



31 October 2019

Colin Morrison
Acting Executive Director
Local Government Victoria
Department of Environment, Land, Water and Planning
Level 35, 2 Lonsdale Street, Melbourne

Ask for: Les Mitchell
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Our Ref: A3203612

Dear Colin,

Local Government Rating Review Submission

Thank you for the opportunity to provide feedback via our submission on the Local Government Rating Review.

Please find attached Council's submission including our response to the survey titled *Consultation questions – local councils*.

Council is aware of, and generally supports the submissions made by Revenue Managers Association, FinPro and the Municipal Association of Victoria.

If you require any further information please feel free to contact me on the above contact details.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Les Mitchell'.

Les Mitchell
REVENUE COORDINATOR



LOCAL GOVERNMENT RATING REVIEW - SUBMISSION

Introduction

Council's submission for the Local Government Rating Systems review addresses most of the issues in the Discussion Paper in regards to Council Rates and Charges, plus some key issues identified by Council staff in regards to fairness and equity for the community.

The general public view rates as a form of taxation and continually expect the amount they pay to match the services they access. Rather than a tax, rates should be viewed as contribution to the community, providing infrastructure and services for all who use them during their life-cycle. Owner liability should be retained and any unpaid rates and charges should continue to be protected as a first charge on the property.

Rate Capping

The '*Fair Go Rates*' legislation is working well from the ratepayer's point of view but annual valuations and volatility in the property market is making it difficult for some ratepayers to understand and deal with rate increases particularly in cases where the increase is well above the rate cap. The trend over recent years has seen the rate burden shift back and forth from one suburb to the next, causing dissatisfaction and frustration for both ratepayers and Council.

Appeal Rights

The "Appeal Rights" that currently exist under sections 184 and 185 of the *Local Government Act* 1989 could be improved by providing an additional option prior to the requirement of seeking legal advice. The current process can be time consuming and costly for ratepayers and Council alike. A fairer system would be to allow the ratepayers to appeal to Council's management, outside of the rating regime and then referred to the relevant authorities, if required as currently provided for in the Act.

Non-Rateable Properties

In order to enhance fairness and equity it is Council's view that all non-rateable properties should be reviewed and consideration made to rate them and in doing so, create a level playing field for all other property owners who currently bear the brunt of the rates burden.

Not with-standing that comment, the follow outlines more specific issues in relation to the existing legislation regarding not-rateable properties.

Charitable status

Councils are receiving more applications from organisations claiming rate exemption under section 154(2) (c) of the Act. It is often unclear as to whether or not these applications qualify as 'exclusively charitable', resulting in confusion and inconsistency between Councils. The growth in 'not for profits' and Public Benevolent Institutions providing services to the health and disability sectors has compounded the problem.

There is no clear definition or set of criteria that can be drawn on to assess eligibility for exemption on the grounds of 'exclusively charitable'. The original intention of this provision was to provide some concession to charities who support the 'relief of poverty'. In reality, this provision provides rate exemptions to many organisations that operate substantial businesses and provides an unfair advantage over others in the market place.

There are many instances where charities lease property from private individuals and claim the rate exemption under this provision. Arguably, the property owner is 'using' the property for a commercial investment purpose and should pay rates accordingly rather than relying on the exemption. Linking rate exemption to 'ownership' rather than 'use' should be considered, given that the underlying principle of the Act is that the owner is liable for rates and charges. This could result in a more equitable outcome.

Section 154(4) (d) of the Act states that if a property "is used to carry on a business for profit (unless that use is necessary for or incidental to a charitable purpose)". Lawyers representing applicants are using the ambiguity of this clause to threaten Council with court action if they do not accept the non-rateable application. Ineligibility for rate exemption based on the property being 'used for the retail sale of goods' under section 154(4)(c) of the Act should be extended to include 'services'.

Church properties

Religious organisations, if they are to be exempt, should only receive rate exemptions for 'places of worship'. The exemption should exclude residential properties (including those occupied by Ministers of religion) and other commercial properties. All residents utilise Council services in some way and therefore it is not unreasonable to make all properties used for residential or commercial purposes rateable. It could be considered unfair to owners of other properties that rate exemptions are given in these instances.

RSL Clubs

RSL Clubs are exempt under section 154 (2)(f) of the Act and Council acknowledges the important role they play in supporting ex-servicemen and servicewomen. Many RSL Clubs have expanded into major commercial venues providing food, entertainment and often gaming and gambling in direct competition with other similar privately owned rateable establishments. The club's membership is now predominantly made up of the general public, not just returned servicemen and servicewomen. This provision could be considered inequitable, providing an RSL Club with an unfair advantage over other similar businesses competing in the same market.

Rebates & Waivers

The current legislation allows Councils to provide rebates, concessions and waivers of rates and charges to ratepayers under certain circumstances. In recent years, councils have recognised that extra assistance is required to low income ratepayers and have provide their own (council funded) waivers or concessions. The current legislation does not make this process easy or straight forward, resulting in some council's unintentionally applying waivers or concessions incorrectly.

Payment of Rates & Charges

Under section 167 of the Act councils "must" offer payment of rates and charges by four instalments and "may" offer a lump sum option. Many Councils also allow monthly or fortnightly payments. Options for a combination of both lump sum and instalments should be retained.

Our experience is that low income earners and pensioners alike, normally pay by instalments. If the payment in full option was made compulsory, ratepayers could be tempted to leave payment of the account until 15 February each year. There are concerns that that this option can lead to financial hardship for many ratepayers struggling financially.

Recovery of costs for unpaid rates and charges

Councils are currently only legally entitled to recover costs associated with legal action, as awarded by the Court. Most councils incur various other costs (e.g.; field calls, skip traces, mortgagee letters, etc) throughout the collection process that are not currently recovered unless they are specifically stipulated in Councils adopted fees and charges. The Act should include provision for Councils to recover any reasonable out of pocket expenses associated with tracing a ratepayer liable to pay overdue rates and charges.

Cultural & Recreational Land

The *Cultural and Recreational Lands Act* 1963 specifies how Councils should levy rates (or amounts in lieu of rates) on outdoor recreation and cultural lands. The methodology for calculating amounts is unspecified, other than stating that it should be 'reasonable having regard to the services provided by the municipal Council in relation to such lands and having regard to the benefit to the community derived from such recreational lands.'

It can be difficult in applying this legislation and councils struggle to achieve consistent and fair outcomes. The legislation specifically applies to land used for 'out-door sporting recreational or cultural purposes or similar out-door activities', therefore alienating any indoor sporting or cultural facilities. The *Local Government Act* 1989 has differential rating provisions that provide Councils with enough flexibility to levy rates and charges on all sporting, recreational and cultural land.

Summary

Declaring rates and charges based on property values is still the most appropriate method for raising revenue for Councils. Whilst property valuations do not necessarily represent 'capacity to pay' there is currently no viable alternative method available.

The Capital Improved Valuation basis for rating purposes allows Councils to distribute the rate burden fairly and equitably by applying differential rates. If the issues raised by Council in this submission are incorporated into the Act, it will provide a fairer and more equitable outcome for both residents and businesses. There may also be cost savings for councils in regards to administering the legislation, in what will be an improved transparent process.

If the review results in major changes to rating properties that are currently regarded as non-rateable, the community will be better off by a more even distribution of the rates burden. Careful consideration would need to be given to the owners of education, religious, sport and culture service properties due the increased costs involved if they were to share the rates burden. However, this should be considered a fairer outcome as it will result in a more equitable system.

While no system of taxation is perfect the fairness and equity of the current Victorian Local Government rating system can and should be improved. Additionally, Council also supports and endorses the submissions provided by the Revenue Managers Association, FinPro and the Municipal Association of Victoria.