

# Local Government Better Practice Guide

Revenue and Rating Plan

Book 3: Council Employees



Government  
Services

# Table of Contents

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<a href="#">A Guide for Council Employees</a>	4
What to Expect	4
The Role of Council Employees	5
Developing a Revenue and Rating Plan – the Steps	6
Step One: Engaging Council	7
Step Two: Aligning Strategy and Policy	7
Step Three: Determining Non-Rate Revenue	21
Step Four: Designing Rates and Charges	29
Step Five: Drafting and Reviewing	46

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The Local Government Better Practice Guide: Revenue and Rating Plan Third Edition was compiled by a working group comprising:



Authorised by Local Government Victoria  
Department of Government Services  
1 Spring Street Melbourne Victoria 3000  
Telephone (03) 9651 9999

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# A Guide for Council Employees

The costing and pricing of council services directly affects the setting of fees, charges and rates. It is one of the most sensitive issues on which a Council makes decisions, as it affects every ratepayer and resident.

A coherent and well-presented Revenue and Rating Plan helps the community, ratepayers, councillors, and council staff better understand the issues, choices and trade-offs of revenue and expenditure decisions.

## What to Expect

This Book provides information for council staff involved in the development of revenue and rating plans. It is the most detailed Book of this Guide and includes technical information, as well as linkages to other sources of guidance.

Each book in the Guide is not provided exclusively for their specific audience, and readers are encouraged to read the Guide as a whole in order to have a greater understanding of the provision of a system of local government taxation.

# The Role of Council Employees

A Revenue and Rating Plan is an expression of how a council is seeking the best outcomes for their municipal community<sup>1</sup>.

Councillors make considered decisions tied directly to their legislated role and measure the proposals within against principles (detailed in *Book 2: Councillor Guide*). These decisions are almost always complex, have many variables and impact the community in different ways.

Councillors can best take this path when informed and well advised. Council officers are therefore the critical support for the community's elected representatives. The role of a council officer requires:

- consideration of community views through the council's engagement strategy;
- advising council how best to achieve the broader aims articulated in the Council Vision via their revenue and rating practices;
- advising council on the trade-offs and impact of the options available to them; and
- faithfully implementing the lawful decisions of council.

The high level aim articulated in the introduction to this Guide is worth restating as central to the functions of council officers:

Everyone involved in council revenue and rate setting fully understands the impacts of their decisions and can explain and justify them to the public.

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<sup>1</sup> Council roles and governing principles are detailed in s9 and s28 of the *Local Government Act 2020*.

## Developing a Revenue and Rating Plan – the Steps

Step	Result
1. Engaging Council	An informed council understands the underlying principles and processes of an effective Revenue and Rating Plan.
2. Aligning Strategy and Policy	Well-defined strategic directions provide financial goals, while adherence to policy creates an environment of transparency and integrity.
3. Determining Non-Rate Revenue	A considered balance of funding for the delivery of services through user-pay fees, prior to determining funds required from rate revenue.
4. Determine Rates and Charges	Proposed rating structures containing clear and substantiated evidence, for the consideration of the council and community. These reflect council's considerations of good taxation principles.
5. Drafting and Maintaining a Revenue and Rating Plan	A transparent and considered document clearly details council's revenue intentions, allowing for clear and informed public discourse. This includes a processes for mid-cycle alterations and an ongoing review process.

## Step One: Engaging Council

While councillors are required to complete induction training within six months after taking the oath or affirmation of office<sup>2</sup>, advice regarding the Revenue and Rating Plan is ongoing. Councillors should be provided with information which details:

- Council's current strategic goals and how they can be met through the Revenue and Rating Plan;
- An overview of previous service delivery decisions, and how these impacted the council's past revenue targets. This includes previous methods of calculation for costing and pricing services, as well as the reasoning behind the decisions that were made by previous councils;
- The legislative requirements of council's rating system including how rates are calculated, the options for rating and the fundamentals of property valuation;
- Policies required to be created and/or reviewed to support the revenue decisions made by council (such as financial hardship and debt recovery).

## Step Two: Aligning Strategy and Policy

The *Local Government Act 2020* requires councils to prepare and adopt a Revenue and Rating Plan for a 4-year period by 30 June in the year following every general election.<sup>3</sup>

The Revenue and Rating Plan provides the framework for the setting of fees and charges, statutory charges, rates, and other income sources. It should make assumptions regarding the levels of non-controlled revenues that the Council expects to generate over the 4-year period, such as grants, subsidies, and contributions.

Additionally, it defines the amounts of rates to be generated either through a uniform rate, or from different ratepayer/property classes through municipal charges, differential rates, service rates and charges, and special rates and charges (where they have been adopted).

The Revenue and Rating Plan therefore defines what each source of revenue is, how income will be raised and the policy rationale/assumptions for each, to fund required the Council's proposed expenditure detailed in their budget.

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<sup>2</sup> Section 32(1), *Local Government Act 2020*

<sup>3</sup> s93, *Local Government Act 2020*



## Spotlight On: Engaging Councillors

The City of Pleasantville's new councillors have requested briefings on their first Revenue and Rating Plan. To ensure that the councillors understand the complexities of making revenue decisions, the Chief Executive Officer advises the following:

**Legislative Requirements** - A briefing on the legal requirements of council when considering revenue decisions. A verbal presentation will focus on a high-level view of the legislation while written documentation provides information for councillors provides details.

**Service Delivery** - Given the importance of rates and charges issues in the recent election, council has requested that this session focuses on accurate modelling of service fees and charges while maintaining service standards.

This session will discuss the costing and pricing of services and the effect on rates, including how decisions impact the council's revenue target when determining the total rates and charges that must be raised.

**Discussing Rates and Charges** - Rate revenue ties directly into service delivery. With a presentation showing council's rating options, councillors are provided information on rates and the effects of different rating tools.

Council has requested information on different rating models and their impact on ratepayers, a discussion regarding Differential Rate categories and Municipal Charges, and an updated budget regarding the cost of providing waste collection services to the municipality.

This session will also include a discussion on the fundamentals of property valuations, the revaluation cycle, and how it applies to council's various rating options.

**Public Consultation** - Council has expressed concerns about the complexity of revenue options and how to clearly communicate them to the community. As a part of this session Council would like to focus on how to communicate options they are considering so that they receive informed feedback, especially from more vulnerable members of the community.

**Monitoring and Review** - Finally, Council has requested how an annual review of the Revenue and Rating Plan can be included as a part of the Annual Budget process. They have identified that if they adopt a Differential Rate, Municipal Charge or Service Charge, then they will need time to consult with the community before adopting any changes.



## The Integrated Strategic Planning and Reporting Framework

Legislative requirements detailed in Part 4 of the *Local Government Act 2020* stipulate strategic planning principles for councils. These include an integrated approach to planning, monitoring and performance reporting.

Reports to councils should clearly express that it is not practical to devise any portion of their revenue and rating plan in isolation from any of their revenue sources. Councillors should be briefed to allow them to justify revenue decisions and that information provided to the public should be clear and transparent.

The individual elements that comprise the Integrated Strategic Planning and Reporting Framework<sup>4</sup> within the *Local Government Act 2020* include:

- Community Vision (s88);
- Council Plan (s90);
- Financial Plan (s91);
- Asset Plan (s92);
- The Budget (s92);
- Revenue and Rating Plan (s93);
- Annual Report (s98); and
- Workforce Plan (s46(4)).

Additionally, the following principles are also detailed for consideration:

- Strategic Planning Principles (s89);
- Financial Management Principles (s101); and
- Service Performance Principles (s106).

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<sup>4</sup> <https://www.localgovernment.vic.gov.au/strengthening-councils/sector-guidance-planning-and-reporting>



## Spotlight On: The Integrated Strategic Planning and Reporting Framework

While considering the revenue and costs of the Pleasantville Municipal Library, councillors have requested a briefing on future plans as the library is old and maintenance costs high.

This briefing should address elements of the *Integrated Strategic Planning and Reporting Framework*, focusing on how council can maximise revenue to reduce cross-subsidisation of the library from rate revenue.

The library is a large complex located on council land that also provides other services including an outreach service, early years and adult programs, storytime, and technology Q&A sessions. There is a foyer café staffed by council employees.

The facility contains large theatre rooms which are used by community groups including the Pleasantville Historical Re-enactment Society, the Hobby and Collectors Association, mother's groups, and the local chapter of the International Communication and Leadership Development Vanguard.

Councillors have requested options to upgrade the facility to enable greater public use, provide services to generate revenue from private business, and generate tourism for the City of Pleasantville. In designing their 'Pleasantville Municipal Library Revitalisation Project' council staff have considered the following from Council's strategic documents:

### **Creating a Contemporary Gathering Space**

Drawing from the Community Vision, the library should help create a healthy, connected, and inclusive community. The project proposes a contemporary facility providing modern workspaces and conference spaces to attract businesses, in addition to updating existing public services, supporting its use as the center of art and learning.

### **Attracting Private Businesses and Fostering Community Events**

The Council Plan's goal to 'Foster a Strong and Innovative Economy' details strategies to attract private businesses and support art and culture in the community. Exhibitions, theatre, music, and esports events within the library could attract visitors and support local businesses.

## Refurbishing the Venue

Upgrading the library would require engaging with Council's existing Asset Plan. This would include a detailed estimates of the cost of maintenance over the full life of the asset and plans to retire it at its end of useful life.

A framework for transparent and responsible management is provided to support the expansion of the café to provide dining and catering facilities, replacing furnishing with aesthetic and artistic alternatives, and upgrading technology to support business conventions, esports and theatre.

## Funding the Development

Detailed financial reports outline the project's impact on Council's *Financial Plan*, *Workforce Plan* and future *Budgets*, including the estimated total costs and required changes to the Council's workforce.

These reports provide information about government grants, accessing low-interest State Government loans, a proposal to transfer operation of the hospitality space to a private provider and the projected revenue numbers for the first ten-year period of operation.

The report also explores important questions such as:

- Is there an identified need for these services?
- Is it realistic to attract private businesses and tourists?
- What happens if the facility does not create projected revenue?
- Will it be necessary to subsidise any activities with rate revenue?

## Local Government (Planning and Reporting) Regulations 2020

Schedule 1 of the regulations requires the governance and management checklist included in the report of operations in a council's Annual Report to include the Revenue and Rating Plan as an item.

This checklist confirms whether the Revenue and Rating Plan has been adopted by council, and if so on what date. If the Revenue and Rating Plan has not been adopted the checklist allows for the inclusion of a reason.

### Council Policies

The *Local Government Act 2020* provides a requirement for Councils to prepare and adopt policies to support good governance. These are:

- a Community Engagement Policy (s.55)
- a Public Transparency Policy (s.57)
- Financial Policies (s.102)
- a Complaints Policy (s.107)

A Council's Revenue and Rating Plan should link to these policies, explaining clearly how they have been applied in the creation of the Plan and its application. For example, the Complaints Policy should be referred to by specifying how ratepayers can query their rates and valuation.



## Spotlight On: Council Policies

On issue of the City of Pleasantville election was public frustrations over rates and charges. As a part of the new Revenue and Rating Plan, Councillors have requested greater transparency and engagement with the community regarding this sensitive topic. Council officers have briefed council on:

- How the community was engaged by providing summaries of submissions received and briefly noting key issues that were heard and how they were addressed within the document;
- Why council made specific decisions taken, addressing areas which may go against complaints received by ratepayers, and providing evidence supporting these decisions;
- How council's decisions support their financial policies and strategic plans;
- How ratepayers can lodge complaints, how they can be escalated, and detail regarding what to expect during the process and its timeframes.

Further information is also provided through links to strategic documents, highlighting the sections within to allow for ease of discovery by ratepayers.

## Financial Hardship and Debt Recovery Policies

*Appendix One: Ministerial Guidelines relating to payment of rates and charges*<sup>5</sup> outlines a clear and concise approach to identifying and providing support to ratepayers experiencing financial hardship and support councils in providing clear rationales regarding how they intend to formally pursue outstanding debts.

Councils should have policies that detail their approach to addressing financial hardship as well as debt recovery. This includes specifying the consequences of non-payment so ratepayers can understand their obligations. It is important that councils apply an equitable imposition of rates and charges across the municipality. Failure to recover outstanding rates means it fails this objective and provides a disadvantage to ratepayers who do pay on time.<sup>6</sup>

While it is not a requirement for a council to have a debt recovery policy, where one is adopted, it should be considered alongside what is detailed within their financial hardship policy.

## Considering Capacity to Pay

Councils should consider 'capacity to pay' when setting rates, as well as user fees and charges. Capacity to pay is a relative concept, in that it can apply differently to different people and in the context of different services. It is also a concept that must be considered with objective, factual information, and should also be considered differently for property rates from fees and charges.

For user fees and charges, capacity to pay can be informed by the take up of a service. For example, if a service fee is set at a level that results in limited use of the service, it may indicate that the service itself is not desired, or that the price is unaffordable for many. Matching this information against demographic information such as that provided by Census or other survey data can be insightful. Councils may also form a view from this information that many user fees should be reduced for some cohorts such as pensioners or concession card holders.

Capacity to pay when applied to rates is a little different. Rates – as a form of property tax – are compulsory. Therefore 'capacity to pay' must be distinguished from 'unwillingness to pay'. Claims by ratepayers or groups of ratepayers of a capacity to pay problem must be justified by objective information. The key information a council has to determine the rates payable is of course the property valuation. Typically, higher valued properties will pay more in rates than lower valued properties. Generally, a property's value is a good proxy for the overall wealth of a ratepayer, typically wealthier ratepayers own higher valued properties.

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<sup>5</sup> s87, Local Government Act 2020

<sup>6</sup> Chapter 5.2: Recovery of Outstanding Rates - Protecting Integrity: Yarriambiack Shire Council Investigation

Councils most commonly face capacity to pay claims in the context of differential rates. Some ratepayer groups assert that the group as a whole (such as pensioners or farmers) all experience the equivalent capacity to pay issue and should – as a group – be provided with a form of rate reduction.

Councils should test such claims with factual information. Rarely however does a council have the information required to verify such claims of a group such as other forms of financial wealth, sources of income etc. If one group are subject to a rate reduction via a differential rate, all other ratepayers must pay more which then potentially impacts their capacity to pay.

Councils using capacity to pay as a justification for differential rates should be careful to provide evidence for their position and detail how this is translated into rating decisions.

Finally, councils have a number of rating instruments to address capacity to pay issues without directly affecting other ratepayers, such as waivers, payment deferrals, payment plans, and rebates and concessions. In most instances, these are far more suitable instruments to address capacity to pay issues as they can be targeted and tailored for many different circumstances.

This approach is no different from setting concession prices on many user fees for council services. Reducing fees for one group of service users does not directly impact those paying the full price. Councils should be considerate of any cross-subsidisation of a service via a mix of different user fees and where this occurs, should be transparent about it.

## Deferring Payments

When debtors or ratepayers are unable to make payment by their invoice's due date, councils should provide options for deferred payments.

While the option to defer a rate payment is detailed in the Act<sup>7</sup> such an approach can be adapted for use by other debtors seeking extra time via a short-term deferral to address late payments. Deferrals can be a useful tool to address capacity to pay issues for individual ratepayers. During the COVID-19 pandemic, most councils offered rate deferrals to businesses and households financially impacted by lockdowns and other restrictions.

*Short-Term Deferrals* – where a debtor requests a temporary respite of up to a maximum of 90 days to make payment. Councils should allow the application of short-term deferrals to be requested verbally.

*Long-Term Deferrals* – where a debtor requests a respite of over 90 days to make payment, councils should request a written application for consideration and suggest that a payment plan could be appropriate. Any application by a debtor may include an understanding that:

- They must provide clear information on when they intend to make payment;
- Where relevant, additional amounts may fall due during this time;
- Interest may continue to be calculated against outstanding amounts; and
- Council may choose to review all deferrals annually, which may require the debtor to reapply for their payment deferral.

Councils should ensure that they are diligent in reviewing all debtors at least annually and keep them informed of the process. During reviews councils can require debtors to reapply for deferrals assess any changes to their circumstances.

Councils should be clear and transparent on their policies regarding payment deferrals and proactive application for a payment deferral should be encouraged if debtors are expecting a change in their circumstances.

Residents should understand the risks in deferring rates, as the amounts are still owed and must be paid at some point. Long-term deferrals should take into consideration the application of rates in future years, and the ratepayer's capacity to meet those obligations. Constant messaging for people that are on a deferred plan should be very clear, ensuring that people are reminded that amounts outstanding will fall due on the agreed upon date.

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<sup>7</sup> s170, Local Government Act 1989



## Payment Plans

Payment plans were formalised in the *Local Government Legislation Amendment (Rating and Other Matters) Act 2022*, supporting financial hardship practices that have been provided by councils for many years.

How councils consider the application for a payment plan<sup>8</sup>, should be detailed in their financial hardship policy. Ratepayers should understand how council considers applications to minimise rejected applications and defaulted payments. The policy should detail:

- The preferred timeframe in which a payment plan should be completed (paid in full);
- What payment intervals are acceptable (weekly, fortnightly, monthly, etc.);
- The preferred portion (or percentage) of the debt that should be made per interval;<sup>9</sup>
- What rate of interest will be applied to the payment plan;
- How payment deferrals are considered in conjunction with payment plans;
- The number of defaulted payments before the payment plan is cancelled;
- When a payment plan is cancelled, if there are additional considerations by council for that ratepayer's future payment plan applications; and
- The next steps in debt recovery if a payment plan is cancelled.

## Waiving Fees, Rates, Charges and Interest

Councils should have a policy detailing under what circumstances they will (or will consider) waiving an outstanding debt<sup>10</sup>. While waiving a debtor's fee, change or interest accrued through council's sundry debtor system may often be easier (and more affordable) than suing for debt in the Magistrates' Court, Councils should also ensure that measures are in place to prevent that debtor from accruing further debt in the future.

As council rates and charges are a form of property tax (and a 'first charge on the land'<sup>11</sup>), Councils are often reluctant to consider waivers over deferring payments until the land is sold due to the perceived impact on funding community services.

Councils should have a policy which allows for application for a waiver of rates. It is not good practice to simply state that a Council does not waive rates and charges under any circumstance. This approach closes off any possibility of discretion by the council and is likely to incite a negative response by the community.

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<sup>8</sup> s171B, Local Government Act 1989

<sup>9</sup> If a ratepayer owes \$1,000 and the Council seeks 10% payments per month, they seek \$100 per month. The Council may also request future instalment payments as they fall due.

<sup>10</sup> s171 & 171A, Local Government Act 1989

<sup>11</sup> s156(6), Local Government Act 1989

When considering an application for a waiver under the grounds of financial hardship, Councils may look to other guidance. The Australian Tax Office states that:

We (the ATO) can only release you from payment of particular tax debts where paying those debts would leave you not able to provide for yourself, your family or others for whom you are responsible. This includes providing for items such as food, accommodation, clothing, medical treatment and education.<sup>12</sup>

The State Revenue Office is more prescriptive regarding waiving land tax, detailing a number of determining factors considered when assessing an application.<sup>13</sup>

As rates are a tax councils may approach waiving rates and charges similar to other forms of taxation. As a waiver is a renouncement by a council of a legal claim of an amount in rates, it should be considered in the context of other forms of rate relief such as deferrals. If there is a legitimate need, councils should ensure they have a clear policy how an application will be assessed. All decisions on rate waivers by a council should follow the published policy.

## Suing for Debt, Bankruptcy, and Selling/Claiming Land

Where a council has a robust financial hardship policy that is implemented consistently and fairly, ratepayers who do not to respond or ignore attempts to collect outstanding amounts should be subject to debt recovery.

Council's debt recovery policy should state how fees, rates and charges are dealt with accordingly. Non-rate related debts should be covered in their own sections, as the due dates for those forms of payment are generally different to property-based rates and charges.

A policy may clearly state at what level of debt (the amount owed) council will sue for debt, and the timeframe in which this will occur. It should also state that if judgement is obtained, what other actions council will use to collect the debt (such as summons of oral examinations, placing caveats on titles, garnishing wages, etc.)

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<sup>12</sup> <https://www.ato.gov.au/General/Support-to-lodge-and-pay/In-detail/Release-from-your-tax-debt/>

<sup>13</sup> <https://www.sro.vic.gov.au/hardship-relief-land-tax>

In situations where council determines that it has used all available powers to collect the debt, their policy should detail under what circumstances they will bankrupt a debtor or sell (or claim) a ratepayer's land<sup>14</sup> to recover rates debt.

While considering bankruptcy for a debtor with an outstanding balance may be a consideration for non-rates debt, it may not be practical to consider this when dealing with property rates and charges.

The legislation that ensures that rates are a first charge on the land<sup>15</sup> also prevents a ratepayer's bankruptcy from erasing the debt. Should a council attempt to bankrupt a ratepayer the debt is transferred to the individual, and they may find that they will only recover cents-in-the-dollar of the debt once the process is finalised. Due to this, councils should seek legal advice when considering bankruptcy in regard to property rates and charges.

Where in most circumstances the owner is ultimately liable for the payment of rates and charges, it should be noted that council may shift this liability to the occupier of the property where the owner cannot be located.<sup>16</sup>

Alternatively selling (or claiming) land is a more straightforward option. A robust implementation of financial hardship policies, clear and transparent communication with the public and with a well-implemented approach will allow for the selling (or claiming) of land to proceed.

A ratepayer that refuses to pay their rates should not be entitled to continue without consequences. Ownership of a property entails an obligation to pay rates and the majority of ratepayers that do pay on time should not be penalised. A council that refuses to collect long overdue debts of a ratepayer via the sale of a property may be failing in its obligations to its community.

Councils should make it clear in policies what the process for the sale (or claiming) of land will be. Where Councils choose not to proceed with the sale of any land as instructed by their individual policies, it should be made clear why this decision was made and ensure that this decision is reviewed when properties are next considered.

Where councils consider claiming land instead of selling, they should ensure that the primary purpose of the sale is the collection of outstanding rates, while council's proposed future use of the land is ancillary to the decision (and must align with council plans and strategies).

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<sup>14</sup> s181, *Local Government Act 1989*

<sup>15</sup> s156(6), *Local Government Act 1989*

<sup>16</sup> s177, *Local Government Act 1989*

## Using Third-Party Providers

While councils may choose to keep all debt recovery activities in-house, it is common to engage a third-party professional to recover unpaid rates and charges on their behalf. This includes recovery in the Magistrates Court, suing for debt, and selling (or claiming) land.

Councils should ensure that agreements and contracts with debt collection agents:

- are subject to clear and enforceable standards;
- require debt collection agents to comply with the Australian Competition and Consumer Commission and Australian Securities and Investments Commission guidelines for debt collection;<sup>17</sup>
- require debt collection agents to be familiar with and comply with council policies;
- require debt collection agents to inform ratepayers of all statutory options available for hardship relief; and
- refer ratepayers who disclose financial hardship to the council for consideration.

Additionally, while requesting applicant ratepayers to provide evidence of financial hardship through a financial councillor may seem like good practice, it should not be a requirement to allow a ratepayer to access support from council or to have an application for financial hardship considered.

Ratepayers experiencing financial hardship may not be able to access support from a financial councillor through any manner of reasons, and the cost of doing so may worsen their situation.

While councils may use third-party professionals to collect debts, it does not absolve councils' responsibility to manage their relationship with the ratepayer in a fair and reasonable manner.

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<sup>17</sup> <https://asic.gov.au/regulatory-resources/find-a-document/regulatory-guides/rg-96-debt-collection-guideline-for-collectors-and-creditors/>

## Step Three: Determining Non-Rate Revenue

Rate revenue is raised to fund public services, however there is rarely a direct link between the source of the tax and its expenditure. Rates in particular are a form of general revenue that contributes to consolidated revenue of local government. It is the budget that determines what the consolidated revenue is spent on.

In contrast, user fees and charges are tied to specific products and services that may be enjoyed directly by the recipient. These types of goods and services are sometimes characterised as 'private goods'. Such goods allow for a direct relationship between the cost of the good or service and the value directly enjoyed by the beneficiary. This in turn allows the specific cost of the service – if known – to reflect the user fee or charge: cost recovery.

In a local government context, cost recovery involves setting and collecting fees and charges to cover the costs incurred in undertaking activities such as:

- providing goods and services to be purchased by customers (e.g., use of community facilities, waste collection services, parking services); and
- the administration of regulation (e.g., registrations, licensing, issuing of permits, enforcement activities).

Recovering the costs of these activities need to be recovered either by identifying their users and charging them accordingly, or from ratepayers through general rate revenue.

## **Breakout Box - Activity Based Costing**

Activity based costing identifies each activity that is performed by a council when providing a service and directly assigns the cost of that activity (and any resources consumed) to the service. This required councils to have an accurate understanding of the activities performed and can clearly determine their costs.

While this Guide provides an overview on what councils should consider when determining service costs and how to price them appropriately, further information is available in the following:

### **VAGO's Report into Delivering Local Government Services 2018**

<https://www.audit.vic.gov.au/report/delivering-local-government-services?section>

### **DTF's Cost Recovery Guidelines 2013**

[https://www.dtf.vic.gov.au/sites/default/files/2018-01/Cost-Recovery-Guidelines-Jan2013\\_0.pdf](https://www.dtf.vic.gov.au/sites/default/files/2018-01/Cost-Recovery-Guidelines-Jan2013_0.pdf)

### **VAGO's Shared Services in Local Government 2014**

<https://www.audit.vic.gov.au/report/shared-services-local-government>

<https://www.finance.gov.au/publications/resource-management-guides/australian-government-cost-recovery-guidelines-rmg-304>

## Cost of Services

Before determining the appropriate price for a service, councils should interrogate the cost of the service to minimise unnecessary expenses and to ensure that all relevant functions have been considered.<sup>18</sup>

When considering a particular service, there are different costs that ultimately influence the total cost of that service. Council should consider the following:

### **Direct Costs**

Direct costs are directly linked to the provision of the service because the cost is incurred exclusively when providing that service. Examples are:

*Labour* – wages/salary, taxes, superannuation, training, worker’s compensation, overtime, allowance for sick or long service leave;

*Accommodation and Materials* – office rent and maintenance, consumable supplies, utilities, administrative expenses; and

*Asset/Equipment Maintenance* – servicing vehicles, plant hire, repairs, loan repayments, allowance for replacement and depreciation.

### **Indirect Costs**

Indirect costs are not incurred exclusively for a particular service and refer to broader costs of supporting the provision of the service from a whole of business level. Examples include:

*Corporate Services* – salaries of support services (executive, financial services, human resources, payroll, information technology); and

*Asset/Equipment Maintenance* – comparable to examples listed above for assets and equipment shared across council services.

Where services use common resources differently a weighting is needed in the allocation process to determine what portion of its costs should be allocated to what service. Two widely used methods to allocate indirect costs are *Activity Based Costing* and *The Pro-Rata Approach*.

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<sup>18</sup> Section 4.3, DTF’s Cost Recovery Guidelines 2013

## The Pro-Rata Approach

While using activity based costing is a more comprehensive and accurate approach, it may not always be possible (or it is too laborious) to identify all the different activities within a service.

In such cases, a pro-rata approach may be used that allocates indirect costs on a proportionate basis by using easily available measures, such as:

- Staff involved in the activity as a percentage of total staff;
- Direct costs for the activity as a percentage of total costs; or
- Budget for the activity as a percentage of total budget.

In its simplest form, the pro-rata approach can be used by grouping all indirect costs into a single pool, and then applying one of these three proportional allocation measures.

A more complex approach would be to increase the number of indirect pools used (the accumulated cost of providing the service), and to apply an appropriate proportionate allocation measure (such as number of staff).

The greater number of indirect cost pools used, the more likely that this method will yield results similar to those achieved under the more complex activity based costing approach.





## Spotlight On: The Pro-Rata Approach

The City of Pleasantville chooses to model the pro-rata approach in allocating the \$300,000 of costs from human resources between their aquatic centre and childcare services.

For this they have identified that using the number of staff within each service area is the most appropriate proportional allocation measure. Using this method, the allocation of costs would be:

	<b>Total Staff</b>	<b>Cost Allocation (Pro-Rata)</b>	<b>Cost Comparison (ABC Method)</b>
Aquatic Centre	40	\$120,000	\$106,500
Childcare Services	60	\$180,000	\$193,500
<b>Total</b>	<b>100</b>	<b>\$300,000</b>	<b>\$300,000</b>

The difference between these two methods can influence the City of Pleasantville's decisions when considering the pricing structures of these services.

## Pricing Structures

While it is important to know the cost of services, councils should also base fees and charges on an understanding of societal, economic, and legal considerations. This should include benchmarking against other providers of similar services (whether commercial or governmental).

Users of council services may also expect to pay a fair amount for that service (also referred to as a “user-pays” service), which would similarly be expected from a commercial provider.

While setting fees and charges for services provided, councils should take a consistent and transparent approach that considers:

- Direct community benefits;
- Capacity to pay of users;
- Direct and indirect costs of running services; and
- Council strategic objectives.

Additionally, pricing should ensure that:

- The community understands how fees and charges are determined;
- Fees and charges are simple to administer and understand; and
- Council complies with statutory and legislative requirements

While considering how to price particular services, each can be broadly categorised in one of the following groups:

**Subsidised pricing** – where the full cost of providing the service is not passed onto the customer and is subsequently subsidised by other revenue streams;

**Full cost recovery pricing** – where prices are set to recover all direct and indirect costs incurred to deliver the service (also known as cost-neutral);

**Market pricing** – where prices are set based on benchmarked competitive prices of alternate suppliers. This method may also result in profitable pricing or subsidised pricing, dependant on the cost of providing the service; and

**Profitable pricing** - where prices are set based on council’s desire to generate a profit which is then used to subsidise other services.

When council sets prices for its services, the Revenue and Rating Plan should detail the decisions used to set the fee or charge, including rationale in cases where councils subsidise particular users or services at the expense of others (particularly rate revenue).



## Spotlight On: Categorisation of Pricing Structures

Council officers are presenting the Pleasantville Council with a pricing proposal for their services. Understanding that deliberating on each service individually would take a considerable period of time, they have decided to first discuss services that can be easily categorised into either:

- Full cost recovery pricing
- Market pricing
- Profitable pricing
- Subsidised pricing

They choose to leave the discussion regarding subsidised pricing to the end, allowing councillors to understand how other services provide the funds needed to subsidise these services. In addition, council decided to better disclose these subsidies in their Annual Budget, so their decisions are clear.

While many of the council's services can be categorised into one of these groups, where services contain a mix (such as the Pleasantville Aquatic Centre) these more complicated models are discussed individually.

## Effective Benchmarking Practices

Benchmarking performance and costs of a service is an important tool for measuring efficiency. While direct comparison of services is often sought, it is possible to undertake 'like with unlike' benchmarking, comparing the costs of similar processes (such as the provision of corporate services), in dissimilar organisations.

When benchmarking services councils should consider:

*Internal benchmarking* – where other departments within council that have established best practices in similar processes, internal benchmarking involves analysing what they are doing so you can find areas where you can improve and be more efficient.

*Competitive benchmarking* - a comparison of products, services, processes, and methods of direct competitors (including other councils). This gives insight into your position within local government and what you may need to do to improve efficiency.

*Strategic benchmarking* - this type of benchmarking is used to look beyond local government to identify performance and best practices and adapt these methods to your procedures and processes.

It should be noted that benchmarking practices is an exercise that does not solely focus on pricing of services, but also identifying efficiencies in other organisations and ensuring that council is providing a comparable and competitive level of service.

The Victorian Auditor General's Office (VAGO) report titled "Fees and charges – cost recovery by local government"<sup>19</sup> provides insight into the impacts of ineffective management of services costs.

## Further Topics of Consideration

Information to councillors on the costing and pricing of services may comprise:

- Assessment of the impacts of cross-subsidisation, market rates and competition;
- Identifies statutory and regulatory fees;
- Identifies services council is required by legislation to provide;
- Measures market participation and the success of the service;
- Long term impacts of preferencing CPI increases over measured increases;
- Identifies opportunities in shared services and collaborative procurement.

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<sup>19</sup> <https://www.audit.vic.gov.au/report/fees-and-charges-cost-recovery-local-government>

## Step Four: Designing Rates and Charges

A rating system should be easy for the public to understand, including the explanation of it by council officers. It should be easy to administer.

A Revenue and Rating Plan may include different options for rating and the resulting impacts on affected ratepayers. By selecting one option over another, the document should be able to explain to their community as to why their approach aligns with the Council's strategic goals.

Any different rating arrangements proposed should include an explanation of their appropriateness and analysis of their effects on the broader community.

An important part of rate modelling includes a council's plan to implement waivers, rebates and concessions. These instruments are important to consider, as their use allows targeting of individuals or groups that are experiencing financial hardship or providing an ongoing benefit to the community.

The effectiveness of using rates to incentivise or encourage ratepayers to achieve council goals should be evaluated critically against other financial strategies in terms of effectiveness. Alternative methods such as expenditure items via the budget should be considered first, before considering the alteration of a taxation base that has direct financial impacts across a municipality as a whole.

A comprehensive impact statement regarding rates, fees, and charges on its municipality should be presented to councillors as a part of the design process.

### Uniform Rates

Use of a uniform rate implies that a council is content to use the annual property valuation alone to determine the apportionment of rates in a municipality. The Local Government Rating System Review identified that this approach is simple to administer and understand. The simplest rating schemes should begin with a uniform rate before considering the impact to the community of introducing more complicated rating methodologies.<sup>20</sup>

Estimated property valuations are a proxy for overall wealth. They are a reliable method of determining capacity to pay and are the most equitable method of rate distribution.

Where councils determines there are inequities in the application of a uniform rate, the Act provides a number of rating tools for addressing these issues (see below).

When a council considers moving from the application of differential rating categories to uniform rates, the community should be provided with clear and transparent information regarding the impact of this change during consultation.

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<sup>20</sup> Such as Municipal Charges, Differential Rating Categories, and Service Rates and Charges.

## Differential Rates

Differential rating in its current form was adopted in the Act in the early 1990s to provide a means for a council to adjust the rating system in a manner that it considers equitable. Ministerial Guidelines for the use of differential rates covering their objectives, suitable uses and types and classes of land appropriate for their use were issued in 2013.<sup>21</sup>

Councils may apply as many differential rates as they consider necessary. The highest differential rate levied by a council in a given year is restricted to being no more than four times its lowest differential rate.

While a council's criteria for determining what type of rate applies to which type of land must be described in the council's Annual Budget, it should also be made clear within the Revenue and Rating Plan along with their objectives.

When considering the application of a differential rate, council should be able to clearly communicate how it will achieve the stated objective<sup>22</sup>, how they determined its rate in the dollar, and why that rate in the dollar is appropriate to achieve the differential rates objectives.

Transparency is fundamentally important so ratepayers can understand the objectives of a differential rate so that they may fully engage with council on the rate setting process and its policy decisions.

Councils should provide their communities with specific and clear evidence that justifies their rating decisions. Council employees and ratepayers alike should be able to discuss and understand the rating decisions made by councillors.

It must be clear what occupancies a differential rate is to be applied to. When specifying characteristics of the land, the primary identifier ideally (where practical) is the land's AVPCC<sup>23</sup> code. Using AVPCC codes allows a simple method to classify land, providing more transparency for ratepayers seeking to understand the process.

In the case of Commercial, Industrial and Residential differential rating categories, the AVPCC code is used in the valuation process and allows ratepayers to lodge objections to have these reviewed.

Where the AVPCC code is not appropriate, or more specific identifiers are required, Councils should ensure that these are detailed in a manner that is unequivocal.

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<sup>21</sup>

[https://www.localgovernment.vic.gov.au/\\_data/assets/pdf\\_file/0026/165554/Ministerial\\_Guidelines\\_for\\_Differential\\_Rating\\_April\\_2013-PDF.pdf](https://www.localgovernment.vic.gov.au/_data/assets/pdf_file/0026/165554/Ministerial_Guidelines_for_Differential_Rating_April_2013-PDF.pdf)

<sup>22</sup> Section 161(2)(a), *Local Government Act 1989*

<sup>23</sup> Australian Valuation Property Classification Code

## **Breakout Box – Differential Rates and Perceived Equity**

When considering differential rating, councils should also be mindful of the appropriateness and impact to ratepayers across the whole municipality.

Where a council has determined an objective to be met by the application of a differential rate, diverting from this objective in order to make an adjustment to the rate in the dollar based on 'perceived equity', erodes the integrity of council's decision making.

Where councils choose to subsidise one group of ratepayers they are imposing a penalty on another. This is the unavoidable consequence of differential rates. A council should be able to justify such a decision to all its ratepayers. How has a council determined the appropriate level to redistribute? Are there unintended consequences where those facing financial hardship would pay more under a differential rate than a uniform rate?

Given that council rates are a form of property tax based on individual property values, councils should not consider a differential rate based on the 'capacity to pay' or potential income of a group of ratepayers or a category of land.

Allowing this form of estimation would be comparable to adjusting a person's individual income tax based on an estimate of what other taxpayers of a similar age were earning, rather than that individual's actual income.

Moreover, a council has no ready access to the full financial circumstances of individuals in any group of ratepayers so any assertions made about a group of ratepayers are based on limited evidence if any.

Objectives should be clear in their actual effect on ratepayers, have a social or economic driver and a direct link to council's strategic objectives and plans.

## **Ministerial Guidelines for Differential Rating**

The Ministerial Guidelines for Differential Rating we published in the Government Gazette in 2013 under section 161(2B) of the *Local Government Act 1989*. Councils should refer to these when considering or reviewing differentials rates.



## Spotlight On: Differential Rates

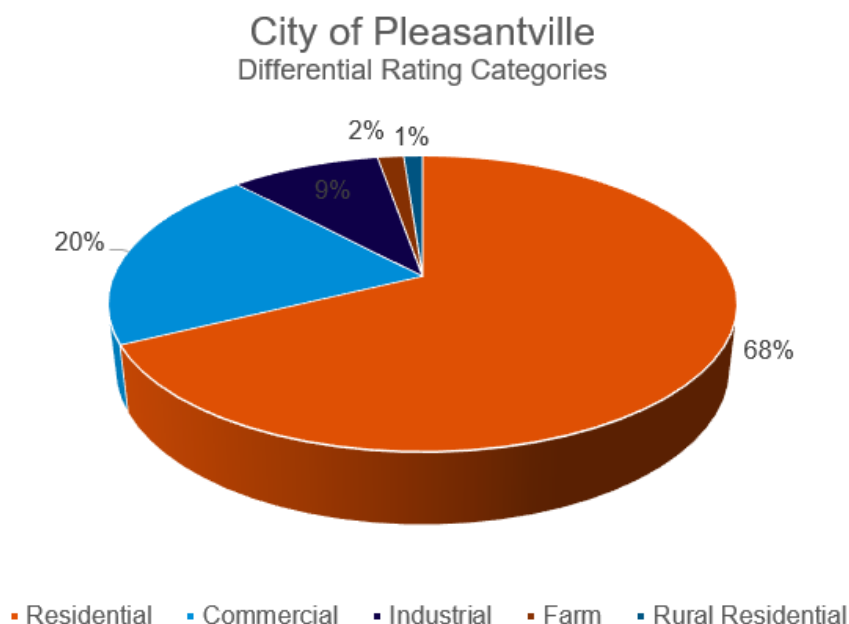
For many years the City of Pleasantville has adopted differential rating categories, which they have now reviewing to determine if they really meet their stated objectives.

The differential rates categories are:

- Residential
- Commercial
- Industrial
- Farm
- Rural Residential

Each of these differential rating categories have identical objectives, stating that: *“The objective of this differential rate is to ensure that all rateable land makes an equitable financial contribution to the cost of carrying out the functions of City of Pleasantville.”*

In previous years council officers presented the following chart to councillors and explained that this was a desired split of rate revenue from the various property categories. This division had been in place for many years, and rates in the dollar had been adjusted annually to maintain this percentage allocation. The model was based on the approximate share of total property values from over a decade ago, along with – according to some council officers – ‘what felt about right’.





But years later the proportion of property values of each category was quite different and land uses had changed, so maintaining the model produced absurd outcomes.

The councillors determined this method was not equitable as there was no transparency to the public on how this system functioned. Adjustments to rates each year to fit a preconceived allocation undermined the valuation system, and some categories were paying far less in rates based on 'perceived equity' with no evidence to support council decisions.

The councillors resolved to reassess this method of rating, requesting more information regarding more appropriate and transparent methods of applying rates and requested that officers provide supporting evidence to provide to their community in the upcoming consultation period.

## Municipal Charges

The provision for a municipal charge within the Act allows a council to raise up to 20 per cent of rate revenue by levying a fixed amount on all properties in the municipality to 'cover some of the administrative costs of the Council.'<sup>24</sup> Under the Single Farming Enterprise exemption, eligible farms may be exempted from paying a municipal charge more than once.

The decision to apply a municipal charge affects all ratepayers and its impact should be considered carefully, which its purpose and impact transparent to all ratepayers. The purpose and justification should detail what costs are covered.

The Local Government Rating System Review identified that some councils use the municipal charge to offset the effect of ad valorem rating on higher valued properties in their municipality, shifting the rate burden to lower valued properties by its application.

A municipal charge should not be used for the purpose of offsetting the effects of rates on higher valued properties. Where a council chooses to apply a Municipal Charge, they should provide clear justification to its use, the costs it is offsetting and make it simple for a ratepayer to understand what its impact will be on their annual bill.

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<sup>24</sup> Section 159(1), *Local Government Act 1989*



## Spotlight On: Municipal Charges

For many years the City of Pleasantville has adopted a Municipal Charge, which they have chosen to review. Councillors noted that in previous years financial documents that council has made the following statement:

*“The City of Pleasantville recognises that Municipal Charges are a useful tool to ensure all ratepayers contribute an equal amount to the administrative functions of council, separate from the valuation of their property. Council will declare a Municipal Charge to be applied on rateable occupancies at a rate no more than 20% of total rates raised in line with legislation.”*

The Councillors requested a report from officers detailing specifically how previous municipal charges were calculated, what administrative functions they paid for, and why it was important to charge these functions separately from the general rates raised.

The report provided by officers detailed that the municipal charge had been introduced many years before and had been indexed annually without review. Officers were unable to provide detail for why the municipal charge was necessary, or how it was used to fund specific administrative functions.

As a part of their community consultation the City of Pleasantville plans to:

- List what services may be covered by future Municipal Charges, linking it directly to costs reported within their Annual Budget;
- Clearly show how the cost of the administrative services listed has been applied to the calculation of the municipal charge;
- Provide the financial impact on annual bills of applying a municipal charge to properties at different valuation points, applying a transparent approach that clearly shows its impact on lower (and higher) valued properties;
- Invite comment regarding whether it is appropriate to also apply the Municipal Charge to non-rateable properties;
- Assess if the community finds it appropriate to continue with the application of a municipal charge in future years.

## Charitable Exemptions

All land is considered rateable in Victoria, except where specified as exempt in the Act. The chart below lists the types of entities and properties currently subject to an exemption from rates in Victoria through statute.

It is appropriate when considering the application of charitable exemptions to consider the four heads of charity from common law. These were derived from *Commissioners for Special Purposes of Income Tax v Pemsel (1891- 1894)* in the UK. Under Pemsel, charitable purposes were deemed to include:

- The relief of poverty;
- The advancement of education;
- The advancement of religion; and
- Other purposes beneficial to the community not falling under any of the preceding heads.

This precedent has informed charities and taxation arrangements in many parts of the world, including local government rates in Victoria and other Australian jurisdictions. It is important to note that while the Pemsel case provides precedent, it does not offer an absolute definition.

Councils should carefully consider whether the use of a property is 'exclusively charitable', as a charity may, in addition to undertaking traditional charitable functions, provide services which compete with for-profit providers.

Councils should ensure they can verify applications for rate exemptions with appropriate information. Sources such as the Australian Charities and Not-for-profits Commission can provide a verification source, along with others.<sup>25</sup>

Whether or not the profits from such activities are raised to support other charitable activities, issues of equity and competitive fairness arise when properties with similar use but are owned by for-profit providers, are liable for rates while properties owned by not-for-profit or charitable providers are not.

While councils should have a clear policy regarding how a ratepayer may apply for exemption from rates, it is appropriate (and wise) for councils to seek legal advice when considering an application. It is good practice for councils to clearly record all previous legal advice received and decisions made regarding these applications and use this to form clear and consistent policy.

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<sup>25</sup> <https://www.acnc.gov.au/tools/topic-guides/charity-register>

## Service Rates and Charges

Councils may declare a Service Rate or Charges to recover the cost of specific services provided to a ratepayer's property.

There are currently only two reasons for councils to raise service rates and charges, with the *Local Government Legislation Amendment (Rating and Other Matters) Act 2022* repealing legacy water and sewage services, as well as replacing the use of service rates and charges for 'the collection and disposal of refuse', with 'waste, recycling or resource recovery services.'

Updating this description of waste charges aligns with the definition within the *Circular Economy Act 2021* and ensures that all services relevant to modern waste management activities are addressed when raising a service rate or charge (including collection, transport, processing, storage, and treatment of waste and recyclable materials).

The Act also allows a service rate or charge to be raised for services prescribed by the Minister, and though councils may request the Minister to do so, no services are currently prescribed.

Declaring a service charge for the purpose of 'waste, recycling or resource recovery services' is considered good practice as there is a clear nexus between the amount levied and expenditure on the specific service used. Clear determination of costs of a service can then inform the setting of charges.

Additionally, declaring a rate or charge that would collect an amount above the fair cost of providing the service and generating a surplus to subsidise activities unrelated to the service lacks transparency and may be considered dishonest by the community. Councils may choose to subsidise services with general rate revenue at levels of their own choosing.

Service rates and charges are outside the rate cap calculation. Councils should ensure that this is clearly communicated to ratepayers to avoid confusion regarding annual adjustments to their annual rate and charge notices. Councils can levy waste and other service rates and charges on rate-exempt properties.

In practice, modelling a service rate or charge involves similar practices noted in 'Step Three: Determining Non-Rate Revenue' of this Guide, as it pertains to the provision of a service which is effectively being purchased by a customer (the ratepayer).

In this way, councils should determine the direct and indirect costs of the service, deciding on an activity-based costing or pro-rata approach, and forming an appropriate pricing structure from there. Councils should focus on either a subsidised pricing or full-cost recovery pricing structure, including clear rationale in cases where councils subsidise particular users or services at the expense of others (or from general rate revenue).

While benchmarking a service rate or charge with other councils may be appropriate, councils should be primarily making these decisions dependent on their own costs, published strategies, and relevant community plans with an aim to provide a cost-neutral service.

### **Breakout Box – Service Rates & Charges and the Rate Cap**

The declaration of service rates and charges should align directly with a specific service, such as a service that collects, transports, stores, sorts and processes waste or recycling materials.

Service rates and charges are not affected by the rate cap, allowing councils to raise the amounts charged to a property to align with the costs of maintaining the service.

If a council plans to introduce a new waste service rate or charge, it should ensure the new rate or charge has a neutral impact on the average ratepayer and does not result in a windfall gain to the council.

For instance, charging for the collection of a bin where a property is using the service is an appropriate use of a service charge. Alternatively graffiti removal and general environmental activities are not appropriate to fund via a service rate or charge and should be funded via other revenue streams.

## Special Rates and Charges

Councils must use a prescribed process for the declaration of special rates and charges, which includes Ministerial Guidelines published in the Victorian Government Gazette.<sup>26</sup> This process states that councils can only tie the rate or charge to defraying the expense of an activity that has special benefit to those levied the charge.

While the application of a special rate or charge allows councils to declare a special rate or charge to provide any type of 'special benefit to a defined group of ratepayers', it is commonly used for economic development of commercial areas, beautification projects and footpath and road installation. Councils can designate a geographic area such as a city block as being subject to a proposed Special Rate or Charge or apply other criteria.

The Local Government Rating System Review identified that special rates and charges have been traditionally used for trader's associations and road schemes, however councils should also consider their use for many other innovative purposes. A special rate or charge may be used for a wide range of purposes only limited by a Council's creative application, as long as affected parties voluntarily agree to their declaration. Special rates and charges are not subject to the rate cap.

In circumstances where a special rate or charge has been in place (and renewed) for a length period of time, councils should ensure that affected ratepayers (and commercial tenants) have the opportunity to participate in the continued application of the scheme, any proposed redesign, or to object to its application.

While special rates and charge notices may be printed and issued separately, councils may choose to include this information in their annual rates and charges notice as long as all prescribed information is provided in a clear and transparent manner.

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<sup>26</sup> <http://www.gazette.vic.gov.au/gazette/Gazettes2004/GG2004G039.pdf>



## Spotlight On: Special Rates and Charges

During the recent elections in the City of Pleasantville, Councillors heard from ratepayers critical of the condition of unsealed roads in their area. The roads in question service a number of farms in Pleasantville.

The council staff provided councillors with extensive information regarding use of the roads, maintenance schedules, and relevant costs.

It was found that the main users of these unsealed roads are the owners of the adjoining farms along with related business activities (such as transport of produce from the farms) and that the current maintenance schedule is suitable. Providing additional maintenance to these roads would not serve the public interest and would divert funds away from infrastructure elsewhere in the municipality.

The councillors discussed the issue with the farmers in the area and proposed a special charge scheme, which would pay for the additional services that they are requesting for the roads. Initial interest from these residents leads to a draft proposal which includes:

- an itemised list of services provided to the charged occupancies and their total costs;
- how the cost of these services would be divided amongst the affected occupancies; and
- when the special charge would end or require renewal.

This draft proposal will be distributed to the owners of the potentially affected occupancies for consultation and community discussion.

The City of Pleasantville also received a proposal from Jenny, a local ratepayer. As part of reconciliation efforts, Jenny's proposal was for a special charge scheme covering the entire municipality could be used to fund land care initiatives that involved traditional owners and the community. The scheme would fund native tree planting and cultural heritage work on the block where Jenny lives and expand across the municipality over the life of the scheme.

The Pleasantville Council discussed the proposal and requested council officers to develop the idea as a special charge scheme for the City of Pleasantville's Reconciliation Action Plan.

## Rate Rebates and Concessions

The *Local Government Act 1989* allows councils to provide rebates and concessions for the purposes of:

- Assisting the proper development of the whole or part of the municipal district;
- Preserving buildings or places in the municipal district which are of historical or environmental interest;
- Restoring or maintaining buildings or places of historical, environmental, architectural or scientific importance in the municipal district;
- Supporting the provision of affordable housing, to a registered agency; and
- Public benefit land use<sup>27</sup>.

While rebates and concessions provide effective rate reductions for a series of specific purposes, councils must identify a direct benefit to the broader community should they choose to apply this power. The broadest criteria for a rebate or concession allows its application for 'the proper development of part of the municipal district', conceivably allowing for a range of possibilities.

When granting a rebate or concession, the Act requires a council to specify the benefit to the community as a whole resulting from the rebate or concession.

Councils should require the recipient of a rebate or concession to provide some evidence of compliance with its requirements which may require audit. Provisions of rebates or concessions should allow council to support strategic activities detailed in relevant plans which provide a benefit to its community.

The 'public benefit test' could be applied in instances where rateable properties provide a service or good that is a public benefit to the municipality. Some examples of this could be the offer by a ratepayer of otherwise private facilities to the public for hire at below market cost, or recreational space free to the public for designated times.

These circumstances align with the general principle of public benefit being related to the outcomes of the use of land. Rebates and concessions allow a council to effectively 'purchase' goods, services or outcomes for the benefit of their community; with the 'purchase' price directly represented by the value of the rebate or concession provided.

Councils should consider the specific use in question and ensure a linkage between this and strategic aims articulated in their plans and strategies. Reporting on council rebates and concessions and how they align with the council's priorities are important to ensure transparency and improve community understanding for these programs.

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<sup>27</sup> This provision comes into force on 20 June 2023 via the *Local Government Legislation Amendment (Rating and Other Matters) Act 2022*.



While it is commonly referred to as a 'rebate', a reduction of rates payable provided to ratepayers with valid pension concession cards under the *State Concessions Act 2004*, are legislated under section 171 of the *Local Government Act 1989* and are legally a form of rate waiver.<sup>28</sup>

## Public Benefit Tests

A council may offer rate rebates or concessions on the basis of a land used for the purpose of providing a 'public benefit' that the council may wish to encourage. Similar to the determining of benefit under the *Cultural and Recreational Lands Act 1963* (see below), a council is obligated to determine a quantity of value to the public that is equivalent to the cost of the rate rebate or concession being considered.

The term 'public benefit' is used widely to denote an act, good or service that is beneficial to society or a sub-set of society, typically without generating a profit. While acts of public benefit are also often correlated with acts of charity, these acts do not always correlate with rate exemptions.

While imprecise, the *Charities Act 2013* (Cth) provides definitions of 'public benefit'<sup>29</sup> that may assist councils when offering and determining public benefit rate rebates and concessions, in addition to types of 'charitable purposes'<sup>30</sup> that may also be applied due to their possible correlation.

Once it is determined that the land use accords with the public benefit as so determined by the council, the land's use may then be compared to, or benchmarked with, equivalent services that could be purchased and provided to the community by the council. The process should include:

- Determining if the land use is offering the municipal community a public benefit;
- Verify that the land use (so determined) is:
  - available free of charge or for a nominal charge; and
  - is not generating a profit or a rental return;
- Determining an approximate value of the public benefit.

When determining an approximate value of the public benefit provided by the land, council may choose to apply a value on a pro-rata basis, dependent on the nature of the public benefit and considering the effect of availability or access to the public.

Finally, in offering any such rebate or concession, councils are obligated to state how such a public benefit rebate or concession is to benefit their community and aligned with objectives and strategies as set out in the council vision and plan.

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<sup>28</sup> s171(4), *Local Government Act 1989*

<sup>29</sup> Section 6 & 7, *Charities Act 2013*

<sup>30</sup> Division 2, *Charities Act 2013*



## Spotlight On: Rebates and Concessions for public benefit

For several years the City of Pleasantville has offered a heritage rate rebate scheme which recognises the cultural value of some properties in the municipality. This scheme assisted owners with the cost of preservation and maintenance of properties with heritage value to the community.

The heritage rate rebate scheme currently offers specifically listed properties found eligible, a 25 per cent rebate of rates paid on property improvements (the difference between the site value and capital improved value of the occupancy) at the end of each financial year.

While this scheme has proven popular with the community in the past, several ratepayers have approached council with an expanded rebate program targeting other properties within the City of Pleasantville.

In the past, many property owners have left buildings empty while waiting for building and planning permits. Several owners have approached council with some innovative uses for the land that may serve a public benefit.

The City of Pleasantville has long advocated for refugees in Australia and some property owners have suggested that their vacant houses could be used as short-term accommodation to assist people looking to begin a new life and also growing culture within the municipality.<sup>31</sup> This accommodation would be offered to asylum seekers as a cost-neutral exercise, with the owners only recouping enough to maintain the property.

Several commercial kitchen owners in Pleasantville have also approached council, providing evidence that for one day per week local charity groups use their facilities to prepare meals for the needy. While these properties are largely commercial enterprises, the owners have suggested that they are providing a public benefit to the community and would like to be considered for a form of public benefit rebate or concession.

Lastly, a group of traditional landowners identified land important to their culture and have submitted a presentation supporting use of the public benefit test to waive rates on the land. They are proposing to build a cultural site on the land that will be run as a not-for-profit entity.

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<sup>31</sup> s16(1), *Charities Act 2013*

Councillors have discussed the merits of these ideas and have recognised that affordable accommodation for asylum seekers and the preparation of meals for the needy, provides a level of public benefit. They conclude that they will need assess existing council strategies and to consult with the community to ensure that these proposals provide a benefit to the community.

During consultation councillors will need to be clear if any proposed schemes would be a rebate (refunding rate amounts paid once evidence of use has been provided) or a concession (a waiver of rates provided in advance). The administrative cost and burden of maintaining these programs will be considered and this information will be provided to the community for consideration.

## Payment in Lieu of Rates (PiLoR schemes)

Forms of PiLoR schemes include land rated under private agreements (such as Commonwealth land i.e., public airports), the *Cultural and Recreational Lands Act 1963* and the *Electricity Industry Act 2000*.

When reporting revenue from payment in lieu of rates in the budget documents, councils should ensure that it is not confused with other forms of rates and charges (such as general rates and service rates and charges). All revenue collected from payment in lieu of rates should be clearly reported in a manner that ratepayers understand their origin, and that the rate cap is not applicable to this revenue.

### Cultural and Recreational Lands Act 1963

The *Cultural and Recreational Lands Act 1963*<sup>32</sup> requires that a council consider both the services it provides, and the benefit to the community derived from, land when setting rates on cultural and recreational land ("C&R Land").

This legislation allows for "claw back" provisions requiring that if C&R Land changes use (or otherwise ceases to be C&R land), there must be a repayment to council of the difference between the rates paid under the Act and what would have been paid.

All councils have assessments declared as cultural and recreational land, typically showgrounds, stadia, horse racing courses and outdoor sporting clubs.

Councils must consider two factors when setting rates on C&R lands: the services provided to the C&R property, and the benefits derived by the community from the property. While councils may find the value of the community benefit of C&R land (and of the services provided by the council) difficult to determine, councils should detail how they evaluate these applications within an explicit published policy or included in their Revenue and Rating Plan.

Councils have significant discretion in interpreting the legislation to calculate rates. Using the property valuation as a starting point for assessing the rates is not prohibited by the CRLA, however it provides limited transparency about how councils are arriving at the rates payable without further insight into how councils arrive at any rate in the dollar they set. In the same manner, councils raising fixed charges for these properties should also detail how they came to this figure. The priority would determine the rates leviable in a way that is transparent and defensible.

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<sup>32</sup> Section 4

Land used for public, cultural and recreational purposes may be considered on a similar basis as land used for public benefit and assessed for relief of rates as proposed under Rate Rebates and Concessions (see above). This should require the council to attempt to quantify the financial value of the public benefit (i.e., goods or services that the property is providing such as open space or recreation services).

The application of a public benefit test to C&R Land would ensure that the community benefits of open spaces and recreational land are recognised and valued within a consistent framework

## Electricity Industry Act 2000

The privatisation of the electricity industry in Victoria in the 1990s resulted in a rates liability for power generators as previously were exempted from rates. The *Electricity Industry Act 1993* (now the *Electricity Industry Act 2000*) provided for the newly privatised electricity generators to choose to negotiate an agreement with councils to make payments in lieu of rates. The agreement is generally referred to as a PiLoR (Payment in Lieu of Rates) agreement.

Under PiLoR, the rates payable can be any amount agreeable to both parties. If agreement cannot be reached, the EIA provides for third party arbitration. Since 2005, arbitrators must have regard to the method published by the Minister in the Victoria Government Gazette<sup>33</sup>. In practice, many councils apply the gazetted methodology, thereby avoiding the need for arbitration.

The PiLoR arrangements apply only to the land on which the generation units are situated. Related assets, such as transformers and connection infrastructure, are rated under the LGA.

Renewable energy generators are subject to a different method to that of coal and gas generation. Further information regarding community renewable energy projects and the PiLoR scheme may be found at:

<https://www.energy.vic.gov.au/renewable-energy/community-energy>.

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<sup>33</sup> Victoria Government Gazette, General Gazette 41, 11 October 2018, p.2303, <http://www.gazette.vic.gov.au/gazette/Gazettes2018/GG2018G041.pdf>

## Step Five: Drafting and Reviewing

In completing Steps 1 to 4 of this Guide, councils should be in the position to create a draft revenue and rating plan for public consultation, which will then inform the preparation of their annual budgets for the next four years.

This last step in this strategic process is to ensure that the community is thoroughly consulted on council's draft plan and that once a plan is adopted by council, that the plan is monitored and reviewed annually.

### Public Consultation and Transparency

Consulting with the public on matters of revenue and rating is an effective way to better involve and educate ratepayers, customers and the community about council's rating and revenue systems, how income is collected, and how policies are created and applied.

Councils should detail how they intend to consult with their community regarding rates and charges in their community engagement policy.<sup>34</sup>

Though deliberative community engagement is not prescribed for a revenue and rating plan, given the low levels of understanding around rates, the benefits of educating the community are substantial and public consultation should be viewed as an integral part of a council's consultation strategy.

Whichever method a council provides, transparency is key when providing information to the public. Information provided to the public should be able to explain:

- council's intent on setting a fee, rate, or charge;
- why a council deems it necessary to raise the fee, rate, or charge;
- why the specific fee, rate or charge was set at that level;
- how decisions affect a ratepayer's annual rates and charges; and
- how to engage with a council's Revenue and Rating Plan (including how their submission will be assessed and responded to).

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<sup>34</sup> s55, Local Government Act 2020

## Adoption, Monitoring and Review

Once council has completed their consultation process, they may proceed with adopting their Revenue and Rating Plan. Though a Revenue and Rating Plan must be adopted for at least four financial years, circumstances could change that requires a council to revisit their decisions and consult with their community regarding potential changes to their plan.

Monitoring of a council's revenue and rating plan should involve a mix of feedback from the community supported by an analysis of the practical outcomes of the strategies adopted within.

An annual period of review may be considered by councils to consider the effect of the plan and evaluating any possible strategic changes. A council may still determine that a review is warranted at any time, and advice from its officers and a community's needs is the best position to consider the timing and scope.

Nevertheless, if a council wishes to change any aspect of their Revenue and Rating Plan, they should clearly communicate this and consult accordingly with their community.