

# **Submission to NSW Government on the Recommendations of the Independent Pricing and Regulatory Tribunal Review of the Local Government Rating System**

**September 2019**

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## Executive Summary

The Independent Pricing and Regulatory Tribunal of NSW's (IPART's) Review of the Local Government Rating System is an important initiative in its own right and a key element of the local government reform. The review presents the opportunity to improve the effectiveness, equity and efficiency of the NSW rating system so that it reflects modern community needs and demands. It also provides the much-needed opportunity to improve the financial sustainability of councils, which was the key objective of the NSW Government's local government reform agenda. Unfortunately, the decision to exclude rate exemptions from consultation detracts from the financial sustainability objective. The key points raised in this submission include:

- LGNSW supports the majority of recommendations and we encourage the Government to move forward on those recommendations.
- LGNSW urges the NSW Government to open the IPART recommendations on rate exemptions for consultation. This is critical to modernisation of the NSW rating system to correct entrenched inequities and inefficiencies. (Recommendations 14-25)
- The recommendations to improve rating flexibility through increased categorisation and sub-categorisation options are supported. Implementation of the recommendations should be expedited so that amalgamated councils have access to these options as they work through the rate harmonisation process. (Recommendations 29-34)
- Capital Improved Value (CIV) should be introduced to the NSW rating system as an option available to all councils. (Recommendations 1-7)
- LGNSW also supports the recommendation that growth in rates revenue outside the rate peg be calculated on changes in CIV. This would enable growth in the rate base to keep pace with real growth and the associated increase in demand for council infrastructure and services. (Recommendations 1-7)
- LGNSW does not support the IPART recommendations in relation to pensioner rate concessions. (Recommendations 26-28)
- LGNSW strongly supports the recommendation to provide a "catch-up" provision for councils that do not take advantage of the "full percentage increase available to it" to be more flexible. It increases the ability for councils to set rates at a level lower than the permissible maximum if the community experiences a downturn, such as drought. This will remove an unnecessary anomaly. (Recommendation 9)

LGNSW would like to work closely with the Government in reviewing and implementing many of the IPART recommendations.

## Introduction

Local Government NSW (LGNSW) is the peak body for local government in NSW, representing NSW general purpose councils and related entities. LGNSW facilitates the development of an effective community-based system of local government in the State.

LGNSW welcomes the long-awaited release of the final report of the Independent Pricing and Regulatory Tribunal (IPART) Review of the Local Government Rating System and the NSW Government's initial response to IPART's recommendations. We commend the Government for putting out many of the final recommendations for further consultation. It is very disappointing that a number of fundamental recommendations have been ruled out from further consultation, particularly those relating to reform of rate exemptions. There are a number of exemptions that should be considered in the current consultation process.

This is a draft submission awaiting review by the LGNSW Board. Any revisions made by the Board will be forwarded.

## Background and Approach

LGNSW welcomed the Independent Pricing and Regulatory Tribunal of NSW's (IPART) Review of the Local Government Rating System as an important initiative to:

- improve the effectiveness, equity and efficiency of the NSW rating system so that it reflects modern community needs and demands; and
- provide the much-needed opportunity to improve the financial sustainability of councils.

Unfortunately, the decision to exclude rate exemptions from consultation detracts from the financial sustainability objective.

LGNSW actively participated in the IPART review process, making comprehensive submissions in response to the Issues Paper and subsequently the Draft Report. We also participated in the associated roundtables and public hearings. Our advocacy was based on extensive consultation with councils and the local government sector over a long period. The policy positions advocated by LGNSW represent a broad consensus across local government and are endorsed as LGNSW Annual Conference Resolutions.

The views expressed in this submission are consistent with those contained in our representations to IPART. LGNSW supported the vast majority of the recommendations of IPART's draft report and we find that the final report represents an improvement on the draft.

This submission presents LGNSW's position on each of the IPART recommendations. Comment is not restricted to the recommendations that the Government has flagged as being open for consultation. LGNSW notes that "the Government has ruled out implementing recommendations that would adversely impact vulnerable members of the community, such as pensioners or charities, or have a substantial financial impact upon taxpayers or the broader community". However, the flaws and inequities of our current system of rate exemptions cannot be ignored in the long run. We urge the Government to reconsider its position and at least open consultation on the most clear-cut and less contentious of the exemption related recommendations.

The submission provides overarching comment on key themes and issues before addressing the specific IPART recommendations. A summarised version was submitted via the online

template in the template format provided by the Office of Local Government (OLG). This submission should be read in conjunction with our earlier submissions to IPART:

- [LGNSW Submission to IPART Review of the Local Government Rating System – May 2016](#)
- [LGNSW Submission to IPART Draft Report of the Review of the Local Government Rating System – October 2016](#)

## Key Issues

### Rate exemptions

It is LGNSW's policy position that all land used for commercial or residential purposes should be subject to rates regardless of tenure. This accords with IPART recommendation 14. In some cases, rate exemption should simply be abolished (e.g. Forests NSW). In other instances it may be a matter of legislating tighter eligibility criteria and/or introducing a system of partial exemptions as applied in other jurisdictions.

Many current exemptions serve to provide financial benefits to numerous religious organisations, benevolent institutions, private schools, universities and some government business enterprises that are no longer justified in terms of principles of optimal taxation, particularly principles of equity and efficiency.

The distinction between charitable and social activity and commercial activity has blurred progressively over time with community orientated enterprises increasingly engaging in more commercially focused activity. Often it is no longer appropriate for local ratepayers to subsidise activities of exempt institutions where institutions act commercially, benefit from council services, and have capacity to pay.

LGNSW acknowledges that this is a complicated and contentious area. However, there are a number of exemptions where there is a strong case for reform to correct current anomalies and distortions. These include exemptions applying to:

- the commercial forestry operations of Forests NSW;
- leasehold commercial and private commercial operations in national parks; and
- social housing owned/managed by Community Housing Providers (CHPs).

### ***Forestry Corporation of NSW***

LGNSW has long argued that the commercial forestry operations of the Forestry Corporation of NSW (FCNSW) should be subject to rates. This view is strongly held in all local government areas that FCNSW operates. Local government strongly supports IPART's recommendation that these operations should be rateable.

The current exemption is a blatant anomaly that should have been addressed in past. The exemption is inconsistent with the treatment of other State-Owned Corporations (SOCs) which are subject to rates on lands used for commercial operations. It also contradicts competitive neutrality principles as its competitors, privately owned commercial forestry operators are subject to rates.

It should be noted that forestry operations have a major impact on local roads, bridges and other infrastructure and it is unfair that FCNSW does not contribute to the costs of maintenance and repair.

The Government's recent announcement that it is reviewing the potential privatisation of FCNSW provides bold confirmation that it is a commercial business operation and should be subject to rates. It is imperative that this anomaly is addressed prior to the sale and local government seeks a guarantee that the State Government will not allow the rate exemption to be carried forward into private ownership.

### ***Commercial Leases in National Parks***

Private and commercial leases in National Parks are exempt (such as leases for ski resorts and holiday accommodation), which is inconsistent with the treatment of private and commercial leases on Crown Lands that are subject to rates. This is clearly an anomaly that should be addressed. There is no justification for the difference in treatment.

### ***Social Housing***

Rate exemptions for social housing is an emerging problem for councils and growing at a rapid rate. The problem has largely resulted from a change in Government policy on the delivery of social housing and the emergence of new delivery mechanisms.

The Government is increasingly handing over management and ownership of social housing stock formerly controlled by State Government agencies (i.e. Department of Family and Community Services (FACs) and predecessors Housing NSW, Department of Housing, Housing Commission) to Community Housing Providers (CHPs).

The issue is not the provision of community housing, councils support affordable housing. The issue is that the Government previously paid rates on these properties whereas CHPs are seeking and often achieving rate exemptions as Public Benefit Institutions (PBIs) through the Courts. As a result, councils face large reductions in their rate base. These reductions can be significant, particularly for councils with large stocks of social housing (e.g. Campbelltown City Council, Blacktown City Council, Nambucca Shire Council, and Port Macquarie-Hastings Council).

It is unfair to burden local communities with the costs of subsidising social housing, particularly as stocks of public housing are not evenly distributed. Councils are not in the position to subsidise welfare measures. Such subsidies should be funded through the broader revenue bases of State or Federal Governments.

As this growing inequitable impost has directly resulted from changes to State Government policy it is incumbent on the State Government to correct it. The problem should not be left to grow. The impacts are potentially very large.

IPART provides the example of Campbelltown which has over 5,500 social housing properties. Campbelltown currently receives around \$6.5 million in rates from these properties which would be lost if the properties were transferred to Public Benefit Institutions (PBIs). This represents a cost of \$109 per year to each of the remaining ratepaying households. Canterbury-Bankstown with 4, 250 social housing properties stands to lose around \$5 million.

Local Government strongly IPART's recommendation to make all residential land use rateable.

### **Capital Improved Valuations (CIV)**

The most important recommendations relate to the introduction of CIV to the rating system, both as the basis for determination of ad valorem rates and the basis for growth in the rate base outside the peg.

CIV provides a more accurate reflection of the market value of a property and is therefore more easily understood by ratepayers. It also provides a more accurate indication of the land owner's capacity to pay. Importantly, CIV would help remove the rating discrepancies and inequities associated with high density development in urban areas.

CIV would enable councils to equitably and efficiently raise rate revenue from higher density development and help remove the discrepancies and inequities associated with apartment rating.

LGNSW does not support the **mandating of** CIV for all metropolitan and large regional councils as the underlying needs and circumstances vary. The introduction of CIV is most relevant to councils with a high proportion of high-density development. All councils should be given the option of using CIV or UV as proposed for non-metropolitan councils.

LGNSW also supports the recommendation that growth in rates revenue outside the rate peg be calculated on changes in CIV. This would enable growth in the rate base to keep pace with real growth and the associated increase in demand for council infrastructure and services. LGNSW agrees with IPART's findings that application of CIV would be more equitable and efficient than the current UV based methodology, in that current ratepayers would not subsidise future ratepayers and it would better capture the costs of new developments.

This change has the potential to significantly improve the financial sustainability of growing councils and as such represents one of the most important recommendations that the Government has left open for consultation.

### **Rating Flexibility**

LGNSW supports the recommendations that will provide councils with more flexibility in determining their rate structures. Collectively, these would represent a significant improvement to the rating system. The introduction of new categories and subcategories would allow for more efficient and equitable setting of rates.

## **LGNSW Position on IPART Recommendations**

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

### **LGNSW Comment**

LGNSW partially supports the recommendation.

LGNSW strongly supported IPART's draft recommendation to give councils the choice of valuation methods of capital improved value (CIV) or unimproved land value (UV) at the rating category level.

CIV provides a more accurate reflection of the market value of a property and is therefore more easily understood by ratepayers. It also provides a more accurate indication of a land owner's capacity to pay. Importantly, CIV would help remove the rating discrepancies and inequities associated with high density development in urban areas.

CIV would enable councils to equitably and efficiently raise rate revenue from higher density development and help remove the rating discrepancies and inequities associated with apartment rating.

LGNSW opposes the revised recommendation of **mandating** CIV for all metropolitan and large regional councils as the underlying needs and circumstances vary. The introduction of CIV is most relevant to councils with a high proportion of high density of development. All councils should be given the option of using CIV or UV as proposed for non-metropolitan councils so they can apply the most efficient and equitable allocation of rates for their local area.

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

**LGNSW Comment**

LGNSW strongly supports the recommendation.

**3. (Inter-related to Recommendations 1 and 2)  
If Recommendation 1 and/or 2 are supported by the NSW Government, should the *Local Government Act 1993* be amended to facilitate a gradual transition of rates to a Capital Improved Value method?**

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

**LGNSW Comment**

LGNSW does not support the 10% limit.

LGNSW recognises the need for graduated transition to avoid rate shocks and hardship, however, the proposed 10% cap is arbitrary and makes no reference to \$ value of the increase. For example, a 10% increase on a \$1,000 rate bill is only \$100 or \$25 per quarter, not an amount likely to cause hardship. Further, the low cap will unnecessarily prolong the transition. When section 530 (farmland rating category to have the lowest ad valorem rate) was removed from the Act the Government imposed a transitional cap on farmland rate increases of 20% - twice the amount proposed here. In that instance, the cap created significant complexities and as a result LGNSW considers that councils should have the option of applying a cap and determining the level of that cap, in consultation with their community, with protection to ratepayers provided by council hardship policy provisions.

**4. (Inter-related to Recommendations 1 and 2)  
If Recommendation 1 and/or 2 are supported by the NSW Government, should section 497 of the *Local Government Act 1993* be amended to remove minimum amounts from the structure of a rate, and section 548 of the *Local Government Act 1993* be removed?**

**LGNSW Comment**

LGNSW does not support the draft recommendation.

LGNSW acknowledges IPART's arguments for the removal of minimum amounts from the rate structure in a CIV environment. However, LGNSW does not see the need to remove the option of using minimum amounts for the following reasons:

- Many metropolitan councils currently use minimum amounts (particularly for apartment rating).
- Councils that chose UV might still want to use minimum amounts.
- In some instances, such as special rates, minimum amounts are the simplest and fairest rating method.

It would be expected that the use of minimum rates would be phased out gradually as more and more councils adopted CIV negating the need to amend legislation in the near term.

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

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

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

**LGNSW Comment**

LGNSW strongly supports the recommendation.

This would enable growth in the rate base to keep pace with real growth and the associated increase in demand for council infrastructure and services. LGNSW agrees with IPART's findings that application of CIV would be more equitable and efficient than the current UV based methodology. It is more equitable in that current ratepayer would not subsidise future rate payers and more efficient in that it would better capture the costs of new developments.

This change has the potential to significantly improve the financial sustainability of growing councils and as such represents one of the most important recommendations that the Government has left open for consultation.

However, it is important that the application of this methodology does not prevent councils from growing their rate base by other mechanisms (e.g. Special Rate Variations (SRVs)) or allow for reductions in a council's revenue base. LGNSW notes that the change will not significantly improve the revenue base of low growth or non-growth councils and other mechanisms for revenue growth and funding support are retained.

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

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

**LGNSW Comment**

LGNSW strongly supports the recommendation.

IPART has also identified that there are potential collateral benefits to the State Government from a move to CIV to determine growth outside the peg. The increased revenue collected by councils would reduce the need for Government to pay for local infrastructure in growth areas (e.g. Local Infrastructure Growth Scheme, Priority Precincts). IPART estimates budget savings

to the Government of \$1.1 billion over 10 years compared to a total cost of around \$100 million to implement CIV. This is a compelling argument for the introduction of CIV in itself.

In addition, the introduction of a CIV database represents an overdue upgrading of the State's taxation framework that will bring NSW in line with best practice in other States and countries. CIV will provide a more appropriate basis for State land taxes and the future introduction of a broad-based property levy to fund emergency services. It is widely accepted that CIV provides a closer correlation with the value of property being protected by emergency services than UV, providing a more equitable basis for allocating the levy. It would be naive to think that the NSW Government will not proceed down this path in future. NSW is the only State that has not already done so.

Ultimately, the NSW Government will be the largest user/beneficiary of the change.

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

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

**LGNSW Comment**

LGNSW supports the recommendation.

Refer to comments provided under Recommendation 6.

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

- form part of a council's general income permitted under the rate peg, nor
- require councils to receive regulatory approval from IPART.

**LGNSW Comment**

LGNSW provides qualified support for the recommendation.

LGNSW acknowledges that the recommended special infrastructure rate could be used for capturing and "funding" local benefits from infrastructure that is jointly delivered with other spheres of government, without the restrictions of rate pegging. Such a mechanism could be of benefit to councils where they want to realise local benefits from such infrastructure development. However, LGNSW has some concerns over such an arrangement.

A special infrastructure rate could create an inherent bias towards supporting and facilitating State Government infrastructure projects over a council's own priorities which might require a more onerous and difficult special rate variation application.

The proposed special infrastructure rate also has the potential for "behind closed doors" or open political pressure to be exerted on councils by the NSW Government and/or its infrastructure agencies, to contribute to infrastructure projects that are not council priorities and/or that councils are not responsible for funding (e.g. regional infrastructure, transport infrastructure etc).

At the very least a process would need to be established that addresses these concerns and clearly links any projects that receive funding via the special infrastructure rate to council priorities established through the community strategic planning process (Integrated Planning and Reporting).

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

#### **LGNSW Comment**

LGNSW strongly supports the recommendation.

The recommendation makes the “catch-up” provision for councils that do not take advantage of the “full percentage increase available to it” more flexible. It increases the ability for councils to set rates at a level lower than the permissible maximum if the community experiences a short-term downturn, e.g. as a result of drought or a downturn in commodity prices, while providing more time for councils to return to their sustainable long-term rates trajectory. In addition, if a transitional cap is imposed, it would give a bit more flexibility and avoid councils losing rating income.

Given the experience of the current drought, this amendment should be expedited.

Adoption of this recommendation would also streamline the SRV process by removing the need to make new applications to “catch up”.

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

- separate town or village, or
- residential area.

#### **LGNSW Comment**

LGNSW supports the draft recommendation.

The change would assist amalgamated councils in implementing rate harmonisation and as such, should be expedited.

Greater flexibility would allow for more efficient and equitable allocation of rates.

**11. The *Local Government Act 1993* should outline that:**

- A ‘residential area’ is an area within a contiguous urban locality that has, on average, different access to, demand for, or costs of providing council services or infrastructure (relative to other areas in that locality).
- Councils could use geographic markers to define the boundaries for a residential area, including postcode boundaries, suburb boundaries, geographic features (e.g. waterways, bushland) and/or the location of major infrastructure (e.g. arterial roads, railway lines).

### LGNSW Comment

LGNSW supports the recommendation.

LGNSW maintains that councils should have the ability to subcategorise residential properties within a residential area, as it allows councils to identify within their revenue policy the rates based on the area having different access, demand or costs to services within that area.

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

- **ensure the highest rate structure is no more than 1.5 times the average rate structure across all residential subcategories (ie, so the maximum difference between the highest and average ad valorem rates and base amounts is 50%), or obtain approval from IPART to exceed this maximum difference, and**
- **publish the different rates (along with the reasons for the different rates) on its website and in the rates notice received by ratepayers.**

### LGNSW Comment

LGNSW does not support the recommendation.

LGNSW does not support the proposal to legislate a rigid threshold for allowable differences in residential rates. The threshold appears arbitrary and unnecessary.

LGNSW suggests applying process regulation to the issue of differential rating instead, requiring the application of taxation principles and a transparent and accountable process, such as the community strategic planning process (Integrated Planning and Reporting), that clearly articulates to the affected ratepayers why the rates they pay are different from the rates other parts of the community pay.

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

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

### LGNSW Comment

LGNSW does not support the recommendation.

As noted in our response to Recommendation 3, LGNSW recognises the need for graduated transition to avoid rate shocks and hardship, however, the 10% cap is arbitrary and makes no reference to \$ value of the increase, for example, a 10% increase on a \$1,000 rate bill is only \$100 or \$25 per quarter, not an amount likely to cause hardship. Further, the low cap will

unnecessarily prolong transition. LGNSW considers that councils should have the option of applying a higher cap, with protection to ratepayers provided by council hardship policy arrangements as per recommendation 3.

**14. Sections 555 and 556 of the *Local Government Act 1993* should be amended to:**

- exempt land on the basis of use rather than ownership, and to directly link the exemption to the use of the land, and
- ensure land used for residential and commercial purposes is rateable unless explicitly exempted.

**OLG Comment:** *Not for consultation*

#### **LGNSW Comment**

LGNSW strongly supports this recommendation and is disappointed that it is not open for consultation.

This recommendation is the key to reforming the rate exemptions system in this State providing an unambiguous and consistent test on rateability.

Under IPART's recommendation the following currently exempt activities would become rateable:

- Commercial logging in State Forests
- Retirement villages
- Child care centres charging market rates
- University student or other residential accommodation
- Land used by a water corporation
- Freight Rail lines
- Social housing owned by public benevolent institutions.

LGNSW notes the NSW Government's response ruled out the IPART's recommendations *'that would adversely impact vulnerable members of the community, such as pensioners or charities,'* and seek to open up a separate discussion that would look into this recommendation.

LGNSW recognises the difficulty and sensitivity around potential changes in this area of rating policy. However, LGNSW trusts that the NSW Government recognises that the need to review rate exemptions and concessions and seeks a commitment to a 'separate discussion' on these issues in future.

Meaningful reform of the rating system must include reviewing exemptions.

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

**OLG Comment:** *Not for consultation.*

#### **LGNSW Comment**

LGNSW supports this recommendation in principle.

Refer to comments provided under Recommendation 14.

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

**LGNSW Comment**

LGNSW does not support the recommendation.

LGNSW is strongly opposed to the recommendation that private hospitals should be exempt from rates like public hospitals:

- Unlike public hospitals, private hospitals generally do not perform the public good function of operating emergency departments; and
- Unlike public hospitals which are “not-for-profit” operations, private hospitals are operated on a “for-profit” basis and provide significant returns to their shareholders and fees for private specialists associated with those hospitals.

The market for private hospitals typically extends well beyond the local government area in which they operate. It would be inappropriate and inequitable for local ratepayers to be required to subsidise private hospitals. If the State Government considers that private hospitals require and deserve additional subsidies, the subsidies should be provided directly by the Government.

LGNSW finds it is contradictory that the Government is open to consultation on a new exemption that would create a new impost on councils, while at the same time closing the doors on consultation on the removal of outdated, inefficient and inequitable existing exemptions.

**17. The following exemptions be removed:**

- land that is vested in, owned by, or within a special or controlled area for, the Hunter Water Corporation, Water NSW or the Sydney Water Corporation (*Local Government Act 1993* section 555(1)(c) and section 555(1)(d))
- land that is below the high- water mark and is used for the cultivation of oysters (*Local Government Act 1993* section 555(1)(h))
- land that is held under a lease from the Crown for private purposes and is the subject of a mineral claim (*Local Government Act 1993* section 556(1)(g)), and
- land that is managed by the Teacher Housing Authority and on which a house is erected (*Local Government Act 1993* section 556(1)(p)).

**OLG Comment:** *Not for consultation.*

**LGNSW Comment**

LGNSW supports the recommendation.

LGNSW holds the view that all land used for residential and commercial purposes should be subject to rates regardless of ownership. This is consistent with IPART Recommendation 14: *Sections 555 and 556 of the Local Government Act 1993 should be amended to:*

- *exempt land on the basis of use rather than ownership, and to directly link the exemption to the use of the land, and*
- *ensure land used for residential and commercial purposes is rateable unless explicitly exempted.*

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

#### **LGNSW Comment**

LGNSW supports the creation of an environmental land category which would include land subject to a state conservation agreement. Box 8.1 refers to the recommendation that land subject to a conservation agreement should be liable for rates, and not exempt under the *Local Government Act 1993*. However, there are also a number of conservation agreements with rate exemptions which are established through the *Biodiversity Conservation Act 2016* (BC Act) and managed by the Biodiversity Conservation Trust (BCT) which have not been referred to in the review.

The BCT's conservation agreements should also be included in the proposed approach, removing any rate exemptions available through the BC Act and categorising the land under conservation agreements as environmental land for rating purposes.

**19. The following exemptions not be funded by local councils and hence should be removed from the Local Government Act and Regulation:**

- land that is vested in the Sydney Cricket and Sports Ground Trust (*Local Government Act 1993* section 556(1)(m))
- land that is leased by the Royal Agricultural Society in the Homebush Bay area (*Local Government (General) Regulation 2005* reg 123(a))
- land that is occupied by the Museum of Contemporary Art Limited (*Local Government (General) Regulation 2005* reg 123(b)), and
- land comprising the site known as Museum of Sydney (*Local Government (General) Regulation 2005* reg 123(c)).

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

**OLG Comment:** *Not for consultation.*

#### **LGNSW Comment**

LGNSW supports the recommendation.

LGNSW shares the view that these institutions largely operate on a commercial basis and that the public benefits from their activities largely accrue to people outside the immediate local government area.

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

**OLG Comment:** *Not for consultation.*

#### **LGNSW Comment**

LGNSW supports the recommendation.

There is clearly no justification for the exemption to be extended to the land being used for the non-exempt activity. It results in an unfair burden on other ratepayers who are required to fund

the exemption. There could be no reasonable objection to removing this anomaly and LGNSW request that this recommendation be opened for consultation.

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

**OLG Comment:** *Not for consultation.*

**LGNSW Comment**

LGNSW provides qualified support for this recommendation.

Refer to comments provided under Recommendation 20. Support is qualified on the basis that self-assessment should be supported by random audits.

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

**LGNSW Comment**

LGNSW is strongly opposed to this recommendation.

Council's general income should be modified to reflect:

- Any revenue lost in the first year of granting a newly introduced exemption. This mechanism does not need to affect other ratepayers or result in a permanent increase to councils Notional Income. An increase would be once only and reflective of the annual income lost in the first year of granting an exemption.
- A permanent increase to council's Notional Income where existing exemptions are removed. This would only be required for land that has not previously been rateable at any time.

This recommendation is largely a moot point given the Government's decision to exclude changes to exemptions for consultation.

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

- it satisfies the first criteria for Special Variation applications in the OLG guidelines relating to the need for and purpose of a different revenue path for the council's General Fund, and
- that any subcategory rating structure applied to previously exempt properties is no greater than the average rate structure across the relevant rating category.

**LGNSW Comment**

LGNSW supports the recommendation.

LGNSW holds the view that the rate pegging and SRV processes are unnecessary and should be removed to give councils the discretion to determine their own rates. However, short of achieving this goal, LGNSW has been consistently advocating for the SRV process to be streamlined. In addition to a streamlined process, councils should be allowed to levy rates up to 2% over the rate peg limit without the requirement to make an SRV application.

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

#### **LGNSW Comment**

LGNSW supports the recommendation.

LGNSW agrees with IPART that water and sewerage special rates are a fee for service that have substantial private benefits and it may not be appropriate for exemptions to apply. We agree that councils should have the discretion to determine whether an exemption should apply.

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

#### **LGNSW Comment**

LGNSW supports the recommendation.

Generally, it is in the interest of a council to inform the community of the costs of rate exemptions and the level of cross subsidy from ratepayers. LGNSW advocates transparency and accountability and also encourages councils to publish other costs imposed on the community/ratepayers by State and Federal Governments.

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

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

**OLG Comment:** *Not for consultation.*

#### **LGNSW Comment**

LGNSW does not support the IPART recommendations in relation to pensioner rates (recs. 26-28).

LGNSW supports pensioner concessions and advocates that they be increased to more realistic levels and that they be fully funded by the State Government. LGNSW does not support a rate deferral scheme.

LGNSW's position is that, as a welfare measure, pensioner concessions should be managed, funded and financed by other spheres of government with broader taxation bases; i.e. the NSW and/or Commonwealth Governments. Pensioner rate concessions are fully funded by State Governments in other jurisdictions and LGNSW maintains that they should also be fully funded by the NSW Government.

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

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

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

**OLG Comment:** *Not for consultation.*

**LGNSW Comment**

Refer to comments provided under Recommendation 26.

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

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

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

**OLG Comment:** *Not for consultation.*

**LGNSW Comment**

Refer to comments provided under Recommendation 26.

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

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

**LGNSW Comment**

LGNSW supports the recommendation.

Refer to comments provided under Recommendation 18.

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

**LGNSW Comment**

LGNSW supports the recommendation.

LGNSW sees merit in expanding the number of rating categories and sub-categories that councils may be able to apply. Greater flexibility would allow for more efficient and equitable targeting of rates. It would also allow for more appropriate rating of new business forms, particularly if rate pegging were abolished.

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

#### **LGNSW Comment**

LGNSW supports the recommendation.

LGNSW sees merit in expanding the number of rating categories and sub-categories that councils may be able to apply. Greater flexibility would allow for more efficient and equitable targeting of rates.

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

#### **LGNSW Comment**

LGNSW supports the recommendation.

LGNSW sees merit in expanding the number of rating categories and sub-categories that councils may be able to apply. Greater flexibility would allow for more efficient and equitable targeting of rates.

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

- The residual category that is determined should not be subject to change for a 4 year period.
- If a council does not determine a residual category, the business category should act as the default residual rating category.

#### **LGNSW Comment**

LGNSW supports the recommendation.

LGNSW sees merit in expanding the number of rating categories and sub-categories that councils may be able to apply. Greater flexibility would allow for more efficient and equitable targeting of rates.

**34. Any difference in the rate charged by a council to a mining category compared to its average business rate should primarily reflect differences in the council's costs of providing services to the mining properties.**

#### **LGNSW Comment**

LGNSW does not support this recommendation.

Rates are a form of local taxation, not primarily a fee for service. Linking mining rates to business rates and the costs of providing services has no logical basis. There are many other factors that come into consideration when determining mining rates. These include:

- Capacity to pay
- Impact on the environment
- Impact on roads, bridges and other infrastructure
- Depletion of resources
- Life expectancy of the mine.

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

**LGNSW Comment**

This recommendation has already been implemented, although council interest and take up has been very low.

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

**LGNSW Comment**

LGNSW supports the recommendation.

This will assist councils with debt recovery and reduce outstanding rates.

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

**OLG Comment:** *Not for consultation. Refer to the [Debt Management and Hardship Guidelines](#).*

**LGNSW Comment**

LGNSW supports recommendations 37-39.

LGNSW acknowledges that they have been addressed in the [Debt Management and Hardship Guidelines issued in November 2018](#).

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

**OLG Comment:** *Not for consultation. Refer to the [Debt Management and Hardship Guidelines](#).*

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

**OLG Comment:** *Not for consultation. Refer to the [Debt Management and Hardship Guidelines](#).*

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

**LGNSW Comment**

LGNSW supports the recommendation.

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

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

**OLG Comment:** *Not for consultation.*

**LGNSW Comment**

LGNSW supports the recommendation.

Valuation dates are already aligned as the result of changes made during preparation for the implementation of the deferred Fire and Emergency Services Levy (FESL).

LGNSW agrees that any future FESL should be based on CIV.

**42. (Inter-related to Recommendation 1)**

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

**LGNSW Comment**

LGNSW does not fully support this recommendation.

LGNSW agrees that this option should be available to councils if the Valuer-General declines to provide valuations on a CIV basis.

However, LGNSW has not been supportive of opening the valuation market to the private sector noting that oversight and quality control by the Valuer-General are important in providing a robust and credible process in what can be a very politically sensitive area. There is currently a high degree of satisfaction among NSW councils with the valuation services provided by the NSW Valuer-General.

## **Conclusion**

IPART's Final Report provides a strong base for long overdue reform of the NSW local government rating system. LGNSW would like to work closely with the Government in reviewing and implementing many of the IPART recommendations. LGNSW and many other key stakeholders support the majority of recommendations and we encourage the Government to move forward on those recommendations.

For further information, please contact Shaun McBride, Senior Strategy Manager, on 02 9242 4072 or [shaun.mcbride@lgnsw.org.au](mailto:shaun.mcbride@lgnsw.org.au).