

Part 1 - Response to Rating Review Discussion Paper Chapter 5 broader policy questions:

- What types of properties should receive rating exemptions? Why would this be fair?

Most exemptions that are currently in place should be challenged from a point of view of equity. The legal decisions for elements of these exemptions date back to 1891 and need to be reviewed to understand relevance in the modern era.

People or properties that currently receive exemptions from municipal rates still have access to all services provided by Council. Our view is that it is not fair to the ones who currently pay rates to bear the rates burden on behalf of the ones receiving the exemptions.

The only exemption that should remain, should relate to the charging of rates for Crown and Council properties as contained in S.154 2(a) & (b) of the Act. There has been a long-established principle of common law that property vested in the Crown is exempt from taxation unless it is expressly or by necessary implication bound by statute to pay taxation. Levying rates on Council properties creates unnecessary administrative burden for Council as in effect Council will need to pay its own rates.

- Does your council report on rate exemptions granted, and/or their estimated value?

Council does not report on rate exemptions granted or their estimated values.

- Should councils be required to report on rates exemptions? Why?

The decision as to whether a property is rateable or non-rateable is made based on a documented process that is applied consistently. If councils were required to report on all rate exemptions particularly those properties owned by the Crown or by Council, it would include State Forests and Parks that have never been rated before. The Valuer General Victoria (VGV) also does not value these properties and officer's view is that reporting on these properties would create more administrative burden that would not add value to the Community.

- How does your council allocate differential rates? Why?

The general notion Council uses for differential rating is to try and equalise the impact of rates across property types based on conditions, access to services, use of services and other elements that affect different property types and that properties should pay a fair and equitable contribution to rates, taking into account good practice taxation principles and the objective in section 3c(2)(f) of the Act to "ensure the equitable imposition of rates and charges".

Our existing rating structure comprises five differential rates (residential, farm, commercial, industrial and vacant substandard), and a lower rate for recreational land. These rates are structured in accordance with the requirements of Section 161 'Differential Rates' of the Act. Under the Cultural and Recreational Lands Act 1963, provision is made for a Council to levy the rate for recreational lands at "such amount as the municipal council thinks 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".

The commercial and industrial land differential rates are set at 150% of the residential rate and the reasons for the use and level of the differential rate for commercial and industrial land are:

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- *To reduce the rate distribution to residential land by applying a higher differential to commercial and industrial land in recognition of the tax deductibility of rates that is not available to most residential land; and*
- *In recognition of the extra service, when compared to residential land, that commercial and industrial land derive from Council which includes but is not limited to economic development activities for businesses, the impact that heavy vehicles (servicing businesses) have on road infrastructure, street cleaning and local laws monitoring car park overstay.*

After considering the impact on these sectors, taking into account the reasons for the differential and having modelled the impact on residential land, if a higher differential rate was not applied, it is considered that this level of differential is justified.

The farm rate is set at 70% of the residential rate and the reasons for the use and the level of a farm land differential rate are:

- *To encourage the continuation of farming pursuits on rural land in support of the strategic objective to support the economic development of the agricultural sector;*
 - *In recognition that the size of the landholding required to conduct a farm business is far greater than other non-farm businesses with similar turnover and (pre-tax) profitability. Therefore farms in comparison have a higher valuation and would pay higher rates if a lower differential was not applied; and*
 - *In recognition that farm businesses profitability is affected by weather which means that their income is more susceptible and fragile than other businesses.*
- *What types of properties should pay more through differential rates? Why?*
 - *It is Council's view that given the diverse communities and needs across Local Government in Victoria, differential rating should not be considered a one size fits all and that each Council should continue to be able to set differential rating policies that support the economic and social needs of the community*
 - *What types of properties should receive rates waivers? Why?*

Yarra Ranges Council does not waive rates for any properties. As mentioned above, Council's view is that with the diversity in communities across Victoria, the decisions around what types of rates waivers should be allowed should be based on the local needs of individual Councils – there should not be a one size fits all approach to rates waivers as a result of the review.
 - *If councils provided rate discounts what criteria should apply?*

With the diverse communities across Victoria, we do support that decisions around what types of rates discounts should be allowed should be based on the local needs of individual Councils – there should not be a one size fits all approach to rates waivers as a result of the review.
 - *Should cultural and recreational land and electricity generators have alternative rating arrangements? Why?*

For the sake of simplicity and transparency, the rating legislation for cultural and recreational land and electricity generators should not be managed in other legislation but under the differential provisions of the Local Government Act making it

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a one stop shop for all Local Government Rates. Individual Councils can then determine, based on their own needs how to equitably rate these properties after taking into consideration the impact on other property types.

- Should property values determine rates? If not, then what should?

Yarra Ranges Council believes that due to the administrative simplicity, transparency and robustness of systems that have been developed over many years, property values should continue to be used to determine rates.

- What services should be funded by their users (in line with the user pays principle) rather than through general rates?

Services should be funded by users where there is a clear use or benefit element and the collection of a user charge is practical and cost effective to administer and enforce. Council does however subsidise many of the services provided on a user pays basis by rate revenue due to the inability to recover all costs associated with running facilities such as aquatics, libraries and cultural events in order to attract patronage.

- When should councils use special rates and charges? Why?

Special Charge schemes should be used where a direct benefit can be identified to a property rather than other properties that do not receive a direct benefit contributing through rate revenue. These schemes are quite suitable for projects such as road and footpath construction, Environmental Upgrades, Solar Power Upgrades, and Trader Schemes.

- How does your council set charges for waste and other services?

Waste charges are calculated using a full cost recovery model.

- Does your council have a clear rating strategy?

Yes, Council's rating strategy is contained in the Long Term Financial Plan, the Annual Budget and the Strategic Resources Plan

- Should all councils apply consistent rating practices? Why/why not?

Elements of the Act that outline the declaration of rates, determining occupation and rateability of properties should be clear so that it could be interpreted and applied consistently across the state. Due to the diversity of the state all other elements such as rates in the dollar, waivers, rebates, concessions, discounts etc. should be based on the local needs of individual Councils.

- Does the Local Government Act 1989 (and other requirements) provide clear rules and guidance to councils to set and levy rates? What could be improved?

Generally the Act provides reasonable guidance around levying rates with a robust debt collection process included in the legislation. The area that it could be strengthened is providing definitions around determining occupancy and rateability.

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Part 2 - Other Matters that Council wish considered:

Allocation of Rate Payments

In Local Government Rating it has been a long established practice that rate part payments have been allocated in the following order:-

1. Legal costs owing, if any;
2. Interest on rates and charges owing, if any;
3. Arrears of rates and charges owing, if any;
4. Current rates and charges owing.

Notice as to the method by which Council intends to allocate any payment is generally contained on the reverse of the rate notice. However the current Local Government Act is silent in this regard and therefore to clear up any doubt in relation to the allocation of part payments the new rating provisions should include a payment allocation statute based on the established practice.

Ownership Changes Direct from Victorian Land Registry

Under s231 of the current Act there is a requirement when acquiring property to give notice of the acquisition to Council. The non-receipt of notices under this section is a continual source of frustration for local government. In a number of other States in Australia the Land Registry in these states provides councils with the notice required under s231. A similar process for Victoria was mooted but to date nothing has eventuated. One of the supposed legislative barriers at the time was that the Local Government Act needed to be changed to allow the Registrar of Titles to provide the notice under this section. This review is an ideal opportunity to create the enabling legislation and then replicate the processes that are performed in other states therefore removing local government's frustration and the issues created by the non-receipt of notices of acquisition.

Supplementary Valuations and Rates

Under the provisions of s13DF of the Valuation of Land Act a supplementary valuation can be made in a number of circumstances and the basis for charging rates is legislated in this Act. What is missing from the Local Government Act is a provision for when a Supplementary Rate that eventuates from a Supplementary Valuation under the Valuation of Land Act becomes payable and subsequently when can interest be charged if payment is not made. The current Act is completely silent on the treatment of Supplementary Rates.

Part 3 - Response to Administrative Consultation Questions – local councils

1. How regularly does your council assess occupancies for each of the non-rateable exemptions under s154 of the *Local Government Act 1989* (the Act)?

If a property is not owner occupied, the occupier is required to prove that the use still meets the non-rateable requirements on an annual basis. Where the owner is the occupier and has proved that the property satisfies the LGA requirements for an exemption the only subsequent review will occur on the sale of the land, with the new owner required to demonstrate that the property continues to meet the non-rateable requirements.

- *What policy criteria do you apply?
The determination of non-rateability is based on the Act, legal precedent and at times legal advice.*
- *By property category, in your municipality, how much in rates do you estimate would be raised if these non-rateable occupancies were rateable?
but Council's estimate for properties that are receiving a rates exemption under s154C, D & F, which have an approximate total CIV of \$400,000,000 (Council does not have values for Non-Rateable Non Leviable properties) which amounts to about \$1.1million in rates lost.*

2. What rates and charges does your council declare?

*Differential rates – Residential, Vacant Sub Standard, Farm, Industrial & Commercial
Cultural & Recreational Land Rates*

Service Charges – Waste, Recycling and Organics

Special Charges - for road construction and trader schemes

Environmental Upgrade Charges

- *Do you have a revenue and rating strategy to help determine rates and charges under s155 of the Act?
Yarra Ranges Council does not have a separate strategy document but details around rates and charges are included in the Long Term Financial Plan, the Budget and the Strategic Resources Plan.*
- *How do you engage your community in determining rates and charges?
Since 2016-17, Council has restricted its rates increase to the rate cap set by the Essential Services Commission (ESC). The waste management charge is based on a full cost recovery model. As part of setting the budget, which includes the proposed rates and charges, Council consults with the community in accordance with S129, and makes the proposed budget available for public inspection for 28 days. The community is requested to make a submission under section 223 on any proposal contained in the proposed budget. Council also consults with the community when setting the four year Council Plan, which determines how Council will spend the rates and charges income that has been generated.*
- *If you use a municipal charge, how do you calculate its level?
Yarra Ranges does not use municipal charges*
- *What exemptions do you apply for municipal charges? How many, and what is the total value?
Yarra Ranges does not use municipal charges*

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3. How often have you issued rate notices to the occupier, or mortgagee in possession of, the land under s156 of the Act?

Council generally does not issue rate notices to the occupier or mortgagee in possession.

- What are the problems that you have experienced issuing notices under s156(3)?
Generally it is very hard to find out the name of any occupier and we are not very often advised by banks that they are the mortgagee in possession.

4. Do you issue separate notices for Special Rates and Charges, or do you combine them on a single notice?

Our Special charges are declared as an annual charge over the period of time the Special Charge is in force and are j another charge that is shown on the annual rate notice.

- What are the challenges of providing prescribed information on rate notices?
As part of the declaration of the scheme all the statutory information requirements including payment options are provided in a separate communication to the owner prior to the start of the billing for the annual charge. Subsequently when charging for the scheme starts the annual scheme charge appears as a line item on the rate notice similar to a waste charge.

5. How does your council determine general rates (uniform or differential)?

Yarra Ranges uses differential general rates

- What criteria does your council use in their application?

The general notion we use for differentials is to try and equalise the impact of rates across property types based on conditions, access to services, use of services and other elements that affect different property types and that properties should pay a fair and equitable contribution to rates, taking into account good practice taxation principles and the objective in section 3c(2)(f) of the Act to “ensure the equitable imposition of rates and charges”.

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not limited to economic development activities for businesses, the impact that heavy vehicles (servicing businesses) have on road infrastructure, street cleaning and local laws monitoring car park overstays.

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 - In recognition that farm businesses profitability is affected by weather which means that their income is more susceptible and fragile than other businesses.*
- What evidence does your council consider when determining the rates in the dollar for your differential rating categories?
Council takes into consideration the fair and equitable principles contained in the Act and have determined the percentages based on what Council believes are equitable rates in the dollars for the differentials as detailed above.
 - Does your council consider what services should be paid for with other income (e.g. municipal/service/special charges)?
Yes- waste services, special charges – road construction, residential solar energy, commercial trader marketing and environmental upgrades

6. What administration issues have you experienced when creating and administering special rates and charges?

Yarra Ranges Council has well developed processes when it comes to Special Rates and Charges and generally do not have any issues creating and administering these schemes

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7. Please describe the payment options your council makes available to ratepayers?

- Do you provide other payment options (in addition to offering a choice between paying in four instalments or in a lump sum)?
Yes - 9 monthly instalments September to May, 12 monthly direct debit payments July to June and 26 fortnightly direct debit payments July to June.
- Do you provide any incentives for payment of rates such as early payment?
Yes early in full payment
- What are they?
If rates are paid in full by 30 September ratepayers go into a draw to win one of five prizes with a value up to approximately \$1,000 for the first prize.

8. Do you provide any rating rebates and concessions (in addition to State government concessions)?

Yes we provide a Biodiversity Conservation Rebate.

- What are the criteria in your council for providing these rebates and concessions?
A general rate rebate known as the Biodiversity Rate Rebate is provided to all Trust for Nature (TFN) covenanted properties to encourage land owners to permanently protect native habitat with high conservation value.
A TFN covenant is a voluntary agreement between a land owner and TFN which protects and enhances the natural, cultural and/or scientific values of the land. The covenant, which is registered on the property title, permanently binds the current owner and all future owners. Some covenants cover all of a property while some cover only part of a property.
As not all of a property is necessarily covenanted the application of a rebate based on a rate per hectare with a minimum and maximum value provides the most equitable form of assistance as it directly links the actual area being conserved with the assistance provided.
- What is the total annual value of these rebates and concessions?
About \$24,000
- How do you monitor and report on the community benefits?
Given the small amount of the rebate Council has taken the view that there is no need to report on the community benefit

9. Do you have a policy for deferment of rates and charges?

Council does not have a deferment policy however we do have a Rate Recovery and Financial Hardship Policy that is reviewed and adopted by Council - while it is not a deferment policy in the true sense of the word if a Financial Hardship application under this policy is successful generally the outcome will be that no interest is charged or legal action taken in respect of any overdue rates and charges for 12 months. The general intent of the policy is that any benefit granted is not meant to be an ongoing benefit but it is to give the applicant time to reassess their financial situation and also to make payments to reduce the debt while interest is not being charged. However if after the initial 12 month period the financial situation of the ratepayer has not improved we will consider further applications under the policy.

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- What is the current total of rates and charges that are currently deferred?
We do not have any properties where the rates are deferred but the amount of rates owing including the 2019/2020 rates for properties on "Financial Hardship" is around \$5.6 million

10. Do you have policies regarding waiving rates and charges?

No but our general position is that we do not waive rates and charges and considering the amount owed by properties that have been assessed as suffering from financial hardship it would not be financially sustainable if we were too.

- What types of waivers do you provide to ratepayers and what is their estimated annual value?
Not applicable

11. Do you raise the amount declared under the *Penalty Interest Rates Act 1983* of 10 per cent for unpaid rates and charges?

Yes as it is our interpretation of the Local Government Act that once council decides to levy interest on unpaid rates it must be at the rate set under the Penalty Interest Rates Act.

- If not, what rates do you apply?
Not applicable as we charge the amount determined under the Act

12. What issues do you face when rating by occupancy?

The major determinate of occupancy under the Valuation of Land Act (VAL) is that if a portion of a parcel of land with a building is "occupied separately" or "obviously adapted to being occupied separately" it must be rated separately and valued accordingly.

On face value this section of the VAL seems quite straight forward but it is not so - particularly in the case of so called "removable dwellings" whether in a Residential Village or as a second dwelling on a property that masquerade as Dependent Persons Units (DPU). The VGV appears to have a view that these "removable dwellings" and we use the word "removable" loosely do not form part of a properties valuation and consequently we have a class of residential property not making a contribution to the rate base even though the occupants and properties will be consuming Council services.

Our opinion is that this is not the intent of the rating legislation. This anomaly due to valuation treatment certainly needs to be looked at and at the very least, a definition of what constitutes an occupancy provided to help with consistency and ensure equity is maintained across all properties.

13. What issues have you determined when applying rates to land that is becoming, or ceasing, to be rateable?

While most of the exemptions under s154 are easy enough to interpret the major issue we have is with making a non-rateable determination under s154(C) which relates to land used for charitable purposes. It is commonly accepted under this section that there are four heads of charity:

- 1. The Relief of Poverty;*
- 2. The Advancement of Education;*
- 3. The Advancement of Religion; or*
- 4. Other purposes beneficial to the community.*

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Generally the heads of charity points 1 to 3 above are easily determined however when it comes to point 4 "Other purposes beneficial to the community" a determination is quite complex, subjective and we regularly need to resort to a legal opinion to help with determining whether an application under this head of charity is valid. This obviously can become quite costly.

- Annually, over the past 5 years, how many supplementary rates and charges notices have been issued?
We do not have any exact records of number but anecdotally in total 10-15 each year becoming or ceasing to be rateable
- For each of these years, what was the total income for these occupancies?
Not available – no records kept

14. Do you have a policy regarding treatment of unpaid rates and charges?

Yes - Rate Recovery and Financial Hardship Policy

- If you do not, how do you treat ratepayers that live in their properties?
Not applicable
 - Do you treat non-residential properties differently?
No
- Annually, over the past 5 years, how many ratepayers have you issued complaints on for unpaid rates and charges and to what total value?

<u>Rating Year</u>	<u>Complaints issued</u>	<u>Debt Amount</u>
2013/14	495	\$1,966,035.81
2014/15	401	\$1,624,562.83
2015/16	400	\$1,887,591.10
2016/17	440	\$2,073,180.95
2017/18	310	\$1,859,335.23

- What amount of interest do you charge on unpaid rates and charges?
10%
- Do you raise the amount declared under the *Penalty Interest Rates Act 1983* of 10 per cent?
Yes
- Do you have any additional administration fees and charges for managing ratepayers with unpaid rates and charges?
No
- What type of collection activities do you use to recover unpaid rates and charges?

The Council adopted Rate Recovery and Financial Hardship policy articulates our rate recovery process including dollar thresholds for action but in general terms the process includes issuing a number of notices:

- *Rate Notice – Issued in August*
- *Courtesy Reminder Notice – Issued in January before the February in full payment date*
- *Final Notice – Issued in March after the February in full payment date*

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- *Solicitors 7 Day Final Demand Letter*

If rates are still unpaid after these notices legal action will then be commence if the action dollar threshold has been met. At any time in the recovery process a ratepayer can make a Special Payment Arrangement or apply for consideration under the policy hardship provisions.

15. What is your council's policy regarding selling land to recover unpaid rates and charges?

Our Rate Recovery and Financial Hardship policy articulates when we will take action to sell land for the recovery of rates including dollar thresholds for action.

- If no policy exists, how do you apply the relevant legislation?
Not applicable
 - Do you apply the same approach regarding selling land where ratepayers live in their property?
No - our policy has a higher dollar threshold for taking action where a property is owner occupied
- Annually, over the past 5 years, how many times have you undertaken this process?
No properties have been sold for the recovery of rates in the past 5 years as generally ratepayers make an arrangement to pay
 - How many properties have you sold?
Not applicable
 - How much has this cost, per instance?
Not applicable
- How many times have you claimed land instead of selling land?
Never
 - How much did this cost, per piece of land?
Not applicable
- What issues have you encountered when selling or claiming land?
The number one issue with selling land for the recovery of rates is being able to comply with the requirements where the owner cannot be located. ie serving notices, convincing the courts to issue an Order etc

16. What issues have you encountered in providing information for Land Information Certificates?

None generally as the information required to be included on a Land Information Certificate is available directly from the rates module of our Corporate System

- Do you provide any updates (verbal or otherwise) to ratepayers/would-be ratepayers for these certificates?
Yes
 - Have you experienced any privacy issues in providing updates? If so, what were they?
No as the information provided on a Land Information Certificate is prescribed by regulation and therefore it cannot be considered private as anyone can pay the required fee and obtain a Land Information Certificate

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17. Do you have a policy on how you apply the rates section of the *Cultural and Recreational Lands Act*?

Council does not have a separate adopted policy but the level of rates contributed by properties that qualify for consideration under the Cultural and Recreational Lands Act is determined as part of the Budget process

- How many occupancies in your municipality are categorised as cultural and recreational lands?

13

- Annually, over the past 5 years, how much have you received in lieu of rates in relation to cultural and recreational property?

2019/2020 - \$81,669.80

2018/2019 - \$55,362.40

2017/2018 - \$73,671.55

2016/2017 - \$73,671.55

2015/2016 - \$74,461.35

Total - \$358,836.65

- How much would you receive if you were to assess these properties under your normal rates?

2019/2020 - \$204,222.35

2018/2019 - \$137,568.50

2017/2018 - \$187,854.00

2016/2017 - \$184,161.45

2015/2016 - \$192,567.25

Total - \$906,373.55

18. How many occupancies make payment in lieu of rates under the *Electricity Industry Act 2000* in your council area?

None

- How much revenue do you collect and approximately how much is forgone as result (compared to rating under the *Local Government Act 1989*)?

Not applicable as we do not have any properties where this Act is relevant

19. Other questions

- How many public inquiries on rates do you receive each year?

We do not keep records of enquiry numbers as they can come from many sources like phone, over the counter, letters, online, emails and as part of submissions received through the budget consultation process

- What are some common themes of those inquiries?

- *Why have my rates gone up?*

- *What do I get for my rates?*

- *My rates are too much*

- *How do I apply for a pension concession?*

- *Why do I have arrears on my notice?*

- *I don't owe that much*

- *Hardship applications;*

- *Why are my rates much higher compared to a neighbouring Council or a metropolitan Council?*

- *Of the rates collected, not much spent on capital works for urban areas compared to rural areas*

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- *No connection between rates income collected to what is spent in each area.*
- What software do you use to administer your rating system?
Infor -Pathway
 - What is the estimated annual hardware/software cost to maintain rates using this system?
The maintenance cost of Pathway software is around \$245k but, it is hard to estimate the total cost that is attributable to maintaining the rates module as Pathway has many other modules that services the rest of Council
- How many staff do you employ to administer rates and charges?
 - What is the total FTE and costs for the rating and revenue function in your council?
7 EFT with net costs of 815,000 including the cost for carrying out supplementary valuations