladulla Civic Centre. Rick Meehan OAM was presented with the 2016 Australia Day Shoalhaven Citizen of the Year Gold Medal, the most prestigious honour Council is able to bestow upon a community member.

Transform the organisation to 'can do'

Coordinate the implementation and delivery of a business planning and reporting tool	On Target
Establish Business Plans to unit level	On Target
Implement a Leadership Development Program	On Target
Improved organisational culture through staff feedback mechanisms (staff surveys) and implementation of action plans for continuous improvement	On Target
Continuous improvement of Council's training and development programs	On Target
Identify and pursue well-aligned funding programs to support Economic Development Strategy initiatives	On Target
Economic activity will be guided by Shoalhaven City Council's Economic Development Strategy	On Target
Maintain access to sufficient resources to deliver current and future infrastructure delivery programs in a timely manner	On Target
Provide suitable resources to deliver current and future infrastructure delivery programs in a timely manner	On Target
Implement an integrated software environment supporting the business functions of Council	On Target

Be excellent at customer service

Improve customer service through a more effective and consistent first response customer service model	On Target
Seek and develop innovative and rigorous customer interaction on all Water Utility services to meet customer expectations, National standards and Shoalhaven Water Group operations	On Target
Ensure the right structure is in place to provide excellent customer service <i>Comment: While improvements are being made in all areas of customers service the introduction of finance systems are still impeding progress</i>	Off Target
Improve knowledge of customer base in Swim and Fitness	On Target
Improve knowledge of Shoalhaven Entertainment Centre (SEC) products and services to enhance customer service <i>Comment: Additional work required to improve survey process. Will be addressed once restructure is completed</i>	Off Target
Develop digital library services	On Target
Enhance relationships with other Council units	On Target
Develop reputation as an 'information hub'	On Target
Develop and implement customer centric marketing activities to drive visitation and yield	On Target
Continually review, analysis and evolve Visitor Centre operations to deliver customer centric information services	On Target
Holiday Haven Tourist Parks identifies individual trends and develops strategies which meet business needs	On Target



HIGHLIGHTS

- The proposed merger between Shoalhaven City and Kiama Municipal councils was announced in December 2015 and was a focus for this quarter. Council undertook a community engagement process to inform residents of the proposal, participated in the State Government public inquiry and provided a submission to the State Government in response to the proposal.
- The Shoalhaven community outlined that they did not support the merger proposal. Council also found that the merger proposal, presented in its current form, contains several anomalies, statement of financial processes and rating proposals that could well jeopardise Shoalhaven City's capability to grow and retain its 'Fit for the Future' status.
- Despite the merger proposal, business as usual continues with Council's draft Budget and Delivery Program placed on exhibition for community comment. The draft document shows the programs and activities that will be delivered by Council for the 2016/17 financial year. The budget also outlines Council's financial position and includes changes to rating categories.
- Council launched a community engagement initiative titled 'Our Coast, Our Lifestyle' with the aim to raise awareness of Council's role in managing the risks to the coast. Council is seeking to ensure community views and preferences inform decision making about how the 165 kilometres of Shoalhaven coastline is managed now and into the future.
- The Nowra Administrative Centre General Enquiry and Cashier counters were refurbished to provide customers with a simpler and more efficient way of doing business with Council.

Deliver sustainable services

Ensure future 'demand' forecasts in Asset Management Plans (AMPs) reflect population growth trends and other 'drivers'	On Target
Develop prioritised strategies to address the maintenance and repair backlog of Council buildings	On Target
Assess and where required for Industry Best Practice; consider Business Performance in light of national and state benchmarks	On Target
Plan and deliver water and sewerage infrastructure to meet the needs of future development	On Target
Review library processes and services <i>Comment: Reviews have been hindered due to financial information limitations</i>	Off Target
Maintain industry relevance - Swim and Fitness	On Target
Implement business strategies that align with Shoalhaven Bereavement Services - strategic plan 2050 and the Cemeteries and Crematoria Act 2013 and Regulation 2014 to ensure a viable bereavement unit.	On Target
Develop strategies to optimise returns and contribute to the sustainability of council services in relation to the property portfolio	On Target
Ensure service delivery costs in Asset Construction and Maintenance compare favorably to industry standards	On Target
Ensure service delivery costs in Parks and Facility Services compare favorably to industry standards	Completed
Maintain Council's capacity to dispose of waste generated by the city and its residents	On Target
Formulate a new and revised Planning Works Program to recognise and complete priority strategic planning initiatives	On Target
Ensure that plans are prepared to support appropriate population growth in Shoalhaven	On Target
Undertake in-house Best Practice Review of Council's Environmental Assessment and Noxious Weeds Services	Completed
Excellent customer service through the development and implementation of strategies to meet the needs of current and future survey service customers	On Target

Continuously improve and cut red tape

Improve Council's business performance through more consistent use of the IPR Framework	On Target
Involvement in the implementation and delivery of a Council wide financial system <i>Comment: Authority implementation progressing, first payroll process tested while issues remain in procurement and rates</i>	Off Target
Review of finance processes <i>Comment: High work load and Cassi implementation has slowed the review of finance processes</i>	Off Target
Improve the efficiency of Council's plant and fleet	On Target
Investigate the feasibility of an afterhours in-field refueling service unit to service all council equipment in the field and on major projects	Completed
Develop business activities and maintain the Best Practice Water and Sewer Management Guidelines through the Shoalhaven Water Strategic Business Plan	On Target
Review and streamline recruitment processes	On Target
Review and streamline the Work Health Safety (WHS) system	On Target
Use of technology to improve safety, efficiency and effectiveness of staff working in the field	Completed
Develop and review policies and processes to support effective and efficient processing of Council's property	On Target
Revision of the bushfire prone land map	On Target
Review priority deferred planning areas for environmental constraints	Completed
Develop Business Plans to unit level in Environmental Services	On Target
Develop Business Plans to unit level in Building and Compliance	On Target
Improve business performance by reviewing process/procedure, policies and tools in Development Services	On Target

Maintain our infrastructure

Develop prioritised strategies for maintenance and renewal programs for roads and paths	On Target
Develop prioritised strategies for waterways infrastructure renewal and enhancement	On Target
Develop prioritised strategies for operational infrastructure and public amenities	On Target
Maintain water and sewage infrastructure to minimise breaks, overflows and infiltration	On Target
Review critical operational documents - Water Operations and Maintenance	On Target
Strengthen and enhance asset management capabilities	On Target
Regulate water & sewerage utility functions to meet relevant legislation	On Target
Review and implement Asset Management Plans for coastal, flood, bushfire, walking tracks and estuary assets	On Target
Develop prioritised strategies for waterways infrastructure operation and enhancement	On Target

Financial sustainability

Increase return on investment of surplus funds	On Target
Improve cash position of Council	On Target
Provide information to enable business to make informed decisions to improve operations at Council <i>Comment: Procurement road map progressing, issues with Council's finance systems holding back timely reporting</i>	Off Target
Develop and implement a Water Billing module within the Civica Authority system	On Target
Investigate the concepts to provide a stronger cost effective and safe ferry service, being mindful of customer and regulatory requirements	On Target
Drive efficiencies to achieve financial sustainability	On Target
Align Long Term Financial Plan with Asset Management Plans financial requirements for maintenance, renewal and enhancement	On Target



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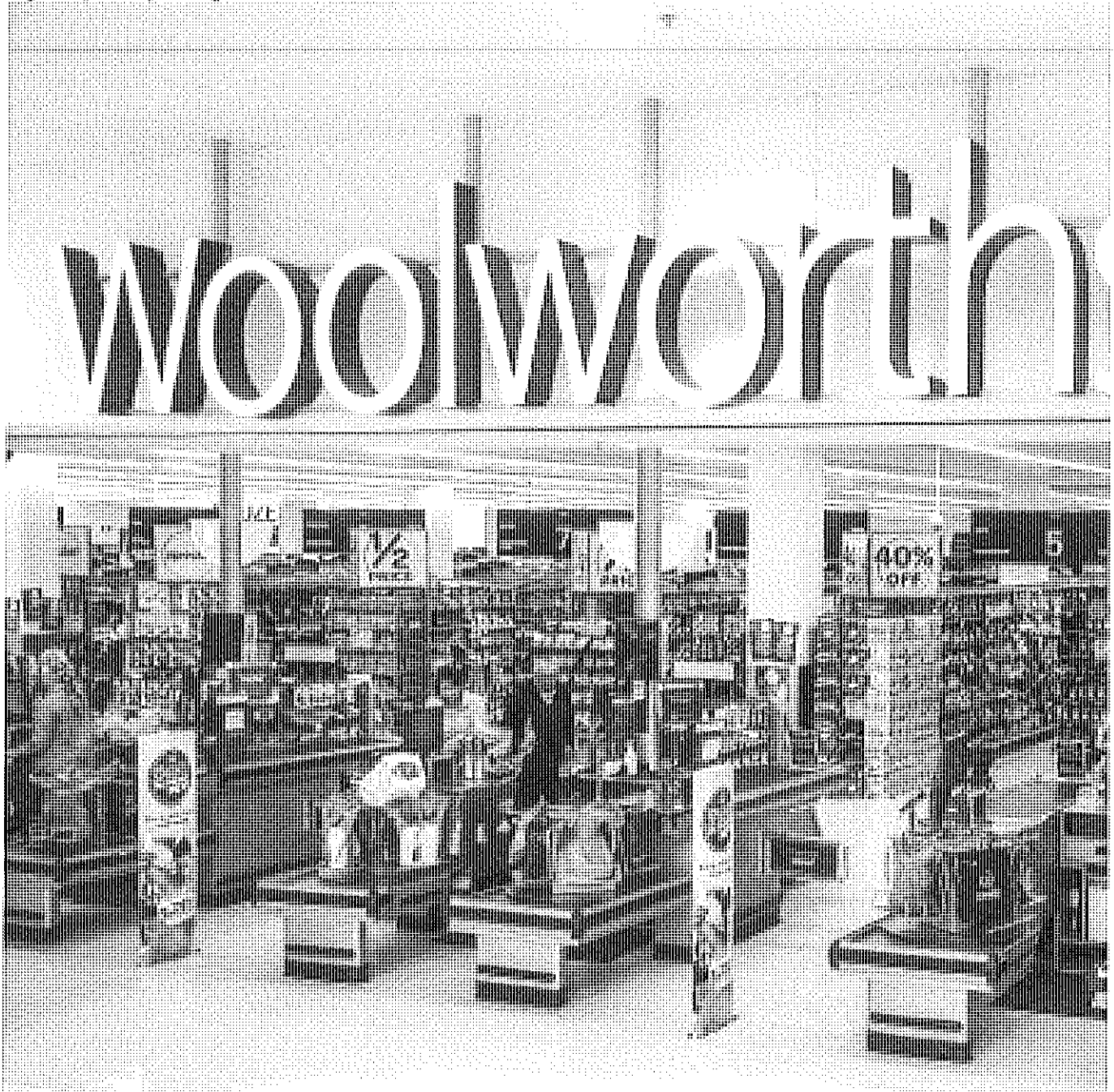
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Shoalhaven City Council set to decide fate of Woolworths plan

JOHN HANSCOMBE

April 6, 2016, 4:05 p.m.



DECISION TIME: The fate of the Woolworths plan to build a supermarket in Bomaderry will be decided on April 19.

[See your ad here](#)

A confidential Shoalhaven City Council briefing has been told the fate of the proposed Woolworths supermarket on the old John Bull site in Bomaderry will be determined on April 19.

A consultant's report on the proposal said council would be within its rights to reject the proposal supermarket because it did not strictly comply with the bulky goods zoning over the site.

It is understood legal advice said council could defend any decision to reject the proposal, which has been fought by retailers in Bomaderry, who fear it will have a major impact on their businesses.

A staff report will be presented to council on April 19, at which time it is expected to hand down its decision.

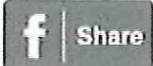
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South Coast Register (1)

Council to decide Woolies' fate

April 7, 2016, 10:20 a.m.



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An independent report commissioned by Shoalhaven City Council into the \$13.8 million Woolworths' supermarket said the development would pull \$49 million out of the local economy and have a huge effect on other centres, including the Nowra CBD.

The Leyshon Consulting Pty Ltd report rebutted claims in Woolworths' Economic Impact Assessment prepared by Macroplan Dimasi MD) in December 2014.

The report stated impact on the Nowra CBD would be significant with no immediate prospect of the CBD's loss of sales being recovered quickly, particularly if Shoalhaven Marketplace comes online between 2017-21. But the impact on Bomaderry was of greater concern.

The Leyshon report stated while the proposal would improve the supply of supermarket floor space available to residents in North Nowra, Bomaderry, Berry and rural areas, it would affect the viability of other centres.

Approval would raise significant issues maintaining the viability of existing centres, particularly Bomaderry, and the viability of developing the planned new centre at Moss Vale Road the report said.

The Woolworths' report projects sales of \$49.9 million in 2016-17, but Leyshons said that underestimated the effect on the Nowra CBD and neighbouring centres.

They estimate sales more likely to be in the range of \$55 to \$60 million per annum in 2016-17.

The development has been the subject of a campaign by members of the Don't Bomb Bomaderry group, who believe the proposal will kill off other businesses in the area.

Retailers and residents launched the Don't Bomb Bomaderry group to act as a voice against Shoalhaven Council approving the development.



Independent Pricing and Regulatory Tribunal

Review of the Local Government Rating System

Local Government — Issues Paper
April 2016



Independent Pricing and Regulatory Tribunal

Review of the Local Government Rating System

Local Government — Issues Paper
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Invitation for submissions

IPART invites written comment on this document and encourages all interested parties to provide submissions addressing the matters discussed.

Submissions are due by 13 May 2016.

We would prefer to receive them electronically via our online submission form <www.ipart.nsw.gov.au/Home/Consumer_Information/Lodge_a_submission>

You can also send comments by mail to:

Review of Local Government Rating System
Independent Pricing and Regulatory Tribunal
PO Box K35
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Late submissions may not be accepted at the discretion of the Tribunal. Our normal practice is to make submissions publicly available on our website <www.ipart.nsw.gov.au> as soon as possible after the closing date for submissions. If you wish to view copies of submissions but do not have access to the website, you can make alternative arrangements by telephoning one of the staff members listed on the previous page.

We may choose not to publish a submission—for example, if it contains confidential or commercially sensitive information. If your submission contains information that you do not wish to be publicly disclosed, please indicate this clearly at the time of making the submission. IPART will then make every effort to protect that information, but it could be disclosed under the *Government Information (Public Access) Act 2009* (NSW) or the *Independent Pricing and Regulatory Tribunal Act 1992* (NSW), or where otherwise required by law.

If you would like further information on making a submission, IPART's submission policy is available on our website.

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1 Introduction

The Independent Pricing and Regulatory Tribunal (IPART) is conducting a review of the local government rating system in NSW. Our aim is to recommend reforms to improve its efficiency and equity so as to ensure councils can implement sustainable fiscal policies over the longer term.

This review is part of an ongoing process of review and reform, aimed at improving local government's strength and effectiveness. Among other things, this process has included the Independent Local Government Review Panel's wide-ranging review and recommendations in 2013,¹ and the NSW Government's response to these recommendations, including its *Fit for the Future* reform package in 2014, and proposals to create new councils by merging existing councils.

The purpose of this Issues Paper is to outline how we propose to approach this review, explain how stakeholders can provide input, and to discuss the issues on which we seek comment.

1.1 What we have been asked to do

We have been asked to undertake the review under section 9 of the *Independent Pricing and Regulatory Tribunal Act 1992* in accordance with the terms of reference (ToR) provided by the Premier. These ToR ask us to:

- ▼ review the current rating system and recommend reforms that aim to enhance councils' ability to implement sustainable and equitable fiscal policy, and
- ▼ recommend a legislative or regulatory approach to achieve the Government's policy that there will "be no change to the existing rate paths for newly merged councils for four years".²

¹ Independent Local Government Review Panel, *Revitalising Local Government*, October 2013, at <http://www.localgovernmentreview.nsw.gov.au/>, accessed 1 March 2016 (Panel Report).

² NSW Government, *Media Release – Stronger Councils for Sydney and Regional NSW*, at <http://www.nsw.gov.au/media-releases-premier/stronger-councils-sydney-and-regional-nsw>, 18 December 2015, accessed 16 March 2016.

1 Introduction

These ToR set out the issues we must consider in making our recommendations, including:

- ▼ the rating burden across and within communities, including consideration of multi-unit dwellings
- ▼ the appropriateness and impact of current rating categories and exemptions, and mandatory concessions
- ▼ the land valuation methodology used as the basis for determining rates in comparison to other jurisdictions
- ▼ the capacity of a merged council to establish a new equitable rating system and transition to it in a fair and timely manner, and
- ▼ the objectives and design of the rating system according to recognised principles of taxation.

They also specify that we must take account of the Independent Local Government Review Panel's Final Report, the Government response to this report, and the 2013 NSW Treasury Corporation (TCorp) report '*Financial Sustainability of the NSW Local Government Sector*'.³

In addition, they ask us to recognise the importance of the Integrated Planning and Reporting framework that allows NSW councils to draw various plans together and understand how they interact.⁴

A copy of the ToR is provided in Appendix A. A summary of reports noted above (and other relevant work) is in Appendix B.

1.2 How we propose to approach this review

We propose to approach this review as two separate tasks. The first is to review the current rating system and recommend changes to improve its efficiency, equity and sustainability. The second is to consider and recommend the appropriate approach for implementing the Government's policy of freezing existing rate paths for newly merged councils for four years. Our approach to the review is outlined in Box 1.1.

³ NSW Treasury Corporation, *Financial Sustainability of the NSW Local Government Sector, Findings Recommendations and Analysis*, April 2013.

⁴ Office of Local Government, *Integrated planning and reporting*, at <https://www.olg.nsw.gov.au/councils/integrated-planning-and-reporting>, accessed on 1 April 2016.

Box 1.1 IPART's approach to the review

Review the performance of the current rating system and potential improvements

1. **Define the current rating system in NSW.** We set out the system that governs how current rates are set as context for this review.
2. **Establish the recognised principles of taxation that we should employ in assessing and recommending changes to the current rating system.** We will investigate and consider the objectives and design of the rating system according to our established principles.
3. **Assess the current approach for calculating the level of rates applicable to a ratepayer against these principles.** In accordance with our ToR we will consider:
 - ▼ the ratings burden across and within communities, including consideration of apartments and other multi-unit dwellings; and
 - ▼ the land valuation methodology used as the basis for determining rates in comparison to other jurisdictions.

We will also assess rating structures, including the policy related to base and minimum amounts, and options for increasing councils' flexibility in using those charges. In addition, we will consider the rating burden across communities, and whether there is scope for the rating system to better support the NSW Government's policy of encouraging urban renewal. We will assess land valuation methods and whether other methods could be more appropriate.

4. **Assess the current approach for determining who should pay rates against the principles of taxation.**

We will analyse the available exemptions and mandatory concessions, in light of the NSW Government's commitment to provide rate concessions to pensioners. In doing so, we will consider the appropriateness and impact of the current rating categories, exemptions, mandatory concessions and rebates.

5. **Recommend reforms to improve the efficiency, equity and sustainability of the current rating system based on the findings of Steps 2 to 4.**
6. **Consider the issues that might arise for merged council areas after the expiry of the rate path freeze.** We will consider their ability to establish a new equitable system of rating, and transition to it in a fair and timely manner, taking account of the NSW Government's commitment to protect NSW residents against excessive rate rises.

Recommend appropriate approach to achieve the rate path freeze policy

7. **Outline our interpretation of the Government's policy and consider how the rate path freeze might work in practice.** We will consider the implications for new special variations and impact on taxpayers, including consideration of rating structures, and rating categories.
 8. **Identify alternative legislative and regulatory approaches for implementing the rate path freeze policy.** We will assess complexity, flexibility and level of certainty of legislative amendments, in making a balanced recommendation on the appropriate approach.
 9. **Make recommendations on the legislative and regulatory approach to achieve the Government's rate path freeze policy based on our findings in Steps 7 and 8.**
-

1 Introduction

1.3 How stakeholders can provide input to this review

For this review, we will undertake our own analysis and conduct public consultation. This issues paper is the first step in our consultation process. We invite all stakeholders and interested parties to make written submissions in response to the paper by 13 May 2016. (Details on how to make a submission can be found on page iii.) We will also hold a public hearing on 26 April 2016 to give stakeholders another opportunity to respond.

Our ToR require us to provide an interim report to the Minister for Local Government in June 2016, outlining our recommendations on the appropriate approach for implementing the Government's policy of freezing existing rate paths for four years for newly merged councils.

We will publicly release a draft report in August 2016 covering all issues, and invite stakeholders to respond by making a submission and/or attending public hearings in September 2016. We will consider all stakeholder comments before making our final decisions and providing our final report to the Minister for Local Government in December 2016.

Table 1.1 provides an indicative timetable for the review. We will update this timetable on our website as the review progresses.

Table 1.1 Indicative timetable for this review

Milestone	Timeframe
Release Issues Paper	13 April 2016
Hold Public Hearing	26 April 2016
Receive submissions to the Issues Paper	13 May 2016
Provide Interim Report to Minister	17 June 2016
Release Draft Report	August 2016
Hold public hearing(s) in Sydney and possibly 1 regional town	September 2016
Receive submissions to the Draft Report	September 2016
Provide Final Report to Minister	December 2016

Note: These dates are indicative only.

1.4 What the rest of this paper covers

The rest of this paper discusses our proposed approach to the review in more detail, as well as our preliminary views (where we have them). It is structured as follows:

- ▼ Chapter 2 provides context for the review by outlining the current rating system in NSW.
- ▼ Chapter 3 outlines the recognised principles of taxation against which we propose to assess the rating system.

- ▼ Chapter 4 analyses the current method for setting rates in NSW using the tax principles. It also explores alternative methods that could provide councils with greater flexibility in setting rates with the method for valuing property, use of base and minimum amounts, and making rating categories.
- ▼ Chapter 5 analyses current exemptions and the mandatory pensioner concession using the tax principles. It also explores alternatives to providing full exemptions for some land uses and different ways for structuring the pensioner concession.
- ▼ Chapter 6 outlines our interpretation of the Government's policy of freezing the existing rate paths for newly merged councils, and the options for implementing this policy.
- ▼ Chapter 7 discusses options to allow merged councils to establish new and equitable rating systems in a fair and timely manner.

1.5 List of issues on which we seek comment

Throughout this paper, we have identified the issues on which we seek stakeholder comment at this stage of the review. Stakeholders may address all or some of these issues, and are also free to raise and discuss any other issues that they feel are relevant to the terms of reference. For convenience, a full list of the issues we seek comment on is provided below:

Taxation principles

- | | | |
|---|---|----|
| 1 | Do you agree with our proposed tax principles? If not, why? | 15 |
|---|---|----|

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? | 20 |
| 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)? | 20 |
| 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? | 22 |
| 5 | What changes could be made to rating categories? Should further rating categories or subcategories be introduced? What benefits would this provide? | 23 |

1 Introduction

- | | | |
|---|---|----|
| 6 | Does the current rating system cause any equity and efficiency issues associated with the rating burden across communities? | 24 |
| 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? | 25 |
| 8 | What changes could be made to the rating system to better encourage urban renewal? | 26 |
| 9 | What changes could be made to the rating system to improve councils' management of overdue rates? | 26 |

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? | 33 |
| 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? | 33 |
| 12 | What should the objectives of the pensioner concession scheme be? How could the current pensioner concession scheme be improved? | 35 |

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? | 36 |
| 14 | <p>Within the rate path freeze period, should merged councils be permitted to apply for new special variations:</p> <ul style="list-style-type: none"> – For Crown Land added to the rating base? – To recover amounts that are 'above the cap' on development contributions set under the <i>Environmental Planning and Assessment Act 1979</i>? – To fund new infrastructure projects by levying a special rate? | 39 |
| 15 | Are there any other situations where merged councils should be able to apply for new special variations within the rate path freeze period? | 39 |

- 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)? 41
- 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)? 41
- 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? 41
- 19 What other discretions should merged councils be given in setting rates during the rate freeze period? 41
- 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? 44

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? 48
- 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? 49
- 23 What other rating issues might arise for merged councils after the 4-year rate path freeze period expires? 49

2 The current rating system in NSW

Local councils provide a range of infrastructure and services to ratepayers and residents in their local government area. To fund their costs, councils:

- ▼ levy rates on property owners in their area
- ▼ charge fees for the use of specific services (user charges)
- ▼ receive grants from the State and Federal governments
- ▼ generate other revenue, for example, from fines, developer charges and interest, and
- ▼ raise funds through borrowings.

This review only considers rates included in a council's general income.⁵ The system that determines how these rates are currently calculated in NSW is set out in the *Local Government Act 1993* (LG Act).⁶ The sections below outline the key features of this system, including:

- ▼ the rate structure
- ▼ the rating categories
- ▼ the treatment of high-density property
- ▼ the rate peg and special variation process
- ▼ the different types of rates included in a council's general income
- ▼ the land valuation process, and
- ▼ the infrastructure and services funded by rates.

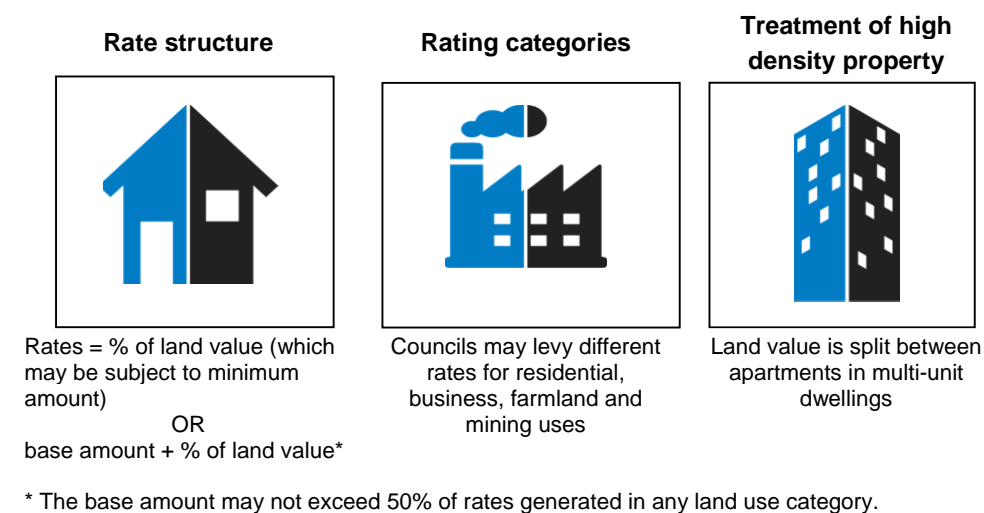
⁵ This is income derived from ordinary rates, special rates and specified annual charges (section 505 of the *Local Government Act 1993* (NSW)). Special rates and charges for water and sewerage are not included in a council's general income.

⁶ For more detailed information on the current rating system, see the LG Act (Chapter 15, Sections 491-607), and the NSW Department of Local Government, *Council Rating and Revenue Raising Manual*, 2007.

2.1 Overview of how council rates are set in NSW

Figure 2.1 provides an overview of how council rates are set in NSW.

Figure 2.1 How council rates are set in NSW



Data source: *Local Government Act 1993*.

2.2 Rate structure

Under the LG Act, a rate may consist of:

- ▼ an ad valorem amount (which may be subject to a minimum amount), or
- ▼ a base amount to which an ad valorem amount is added.

In NSW, an **ad valorem amount** is a variable charge set as a proportion of the unimproved land value (UV) of the rateable property – that is, the value of the property without any buildings, houses or other capital investments.

A **minimum amount**, where applied, is a flat charge which applies instead of the ad valorem amount, when it is greater than the ad valorem amount.

A **base amount**, where applied, is a fixed charge that is levied equally against all rateable properties within a given rate category, or subcategory of land use.

2 The current rating system in NSW

There is no restriction on the proportion of revenue a council can generate from the ad valorem amounts included in rates. However:

- ▼ revenue generated from the base amount cannot exceed 50% of the total revenue from any particular rating category, and
- ▼ the minimum amount cannot exceed a statutory limit (set at \$497 in 2015-16⁷).⁸

In 2013-14, the ad valorem rate on land value accounted for 75% of all NSW council rate revenue. It is the primary method for raising rating income. Base and minimum amounts accounted for an average of 15% and 10% of council rate revenue respectively across NSW (noting that not all councils apply these rates).

2.3 Treatment of high-density property

Where the rateable property consists of multiple units, such as a block of apartments, the ad valorem amount is split between the units. For example, if a block of four apartments and a house have the same unimproved land value, the rates payable by the owners of each apartment would be 25% of those payable by the house owner, assuming that no minimum or base amounts apply.

2.4 Rating categories

Councils may vary the way they calculate rates for different categories of property. For example, they can use a different percentage of the unimproved land value to calculate the ad valorem amounts, apply different minimum amounts, or add different base amounts. There are four main rating categories:

1. residential
2. business
3. farmland, and
4. mining.

Councils may also determine subcategories within each of these four categories, and vary the way they calculate rates for each subcategory. However, the degree of flexibility varies across categories. In particular, the LG Act requires that residential rates for all properties **within a centre of population** are calculated the same way. This requirement raises issues which will need to be addressed for newly merged councils in urban areas (see Chapter 7 for more detail).

⁷ This ceiling only applies to ordinary rates. A different ceiling applies to special rates: \$2 (section 548(3)(b) of the LG Act).

⁸ Councils that wish to set a minimum amount above the statutory limit are required to submit a minimum rate application to IPART for review and assessment. IPART has been delegated authority to approve minimum amount variations from the Minister for Local Government.

Finally, there are also a range of land uses which are currently exempt from paying rates (or exempt from paying a portion of rates). These include national parks, charities and education institutions (see Chapter 5 for more detail).

2.5 Rate peg and special variation process

The LG Act sets out a process that regulates the amount by which councils increase their general income, the main component of which is rates revenue from ordinary and special rates (see section 2.6 below). Each year, IPART determines the maximum percentage by which a council may increase its general income in the coming year, known as the 'rate peg'. We calculate this percentage based on the estimated annual change in NSW councils' costs, adjusted for any improvements in productivity. The total amount of general income collected from rates revenue is typically called the 'rating burden'.

Councils then set their rates for each rating category so that their annual general income does not increase in percentage terms by more than the rate peg for that year. This gives them some flexibility to vary the increase in rates across categories (eg, to increase residential rates by a higher percentage than farmland rates), as long as the total increase in revenue does not exceed the rate peg.

Councils can apply to IPART for a 'special variation' to allow them to increase general income above the rate peg for a range of reasons, including to provide additional services, to replace ageing assets, or improve financial sustainability.

The Integrated Planning and Reporting (IP&R) framework is an important part of the special variation process. As part of the IP&R framework, when applying for a special variation, councils are required to engage the community in a discussion on how the funding required will deliver services and infrastructure that meet the community's expectations about service levels. The IP&R framework is discussed further in Appendix B.

2.6 Different types of rates

There are two different types of rates included in a council's general income:

- ▼ ordinary rates – councils are required to make and levy an ordinary rate for each year on all rateable land in their area.
- ▼ special rates – councils have the discretion to levy a special rate for:
 - works or services provided or proposed to be provided, or
 - any other special purpose.

Special rates can be levied on subgroups of ratepayers. For example, a special levy could be applied to all properties in a specific area or development, even if it is within a centre of population.

2 The current rating system in NSW

2.7 Land valuation process

Councils do not undertake the land valuations used to calculate the rates applicable to each property themselves. Instead, they are required to use the unimproved land valuations provided by the NSW Valuer General.

The Valuer General values all land in NSW, and provides services to a range of users including to the NSW Government for the purpose of levying land tax.

In comparison, councils in Victoria and Tasmania have the option of using other valuers to estimate property values for the purpose of levying rates.

2.8 Infrastructure and services funded by rates

Typically, income from rates is used to fund (or partly fund) infrastructure and services that have the characteristics of 'public goods' or 'mixed goods'. Services with the characteristics of 'private goods' are generally funded through user charges (see Box 2.1 for more information.)⁹

Box 2.1 What are public, private and mixed goods?

The infrastructure and services provided by councils fall into three categories:

- ▼ **Public goods:** where one person's consumption does not prevent others from consuming it and it is difficult or not practical to charge consumers to use it. Examples include local roads, footpaths and parks.
 - ▼ **Private goods:** where consumption by one person prevents another from consuming the same unit of that good. Examples include, water, sewerage and garbage collection.
 - ▼ **Mixed goods:** that have a mixture of private and public good characteristics, such as libraries and community centres.
-

⁹ The LG Act recognises this principle in allowing direct charges for services such as water and sewerage (Section 501), mandating direct charging for waste (Section 496), and not including these user charges in the council's general income for rate base purposes (Section 505).

3 Establishing principles of taxation

The first step in our proposed approach for reviewing the current rating system is to establish the “recognised principles of taxation” that we will employ in assessing and recommending changes to this system, as required by our terms of reference.

The key tax principles that we propose to use to assess the rating system are:

- ▼ efficiency
- ▼ equity
- ▼ simplicity
- ▼ sustainability, and
- ▼ competitive neutrality.

The sections below outline each of these principles.

3.1 Efficiency

Efficiency comprises two main sub-principles: the principle that taxes should minimise changes in behaviour, and the benefits principle.

3.1.1 Taxes should minimise changes in behaviour

Taxes that minimise changes to production and consumption decisions are more efficient. The more that taxes that are designed to raise general revenue change behaviour, the greater the welfare loss.¹⁰

The Henry Tax Review found that local rates were the most efficient of all current taxes used by any level of government, because changes in behaviour from rate taxes are small. It estimated that for every dollar raised through rates, there were welfare losses of just 2 cents. In comparison, the welfare losses associated with other State and Commonwealth taxes ranged from 8 to 70 cents per dollar raised.¹¹

¹⁰ The welfare loss of taxation is known as the excess burden of taxation, and is the distortionary cost that taxes cause by reducing the amount of productive activity that would otherwise occur in a free market.

¹¹ Henry K, *Australia's future tax system – Final Report*, May 2010 (Henry Tax Review), p 13.

3 Establishing principles of taxation

3.1.2 Benefits principle

The income raised from rates is generally used to fund (or partly fund) infrastructure and services that have the characteristics of 'public goods'. The benefits principle is that each person's share of funding for public goods should be proportional to the benefits they receive from these goods.

However, the benefits principle is difficult to apply because people generally under-state their willingness to pay for the benefits that they receive from public goods.^{12,13} In practice, proxies that are correlated with people's willingness to pay for public goods are used to estimate benefits received.

3.2 Equity

Equity also has two sub-principles: the benefits principle (discussed above) and the ability to pay principle.

3.2.1 Ability to pay

People should contribute to funding public goods according to their **ability to pay**. **Ability to pay** has two components:

- ▼ The **horizontal equity principle** requires people of equal capacity to pay the same amount of tax.
- ▼ The **vertical equity principle** requires people who are better off to pay more tax than those who are worse off, so the burden of tax is proportional to the taxpayer's means.

Property-based taxes such as rates are generally regarded as equitable, because property value correlates with wealth and ability to pay.

3.3 Simplicity

Taxes should be easily understood, difficult to avoid and have low costs of compliance and enforcement. If a tax is easy to understand and is fair, compliance is generally high.

Property-based taxes such as rates are generally hard to avoid, as the government holds comprehensive land ownership records.

¹² A person's willingness to pay for goods should generally be equal to the benefits they receive from those goods.

¹³ This is due to the **free-rider** problem. People have an incentive to under-state their willingness to pay for public goods, if their stated willingness to pay is then used as the basis on which taxes are levied on them.

3.4 Sustainability

To be sustainable, the income generated by a tax should be reasonably reliable, able to withstand volatile economic conditions, and grow over time to support the future needs of government.¹⁴

3.5 Competitive neutrality

Competitive neutrality requires businesses competing with each other to be treated in a similar way. This principle is used to promote fair and efficient competition between public and private businesses.

IPART seeks comment

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

¹⁴ Our consideration of sustainability will encompass the requirement of the terms of reference to consider the current financial sustainability of local government in NSW, including the findings and deliberations of NSW Treasury Corporation report *Financial Sustainability of the NSW Local Government Sector*, 2013.

4 | Assessing the current method for setting rates

The second step of our approach for reviewing the current rating system is to assess the current method for setting the rates applicable to a particular property owner. This involves assessing the elements of the current system that affect the rating burden **within** communities (ie, within the same local government area) using the recognised principles of taxation (discussed in Chapter 3). These elements include:

- ▼ the valuation method used to set ad valorem amounts
- ▼ the use of base amounts and minimum amounts, and
- ▼ the rating categories.

This step also involves considering other aspects of the current rating system specified in our terms of reference, including:

- ▼ the rating burden **across** communities in NSW (in different local government areas across NSW), and
- ▼ whether the current rating system provides appropriate scope for councils to promote the Government's policy for encouraging urban renewal.

This chapter also considers how councils manage their overdue rates.

Where relevant, we will take account of the rating systems used in other jurisdictions, the findings of the Independent Local Government Review Panel (the Panel) and other matters listed in our terms of reference.

The sections below provide further information and preliminary analysis on each of these considerations.

4.1 Valuation methods used to set ad valorem amounts

As Chapter 2 discussed, the current rate structure includes an ad valorem amount (which may be subject to a minimum amount) or an ad valorem amount plus a base amount. To calculate the ad valorem amount for a particular property, the ad valorem rate (a fixed percentage) is multiplied by the assessed value of the property.

Across Australian jurisdictions, three valuation methods are used to calculate the value of property for the purpose of rating. These are:

1. The **unimproved land value (UV)** method, which values the property excluding the value of buildings, structures and other capital improvements.
2. The **capital improved value (CIV)** method, which values the property based on the market value, or the value inclusive of all capital improvements.
3. The **annual rental value (ARV)** method, which values the property based on its rental value.

One of the key differences between these methods is how they treat high-density properties that include multiple units (such as an apartment block). As Chapter 2 discussed, a UV methodology divides the land value between each unit for the purpose of rating. In contrast, the other methods use the market value or rental value of each individual unit.

4.1.1 Valuation methods across jurisdictions

As Chapter 2 discussed, NSW councils are required to use the UV method for calculating ad valorem amounts. Queensland councils are also required to use this method. However:

- ▼ in Western Australia, councils must use the ARV method in Perth, and the UV method in the rest of the state
- ▼ in other states, councils can choose any of the three methods:
 - councils in Victoria and South Australia overwhelmingly favour CIV
 - councils in Tasmania tend to employ ARV, and
 - councils in Northern Territory rely on UV because the data required to use CIV or ARV is not available.

Internationally, a CIV-type method appears more common and is mandated in the United States and the United Kingdom. In New Zealand, councils can choose between UV and CIV. Further information on the valuation methods used in selected overseas jurisdictions is provided in Appendix D.

4.1.2 Who applies the valuation method

Councils generally do not assess the value of properties themselves. In NSW and some other Australian states, they are required to use the valuation services provided by the state Valuer General. However, in Victoria and Tasmania, councils can choose to use either their state-based Valuer General or a private firm for property valuation services.

4 Assessing the current method for setting rates

4.1.3 Analysis of alternative valuation methods against tax principles

We have done some preliminary analysis on how the UV and CIV methods compare using the tax principles discussed in Chapter 3. We have not focused specifically on the ARV method, as for our purposes it is similar to the CIV method in that both methods take into account the total market value of the land and dwelling. The ARV is often determined as a percentage of the assessed CIV for administrative simplicity and/or due to data constraints. The arguments for ARV are generally similar to those for CIV.

Arguments for retaining the UV method

UV may better meet the efficiency principle, that taxes should minimise changes in behaviour, than CIV. Under a UV method, rates do not change if additional capital is invested into a property so they do not influence ratepayers' decisions to make capital improvements or develop their land. In contrast, CIV is a tax on both land and capital. Under a CIV method, rates increase as additional capital is invested in a property. This may discourage ratepayers from productive investments, and so the CIV method may be less efficient than the UV method.

UV is arguably simpler and more cost effective to implement than CIV. Because UV is the current method used in NSW, changing to an alternative method would incur costs. In addition, land valuations across NSW are currently estimated by sampling land values for a relatively small number of properties each year. Under a CIV method, an estimate of capital improvements by property would be required.¹⁵ Valuations could also be required more frequently, when additional improvements are made.

Arguments for moving to a CIV method

CIV may better meet the benefits principle. The market value of a property may better correlate with the benefits received by the owners from the provision of public goods by the council. For example, an apartment block with a number of residents will typically derive more benefits from council services than a nearby single house occupying land of equal value.

CIV may be more equitable. For example, residential ratepayers who own more expensive houses or apartments would pay higher rates than those with lower-cost homes. These ratepayers tend to have a higher ability to pay.

¹⁵ In other jurisdictions, detailed and up-to-date data on capital improvements are collected. For example, in Victoria, this information is collected through supplementary valuations. For further details, see Department of Transport, Planning and Local Infrastructure (Victoria), *2016 Valuation Best Practice Specifications Guidelines*, July 2014.

CIV is potentially more sustainable over time. Because it includes both land and capital, a CIV method would result in a broader tax base than UV. The Grattan Institute estimates, across Australia, the total value of capital improvements in 2014 was roughly equal to the total value of land, suggesting that CIV is about twice as broad a tax base as UV.¹⁶ The broader base means a lower overall ad valorem rate can be set, although it would apply to a higher property value. Over time, as the proportion of high density dwellings increases, the ratio of capital to land increases, and CIV therefore becomes more broadly based relative to UV. (See Appendix E for further details.)

CIV is likely to be more readily and easily understood by the public. As most people have a better understanding of the market value of their property than their unimproved land value, they are likely to find a CIV approach easier to understand.

4.1.4 The Panel's views on UV, CIV and the rating of apartments

The Independent Local Government Review Panel also analysed the alternative valuation methods. The Panel found that the use of UV has caused a significant issue with the rating of apartments in Sydney:

Currently, the unimproved value of the land occupied by a block of apartments is split between the owners of individual dwellings (strata titles), such that each is rated on only a small fraction of the total value. As a result, owners of apartments worth millions of dollars pay less in rates than owners of nearby houses worth much less, and all or most owners of apartments may pay the same minimum council rate irrespective of the differing market values of their properties.¹⁷

The Panel concluded this outcome was inequitable, and suggested that moving to a CIV method would be preferable in selected local government areas. Alternatively, it suggested the 'residential' land use category could be split into two new rating categories, one for detached housing and another for multi-unit dwellings. Councils could then use CIV for multi-unit dwellings only.

4.1.5 Options for the valuation method in a future NSW rating system

Based on the preliminary analysis outlined above, we consider there are a number of feasible options for the valuation method used in calculating ad valorem amounts in NSW rates. These include:

- ▼ Continuing to mandate the use of the UV method.
- ▼ Mandating the use of a CIV-type method (eg, CIV or ARV or some similar method). This could be restricted to some local government areas, as the Panel suggested and as occurs in Western Australia.

¹⁶ Daley J and Coates B, *Property Taxes*, Grattan Institute Working Paper No. 2015-5, July 2015, p 5.

¹⁷ Panel Report, p 40.

4 Assessing the current method for setting rates

- ▼ Allowing councils to choose between a UV method or a CIV-type method, as occurs in Victoria, South Australia and Tasmania.
- ▼ Allowing councils to set a new rating category for multi-unit apartments, and mandating the use of a CIV method for that category, as the Panel suggested.

In addition, there are also options related to the property valuation services councils use. These include continuing to require councils to use the NSW Valuer General's services, or allowing councils to choose whether to use private valuation firms.

IPART seeks comment

- 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?
- 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)?

4.2 Use of base amounts and minimum amounts

As Chapter 2 discussed, under the current rate structure, rates may comprise an ad valorem amount plus a base amount, or an ad valorem amount which may be subject to a minimum amount. Both base and minimum amounts are fixed charges. In addition:

- ▼ revenue generated from the base amount cannot exceed 50% of the total revenue from any particular rating category, and
- ▼ the minimum amount cannot exceed a legislated ceiling (set at \$497 in 2015-16¹⁸).

Currently, a little over half of all NSW councils use base amounts for at least one rating category.¹⁹ In 2013-14, these amounts accounted for at least 45% of ordinary rates in approximately a quarter of all NSW councils, and the maximum 50% in 12 councils. This suggests the current 50% revenue cap on base amounts could be a constraint for some councils.

In addition, about 60% of all NSW councils use a minimum amount in at least one rating category. For these councils, minimum amounts accounted for 15% of ordinary rates, on average.

¹⁸ This ceiling only applies to ordinary rates (section 548(3)(a) of the LG Act). A different ceiling applies to special rates: \$2 (section 548(3)(b) of the LG Act).

¹⁹ Data on the use of base and minimum amounts were obtained from Rating Return data which councils are required to provide to the Office of Local Government under Section 429 of the LG Act.

Most other states also give councils the option to levy base and/or minimum amounts. However, Queensland and Western Australia do not allow base amounts, and Victoria does not allow minimum amounts. (See Appendix D Table D.1 for more detail.)

4.2.1 Analysis of base amounts and minimum amounts against tax principles

Our preliminary analysis suggests that base amounts may be an **efficient** way to recover some council costs. Councils incur a range of fixed costs in supplying infrastructure and services that benefit all ratepayers, regardless of their land or property value. Base amounts can be an **efficient** method for councils to recover these fixed costs. They are also **simple** to calculate and administer.

However, base amounts may **not be equitable**, because they may not reflect the ratepayer's ability to pay or the benefits received. For example, a dwelling with one occupant pays the same base amount as a dwelling with four occupants, although it is likely that the latter will derive a larger benefit from the public goods that councils provide. Furthermore, base amounts have little relation to the per capita drivers of councils' costs.

Further, base amounts also tend to place a greater burden on less well-off ratepayers. In other words, they are regressive because owners of low value dwellings effectively pay a higher rate of tax than owners of expensive dwellings.

Our preliminary analysis also suggests that minimum amounts have fairly similar advantages and disadvantages as base amounts. They can be an efficient way to recover councils' fixed costs, but are also regressive as lower-valued properties effectively pay a higher rate of tax.

4.2.2 Options for base and minimum amounts in a future NSW rating system

Based on the preliminary analysis outlined above, there are a number of options for levying base and minimum amounts. These include:

- ▼ Giving councils further flexibility to levy base amounts on a per capita basis, per bedroom, or using some other criteria. However, this would incur implementation costs and be more administratively complicated.
- ▼ Changing or removing the restriction that revenue generated from the base amount cannot exceed 50% of the total revenue from any particular rating category. This restriction was introduced to ensure that rates are determined predominantly according to the value of rateable property.²⁰
- ▼ Changing or removing the legislated ceiling on the minimum amount, which is currently set at \$497 for ordinary rates.

²⁰ NSW Department of Local Government, *Council Rating and Revenue Raising Manual*, 2007, p 36.

4 Assessing the current method for setting rates

IPART seeks comment

- 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?

4.3 Rating categories

As Chapter 2 outlined, the current rating system includes four rating categories which reflect the primary use of the land. These are residential, business, farmland and mining.²¹ Councils may elect to apply different rate structures to each category.

In addition, councils may determine subcategories within each category and apply a different rate structure for each subcategory. A subcategory may be determined for:

- ▼ **residential** property according to whether the land is rural residential land or is within a **centre of population**
- ▼ **business** according to a **centre of activity**
- ▼ **farmland** according to the **intensity of land use**, the irrigability of the land or economic factors affecting the land, and
- ▼ **mining** according to the **kind of mining** involved.²²

Other states typically class rateable land into a larger number of separate categories for the purposes of ratings. For example, South Australia has nine separate land use categories, including a category for vacant land. Tasmania has seven land use categories and allows councils to vary rates if land is vacant.

Victoria does not explicitly define a list of land use categories for rating, but instead allows councils to declare separate rate categories provided that “the objectives of the differential rate and the criteria on the basis of which that rate was declared” is specified.²³ This approach allows multiple rating categories to be used.

²¹ LG Act, section 514.

²² LG Act, section 529.

²³ *Local Government Act 1989 (Vic)* section 161. That said, when councils are setting differential rates, they must have regard to Ministerial Guidelines. These guidelines **do** list types of land that are considered appropriate and inappropriate for differential rates. For more details, see Department of Transport, Planning and Local Infrastructure (Victoria), *Ministerial Guidelines for Differential Rating*, April 2013.

4.3.1 Analysis of rating categories using tax principles

The Productivity Commission review of local government revenue raising capacity provided an analysis of rating categories using standard tax principles. The review found that differentiating rates according to land use is appealing on a number of grounds. According to the report:

Differential rating provisions generally increase the capacity of councils to raise revenue from property rates. They do so by enabling councils to structure better rates payable to the different capacities to pay of, and the services received by, different categories of ratepayers.²⁴

This suggests that allowing different rating categories based on land use are consistent with the principles of efficiency and equity.

4.3.2 Options for rating categories in a future NSW rating system

Based on the preliminary analysis outlined above, there may be scope to increase the number of land use categories from four, or increase the ability of councils to define further subcategories of land use for setting rates. For example:

- ▼ Splitting the residential category into detached housing and apartment properties categories may provide for more efficient and equitable ratings of multi-unit dwellings (as suggested by the Panel).
- ▼ The business land use category is currently quite broad, encompassing all industries other than mining and agriculture.²⁵ Allowing further differentiation may increase efficiency.

Such changes could allow councils to tailor rates across a wider variety of land uses to better meet the needs and wants of their local communities.

At the same time, a system that allows for too much granularity can incur costs and increase complexity. It could also reduce the transparency of the rating system, and may result in rate structures that depart from recognised tax principles. For example, levying higher rate charges on more successful business centres of activity could undermine efficiency and competitive neutrality.

IPART seeks comment

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

²⁴ Productivity Commission Report, p 104.

²⁵ The ABS separately identifies over 100 industries outside of agriculture and mining that would be currently classed as 'business' in the NSW rating system.

4 Assessing the current method for setting rates

4.4 Rating burden across communities

Under our terms of reference for this review, we are required to consider the rating burden **across** communities, which we understand to mean across different local government areas. The Panel also suggested the rating burden may not be spread equitably across communities in NSW.²⁶

In our view, the rates levied by a local council should be used to fund the provision of infrastructure and services in that local government area, and should reflect the costs of this provision. They should not be used to fund the services provided by councils in other local government areas.²⁷ Such cross-subsidisation would tend to reduce the efficiency, equity, simplicity and sustainability of the rating system.

IPART seeks comment

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

4.5 Rate pegging and special variations

Under the current rate pegging arrangements, IPART determines the maximum percentage by which a council may increase its general income (primarily from rates) each year, known as the 'rate peg'. If they wish to increase their general income by more than this rate, councils can apply to IPART for a 'special variation'. (See Chapter 2 for more information.)

A key issue highlighted by the Panel Report was that, in their present form, rate pegging arrangements impact "adversely on sound financial management".²⁸ It suggested three options to make the current arrangements more effective:

- ▼ streamlining the application and approval process for special variations
- ▼ introducing earned autonomy, where certain councils demonstrating consistent high performance could earn complete exemption from rate pegging, and
- ▼ replacing rate pegging with rate benchmarking.²⁹

In its response, the NSW Government said it is "committed to a rating system that protects local ratepayers from unfair rate rises. It recognises, however, the improvements in council strategic planning under IP&R [Integrated Planning and Reporting] and therefore supports removing unwarranted complexity, costs and constraints from the rate peg system".³⁰

²⁶ Panel Report, p 41.

²⁷ The Henry Tax Review reaches a similar conclusion, arguing that taxes used for redistribution should be levied by the Federal government. See Henry Tax Review, p 673.

²⁸ Panel Report, p 42.

²⁹ Panel Report, pp 43-44.

³⁰ Office of Local Government, *Independent Local Government Review Panel recommendations – NSW Government Response*, September 2014, p 5.

In line with our terms of reference, we will consider the Panel's findings on the current rate pegging arrangements, as well as the Government's response, particularly its commitment to protect NSW residents against excessive rate increases.

IPART seeks comment

- 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?

4.6 Policy of encouraging urban renewal

In reviewing the current rating system, our terms of reference require us to take account of the NSW Government's policy of encouraging urban renewal. The NSW Government's *A Plan for Growing Sydney* defines the Government's policy of urban renewal across Sydney as "the process of planning and delivering changes to infrastructure, streets, and the public domain to deliver the greatest community benefit".³¹ This policy includes:

- ▼ using the Greater Sydney Commission to support council-led urban infill projects
- ▼ increasing housing density in areas that are connected to an integrated transport system, and
- ▼ providing direct local infrastructure to population centres where there is growth.³²

Our preliminary view is that the current rating system provides scope for councils to partner with other levels of government to promote urban renewal.

Section 495 of the LG Act allows councils to levy special rates on any subset of rateable land within its area to meet the costs of delivering additional services, facilities or activities to ratepayers.³³

Councils can also use special variations, and the levying of special rates in distinct areas, to collect additional rates revenue to fund urban renewal projects that provide benefits to discrete areas. Special rates could also be used to partner with other levels of government in developing and funding infrastructure projects which benefit the local community.

³¹ Department of Planning & Environment (NSW Government), *A Plan for Growing Sydney*, December 2014, p 21.

³² Department of Planning & Environment (NSW Government), *A Plan for Growing Sydney*, December 2014, pp 8-11.

³³ The special rate may only be levied on those parcels of land which benefit from, have access to, or contribute to the need for the works, services, facilities or activities.

4 Assessing the current method for setting rates

IPART seeks comment

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

4.7 How councils manage overdue rates

When rates become overdue, councils may charge penalty interest on the overdue amount. Councils may also seek a court order to require payment, and enforce the debt using debt recovery powers under the *Civil Procedure Act 2005* (NSW).³⁴

It appears that some councils might be pursuing relatively low value claims for overdue rates through the courts. The Department of Justice found that:

- ▼ just over one-third of all civil claims in the Local Court involve councils pursuing overdue rates, and
- ▼ over 80% of claims are for amounts of \$2,000 or less.³⁵

Model litigant obligations require NSW government agencies to endeavour to avoid litigation wherever possible.³⁶ However, using the Local Court as the primary means of recovering overdue rates may be an attractive option for councils, irrespective of the amount overdue, as the penalty interest rates councils are permitted to charge could mean that there is no incentive to resolve debt issues early. We understand that less than 1% of all claims for unpaid rates are defended.³⁷

Where financial hardship is the underlying cause of rates being overdue, a more sustainable and equitable approach may include councils offering more flexible payment options. We note that similar arrangements are used by water and energy utilities when their customers are experiencing financial difficulty.³⁸

IPART seeks comment

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

³⁴ For example, the council could apply for an order to seize and sell the ratepayer's personal property to settle the overdue rates.

³⁵ Personal communication, Letter from NSW Department of Justice to IPART, 5 April 2016.

³⁶ NSW Department of Justice to IPART, *Model Litigant Policy for Civil Litigation*, July 2008 (<http://www.justice.nsw.gov.au/legal-services-coordination/Pages/info-for-govt-agencies/model-litigant-policy.aspx>, accessed 7 April 2016).

³⁷ Personal communication, Letter from NSW Department of Justice to IPART, 5 April 2016.

³⁸ See for example Part 2, Division 6 of the *National Energy Retail Law* (NSW).

5 Assessing exemptions, concessions and rebates

The third step in our approach for reviewing the rating system is to assess the current method for determining who pays rates, including:

- ▼ the exemptions from rates, which are based on land type or use, and
- ▼ the concessions on rates available to pensioners.

Our assessment will involve analysing the exemptions and concessions using the tax principles discussed in Chapter 3, and identifying the potential options for reform. Where relevant, we will take account of rating systems in other jurisdictions, the findings of the Independent Local Government Review Panel (the Panel) and other matters listed in our terms of reference.

5.1 Exemptions from rates

Section 555 of the *Local Government Act 1993* (LG Act) exempts certain land uses from **all** rates (see Table 5.1). In addition, Section 556 exempts certain land uses from all rates other than water and sewerage charges (see Table 5.2).³⁹

³⁹ As discussed in Chapter 2, this review only covers the income derived from ordinary rates, special rates and some annual charges. It does not review special rates or charges for water and sewerage charges.

5 Assessing exemptions, concessions and rebates

Table 5.1 Main land uses exempted from all rates

Land type	Details
Crown land	No rates are payable unless the land is under private lease.
National parks and conservation areas	All land within a national park, historic site, nature reserve, state game reserve, karst conservation reserve, land subject to a conservation agreement and land associated with the Nature Conservation Trust of NSW.
Water corporation land	Land within a special or controlled area for Sydney Water or Hunter Water, land vested in or owned by Water NSW for installed water supply works, land within a special area for a water supply authority.
Land used for religious purposes	Land that belongs to a religious body which is used in connection with a church or other building used for public worship, a residence of a minister of religion, a building used for religious teaching or training.
Land used for schools	Land which is used in connection with a school inclusive of playgrounds, and buildings occupied as a residence by school teachers, caretakers or employees.
Land vested in an Aboriginal Council	Land vested in an Aboriginal Land Council that is not being used for a residential or commercial purpose, and land that is of spiritual or cultural significance that has been declared so by resolution with the approval of the Minister for Aboriginal Affairs.
Rail infrastructure land owned by a Public transport authority	Land vested in or owned by a public transport agency, for installed rail infrastructure facilities.
Land used for oyster cultivation	Land below high water mark and used for any aquaculture relating to oyster cultivation.

Source: *Local Government Act 1993*, section 555.

Table 5.2 Main land uses exempted from all rates other than water and sewerage charges

Land type	Details
Public places	Includes public reserves, cemeteries and free public libraries.
Mineral claims	Land that is the subject of a granted mineral claim, held under private lease from the Crown.
Public charities	Where the land is used for the purposes of the charity or public benevolent institution.
Public hospitals and other health purposes	Includes land vested in the Minister for Health, the NSW Health Foundation and the local health district.
Universities	Land vested in university or university colleges used solely for its purposes.
Special listed groups	Sydney Cricket Ground, Zoological Parks Board (exempt under regulation 123), Royal Agricultural Society, Museum of Sydney and Museum of Contemporary Art.
Cattle dipping	Land leased to the crown for cattle dipping.

Source: *Local Government Act 1993*, section 556.

5.1.1 How exemptions compare with tax principles

Exemptions are a subsidy to the exempt land use that is funded by local ratepayers. In considering exemptions, the key questions that arise are whether a subsidy is appropriate, and if so, what is the correct level of subsidy and who should pay for it.

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:

- ▼ If the benefits of an exempt activity are largely confined within the local government area boundary, then it may be appropriate for local ratepayers to fund the cost of the exemption.
- ▼ 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.⁴⁰

We have done some preliminary analysis on exemptions using the tax principles discussed in Chapter 3. This analysis is based on the overall impacts of exemptions on the community, businesses and other levels of government, and is discussed below.

Efficiency

Rate exemptions can have a positive or a negative impact on economic efficiency. For example, exemptions that result in larger spending on goods and services that produce large net social benefits may increase economic efficiency. This could include the exemptions provided to some education institutions and hospitals.

Exemptions may also prevent extra costs being imposed on state and federal governments when they provide public goods such as national parks, protected forests, and public places. The tax base of state and federal governments may be less efficient than council rates in funding public goods.

However, the provision of rate exemptions narrows the tax base, increasing the level of taxation for remaining ratepayers. This could have a negative impact on economic efficiency as, all else being equal, a higher rate of tax will cause larger changes in behaviour.

Exemptions may also change land use away from what would have occurred without any exemptions. Exemptions that do not provide substantial benefits to the community are inefficient if they stop land being put to its best use.

⁴⁰ An example might be the Royal Flying Doctor Service which provides health services across all outback areas.

5 Assessing exemptions, concessions and rebates

The exemptions provided to organisations may also encourage them to overuse council services, if they are not required to pay for direct costs, such as water and sewerage services.

Equity

Rate exemptions are subsidised by local ratepayers. This may be equitable when the exempt activity provides a large benefit to local ratepayers, or where the exempt organisation has limited ability to pay.

For example, some religious or charitable institutions may have limited ability to pay rates. Exemptions may allow them to spend more on social goods such as helping the disadvantaged in the local area, which results in more equitable outcomes for society.

Public schools and hospitals also can provide large social benefits and may have limited ability to pay rates without reducing service levels, or shifting additional costs onto state and federal budgets.

In addition, rate exemptions for commercial activities, such as the logging of state forests, mining or oyster cultivation, may not be equitable. The enterprises that undertake these activities generally have the ability to pay rates. Therefore, it may be more equitable to require them to make some contribution to local rates, especially where the activities are pursued for private profit.

Simplicity

Having a large number of exemptions will increase the complexity of the rating system. Increased complexity could result in higher costs of administering and monitoring exemptions. Exemptions should be kept to a minimum to promote simplicity, and only granted, or retained, where there are clear net benefits from doing so. NSW legislation has progressively provided for a larger number of exemptions. There may be scope for these to be rationalised.

Conditions that apply to exemptions should be objective, transparent and targeted to minimise the extra burden on local rate payers and the scope for disputes on eligibility. Furthermore, the costs of administering exemptions, monitoring compliance and determining eligibility should be low.

Sustainability

Broader tax bases tend to be more sustainable, as they can collect more revenue, tend to be more able to withstand volatile economic conditions and less susceptible to tax avoidance. Exemptions reduce the size and diversity of the rate base, and therefore may compromise sustainability.

Rate exemptions may especially compromise sustainability if:

- ▼ the existing rate base is small (eg, in rural and remote local government areas) and
- ▼ the exempt institutions impose substantial additional costs in the local government area (eg, forest logging causing road degradation).

Competitive neutrality

Competitive neutrality requires businesses competing with each other to be treated in a similar way. If rate exemptions are provided to government enterprises or charitable institutions that compete with the private sector, such as retirement villages or child care centres, this may result in the private sector incurring higher costs than the institutions receiving exemptions. Efficiency losses can occur if this cost disadvantage causes more efficient private providers to reduce, or to withdraw, the supply of services. In such cases, removing or narrowing the exemption may result in better outcomes.

5.1.2 Options for exemptions in a future NSW rating system

Our preliminary analysis suggests there could be several alternatives to exemptions for some of the land uses that are currently exempt from rates. These include removing the exemption for some land use categories, narrowing the exemption, giving councils discretion over the level of exemption, and replacing some exemptions with rebates.

Removing exemptions

There are several reasons that it could be appropriate to remove an exemption for a land use category. These include where:

- ▼ the exemption does not provide sufficient public benefits for the local community
- ▼ commercial activity is being carried out on the land providing the land owner with the capacity to pay rates
- ▼ the use of the land is contributing to substantial extra costs for the council, or
- ▼ the land owner is receiving substantial private benefits from council services.

Narrowing the exemption

Exempt land is sometimes used for more than one activity. In situations where a commercial activity is located on exempt land, it may be appropriate to levy rates on the portion of land used in profit generating activities. For example, this could allow commercial activities located within education or charitable institutions to be separately identified and have rates levied on the land associated with the activity, while the remainder of the institution retains the exemption.

5 Assessing exemptions, concessions and rebates

Tighter targeting of exemptions may have merit on equity and competitive neutrality grounds, and may lead to more efficient land use decisions being made. However, it might sometimes be difficult in practice to identify the proportion of the land used in profit-generating activities.⁴¹

Giving councils more discretion over the level of exemptions

Local councils do not have discretion on the granting or level of exemption for land use types listed under sections 555 and 556 of the LG Act. For some of these land use types, such as public charities, it may be more equitable if councils were given some scope to reduce the level of exemption below 100%. Councils could determine the level of exemption depending on factors such as whether public benefits flowed mainly to the local community or more broadly.

Flexibility could be achieved either by allowing councils to determine the level of exemption for certain activities, or allowing them to make additional rating categories and subcategories for these activities. However, this additional flexibility could result in an increased number of disputes if ratepayers disagree with the level of exemption offered by council.

Replacing exemptions with rebates

It may be appropriate to replace some exemptions with rebates. A rebate could be a partial reduction in rates payable for those land users that meet eligibility criteria, or who make an application to the council.

Some of the advantages of using rebates are that they:

- ▼ make the associated costs more transparent, and tend to receive greater scrutiny, ensuring the original intent of the policy is maintained
- ▼ can better and more narrowly target particular activities and land uses that generate high public benefits
- ▼ provide a mechanism to give varying levels of rate relief rather than the 'all or nothing' approach under the current exemptions, and
- ▼ can provide a mechanism for state and local governments to share costs in granting rate relief, which may be appropriate where the public benefits from the activity flow widely.

Examples where rebates may be a better policy than a full exemption include government land supplying services that are sold, such as rail infrastructure land, water corporation land, the Sydney Cricket Ground, and the Museum of Sydney.

⁴¹ An example where this may be difficult is where a university partners with a private firm in undertaking research.

5.1.3 Councils also receive exemptions from tax

Local government also receives exemptions from paying state and federal government taxes, such as payroll tax, stamp duty and income tax. Therefore, in conducting further analysis we will take a holistic approach. That is, we will also look at the consistency and efficiency of tax arrangements between levels of government overall – including the exemptions councils receive as well as those they are required to provide.

If some exemptions councils are required to provide are changed, it may also be appropriate to review some exemptions they receive. Any changes should improve overall efficiency, equity and competitive neutrality.

IPART seeks comment

- 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?
- 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?

5.2 Concessions for pensioners

Our terms of reference require us to consider the appropriateness and impact of mandatory concessions, and also take account of the NSW Government's commitment to providing rate concessions to pensioners.⁴²

The Government introduced mandatory pensioner concessions for council rates and charges in 1989. Under the current scheme, eligible pensioners⁴³ are required to apply to their local council to receive a 50% discount on their combined ordinary council rates and waste service charges, up to a maximum of \$250 per annum.⁴⁴ The cost of providing this discount is shared between the NSW Government (55% or \$76 million) and the local council (45% or \$62 million).⁴⁵

⁴² Office of Local Government, *Independent Local Government Review Panel recommendations – NSW Government Response*, September 2014, p 4.

⁴³ Eligible pensioners are residential property owners who hold a pensioner concession card (PCC), hold a Gold card embossed TPI (Totally and Permanently Incapacitated), hold a Gold card embossed EDA (Extreme Disability Adjustment), or are a war widow or widower or wholly dependent partner entitled to the DVA income support supplement.

⁴⁴ See Office of Local Government, *Factsheet: Pensioner Concessions on Council Rates and Charges*, 2011. Available at: <https://www.olg.nsw.gov.au/sites/default/files/Pensioner-concession-factsheet-2011.pdf>, accessed 17 March 2016.

⁴⁵ Panel Report, p 40.

5 Assessing exemptions, concessions and rebates

NSW councils can also voluntarily offer additional concessions to pensioners.

5.2.1 What pensioner concessions are available in other jurisdictions

Table 5.3 compares the NSW concession scheme with pensioner concessions available in other states. While the quantum of concession offered is comparable, there are a few key differences in pensioner concessions across states:

- ▼ In all states other than NSW, the funds for the concession are wholly provided by the relevant state or territory government. In NSW, these costs are partially recovered from other ratepayers.
- ▼ In South Australia and Western Australia, there are arrangements for pensioners to defer the payment of a portion of their rates.

Table 5.3 Pensioners' concessions on rates across Australia

	Type of Relief	Value of relief	Funding source
NSW	Concession only	50% discount, up to \$250 pa	55% state 45% council
VIC	Concession only	50% discount, up to \$213 pa	100% state
QLD	Concession only	20% discount, up to \$200 pa	100% state
WA	Concession or rate deferral	50% discount	100% state
SA	Rate deferral only	All rates in excess of \$500 pa	100% state
NT	Concession only	62.5% discount, up to \$200 pa	100% state
TAS	Concession only	30% discount, up to \$425 pa	100% state

Note: Figures as at 16 March 2016.

Sources: NSW *Local Government Act 1993*, NSW *Local Government Regulation 2005*, *Local Government Act 1989* (VIC), *Local Government Act 2009* (QLD), *Local Government Regulation 2012* (QLD), *Local Government Act 1999* (SA), *Local Government (General) Regulation 2013* (SA), *Local Government Act 1995* (WA), *Local Government (Financial Management) Regulation 1996* (WA), *Local Government Act 1993* (Tas), *Local Government Act 2008* (NT), NTPCCS Policy Manual, January 2016.

In South Australia, the Postponement of Rates Scheme allows retirees to postpone paying council rates and finance them through a loan against the equity in the home.^{46,47} Ratepayers incur interest on the outstanding amount set at the council's average borrowing cost and compounded monthly. This accrued debt is payable when the property is sold or transferred to someone else.

⁴⁶ For details, see *Local Government Act 1999* (SA), section 182A and *Local Government (General) Regulations 2013* (SA), regulation 18.

⁴⁷ Prior to 2015, the South Australian government also offered a pension concession of up to \$190. In 2015, this pensioner concession was replaced with a broader 'cost of living' concession of up to \$200 for pensioners and low income earners. For more details, please see: Government of South Australia, *Cost of Living Concession*, available at: <http://www.sa.gov.au/concessions/costofliving>, accessed 23 March 2016.

5.2.2 Analysis of pensioner concessions using tax principles

Pensioner concessions have a number of impacts on both local councils and other ratepayers.

- ▼ To the extent they are not financed by the state government, they reduce the contribution pensioners make towards council revenue. This narrows the rate base, and thus reduces economic efficiency.
- ▼ Pensioner concessions also result in a subsidy to pensioners who own property, and those who will inherit their estate. The cost is borne by taxpayers and other ratepayers. Such a redistribution can be inequitable.
- ▼ The impact of the pensioner concession is not evenly distributed as it results in a greater burden on councils and ratepayers in areas with a high proportion of pensioners. These may be low income areas, particularly in rural areas which have seen a net emigration of younger households.

The design of the current concession scheme in NSW (ie, a 50% or \$250 discount, whichever is lower) promotes equity because the discount it provides is likely to be worth relatively more to pensioners with lower value properties and less ability to pay. It also ensures the overall growth in the cost of the scheme is contained over time. However, it also decreases the real value of the concession by inflation or about 2.5% per year.

5.2.3 Options for pensioner concessions in a future NSW rating system

There are several options that could be considered for pensioner concessions, each of which will achieve different objectives. These include:

- ▼ **Retaining the current concession scheme.** This option meets current welfare objectives and is consistent with the NSW Government's commitment to providing rate concessions to pensioners. However, the Panel suggested "it is doubtful whether funding such a concession ought to be a local government (or even state government) function within Australia's federal system".⁴⁸
- ▼ Replacing the current concession scheme with a **rate deferral scheme** as occurs in South Australia. This option could better ensure asset-rich, income-poor ratepayers are not adversely affected by council rates. This option would also lower the cost to councils and government.
- ▼ **Introducing an asset test** that limits eligibility for the concession where the property is over a certain value (for example, \$1 million). This option prevents ratepayers subsidising pensioners who are asset-rich.

IPART seeks comment

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

⁴⁸ Panel Report, p 40.

6 Freezing existing rate paths for newly merged councils

For councils that merge as part of the *Fit for the Future* process, the NSW Government has announced a policy of freezing their existing rate paths for four years. The aim of this policy is to provide ratepayers with certainty about their rates.⁴⁹ Our second task in this review is to recommend a legislative and regulatory approach to implement this policy.

The sections below outline:

- ▼ our interpretation of the policy and how it affects each element of the rating system for newly merged councils, and
- ▼ the legislative and regulatory options for implementing this policy.

6.1 IPART's interpretation of existing rate path freeze policy

We interpret the Government's policy to mean that for the four years after a *Fit for the Future* merger, rates would continue to be set in each pre-merger council area so that the rate path in that area follows the same trajectory as if the merger had not occurred. That is, this rate path should comprise the pre-merger council's general income⁵⁰ in the year the merger takes place,⁵¹ adjusted by the following two external factors:

1. the rate peg OR any special variation approved for the council prior to its merger, and
2. the expiry of any temporary special variations that applied to the council prior to its merger.

IPART seeks comment

- 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?

⁴⁹ NSW Government, *Media Release – Stronger Councils for Sydney and Regional NSW*, at <https://www.nsw.gov.au/media-releases-premier/stronger-councils-sydney-and-regional-nsw>, 18 December 2015, accessed 16 March 2016.

⁵⁰ This is income derived from ordinary rates, special rates and specified annual charges (section 505 of the *Local Government Act 1993* (NSW)). Special rates and charges for water and sewerage are not included in a council's general income.

⁵¹ That is, the financial year beginning 1 July.

6.1.1 What about new special variations?

Under our interpretation of the rate path freeze policy, a merged council would generally not be eligible for new special variations during the rate path freeze period. However, we propose they should retain the discretion to apply for new special variations in three limited circumstances. Specifically, new special variations:

1. where former Crown Land has been added to their rating base during the freeze period⁵²
2. for development contributions that are 'above the cap' under the *Environmental Planning and Assessment Act 1979* (NSW),⁵³ and
3. to fund new infrastructure projects in their area by levying of a special rate.⁵⁴

Adding former Crown Land to a merged council's rating base may lead to higher demand for its services and an increase in its costs. Therefore, merged councils should have the discretion to apply for a special variation to their general income (above the rate peg limit) to take account of this cost increase.

Development contributions are payments by developers to councils that are used to fund community facilities and infrastructure for new developments. If a council's development contributions for an area exceed the relevant cap,⁵⁵ the council may seek to fund the gap by applying for a special variation.^{56,57} Merged councils should be able to apply for this type of special variation during the freeze period, otherwise it could limit the funds available for a new development's facilities and infrastructure.

Similarly, merged councils should be able to apply for special variations to fund new infrastructure projects. While such special variations may reduce certainty for some ratepayers about the amount of their rates during the freeze period, the alternative may cause councils to reduce their infrastructure development below that required by the community during this period.

⁵² Provided that the special variation only applies to the general income of the council whose pre-merger area now includes the former Crown Land.

⁵³ Provided that the contributions are only recovered through special rates on parcels of land that will benefit from the development.

⁵⁴ The special rate would be levied under Section 495 of the LG ACT.

⁵⁵ Local development contributions are capped at \$30,000 per residential lot or dwelling for greenfield areas, and \$20,000 per residential lot or dwelling for all other areas (Minister for Planning direction under section 94E of the *Environmental Planning and Assessment Act 1979* (NSW)).

⁵⁶ Office of Local Government, *Guidelines for the preparation of an application for a special variation to general income for 2016/17*, January 2016, p 23.

⁵⁷ Alternatively, a council may seek to fund this gap by applying for government funds under the Local Infrastructure Growth Scheme (<http://www.planning.nsw.gov.au/About-Us/Our-Programs/Local-Infrastructure-Growth-Scheme>, accessed 30 March 2016).

6 Freezing existing rate paths for newly merged councils

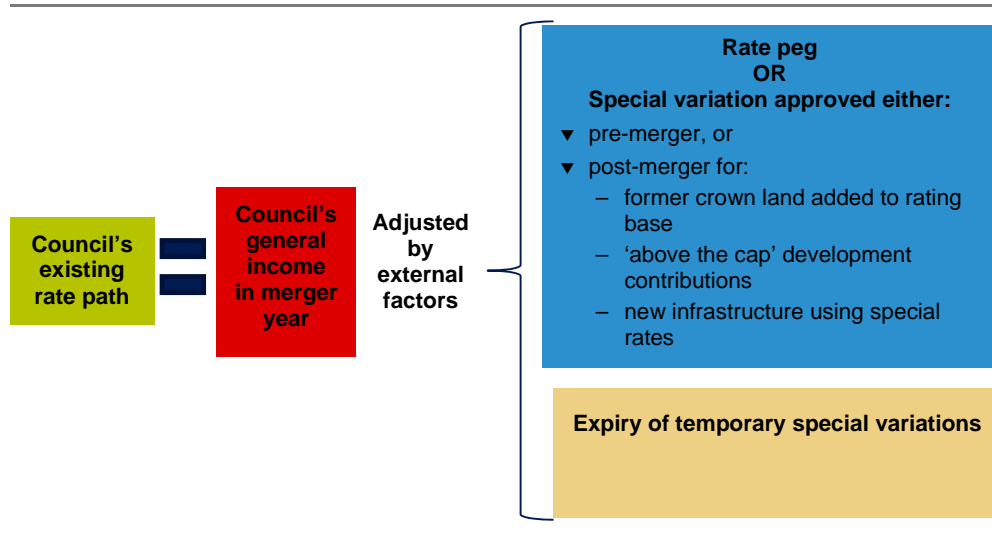
This third discretion, if allowed, would be granted only in very limited circumstances. That is:

- ▼ to fund **new infrastructure**
- ▼ using a **special rate**, and
- ▼ the special rate would only be levied on parcels of **land that benefit** from the infrastructure.

Councils would need to apply under the special variation process for approval of this special rate.

Figure 6.1 illustrates our interpretation of a pre-merger council’s existing rate path, including new special variations that it would be able to apply for in limited circumstances.⁵⁸

Figure 6.1 A pre-merger council’s existing rate path over the rate path freeze period (including new special variations)



⁵⁸ The merged council would be the actual entity that applies for the new special variation. This special variation, if approved, would then only impact on revenue that the merged council can recover from the pre-merger council area that contains the former Crown Land, new development or new infrastructure project (as applicable).

IPART seeks comment

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

6.1.2 What discretions will merged councils have in setting rates during the rate path freeze period?

Under our interpretation of the rate path freeze policy, the rates⁵⁹ payable on each parcel of land should only change as a result of external factors (eg, rate peg), and **not** as a result of the council merger. In other words, the pre-merger council’s existing rate paths for all categories and sub categories of land will **also** follow the same trajectory as if the merger had not occurred.

Therefore, merged councils will have limited discretion as to how they set rates. For example, during the freeze period, merged councils would not be able to redistribute their rating burden between:

- ▼ the pre-merger council areas that make up the new merged council area
- ▼ base or minimum amounts and ad valorem amounts, or
- ▼ rating categories⁶⁰ within the pre-merger council areas.

Otherwise, the rates collected from each ratepayer may not be consistent with the Government’s objective of providing rate certainty.

Changes to the amounts within a rate structure

As Chapter 2 outlined, local councils may calculate rates using an:

- ▼ **ad valorem amount** (ie, a variable charge calculated as a percentage of the unimproved land value of the rateable property), which may be subject to a **minimum amount**, or
- ▼ **ad valorem** amount plus a **base amount** (ie, a fixed fee levied equally on all properties within a given category).

⁵⁹ That is, those rates that generate the rate revenue that is included in a council’s general income.

⁶⁰ In this section, each reference to ‘category’ should be read as ‘category (or subcategory)’.

6 Freezing existing rate paths for newly merged councils

We consider that merged councils should only be able to increase base amounts and minimum amounts each year by the rate peg percentage, subject to:

- ▼ base amounts and minimum amounts being adjusted for any relevant existing or expiring special variations, and
- ▼ where the minimum amount is set at the maximum limit under the LG Act, it continue being set at this limit.

Changes to rates by rating categories

Ordinary rates are levied on rateable land. This land is divided into four categories: residential, business, farmland and mining. Councils may further divide these categories into subcategories.⁶¹

Changes to a council's rating burden arise from increasing its general income by the rate peg each year.⁶² This changed rating burden then needs to be distributed among ratepayers. We propose that merged councils should not have the discretion to determine which rating category should bear the changed rating burden. Instead, rates for each category should either vary according to:

- ▼ the relative change in the total land value of that rating category against other categories within the pre-merger council area (**relative change method**), or
- ▼ the rate peg, to fix the percentage share of rates revenue in each rating category (**fixed share method**).

Under the relative change method, the increase in rates for each category would be determined by relative changes in land value. Business and residential land categories would bear the change in rates in proportion to their relative change in land values. For example, if business land values increased by more than residential land values, business rates would increase by more than residential rates. The combined increase in these rates would then match the increase in council rates permitted under the rate peg. Under this method, changes in rates would be driven solely by the rate peg and changes in relative land values.

Under the fixed share method, rates for each category of land would be increased by the rate peg (irrespective of changes in land values).

We propose councils would have discretion to allocate the changed rating burden each year either by the **relative change method** or the **fixed share method**.

⁶¹ Only on the basis of criteria specified in the *Local Government Act 1993* (NSW).

⁶² In this section, each reference to 'the rate peg' should be read as 'the rate peg (or any applicable special variation)'.

Discretion to set rates below the maximum

The rate path freeze policy acts as a 'ceiling' on rate increases, in that it determines the maximum rates that merged councils can charge in each pre-merger council area during the freeze period.

However, councils would have the discretion to set their rates below this ceiling for any rating category,⁶³ particularly in view of the substantial financial savings that could be generated by the mergers.⁶⁴ This option provides councils with the flexibility to begin implementing a fair and equitable rating system in the lead up to the end of the freeze period. This issue is discussed in detail in Chapter 7.

IPART seeks comment

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

To further explain our interpretation of the Government's policy, Table 6.1 outlines how each element of the current rating system would operate during the freeze period.

⁶³ Under our proposed approach, if a council chooses to charge a rating category below the maximum, it would not be able to charge another rating category above its maximum to recover the foregone revenue.

⁶⁴ According to a report prepared by KPMG on behalf of the NSW Government, the proposed mergers have the potential to generate a net financial benefit to councils of around \$2.0 billion across over the next 20 years (NSW Government, *Local Government Reform: Merger impacts and analysis*, December 2015, p 2).

6 Freezing existing rate paths for newly merged councils

Table 6.1 Rating system during the rate path freeze period

Element of rating system	How element would operate during rate path freeze period
Rate peg	<ul style="list-style-type: none"> ▼ The rate peg would continue to be set in the current way.
General income	<ul style="list-style-type: none"> ▼ The maximum general income of a merged council would be the sum of the 'maximum general incomes' calculated for each pre-merger council area, which are calculated separately using general income in merger year adjusted by the rate peg and other external factors listed in Figure 6.1. ▼ Where a pre-merger council area is split between multiple newly merged councils, calculation of the 'maximum general income' would require the newly merged councils to consider all land within the entire pre-merger council area.
Ordinary rates, rate structure	<ul style="list-style-type: none"> ▼ Different rate structures would apply within merged council areas. Rates revenue would be set based on the rates in each pre-merger council area, and would only vary according to the rate peg, changes in land values, and other external factors listed in Figure 6.1. ▼ The ad valorem amount in any ordinary rate would only be adjusted for changes in the rate peg and other external factors. ▼ The base amount or minimum amount in any ordinary rate would only be adjusted by the rate peg. ▼ Councils would not be eligible to apply to set their minimum amount above the level set out in the LG Act and LG Regulation. ▼ Where any active variations of minimum amounts have been already approved, these could also increase by the rate peg. ▼ Merged councils would not be able to determine new categories or subcategories of land, or to combine existing subcategories of land, for existing ratepayers.
Ordinary rates, rating categories	
Special rates, within general income	<ul style="list-style-type: none"> ▼ Where a special rate is not the subject of an existing temporary special variation, it would be treated in the same way as an ordinary rate. ▼ Where a special rate is the subject of a temporary special variation, it would remain at the level approved under the special variation until the special variation ends. After that, the council would no longer be able to levy the special rate.
Annual charges and special rates, outside of general income	<ul style="list-style-type: none"> ▼ Annual charges and special rates outside of general income would continue to be set as they are currently set. ▼ The planned Emergency Services Property Levy, announced by the NSW Government on 10 December 2015, would not be affected by the rate path freeze policy.
Special variations	<ul style="list-style-type: none"> ▼ Any existing temporary special variations would continue to apply until they expire. ▼ Merged councils would generally not be able to apply for special variations during the freeze period. However, we propose that special variations could be allowed: <ul style="list-style-type: none"> – where former Crown Land has been added to the rating base – for development contributions that are 'above the cap' under the <i>Environmental Planning and Assessment Act 1979</i> (provided that the contributions are only recovered through special rates on parcels of land that will benefit from the development), or – for other special rates for new infrastructure (provided the special rate is levied on parcels of land that will benefit from the new infrastructure).

6.2 Options for implementing the rate path freeze policy

Legislative change would be required to implement the rate path freeze policy. It could not be achieved under the *Local Government Act 1993* (LG Act) in its present form.

We have identified three possible approaches to implementing the rate path freeze policy. These approaches are outlined below, in IPART's order of preference.

6.2.1 Option 1: Amend the LG Act to introduce a new instrument-making power

The LG Act could be amended to provide for a new instrument or regulation-making power. This instrument would need to be able:

- ▼ to vary or displace current provisions in the LG Act as they apply to a newly merged council during the four years following the merger, and
- ▼ to impose obligations during the four years following the merger for the purpose of implementing the rate path freeze policy.

For example, the instrument-making function could be given to the Minister for Local Government. Amendments to the LG Act could require the instrument to set out a methodology that merged councils must apply when setting their rates.

This broader instrument-making power would need to strike a balance between providing the flexibility to implement a complex rate-setting mechanism that may require adjustments, and providing some certainty around the rate path freeze policy.

6.2.2 Option 2: Amend the LG Act to expand the Governor of NSW's proclamation power

This option would broaden the Governor's existing merger proclamation power under section 218A of the LG Act. To implement the rate path freeze policy, the expanded proclamation power would allow the Governor to displace certain provisions of the LG Act as applied to merged councils, and impose obligations during the four years following the amalgamation – the same as the instrument-making power under Option 1.⁶⁵

⁶⁵ Such a proclamation-making power would be closer in scope to the power to make 'restructuring orders' under Part 10C of the *Local Government Act 1989* (Vic).

6 Freezing existing rate paths for newly merged councils

For this option to be effective, the legislative amendments would need to commence before the Governor makes any merger proclamation. While Option 2 would require slightly less substantial amendments to the LG Act than Option 1, it provides less flexibility in relation to timing. It would also require the mechanism for the rate path freeze to be duplicated in each merger proclamation.

6.2.3 Option 3: Providing for the rate path freeze entirely through amendments to Chapter 15 of the LG Act and LG Regulation

This approach would involve substantial amendments to the LG Act and LG Regulation. While this would provide greater certainty than the previous options, it would increase the complexity of these instruments, as the entire rate-setting mechanism to apply during the freeze period would need to be set out in these instruments.⁶⁶

IPART seeks comment

- 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?

⁶⁶ The amendments would need to create temporary, sometimes partial, exceptions that apply only to newly merged councils where existing provisions conflict with the rate path freeze (such as sections 493(2), 495, 497, 498(3), 499(1) and (4), 529(1) and (3) and 548(1)).

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

After the 4-year rate path freeze expires, merged councils will be required to set new rates across the whole post-merger area. As part of our review, we will consider any issues that might arise in setting equitable rates or transitioning to them in a fair and timely manner, and analyse how these issues could be addressed. In doing so, we will take account of the NSW Government's commitment to protect NSW residents against excessive rate increases.

At this stage, we have identified two issues related to:

- ▼ the current requirement to set a single residential rate within a centre of population (rate equalisation), and
- ▼ the treatment of special variations approved for a pre-merger council.

The sections below discuss each of these issues and the options for addressing them.

7.1 Residential rate equalisation within a centre of population

There are no specific provisions in the LG Act addressing the levying of rates following a merger of several councils. However, Section 529(2)(b) of the LG Act specifies that councils are only allowed to set different residential rates within a local government area on the basis of two subcategories, specifically "whether the land is rural residential land or is **within a centre of population**".⁶⁷

⁶⁷ The Office of Local Government revenue raising manual provides guidelines for interpreting the "within a centre of population" definition. It states that:

- "Separate towns or villages may be regarded as discrete centres 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 subcategorisation on the basis of centres of population may have limited application within the suburbs of the main urban centres."

For more details, see Department of Local Government, *Council Rating and Revenue Raising Manual*, 2007, p 23.

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

In practice, this means councils must set the same residential rate **within a centre of population**. 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 when the ordinary rate is made on 1 July 2020 after the rate path freeze expires.⁶⁸

Rate equalisation may cause excessive rate change

The requirement to equalise residential rates within a centre of population could expose some Sydney residential ratepayers to large rate increases following the expiry of the rate path freeze. The issue may also arise with some regional mergers. That said, council mergers are expected to deliver cost savings for the merged council areas, so these cost savings could be used to offset rate increases. Nevertheless, large residential rate increases could still occur in some instances.

For example, when a council that levies low residential rates per dollar of land value merges with another that levies high residential rates per dollar of land value, it could lead to substantial rate increases for some homeowners and commensurate decreases for others.

To illustrate this, consider two merging councils, Council A and Council B, that:

- ▼ each collected the same amount of local rate revenue prior to their merger, but
- ▼ Council A levied residential rates at 0.1% per dollar of land value, and Council B levied residential rates at 0.2% per dollar of land value.

Under the current LG Act, residential rates need to be equalised in first the year after the rate path freeze ends, which could cause a once-off increase in rates of 33% in Council A's area and a once-off fall of 33% in Council B's area.⁶⁹

During our *Fit for the Future* assessments in 2015, some councils provided evidence to IPART that under rate equalisation their residents may be exposed to rate rises of between 20% and 50%.⁷⁰

⁶⁸ In contrast, councils will be able to levy different rates for businesses in different centres of activity. In other words, councils will be able to charge different rates for businesses in different suburbs.

⁶⁹ These rate changes may be reduced if the council adopted base amounts in the new rating structure.

⁷⁰ Please refer Council Improvement Proposals, available at the IPART Fit for the Future website: http://www.ipart.nsw.gov.au/Home/Industries/Local_Govt/Fit_for_the_Future

Other examples include:

- ▼ When councils that have different rating structures merge, rate equalisation could result in sizeable rate changes for individual residential ratepayers. This could occur when a pre-merger council which extensively used minimum or base amounts merges with another council that only used ad valorem amounts.
- ▼ When councils that set different residential rates based on higher/lower service levels merge, the equalised post-merger rates could increase substantially in the lower service/lower rate pre-merger council area. Thus, ratepayers in that area would cross-subsidise those in the higher service council area over the short to medium term.

These issues are less likely to arise for rural councils that merge, as residential rural land typically comprises separate towns or villages, and the LG Act states that these can be regarded as discrete centres of population. Thus, there is no requirement for merged rural councils to set a single residential rate for the whole merged area.

7.1.2 Options for addressing issues related to rate equalisation

We have identified several options for addressing the issues arising from rate equalisation across merged council areas after the rate freeze expires. These include:

- ▼ removing the rate equalisation requirement from the LG Act
- ▼ allowing merged councils to gradually equalise rates after the rate freeze expires, and
- ▼ using other potential changes to the rating system to offset the impact of rate equalisation.

Remove the rate equalisation requirement

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 excessive rate rises by setting different residential rates within the enlarged post-merger area.

If implemented, the existing merger proposals would result in much larger council areas in Sydney. This raises the question whether rate equalisation within a population centre remains an appropriate principle. Larger councils may need to have some capacity to charge different residential rates based on local considerations.⁷¹

⁷¹ Different local rates could be based on local factors such as the demand for, or cost of supply of, local government services.

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

However, if this requirement were removed, it may be important to place additional obligations on councils to protect local ratepayers from inequitable rates.⁷² For instance, councils might only be allowed to set rates within a defined range.

Allow merged councils to gradually equalise rates

Instead of requiring merged councils to instantaneously equalise residential rating structures after the rate path freeze expires, councils could be allowed a longer time period to adjust rates for the merged council. This could:

- ▼ allow the council to smooth rate changes for residents, especially if the council is also implementing other rating or merger reforms
- ▼ give the council more time to adjust service levels across the enlarged post-merger area, and
- ▼ provide greater time for the merger savings to be realised which could reduce the size of any rate increases that may be needed.

A local council could be given the option when transitioning to the new system of restricting real rate changes to no more than 5% per year (or some other percentage).

Use other changes to the rating system to offset rate increases

In this Issues Paper, we have identified a number of options for reform to the current rating system. If implemented, these changes would have impacts on the distribution of the rating burden across merged council areas. These changes could also offset the impact of the rate equalisation requirement.

For example, Chapter 4 identified a number of options to provide councils with more flexibility to choose a valuation base for levying rates, and with varying base and minimum amounts. This flexibility could be used by merged councils to smooth the impact of the merger on the ratings burden within the local community.⁷³

IPART seeks comment

- 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?

⁷² Section 8(1) of the LG Act does require councils “to raise funds for local purposes by the fair imposition of rates”.

⁷³ For example, a shift to CIV would be expected to reduce the gap between the value of apartments and houses for the purposes of rating. To the extent that properties with higher assessed land values – typically houses – could face large rate increases following the expiry of the rate path freeze, a shift in the ratings method could reduce the magnitude of rate increases for these properties.

7.2 Approved special variations for merged councils and other issues

A council that has been merged may have had a special variation approved prior to the merger. As discussed in Chapter 6, under our interpretation of the rate path freeze, the general income of a merged council during the rate path freeze would include any extra revenue from special variations that have been approved for pre-merger councils. As the pre-merger council ceases to exist after a merger, the special variation approved prior to the merger, and the extra permissible revenue associated with it, also legally ceases to exist.

To address this issue, IPART interprets the rate path freeze to mean that the general income of the larger merged council should include any extra revenue from special variations that have been approved pre-merger. The extra revenue from approved special variations would be included in the merged council's rate base both during the 4-year rate freeze and afterwards.⁷⁴

This policy would apply to both approved special variations operating only during the 4-year rate freeze and those of longer duration.

To do this, the Governor's merger proclamation power could be used to include any approved special variations in the rate base of the merged council.⁷⁵

IPART seeks comment

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

⁷⁴ Temporary special variations would drop out of the rate base when they expire as would have occurred if a merger had not taken place.

⁷⁵ The Governor's proclamation could include facilitating provisions that allow the merged council to recover the additional revenue the pre-merger council would have recovered under an already approved special variation.



Appendices

A Terms of Reference



Dr Peter Boxall AO
Chairman
Independent Pricing and Regulatory Tribunal
PO Box K35
HAYMARKET POST SHOP NSW 1240



Reference: A1444504

18 DEC 2015

Dear Dr Boxall ^{Re: term}

Pursuant to section 9 of the *Independent Pricing and Regulatory Tribunal Act 1992*, I am writing to request the Tribunal undertake a review of the Local Government rating system in accordance with the attached Terms of Reference.

The implementation of an efficient and equitable rating system is a key component of the Government's *Fit for the Future* reforms, and will ensure all councils are able to implement sustainable fiscal policies and reforms over the longer-term.

Critically, the Tribunal's review should seek to recommend a legislative or regulatory approach to support the Government's policy of freezing existing rate paths for a period of four years for councils that merge as part of the *Fit for the Future* process.

An interim report outlining options and recommendations to achieve this commitment should be provided to the Minister for Local Government within six months. A final report addressing all aspects of the terms of reference should be provided to the Minister within 12 months.

Should you have any questions or wish to discuss this matter further, please contact Mr John Clark, Executive Director, Local Government Reform on 9228 3570 or john.clark@dpc.nsw.gov.au

Yours sincerely

MIKE BAIRD MP
Premier

End: Terms of Reference, Local Government Rating System in NSW

A Terms of Reference

Terms of Reference**The Local Government Rating System in NSW**

I, Mike Baird, Premier of New South Wales, approve the provision of services by the Independent Pricing and Regulatory Tribunal (IPART) under section 9 of the *Independent Pricing and Regulatory Tribunal Act 1992 (IPART Act)* to the Minister for Local Government for the review of the local government rating system in accordance with these 'terms of reference'.

General

IPART is to undertake a review to identify and make recommendations for potential reforms to the rating system for local government in NSW. These recommendations will aim to:

- Enhance the ability of councils to implement sustainable and equitable fiscal policy and
- Provide the legislative and regulatory approach to achieve the Government's policy of freezing existing rate paths for four years for newly merged councils.

In investigating and making recommendations for this review, IPART is to consider:

- a) the performance of the current rating system and potential improvements, including consideration of:
 - the rating burden across and within communities, including consideration of apartments and other multi-unit dwellings;
 - the appropriateness and impact of current rating categories and exemptions, mandatory concessions and rebates;
 - the land valuation methodology used as the basis for determining rates in comparison to other jurisdictions;
 - the impact of the current rating system on residents and businesses of a merged council and the capacity of the council to establish a new equitable system of rating and transition to it in a fair and timely manner.
 - the objectives and design of the rating system according to recognised principles of taxation.
- b) current examples of municipal best practice rating policies and schemes;
- c) the impact of the current and alternative frameworks for the rating system on communities and businesses and their capacity to pay; and
- d) any other matter IPART considers relevant.

In undertaking its review under these Terms of Reference, IPART is to take account of:

- the importance of Integrated Planning and Reporting in determining the revenue required to deliver services and infrastructure;
- the current financial sustainability of local government in NSW, including the findings and deliberations of the NSW Treasury Corporation report *Financial Sustainability of the NSW Local Government Sector, 2013*;
- the findings and deliberations of the Independent Local Government Review Panel and subsequent Government response;
- the NSW Government's policy of encouraging urban renewal; and
- the NSW Government's commitment to protect NSW residents against excessive rate increases and to providing rate concessions to pensioners.

Public consultation

IPART should consult with relevant stakeholders and NSW Government agencies by releasing an Issues Paper and Draft Report for their review on the IPART website. IPART should also consult with the Fit for the Future Ministerial Advisory Group.

IPART may also hold public hearings for the purposes of this review.

Timeframe

An interim report with recommendations on the legislative and regulatory approach to achieve the Government's policy of freezing existing rate paths for four years for newly merged councils should be submitted to the Minister for Local Government within 6 months of signing of the Terms of Reference.

A final review report should be formally submitted to the Minister for Local Government within 12 months of signing of the Terms of Reference.

Governance

IPART should provide progress briefings at regular intervals or as requested to the Chief Executive, Office of Local Government.

The Minister for Local Government will decide on the timing of release of the final report.

Supporting information and recommendations

IPART is to collect relevant material and data to establish the impacts to councils, communities and NSW of the current rating system, and to provide reasons for any recommendations for reform.

A Terms of Reference

Background

The Independent Local Government Review Panel (Panel) made a number of recommendations regarding general reform of the local government system in NSW, including options to strengthen the revenue base of local government.

As part of its response to the Panel, the NSW Government has agreed to commission IPART to undertake a further review of the rating system reflecting on issues raised by the Panel regarding the equity of the current system.

The Government also committed to introduce a new Local Government Act from 2016. This review will inform the rating provisions in the new Act.

B Reports to be considered by IPART

B.1 TCorp Report on Financial Sustainability

Following an assessment of 152 NSW councils, the 2013 TCorp report into financial sustainability of NSW councils⁷⁶ made a number of key findings, including:

- ▼ Operating deficits are unsustainable – only one third of councils in 2012 reported an operating surplus. Over the period 2009 to 2012, the cumulative operating deficit of NSW councils totalled \$1.0 billion.
- ▼ The total infrastructure backlog of NSW councils had reached \$7.2 billion by 2012.
- ▼ Financial sustainability is deteriorating with 50% of councils' financial outlook likely to be rated 'weak' or lower by 2016-17.
- ▼ A large asset management gap exists within the sector with a \$389 million deficit in 2012 alone.
- ▼ Councils need to start consulting their communities about ways to either increase revenue, lower existing service levels and or standards, and pursue efficiency savings.

Fit for the Future council submissions showed improved financial sustainability

IPART assessed 144 Fit for the Future (FFTF) proposals from NSW councils against a number of criteria, including financial criteria, and published its final report, *Assessment of Council Fit for the Future Proposals* in October 2015.

In its FFTF assessments in 2015, IPART only found 27 of 144 councils, or 19%, as not meeting the financial criteria because of continuing operating deficits over the next five to 10 years.

In addition, the infrastructure backlog had substantially reduced since the TCorp report. The TCORP backlog of \$7.2 billion in 2012 corresponded to an average backlog ratio of about 13%. By contrast, in FFTF councils reported an average backlog ratio of 6.5% in 2014, with councils' forecasting this ratio to fall to about 2.5% by 2020.

⁷⁶ NSW Treasury Corporation, *Financial Sustainability of the NSW Local Government Sector, Findings Recommendations and Analysis*, April 2013.

B Reports to be considered by IPART

A major driver for this reduction was a re-estimation of depreciation schedules. Councils in FFTF typically used depreciation lives of between 55 to 100 years.

B.2 Independent Local Government Review Panel Final Report (Panel Report)

The NSW Government in April 2012 appointed the Independent Local Government Review Panel to review the NSW Local Government sector, including a review of the local government rating system. The Panel Report contained a number of key recommendations, which are summarised in Box B.1 below.

Box B.1 Independent Local Government Review Panel – key reform recommendations relating to the rating system

- ▼ Set local rates for apartments and other multi-unit dwellings more equitably and efficiently, in order to raise more revenue. Councils could be given the option of using Capital Improved Value (CIV) or the market value of the property to levy residential rates (p 40).
- ▼ Reduce or remove excessive rating exemptions and concessions that are contrary to sound fiscal policy and jeopardise councils' long-term sustainability (p 39).
- ▼ Some concessions for disadvantaged ratepayers are justified, but social welfare should not be a local government responsibility. Arrangements for pensioner concessions should be reviewed (p 40).
- ▼ Streamline the special variation process, or provide earned autonomy from rate-pegging for some councils, or replace rate-pegging with a new system of 'rate benchmarking' (p 42).
- ▼ Reduce the number of councils, particularly in Sydney, to create higher capacity councils that can better partner with the State Government in developing Sydney (p 72).
- ▼ The government consider giving larger councils in inner Sydney expanded responsibilities. These councils could use increased rates revenue to contribute more to sub-regional infrastructure and transport projects, freeing up state resources to be spent elsewhere (p 102).
- ▼ Commission IPART to undertake a review of the rating system (p 55).

Source: Independent Local Government Review Panel, *Revitalising Local Government*, October 2013.

B.3 NSW Government response to the Panel

The Government response to the Panel Report's recommendations on the rating system is set out below.

Table B.1 Government response to selected ILGRP Recommendations

Recommendation on a review by IPART	Commission IPART to undertake a further review of the rating system focused on: <ul style="list-style-type: none"> ▼ Options to reduce or remove excessive exemptions and concessions that are contrary to sound fiscal policy and jeopardise councils' long term sustainability. ▼ More equitable rating of apartments and other multi-unit dwellings, including giving councils the option of rating residential properties on Capital Improved Values, with a view to raising additional revenues where affordable.
Position	Supported
Government Response	The Government notes the issues raised by the Panel in relation to the equity of the current rating system. It remains committed however to protecting ratepayers from unfair rate rises and to providing rate concessions for pensioners. The Government will commission IPART to conduct a rating review to reflect these issues.
Recommendations on current rating system	Either replace rate-pegging with a new system of 'rate benchmarking' or streamline current arrangements to remove unwarranted complexity, costs, and constraints to sound financial management.
Position	Supported
Government Response	The Government is committed to a rating system that protects local ratepayers from unfair rate rises. It recognises however the improvements in council strategic planning under IP&R and therefore supports removing unwarranted complexity, costs and constraints from the rate-peg system, where there is evidence that the council has taken steps to reduce unnecessary costs before seeking to impose an increased burden on ratepayers. The OLG will work with IPART to amend the guidelines to develop a streamlined process for <i>Fit for the Future</i> councils wanting to increase rates above the rate peg, and to offset revenue loss through Financial Assistance Grants (FAGs) redistribution.

Source: Office of Local Government, *NSW Government Response: Independent Local Government Review Panel recommendations and Local Government Acts Taskforce recommendations*, September 2014, pp 4-5.

The Government also responded to the Panel's analysis on council mergers by commissioning IPART to conduct an analysis of councils' FFTF proposals. The IPART *Assessment of Council Fit for the Future Proposals* released in October 2015 found 57 councils were fit and 87 councils were not fit.

B.4 Integrated Planning and Reporting

The Integrated Planning and Reporting (IP&R) framework requires NSW councils to prepare:

- ▼ a 10-year Community Strategic Plan, which identifies long term priorities
- ▼ a Resourcing Strategy (comprising a Long Term Financial Plan of at least 10 years, an Asset Management Plan and a Workforce Plan)

B Reports to be considered by IPART

- ▼ a 4-year Delivery Program, which identifies service and works at a program level that are to be funded, and
- ▼ a 1-year Operational Plan (containing an annual budget).

IP&R enables councils to better achieve community priorities from effective planning, to meet the community's expectations about service levels and funding priorities. IP&R should underpin decisions on the revenue required by each council.

The special variation guidelines and IPART's assessment process are based on an expectation councils will have engaged the community in a discussion on the funding required through the IP&R process.

C Recent reviews relating to council rates

Productivity Commission Review (2008)

The Productivity Commission report, *Assessing Local Government Revenue Raising Capacity*,⁷⁷ released a number of findings regarding the local government rating system.

- ▼ Rates are a relatively efficient tax base, creating no or few distortions in choice (p 139).
- ▼ Metropolitan councils have good capacity to increase revenue through raising residential rates (p 64).
- ▼ Council rate revenue is not constrained by the valuation methodology adopted (p 102).
- ▼ Differential rating provisions increase the capacity of councils to raise revenue from property rates, by allowing councils to structure rates based on capacity to pay and benefits received (p 104).
- ▼ In principle, using UV is more economically efficient than CIV, as CIV may distort land use decisions away from capital improvements. In practice, the low level of rates across Australia means the efficiency effect of one methodology over another is likely to be relatively small (p 102).
- ▼ Rate pegging in NSW and the partial reimbursement of concessions has limited NSW councils' ability to increase their level of own source revenue (p XXXIII).

IPART Review of State Taxation (2008)

IPART was asked to recommend reforms to the NSW tax system. The Final Report, *Review of State Taxation, Report to the Treasurer*, was published in October 2008.⁷⁸ Among other matters, the report recommended the NSW Government should:

- ▼ increase reliance on broader based, simpler and more transparent taxes that facilitate modern business practices (p 7)

⁷⁷ Productivity Commission, *Assessing Local Government Revenue Raising Capacity*, Research Report (Productivity Commission Report), April 2008.

⁷⁸ IPART, *Review of State Taxation - Final Report*, October 2008.

C Recent reviews relating to council rates

- ▼ reduce reliance on inefficient, distorting taxes in favour of more neutral taxes. Payroll and land taxes are reasonably efficient, whereas stamp duty and insurance taxes are inefficient (p 7)
- ▼ over the long term develop a strategy for increasing property holding taxes (eg, broadening the land tax base, increasing the land tax rate and/or increasing municipal rates on land values) to fund substantial reductions in purchaser transfer duty and insurance taxes on a revenue-neutral basis (p 10)
- ▼ remove the payroll exemption for councils and lower the rate over time (p 8)
- ▼ remove the levy on insurance companies to fund the fire service and instead fund fire services with an increase in council rates⁷⁹ (p 9)
- ▼ broaden the base of land tax to include owner occupiers to fund a reduction in purchaser transfer duties (p 119), and
- ▼ introduce new environmental levies, congestion taxes, parking charges and road pricing (p 11).

IPART Revenue Framework for Local Government (2009)

The NSW Government requested IPART to review the framework for regulating council rates and charges.⁸⁰

- ▼ The report found whilst rate pegging had limited NSW councils' rates revenue to a level below that of the other states, when user fees and charges were taken into account, rises in total council own source revenue was broadly the same for NSW and the other States (p 4).
- ▼ IPART recommended a more flexible approach to rate increases rather than just rate pegging. The Government subsequently adopted IPART's recommendations in establishing the system that is currently in place where (p 8):
 - each year IPART calculates the percentage change in the local government cost index - adjusted for productivity, and advises the Minister
 - the Minister advises the rate peg for the following year, and
 - the Special Variation process allows councils to apply for one or multi-year price paths above the rate peg.

⁷⁹ This recommendation has subsequently been adopted by the NSW Government. For more details, please see NSW Government, Media Release - Stronger Councils for Sydney and Regional NSW, at <https://www.emergency.nsw.gov.au/media-releases/2015/nsw-moves-to-a-fairer-system-for-funding-fire-and-emergency-services.html>, 10 December 2015, accessed 16 March 2016.

⁸⁰ IPART, *Revenue Framework for Local Government - Final Report*, December 2009.

Henry Tax Review (2010)

The Report on Australia's Future Tax System (Henry Tax Review)⁸¹ had a number of findings and recommendations in relation to the local government rating system.

- ▼ Council rates are an effective and efficient broad based tax.
- ▼ Councils should be given more autonomy in setting rates (ie, as councils are answerable to residents there is no need to impose rate pegs) (Recommendation 120).
- ▼ There are arguments for and against using either Capital Improved Value (CIV) or Unimproved Value (UV) as a rate base (p 692).
 - Under the 'benefits tax' view, CIV is the better approach because it recovers spending on local public goods that benefit the property owner.
 - Under the 'capital tax' view, UV is better as it does not distort the decision to invest.
- ▼ Distortions and efficiency costs from CIV are small.
- ▼ Over time, many inefficient state taxes such as stamp duty should be abolished, and the revenue collected as an integrated rates bill (Recommendation 121).
- ▼ Government grants to councils should be on a needs basis with no minimum guaranteed grant (p 694).
- ▼ As the owners of 80% of Australia's roads, councils should be entitled to receive money from congestions charges, and a proportion of the money collected from heavy vehicle mass distances charges (p 696).

New Zealand Local Government Funding Review (2015)

A discussion paper by the National Council of Local Government New Zealand in February 2015, *Local Government Funding Review*, highlighted the following.⁸²

- ▼ The report recommended New Zealand councils make greater use of existing revenue tools particularly user charges for services such as water, waste management and sewage disposal (p 43).
- ▼ Debt funding, particularly for inter-generational asset investment is underutilised meaning that current generations of ratepayers are disproportionately covering the cost of infrastructure (p 77).
- ▼ General rates are roughly progressive: higher value properties pay more. However, land based businesses such as farming may be disproportionately affected (p 54).

⁸¹ *Australia's future tax system*, Final Report, May 2010.

⁸² National Council of Local Government New Zealand, *Local Government Funding Review*, Discussion Paper, February 2015.

C Recent reviews relating to council rates

- ▼ The report is critical of rate exemptions imposed by the central government, arguing that they are in effect a forced contribution by the local government to the funding of these services. Where these exemptions exist the report argues that they should be the result of a localised exemption decided at the local council level (p 58).
- ▼ New Zealand councils have the authority to set their own rates remission policies, including rate postponement for ratepayers over 65. This gives older 'asset rich/cash poor' ratepayers the option of postponing some or all of their rates for a fixed or indefinite period subject to interest charges and administrative costs (p 62).

D | Rating Practices in Other Jurisdictions

Table D.1 Council rating methodology across Australian

	NSW	VIC	QLD	SA	WA	TAS	NT
Valuation method	UV	Councils may choose from: <ul style="list-style-type: none"> • UV • CIV • ARV 73 of 79 Councils use CIV, the rest use ARV	UV	Councils may choose from: <ul style="list-style-type: none"> • UV • CIV • ARV 60 out of 68 councils use CIV	<ul style="list-style-type: none"> • Rural land – UV • Non-rural land – ARV • UV mandatory for mining and petroleum interests 	Councils may choose from: <ul style="list-style-type: none"> • UV • CIV • ARV 24 out of 29 Councils use ARV, the remaining 5 use CIV	Councils may choose from: <ul style="list-style-type: none"> • UV • CIV • ARV All councils use UV
Base amount (Fixed charge)	Option for base amounts by land use category, up to 50% of general revenue for that category	Option for 'municipal charge' up to 20% of sum total of general revenue and revenue from municipal charges	No option for base amount	Option for base amount, up to 50% of general rates	No option for base amount	Option for base amount of up to 50% of general rates	Multiple base amounts for different purposes according to land use/location categories
Minimum amount or rate	Option for minimum amount up to a legislated ceiling for ordinary and special rates	No option for minimum amount	Option for differential minimum amount by land use categories	Option for minimum amount application for up to 35% of properties. It cannot be used in addition to a base amount	Option for differential minimum amounts for up to 50% of premises, unless capped at \$200	Option for minimum amount, but it cannot be used on top of a base amount	Option for different minimum amounts according to land use/location categories
Rate categories	Option for differential rates across four land use categories and multiple subcategories	Option for differential rates across multiple land use categories	Option for differential rates across multiple land use categories	Option for differential rates across nine land use categories, with option for specified land location categories	Option for differential rates across multiple land use categories	Option for differential rates across eight land use categories; no restriction on land location categories	Option for differential minimum amounts in addition to fixed charge

Sources: IPART staff research, NSW *Local Government Act 1993*, NSW *Local Government Regulation 2005*, *Local Government Act 1989* (VIC), *Local Government Act 2009* (QLD), *Local Government Regulation 2012* (QLD), *Land Valuation Act 2010* (Qld), *Local Government Act 1999* (SA), *Local Government (General) Regulation 2013* (SA), *Local Government Act 1995* (WA), *Local Government (Financial Management) Regulation 1996* (WA), *Local Government Act 1993* (Tas), *Local Government Act 2008* (NT).

Notes: UV denotes Unimproved Value, CIV denotes Capital Improved Value, ARV denotes Annual Rental Value.

Table D.2 International Jurisdictions

Country	Method	Comments
New Zealand	CIV, UV or ARV	Revalued every 3 years with values approved by NZ Valuer General.
Canada	CIV	Market value is assessed by relevant bodies. Average rates vary widely across Canada.
UK	CIV using bands	The UK uses banded market value, with the number of bands varying throughout the UK.
Ireland	CIV using bands	20 bands of property value are defined and rates are charged progressively. The first 19 bands cover properties valued up to €1.0m, with rates for each band 0.18% of the mid-point of the band. The 20th band covers properties valued above €1.0m, with a tax rate of 0.18% applied to first €1.0m, and 0.25% on remaining value above €1.0m. Councils can reduce the LPT charge, and in 2016, 11 local authorities reduced their LPT rate by 1.5% to 15%.
USA	CIV	The median rate in each state varies between 0.18% to 1.89% of market value of the property.
Denmark	UV	The municipal real estate tax rate is levied on the land value. The tax rate is between 1.6% and 3.4%, varying depending on the location.
Singapore	ARV	Property tax rates on owner-occupied (7 bands) and non-owner occupied (5 bands) residential properties are applied on a progressive scale. All other properties continue to be taxed at 10% of the ARV.
Hong Kong	ARV	Rateable values are reviewed annually. Exemption is available to premises below a prescribed rateable value. No distinction made between owner occupied property or otherwise.

Sources: IPART staff research;

<http://www.localcouncils.govt.nz/lqip.nsf/wpgurl/About-Local-Government-Local-Government-In-New-Zealand-Council-funding>

http://www.cscd.gov.bc.ca/Lgd/library/revenue_source_review/An%20Analysis%20of%20Property%20Taxation.pdf

<https://www.gov.uk/government/statistics/council-tax-levels-set-by-local-authorities-in-england-2011-to-2012>

<http://www.revenue.ie/en/tax/lpt/liability.html>

<http://www.tax-rates.org/taxtables/property-tax-by-state>

<http://www.globalpropertyguide.com/Europe/Denmark/Taxes-and-Costs>

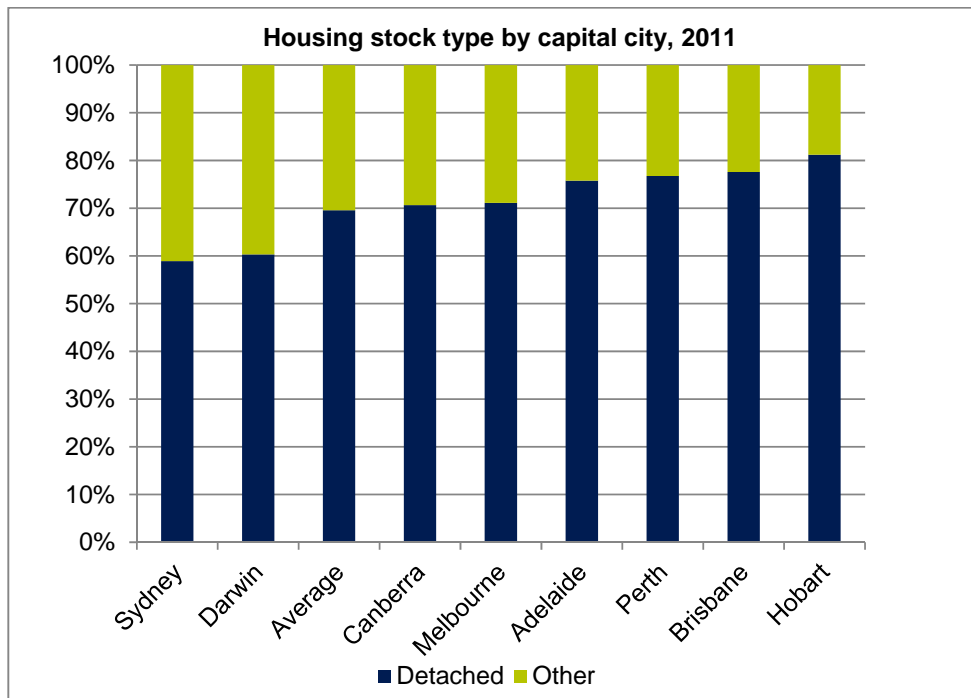
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<http://www.rvd.gov.hk/en/faqs/rates.html>

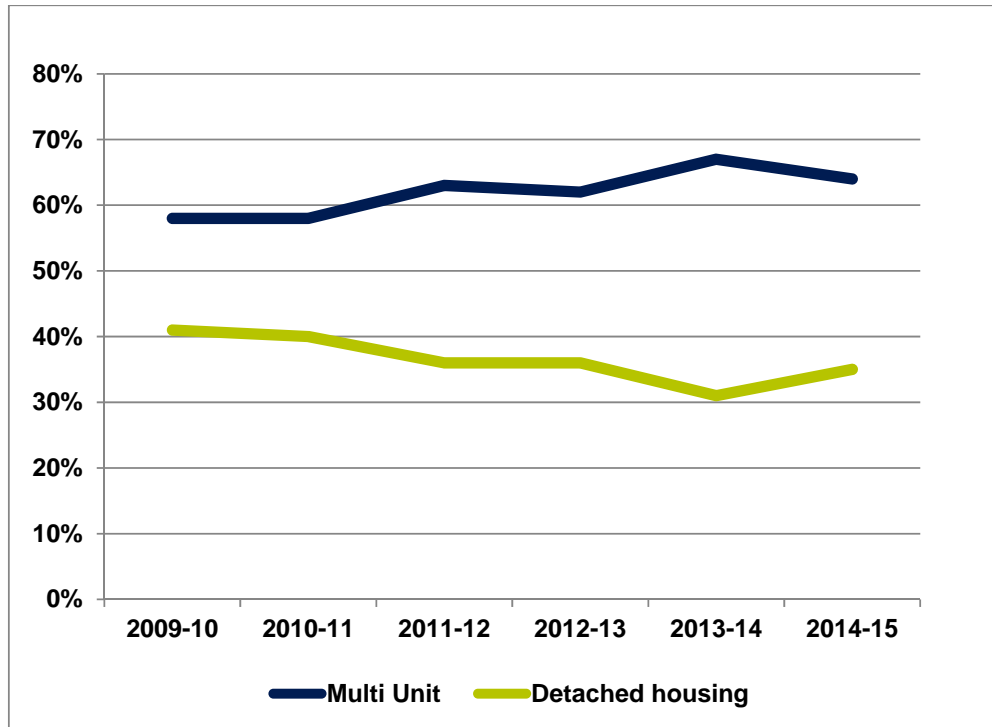
E Housing Composition in Sydney

Figure E.1 shows Sydney has the highest proportion of multi-unit dwellings of Australia’s capital cities at 40%, compared with 20% to 30% in other capital cities, and 30% Australia wide.

Figure E.1 Dwelling type percentages by capital city



Data source: ABS, 2011 Census of Population and Housing.

Figure E.2 Dwelling approvals by type in Sydney

Data source: Department of Planning & Environment, Annual Report 2014-15; ABS, Building Approvals, Australia, Cat. No. 8731.0.

The proportion of apartments in Sydney is rising over time. Figure E.2 shows:

- ▼ In 2009-10, detached housing was 41% of total Sydney approvals and multi-unit dwellings comprised 58%.
- ▼ By 2014-15, detached housing was just 35% of approvals with multi-unit dwellings comprising 64%.⁸³

Consequently, the appropriate treatment of multi-unit dwellings in council rate bases will be an increasingly important issue for NSW, and Sydney in particular, because the proportion of apartments is rising over time.

⁸³ Department of Planning & Environment Annual Report 2014-15, p 30. Multi-unit dwellings include apartments, villas, townhouses, terraces and semi-detached homes.

ATTACHMENT B

Review of Issues Paper for the Review of Local Government Rating System

List of Issues on which comment is requested.

Taxation Principles

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

Yes Council agrees with the proposed principles of taxation:

- *Efficiency – given they are a wealth tax on land or property values*
- *Equity – given they are based on the property value, therefore increase with greater land value or implied greater wealth.*
- *Simplicity – they are easily understood, they are difficult to avoid, as property is immovable*
- *Sustainability, they are enduring and should grow with economic development.*
- *Competitive neutrality should be maintained as Councils have the ability to establish rates based on levels of service and based on similar amounts in like business areas.*

They are reasonably stable, visible and accountable.

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 valuation method, as occurs in other states, or should a valuation method continue to be mandated?

The valuation method currently in use ie unimproved land value (UCV), does not adequately cover undeveloped land and land with multi-story buildings. To cover for these examples and other development / property or rating anomalies the capital improved value (CIV) may be a better basis for rates calculations, and is more readily understood by the public.

The use of CIV adding value to a number of issues is raised throughout this paper.

Important to note that if the same valuation method is not mandated then neighbouring councils may implement very different models for their ratepayers and hence drive behaviours across council borders, causing competitive neutrality issues, along with inequities and inconsistencies, particularly when comparing the basis of rates for different council areas.

The negative in using a CIV is a possible detrimental impact on investment within the Local Government area.

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)?

Most valuations are done by local firms on behalf of the Valuer General, so making a change to who can do these valuations may not make a significant difference to the work being carried out. Given that most of these valuations are now a desk top review, as opposed to field work, a review of the costing structure might also be timely. In conjunction with this more regulation over the increases to valuation might be opportune to keep these within a "rate peg" structure. Any objections to valuations would still need to go through the Valuer General Department.

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?

The use of a base or minimum rate ensures that all rate payers are paying the same amount to cover public good or those which provide collective benefits ie parks, roads etc.

However the maximum of 50% towards base rate could be more flexible in terms of allowing a slightly higher proportion of rates to be collected as a base to cover public goods provided and less reliance on the ad valorem driving incremental income which is based on the wealth of the landowner. ie if land values go up higher in one area over another there will be a greater shift in rates, with a higher ad valorem.

But overall no significant issues to this remaining as is.

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

There are a couple of issues with rating categories which needs to be addressed:

- a. Currently bed and breakfast, serviced apartments and holiday accommodation is rated within either the business or the residential rating category, depending upon whether the definitions can be established. However to have clarity or further definitions around these type properties would benefit when trying to rate these dwellings, therefore a separate category/ies for Bed and Breakfast/Service Apartments/Holiday accommodation is recommended, with clarity around the definitions to enable ease of definition and therefore rating. Some of the criteria which could be used in determining these type dwellings would be:
 - I. The property is advertised for use
 - II. They have 3 beds or more available for use
 - III. They are utilised for more than 100 nights per year
 - IV. They are registered as business with an ABN
 - V. They can be managed or owned
 - VI. Links to the ATO data for level of income ie over \$20,000 from these type activities.

These properties would be rated within this category in the first instance and then have an option to appeal if they can prove they are residential or business

- b. Everything that does not fall into the Residential, Farming or Mining categories falls by default into the Business category, however some things do not fit within this category ie grave sites, jetties, non descript small parcels of land of low value would be unfairly rated if a

- base or minimum rate were to be applied. Another category for low value, low usage land would improve equity of these ratings.*
- c. The Centre of Activity wording for the basis of a rate sub category can also cause issues as some categories would be better placed being based on the type of activity or population as opposed to where they are located, eg industrial properties might be scattered in a number of different locations within the Local Government area as opposed to one location, therefore 2 (or more) sub categories would be required, as opposed to one for the like type businesses.*
 - d. The Rural Residential Rate Sub Category causes a lot of confusion with ratepayers and councils alike particularly with the definition surrounding the restriction on land size and occupation conditions. Either the conditions need to be reviewed and amended or this Sub Category should be removed.*
 - e. There could be some merit to a "vacant land" category also, (only applied if UCV is maintained and Developer Allowances removed) to allow a lower rate to be charged where land is not in use. However, this may increase speculative holding of lands, and may increase incentives to hold lands and by default discourage development.*
 - f. The Mining category should be expanded to allow for types of mines other than that of metalliferous and coal (including sand mining).*
 - g. Separate categories for Crown land/Reserves, Defence, Private Schools / Universities or Government Organisations which may be valued at a subsidised level to other rating categories. Much of this land would need to have new valuations done by the Valuer General, as currently many of these properties are not valued. Rates should be charged at full commercial rates where the State/Federal Government are operating commercial activities eg State Forests.*
 - h. A full review of the criteria defining non rateable properties is required as Section 555 & 556 are outdated and onerous. ie a building occupied by a teacher or caretaker, land belonging to a school being a government school or a non – government school, land belong to a public benevolent institution or charity particularly given the current concerns with CHP's having such a large impact on council revenue etc etc*

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

With the current system and the proposed merger of councils one of the key issues raised has been the level of rates in one LG area to the other merger proposal area. This is obviously driven by the level of service provided in each council, along with differing land values in each Local Government area. However there will be significant issues when trying to bring the two disparate systems together into one rating system.

Given that the Shoalhaven is a major tourist attraction during the summer season, Council spends significant monies during these months to cater for tourists, at the expense of local rate payers. This is not something which can be fixed through the rating system, however Grant funding from State and Federal Government (currently via FAGS) should cater for this cross subsidisation.

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?

In terms of the rate peg the IPART calculations for the Local Government Cost Index do not take into consideration key variations to costs within specific Councils, see examples below for Shoalhaven City Council:

- a. The award increase for wages will be 2.8% for 2016/17. The LGCI used 2.4%*
- b. Step changes for employees were not considered which are 2.5% for approx. 50% of the employee base ie an additional 1.25% increase in wages*
- c. Contracted electricity increases at a maximum of 27% over the next three years. The LGCI used a reduction of 6.6%*
- d. The requirements to maintain expenditure on roads and infrastructure at 3% incrementally year on year, as well as try to increase the overall maintenance carried out across Council. The LGCI used 1.3% for Road, footpath, kerbing, bridge and drain building materials*
- e. Increases in depreciation due to revaluation of assets, which can add millions to Council's cost structure, thereby affecting the operating result before capital grants, which is one of the key measures for Fit for the Future.*
- f. Emergency Services Levy at 1.5%, whereas the increase for Shoalhaven for Emergency services was \$811k, an increase of 79% on the out year budget*

It would be more beneficial to allow Councils to make the calculation as to what the rate peg should be, taking into account Council specific costs and then putting a proposal to IPART to approve the recommended adjustment to rates.

Perhaps a template to capture this data would be appropriate for comparative purposes with other Councils. The requirement to submit this document might only apply if the increase to be requested is over a certain threshold ie > 2% of average household income.

With regard to Special Rate Variations, there are a number of factors to consider – there is considerable effort involved in applying for a special rate variation from both a Council and an IPART perspective, a simpler approach is required.

If a Council has included the Special Rate into their IP&R documentation, held community consultation and the increase is within the 2% of average household income then there should be no need for further approval, as covered above.

If the increase is above this amount the process could be streamlined to the following:

- a. Confirmation the proposed rate increase is included in IP&R documentation*
- b. Confirmation that community consultation has been carried out*
- c. Completion of the Local Government Cost Index (LGCI)*
- d. Acceptance of proposal by IPART*

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

By utilising Capital – Improved Value, it may assist mums and dads and Developers until developments are up and running or homes completed, as they would be rated on land value which will be lower than the improved value. Administering this process could be difficult although some suggestions are:- at practical completion of the project or occupancy certificate (interim or final) stage for a residential dwelling or when bins are being ordered for a property a CIV is requested from the VG or Council apply a higher ad valorem rate to vacant land (no base rate) or two valuations are

granted for vacant land with the second valuation being a proposed valuation for a developed site based on surrounding CIV which the property owner could have the option of objecting to based on VG criteria for objections.

Incentives might be better placed in the contributions plan for Developers.

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

Agree the current process of accumulating interest at 8.5% does deter somewhat from speeding up collections. It also is a constant issue with rate payers the high level of interest charged. The rate is so far out of alignment to current interest rates also, given that returns from banks on large investments are in the high 3's.

The recent increases in legal costs to take overdue rates through court are as a deterrent for Councils.

Any pensioner deferral policies in place also make it difficult to manage debts.

One area for improvement would be coordinating with Centrelink to take rates payments out of all pensions before payment to the individual. This would speed up collection processes, spread payments out for pensioners and reduce outstanding. If this were to happen, a review of the current cost per transaction would need to be carried out, given that the current charge is .90 cents per transaction per month.

Another ongoing issue for Council is electronic serving of rates notices, this needs to be addressed in any changes to the rating system, such that the guidelines are very clear. This should by default speed up delivery and payment of rates if using electronic means and be more cost effective based on the increasing cost of postal services.

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?

All properties categorised as residential or business and occupied should be rateable regardless of ownership as ALL such properties utilise Council services, and in some cases provide a greater drain on Council resources than rateable properties. See below examples of issues with the current arrangement which need to be addressed to relieve the burden on local ratepayers within the LG area.

- a. *Defence land being non rateable where there is significant impact on local infrastructure, eg the Beecroft Weapons Range in Currarong, NSW (Land holding of \$2.8m). Defence are carrying out works within the range which results in substantial road activity by large truck and trailer combinations. This causes the condition of the road to deteriorate, requiring*

Council to allocate funds for its repair. Defence should work with Councils in areas of substantial activity to devise a long term plan to upgrade roads and maintain them accordingly. To upgrade roads to cater for increased activity would possibly be funded by Grant funding, however from an ongoing perspective Defence should be accountable for paying rates to maintain the road quality. This area is also a tourist site and attracts large numbers of tourists to the area who utilise (but do not pay for) Council resources.

- b. Burrill Lake Tourist Park is owned by Royal Australian Navy Central Canteen Board. They have been receiving non rateable status from at least 2002. The current land value on the property is \$1,500,000. Although the park gives priority to Defence Force personal the park is very popular with the general public and is regularly booked to capacity generating presumably very high returns. The returns from this investment are taken out of the community and result in increased rates for local residents. Any Commercial enterprises, regardless of owner should be rateable.*
- c. Department of Housing currently does not gain exemptions from rating, however when they vest these properties to Community Housing Organisations, these organisations are requesting non-rateability, although the houses are being used for the same or similar purpose. This issues revolve around the definition of benevolent associations, but from a Council perspective to change these properties from rateable to non-rateable would impact significantly on Councils rating income. Regardless of ownership these properties should continue to be rateable.*
- d. From a Department of Housing perspective also they only pay rates when the property in question is occupied. They are very quick to let us know when a property has no tenants but not so quick informing Council when a new tenant has been placed in the property. This results in less revenue for Council. There is no incentive to turn these properties over quickly, so the rateable/non rateable status should not exist.*
- e. For private schools to be non-rateable they must not be operating commercial activities, where they do have commercial operations than they should be rated accordingly.*
- f. Land uses for religious or charitable purposes, if there is a portion of their operations which are profit generating then they should pay rates for this portion.*
- g. Oyster farmers have the ability to earn income from commercial operations so should not be exempt from paying rates. The value of their properties need to be included in the Capital Value and rates charged accordingly.*
- h. Private hospitals and Universities both are commercial operations, so should not be exempt from paying rates, but perhaps are charged under another category at a lower rate.*
- i. National Parks and Crown hold vast areas of land in the Shoalhaven area and need to be rated even if at a reduced rate.*

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?

No comment

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

The financial contribution from Councils to support this scheme increases as the population of the Local Government area ages. The effect on this is further burden on less tax payers, so is neither sustainable nor equitable.

In addition to these limitations, the Council Rebate for water and sewer is a fixed concession for eligible pensioners jointly funded by the NSW State Government and Local Councils. The rebate a pensioner in an area not serviced by Sydney Water or Hunter Water is based on the following as contained within the Local Government Act:

- *50% of a water charge up to a maximum \$87.50 concession*
- *50% of a sewerage charge up to a maximum \$87.50 concession*

So an eligible pensioner in these areas can receive a maximum of \$175 off their total water and sewer charges.

These maximum available concessions have been in place for many years, without any adjustments. Therefore, as water and sewerage bills have increased in real terms over time, pensioner rebates decline in value relative to the total water and sewerage bills.

Councils contribute 45% of these concession costs, through lost income to the water and sewer funds.

The pensioner rebates for eligible Sydney Water customers are calculated in a different way, and are far greater. Those rebates are 100% of the water access charge and 83% of the sewer access charge. These rebates are funded from the state government as CSOs. It is noted that in the 2008 IPART pricing determination for Sydney Water, the following was stated by IPART:

"IPART considers that customer-impact mitigation is primarily the responsibility of the Government as part of its broader social policy. IPART recommends that the Government evaluates the current suite of social programs, along with the enhancements proposed by Sydney Water in its initial submission, to ensure that appropriate measures are in place to assist financially disadvantaged customers....."

The Pension Rebate should be increased with CPI or in line with the Rate Peg and should only apply to aged pensioners or those on disability pensions, therefore not include unemployed or sole parents unless asset tested.

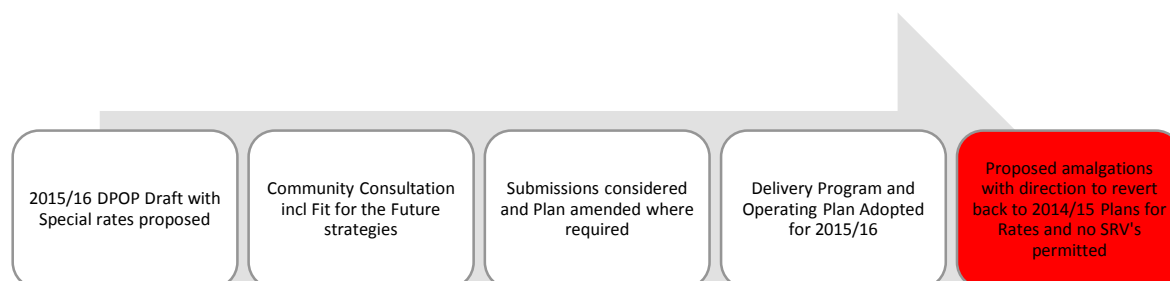
Freezing existing rate paths for newly merged councils

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 we agree with that interpretation. The issue is where one interprets the starting point of the trajectory from. The current information stated publically indicates the starting point is if an IPART SRV has already been approved. This is not the starting point of the trajectory for the rating path. If a Council has undertaken the necessary planning, has consulted with the community, included the proposed rate increases in their DPOP and their Fit for the Future applications then these rate increases are clearly on the Council's rating path and should be permitted in the merged Council. These strategies included a Special rate over 2 years to achieve the desired outcomes. These had been communicated to the community as part of the Delivery Program from 2015/16. However, these plans seem to have been totally ignored from an OLG/IPART perspective and in their place the

OLG/IPART have reverted to plans from 2014/15. If Council is to merge or not then the trajectory from 2015/16 plans should allowed to be followed.

Below is a diagrammatic of the process followed and the point at which the process has been aborted.



14. Within the rate path freeze period, should merged council's 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, no further comment.

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

Merged Councils should also be able to apply for a new special variation under the additional scenarios below:

- a. If it was in their Long Term Financial Plans and community consultation had been previously carried out*
- b. If it is for new infrastructure projects where a special rate is required to be levied ie paper subdivisions*
- c. If an extraordinary situation arises that requires Council to take immediate action to increase the rating base ie a natural disaster or community or global crisis, where funds need to be raised to rebuild infrastructure.*
- d. In circumstances where a local community wants an additional service and is prepared to pay an additional special rate – i.e. Sussex Canal development area to pay a special rate to replace Jetty fees.*

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)?

No, pre-merged Councils should still have the ability to make changes within each individual councils rating structure to account for reallocation of service costs, or more equitable distributions of the rating burden within each of the individual councils. These type changes are made on an annual basis within an individual council and this process should not be stymied.

If a revaluation occurs during the "freeze" period, which for Shoalhaven Council it will then dependent upon how the land values are affected, the current rating structure may need to be reallocated to maintain a fairer rating system.

17. During the rate path freeze period, should merged councils be able to allocate changes to the rating burden across rating categories by either:

- a. Relative changes in the total land value of a rating category against other categories within the pre-merger council area, or
- b. The rate peg (adjusted for any permitted special variants)?

See response to question 16. above.

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?

Agree but don't see this as a practical option for our Council, given the deficits we will be running if a special rate is not permitted. The current rating path trajectory includes a SRV rate increases of at least 7.5%

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

If Councils advance in their merger proposal and start to bring the disparate rating systems onto one system, then Councils should be able to start aligning rates for the two councils into the one structure earlier than the expiration of the "freeze" period.

Council should also be permitted to include any catch-up from previous rating years into their rating base.

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?

Preferred option would be the one:

- a. *With the least administration requirement*
- b. *Which can happen in the shortest timeframe*

- c. *One which can be reverted back easily if/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?

Being able to levy rates within a centre of population will allow Councils to levy rates on two or more distinct pre-merged council areas, so this requirement should be acceptable although not mandatory as it may be more practical to base the rates on like type activities or use which would be more flexible and reduce the need for multiple categories.

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 any special variations approved either prior to the merger or after the merger should be included in the revenue base for the merged council. These increases should only apply to the Council which had them in their plans.

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

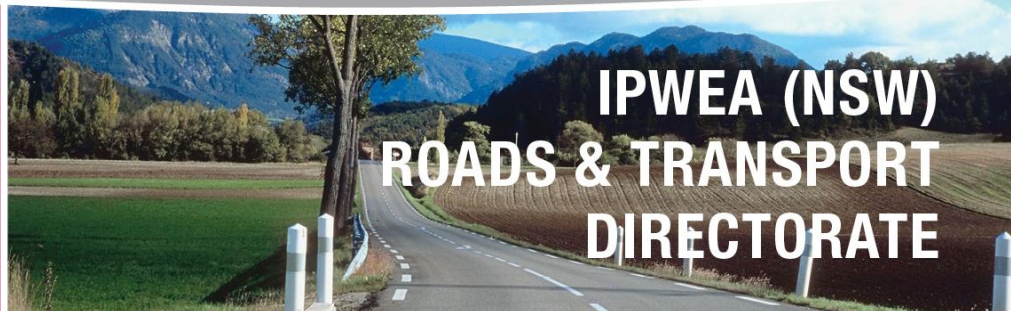
Aligning rates from the two disparate councils will require significant consultation and if a decision is made to align the rates into one residential rate as opposed to two rates for the separate centres of population, then one rate goes up and the other down and if this is the case then a full review of service levels would also be required in both LG areas.

If two different residential rates prevail then the argument will always be there with regard to the different levels of service provided.

Any review of the services provided by either council with a view to include, eliminate or modify services will be a costly and time consuming exercise, given that a lot of community consultation will have to be undertaken. A poor decision by council will have a very negative effect on the ratepayers which will reflect badly on the new council.



New South Wales
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MONDAY 6 JUNE 2016 – PROGRAM for the NSW LOCAL ROADS CONGRESS – *DRIVING A NEW DIRECTION*

8.00am – 9.00am	Registration
9.00am	Welcome Address from Garry Hemsworth , Roads & Transport Portfolio Director, IPWEA (NSW)
9.10am	Opening Address from Cr Keith Rhoades , President, Local Government NSW
9.35am	Keynote Address from Peter Duncan , CEO, RMS on behalf of The Hon. Duncan Gay, MLC , Minister for Roads, Maritime and Freight
10.15am	Morning Tea
10.30am	PLENARY SESSION 1 LOCAL GOVERNMENT REFORM Chair: Ken Halstead The Hon. Paul Toole, MP , Minister for Local Government (Invited) <i>Local Government Reform Driving a New Direction</i> Warren Sharpe OAM , President, IPWEA NSW <i>IPWEA (NSW) Driving a New Direction</i> John Dinan , General Manager Regional Maintenance Delivery, NSW Roads and Maritime Services (Invited) <i>Road Authority Co-operation in NSW – Working with Local Government</i>
12.00pm	Rod Hannifey , Road Transport & Road Safety Advocate, TRUCKRIGHT Industry Vehicle <i>Safety Features of Heavy Vehicles – Including Display Vehicle in Macquarie Street</i>
12.30pm	Lunch
1.30pm	PLENARY SESSION 2 TRANSPORT AND INFRASTRUCTURE Chair: Clr Lindsay Brown John Sidoti, MP , Parliamentary Secretary for Transport (Invited) <i>State Government Regional Freight Initiatives</i> Philip Davies , CEO, Infrastructure Australia (Invited) <i>Renewing Regional and Local Infrastructure – a National Perspective</i> Tim Reardon , Secretary, Transport for NSW (Invited) <i>Engaging with Local Government in Regional Transport Planning</i> Panel Discussion <i>Discussion of Congress Communiqué</i>
3.15pm	Afternoon Tea
3.30pm	PLENARY SESSION 3 ROADS & TRANSPORT Chair: Warren Sharpe OAM Jodi McKay, MP , Shadow Minister for Justice and Police, and Shadow Minister for Roads, Maritime & Freight John Coulton , Chairperson, Australian Rural Roads Group <i>A Regional Productivity Perspective</i> Mick Savage , Manager, Roads & Transport Directorate <i>Adoption of Congress Communiqué</i>
5.00pm	Congress Close
5.30pm	Pre-Dinner Drinks served in the Foyer of the Strangers Dining Room
6.00pm	Congress Dinner commences in the Strangers Dining Room, Parliament House Dinner keynote speaker is to be advised
9.30pm	Dinner Close

Draft Program as at 5 April 2016

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For more information contact the Corporate and Community Services Group

INVESTMENT POLICY

Policy Number: POL15/51 • **Adopted:** 19/06/2001 • **Reaffirmed:** 28/09/2004 • **Amended:** 26/09/2006, 7/10/2008, 1/02/2011, 23/04/2013, 14/10/2014, 10/03/2016 • **Minute Number:** MIN01.788, MIN04.1165, MIN06.1217, MIN08.1339, MIN11.55, MIN13.368, D14/268858 • **File:** 23767E • **Produced By:** Corporate and Community Services Group • **Review Date:**

1. OBJECTIVES

The purpose of this policy is to provide a framework for making decisions concerning the appropriate investment of Council's funds, at the most favourable rate of interest available to it at the time to maximise returns, whilst having due consideration of risk, liquidity and security for its investments.

The policy establishes a series of limits within which Council officers must operate in the planning and process of investing council monies. In setting these limits Council is determining the general level of risk that is acceptable for monies managed on trust for the community of Shoalhaven.

While exercising the power to invest, consideration is to be given to the preservation of capital, liquidity and the return of investment. Council therefore has several primary objectives for its investment portfolio:

- Compliance with legislation, regulations, the prudent person tests of the Trustee Act and best practice guidelines;
- The preservation of the amount invested;
- To ensure there is sufficient liquid funds to meet all reasonably anticipated cash flow requirements; and
- To generate income from the investment that exceeds the performance benchmarks mentioned later in this document.

2. LEGISLATIVE REQUIREMENTS

All investments are to comply with the following:

- Local Government Act 1993;
- Local Government (General) Regulation 2005;
- Ministerial Investment Order;
- The Trustee Amendment (Discretionary Investments) Act (1997) – Section 14;
- Local government Code of Accounting Practice and Financial Reporting;
- Australian Accounting Standards;
- Office of Local Government Investment Policy Guidelines; and

- Office of Local Government Circulars.

3. AUTHORITY

Authority for implementation of the Investment Policy is delegated by Council to the General Manager in accordance with the Local Government Act 1993.

The General Manager may in turn delegate the day-to-day management of Council's investment portfolio to the Responsible Accounting Officer and/or other Finance staff who must ensure adequate skill, support and oversight is exercised in the investment of Council funds.

Officers' delegated authority to manage Council's investments shall be recorded and required to acknowledge they have received a copy of this policy and understand their obligations in this role.

4. RISK MANAGEMENT

Investments obtained are to be considered in light of the following key criteria:

- Preservation of capital – the requirement for preventing losses in an investment portfolio's total value (considering the time value of money);
- Diversification – the requirement to place investments in a broad range of products so as not to be over exposed to a particular sector of the investment market;
- Credit risk – the risk that a party or guarantor to a transaction will fail to fulfil its obligations. In the context of this document it relates to the risk of loss due to the failure of an institution/entity with which an investment is held to pay the interest and/or repay the principal of an investment;
- Market risk – the risk that the fair value or future cash flows of an investment will fluctuate due to changes in market prices, or benchmark returns will unexpectedly overtake the investment's return;
- Liquidity Risk – the risk an institution runs out of cash, is unable to redeem investments at a fair price within a timely period, and thereby Council incurs additional costs (or in the worst case is unable to execute its spending plans);
- Maturity Risk – the risk relating to the length of term to maturity of the investment. The larger the term, the greater the length of exposure and risk to market volatilities; and
- Rollover Risk - the risk that income will not meet expectations or budgeted requirement because interest rates are lower than expected in future

The following indicates the limitations to be applied so as to avoid these risks:

a) Authorised Investments

All investments must be denominated in Australian Dollars. Authorised Investments are limited to those allowed by the Ministerial Investment Order and include:

- Commonwealth / State / Territory Government securities e.g. bonds;
- Interest bearing deposits / senior securities issued by an eligible authorised deposit-taking institution (ADI);
- Bills of Exchange (< 200 days duration) guaranteed by an ADI;
- Debentures issued by a NSW Council under Local Government Act (1993);
- Deposits with T-Corp &/or Investments in T-Corp Hour-Glass Facility; and
- Existing investments grandfathered under the Ministerial Investment Order.

b) Prohibited Investments

This investment policy prohibits the following types of new investment:

- Derivative based instruments¹;
- Principal only investments or securities that provide potentially nil or negative cash flow;
- Stand alone securities issued that have underlying futures, options, forwards contracts and swaps of any kind;
- Mortgage of land;
- Investment trusts, even where the trusts adhere to the Minister’s Order fully with the exception of T-Corp Hourglass Facilities; and
- Any other investment written out of the Minister’s Order.

This policy also prohibits the use of leveraging (borrowing to invest) of an investment. However, nothing in the policy shall prohibit the short-term investment of loan proceeds where the loan is raised for non-investment purposes and there is a delay prior to the expenditure of loan funds.

c) Liquidity and Maturity

Investments should be allocated to ensure there is sufficient liquidity to meet all reasonably anticipated cash flow requirements, as and when they fall due, without incurring the risk of significant costs due to the unanticipated sale of an investment. Therefore, the maturity dates of each investment must be carefully chosen and reviewed to ensure that cash levels are sufficient ~~so as~~ to fulfil these estimated ~~this~~ requirements.

d) Credit Quality Limits

The portfolio credit guidelines to be adopted will reference the Standard & Poor’s (S&P) ratings system criteria and format - however, references to the Minister’s Order also recognises Moody’s and Fitch Ratings and any of the three ratings may be used where available.

However, the primary control of credit quality is the prudential supervision and government support and explicit guarantees of the ADI sector, not ratings.

Where interest rates are comparable between similar potential eligible investments, preference shall be made toward the institution or investment with the higher credit quality. Council must also ensure that the relevant counterparty limits are not exceeded.

The maximum holding limit in each rating category for Council’s portfolio shall be:

Long-Term Rating Range	Maximum % of Portfolio
AAA category	100%
AA category or highly rated banks*	100%
A category	60%
BBB category	40 30%
Unrated category	20 10%

¹ Prohibited investments are not limited to the list above and extend to any investment carried out for speculative purposes.

* For the purpose of this Policy, “highly rated banks” are currently defined as the ADI deposits or senior guaranteed principal and interest ADI securities issued by the major Australian banking groups:

- Australia and New Zealand Banking Group Limited;
- Commonwealth Bank of Australia;
- National Australia Bank Limited; and
- Westpac Banking Corporation (including ADI subsidiaries {such as [Bank of Western Australia](#)[Bankwest Ltd](#)} whether or not explicitly guaranteed, and brands {such as St George}).

Similarly, with other ADI groups (such as Bendigo & Adelaide Bank) own multiple banking licences, rating categories are based on the parent bank even if the subsidiary is not explicitly rated.

Council may ratify an alternative definition from time to time.

In the event of disagreement between agencies as to the rating band (“split ratings”) Council shall use the higher in assessing compliance with portfolio Policy limits, but for conservatism shall apply the lower in assessing new purchases.

e) Counterparty Limits

Exposure to individual counterparties/financial institutions will be restricted by their rating so that single entity exposure is limited, as detailed in the table below. It excludes any government guaranteed investments.

Limits do not apply to Federal or NSW-guaranteed investments, which are uncapped. It should be noted that the NSW government does not guarantee the capital value or unit price of the TCorp Hour-Glass Facilities.

This table also does not apply to any grandfathered managed fund where it is not possible to identify a single counterparty exposure.

Individual Institution or Counterparty Limits	
Long-Term Rating Range	Maximum % of Portfolio
AAA category*	40%
AA category of highly rated banks**	30%
A category	15%
BBB category	10%
Unrated category***	5%

* 100% Commonwealth Government and Government-guaranteed deposits are included in this category, but without any upper limit applying to the government as counterparty.

** For the purpose of this Policy, “highly rated banks” are currently defined as the ADI deposits or senior guaranteed principal and interest ADI securities issued by the major Australian banking groups: See list above.

*** This category included unrated ADIs such as some Credit Unions and Building Societies to the extent not Commonwealth-guaranteed.

f) Term to Maturity Limits

Council’s investment portfolio shall be structured around the time horizon of investment to ensure that liquidity and income requirements are met.

Once the primary aim of liquidity is met, Council will ordinarily diversify its maturity profile as this will ordinarily be a low-risk method of obtaining additional return as well as reducing the risks to Council’s income. However, Council always retains the flexibility to invest as short as required by internal requirements or the economic outlook. Judgment of the state of domestic and global economic circumstances should also be carefully taken into account when making decisions on the terms of an investment.

The factors and/or information used by Council to determine minimum allocations to the shorter durations include:

- Council’s liquidity requirements to cover both regular payments as well as sufficient buffer to cover reasonably foreseeable contingencies;
- Medium term financial plans and major capital expenditure forecasts;
- Known grants, asset sales or similar one-off inflows; and
- Seasonal patterns to Council’s investment balances.

Investment Horizon Description	Maturity Date	Maximum % of Portfolio
Working Capital Funds	0-3 months	100%
Short-Term Funds	3-12 months	100%
Short-Medium Term Funds	1-2 years	70%
Medium-Term Funds	2-5 years	50%
Long-Term Funds	5-10 years	25%

Within these broad ranges, Council relies upon assumptions of expected investment returns and market conditions that have been examined with its investment advisor.

5. THIRD PARTY SUPPLIERS AND DEALERS

Council will structure its affairs in order to be economical in its investment management costs, favouring dealing direct in its fixed interest (or, where intermediated, arrangements that result in a rebate of brokerage) where possible.

At times, it will be advantageous to deal with third parties that are remunerated on a transaction rather than retainer basis. Council will use such suppliers where to its advantage, and have regard to the “best execution” test in its Investment Policy. Specifically, Council will have regard to:

- Administrative cost savings;
- Ability to access higher (retail) rates where exceeding the direct transaction costs;
- Access to ADIs that would not normally have an institutional direct channel;

- Limited access or initial ~~public~~ offering (~~IPO~~) deals, or other secondary market opportunities that are only available from specific sources; and
- The costs of other distribution channels that do not involve transaction remuneration.

Council will take steps to ensure that:

- Any suppliers used are appropriately licensed, reputable and capable;
- Funds and identification data are sufficiently secured;
- Third party arrangements do not materially worsen Council's credit risks by creating exposure to the dealer as counterparty; and
- Council maintains ownership of investments facilitated by a third party at all times; and
- Remuneration arrangements are reasonable and transparent, whether paid by Council or by the issuer directly.

6. INVESTMENT ADVISOR

Council's investment advisor is appointed by the Council and must be licensed by the Australian Securities and Investment Commission (ASIC). The advisor must be independent and must confirm in writing that they have no actual or potential conflict of interest in relation to investment products being recommended and is free to choose the most appropriate product within the terms and conditions of investment policy. This includes receiving no commissions or other benefits in relation to the investments being recommended or reviewed, unless such remuneration is rebated 100% to Council.

7. ACCOUNTING

Council will comply with appropriate accounting standards in valuing its investments and quantifying its investment returns.

In addition to recording investment income according to accounting standards, published reports may show a break-down of its duly calculated investment returns into realised and unrealised capital gains and losses, and interest.

Other relevant issues will be considered in line with relevant Australian Accounting Standards, such as discount or premium, designation as held-to-maturity or on a fair value basis and impairment.

8. SAFE CUSTODY ARRANGEMENTS

Where necessary, investments may be held in safe custody on Council's behalf, as long as the following criteria are met:

- Council must retain beneficial ownership of all investments;
- Adequate documentation is provided, verifying the existence of the investments at inception, in regular statements and for audit;
- The Custodian conducts regular reconciliation of records with relevant registries and/or clearing systems; and
- The Institution or Custodian recording and holding the assets will be:
 - The Custodian nominated by T-Corp for Hour-Glass facilities;
 - Austraclear;
 - An institution with an investment grade Standard and Poor's, Moody's or Fitch rating; or
 - An institution with adequate insurance, including professional indemnity insurance and other insurances considered prudent and appropriate to cover its liabilities under any agreement.

9. PERFORMANCE BENCHMARK

The performance of each investment will be assessed against the benchmarks listed in the table below.

It is Council's expectation that the performance of each investment will be greater than or equal to the applicable benchmark by sufficient margin to justify the investment taking into account its risks, liquidity and other benefits of the investment.

It is also expected that Council will take due steps to ensure that any investment is executed at the best pricing reasonably possible.

Investment	Performance Benchmark	Time Horizon
11am accounts, short dated bills, deposits issued by financial institutions of appropriate term.	Official RBA Cash Rate (Net of Fees and Expenses)	3 months or less
Term Deposits of appropriate remaining term, FRN's nearing maturity.	AusBond Bank Bill Index (Net of Fees and Expenses)	3 months to 12 months
Term Deposits with a maturity date between 1 and 2 Years, FRN's.	AusBond Bank Bill Index (Net of Fees and Expenses)	1 to 2 yrs
FRN's, Bonds, Term deposits with a maturity date between 2 and 5 Years. Grandfathered Income Funds.	Bloomberg AusBond Composite 2-5 Year Bank Bill Index (Net of Fees and Expenses)	2 to 5 yrs
T-Corp Hour Glass Managed Funds	Fund's Internal Benchmark (Net of Fees and Expenses)	3 yrs (M/T Growth) 5+ yrs (L/T Growth)

Grandfathered investments (i.e. managed funds and securities) are allocated to the appropriate horizon based on expected or average maturity date and should be taken into account when allocating the rest of the portfolio.

The decision on when to exit such investments are based on a range of criteria specific to the investments – including but not limited to factors such as:

- Returns expected over the remaining term
- Fair values
- Competing investment opportunities
- Costs of holding
- Liquidity and transaction costs
- Outlook for future investment values

In general, it is expected that professional advice will be sought before transacting in "grandfathered" investments. This policy does not presume disposal; however, the removal of an asset from the Minister's Order would warrant a review of its suitability for retention.

10. REPORTING AND REVIEWING OF INVESTMENTS

Documentary evidence must be held for each investment and details thereof maintained in an investment register.

The documentary evidence must provide Council legal title to the investment.

For audit purposes, certificates must be obtained from the banks/fund managers/custodian confirming the amounts of investment held on Council's behalf at 30th June each year and reconciled to the investment register.

All investments are to be appropriately recorded in Council's financial records and reconciled at least on a monthly basis. The report will detail the investment portfolio in terms of holdings and impact of changes in market value since the previous report and the investment performance against the applicable benchmark. Council may also nominate additional content for reporting.

A monthly report will be provided to Council detailing the money invested as required by clause 212 of the Local Government (General) Regulations 2005.

11. DUTIES AND RESPONSIBILITIES OF COUNCIL OFFICERS

The Trustee Act 1925 requires councils to “exercise the care, diligence and skill that a prudent person would exercise in investing council funds. A prudent person is expected to act with considerable duty of care, not as an average person would act, but as a wise, cautious and judicious person would.”

As trustees of public monies, officers are to manage Council's investment portfolios to safeguard the portfolio in accordance with the spirit of this Investment Policy and not for speculative purposes.

When exercising the power of investment the council officer should consider the following issues:

- The risk of capital or income loss;
- The likely income return and the timing of income return;
- The length of term of the proposed investment;
- The liquidity and marketability of the proposed investment;
- The likelihood of inflation affecting the value of the proposed investment; and
- The costs (such as commissions, fees, charges and duties) of making the proposed investment.

12. ETHICS AND CONFLICTS OF INTEREST

Officers shall refrain from personal activities that would conflict with the proper execution and management of Council's investment portfolio. This policy requires officers to disclose any conflict of interest to the General Manager.

Independent advisors are also to declare that they have no actual or perceived conflicts of interest and receive no inducements in relation to Council's investments, as outlined more fully in the Investment Advisor section.

13. IMPLEMENTATION

The Finance Section within the Corporate and Community Services Group has responsibility for implementation of this policy.

14. REVIEW

This policy shall be reviewed annually and as required in the event of legislative change or as a result of significantly changed economic/market conditions. Any proposed amendments to the Investment Policy must be approved by a resolution of Council.

15. APPLICATION OF ESD PRINCIPLES

None Applicable

Local
Government
Remuneration
Tribunal

Annual Report
and
Determination

*Annual report and determination under sections 239
and 241 of the Local Government Act 1993*

29 March
2016

Local Government Remuneration Tribunal

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Local Government Remuneration Tribunal

Section 1 Background

1. Pursuant to section 239 of the *Local Government Act 1993* (the LG Act) the Tribunal determines the categories of councils and mayoral offices and the allocation of each council and mayoral office into one of those categories.
2. Pursuant to section 241 of the LG Act the Tribunal determines in each category of council, the maximum and minimum amount of fees to be paid to mayors and councillors of councils, as well as chairpersons and members of county councils.
3. In determining the maximum and minimum fees payable to office holders in each of the categories, the Tribunal is required, pursuant to section 242A of the LG Act, to give effect to the same policies on increases in remuneration as those that the Industrial Relations Commission is required to give effect to under section 146C of the *Industrial Relations Act 1996* (IR Act), when making or varying awards or orders relating to the conditions of employment of public sector employees.
4. The current policy on wages pursuant to section 146(1)(a) of the IR Act is articulated in the *Industrial Relations (Public Sector Conditions of Employment) Regulation 2014* (the Regulation). The effect of the Regulation is that public sector wages cannot increase by more than 2.5 per cent, and this includes the maximum and minimum fees payable to councillors and mayors and chairpersons and members of county councils.
5. The Tribunal's Report and Determination of 2015 (the 2015 Determination) provided a general increase of 2.5 per cent which was consistent with the Government's policy on wages.

Section 2 Local Government Reform

Background

6. The NSW Government has been working with councils since 2011 to help strengthen local communities. The Tribunal's 2015 Determination outlined the Government's significant reforms, beginning with the *Destination 2036* summit in 2011 up to the

Local Government Remuneration Tribunal

release of the Fit for the Future initiative in 2014. At the date of the making of the 2015 Determination the status of the reforms was noted by the Tribunal as follows:

“Councils have been asked to assess their current position and submit a Fit for the Future proposal by 30 June 2015. The proposals will be assessed by an independent expert panel which will make recommendations to the Minister for Local Government. It is expected that from October 2015 Fit for the Future councils will commence the implementation of their proposals.

The Tribunal also notes that a new local government act is expected to be introduced following the local government elections in September 2016.”

Progress since the last determination

7. On 28 April 2015 the Minister for Local Government (the Minister) announced that the Independent Pricing and Regulatory Tribunal (IPART) would undertake the role of the Expert Panel in assessing councils’ Fit for the Future proposals. The Minister noted that the Terms of Reference for the Expert Panel were developed in consultation with Local Government NSW, Local Government Professionals Australia and the United Services Union.
8. The NSW Government released IPART’s *Assessment of Council Fit for the Future Proposals* report on 16 October 2015. The IPART report found that nearly two-thirds of NSW councils are not fit for the future and found that savings of up to \$2 billion could be achieved through council mergers. Funding will be available for council mergers that are supported by merging partners and supported by the Government through a Stronger Communities Fund.
9. On 6 January 2016, the Minister for Local Government announced 35 proposals for council mergers. If approved, those proposals would reduce the number of councils in Greater Sydney from 43 to 25 and the number of regional councils from 109 to 87. The Minister referred those proposals to the Chief Executive of the Office of Local Government for examination and report under the LG Act. The Chief Executive delegated this function to a number of people (Delegates). The Delegates are required to report on the proposals against the factors in section 263(3) of the LG Act, having

Local Government Remuneration Tribunal

regard to written submissions and comments raised in public meetings. The Minister will consider the Delegates' reports and the comments of the Local Government Boundaries Commission on the Delegates' reports before determining the outcome of merger proposals. It is expected that the outcomes of the proposal examination and reporting processes will be known by around mid-2016.

10. In respect to the amendments to the LG Act, on 8 January 2016 the NSW Government announced the commencement of the first phase :

"...Consultation on phase 1 amendments to the Local Government Act 1993 has commenced. The proposed amendments will:

- clarify roles and responsibilities of councillors, mayors, administrators and general managers;*
- introduce new guiding principles for local government;*
- improve governance of councils and professional development for councillors;*
- expand on the framework for strategic business planning and reporting;*
- prioritise community engagement and financial accountability; and streamline council administrative processes, including in relation to delegations and community grants.*

While the fundamentals of the Local Government Act 1993 remain sound, both the Independent Local Government Review Panel and Local Government Acts Taskforce recommended changes to modernise the legislation and to ensure it meets the future needs of councils and communities.

Phase 1 of the reform program focuses mainly on changes to the governance and strategic business planning processes of councils. Phase 2 will focus on the way in which councils raise revenue and exercise their regulatory functions." (Source: Circular to Councils - No 16-01)

Local Government Remuneration Tribunal

Section 3 2016 Review

11. It is not expected that a decision on, or implementation of structural or legislative reforms to local government will be finalised prior to the Tribunal making its determination on or before 30 April 2016.
12. On that basis, and given the limitations placed on the Tribunal in respect of determining increases in fees, mayors were advised on 20 January 2016 that general submissions from individual councils were not required for the 2016 review.
13. The Tribunal did however seek a submission from Local Government NSW (LGNSW) and subsequently met with the President and Chief Executive of LGNSW. The Tribunal wishes to place on record its appreciation to the President and Chief Executive for meeting with the Tribunal.

LGNSW Submission

14. The association's submission highlighted the areas of reform in local government in NSW and is of the view that the anticipated changes flowing from the reforms warrant, and provide the opportunity to introduce, a new remuneration structure that properly reflects the diverse and evolving roles of mayors and councillors. The association would like to commence a review of the remuneration structure as soon as possible.
15. Given the statutory limitations in place LGNSW has also requested that councillor and mayoral fees be increased by the full 2.5 percent for 2016/17. LGNSW continues to assert that councillor and mayoral fees should increase on the basis of a number of factors, including cost of living pressures, ongoing increase in workload and responsibilities and additional tasks relating to implementing the Government's reform process.

Tribunal's Findings

16. The Tribunal notes that the Government's significant program of local government reform, including proposed changes to the LG Act, is aimed at creating stronger councils and improving performance and governance of local councils. The Tribunal continues to

Local Government Remuneration Tribunal

support initiatives which will bring about improvements in the local government sector, in that those reforms should result in greater structural efficiencies and should contribute to the long term viability of local government in NSW.

Categorisation

17. The Tribunal notes that the process for determining merger proposals and creation of new councils, if any, is expected to be finalised in mid-2016, with consequent implications for categorisation of councils for the purposes of determining fees. If required the Minister may direct the Tribunal to make special determination(s) in accordance with s. 242 of the LG Act.
18. The Tribunal is still of the view that significant changes to the structure of councils should prompt a revision of the criteria for determining categories and fees as noted in the 2015 Determination:

“Any new categorisation model may need to have regard to a broader or different set of criteria than those currently provided for in section 240 of the LG Act.

In reviewing the LG Act the Government may wish to consider the range of factors any future Tribunal should have regard to in determining categories. As one example, the Government has released “A Plan for Growing Sydney” that will guide land use planning decisions in Metropolitan Sydney for the next 20 years. The Greater Sydney Commission will work with local councils to implement growth and infrastructure plans. The expertise and work load expected of councillors and mayors with responsibilities associated with “A Plan for Growing Sydney” may be factors which the Tribunal should have regard to in determining categorisation and remuneration. The Tribunal expects that similar pressures will be placed on rural and regional councils to drive economic and social growth throughout NSW.

The Tribunal also notes that any revision to the fees as a result of any new categorisation model would need to balance the need to attract and retain experienced and capable elected representatives with the ability of councils to afford any potential increases. While money is not the primary motivator for

Local Government Remuneration Tribunal

undertaking public office, fees should adequately recognise the roles and responsibilities of councillors and mayors and assist in attracting suitably qualified and experienced candidates.”

2016 Increase

19. The Tribunal is required to have regard to the Government’s wages policy when determining the increase to apply to the maximum and minimum fees that apply to the councillors and mayors. The public sector wages policy currently provides for a cap on increases of 2.5 per cent.
20. The Tribunal has reviewed the key economic indicators, including the Consumer Price Index and Wage Price Index, and finds that the full increase of 2.5 per cent available to it is warranted. On that basis, and after taking the views of the Assessors into account, the Tribunal considers that an increase of 2.5 per cent in the maximum and minimum fee for each category of councillor and mayoral office, including county councils, is appropriate and so determines.
21. The Tribunal notes that in the *Fit for the Future Progress Report – Stronger Councils, Stronger Communities* the Government has identified a number of strategies to strengthen local leadership. These include a review of councillor remuneration during 2016. In undertaking this review the Government may wish to consider the impact of the Government’s wages policy on increases in mayoral and councillor fees and the limitations this may impose on any future remuneration model.

The Local Government Remuneration Tribunal

Signed

Dr Robert Lang

Dated: 29 March 2016

Local Government Remuneration Tribunal

Section 4 Determinations

Determination No. 1- Determination Pursuant to Section 239 of Section 239 Categories of Councils and County Councils Effective From 1 July 2016

Table 1: General Purpose Councils

Table 1: General Purpose Councils (152)		
Category	Council	
Principal City (1)	Sydney	
Major City (3)	Newcastle Parramatta Wollongong	
Metropolitan Major (2)	Blacktown Penrith	
Metropolitan Centre (16)	Bankstown Campbelltown Fairfield Gosford The Hills Hornsby Hurstville Lake Macquarie	Liverpool North Sydney Randwick Ryde Sutherland Warringah Willoughby Wyong
Metropolitan (21)	Ashfield Auburn Botany Burwood Camden Canada Bay Canterbury Holroyd Hunters Hill Kogarah Ku-ring-gai	Lane Cove Leichhardt Manly Marrickville Mosman Pittwater Rockdale Strathfield Waverley Woollahra

Local Government Remuneration Tribunal

Table 1: General Purpose Councils (152)				
Category	Council			
<p>Country Rural (32)</p> <p><i>*confirmed with LGRT that this should read "Regional Council" 29.4.16 AME</i></p>	Albury Armidale Dumaresq Ballina Bathurst Bega Valley Blue Mountains Broken Hill Byron Cessnock Clarence Valley Coffs Harbour Dubbo Eurobodalla Great Lakes Goulburn Mulwaree Queanbeyan	Greater Taree Griffith Hawkesbury Kempsey Lismore Maitland Orange Port Macquarie-Hastings Port Stephens Shellharbour Shoalhaven Tamworth Tweed Wagga Wagga Wingecarribee Wollondilly		
<p>Rural (77)</p>	Balranald Bellingen Berrigan Bland Blayney Bogan Bombala Boorowa Bourke Brewarrina Cabonne Carrathool Central Darling Cobar Conargo Coolamon Cooma-Monaro Coonamble Cootamundra Corowa Cowra Deniliquin Dungog Forbes Gilgandra Glen Innes Severn	Gloucester Greater Hume Gundagai Gunnedah Guyra Gwydir Harden Hay Inverell Jerilderie Junee Kiama Kyogle Lachlan Leeton Lithgow Liverpool Plains Lockhart Mid-Western Moree Plains Murray Murrumbidgee Muswellbrook Nambucca Narrabri Narrandera	Narromine Palerang Parkes Oberon Richmond Valley Singleton Snowy River Temora Tenterfield Tumbarumba Tumut Upper Hunter Upper Lachlan Uralla Urana Wakool Walcha Walgett Warren Warrumbungle Weddin Wellington Wentworth Yass Valley Young	

Local Government Remuneration Tribunal

Table 2: County Councils

Table 2: County Councils (14)	
Category	Council
Water (5)	Central Tablelands Goldenfields Water MidCoast Riverina Water Rous
Other (9)	Castlereagh – Macquarie Central Murray Far North Coast Hawkesbury River New England Tablelands Richmond River Southern Slopes Upper Hunter Upper Macquarie

Local Government Remuneration Tribunal

Determination No. 2- Determination Pursuant to Section 241 of Fees for Councillors and Mayors

Pursuant to s.241 of the Local Government Act 1993, the annual fees to be paid in each of the categories to Councillors, Mayors, Members and Chairpersons of County Councils effective on and from 1 July 2016 are determined as follows:

Table 3: Fees for General Purpose and County Councils

Table 3: Fees for General Purpose and County Councils				
Category	Councillor/Member Annual Fee		Mayor/Chairperson Additional Fee	
	Minimum	Maximum	Minimum	Maximum
General Purpose Councils				
Principal City	25,670	37,640	157,030	206,620
Major City	17,110	28,240	36,360	82,270
Metropolitan Major	17,110	28,240	36,360	82,270
Metropolitan Centre	12,830	23,950	27,260	63,640
Metropolitan	8,540	18,840	18,180	41,090
Regional Rural	8,540	18,840	18,180	41,090
Rural	8,540	11,290	9,080	24,630
County Councils				
Water	1,700	9,410	3,640	15,460
Other	1,700	5,630	3,640	10,270

*This fee must be paid in addition to the fee paid to the Mayor/Chairperson as a Councillor/Member (s.249(2)).

The Local Government Remuneration Tribunal

Signed

Dr Robert Lang

Dated: 29 March 2016

© Land & Property Information



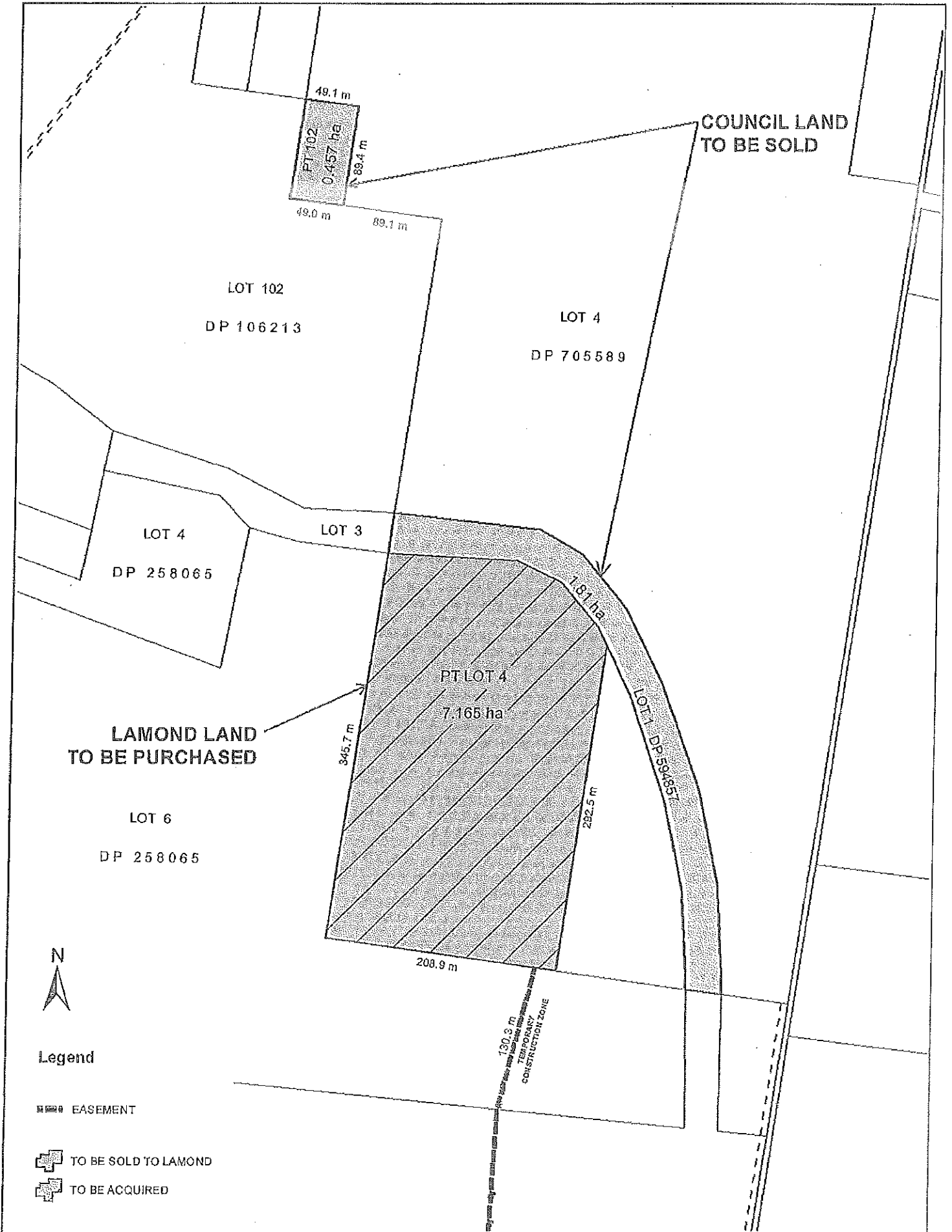
Council Owned Land at Owen St, Sydney St & Morton St, Huskisson
 Lots A - C DP 348180, Lots 1 & 23 DP 7169

ADOPTED AT COUNCIL MEETING HELD ON TUESDAY 27 OCTOBER 2015




664. Acquisition of land and easement and sale of Council land at Terara File 49630E

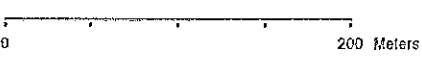
That:

- a) Council resolve to:
 - i) Acquire part of Lot 4 DP705589 at Terara, as shown on plan marked Attachment 'A', for an amount of \$310,530.
 - ii) Sell Lot 1 DP594857 and part of Lot 102 DP1067213 at Terara, as shown on plan marked Attachment 'A', for an amount of \$68,000.
- b) Council to reimburse the owner's reasonable legal costs in accordance with the Land Acquisition (Just Terms Compensation) Act 1991, from Council's REMS Sewer Scheme Fund budget. Proceeds from the sale of the Council land are to be paid to that fund to partially offset acquisition costs.
- c) If necessary, the purchase price for the lands are to be adjusted in accordance with the areas determined by final survey.
- d) The Common Seal of the Council of the City of Shoalhaven be affixed to any documents required to be sealed, otherwise the General Manager is authorised to sign any documentation necessary to give effect to the resolution.
- e) Upon acquisition the acquired land be classified as Operational land pursuant to Sections 31(2) and 34 of the Local Government Act.



Legend

-  EASEMENT
-  TO BE SOLD TO LAMOND
-  TO BE ACQUIRED



**LAMOND LAND MATTERS
ATTACHMENT "A"**

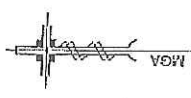
ADOPTED AT COUNCIL MEETING HELD ON TUESDAY 28 JULY 2015

475. Acquisition of Crown land and Sewerage Easement at Huskisson **File 2444E**

That:

- a) Council resolve to compulsorily acquire from the Crown Lot 1 DP1208870 and an Easement for Drainage of Sewage 20 wide Lot 7007 DP1125394, as shown by hatching on the attached copy of DP1208870 marked Attachment 'A'.
- b) Council pay compensation and costs associated with the acquisition, in accordance with the provisions of the Land Acquisition (Just Terms Compensation) Act 1991, from Shoalhaven Water's Water fund.
- c) The necessary application be made to the Minister for Local Government and the Governor. The acquisition is to be carried out under the Local Government Act 1993.
- d) The Common Seal of the Council of the City of Shoalhaven be affixed to any documents required to be sealed, otherwise the General Manager is authorised to sign any documentation necessary to give effect to the resolution.
- e) The acquired land to be classified 'Operational' in accordance with Section 31(2) of the Local Government Act, 1993.

WARNING: CREASING OR FOLDING WILL LEAD TO REJECTION



Scale: 1:1,600

2
24.3 ha
(Approx. Only
By Deed from Council
GIS System)

1
1.12 ha

(A)
SEE DIAG 'A'

EASEMENT TO BE ACQUIRED

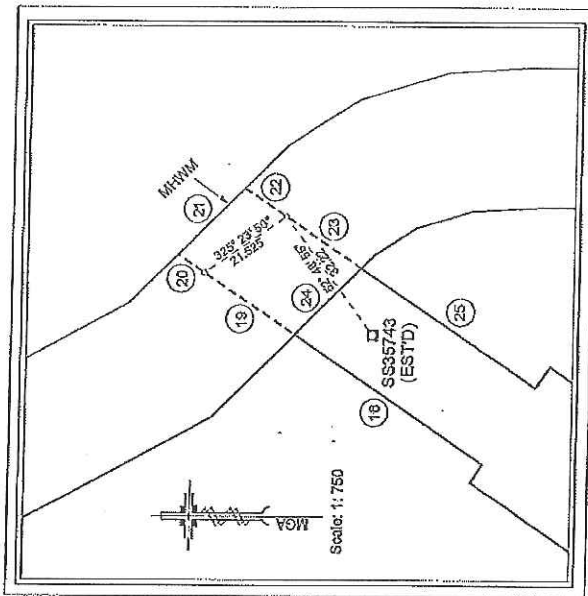
(A) - PROPOSED EASEMENT FOR DRAINAGE OF SEWERAGE 20 WIDE
(AREA = 821.4m²)

LAND TO BE ACQUIRED

CREEK

APPROX. MHWM BDY

DIAGRAM 'A'



SHORT LINE TABLE

Number	Bearing	Distance
1	83°51'45"	11
2	83°51'45"	128.85
3	39°05'45"	50.31
4	53°20'30"	45.305
5	350°37'05"	39.335
6	0°06'15"	21.185
7	350°40'	32.83
8	10°40'45"	20.21
9	342°48'58"	37.165
10	21°24'10"	21.367
11	358°41'58"	4.905
12	213°44'05"	32.117
13	303°44'05"	20
14	33°44'05"	229.258
15	303°44'05"	4.79
16	33°45'05"	50.139
17	124°12'20"	4.775
18	33°43'50"	50.301
19	33°43'50"	24.058
20	33°43'50"	7
21	184°53'30"	20.391
22	213°44'05"	11
23	213°44'05"	20.067
24	314°53'30"	20.389
25	213°44'05"	46.528
26	124°12'20"	5.595
27	214°10'45"	49.89
28	303°44'05"	5.208
29	213°44'05"	170.99
30	178°41'55"	29.31
31	201°24'40"	19.895
32	182°48'55"	35.94
33	190°40'45"	20.25
34	170°40'	31.42
35	180°06'15"	29.18
36	170°37'05"	40.02
37	233°20'30"	51.545
38	219°05'45"	33.42
39	83°51'45"	21.355
40	83°51'45"	94.4

Surveyor: MICHAEL G POIDEVIN
Date of Survey: 5 MARCH 2015
Surveyor's Ref: 06-2015
22015M7100(1295)Camp"

PLAN OF ACQUISITION OF PART LOT 7300 DP128666
UNDER THE LOCAL GOVERNMENT ACT 1993, AND
PROPOSED EASEMENT WITHIN LOT 7007 DP125394

LGA: SHOALHAVEN
Locality: HUSKISSON
Subdivision No: _____
Lengths are in metres. Reduction Ratio = 2,500

Registered
3.6.2015

DP1208870

