

1 November 2019

Attention: Ministerial Panel for the Local Government Rating System Review

Via Email: rating.review@delwp.vic.gov.au

COMMERCIAL IN CONFIDENCE

SUBMISSION PREPARED ON BEHALF OF THE SHOPPING CENTRE COUNCIL OF AUSTRALIA – LOCAL GOVERNMENT RATING SYSTEM REVIEW (VICTORIA)

Thank you for the opportunity to provide this submission.

We have made detailed recommendations which appear at the end of this submission.

We advise our reporting addresses the legislative and policy framework referenced in the *'Ministerial Panel for the Victorian Local Government Rating System Review – Terms of Reference'* and the *'Local Government Rating System Review – Discussion Paper'*.

We note that under the Terms of Reference the Ministerial Panel is an advisory body, not a decision-making body and has been established to assist inform the Government's deliberation.

The modelling and reporting herein has been prepared by our specialist rating, taxation and advisory (RTA) team, on behalf of the Shopping Centre Council of Australia (SCCA) and its members.

Our RTA team is widely recognised by both government and business as the leading independent expert/advisor in the area of statutory valuations, rating and taxation. The team has been directly involved in all state-based reviews, parliamentary enquiries etc over the past twenty plus years. More recent state-based assignments include providing evidence and/or detailed modelling and reporting in the following:

- Land Tax Act Reforms (South Australia)
- Local Government Act Review, Rates, Fees and Charges (Western Australia)
- ACT Standing Committee on Public Accounts – Inquiry into Commercial Rates
- Guideline on Equity and Fairness in Rating for Queensland Local Governments
- Review of the Local Government Rating System (New South Wales IPART)
- Fair Go Rates System (Victorian rates capping)

The team is continually involved in Local Government Rating Policy matters covering legislative compliance, differential rating, rating and taxation principles for the purpose of distributing the total rates burden, special rates etc.

Shopping Centre Council of Australia

Many SCCA members own and operate shopping centres in Victoria, including major institutional investors AMP Capital, Charter Hall, ISPT, Lendlease, Mirvac, Perron Group, Scentre Group, Stockland and Vicinity Centres.

Statutory charges, of which council rates typically make up the highest proportion, comprise circa 30% of total operating expenditure within a shopping centre. With council rates classified as an 'un-controllable' charge as distinct from controllable charges such as: cleaning, power, administration. Following the introduction of the annual valuation cycle within Victoria, council rates have proven to be increasingly volatile, with some members experiencing increases in rates charges in excess 20% year on year. Such annual volatility is in direct contrast to member experiences in states such as New South Wales and Western Australia where a new rateable value is adopted only every three-years and where councils provide detailed long-term rating strategies, providing greater insight into and stability in local government charges.

Similarly in contrast to many other States, Victoria's regulations governing local government disclosure requirements, specifically with respect to long term rating strategies governing differential rating categories and the distribution of rates charges between categories, are largely discretionary and provide limited insight as to the basis of the increases in rates charges our members are experiencing.

Accordingly, a review into the Victorian local government rating system is welcomed by the SCCA and in the context of current retail environment, is critical to the ongoing viability of our tenant's business and our members ability to continue invest within their centres; where council rates are often the key determinant in the viability of shopping centre developments i.e. refurbishment, expansion.

This report is provided on a 'Commercial in Confidence' basis. Our reporting and modelling follow.

1. PURPOSE OF REVIEW

We note the following extract from the Discussion Paper as to the purpose of the review:

"The scope of this Review requires that the Panel develop ways to consider fairness and equity so that the whole rating system can be reviewed, and the key issues brought to the fore."

Whilst refinements to the current Victorian Local Government Rating and Taxation System must be implemented to enhance aspects of transparency and equity, we acknowledge its core structure is sound, comprising an improved rating base (CIV or NAV) supported by differential rating, and the Fair Go Rates System of rates revenue capping.

2. STRUCTURE OF REPORT

We have structured this report under the headings as set out in the Discussion Paper referencing the scope of the Review as it applies to SCCA members.

2.1. SHOULD ALL PROPERTY OWNERS PAY RATES?

Specifically, on the question of 'Should councils be required to report on rates exemptions? Why?', in order to ensure complete financial transparency within local governments, both the rateable value and the number of properties subject to rate exemptions should be reported within annual financial disclosures.

2.2. SHOULD SOME RATE PAYERS PAY LOWER RATES THAN OTHERS?

Differential Rating

Acknowledging the '2013 Ministerial Guidelines for Differential Rating' provide guidance to local governments in the establishment of differential categories, best practice rating policy should be to regulate to primary land uses as opposed to the current discretionary guidance. Discretion to create sub-categories of use i.e. 'Shopping Centres' as a sub-category of 'Commercial', creates greater complexity and inequity within the rate base.

When operating an improved rate base i.e. CIV or NAV in the case of Victoria, the rates burden is already weighted within primary land use categories to those properties with greater densification i.e. higher value.

Sub-categories under a primary land use are more prevalent under an unimproved rating base (i.e. Land or Site Value as is the case in New South Wales and Queensland) as the improvements or densification is disregarded. Where sub-categories are applied under an unimproved rating base, the matter of equity turns on the rate in the dollar differential.

As above, we consider this to be best practice land uses categories comprise those already established within the Ministerial guidelines.

- General Land
- Residential Land
- Farm Land
- Commercial Land
- Industrial Land
- Retirement Village Land
- Vacant Land
- Derelict Land
- Cultural and Recreational Land

Acknowledging Victoria is in the process of transitioning all local governments to a uniform CIV rating base (notably except for the City of Melbourne) best practice would be to regulate differential rating categories, generally limited to those described above.

Differential Rating (Rate Multiple)

Victoria currently limits the differential between rating categories (highest to lowest rate) to four-times.

While contrasting favourably to jurisdictions such as New South Wales and Queensland, where no comparable regulation exists, the City of Melbourne Act limits the differential to a two-times multiple. Similarly, Western Australian regulations prescribe a two-times multiple, except in circumstances where Ministerial approval is received to breach the maximum.

Under the current four time multiple the potential variation in rates charges for comparable shopping centres is up to 400%, creating the potential for vastly differing tax regimes both across the State and within relatively small geographic confines.

This circumstance is best illustrated within the City of Knox where the prevailing Commercial/Industrial rate is 2.50 times the Residential rate.

By contrast adjoining local governments have substantially lower rate variables (1.00 to 1.90 time the residential rate) creating a clear inequality between adjoining jurisdictions.

The following table illustrates the disparity in rates charges adopting a hypothetical shopping centre CIV of \$250M and individual tenancy/shop CIV of \$1.5M; noting the bulk of rates liabilities are borne by traders within shopping centres.

2019-20 Council Rate Comparison						
Local Government	Residential Rate	Commercial / Industrial Rate	Multiple	Knox Premium	Shopping Centre (\$250M CIV)	Shop (\$1.5M CIV)
Knox	\$0.0017571	\$0.0043929	2.50	-	\$1,098,225	\$6,589
Yarra Ranges	\$0.0028940	\$0.0043410	1.50	67%	\$1,085,250	\$6,512
Greater Dandenong	\$0.0017002	\$0.0032304	1.90	32%	\$807,591	\$4,846
Casey	\$0.0026302	\$0.0026302	1.00	150%	\$657,546	\$3,945
Maroondah	\$0.0021003	\$0.0025203	1.20	108%	\$630,075	\$3,780
Monash	\$0.0015835	\$0.0017961	1.13	120%	\$449,015	\$2,694
Whitehorse	\$0.0016629	\$0.0016629	1.00	150%	\$415,723	\$2,494

Accordingly, there is a clear imperative for a review of the four-times multiple to address the inequality in rates charges and its impact on business between local government areas.

Our modelling suggests a two-time multiple, such as that legislated within the City of Melbourne and Western Australia, would be best practice; with a reduction to a two-time multiple supported by the existing rating policy within the majority council areas.

Overleaf is a sample of 27 local governments where SCCA members operate shopping centres, comprising 36% all local governments within Victoria. *Noting local governments levying rates on the Net Annual Value (NAV) of property have been excluded.* Within the sample, the average differential between the Residential and Commercial/Industrial rates is 1.42 times and notably only five local government areas levy rates above a two- times multiple.

Acknowledging there may be circumstances where it is appropriate to levy council rates outside a two-times multiple, comparable to the Western Australian model, a regulatory framework should be applied to the application and approval of variations outside of the multiple guideline. Under the 'Fair Go Rates System' the Essential Services Commission (ESC) manage the application of 'special Order' rates variations and we see this as a natural extension of their jurisdiction.

Retention of the four times multiple leaves the door open to 'rogue' local governments and targeted rating policies.

Local Government	Rate Base	Commercial Category	Commercial / Industrial Rate	Residential Rate	Multiplier
Ballarat	CIV	Commercial	\$0.0106580	\$0.0039220	2.72
Bayside	CIV	Commercial Properties	\$0.0011483	\$0.0011483	1.00
Bendigo	CIV	Commercial/Industrial C properties	\$0.0075971	\$0.0039985	1.90
Boroondara	CIV	Non Residential	\$0.0014042	\$0.0014042	1.00
Brimbank	CIV	Commercial / Industrial	\$0.0044620	\$0.0020550	2.17
Casey	CIV	General	\$0.0026302	\$0.0026302	1.00
Darebin	CIV	Commercial	\$0.0037219	\$0.0021268	1.75
Frankston	CIV	Commercial	\$0.0029000	\$0.0023200	1.25
Greater Geelong	CIV	Commercial	\$0.0052279	\$0.0021619	2.42
Greater Dandenong	CIV	Commercial	\$0.0032304	\$0.0017002	1.90
Hobsons Bay	CIV	Commercial	\$0.0051070	\$0.0021280	2.40
Hume	CIV	General	\$0.0033056	\$0.0033056	1.00
Kingston	CIV	General	\$0.0019763	\$0.0019763	1.00
Knox	CIV	Commercial Land	\$0.0043929	\$0.0017571	2.50
Latrobe	CIV	Commercial Properties	\$0.0046684	\$0.0046684	1.00
Manningham	CIV	Uniform Rate	\$0.0017324	\$0.0017324	1.00
Maribyrnong	CIV	Commercial Properties	\$0.0035359	\$0.0029465	1.20
Maroondah	CIV	Commercial Land	\$0.0025203	\$0.0021003	1.20
Melton	CIV	Commercial / Industrial Dev. Land	\$0.0041549	\$0.0025968	1.60
Mildura	CIV	Business Differential Rate	\$0.0077164	\$0.0064303	1.20
Monash	CIV	Commercial Properties	\$0.0017961	\$0.0015835	1.13
Moonee Valley	CIV	Non Residential	\$0.0023478	\$0.0019088	1.23
Moreland	CIV	Commercial	\$0.0024645	\$0.0024645	1.00
Mornington	CIV	Commercial Properties	\$0.0016462	\$0.0016462	1.00
Stonnington	CIV	Commercial Properties	\$0.0009990	\$0.0009990	1.00
Whitehorse	CIV	Commercial Properties	\$0.0016629	\$0.0016629	1.00
Wyndham	CIV	Commercial Developed Land	\$0.0034570	\$0.0041970	0.82
SAMPLE AVERAGE					1.42

2.3. SHOULD RATES BE DETERMINED BY PROPERTY VALUES?

The improved value of land (CIV or NAV) should be the primary determinant of the tax base. With the transition of valuation authority from local government to the Valuer-General Victoria in 2018, rating valuations are now struck by an entirely independent authority.

With a uniformity in the process and methodology, the valuation base can be said to create the most equitable platform upon which to base property taxes. Likewise, the improved value of land (CIV or NAV) generally provides the fairest basis upon which to judge 'capacity to pay' as it directly correlates with market principles and investment in the land.

The potential application of up to a four-time multiple being applied to a specific asset class, typically commercial land, clearly contracts outside of the principle that a CIV rate base should be the primary determinant in the distribution of property taxes (rates) and violates basic taxation principles of fairness, equity and transparency.

Following on from our earlier commentary into the current application of differential rating the current maximum (four-times) must be revised i.e. reduction to two-times multiple.

2.4. SHOULD SOME MUNICIPAL SERVICES BE FUNDED BY SPECIFIC SERVICE RATES OR CHARGES?

We support in principal, Local Government's ability to set fees and charges for services based on a 'user pays' system. All fees and charges must form part of a public disclosure process to ensure full transparency and equity (in terms of determining the application of 'user pays').

Any proposal however, to introduce the capacity for specific property-based rates or charges to be introduced, would be a significant departure from best practice rating policy which dictates a broad base approach to the categorisation of property.

The application of targeted rating policies such as this are prone to abuse by local governments and we can provide specific examples upon request.

2.5. HOW MUCH OVERSIGHT OF COUNCIL RATES SHOULD THE STATE HAVE?

Beyond the existing framework, State government oversight should be expanded to dispute resolution i.e. mandated escalation policy to the Minister or Essential Services Commission for rating policy disputes; and regulatory reform such as that proposed within this document.

2.6. IS THE RATING SYSTEM CLEAR AND TRANSPARENT FOR RATE PAYERS?

Under current Local Government Act the transparency of rating strategies and policies is substantially left to the discretion of council and what they '*consider it necessary to make available*' S.161(3)(d) or '*determined by the council to be appropriate*' S.131(3)(a).

The 'Ministerial Guidelines for Differential Rating' highlights transparency and disclosure as being 'essential' but provide no actual guidance as to best practice. Rather, the guidelines simply reiterate the Local Governments Act's open discretion which allows the '*opportunity to for a Council to consider a range of information and disclosure material to the community*' and to '*consider the use of impact assessment tools and modelling where appropriate to support their decision making*'.

Critically for businesses making long term financial decisions/forecasts, typical council budget documents and annual reports are limited to the immediate and ensuing period. Particularly with respect to rating policy and the setting of differential rates these documents provide nominal, if any, insight.

To ensure suitable disclosures and consistency of practice across all local governments a more rigorous 'disclosure criteria' should be mandated i.e. what detail must be provided. Best practice dictates that a 'full working model' i.e. 'worksheet' setting out the total rateable value in each category, over the period of the rating strategy, including detail into any re-weighting of the overarching rates burden between categories. Where a re-weighting occurs, best practice dictates a supporting explanation must be provided to justify the change based on established rating and taxation principles.

3. RECOMMENDATIONS

Referencing the commentary herein, our recommendations as to the required reforms are as follows.

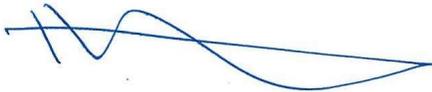
1. The number and rateable value of all exempt property should be disclosed within council financial reporting.
2. The 2013 Ministerial Guidelines for Differential Rating be strengthened, with differential rating categories prescribed rather than discretionary and limited to primary land use as currently described within the guidelines.
3. The prevailing four-times multiple should be revised, with a two-times multiple proposed.
4. Property values should remain the primary determinant of property taxation (rates) and reliance upon discretionary differential rating policy limited through regulation of category land uses (Recommendation 2) and reduction of the four-times multiple (Recommendation 3).
5. All fees and charges should be strictly based upon a 'user pays' system and subject to public disclosure to ensure transparency and equity.
6. Specific property-based rates or charges should not be permitted and would represent a significant departure from best practice rating policy.
7. State government oversight should be expanded to incorporate regulatory oversight in the application of differential rating categories and the rate multiple applied therein comparable to that administered in Western Australia.
8. Current regulation governing council rating policy disclosure requirements are largely discretionary with respect to the level of detail and financial impact statements provided and currently provide limited insight into policy objectives or the basis of rates distribution. Likewise, there is no requirement for councils to provide long-term rating strategies dealing with rating policy, differential rating categories or the distribution of rate revenue between these categories. Current regulation must be strengthened to mandate strict disclosure requirement, long-term rating policy and rate revenue objectives comparable to that of New South Wales.

The Executive Director of the SCCA (Angus Nardi) and our Director of the National RTA Practice (Hamish McKnight) and would be pleased to meet with the Panel leading the subject Review to provide further and better detail in respect of the matters raised herein.

Angus Nardi and Hamish McKnight can be contacted on 0408 079 184 and 0407 517 669 respectively.

We thank you for the opportunity to provide the details set out herein and look forward to an opportunity to discuss further.

Yours sincerely,

A handwritten signature in blue ink, consisting of a series of loops and a long horizontal stroke extending to the right.

Hamish McKnight
Director