



CITY OF MELBOURNE

GPO Box 1603
Melbourne VIC 3001

Phone 61 3 9658 9658
Fax 61 3 9654 4854
www.melbourne.vic.gov.au

DX210487
ABN 55 370 219 287

30 October 2019

Dr Kathy Alexander
Chairperson
Victorian Local Government Rating System Review
Department of Environment, Land, Water and Planning
GPO Box 527
MELBOURNE VIC 3000

Dear Kathy,

City of Melbourne submission to Rating System Review

Please find attached the City of Melbourne's submission to the Ministerial Panel for the Victorian Local Government and Rates System Review.

Our submission is also accompanied by our response to the Council Consultation questions. Should you have any queries, please contact Greg Stevens (Manager, Parks Property and Waterways) on 03 9658 9139.

Yours sincerely,

Linda Weatherson
Director City Operations

Attachments:

- ⇒ Local Councils consultation questions
- ⇒ Rate review submission

DM 12960079

City of Melbourne

Submission to Ministerial Panel for Local Government Rating System Review November 2019

Introduction

Local Government rates provide more than 50 per cent of the industry's revenue¹ and while it is a heavily State regulated form of taxation, councils should always be afforded a *substantial degree of autonomy*² to best represent the requirements of their respective communities. The terms of reference for Local Government Rating System Review (the Review) are broad but the key themes of fairness and equity seem the foundation of all the available material for consideration.

The rating provisions of the *Local Government Act 1989* (the Act) apply equally to the City of Melbourne as they do to the 78 other councils in Victoria. It is acknowledged that some minor differences are available to City of Melbourne within the provisions of the *City of Melbourne Act 2001* but we welcome any opportunity to contribute to rating system improvement that maintains a simple, transparent rating system for the whole of Victoria.

The key areas of focus for City of Melbourne are as follows:

- Determining rates.
- Collection of rates.
- Broadening the rate base.

The core provisions of Victoria's rating system have origins in the late 1800s and the basis of rate exemption goes back to 1601³. Notwithstanding the State's rating system has been regularly reviewed and while continuous improvements should always prevail, the current system does work well and provides the ratepayer with clarity and transparency. The future financial pressures on local government demand taxation improvements that remain understandable and provide sustainability to the industry.

Council's ability to determine rates

The simplicity of the ad valorem system is its intrinsic strength of the rating system but some greater precision in certain legislative provisions would build greater resilience into the current rates system. These are specific sections of the Act that should be considered.

Section 158A Rates and Charges to be levied on each occupancy

City of Melbourne has previously advised⁴ of its position seeking to change section 158A and shift to ownership (Certificate of Title) based valuation assessment. Real estate transactions principally take two forms, leasehold and freehold. Lease details assist in community understanding of Net Annual Value (NAV). Property transactions inform Capital Improved Value (CIV).

City of Melbourne uses NAV because 59.3 per cent⁵ of total rates are generated from non-residential sector where leases are prevalent but extremely inefficient to constantly maintain. A change to ownership based assessment would facilitate a positive communication with property owners and introduce process efficiencies. More importantly, this change would

allow an opportunity for the whole State of Victoria to be assessed on one valuation base. This could assist in future analysis of better horizontal equity explanations.

Section 161 Differential Rates

Currently, only 13 councils⁶ do not use differential rates in Victoria. The system works but could be improved to increase the ability of councils to re-distribute tax burden in-line with community expectations. Section 161(2A) references Ministerial Guidelines however these guidelines seemingly lack sufficient detail to drive the design of differential rating outcomes that best represent community expectations.

Regular review and publication of guidelines could better enable the industry to improve differential rates and the community understanding. The Act (and City of Melbourne Act) set the range for differential rates. These 'thresholds' of highest and lowest rate in the dollar⁷ should be removed. Narrative such as "appropriate", "carefully considered", etc⁸ could be complimented with industry contribution. Tested examples, real or proposed, could be published in regularly refreshed guidelines.

The *Cultural and Recreational Lands Act 1963* and the Rebates (section 169) could be absorbed into this legislative improvement.

Section 162 Service Rate and Service Charge

The language describing the services of this section relate to a growing community of yesteryear and a taxation outcome focused entirely on property-related services. The industry works well within this provision, eg garbage charges, but a modern community and its council have an increased focus on people.

A modernisation of this provision and plain English reconstruction could allow the redistribution of taxation addressing current issues such as climate adaption, homelessness and housing affordability.

These issues cannot be addressed within the provisions of section 163 special rate and special charge because the benefactor of the service must pay the rate or charge.

How councils collect their rates

Digital Rate Notices and Transaction Services

The data requirements for the annual rate notice have some councils considering A3 sized documents. The majority of annual and instalment rate notices are still posted to the ratepayer.

Advances have been introduced using email type delivery⁹ but these improvements fall short of a best practice digital outcome. System changes where all the prescriptive information relating to any rateable property could be introduced and the ratepayer can source data via secure connection to the council website or shared service. Regulatory changes that will facilitate an effective digital transaction arrangement, while respecting the rate payers' need to access and full disclosure of rate outcomes, will empower the ratepayer as well as delivering better financial and customer engagement outcomes for councils.

Councils should also be able set a suite of instalment arrangements¹⁰ that best suit the fiscal needs of their community.

Deferments and Waivers (sections 170 and 171)

Both provisions effectively deliver similar outcomes, however the prescriptive detail of section 171 reduces the application of either provision. The intrusion into personal financial circumstances possibly develops a barrier to engage with council for our most vulnerable. Arguably, some cases of vertical inequity could be better managed by the jurisdiction with the understanding and desire to collect rates at a later date when the property transacts or individual fiscal circumstances improve.

The current legislation supports a practice of 'structured' deferment but application of penalty interest rates¹¹ and community perception of debt accumulation seemingly create industry avoidance of this provision. Encouragement by recognising the legislative benefit and setting a debt rate more relevant to money lending rates could validate greater utility. Operation structure could be included in the suggested Ministerial Guideline mentioned above.

Broadening the rate base

The equity of the rating system is compromised every time an assessment is classified differently to the norm. Winding back these separations and broadening the rate base should revitalise some equitable outcomes.

Rate Exemptions

The Act (section 154) proclaims a simple proposition, '*Except as provided in this section, all land is rateable*'. Unfortunately, what follows is a series of exceptions (a number of which are subject to conditions or exclusions) which are complex, open to endless dispute and do not reflect society in the 21st century.

Why should any part of land used exclusively for charitable purposes, be exempt from rates? Is it appropriate for an Australian statute in 2019 to reference a term which derives from the *Statute of Charitable Uses Act 1601* (43 Eliz I, c.4)?

Should a residence be exempt from rates because it is occupied by a '*practicing Minister of religion*'?

Why is land used exclusively for mining purposes exempt from rates?

In the City of Melbourne, the result of the exemption provisions is that 12.5 per cent¹² of the rate base is exempt from rates under the Act including properties such as:

- University of Melbourne - 230 Grattan Street, Parkville
- Roman Catholic Church Property Trust - 576-594 Victoria Parade, East Melbourne
- Epworth Freemasons Hospital Medical Centre - 320 Victoria Parade, East Melbourne.

Add to this land vested or owned by the Crown, a Minister, etc the rate base is significantly eroded by the concentration of charitable and religious pursuits.

The introduction of the Fire Services Property Levy in 2014 shifted thinking in regard to exemption properties. It is now appropriate to completely review this cohort and increase the base.

Notwithstanding, if all property was made rateable the City of Melbourne would support a structured rebate system for specific assessments that qualify under an updated definition of charitable pursuits or a more contemporary view of public benefit.

A simple quick win could be to reintroduce the five year back rate provisions removed from the Act in the early 1990s, charged on the status change of an assessment. However, this action would avoid the real challenge of detailed analysis of exemptions and the current application of provisions created centuries ago.

There are many other State legislative provisions outside the Act embracing the concept of “*public purpose*” which then prevent local government from collecting rates, many relate to infrastructure like tollways, solar and wind farms, electricity generators, etc. Any review of charitable exemption should also include a complete scan of all other Acts that impact on rate outcomes.

A consequential outcome of favourable changes in these provisions would be the potential future expansion of application of environmental upgrade provisions (section 181A-J). Presently, only rateable land can utilise these provisions eliminating a vast range of properties that could consider innovative ways to improve their environmental outcomes.

Summary

The Victorian Rating System currently works well and is simple in its application. Reinforcing this simplicity with legislative change enshrining the fairness of an ad-valorem system is a positive step for the whole community. City of Melbourne recognises that improvements should be considered and is committed to champion some of these suggestions. Having fairness and equity at the centre of any proposal for change impacting the rate paying community is extremely important.

Having future legislation that is written in plain English with the intention to avoid any confusion for future communities should be central to the Panel’s Ministerial recommendations.

1 Local Government Rating System Review- Discussion Paper, State of Victoria, 2019, p2

2 Australia’s Future Tax System, Australian Government, 2010, Recommendation 120

3 Statute of Charitable Uses Act 1601

4 City of Melbourne submissions to recent reviews of Local Government Act 1989. Submission to Victorian Government Review of Local Government Act 1989, December 2017 and Local Government Bill 2019-A Reform Proposal, June 2109.

5 Annual Plan and Budget 2019-20, City of Melbourne, 2019, p67

6 Data provided by Local Government Victoria, October 2019

7 Section 161(5), Local Government Act 1989 and section 28(2), City of Melbourne Act, 2001

8 Ministerial Guidelines for Differential Rating, Local Government Victoria, 2013, p9 and 10

9 City of Melbourne has digitally delivered approximately 40% of the 2019-20 Valuation and Rate Notice.

10 Section 167, Local Government Act 1989

11 Penalty Interest Rate Act 1983, 10% per annum effective 1 February 2017

12 Annual Plan and Budget 2019-20, City of Melbourne, 2019, p7

CONSULTATION QUESTIONS – LOCAL COUNCILS

Councils are requested to respond to the following questions as part of their submission to the Rating Review. These questions are largely administrative in nature. Councils may also wish to consider the broader policy questions in Chapter 5 of the Rating Review Discussion Paper, available at www.engage.vic.gov.au/rating-review.

The Panel also encourages councils to include any other matters they wish to raise in their submissions. Please keep submissions to a total of 5,000 words or less.

If you have any queries about these questions or about making a submission, please do not hesitate to contact the Rating Review Secretariat at rating.review@delwp.vic.gov.au

- 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)?**
 - What policy criteria do you apply?

The City of Melbourne (CoM) run a continuous Property Occupancy and CLUE survey of all commercial properties and will notify the valuation team of any changes to non-rateable properties. In addition, we do a desk audit of non-rateable occupancy/ownership changes.

- By property category, in your municipality, how much in rates do you estimate would be raised if these non-rateable occupancies were rateable?

In total \$43.4 million; but excluding all (Federal, State and Local) government properties, the rates forgone amount is \$19.2 million. Educational bodies account for \$11.8 million (tertiary education is \$10 million) and Charities, Arts, Community Groups and Professional bodies make up the remainder \$7.4 million.

CoM also manages some site specific rate variation agreements. Docklands (Marvel) Stadium pays an in-lieu of rates amount due a Governor-in-Council action early in the construction of the stadium/precinct. A settlement agreement between Cities of Melbourne and Yarra, and Citipower; have the power company receiving discount of 33% for a 15 year period ending 2022.

- 2. What rates and charges does your council declare?**

- Do you have revenue and rating strategy to help determine rates and charges under s155 of the Act?

Rating Strategy narrative is incorporated in the Annual Plan and Budget.

- How do you engage your community in determining rates and charges?

In addition to the Annual Plan and Budget, the Council Plan 2017-2021 includes nine goals to guide council. The goals were identified through a deliberative community process in 2016 that saw broad segments of the community, including residents, businesses and workers refresh the community plan, known as Future Melbourne 2026.

- If you use a municipal charge, how do you calculate its level?

Not applicable

- What exemptions do you apply for municipal charges? How many, and what is the total value?

Not applicable

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

- What are the problems that you have experienced issuing notices under s156(3)?

Due to the volume of leasehold interests in the City, owners regularly nominate for rate notices to be issued to the occupier. This is most usually commercial properties. We have not experienced any major issues, notwithstanding CoM regularly engage with owners and property management representatives in various ways to maximum customer service and continually improve the collection process.

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

- What are the challenges of providing prescribed information on rate notices?

Yes, City of Melbourne issue separate notices for Environmental Upgrade Agreements. Producing a rate notice which is concise and easy to understand for the ratepayer can be challenging given the requirements to also include statutory prescribed information.

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

- What criteria does your council use in their application?

The main criterion used is the equitable imposition of rates.

- What evidence does your council consider when determining the rates in the dollar for your differential rating categories?

After each general valuation the Council is presented with various rates modelling detailing customer impact scenarios as part of the Annual Plan and Budget.

- Does your council consider what services should be paid for with other income (e.g. municipal/service/special charges)?

Not applicable

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

Not applicable

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. 10 monthly direct debit.

- Do you provide any incentives for payment of rates such as early payment? What are they?

No

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

- What are the criteria in your council for providing these rebates and concessions?
- What is the total annual value of these rebates and concessions?
- How do you monitor and report on the community benefits?

City of Melbourne grants a further rebate of 50% of the amount provided by the State Government rebate for pensioners. Rebates are also provided for New Affordable Housing and Citipower (sub stations). CoM provided rebates totalling \$383,706.27 for the 2018-19 period.

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

- What is the current total of rates and charges that are currently deferred?

Yes, all requests for deferment of rates are reviewed on a case by case scenario. No rates are outstanding due to deferment.

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

- What types of waivers do you provide to ratepayers and what is their estimated annual value?

Waivers are administered by the legislation; CoM has no waivers in place.

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

Yes

- If not, what rates do you apply?
-

Not applicable

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

The City of Melbourne probably has the biggest percentage of commercial occupancy in the State with over 20,000 commercial occupancies. Although we survey all these properties over a 2 year period, it is almost impossible to keep up with changes (in particular sub-leases) and gather the data required to accurately rate each occupancy. Consider this problem at a suburban level with a regional shopping centre, it is unreasonable and too expensive to completely reconfigure the ratebook every time, the landlord changes the tenancy mix/space.

A change to ownership (Certificate of Title) based valuation assessment would facilitate a positive communication with property owners and introduce process efficiencies by aligning rates with State based property taxes (Land Tax and Fire and Property Services Levy).

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

- Annually, over the past 5 years, how many supplementary rates and charges notices have been issued?
- For each of these years, what was the total income for these occupancies?

Determining rate exemptions can become an exhaustive administrative process. Ratepayers can be reluctant to release the required documentation to make an appropriate determination. Often, the fact that another agency has determined that the ratepayer is not required to pay tax, the ratepayer then concludes that their request is automatic and this is not necessarily the case. Recent rateability disputes have been settled with formal arbitration, CoM has not been before VCAT with rateability dispute for some years.

Over past 5 years, CoM has processed on average 10,036 supplementary valuations per annum, including 265 exemptions. The net annual supplementary rate income generated over this period has been \$3.375million per annum. Exemptions (on average) over this period have reduced rate revenue by \$673,786 per annum.

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

- If you do not, how do you treat ratepayers that live in their properties?
 - Do you treat non-residential properties differently?

Ratepayers are treated equally regardless if property is owner occupied or non-residential.

- Annually, over the past 5 years, how many ratepayers have you issued complaints on for unpaid rates and charges and to what total value?

Average number of complaints issued per year is 244.

- What amount of interest do you charge on unpaid rates and charges? Do you raise the amount declared under the *Penalty Interest Rates Act 1983* of 10 per cent?

*City of Melbourne charge penalty interest on overdue rates in the amount declared under the *Penalty Interest Rates Act 1983* of 10 per cent.*

- Do you have any additional administration fees and charges for managing ratepayers with unpaid rates and charges?

All direct costs associated with debt recovery are charged to the ratepayer.

- What type of collection activities do you use to recover unpaid rates and charges?

Following the issue of overdue notices by the City of Melbourne, all remaining outstanding rate accounts are forwarded to a debt collection service for recovery. Activities include sending SMS text, email and/or letter of demand to ratepayer. Should rates still remain unpaid legal action may be taken via the Magistrate Court.

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

- If no policy exists, how do you apply the relevant legislation?
 - Do you apply the same approach regarding selling land where ratepayers live in their property?

CoM has no documented policy regarding this legislative provision. A conservative approach would always be taken in such circumstances.

- Annually, over the past 5 years, how many times have you undertaken this process? *Nil*
- How many properties have you sold? *Nil*
- How much has this cost, per instance? *Not applicable*
- How many times have you claimed land instead of selling land? *Nil*
- How much did this cost, per piece of land? *Not applicable*
- What issues have you encountered when selling or claiming land? *Nil*

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

- Do you provide any updates (verbal or otherwise) to ratepayers/would-be ratepayers for these certificates?

Verbal updates are provided.

- Have you experienced any privacy issues in providing updates? If so, what were they?

No

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

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

CoM has 42 CR&L assessments. These are listed in the Annual Plan and Budget papers.

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

In 2015-16, CR&L assessments contributed \$411,460 to council revenue. Over the 5 years, this has been annually indexed by the rate increase and in 2019-20 it is \$460,857.

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

Approx. \$2.6 million, notwithstanding the valuation of MCG, etc may require review.

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

- 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. However there is an agreement in place relating to a previous dispute between parties to the agreement; (Citipower and City of Yarra) that provides Citipower with reduced rates for a 15 year period ending in 2022.

19. Other questions

- How many public inquiries on rates do you receive each year? *Not every enquiry is tracked; however enquiries that mature to more detail engagement exceed 1,200 per year.* What are some common themes of those inquiries? *Volume and change in rates leads to valuation discussion.*

- What software do you use to administer your rating system? *Infor - Pathway System*

- What is the estimated annual hardware/software cost to maintain rates using this system? *It is an enterprise system and a breakdown for the rates component is not available.*

- How many staff do you employ to administer rates and charges?

Staff directly (or indirectly) associated with rate system administration is across three teams;

- *Rate Team is 5 FTE*
- *Property Team is 7 FTE*
- *Valuation Team is 4 FTE*

Any comparative analysis should only attribute 11 FTE to rate system administration.

- What is the total FTE and costs for the rating and revenue function in your council?

The total cost of resourcing the above teams for 2019-20 is \$3.2million (1% approx. of total rate revenue, \$301million). The FTE cost before any segmentation for other outputs is \$1.76million.