

DAREBIN CITY COUNCIL SUBMISSION

LOCAL GOVERNMENT ACT 1989 RATING REVIEW

1. Overall requirements

The legislation in its current form is written for a different era and is not easy to understand leading to inconsistencies in how it is interpreted by different councils. It is noted that rate capping is not being considered by this review.

The fundamental principles are sound and should be retained.

Recommendations:

- Legalisation is redrafted in plain English so that it is clear.
- Rating system is simple and easy to administer.
- Equity principles are retained.
- Councils retain autonomy to set a rating strategy that is appropriate for their municipality.
- Unpaid rates and charges should continue to be protected as a first charge on the land.
- Council retains the right to declare a rate or charge and that right cannot be delegated.
- Imposition of rates does not have any detrimental effect on the economy of the municipality and the region.
- An overriding principle that the rating system is only used for the collection of council rates and charges and not for other purposes.

2. Rateable land including land exempt from rating

Rates exemptions allow for some types of property to be exempt from paying rates. All land is considered rateable in Victoria, except where it is specified as exempt in the Local Government Act 1989 (the Act).

The current exemptions include:

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

All other land in a municipality is subject to rates.

It is this part of the Act that consistently causes the most issues for councils administering their rating systems.

Land used exclusively for charitable purposes

There is no clear definition or set of criteria to determine if land is being exclusively used for charitable purposes which is currently resulting in inconsistencies between councils.

While the original intent of this provision appears to be that charities that supported the relief of poverty were provided a rates concession, this provision currently provides rate exemptions many organisations that operate substantial businesses particularly not-for-profits and public benevolent institutions providing services to the health and disability sectors.

Inconsistencies can also occur when the land is leased by a charitable organisation but the property owner is leasing the property on a commercial basis so that the land may be being used exclusively for charitable purposes by the charitable organisation but the land itself is not used exclusively for charitable purposes.

Charitable purposes maybe defined as:

Relief of financial hardship - Financial hardship is not defined by a specified amount of money which the beneficiaries have, although the person must be in genuine financial need. Relief of financial hardship also includes help to people who are suffering from the effects of old age, sickness or from a disability, where there is also financial need. Relief of sickness comes within this category because sickness is often related to poverty or inability to pay for treatment.

Hardship may be relieved by:

- (i) giving money to beneficiaries;
 - (ii) providing food, clothing or housing; or
 - (iii) giving advisory or other services to those in need.
- **Advancement of education** - Education is not limited to formal education at schools, colleges or universities and can also include:
 - (i) playgroups;
 - (ii) organisations providing work related training (for example, nursing or engineering); and
 - (iii) research institutions.
 - **Advancement of religion** - There is a general assumption that the advancement of religion is for the public benefit and there is no distinction made between one religion and another. The advancement of religion can include the provision and upkeep of places of worship, accommodation of ministers or priests, and holding services.
 - **Other purposes beneficial to the community** - Purposes which benefit the community and are considered to be charitable include:
 - (i) the relief of old age, sickness or disability where there is no financial need;
 - (ii) the promotion and protection of civil and human rights;
 - (iii) the promotion of reconciliation, mutual respect and tolerance between various groups of people;
 - (iv) the protection and safety of the general public;
 - (v) the prevention and relief of suffering of animals;
 - (vi) the resettlement and rehabilitation of offenders and drug abusers;
 - (vii) the conservation and protection of the natural environment and endangered species;
 - (viii) providing help for victims of natural or civil disasters;
 - (ix) the provision of recreational facilities which are free and open to everyone; and
 - (x) the provision of recreational facilities for particular beneficiary groups such as people with disabilities or the elderly.

Recommendation:

Continue to provide an exemption for land used exclusively for charitable purposes on the basis that:

- A clear, concise definition and set of criteria is provided to determine what is exclusively for charitable purposes as detailed above; and
- The exemption only applies to the use of the property owner and not to the lessor.

Ineligibility for rate exemption

Currently one of the conditions for ineligibility for rate exemption is that it is not used exclusively for charitable purposes if it is used for the retail sale of goods.

Recommendation:

Expand the condition for ineligibility for rate exemption is that it is not used exclusively for charitable purposes if it is used for the retail sale of goods or services.

RSL Clubs

Currently RSL Clubs are specifically not rateable under S154 (2) (f). RSL Clubs do play an important role in supporting ex-servicemen and ex-servicewomen. However, RSL Clubs have shifted in focus and provide food, entertainment, gaming and gambling in competition with commercial rateable establishments.

Recommendation:

Review the blanket eligibility for rate exemption for RSL Clubs and consider making at least the gaming and gambling portion of RSL Clubs rateable.

3. Property valuation as the base for rates

Council rates are a property tax that is based on the valuation of each property to determine the amount that ratepayers will be charged.

Most council's rates are calculated using the Capital Improved Value of the rateable properties within a municipality. While property valuations do not necessarily represent a capacity to pay, there is no viable alternative as confirmed by the Henry Taxation Review and the Productivity Commission into Assessing Local Government Revenue Raising Capacity 2007/2008. Rates on property are the only tax instrument available to local government and using property values to assess ability to pay overcomes some of the practical difficulties in obtaining suitable measures of income.

Recommendations:

Consideration should be given to only having a single property valuation method used across all municipalities in Victorian.

Consideration should be given to councils only using the Capital Improved Value for calculating rates.

4. Differential rating

Councils can raise rates by applying different rates in the dollar for certain property types.

There is no limit on the number of differential a council may have.

The highest differential rate cannot be more than four times the lowest differential rate in a financial year.

Further restrictions are outlined in the 2013 Ministerial Guidelines for Differential Rating. It is this guideline that does not allow differentials for dealing with social issues such as gambling venues and fast food outlets.

Recommendations:

Differential rates should remain to allow councils to set a rating strategy that is appropriate for their municipality and local capacity.

The review should consider whether restricting the highest differential rate to be no more than four times the lowest differential rate in a financial year is still appropriate.

5. Municipal charges

A fixed charge declared to cover some of council's administrative costs and allows a minimum rate for a property to be established.

Revenue collected from a municipal charge cannot exceed 20% of the combined revenue raised by general rates and the municipal charge.

The Act allows an exemption from multiple municipal charges for the same ratepayer if they can show that they are operating a single farm business across multiple properties.

Recommendations:

Municipal charge remains an option for councils to use as part of their rating strategy.

The 20% limit should for a municipal charge not be reduced.

Exemption from multiple municipal for the same ratepayer should remain in place for a single farm business operated across multiple properties.

6. Service rates and charges (including waste)

A service rate or charge funds a specific service, commonly used to fund the collection and disposal of waste.

The Act permits councils to levy charges on a property for a specific service, such as:

- Provision of a water supply
- Collection and disposal of refuse
- Provision of sewage services
- Any other prescribed services.

Recommendation:

Services rates and charges should remain to allow councils to set a rating strategy that is appropriate for their municipality and local capacity.

Service rates and charges should be able to be set to provide incentive pricing to change the community's waste behaviours.

The Act to clearly specify that councils can levy a service charge that is able to fully cost recover the service provided.

7. Special charges

A special rate or charge funds a specific project that only affects a limited number of ratepayers.

This ensures that the ratepayers that benefit from the project contribute to funding it.

These projects can be initiated by councils or by ratepayers petitioning council for the new service. Public consultation is required prior to the special charge being implemented.

Each special rate and charge is calculated and apportioned differently depending on the funding required and number council of ratepayers responsible for payment.

Recommendation:

Special charges should remain to allow councils to fund specific projects that only affects a limited number of ratepayers who are beneficiaries of the project.

The Act to streamline the process for establishing a special charge.

8. Cultural and recreational land

The Cultural & 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 recreation lands."

Councils experience difficulties in applying this legislation and struggle to achieve consistent and fair outcomes. In addition, legislation is limited to outdoor activities which disadvantages indoor sporting or cultural activities.

Recommendation:

Consider abolishing the Cultural and Recreational Land Act 1963 as it appears outdated and is difficult to apply and the Act differential provisions provide councils with enough flexibility to levy rates and charges on all sporting, recreational and cultural land.

9. Rating strategy

A rating strategy allows councils to spell out the key issues and the rationale for applying rates in the way they do. Such a strategy helps the community understand Council's decisions better.

Councils should as part of good governance undertake a regular review of its current practices with respect of rates and rate revenue collection.

It is important to note that the rating strategy is not about increasing the amount of Council's rate revenue but about how the rate revenue is raised and the proportion paid by each ratepayer.

The rating strategy should detail how the imposition of rates and charges is:

- Equitable.
 - Horizontal equity - ratepayers in similar situations should pay similar amounts; and
 - Vertical equity - those who are better off should pay more than those worse off.
- Simple so that it is easily understood by ratepayers.
- Easy to administer.
- Consistent with the major policy objectives of Council.
- Designed to minimise any detrimental effect on the economy of the municipality and region.

Recommendations:

Requirement for councils to undertake a regular rating strategy to remain.

Format of rating strategies to follow a standard template similar the model budget and the SRP.

10. Rebates including pensioner rebates

Local governments can adjust the impact of rates by applying discounts, rebates, concessions and deferrals of payment.

A State-wide concession on rates is provided for eligible pensioners by the State Government. The rate rebate in 2019-20 for eligible pensioners is 50 per cent of the General Rates up to a maximum of \$235.15. This amount increases annually in line with inflation. Application of further rebates, discounts and deferrals are at the discretion of individual councils. Local Council rates are a property tax that is based on the valuation of each property to determine the amount that ratepayers will be charged.

Current legislation does not make the process easy with the legislation not clear if the rebate is not declared in the adopted budget.

Recommendation:

Separate section in the Act that provides a clear straightforward streamlined process to enable a council to provide a rebate to an identified group of ratepayers.

11. Payment of rates and charges

The current legislation specifies that councils "*must*" offer payment of rates and charges by four instalments and "*may*" offer a lump sum payment option. Darebin moved to four instalments without an annual lump sum payment option in 2004/05. This was in recognition of that a significant number of ratepayers who had decided to pay a lump sum in February found that they were unable to pay in full and interest would be charged on their outstanding balance leading to increased levels of outstanding debt and addition queries from ratepayers regarding the interest charges. The change also improved council's cash flow in the first half of each financial year by receiving payments in September and November.

Recommendation:

Payment options should remain as must offer four instalments and may offer full payment. Recognition should also be given that councils will offer other payment options to meet the needs of their community.

12. Deferral of payment, hardship and waivers

Commonly, councils provide details of the financial hardship assessment process, along with a payment arrangement application form, on the rates and charges section of their website. The Act does not provide a specific definition of financial hardship.

Councils may set up different payment arrangements for people whom they assess as experiencing hardship or waive part of, or even all, unpaid rates and charges.

Deferment schemes, whereby rates owed can be paid upon a specified future date (including upon sale of the property), can also include a discounted interest charge on the deferred rate. Such schemes can temporarily address the affordability issue for some people who own property but do not have a high cash income. They permit individual circumstances to be considered, including financial hardship and long-term illness. Deferment schemes are currently not in widespread use.

Recommendations:

The Act to provide a base definition of hardship to establish consistency across councils.

The Act to provide clearer language and a straightforward process for a council to enter into and end a deferment arrangement.

13. Recovery of costs

The Act currently only allows councils to recover legal costs from ratepayers and not pre-legal collection costs. Darebin are proactive in their approach to debt recovery and work through numerous steps with our debt recovery agency to try to avoid issuing legal action. There is a cost to council for this pre-legal work.

Recommendations:

The Act to include that councils can recover the pre-legal costs as well as the legal costs from ratepayers.

14. The role of State Government in council rates

Recommendation:

The State Government to:

- Set the framework to empower councils to be able to respond to the needs and requirements of the community within their municipalities.
- Provide legislation that is clear and able to be applied consistently by all councils across Victoria.

15. Environmental upgrade agreements and Cladding rectification agreements

The recent introduction into State legislation of Environmental Upgrade Agreements and Cladding Rectification Agreements allows councils to help ratepayers obtain finance to alter their properties and pay back their loans via their rates payments. These agreements can reduce the interest rates on the loans as future property rates are used as a financial guarantee. By their nature, these agreements can involve complex methods of calculation which can vary across councils.

Recommendations:

Environmental upgrade agreements are extended to cover residential properties.

The Act to streamline the process for establishing environmental upgrade agreements and cladding rectification agreements.

DAREBIN CITY COUNCIL RESPONSES TO CONSULTATION QUESTIONS

LOCAL GOVERNMENT ACT 1989 RATING REVIEW

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)? **Assessed every two years.**

- What policy criteria do you apply? **As per the Local Government Act.**
- By property category, in your municipality, how much in rates do you estimate would be raised if these non-rateable occupancies were rateable? **Not able to be assessed.**

2. What rates and charges does your council declare?

2019/2020 Differentials		
Type of Rate	Rate in \$	Differential
Residential	0.00212679	1.00
Business	0.00372189	1.75
Vacant Land Residential	0.00638038	3.00
Vacant Land Business	0.00850718	4.00
Vacant Retail	0.00850718	4.00
Mixed Use Occupancy	0.00297751	1.40

- Do you have a revenue and rating strategy to help determine rates and charges under s155 of the Act? **Yes.**
- How do you engage your community in determining rates and charges? **During the budget consultation and engagement for the annual budget.**
- If you use a municipal charge, how do you calculate its level? **Darebin does not have a municipal charge.**
- What exemptions do you apply for municipal charges? **N/A, see above.** How many, and what is the total value? **N/A, see above.**

3. How often have you issued rate notices to the occupier, or mortgagee in possession of, the land under s156 of the Act? **Strathallan Golf Club and who else?**

- What are the problems that you have experienced issuing notices under s156 (3)? **Have not experienced any issues under s156 (3).**

4. Do you issue separate notices for Special Rates and Charges, or do you combine them on a single notice? **Darebin does both. Special Rates and Charges for marketing schemes that are shown as a separate charge item on the Valuation and Rate Notice. Separate notices are issued for Special Rates and Charges for our Solar Saver program.**

- What are the challenges of providing prescribed information on rate notices? **Lack of space on rate notice with all the other information required.**

5. How does your council determine general rates (uniform or differential)? **Differential.**
- What criteria does your council use in their application? **The criteria used are detailed in the rating strategy and in the annual budget.**
 - What evidence does your council consider when determining the rates in the dollar for your differential rating categories? **Historical and comparisons with other councils.**
 - Does your council consider what services should be paid for with other income (eg municipal/service/special charges)? **Darebin has considered other services being paid for through service charges and special charges but currently only used for a separate green bin charge, marketing schemes and Solar Saver program.**
6. What administration issues have you experienced when creating and administering special rates and charges? **Creating and administering special rates and charges requires a lot of manual intervention, additional costs and there can be issues when they are not all generated at the same time.**
7. Please describe the payment options your council makes available to ratepayers? **Darebin has the main payment option of four instalments and does not provide an option to pay in a lump sum.**
- Do you provide other payment options (in addition to offering a choice between paying in four instalments or in a lump sum)? **Darebin also offer a 10 monthly payment plan by Direct Debit and will also make weekly, fortnightly, and monthly arrangements when needed.**
 - Do you provide any incentives for payment of rates such as early payment? **No incentives are offered for early payment of rates.** What are they? **N/A.**
8. Do you provide any rating rebates and concessions (in addition to State Government concessions)? **Darebin provides an additional pensioner rebate of \$150.**
- What are the criteria in your council for providing these rebates and concessions? **Criteria is the same as the eligibility requirements for the State Government concession.**
 - What is the total annual value of these rebates and concessions? **For the 2018/2019 rating year the annual value of these rebates and concessions was \$1,549,721.**
 - How do you monitor and report on the community benefits? **Not monitored.**
9. Do you have a policy for deferment of rates and charges? **The deferment of rates and charges is covered under council's Rates Financial Hardship Policy.**
- What is the current total of rates and charges that are currently deferred? **Darebin has no rates and charges currently deferred.**
10. Do you have policies regarding waiving rates and charges? **The waiving of rates and charges is covered under council's Rates Financial Hardship Policy.**
- What types of waivers do you provide to ratepayers and what is their estimated annual value? **Darebin will only waive interest due to financial hardship or an error made by council. The estimated annual value would be less than \$5,000.**
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? **N/A, see above.**

12. **What issues do you face when rating by occupancy? No issues apart from queries received from occupants regarding rates.**
13. **What issues have you determined when applying rates to land that is becoming, or ceasing, to be rateable? None apart from the timeliness of being notified of occupancy certificates.**
- Annually, over the past 5 years, how many supplementary rates and charges notices have been issued?
 - For each of the years, what was the total income for these occupancies?
14. **Do you have a policy regarding treatment of unpaid rates and charges? Yes.**
- If you do not, how do you treat ratepayers that live in their properties? **N/A, see above**
 - 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? **No complaints have been issued in the past five years.**
 - What amount of interest do you charge on unpaid rates and charges? **The amount declared under the Penalty Interest Rates Act 1983 of 10 per cent.** 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? **Darebin uses emails and SMSs to advise ratepayers of unpaid debt. A Debt Collection Agency is also used and they issue letters, send SMSs, emails, and contact ratepayers by phone as well as undertaking field calls to the ratepayers contact address so personal contact is made.**
15. **What is your council's policy regarding selling land to recover unpaid rates and charges? The policy is not to sell land to recover unpaid rates and charges. No properties sold in the past five years.**
- If no policy exists, how do you apply the relevant legislation? **N/A, see above.**
 - Do you apply the same approach regarding selling land where ratepayers live in their property? **N/A, see above.**
 - Annually, over the past 5 years, how many times have you undertaken this process? **None.**
 - How many properties have you sold? **None.**
 - How much has this cost, per instance? **N/A, see above.**
 - How many times have you claimed land instead of selling land? **None.**
 - How much did this cost, per piece of land? **N/A, see above.**
 - What issues have you encountered when selling or claiming land? **N/A, see above.**
16. **What issues have you encountered in providing information for Land Information Certificates? There are occasions where refunds have to be provided to vendors who have overpaid.**
- Do you provide any updates (verbal or otherwise) to applicants for these certificates? **Darebin's LICs to detail that council should be called prior to settlement for a verbal update. Confirmation that an LIC has been issued on the property before providing the update.**
 - Have you experienced any privacy issues in providing updates? **No.** If so, what were they? **N/A.**

17. Do you have a policy on how you apply the rates section of the Cultural and Recreations Lands Act 1963? **The policy details that a differential of half the Business rate is applied to occupancies categorised as cultural and recreational lands.**

- How many occupancies in your municipality are categorised as cultural and recreational lands? **Ten occupancies have the cultural and recreational lands differential applied.**
 - Annually, over the past 5 years, how much have you received in lieu of rates in relation to cultural and recreational property? **\$0.**
 - How much would you receive if you were to assess these properties under the Local Government Act 1989? **Over the past 5 years, council has received a total of \$200,052.05 of rates in relation to occupancies have the cultural and recreational lands differential applied.**

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 results (compared to rating under the Local Government Act 1989)? **N/A, see above.**

19. Other questions

- How many public inquiries on rates do you receive each year? **~10,400** What are some common themes of those enquiries? **Amount of rates being charged, payment arrangements, pensioner rebate, green waste bin – additions/deletions, property being sold.**
- 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? **~\$300,000.**
- How many staff do you employ to administer rates and charges? **Seven.**
 - What is the total FTE and costs for the rating and revenue function in your council? **FTE 6.4 and total costs for the rating and revenue function including software costs and all associated printing, postage, banking and collection costs ~\$1,705,000.**