

July 2021

Local Government Amendment Act 2021 – rating reform

Helping councils and communities understand recent legislative changes to deliver a stronger and more flexible system of local government rating

The *Local Government Amendment Act 2021* (the Amendment Act), which amends the *Local Government Act 1993* was passed by the NSW Parliament on 13 May 2021 and assented to on 24 May 2021. It provides for immediate and future changes to the rating system developed collaboratively with local government and others via an extensive public consultation process. A copy of the Amendment Act as passed by the Parliament may be viewed [here](#).

This changes introduced in the Amendment Act deliver on the Government's commitment to strengthen the performance and sustainability of local government, including by improving the flexibility of the rating system to meet the differing needs and circumstances of local government areas across the State.

What are the key changes to the rating system?

The Amendment Act includes changes to improve the flexibility of the rating system to better meet the needs of councils and the communities they serve while ensuring it continues to be fair and equitable for both councils and ratepayers. The key changes are:

- allowing councils created by merger in 2016 to choose to harmonise, or bring together, their rating structures gradually, over up to eight years for residential, business and farming rates
- allowing councils to set separate residential rates in contiguous urban areas
- allowing councils to set separate farmland rates based on geographic location
- allowing more than one 'rate peg' to be set each year, if required
- allowing councils to apply a new kind of special rate for jointly funded infrastructure
- creating a new, fifth rating category for environmental land
- creating more flexibility for councils to set separate business rates for land where industrial and other activities are taking place
- changing how certain rating exemptions work in relation to water and sewerage and in relation to land subject to future conservation agreements, and
- better targeting postponement of rates to specific types of ratepayer.

Why did the Government introduce these changes?

The *Local Government Amendment Act 2021* (the Amendment Act) implements the Government's commitments to rating reform, as set out in its Final Response to the Independent Pricing and Regulatory Tribunal's (IPART's) review of the local government rating system. A copy of IPART's final report on the review is available on IPART's website [here](#). The Government's Final Response is [here](#).

Who will benefit from these changes?

These changes to the local government rating system will ensure councils have a stable and reliable revenue base, provide greater flexibility for councils and ratepayers and enable a fairer distribution of the rating burden.

When was the Amendment Act passed? Has it come into effect?

The Amendment Act was passed by the NSW Parliament on 13 May 2021 and was assented to on 24 May 2021. While some rating reforms came into effect on assent, many others are specified to come into effect by proclamation, once supporting regulations and guidance can be prepared. The Minister has yet to make any proclamations to commence the remaining rating reforms.

What are the changes to rating that have already commenced?

Four changes to the rating system came into effect when the Amendment Act was assented to on 24 May 2021. These changes are:

- allowing councils created by merger in 2016 to choose to harmonise their rating structures gradually, over up to eight years
- allowing councils to set separate residential rates in contiguous urban areas
- allowing councils to set separate farmland rates based on geographic location, and
- allowing more than one 'rate peg' to be set each year, if required.

What are the changes to rating that commence in future?

A further set of changes to the rating system will come into effect by proclamation. These are:

- allowing councils to apply a new kind of special rate for jointly funded infrastructure
- creating a new, fifth rating category for environmental land
- allowing councils to set separate business rates for land where industrial and other activities are taking place
- changing how certain rating exemptions work in relation to water and sewerage and in relation to land subject to future conservation agreements, and
- better targeting postponement of rates to specific types of ratepayer.

When will the remaining rating changes be proclaimed?

A decision has yet to be made about when these changes will come into effect. Regulations and guidelines need to be made to provide key supporting detail about some of these changes. Councils, the local government sector more broadly and other stakeholders will be consulted as part of the process of developing those regulations. We are also aware that councils will need adequate notice to ensure that necessary changes to systems and processes can be implemented.

What do these changes mean for councils formed in 2016?

The Amendment Act provides for greater flexibility for those councils formed in 2016 as they prepare to harmonise, or bring together, their rating structures, from 1 July 2021.

Each council can choose, in consultation with their communities, to harmonise gradually over up to 8 years for residential, business and farming rates. Councils in contiguous urban areas are also able to set different rates for different residential areas if that council is satisfied on reasonable grounds

that it is necessary to do so because of significant differences between the areas in relation to access to, or demand for, the cost of providing, services or infrastructure. Further, councils may set different rates for farmland based on geographic location.

It is a matter for each council to determine, in consultation with their communities, whether or not to take up one or more of these options. Councils requiring further advice or support should consult their Council Engagement Manager in the first instance.

Are any councils taking up these flexible options yet?

A number of councils formed in 2016 have taken up the option to gradually harmonise their rates over up to eight years, while others are still consulting their communities. It is open to all councils to take up those options that came into effect on 24 May 2021.

Councils are required to consult their communities each financial year on rates for the following financial year as part of the Statement of Revenue Policy within their Operational Plan. A draft Operational Plan is exhibited by each council for at least 28 days as part of this process, after which the elected body of the council adopts a final Operational Plan, having considered feedback. Records of this decision making appear in the meeting minutes and papers on council websites.

Can councils levy a charge for Emergency Services Levy (ESL) contributions on rates notices?

No. Councils are not able to separately levy or charge ratepayers on rates notices to seek to recover their contribution to the Emergency Services Levy (ESL). The Government has deferred the introduction of the FESL Act and councils are yet to issue levies under the FESL Act, as it has yet to take effect.

Will the Government make further changes to ESL for councils?

The Government is continuing to explore options to better manage the impacts of ESL contributions on council budgeting cycles. The Minister has encouraged all councils to actively engage with the responsible Ministers, the Treasurer and Minister for Emergency Services, about ESL into the future.

Are council ESL contributions excluded from notional general income for the purposes of the rate peg?

No. There is no change to the requirement for councils to pay an annual ESL contribution from within council's general income. The Government has deferred the introduction of the FESL Act and councils are yet to issue levies under the FESL Act, as it has yet to take effect.

Will there be multiple rate pegs? Is that about IPART's review?

The Minister may specify the percentage by which councils' general income may be varied for a specific year – the 'rate peg'. IPART performs this role under delegation. The Government has committed to allowing councils to align their income with population growth. This will be achieved by adjusting how the rate peg is calculated to also consider population growth.

The Minister for Local Government, with the approval of the Premier, has asked IPART to deliver a report recommending a Rate Peg methodology that allows the general income of councils to be varied annually in a way that accounts for population growth. A draft report on this review was released on 28 June 2021 and public feedback will be accepted by IPART until 6 August 2021.

To ensure that the final methodology approved by Government may be given effect as simply and clearly as possible, the Amendment Act has clarified that more than one rate peg can be applied to the local government sector, if required.

Is it likely that different rate pegs will be set council by council or based on locality, such as joint organisation areas?

IPART is still undertaking its review of the rate peg methodology to recommend how best to allow councils' income to grow in line with population growth. On 28 June 2021, a Draft Report was released for consultation which proposes a 'council by council' approach to measuring and incorporating population growth. The Minister has yet to receive IPART's Final Report, which is due to be provided in September 2021. Further information about IPART's review, including the Draft Report, which is open for feedback until 6 August 2021, is available [here](#).

How does the review of the rate peg methodology relate to infrastructure contributions reform?

The Government committed to allowing councils to align their income with population growth in its Final Response to both IPART's review of the local government rating system and to the NSW Productivity Commission's review of infrastructure contributions. Further information about that review is available [here](#).

Questions and comments about IPART's review of the rate peg methodology to account for population growth may be made directly to IPART. Questions and comments about infrastructure contributions may be directed to the Department of Planning, Industry and the Environment (DPIE) by email to infrastructure.contributions@planning.nsw.gov.au.

Has there been any change to mapping requirements for rating categories and subcategories?

No, there has been no change to the requirement to make relevant maps available for inspection.

When do councils need to rely on published geographic names?

Councils are now allowed to set separate residential rates in contiguous urban areas, under certain circumstances, and to set separate farmland rates based on geographic location. A council taking up either of these options must use geographic names, as published by the Geographical Names Board of NSW, to define those areas for which each rating subcategory has been established.

Will councils be required to use geographic names when they establish separate business rates for industrial and other activities?

No. Taking up this option, once it comes into effect, will not require councils to identify these sub-categories, if required, by reference to geographic names as they are established by reference to the activity taking place on the land, rather than the location of the land.

Will land with an existing conservation agreement retain the current rating exemption, or will it be rateable as environmental land?

This change has yet to commence. The Government has previously stated that ratepayers who already benefit from the rating exemption in relation to an existing conservation agreement on their land should not lose that benefit. Regulations to provide key details about future change to this rating exemption will need to be developed, in consultation with councils and other interested organisations and individuals.

Will there be any change to the valuation process for land once the environmental land category and changes to the rating exemption for land with a conservation agreement comes into effect?

There has been no change to the current process for valuation of land to date.

When will IPART's other recommendations be implemented?

The Government issued its Final Response to IPART's Final Report on its review of the local government rating system in June 2020. That document sets out the Government's intended reforms to the local government rating system.

Will other reforms to the rating system be considered?

The Government's response to IPART's review of the local government rating system sets out its commitments on rating reform, which have been given effect through the Amendment Act. There are no plans for further rates reform at this stage.

Will there be a review of these rating changes?

The Amendment Act provides for a statutory review to be undertaken within two years. Councils, other interested organisations and individuals will be consulted as part of that review.

What should I do if I have further questions?

If a councillor or staff member of a council has any further question, her or she should contact their Office of Local Government Council Engagement Manager, in the first instance.

Any person may also contact the Office of Local Government by sending an email to olg@olg.nsw.gov.au or by calling 02 4428 4100. Further guidance material on these rating reforms will be released on the OLG website as it becomes available.