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Dr Kathy Alexander
Chairperson
Victorian Rating System Review Panel
Rating.review@delwp.vic.gov.au

Dear Dr Alexander,

Submission to the Victorian Local Government Rating System Review

Thank you for the opportunity to make this submission to the Victorian Local Government Rating System Review.

I write on behalf of the members of FinPro, the peak body servicing local government finance professionals in Victoria. FinPro is an Incorporated Association with over 400 members representing all Victorian Councils and 5 regional library corporations. We are affiliated with CPA Australia and are represented on its Public Sector Committee.

One of the key objectives of FinPro is to provide advocacy for local government practitioners on issues which affect the industry as a whole, and to act as the focal point of reference by regulatory bodies on financial issues affecting the sector.

Following consultation with our members we offer the attached submission for consideration.

Thank you for the opportunity for our members to take part in this review. Please feel free to contact us with any further questions via our executive officer, Gabrielle Gordon, at gabrielle@finpro.org.au or on 0400 114 015.

Regards

Bradley Thomas
President - FinPro

Executive Summary

We welcome this review into Victoria's rating system, which has been largely impacted by the introduction of rate capping and annual property valuations in recent years.

Local Government authorities are heavily reliant on rates, which represent approximately half of all their annual revenue. Rates fund the continued delivery of important services and infrastructure for the community and are an incredibly important funding source for councils.

Yet no two Victorian councils are the same. With different demographics, socio-economic conditions and environments, it is important that the Rating System that governs Victorian Councils is flexible enough so that local issues can be addressed in each municipality. Challenges that exist in metropolitan municipalities can be far different to challenges experienced by rural councils.

Section 3c(f) of the Local Government Act 1989 states that one of the objectives of a council is to "ensure the equitable imposition of rates and charges". Our submission hopes to address some of the issues that we believe impede Victorian councils in achieving this, and hopefully lead to better outcomes for both councils and ratepayers.

List of Submission items:

1. Maintaining Flexibility for Councils
2. A predictable rate cap
3. Property valuations
4. Differential rates
5. Minimum rates and the Municipal Charge
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7. Review of rates-exempt categories
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9. Rates notices
10. Payment Options and Interest Rates
11. Technology and digital disruption
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1. Maintaining flexibility for councils

As stated in the executive summary above, no two Victorian Councils are the same. Each municipality occupies a different landscape, has a different mixture of residents and socio-economic conditions, and faces different challenges.

The 2010 Henry Review into Australia's tax system recommended that "States should allow local governments a substantial degree of autonomy to set the tax rate applicable to property within their municipality." Victorian Councils are restricted in choices in regards to rate increases and further limits within the current rating system.

However, the current Victorian rating system does allow councils some options in the way they levy rates, enabling them to customise a rating strategy to try to address unique challenges in the local municipality in order to create an equitable distribution of rates.

Flexibility in Victoria's local government rating system could be further enhanced by:

- Not prescribing specific rating differentials to councils based on different classes of ratepayers,
- Removing s161(5) of the *Local Government Act* that requires a differential rate be no more than 4 times the lowest differential rate in the municipal district,
- Removing rates-exempt status for a number of property classes,
- Removing prescribed supporting information from rates notices that could easily be referenced online.
- Retaining different payment options for ratepayers to suit both their needs and council needs, and
- Replacing the Municipal Charge with a minimum rate.

2. A predictable rate cap

Whilst it is understood that the rate capping framework is not being considered by the review, the effect of rate capping has had a profound effect on local government financial sustainability. The cap is only announced in late December for the next financial year. Given the increased focus on long term financial planning for councils, we recommend that the minister announce, at a minimum, a four year rate cap based on the Consumer Price Index forecast used in the State Government's annual budget papers, with review mechanisms to account for any changes in economic conditions every two years.

It has been the practice of the State Government to use the forecast CPI from the State Government budget papers as the rate cap since the introduction of the *Fair Go Rates* legislation in 2016. These budget papers also include a CPI forecast for the next 4 years.

Having some certainty in the rate cap will allow councils to deliver more accurate long term financial plans and highlight financial challenges earlier.

3. Property Valuations

FinPro accepts that the use of property valuations as a driver for rates calculations represents a fair implementation of a wealth-based tax.

The use of Capital Improved Value (CIV) is a common and sensible method for property taxation. It leads to the distribution of the rates burden based on asset ownership, and when applied in conjunction with Rating Differentials can further provide for a more equitable levying of rates. Importantly, the use of property valuations for rates is common and easily understood by ratepayers.

Property valuations are provided in April each year by the Victorian Valuer-General. The recent introduction of annual valuations has however lead to unintended consequences.

Councils are required to submit their annual budgets for the next financial year by no later than the 30th of June in the prior year, and as part of the budget process, must prepare and publicly exhibit a draft budget before it is adopted. The provision of property valuations in April is extremely inconvenient for councils and does not meet budget requirements, leading to unnecessary rework of budgets and additional costs to councils.

As well as the additional burden to Councils, ratepayers are often subject to rates shock due to large movements in valuations from year to year. This could be reduced by introducing valuation averaging (average values over longer terms), or valuation bandings for rates.

FinPro recommends that property valuations (the basis for calculating rates) are provided by the Victorian Valuer-General to councils by no later than 28 February each year, allowing municipalities sufficient time to prepare, approve, and publicly exhibit their budgets for the next financial year.

4. Differential Rates

Differential rates are an important part of Victoria's rating system and a valuable tool used by many Councils to better spread the taxation burden amongst ratepayers. They allow councils to offset the rating burden for those it feels are disadvantaged, counterbalancing this with higher rates for those with higher capacity to pay, or access to deductions under corporate income tax laws. Differential rates can also be used as a tool to drive positive behaviours in ratepayer groups.

Current ministerial guidelines on differential rates require that LGA's must give consideration to reducing the rate burden through the use of a reduced differential rate for uses such as farmland and retirement villages.

The majority of rural councils do use a differential rate to offset the rates burden on farms, recognising the large property values associated with farming and the disproportionate level of income generated from agricultural activities. FinPro supports maintaining this flexible approach, whereby individual municipalities can set a differential rate for farmland that best reflects their local conditions.

Under the Ministerial Guidelines for differential rating, Councils are required to give consideration to a differential rate for retirement villages; however, the guidelines stop short of prescribing the introduction of such a differential rate. FinPro does not support the prescription of any differential rates, as this would reduce flexibility and lead to inequity between councils and ratepayers.

Differential rates are provided to Retirement Villages in 5 out of the 79 Victorian Councils with the discount provided ranging from 5% to 25%.

Council rates are not based on the benefit taxation principle and are not a fee for service, they are instead a tax based on the valuation of the assessment. Retirement villages and related associations often make representations based on the theory of rates as a fee for service.

In most cases, the valuation of residential village properties is lower than corresponding properties because valuers recognise the limitations on the use of the property and apply a specific AVPCC (Australian Valuation Property Classification Code) to reflect this. This means that many residential village properties pay lower rates than similar properties.

Councils also continue to provide infrastructure and services that are used by these residents, including open space, roads and footpaths, and community houses.

5. Minimum Rates and the Municipal Charge

FinPro is supportive of the imposition of a minimum rate (subject to individual Council decision), so that all property owners are contributing to the infrastructure and services that benefit their properties. However, the description of the Municipal Charge in the local government act is not helpful and leads to confusion for ratepayers and the general public.

Section 159(1) of the Local Government Act 1989 states that “A Council may declare a municipal charge to cover some of the administrative costs of Council”. This description is ambiguous, and leads to misinterpretation by ratepayers and misrepresentation of Council rates.

The proposed Local Government Act 2019 includes a reduction in the limit of the Municipal Charge from 20% of total rates and charges to 10% of total rates and charges. This will reduce flexibility for councils in applying the most equitable local solution to rating and is not supported.

We recommend that the Municipal Charge should be renamed as a “Minimum Rate”, with the description being “A Council may declare a minimum rate payable by all property owners to contribute towards funding council services and infrastructure that provide benefit to all properties within the council area”. We also recommend that if a Council elects to apply a minimum rate no property classes are exempted from the minimum rate.

6. Fire Services Property Levy

The Fire Services Property Levy (FSPL) is collected to fund Victoria’s fire services, namely the Metropolitan Fire Brigade (MFB) and the Country Fire Authority (CFA). The FSPL is calculated based on a small fixed charge plus a variable charge based on the Capital Improved Value of each property. Funds received by Council from the FSPL are paid to the State Government in full. Council has no role in setting the levels of the FSPL.

The introduction of this non-capped charge has resulted in greater confusion for ratepayers, as the FSPL is not capped under legislation and has been subject to large increases over the last few years.

The government also worked with major software providers to upgrade council systems to enable the collection of the FSPL. However, these upgrades were not funded to completion and provide significant ongoing frustration to council staff trying to calculate and remit the collected levies to the State Revenue Office.

The State Revenue Office also require annual reporting as at the 28th of June each year. This leads to additional administration burden, as councils must manually adjust the figures for the extra two days.

FinPro Recommends that the State Government:

- Provide further education to the general public about the Fire Services Property Levy and the effect on rates notices,
- Fund the appropriate work on local government software to achieve the original purpose of the system upgrades, and
- Align reporting to the State Revenue Office with the financial year.

Or

Through the State Revenue Officer separately invoice ratepayers for the FSPL so it is not administered by Local Government and does not further confuse ratepayers by inclusion on rate notices.

7. Review of rates-exempt categories

All land in Victoria is considered rateable except where it is specified as exempt in the Local Government Act 1989. The current exemptions include;

- State and Commonwealth land (Crown Land) where it is either occupied or it is used exclusively for public or municipal purposes,
- Crown Land leased to a rail transport operator,
- Land used exclusively for a charitable purpose,
- Land used as a residence of Ministers of religion,
- Mines, and
- Returned Services League Clubs.

Many of these exemptions are based on outdated taxation principles and require review. These exemptions create inequities and inefficiencies in Victoria's rating system and ultimately lead to commercial operators gaining an unfair advantage over the rest of the ratepayer base. FinPro suggest that rating exemptions are removed for the following commercial activities:

- Electricity Generators,
- Universities and Private Schools,
- Portions of religious and charitable properties used for commercial purposes,
- RSL and Gaming venues on crown land,
- Properties used for mining purposes, and
- Any Crown Land used for commercial purposes.

Electricity Generators

Rating exemptions for electricity generators hark from a time when electricity generation was controlled by the state and publicly owned. The number of renewable energy providers has

increased exponentially in the last decade, and have had profound effect of council revenues.

The Electricity Act 2000 dictates that electricity generators make a payment in lieu of rates (PiLoR). The PiLoR is based on a small fixed charge and a variable charge based on how much energy is generated. Although councils must accept the PiLoR, which is much lower than what would have otherwise been collected via a valuation-based rate, the State Government still collects the full Fire Services Property Levy from electricity generators based on property valuations.

The imposition of PiLoR on councils leads to:

- an unfair advantage for commercial electricity generators and their shareholders,
- an unfair disadvantage to local ratepayers who have to shoulder the additional rates burden,
- an unfair disadvantage to municipalities whose revenue is constrained whilst state government revenue is not, and
- the disproportionate and inefficient application of local taxation.

Universities and Private Schools

Universities and Private Schools play an important role in the education system, however, these institutions are now heavily commercialised and play a significant role in the Victorian Economy. In fact, education is one of the biggest components in the Victorian Economy, and makes up 25% of our Gross State Product.

The increase in full-fee paying international students, and commercial activities on-site (such as swimming schools, cafes and research companies) have led to the remaining ratepayer base heavily subsidising what should be collected on the basis of these commercial activities.

Private Schools and Universities are also heavy users of community infrastructure and services, and should contribute to the provision and maintenance of these services.

Religious and Charitable Organisations

Religious properties and those owned by charitable organisations are traditionally exempt from rates. However, these organisations increasingly sub-lease their properties for commercial activities. FinPro agrees that where the organisation is providing charity works or religious services that there is an argument for an exemption from rates, but recommends that these exemptions are solely based on ownership and exclusive occupancy for an exempt purpose.

We recommend that rates are apportioned to a property that an organisation sub-leases for a commercial use.

Section 154(2) of the *Local Government Act 1989* states that the following is not rateable land ... (c) "any part of land, if that part is used exclusively for charitable purposes". However, there is no definition provided for what constitutes charitable purposes.

This could lead to ratepayers claiming non-rateable status even though they are not carrying on true charitable business.

FinPro recommends that a definition of charitable purposes is included in the rating system, and is defined as “organisations that are registered with the Australian Charities and Not-for-profits Commission.”

RSL and gaming venues on crown land

Many RSL Gaming venues and Gaming venues on Crown Land compete with local businesses e.g. hotels, cafes and restaurants but these Gaming venues are exempt from paying council rates.

It is difficult to justify how gambling and the social cost inflicted by this activity to the most vulnerable members of the community warrant this rate exemption.

FinPro recommends that any gaming venues operated on Crown Land should not be exempt from paying council rates.

Properties used for mining purposes

It is an interesting contradiction that property used for mining is exempt from rates whilst property used for quarrying is not. Both pay royalties on extracted material. As both are commercial activities, there is no plausible reason why mining operations should remain exempt from local government rates. We recommend that this exemption is removed.

Crown land used for commercial purposes

Much like our recommendation to apportion rates to commercial businesses on religious properties, FinPro recommends that the current rates exemption to commercial activities on crown land is removed.

Commercial operators on crown land receive a distinct advantage over other commercial operators, and are often heavy users of infrastructure maintained by state and local government authorities.

By continuing to provide this exemption, other ratepayers are unfairly burdened with the cost of servicing these commercial operators.

8. Waste Charges

Councils fund waste services using Victoria’s Local Government Rating System. Income is collected to cover the cost of dealing with all matters in the waste life-cycle, including kerbside waste collection, landfill management, street litter bins, public education, recycling services, transfer station operations, and landfill rehabilitation.

Councils may elect to fund their waste services through either general rates, or by declaring a separate charge under section 162 of the Local Government Act.

With increasing cost pressures related to handling consumer waste, councils face an escalating challenge to fund these services. More than ever, high EPA levies and

rehabilitation requirements are forcing councils to increase waste charges above CPI increases and therefore also above the rate cap.

One of the key purposes of the landfill levy is to provide additional and ongoing funding to support efforts by government, industry and the community to reduce waste.

FinPro calls on the state government to show environmental leadership, and invest funds collected in the sustainability fund for the complete redesign of the recycling life-cycle in Victoria, by introducing a container deposit scheme to the state and in seed funding downstream recycling activities to deal with locally recycled material.

As each council has a different waste system (some operate landfills, whereas others do not), FinPro recommends that councils continue to be allowed the flexibility to determine their own waste charges.

9. Rates Notices

Notices prepared for ratepayers by councils are heavily prescribed and contain vast amounts of information. The addition of the Fire Services Property Levy to the rates notices has led to further confusion to ratepayers.

We recommend that charges on rates notices are separated between “capped” (rates and municipal charge) and “uncapped” (waste and FSPL) amounts, to allow the ratepayer to better understand the impact of rate capping on their rates notices.

Adding to the complexity of rates notices is the plethora of legislative detail contained (often) on the back of the notice. We also recommend that legal information contained on rates notices can sufficiently be provided on council websites. This would allow councils to add additional information onto the notice that could explain to the ratepayer how their rates are calculated and being used.

10. Payment options and interest rates

Under section 167 of the Local Government Act 1989, a council must allow a person to pay a rate or charge (other than special rate or charge) in four instalments, but may also allow a person to pay a rate or charge in a lump sum.

The current provisions provide flexibility for ratepayers in terms of paying bills, and allows councils to manage cash flows and ratepayer debts in an efficient manner. FinPro recommends that the Rates Payment legislation is maintained with its current intent.

Councils can charge interest on unpaid rates and charges and also pursue legal action against the ratepayer (which may include sale of the property).

Interest rates are set by the state government under section 2 of the Penalty Interest Rate Act 1983, and are currently applied at a rate of 10% per annum. This rate is clearly much higher than the commercial reality and ratepayer expectations. FinPro recommends an annual review of penalty interest rates to ensure fairness.

11. Technology and digital disruption

Local Government Authorities are at different stages of digitising rating processes, with several different providers servicing different councils. FinPro recommends further investment in technology by the State Government, in particular in relation to property valuations systems and interfaces between local government rating systems and other authorities for the collection and distribution of rating data.

The government also worked with major software providers to upgrade council systems to enable the collection of the FSPL. However, these upgrades were not funded to completion and provide significant ongoing frustration to council staff trying to calculate and remit the collected levies to the State Revenue Office. FinPro recommends that state government fund the appropriate work on local government software to achieve the original purpose of the system upgrades.

Digital disruption is affecting many industries, including transportation, retail, and tourism. Councils do not currently have any mechanisms to deal with digital disruption due to a lack of relevant legislation. In particular, Airbnb type accommodation providers are providing significant issues to councils, particularly in high tourism areas.

Whilst providing competition and ease of use for consumers, these alternative accommodation providers are largely unregulated and do not have to meet strict regulatory guidelines of traditional accommodation providers. This often results in public nuisance and complaints from consumers and neighbours, and provides unfair advantages to these properties over traditional and regulated accommodation providers.

Local councils do not have tools to address the issues caused by these properties, both on amenity and the equitable distribution of rates. FinPro recommends that the panel investigate what mechanisms could be introduced to Victoria's Local Government Rating System to help councils to address these issues.

12. Public Education

It is clear to FinPro members that public knowledge and acceptance of Victoria's rating system is low. Councils receive numerous enquiries and challenges to rates on an annual basis.

Ratepayers commonly show limited understanding of how the rating system works, including how property valuations are estimated, what is capped and not-capped, which fees and charges contribute to council's revenue, and the enforceability of rates.

FinPro recommends that the outcomes of the review into Victoria's Local Government Rating System are widely communicated along with a significant engagement activity that educates the general public on how rates work, and that previous recommendations on improvements to rates notices are implemented.