

Introduction

Rates and charges underpin the funding of local government and its important services and infrastructure in Victoria.

With the exception of the Fair Go Rates system which was introduced in 2015, the structure of the rating system has not substantially changed in over a century.

The Victorian Government is both committed to the financial sustainability of councils and ensuring that the burden of rates falls fairly amongst all ratepayers.

In response to the Parliament of Victoria's Inquiry into the Sustainability and Operational Challenges of Victoria's Rural and Regional Councils the Government has agreed to undertake an inquiry into the local government rating system to identify changes that will improve its fairness and equity. The Fair Go Rates system has helped improve the financial accountability of Victoria's 79 Councils and it has highlighted that the current rating system may be made more equitable, more efficient and more progressive.

The Minister for Local Government has determined to form a Panel for the Victorian Local Government Rating System Review (the Panel) to provide advice to the Minister in accordance with this Terms of Reference.

The Panel will be required to consult widely and report to the Minister by 31 March 2020.

Definitions

1. In these Terms of Reference-

Panel means the Ministerial Panel for the Victorian Local Government Rating System Review, established by the Minister for Local Government by these Terms of Reference.

Code of Conduct means the *Directors' Code of Conduct and Guidance Notes* issued by the Victorian Public Sector Commission¹;

Department means the Department of Environment, Water, Land and Planning or its successor.

Appointment and Remuneration Guidelines means the Government's *Appointment and Remuneration Guidelines*, as updated from time to time².

Member means a member of the Panel and includes a reference to the Chairperson unless the contrary intention is expressed.

Minister means the Minister for Local Government;

PAA means the *Public Administration Act 2004*;

Public sector employee has the meaning given in section 4(1) of the PAA.

Secretary means the Secretary to the Department.

¹ published at: <http://vpssc.vic.gov.au/resources/directors-code-of-conduct-and-guidance-notes/>

² available at: <http://www.dpc.vic.gov.au/index.php/policies/governance/appointment-and-remuneration-guidelines>

Establishment of Panel

2. The Minister establishes the Ministerial Panel for the Victorian Local Government Rating System Review under S. 220A of the *Local Government Act 1989* as a non-departmental entity from the date of these Terms of Reference. The establishment of the Panel was approved by Cabinet on 8 April 2019.
3. This Panel has been established to deliver the Victorian Government's commitment to "undertake an inquiry into the council rating system to identify changes that will improve its fairness and equity – this is to ensure that the burden of rates falls fairly amongst all ratepayers".

Role

4. The Role of the Panel is to provide advice to the Minister for Local Government regarding an optimal rating system for Victorian Local Government.
5. In performing its Role, the Panel is required to conduct a review of Victoria's local government rating system.

Scope of the Review

6. Examine the current application of rates and charges by local government in Victoria, including:
 - (a) Current local government rates and related charges including those made under the *Local Government Act 1989*, *City of Melbourne Act 2001* and *Cultural and Recreational Land Act 1963*;
 - (b) The interaction of the local government rating system with the taxation, valuation and other related systems of the Victorian Government (noting in particular the rating system related functions of the *Valuation of Land Act 1960*, *Fire Services Levy Property Act 2012*, *State Concessions Act 2004*, and *Electricity Industry Act 2000*);
 - (c) The current exemption and concession arrangements for rates applied by councils, including legislated exemptions, deferments, waivers, rebates and use of differential rates by councils;
 - (d) The autonomy of individual local governments to apply the rating system in accordance with their own decision-making circumstances, including the quality of council rating strategies and associated public consultation (noting the status, roles and responsibilities of local government as expressed by the *Victorian Constitution Act 1975* and *Local Government Act 1989*).
 - (e) Commonly accepted principles of taxation policy including equity, capacity to pay, simplicity, efficiency, sustainability and cross-border competitiveness, where they relate to or interact with the local government rating system.
7. Undertake research into the application of municipal rating and charging systems applied in other jurisdictions, including analysis of such systems' applicability to the Victorian local government context.
8. Consult with councils, peak bodies and other stakeholders and the community on the application of rates and charges by local government in Victoria.
9. Establish principles and priorities for the future application of local government rates and charges in Victoria
10. Provide formal advice to the Minister for Local Government on the optimal arrangements for local government rating and charging including legislative and non-legislative arrangements, recognising rates and charges are the primary own source revenue for councils. This should include an analysis of the impacts any recommended changes may have on councils, businesses, various classes of ratepayers and the community.
11. Provide advice to the Minister for Local Government on the impact of the local government rating system on other Victorian Government portfolios arising from any recommendations.

Out of scope

12. The elements of the local government rating system specific to the rate cap provisions under Part 8A of the *Local Government Act 1989*, which will be the subject of a statutory review by December 2021;
13. The adequacy of the taxation, valuation and other related systems of the Victorian Government, specifically the principal functions of the *Valuation of Land Act 1960*, *Fire Services Levy Property Act 2012*, *State Concessions Act 2004*, and *Electricity Industry Act 2000*); and
14. Other sources of funding for local government, such as State and Commonwealth grants.

Consultation

15. A consultation framework will be developed by the Department for approval by the Panel. This will step out the timing and methodology for broad-based consultation with stakeholders. The consultation will also involve consultation with councils, peak bodies, stakeholders and the community, including the opportunity for formal submissions and public hearings across Victoria.
16. Consultation methods may include but are not limited to face-to-face meetings with key stakeholders, workshops, telephone and online consultations, and a call for submissions. Consultation will also occur with relevant Government agencies including the Valuer-General Victoria.
17. The Panel may establish reference groups as deemed necessary.

Reporting

18. The Panel will be required to develop a discussion paper to guide stakeholder consultation. The paper must be submitted to the Minister for Local Government by a date to be determined by the Minister.
19. The Panel will be required to submit a draft report to the Minister for Local Government by a date to be determined by the Minister.
20. The Panel will be required to submit a final report to the Minister for Local Government at the conclusion of the review, no later than 31 March 2020.
21. The Chair may report informally to the Minister as deemed necessary or as requested by the Minister for Local Government.

Advisory Function of the Panel

22. The Panel is an advisory body, not a decision-making body.
23. The Panel's work is not necessarily about achieving consensus, but rather helping to inform Government's deliberations.

Application of the *Public Administration Act 2004*

24. Under section 5(1)(d)(iii)(A) of the PAA, the Panel is declared to be a "public entity" for the purposes of that Act.
25. Each member of the Panel must at all times act -
 - (a) in accordance with the Code of Conduct issued by the Victorian Public Sector Commission³; and
 - (b) in a manner that is consistent with the public sector values in section 7(1) of the PAA.
26. The relevant duties and requirements of sections 79 to 97 of the PAA apply to the Panel and the members, except where these Terms of Reference are more specific or stringent in nature than those in these sections.
27. The Panel and its members are taken to be a public body and its directors respectively for the purposes of these sections of the PAA. The Panel is also equivalent to a board of directors for the purposes of these sections.
28. The Panel must act consistently with the 'duties of directors' (Panel members) in section 79 of the PAA. These duties include:
 - (a) Performance of duties: act honestly; in good faith in the best interests of the agency; with integrity; in a financially responsible manner; with a reasonable degree of care, diligence and skill; and in compliance with the establishing Act and any subordinate instrument.
 - (b) Confidentiality: maintain confidentiality, even after your appointment expires or otherwise terminates.
 - (c) Use of information: avoid improperly using your position or any information acquired in your role as a Panel member to gain advantage for yourself or another person or to cause detriment to the agency.

Accountabilities

29. The Panel is subject to the general direction of the Minister in the performance of its functions.⁴

³ Note section 61 of the PAA

⁴ Note section 85(1) of the PAA

30. The Panel must provide its recommendations or advice as required by these Terms of Reference to the Minister by 31 March 2020.
31. Each member of the Panel is required to comply with these Terms of Reference, and each member's ongoing participation in the Panel is their implied acceptance of these Terms of Reference.

Membership

32. The Panel consists of the Chairperson and a maximum of two other members, appointed by the Minister.
33. The Panel is to be constituted by
 - (a) a member with skills and experience rural and/or regional issues and an understanding of the broad context of local government and its role, appointed by the Minister;
 - (b) a member with experience or expertise in local government rating and revenue systems and/or taxation systems, appointed by the Minister; and
 - (c) the Chairperson with experience in chairing and leading public reviews and inquiries and understanding of the broad context of local government and its role, appointed by the Minister.
34. A Member is appointed by the Minister for the term of office specified in his or her instrument of appointment.

Chairperson

35. The role of the Chairperson includes: direct and facilitate the business of the Panel;
 - (b) call Panel meetings;
 - (c) determine the agenda for each meeting in consultation with the Secretariat;
 - (d) may invite any individual to attend, observe and/or submit advice at a Panel meeting;
 - (e) preside at meetings, including maintaining order and guiding the meeting through the agenda;
 - (f) act as the contact person between the Panel and the Minister;
 - (g) present reports and recommendations from the Panel to the Minister;
 - (h) liaise with the Secretariat;
 - (i) assist the Panel to understand and carry out its role; and
 - (j) facilitate an orderly and constructive discussion between Members on matters within these Terms of Reference.
36. Subject to any direction provided by the Minister, the Chair is the sole spokesperson for the Panel.

Members

37. Each Member is responsible for:
 - (a) attending Panel meetings and contributing to the work of the Panel by preparing for meetings;
 - (b) notifying the Chair and the Secretariat before the meeting if the Member is unable to attend a meeting;
 - (c) adhering to principles of good governance and conduct.

Remuneration & Expenses

38. Subject to the Appointment and Remuneration Guidelines and these Terms of Reference, a member is entitled to receive remuneration for their service on the Panel as set out in their instrument of appointment.
39. A Member is entitled to the reimbursement of reasonable travelling and personal expenses directly related to their service on the Panel at the rates, and on the terms, that apply to employees of the Department.
40. Daily rates are set for the maximum payable for official duties on a given day. Where official duties equal or exceed four hours, the maximum daily rate will be paid. Official duties of less than four hours will be paid at half the daily rate.
41. Official duties include:
 - a. attendance at, and participation in, meetings with stakeholders and consultation with the public relevant to the role of the panel; and
 - b. preparation of the report, either as individual Panel members or collectively as the Panel panel meetings and stakeholder meetings.
42. Participation in activities considered relevant to the role of a panel member may be eligible for remuneration subject to approval by the Minister for Local Government.

43. Panel Members may apply in writing to the Minister for Local Government if further remuneration is required above these caps.

Removal from office and resignation

44. The Minister, without cause or notice, may remove a member from office at any time and for any reason or for no reason at all.
45. Upon a vacancy occurring in the office of a member, the vacancy may be filled by the Minister in accordance with these Terms of Reference.

Meeting Procedure

46. The Panel is expected to meet at the determination of the Chairperson, as often as required.

Minutes

47. The Chairperson must –
- (a) ensure that minutes of each meeting are kept;
 - (b) circulate the minutes for comment by members before being formally adopted at the next meeting; and
 - (c) provide the adopted minutes to the Panel Secretariat.

Conflicts of Interest

48. In these Terms of Reference:
- (a) a **'conflict of interest'** is a conflict between a member's public duty to act in the best interests of the Panel and their private interests. It includes a **conflict of duty**, which is a conflict between a member's public duty to act in the best interests of the Panel and their duty to another organisation (e.g. due to their role as a Panel member or employee of that organisation).
 - (b) A private interest:
 - may be **direct** or **indirect**; and
 - can be **pecuniary** (financial) or **non-pecuniary** (non-financial), or a mixture of both. A non-pecuniary interest may arise from personal or family relationships or from involvement in sporting, social, or cultural activities, etc.
 - (c) A conflict of interest exists whether it is:
 - **real** (ie. it currently exists);
 - **potential** (ie. it may arise, given the circumstances); or
 - **perceived** (ie. members of the public could reasonably form the view that a conflict exists, or could arise, that may improperly influence the member's performance of his/her duty to the Committee, now or in the future).
49. A member who has a conflict of interest in a matter being discussed at a meeting of the Panel must declare the nature of the interest:
- (a) at the commencement of a meeting; or
 - (b) if they become aware of an interest during discussions, as soon as possible after becoming aware of the interest.
- A declaration must be made even if the interest is already recorded in the Panel's Register of Interests.
50. The Chairperson or member presiding at a meeting at which a declaration of an interest is made must cause the declaration and how the conflict of interest will be managed to be recorded in the minutes of the meeting.
51. The Chairperson must keep a record of declared interests (the Register of Interests). Any member may request and be granted access to this Register of Interests.
52. If a Panel member has breached their conflict of interest obligations in these Terms of Reference, the Chairperson must notify in writing the Ministers as soon as practicable after becoming aware of such a breach, including whether the breach is material.

Gifts Benefits & Hospitality

53. The Panel will adopt the Departmental policy on *Gifts, benefits and hospitality*.

Confidentiality

54. Members should note that the requirements of sections 79(2) & (3) and 81(1)(c) of the PAA in regard to confidentiality and use of information applies to them. The Minister may authorise the Panel to release specified information to third parties.
55. On the termination or expiry of a member's appointment, the member must return all documents relating to the Panel to the Chairperson.

Privacy

56. The Panel must have processes in place to ensure that its members, in the course of their duties on the Panel, comply with the requirements imposed by or under the *Privacy and Data Protection Act 2014*.⁵

Intellectual Property

57. The rights to Intellectual property created by the members of the Panel in the course of their duties on the Panel, including any reports required under these Terms of Reference, is the property of the State of Victoria. However, the Minister on behalf of the State grants the Panel a licence to use this property as authorised under these Terms of Reference. In this clause, Intellectual property includes legal rights that protect the results of creative efforts including copyright, proprietary rights in relation to inventions (including patents), registered and unregistered trademarks, confidential information (including trade secrets and know how), registered designs, circuit layouts, and all other proprietary rights resulting from intellectual activity in the industrial, scientific, literary or artistic fields, but does not include moral rights.

Media

58. Any enquiries to the Panel from the media should be referred to the Chair (via the Secretariat).
59. A Member who is approached by the media in relation to the work of the Panel should not discuss the Panel's deliberations or work program and should refer the enquirer to the Chair.
60. The Panel will adopt the Departmental policy on Social Media

Secretariat support to the Panel

61. Administrative support to the Panel will be provided by the Department.
62. Day to day liaison for the Panel will be through the Director – Sector Performance, Innovation and Resilience, Local Government Victoria, or his or her nominee.
63. Support provided by the Secretariat includes:
 - a. organising meeting rooms;
 - b. taking minutes;
 - c. preparing and distributing agendas for Panel meetings, in consultation with the Chair, including any meeting papers;
 - d. organising stakeholder consultation meetings;
 - e. managing the public consultation online portal;
 - f. compiling stakeholder submissions for the panel to review;
 - g. arranging travel and accommodation where Panel members are required to attend meetings at regional locations;
 - h. overseeing the budget for the Review;
 - i. conducting research and providing advice to the Panel;
 - j. procurement of external expert analysis and advisory services as required by the Panel on areas within the scope of the review;
 - k. assisting in drafting reports; and
 - l. other administrative support (e.g. processing claims for reimbursement of remuneration and expenses);
64. The Secretariat will disseminate information and papers to members in an efficient and effective manner.

⁵ Note that this Act applies to the Panel as it is a public entity as defined in the PAA and is therefore a public sector agency for the purposes of the *Privacy and Data Protection Act 2014*.

65. The costs of the Panel will be met by the Department.

Entity review, sunset date & amendments

66. The Panel will operate until 31 May 2020.

67. The Minister may amend these Terms of Reference in writing at any time.

68. The Minister may revoke these Terms of Reference in writing at any time and upon revocation of these Terms of Reference the Panel ceases to exist.

Hon. Adem Somyurek MP
Minister for Local Government