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Murchison WA

Local Government Reform

Positions and Recommendations

February 2022

Contact
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Local Government Reform – Consultation on Proposed Reforms

Local government benefits all Western Australians. It is critical that local government works with:

- a culture of openness to innovation and change
- continuous focus on the effective delivery of services
- respectful and constructive policy debate and democratic decision-making
- an environment of transparency and accountability to ensure effective public engagement on important community decisions.

Since first coming to office in 2017, the McGowan Government has already progressed reforms to improve specific aspects of local government performance. This includes new laws that work to improve transparency, cut red tape, and support jobs growth and economic development - ensuring that local government works for the benefit of local communities.

Based on the significant volume of research and consultation undertaken over the past five years, the Minister for Local Government has now announced the most significant package of major reforms to local government in Western Australia since the Local Government Act 1995 was passed more than 25 years ago. The package is based on six major themes:

1. Earlier intervention, effective regulation and stronger penalties
2. Reducing red tape, increasing consistency and simplicity
3. Greater transparency and accountability
4. Stronger local democracy and community engagement
5. Clear roles and responsibilities
6. Improved financial management and reporting.

A large focus on the new reform is oversight and intervention where there are significant problems arising within a local government. The introduction of new intermediate powers for intervention will increase the number of tools available to more quickly address problems and dysfunction within local governments. The proposed system for early intervention has been developed based on similar legislation in place in other jurisdictions, including Victoria and Queensland.

This will deliver significant benefits for small business, residents and ratepayers, industry, elected members and professionals working in the sector.

Local Government Reforms

These reforms are based on extensive consultation undertaken over the last five years, and have been developed considering:

- The Local Government Review Panel Final Report (mid 2020)
- The City of Perth Inquiry Report (mid 2020)
- Department of Local Government, Sport and Cultural Industries (DLGSC) consultation on Act Reform (2017-2020)
- The Victorian Local Government Act 2020 and other State Acts
- The Parliament's Select Committee Report into Local Government (late 2020)
- Western Australian Local Government Association (WALGA) Submissions
- Direct engagement with local governments
- Correspondence and complaints
- Miscellaneous past reports.

Consultation

Comments on these proposed reforms are invited. Comments can be made against each proposed reform in this document. For details on how to make a submission, please visit www.dlgsc.wa.gov.au/lgactreform

Theme 0: Overview Preliminary Comments

CURRENT PROVISIONS	PROPOSED REFORMS	BILL BOEHM WA COMMENTS
0.1 Disclaimer		
<ul style="list-style-type: none"> Not Applicable 	<ul style="list-style-type: none"> Not Applicable 	<p>The following submission is provided on the strict basis that it is a personal submission as an individual expressing my personal views. The content is not in any way to be connected to my current position as Chief Executive Officer at the Murchison Shire WA, nor does it represent the views of the Murchison Shire Council.</p>
0.2 Personal Background		
<ul style="list-style-type: none"> Not Applicable 	<ul style="list-style-type: none"> Not Applicable 	<p>I am currently employed as Chief Executive Officer with the Murchison Shire. I have been in this position for a little over 2½ years and having previously been employed in various local governments since 1980 in Victoria, South Australia and Tasmania. I have attached under Attachment 0.2.1 an extract from work background in Local Government that has led me contribute to this important Local Government Reform Process.</p>
0.3 Introduction		
<ul style="list-style-type: none"> Not Applicable 	<ul style="list-style-type: none"> Not Applicable 	<p>It is anticipated that the vast majority of responses to this process will follow the formal response to the questions and reforms, with the vast majority of submissions expected to follow this lead. The Minister for Local Government has obviously landed on elements that he has decided need feedback ahead of potential legislative amendments.</p> <p>In addition, the vast majority of comments are expected to come from individuals and organisations such as WALGA and LG Pro who are based in Western Australia and have both extensive experience within the State and as a partner in Western Australian Local Government. This is to be expected and given that I have only worked in WA Local Government for a little over 2½ years, I expect others will be more qualified to provide more considered comments in this vein than I.</p> <p>In my case I have attempted to outline a range of potential considerations that may not necessarily fit neatly into what the Minister has requested via specific questions and proposals, but nevertheless could potentially improve local government under the overall theme announced as</p> <p><i>“the most significant package of major reforms to local government in Western Australia since the Local Government Act 1995 was passed more than 25 years ago.”</i></p> <p>There are two aspects to this approach.</p> <p>Firstly Under 0.4 Rationale I have outlined a range of considerations that highlight perhaps how underlying rationale behind the reform could assist in the process. This may or may not cause a rethink.</p> <p>Secondly Where appropriate I have provided comment and, in some cases, detailed attachments to provide an alternative way forward for consideration of various elements</p> <p>The overall intent should be seen for what it is, a positive contribution to this reform process and not as any negative criticism of the process thus far nor the proposals under consideration.</p>

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0.4 Rationale		
<ul style="list-style-type: none"> Not Applicable 	<ul style="list-style-type: none"> Not Applicable 	<p>As an overview I have taken a holistic view of Local Government Reform, not in the context to just improve current operations but with the aim of a being forward looking on what the State Government wants to see happen in strategic sense long term as a means to develop the State with all its current and future challenges and how Local Government can contribute to this end.</p> <p>At a presentation to the November 2020 Meeting of the Murchison Country Zone of the Western Australian Local Government Association. Chair Brendon Hammond of the Regional Development Trust provided a brief overview of the State's low levels of economic diversification away from mining as in income source.</p> <p>In this presentation it was clear that in relative terms internationally Australia's relative high standards of living are subsidised by the resource sector. This is more acute in Western Australia with only the Perth and Peel Regions going close to generating its own sustainable level of economic activity at a above break-even point whilst Regions significantly in a worst position.</p> <p>As outlined in the <i>2020-21 Annual Report of the Western Australian Regional Development Trust</i> there is "the need for economic diversification and resilience." A few points of relevance include the following:</p> <ul style="list-style-type: none"> ~ Over the year, the Trust's engagement and internal efforts have acknowledged the risks arising from our existing low levels of economic diversification. While the benefits of a resilient economy are well understood, COVID-19 has nonetheless amplified the need for robust supply chains, local production of some goods and the ability to source critical inputs. While the State Government response to the pandemic has been decisive and is to be commended, the future remains uncertain in terms of both the global economy and the pandemic itself. ~ The Trust previously reported on the work it has undertaken in collaboration with the Center for International Development and key State economic development agencies to better understand and address the barriers, constraints and opportunities for economic growth and diversification in Western Australia ~ An important outcome of this research is the ability to measure, in a repeatable way, the scale of the challenge facing the State's economy. We understand that the Western Australian economy currently lacks the diverse, complex, and high value exports necessary to transition from our reliance on non-renewable resources. A more diverse range of exportable goods and services is essential to sustaining living standards over the next 50 years. While our current economic conditions are the envy of many, new engines of growth will be required over future years. From the Trust's perspective, we now have a metric that can track the progress of our regional development activities aimed at developing a more sustainable economy in the future. In addition, the research ~ We now have a better understanding of the structural challenges that have hampered sustained and inclusive growth in Western Australia. Responding to barriers to growth will require new ways of thinking and new ways of working. We will need to respond to the increasing demand for labour and skills in a timely and efficient manner. There would also be significant benefit from saving some of the wealth received during boom-times and spending more during slowdowns to counteract volatility. ~ A strategic approach to infrastructure planning and delivery is essential to enabling the establishment of new industry sectors. In this regard, the Trust welcomes the recent release of the draft State Infrastructure Strategy and ongoing engagement by Infrastructure WA with the Trust and the Portfolio more broadly. The Trust will continue to work across Government to identify ways in which the findings of the research, undertaken with the Center for International

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		<p>Development can be implemented. This is essential to developing resilience and positioning the economy for sustainable growth over the long-term. Royalties for Regions</p> <p>Given the above it is obvious that all sectors of the State need to work strategically, with Local Government needing to be an active contributor. Local Government is a very large sector located throughout the entire State. It has its resources and its own sources of revenue with many of the desired outcomes at a local level directly related to the economic development of the State. This task is not the responsibility of one sector but a collective responsibility with local government having the potential to be utilised to its fullest to assist.</p> <p>Whilst for the most part Local Government Reform suggestions will probably lead to improvements, it seems that all that will be achieved will be a continuation of a more process driven sector. It is highly doubtful that there will be much ability that local government can operate into the future in the entrepreneurial manner required as outlined in the above <i>economic diversification and resilience requirements</i> offered by the <i>Western Australian Regional Development Trust</i>.</p> <p>The reform process provides an opportunity to reform within the above context. As always Local Government is a State Government driven responsibility and is to the State to determine what role and function is required. The above outline provides a clear rationale for this approach to be undertaken with. <i>“new ways of thinking and new ways of working required.”</i></p> <p>The current reform process expressed as <i>“the most significant package of major reforms to local government in Western Australia since the Local Government Act 1995 was passed more than 25 years ago,”</i> can if desired by the State Government fit within this rationale.</p> <p>Whilst the reform process thus far seems to miss this mark and doesn't seem to be as forward looking on what the State Government may want to see happen with Local Government in a strategic sense long term, there is no reason why reforms cannot be adapted now as per the following brief points, especially as the State Government is in unique place given its recent legislative mandate.</p> <ul style="list-style-type: none"> • <i>“Structure follows Strategy.</i> The structure of local government through this reform process could / should therefore equate to that strategy.? Questions are <ul style="list-style-type: none"> ~ Is there such a coherent strategy for Local Government and if so, does it tie into the States development strategy? ~ How does the current and proposed legislation reform deliver the outcomes required? • <i>“Culture always eats strategy for breakfast</i> The culture of local government is meant to deliver that strategy from the people and communities that operate within it. The Local Government Community is and always will be passionate and supportive. Question is how what can it best be used under this reform process? <p>It is within this important context that this submission has been prepared.</p>

Local Government Reform – Consultation on Proposed Reforms

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0.5 General Observations		
<ul style="list-style-type: none"> • Not Applicable 	<ul style="list-style-type: none"> • Not Applicable 	<p>As a general observation it seems that there is a very overt expectation on the local government sector driven by a raft of compliance and documentation aspects. These are not just expected, but also required in many instances to be reported to the Department of Local Government Sport and Cultural Industries who then run off a check list or in some case policies are legislated. Rather than local government works things out as a sector for itself specific processes are mandated. Any wonder that so much effort is expended on actions that invariably take away from actual delivery.</p> <p>In other jurisdictions this is not necessarily the case with local government being provided with a large degree of latitude. The example shown under Attachment 6.3.1 Rating Options is one such instance. The large, mandated set of finance compliance aspects which are not necessarily mandated in other jurisdictions and also resource intensive is another.</p> <p>Attachment 0.5.1 Local Government Observations Opportunities also provides a few observations and pointers that may also assist.</p> <p><i>Perhaps empowerment, not more regulation is perhaps a more appropriate course to follow. Having a strong respectful and positive State / Local Government Relationship is essential and WALGA is well placed to assist. The less the Minister has to intervene and the more he can deflect issues back to the sector, then more mature local government will be.</i></p>

Theme 1: Early Intervention, Effective Regulation and Stronger Penalties

CURRENT PROVISIONS	PROPOSED REFORMS	BILL BOEHM WA COMMENTS
1.1 Early Intervention Powers		
<ul style="list-style-type: none"> • The Act provides the means to regulate the conduct of local government staff and council members and sets out powers to scrutinise the affairs of local government. The Act provides certain limited powers to: <ul style="list-style-type: none"> ○ Suspend or dismiss councils ○ Appoint Commissioners ○ Suspend or, order remedial action (such as training) for individual councillors. • The Act also provides the Director General with the power to: <ul style="list-style-type: none"> ○ Conduct Authorised Inquiries ○ Refer allegations of serious or recurrent breaches to the State Administrative Tribunal ○ Commence prosecution for an offence under the Act. • Authorised Inquiries are a costly and a relatively slow response to significant issues. Authorised Inquiries are currently the only significant tool for addressing significant issues within a local government. • The Panel Report, City of Perth Inquiry, and the Select Committee Report made various recommendations related to the establishment of a specific office for local government oversight. 	<ul style="list-style-type: none"> • It is proposed to establish a Chief Inspector of Local Government (the Inspector), supported by an Office of the Local Government Inspector (the Inspectorate). • The Inspector would receive minor and serious complaints about elected members. • The Inspector would oversee complaints relating to local government CEOs. • Local Governments would still be responsible for dealing with minor behavioural complaints. • The Inspector would have powers of a standing inquiry, able to investigate and intervene in any local government where potential issues are identified. • The Inspector would have the authority to assess, triage, refer, investigate, or close complaints, having regard to various public interest criteria – considering laws such as the <i>Corruption, Crime and Misconduct Act 2003</i>, the <i>Occupational Safety and Health Act 1984</i>, the <i>Building Act 2011</i>, and other legislation. • The Inspector would have powers to implement minor penalties for less serious breaches of the Act, with an appeal mechanism. • The Inspector would also have the power to order a local government to address non-compliance with the Act or Regulations. • The Inspector would be supported by a panel of Local Government Monitors (see item 1.2). • The existing Local Government Standards Panel would be replaced with a new Conduct Panel (see item 1.3). • Penalties for breaches to the Local Government Act and Regulations will be reviewed and are proposed to be generally strengthened (see item 1.4). • These reforms would be supported by new powers to more quickly resolve issues within local government (see items 1.5 and 1.6). 	<p>It seems that this measure is intended to improve local government staff and elected member conduct.</p> <p>However, it appears on the surface to be a heavy-handed approach to change behaviour by external direction rather than from what should occur within each local government.</p> <p>The current powers on the surface seem sufficient. It is the Minister only intervening officially at the last resort. Comments within Attachment 0.5.1 Observations perhaps highlight a more enlightened approach and one that would be more conducive and be impacted upon if a real positive strategic direction that could evolve as outlined under point 0.4 Rationale is provided and expected from the State Government.</p> <p>What could be useful is for each Council to develop and implement a self-examination performance review with elected member conduct one of a number of key features. If externally assisted this could be extremely valuable and improve behaviour and performance from within. Some form of public report could be a feature.</p> <p>If there were issues that arose from this process that were not resolved, then each local government could then institute its own objective review. If there was no resolution, then it might be appropriate for the Minister to intervene.</p> <p><i>As a general comment, the less the Minister has to intervene and the more he can deflect issues back to the sector, then more mature local government will be.</i></p>

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1.2 Local Government Monitors		
<ul style="list-style-type: none"> • There are currently no legislative powers for the provision of monitors/ temporary advisors. • The DLGSC provides support and advice to local governments, however there is no existing mechanism for pre-qualified, specialised assistance to manage complex cases. 	<ul style="list-style-type: none"> • A panel of Local Government Monitors would be established. • Monitors could be appointed by the Inspector to go into a local government and try to resolve problems. • The purpose of Monitors would be to proactively fix problems, rather than to identify blame or collect evidence. • Monitors would be qualified specialists, such as: <ul style="list-style-type: none"> ○ Experienced and respected former Mayors, Presidents, and CEOs - to act as mentors and facilitators ○ Dispute resolution experts - to address the breakdown of professional working relationships ○ Certified Practicing Accountants and other financial specialists - to assist with financial management and reporting issues ○ Governance specialists and lawyers - to assist councils resolve legal issues ○ HR and procurement experts - to help with processes like recruiting a CEO or undertaking a major land transaction. • Only the Inspector would have the power to appoint Monitors. • Local governments would be able to make requests to the Inspector to appoint Monitors for a specific purpose. <p>Monitor Case Study 1 – Financial Management The Inspector receives information that a local government is not collecting rates correctly under the <i>Local Government Act 1995</i>. Upon initial review, the Inspector identifies that there may be a problem. The Inspector appoints a Monitor who specialises in financial management in local government. The Monitor visits the local government and identifies that the system used to manage rates is not correctly issuing rates notices. The Monitor works with the local government to rectify the error, and issue corrections to impacted ratepayers.</p> <p>Monitor Case Study 2 – Dispute Resolution The Inspector receives a complaint from one councillor that another councillor is repeatedly publishing derogatory personal attacks against another councillor on social media, and that the issue has not been able to be resolved at the local government level. The Inspector identifies that there has been a relationship breakdown between the two councillors due to a disagreement on council. The Inspector appoints a Monitor to host mediation sessions between the councillors. The Monitor works with the councillors to address the dispute. Through regular meetings, the councillors agree to a working relationship based on the council's code of conduct. After the mediation, the Monitor</p>	<p>Considered unnecessary</p> <p>Refer to comments above under 1.1 Intervention Powers.</p>

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	occasionally makes contact with both councillors to ensure there is a cordial working relationship between the councillors.	
1.3 Conduct Panel		
<ul style="list-style-type: none"> The Local Government Standards Panel was established in 2007 to resolve minor breach complaints relatively quickly and provide the sector with guidance and benchmarks about acceptable standards of behaviour. Currently, the Panel makes findings about alleged breaches based on written submissions. The City of Perth Inquiry report made various recommendations that functions of the Local Government Standards Panel be reformed. 	<ul style="list-style-type: none"> The Standards Panel is proposed to be replaced with a new Local Government Conduct Panel. The Conduct Panel would be comprised of suitably qualified and experienced professionals. Sitting councillors will not be eligible to serve on the Conduct Panel. The Inspector would provide evidence to the Conduct Panel for adjudication. The Conduct Panel would have powers to impose stronger penalties – potentially including being able to suspend councillors for up to three months, with an appeal mechanism. For very serious or repeated breaches of the Local Government Act, the Conduct Panel would have the power to recommend prosecution through the courts. Any person who is subject to a complaint before the Conduct Panel would have the right to address the Conduct Panel before the Panel makes a decision. 	<p>Part of a continuous improvement process</p> <p>Refer also to comments above under 1.1 Intervention Powers.</p>
1.4 Review of Penalties		
<ul style="list-style-type: none"> There are currently limited penalties in the Act for certain types of non-compliance with the Local Government Act. 	<ul style="list-style-type: none"> Penalties for breaching the Local Government Act are proposed to be strengthened. It is proposed that the suspension of councillors (for up to three months) is established as the main penalty where a councillor breaches the Local Government Act or Regulations on more than one occasion. Councillors who are disqualified would not be eligible for sitting fees or allowances. They will also not be able to attend meetings, or use their official office (such as their title or council email address). It is proposed that a councillor who is suspended multiple times may become disqualified from office. Councillors who do not complete mandatory training within a certain timeframe will also not be able to receive sitting fees or allowances. 	<p>Part of a continuous improvement process but needs development and refinement.</p> <p>Refer also to comments above under 1.1 Intervention Powers</p>

CURRENT PROVISIONS	PROPOSED REFORMS	BILL BOEHM WA COMMENTS
1.5 Rapid Red Card Resolutions		
<ul style="list-style-type: none"> • Currently, local governments have different local laws and standing orders that govern the way meetings run. Presiding members (Mayors and Presidents) are reliant on the powers provided in the local government standing orders local laws. • Differences between local governments is a source of confusion about the powers that presiding members have to deal with disruptive behaviours at council meetings. • Disruptive behaviour at council meetings is a very common cause of complaints. Having the Presiding Member be able to deal with these problems should more quickly resolve problems that occur at council meetings. 	<ul style="list-style-type: none"> • It is proposed that Standing Orders are made consistent across Western Australia (see item 2.6). Published recordings of all meetings would also become standard (item 3.1). • It is proposed that Presiding Members have the power to “red card” any attendee (including councillors) who unreasonably and repeatedly interrupt council meetings. This power would: <ul style="list-style-type: none"> ○ Require the Presiding Member to issue a clear first warning ○ If the disruptions continue, the Presiding Member will have the power to “red card” that person, who must be silent for the rest of the meeting. A councillor issued with a red card will still vote, but must not speak or move motions ○ If the person continues to be disruptive, the Presiding Member can instruct that they leave the meeting. • Any Presiding Member who uses the “red card” or ejection power will be required to notify the Inspector. • Where an elected member refuses to comply with an instruction to be silent or leave, or where it can be demonstrated that the presiding member has not followed the law in using these powers, penalties can be imposed through a review by the Inspector. 	<p>Part of a continuous improvement process that needs development and refinement in development of uniform Standing Orders.</p> <p>Refer also to comments above under 1.1 Intervention Powers.</p>
1.6 Vexatious Complaint Referrals		
<ul style="list-style-type: none"> • No current provisions. • The Act already provides a requirement for Public Question Time at council meetings. 	<ul style="list-style-type: none"> • Local governments already have a general responsibility to provide ratepayers and members of the public with assistance in responding to queries about the local government’s operations. Local governments should resolve queries and complaints in a respectful, transparent and equitable manner. • Unfortunately, local government resources can become unreasonably diverted when a person makes repeated vexatious queries, especially after a local government has already provided a substantial response to the person’s query. • It is proposed that if a person makes repeated complaints to a local government CEO that are vexatious, the CEO will have the power to refer that person’s complaints to the Inspectorate, which after assessment of the facts may then rule the complaint vexatious. 	<p>Part of a continuous improvement process</p> <p>Refer also to comments above under 1.1 Intervention Powers and in the first instance rather than having an external monitoring body require the CEO to provide a confidential report to the Council, with or without legal advice as advice.</p> <p>The ability for the complainant to take their own legal recourse would still be available.</p>

Local Government Reform – Consultation on Proposed Reforms

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1.7 Minor Other Reforms		
<ul style="list-style-type: none"> • Other minor reforms are being considered to enhance the oversight of local government. • Ministerial Circulars have traditionally been used to provide guidance to the local government sector. 	<ul style="list-style-type: none"> • Potential other reforms to strengthen guidance for local governments are being considered. • For example, one option being considered is the potential use of sector-wide guidance notices. Guidance notices could be published by the Minister or Inspector, to give specific direction for how local governments should meet the requirements of the Local Government Act and Regulations. For instance, the Minister could publish guidance notices to clarify the process for how potential conflicts of interests should be managed. • It is also proposed (see item 1.1) that the Inspector has the power to issue notices to individual local governments to require them to rectify non-compliance with the Act or Regulations. 	<p>The current approach would seem on the surface to be sufficient.</p> <p>Refer also to comments above under 1.1 Intervention Powers.</p>

Theme 2: Reducing Red Tape, Increasing Consistency and Simplicity

CURRENT REQUIREMENTS	PROPOSED REFORMS	BILL BOEHM WA COMMENTS
2.1 Resource Sharing		
<ul style="list-style-type: none"> The Act does not currently include specific provisions to allow for certain types of resource sharing – especially for sharing CEOs. Regional local governments would benefit from having clearer mechanisms for voluntary resource-sharing. 	<ul style="list-style-type: none"> Amendments are proposed to encourage and enable local governments, especially smaller regional local governments, to share resources, including Chief Executive Officers and senior employees. Local governments in bands 2, 3 or 4 would be able to appoint a shared CEO at up to two salary bands above the highest band. For example, a band 3 and a band 4 council sharing a CEO could remunerate to the level of band 1. 	<p>Part of a continuous improvement process.</p> <p>Suggest it be widened to include any matter rather than be so restrictive.</p> <p>This will also be impacted upon if a real positive strategic direction that could evolve as outlined under point 0.4 Rationale is provided and expected from the State Government.</p>
2.2 Standardisation of Crossovers		
<ul style="list-style-type: none"> Approvals and standards for crossovers (the section of driveways that run between the kerb and private property) are inconsistent between local government areas, often with very minor differences. This can create confusion and complexity for homeowners and small businesses in the construction sector. 	<ul style="list-style-type: none"> It is proposed to amend the <i>Local Government (Uniform Local Provisions) Regulations 1996</i> to standardise the process for approving crossovers for residential properties and residential developments on local roads. A Crossover Working Group has provided preliminary advice to the Minister and DLGSC to inform this. The DLGSC will work with the sector to develop standardised design and construction standards. 	<p>Proposal is not supported.</p> <p>There are simply too many variations possible and in any event, this is a design and construction issue not a governance matter.</p>
2.3 Introduce Innovation Provisions		
<ul style="list-style-type: none"> The <i>Local Government Act 1995</i> currently has very limited provisions to allow for innovations and responses to emergencies to (such as the Shire of Bruce Rock Supermarket). 	<ul style="list-style-type: none"> New provisions are proposed to allow exemptions from certain requirements of the <i>Local Government Act 1995</i>, for: <ul style="list-style-type: none"> Short-term trials and pilot projects Urgent responses to emergencies. 	<p>Part of a continuous improvement process but suggest changes not be so restrictive.</p> <p>This will also be impacted upon if a real positive strategic direction that could evolve as outlined under point 0.4 Rationale is provided and expected from the State Government.</p>
2.4 Streamline Local Laws		
<ul style="list-style-type: none"> Local laws are required to be reviewed every eight years. The review of local laws (especially when they are standard) has been identified as a burden for the sector. Inconsistency between local laws is frustrating for residents and business stakeholders. 	<ul style="list-style-type: none"> It is proposed that local laws would only need to be reviewed by the local government every 15 years. Local laws not reviewed in the timeframe would lapse, meaning that old laws will be automatically removed and no longer applicable. Local governments adopting Model Local Laws will have reduced advertising requirements. 	<p>Part of a continuous improvement process</p> <p>Model local laws should be scalable to ensure they are appropriate for all local governments with the administrative and legal adoption processes associated with their adoption significantly streamlined</p>

CURRENT REQUIREMENTS	PROPOSED REFORMS	BILL BOEHM WA COMMENTS
2.5 Simplifying Approvals for Small Business and Community Events		
<ul style="list-style-type: none"> Inconsistency between local laws and approvals processes for events, street activation, and initiatives by local businesses is frustrating for business and local communities. 	<ul style="list-style-type: none"> Proposed reforms would introduce greater consistency for approvals for: <ul style="list-style-type: none"> alfresco and outdoor dining minor small business signage rules running community events. 	<p>Part of a continuous improvement process</p>
2.6 Standardised Meeting Procedures, Including Public Question Time		
<ul style="list-style-type: none"> Local governments currently prepare individual standing order local laws. The <i>Local Government Act 1995</i> and regulations require local governments to allocate time at meetings for questions from the public. Inconsistency among the meeting procedures between local governments is a common source of complaints. 	<ul style="list-style-type: none"> To provide greater clarity for ratepayers and applicants for decisions made by council, it is proposed that the meeting procedures and standing orders for all local government meetings, including for public question time, are standardised across the State. Regulations would introduce standard requirements for public question time, and the procedures for meetings generally. Members of the public across all local governments would have the same opportunities to address council and ask questions. 	<p>Part of a continuous improvement process</p> <p>Standardisation can create a more simplified regulatory environment but can also create “one-size-fits-all” problems across the sector.</p> <p>Whilst meeting procedures can be considered relatively common at a basic level, being able to retain flexibility to adapt to local style and preference is also important.</p> <p>This could be achieved by providing the power for the Council to suspend certain provisions by resolution but also allowing the Presiding Officer to resume normal operations if he so chooses.</p>
2.7 Regional Subsidiaries		
<ul style="list-style-type: none"> Initiatives by multiple local governments may be managed through formal Regional Councils, or through less formal “organisations of councils”, such as NEWROC and WESROC. These initiatives typically have to be managed by a lead local government. In 2016-17, provisions were introduced to allow for the formation of Regional Subsidiaries. Regional Subsidiaries can be formed in line with the <i>Local Government (Regional Subsidiaries) Regulations 2017</i>. So far, no Regional Subsidiary has been formed. 	<ul style="list-style-type: none"> Work is continuing to consider how Regional Subsidiaries can be best established to: <ul style="list-style-type: none"> Enable Regional Subsidiaries to provide a clear and defined public benefit for people within member local governments Provide for flexibility and innovation while ensuring appropriate transparency and accountability of ratepayer funds Where appropriate, facilitate financing of initiatives by Regional Subsidiaries within a reasonable and defined limit of risk Ensure all employees of a Regional Subsidiary have the same employment conditions as those directly employed by member local governments. 	<p>This will also be impacted upon if a real positive strategic direction that could evolve as outlined under point 0.4 Rationale is provided and expected from the State Government.</p> <p>The following comments from LG Pro are also relevant</p> <p><i>“Regional subsidiaries should be maximised as vehicles for efficient and effective collective activity. Maximising the flexibility of the structure and at the same time ensuring appropriate accountability and transparency is best achieved through the establishment of specific requirements within the Charter that establishes the Subsidiary, rather than standardised regulation.”</i></p>

Theme 3: Greater Transparency & Accountability

CURRENT REQUIREMENTS	PROPOSED REFORMS	BILL BOEHM WA COMMENTS
3.1 Recordings and Live-Streaming of All Council Meetings		
<ul style="list-style-type: none"> • Currently, local governments are only required to make written minutes of meetings. • While there is no legal requirement for livestreaming or video or audio recording of council meetings, many local governments now stream and record their meetings. • Complaints relating to behaviours and decisions at meetings constitute a large proportion of complaints about local governments. • Local governments are divided into bands with the largest falling in bands 1 and 2, and smaller local governments falling bands 3 and 4. The allocation of local governments into bands is determined by The Salaries and Allowances Tribunal based on factors¹ such as: <ul style="list-style-type: none"> ○ Growth and development ○ Strategic planning issues ○ Demands and diversity of services provided to the community ○ Total expenditure ○ Population ○ Staffing levels. 	<ul style="list-style-type: none"> • It is proposed that all local governments will be required to record meetings. • Band 1 and 2 local governments would be required to livestream meetings, and make video recordings available as public archives. • Band 1 and 2 are larger local governments are generally located in larger urban areas, with generally very good telecommunications infrastructure, and many already have audio-visual equipment. • Band 1 and 2 local governments would be required to livestream meetings, and make video recordings available as public archives. • Several local governments already use platforms such as YouTube, Microsoft Teams, and Vimeo to stream and publish meeting recordings. • Limited exceptions would be made for meetings held outside the ordinary council chambers, where audio recordings may be used. • Recognising their generally smaller scale, typically smaller operating budget, and potential to be in more remote locations, band 3 and 4 local governments would be required to record and publish audio recordings, at a minimum. These local governments would still be encouraged to livestream or video record meetings. • All council meeting recordings would need to be published at the same time as the meeting minutes. Recordings of all confidential items would also need to be submitted to the DLGSC for archiving. 	<p>Part of a continuous improvement process</p> <p>There are some resource and potential legal issues that sit alongside the form of transparency suggested.</p> <p>Provisions to allow this to occur could be provided with each Council to determine if the costs and benefits are worthwhile.</p> <p>In any event it should not apply to closed sections of a meeting.</p> <p>Refer also to comments under 1.1 Intervention Powers.</p>
3.2 Recording All Votes in Council Minutes		
<ul style="list-style-type: none"> • A local government is only required to record which councillor voted for or against a motion in the minutes of that meeting if a request is made by an elected member at the time of the resolution during the meeting. • The existing provision does not mandate transparency. 	<ul style="list-style-type: none"> • To support the transparency of decision-making by councillors, it is proposed that the individual votes cast by all councillors for all council resolutions would be required to be published in the council minutes, and identify those for, against, on leave, absent or who left the chamber. • Regulations would prescribe how votes are to be consistently minuted. 	<p>I have experienced both methods in operation and are of the view that the current provisions are sufficient and from experience only used sparingly or if a specific councillor wants to regularly appear to distance him or herself from a decision.</p> <p>It is incumbent on a local government to act as a collective. le once a decision is made all get behind it. Having mandatory minuting of individual votes can only weaken this premise. It certainly won't strengthen it.</p>

¹ See page 3 of the [2018 Salaries and Allowance Tribunal Determination](#)

CURRENT REQUIREMENTS	PROPOSED REFORMS	BILL BOEHM WA COMMENTS
3.3 Clearer Guidance for Meeting Items that may be Confidential		
<ul style="list-style-type: none"> The Act currently provides broad definitions of what type of matters may be discussed as a confidential item. There is limited potential for review of issues managed as confidential items under the current legislation. 	<ul style="list-style-type: none"> Recognising the importance of open and transparent decision-making, it is considered that confidential meetings and confidential meeting items should only be used in limited, specific circumstances. It is proposed to make the Act more specific in prescribing items that may be confidential, and items that should remain open to the public. Items not prescribed as being confidential could still be held as confidential items only with the prior written consent of the Inspector. All confidential items would be required to be audio recorded, with those recordings submitted to the DLGSC. 	<p>Having experienced the operation of the current legislation in more than one State I am of the view that the current provisions are sufficient and appropriate. The definitions and reasons seem workable and the requirement to publish decisions is sufficient. Thus far I have not seen any abuse if the current provisions</p> <p>The specific suggestion however that all confidential items would be required to be audio recorded, with those recordings submitted to the DLGSC has a raft of potential legal implications and is not supported.</p> <p>If it were introduced invariably there would be a likelihood of more and more items that would normally fit within a confidential discussion environment being held outside of a normal meeting, which is hazardous. Invariably additional regulation will then be required.</p> <p>As an analogy would such a requirement ever apply or be appropriate for State Cabinet Discussions?</p> <p>Refer also to comments above under 1.1 Intervention Powers.</p>
3.4 Additional Online Registers		
<ul style="list-style-type: none"> Local governments are required to provide information to the community through annual reports, council minutes and the publication of information online. Consistent online publication of information can substitute for certain material in annual reports. Consistency in online reporting across the sector will provide ratepayers with better information. These registers supplement the simplification of financial statements in Theme 6. 	<ul style="list-style-type: none"> It is proposed to require local governments to report specific information in online registers on the local government's website. Regulations would prescribe the information to be included. <p>The following new registers, each updated quarterly, are proposed:</p> <ul style="list-style-type: none"> Lease Register to capture information about the leases the local government is party to (either as lessor or lessee) Community Grants Register to outline all grants and funding provided by the local government Interests Disclosure Register which collates all disclosures made by elected members about their interests related to matters considered by council Applicant Contribution Register accounting for funds collected from applicant contributions, such as cash-in-lieu for public open 	<p>Part of a continuous improvement process and in principle appropriate subject to some elements such as staff employment contracts and housing tenant leases being excluded.</p> <p>Further refinement and clarification is suggested.</p>

CURRENT REQUIREMENTS	PROPOSED REFORMS	BILL BOEHM WA COMMENTS
	<ul style="list-style-type: none"> space and car parking <ul style="list-style-type: none"> ○ Contracts Register that discloses all contracts above \$100,000. 	
3.5 Chief Executive Officer Key Performance Indicators (KPIs) be Published		
<ul style="list-style-type: none"> • It is a requirement of the <i>Local Government Act 1995</i> that CEO performance reviews are conducted annually. • The Model Standards for CEO recruitment and selection, performance review and termination require that a local government must review the performance of the CEO against contractual performance criteria. • Additional performance criteria can be used for performance review by agreement between both parties. 	<ul style="list-style-type: none"> • To provide for minimum transparency, it is proposed to mandate that the KPIs agreed as performance metrics for CEOs: <ul style="list-style-type: none"> ○ Be published in council meeting minutes as soon as they are agreed prior to (before the start of the annual period) ○ The KPIs and the results be published in the minutes of the performance review meeting (at the end of the period) ○ The CEO has a right to provide written comments to be published alongside the KPIs and results to provide context as may be appropriate (for instance, the impact of events in that year that may have influenced the results against KPIs). 	<p>Proposal is not supported, a view also expressed by LG Pro.</p> <p>The Minister's rationale for this proposal seems to centre on the role of the CEO in implementing the Council's Community Plan. However, it is the Council that should be publicly accountable for the achievement of the Community Plan, rather than the CEO.</p> <p>In any event the CEO's accountability is to the Council and will address many aspects relating to performance and therefore the CEO's KPI performance should be treated within an HR context. Proposal and may also raise some industrial relation issues</p> <p>All personal or confidential KPIs together with the performance assessment of the CEO by the Council against those KPIs, and any response by the CEO, should remain within the confidential human resource records of the organisation.</p>

Theme 4: Stronger Local Democracy and Community Engagement

CURRENT REQUIREMENTS	PROPOSED REFORMS	BILL BOEHM WA COMMENTS
4.1 Community and Stakeholder Engagement Charters		
<ul style="list-style-type: none"> There is currently no requirement for local governments to have a specific engagement charter or policy. Many local governments have introduced charters or policies for how they will engage with their community. Other States have introduced a specific requirement for engagement charters. 	<ul style="list-style-type: none"> It is proposed to introduce a requirement for local governments to prepare a community and stakeholder engagement charter which sets out how local government will communicate processes and decisions with their community. A model Charter would be published to assist local governments who wish to adopt a standard form. 	<p>Part of a continuous improvement process</p> <p>The benefit of Community & Stakeholder Engagement Charters lies in clarity of expectations around engagement and consultation, together with the ability to craft a locally appropriate process. These should be developed locally to meet local needs.</p>
4.2 Ratepayer Satisfaction Surveys (Band 1 and 2 local governments only)		
<ul style="list-style-type: none"> Many local governments already commission independent surveying consultants to hold a satisfaction survey of residents/ratepayers. These surveys provide valuable data on the performance of local governments. 	<ul style="list-style-type: none"> It is proposed to introduce a requirement that every four years, all local governments in bands 1 and 2 hold an independently-managed ratepayer satisfaction survey. Results would be required to be reported publicly at a council meeting and published on the local government's website. All local governments would be required to publish a response to the results. 	<p>It is suggested that this aspect should be at the discretion of each Council as part of a broader Community and Stakeholder Charter.</p> <p>Refer to comments under 4.1 Community and Stakeholder Charters and 1.1 Intervention Powers.</p>
4.3 Introduction of Preferential Voting		
<ul style="list-style-type: none"> The current voting method for local government elections is first past the post. The existing first-past-the-post does not allow for electors to express more than one preference. The candidate with the most votes wins, even if that candidate does not have a majority. Preferential voting better captures the precise intentions of voters and as a result may be regarded as a fairer and more representative system. Voters have more specific choice. 	<ul style="list-style-type: none"> Preferential voting is proposed be adopted as the method to replace the current first past the post system in local government elections. In preferential voting, voters number candidates in order of their preferences. Preferential voting is used in State and Federal elections in Western Australia (and in other states). This provides voters with more choice and control over who they elect. All other states use a form of preferential voting for local government. 	<p>A detailed explanation as per Attachment 4.3.1 is provided that canvasses in more detail the rationale and logic to</p> <ul style="list-style-type: none"> Support Preferential Voting for single position vacancies Support Proportional Representation for multi position vacancies Support random order ballot papers similar to Robson Method. <p>A claimed justification of retaining first past then post voting is to discourage party politics and to reduce potential for groups or tickets to be formed. This doesn't stack up against equity considerations which is the main aim of any electoral system. .</p> <p>Anyway the Proportional Representation System of voting, especially coupled with randomly ordered ballot papers, will achieve this aim.</p>

CURRENT REQUIREMENTS	PROPOSED REFORMS	BILL BOEHM WA COMMENTS
		<p>In any event so long as local government is a democracy and it arguably should be up to each candidate to campaign as he or she sees fit.</p> <p>In addition, it is considered essential that the entire electoral process be conducted by the Western Australian Electoral Commission, not local government and that this should be mandatory.</p> <p>Whilst Local Government CEO's acting as Returning Officers do an admirable job, they are required to undertake a very complex task once every two years and need significant expert support from WALGA or the Commission.</p> <p>WAEC staff however have this as their sole focus and are trained accordingly. Such an independent body also aids transparency and thereby removes any perception or risk of a CEO being biased and certainly not being put in a compromised position.</p> <p>There may be some increase costs and time delays in tallying of votes, but these will be part offset by savings with staff time at the Council and WALGA levels.</p> <p>It is also considered that compulsory voting should be introduced on the basis that why should local government operate at lesser electoral standards than other tiers of government, which as referenced below, have stood the test of time?</p> <p><i>Reference</i> <i>Episode aired on Radio National 10 February 2022 in the "Minefield" segment entitled "How essential is compulsory voting to Australia's democratic culture. (Waleed Aly and Scott Stephens)</i></p> <p><i>"The practice of compulsory voting, along with the two other pillars of Australia's electoral system — preferential voting and non-partisan election administration — have kept Australian democracy remarkably stable over the past hundred years.</i></p>

CURRENT REQUIREMENTS	PROPOSED REFORMS	BILL BOEHM WA COMMENTS
		<p><i>It has also seemingly kept Australian politics free from the more extreme and anti-democratic tendencies, tactics, and rhetoric that are apparent in other advanced democracies, where so much energy is expended on either “getting out the vote” or suppressing voter turnout. Australia has also never had a “crisis of legitimacy” stemming from the outcome of an election.”</i></p>
4.4 Public Vote to Elect the Mayor and President		
<ul style="list-style-type: none"> • The Act currently allows local governments to have the Presiding Member (the Mayor or President) elected either: <ul style="list-style-type: none"> ○ by the electors of the district through a public vote; or ○ by the council as a resolution at a council meeting. 	<ul style="list-style-type: none"> • Mayors and Presidents of all local governments perform an important public leadership role within their local communities. • Band 1 and 2 local governments generally have larger councils than those in bands 3 and 4. • Accordingly, it is proposed that the Mayor or President for all band 1 and 2 councils is to be elected through a vote of the electors of the district. Councils in bands 3 and 4 would retain the current system. • A number of Band 1 and Band 2 councils have already moved towards Public Vote to Elect the Mayor and President in recent years, including City of Stirling and City of Rockingham. 	<p>The current provisions are considered appropriate with a decision made at a local level.</p> <p>As a general comments in Australia, we do not have Presidential style elections, so the rationale for directly elected Mayors remains questionable.</p> <p>In a collegiate form of democracy, it is incumbent on the Mayor or President to maintain the confidence and leadership of elected members based on their conduct and skill, not their popularity. This is enhanced through appointment from a vote of all elected members and assisted by the basis that each member has been elected on the same basis by the community.</p> <p>A directly elected Mayor is elected on a different basis with effectively two masters (residents and councillors). There is also a potential power imbalance and depending on the electoral provisions for the election of mayor may mean that good councillor candidates are dissuaded from running if they are not of high public profile.</p> <p>Whilst a directly elected Mayor can for the most part operate effectively this is really a result of that persons personal, skills and capabilities. If there are issues of a disconnection between the Mayor and elected members then this can be destructive and an issue that is difficult to resolve. In contrast if there is appointment by a vote at a meeting, such an impasse can be resolved if absolutely necessary.</p>

CURRENT REQUIREMENTS	PROPOSED REFORMS	BILL BOEHM WA COMMENTS
		<p>Having been in local government for many years I have on more than one occasion witnessed issues and on occasions poor governance practices arise where a Mayor has been publicly elected, especially when the Mayors views differ from those of the elected members. Occurrences with a councillor appointment still exist but are much rarer in occurrence.</p> <p>Refer also to comments above under 1.1 Intervention Powers.</p>
4.5 Tiered Limits on the Number of Councillors		
<ul style="list-style-type: none"> • The number of councillors (between 5-15 councillors) is decided by each local government, reviewed by the Local Government Advisory Board, and if approved by the Minister. • The Panel Report recommended electoral reforms to improve representativeness. 	<ul style="list-style-type: none"> • It is proposed to limit the number of councillors based on the population of the entire local government. • Some smaller local governments have already been moving to having smaller councils to reduce costs for ratepayers. • The <u>Local Government Panel Report</u> proposed: <ul style="list-style-type: none"> ○ For a population of up to 5,000 – five councillors (including the President) ○ population of between 5,000 and 75,000 – five to nine councillors (including the Mayor/President) ○ population of above 75,000 – nine to fifteen councillors (including Mayor). 	<p>The broad thrust of the suggested limits is supported.</p> <p>There are a number of local governments in other States, many of which have greater budgets to oversee and larger populations to represent than that which applies in Western Australia that have done so with success.</p> <p>This should also go hand in hand with the remuneration paid and training and development undertaken.</p> <p>This will also be impacted upon if a real positive strategic direction that could evolve as outlined under point 0.4 Rationale is provided and expected from the State Government.</p> <p>Graduated limits of between five and nine councillors (including the Mayor of Shire President) could conceivably be appropriate. In addition, for smaller entities an appointed Commissioner with a Community Type Board could be utilised successfully</p>

CURRENT REQUIREMENTS	PROPOSED REFORMS	BILL BOEHM WA COMMENTS
4.6 No Wards for Small Councils (Band 3 and 4 Councils only)		
<ul style="list-style-type: none"> A local government can make an application to be divided into wards, with councillors elected to those wards. Only about 10% of band 3 and 4 local governments currently have wards. 	<ul style="list-style-type: none"> It is proposed that the use of wards for councils in bands 3 and 4 is abolished. Wards increase the complexity of elections, as this requires multiple versions of ballot papers to be prepared for a local government's election. In smaller local governments, the population of wards can be very small. These wards often have councillors elected unopposed or elect a councillor with a very small number of votes. Some local governments have ward councillors elected with less than 50 votes. There has been a trend in smaller local governments looking to reduce the use of wards, with only 10 councils in bands 3 and 4 still having wards. 	<p>The broad thrust of the suggested abolition of wards is supported but not necessarily for the reasons stated.</p> <p>By their very nature Wards are designed to ensure that elected representatives are distributed geographically throughout the municipality. Invariably however it can foster decision making on a local basis rather than of a municipality wide basis as local constituents can exert influence, especially at election time.</p> <p>As indicated under point 4.3 Introduction of Preferential Voting above, if these suggestions are accepted there will be virtually no need for Wards regardless of the size of the municipality as the Proportional Representation System of voting, especially coupled with randomly ordered ballot papers, has the potential to deliver for areas smaller in population</p>
4.7 Electoral Reform – Clear Lease Requirements for Candidate and Voter Eligibility		
<ul style="list-style-type: none"> A person with a lease in a local government district is eligible to nominate as a candidate in that district. A person with a lease in a local government district is eligible to apply to vote in that district. The City of Perth Inquiry Report identified a number of instances where dubious lease arrangements put to question the validity of candidates in local government elections, and subsequently their legitimacy as councillors. 	<ul style="list-style-type: none"> Reforms are proposed to prevent the use of “sham leases” in council elections. Sham leases are where a person creates a lease only to be able to vote or run as a candidate for council. The City of Perth Inquiry Report identified sham leases as an issue. Electoral rules are proposed to be strengthened: <ul style="list-style-type: none"> A minimum lease period of 12 months will be required for anyone to register a person to vote or run for council. Home based businesses will not be eligible to register a person to vote or run for council, because any residents are already the eligible voter(s) for that address. Clarifying the minimum criteria for leases eligible to register a person to vote or run for council. The reforms would include minimum lease periods to qualify as a registered business (minimum of 12 months), and the exclusion of home based businesses (where the resident is already eligible) and very small sub-leases. The basis of eligibility for each candidate (e.g. type of property and suburb of property) is proposed to be published, including in the candidate pack for electors. 	<p>Part of a continuous improvement process</p>

Local Government Reform – Consultation on Proposed Reforms

CURRENT REQUIREMENTS	PROPOSED REFORMS	BILL BOEHM WA COMMENTS
4.8 Reform of Candidate Profiles		
<ul style="list-style-type: none"> • Candidate profiles can only be 800 characters, including spaces. This is equivalent to approximately 150 words. 	<ul style="list-style-type: none"> • Further work will be undertaken to evaluate how longer candidate profiles could be accommodated. • Longer candidate profiles would provide more information to electors, potentially through publishing profiles online. • It is important to have sufficient information available to assist electors make informed decisions when casting their vote. 	Part of a continuous improvement process
4.9 Minor Other Electoral Reforms		
<ul style="list-style-type: none"> • Other minor reforms are proposed to improve local government elections. 	<ul style="list-style-type: none"> • Minor other electoral reforms are proposed to include: <ul style="list-style-type: none"> ○ The introduction of standard processes for vote re-counts if there is a very small margin between candidates (e.g. where there is a margin of less than 10 votes a recount will always be required) ○ The introduction of more specific rules concerning local government council candidates' use of electoral rolls. 	Part of a continuous improvement process

Theme 5: Clear Roles and Responsibilities

CURRENT REQUIREMENTS	PROPOSED REFORMS	BILL BOEHM WA COMMENTS
5.1 Introduce Principles in the Act		
<ul style="list-style-type: none"> The Act does not currently outline specific principles. The Act contains a short “Content and Intent” section only. The Panel Report recommended greater articulation of principles 	<ul style="list-style-type: none"> It is proposed to include new principles in the Act, including: <ul style="list-style-type: none"> The recognition of Aboriginal Western Australians Tiering of local governments (with bands being as assigned by the Salaries and Allowances Tribunal) Community Engagement Financial Management. 	<p>Part of a continuous improvement process.</p> <p>This will also be impacted upon if a real positive strategic direction that could evolve as outlined under point 0.4 Rationale is provided and expected from the State Government. If this was undertaken the Principles that arise would and should form the platform for which local government operates.</p>
5.2 Greater Role Clarity		
<ul style="list-style-type: none"> The Act provides for the role of council, councillor, mayor or president and CEO. The role of the council is to: <ul style="list-style-type: none"> govern the local government’s affairs be responsible for the performance of the local government’s functions. 	<ul style="list-style-type: none"> The <u>Local Government Act Review Panel</u> recommended that roles and responsibilities of elected members and senior staff be better defined in law. It is proposed that these roles and responsibilities are further defined in the legislation. These proposed roles will be open to further consultation and input. These roles would be further strengthened through Council Communications Agreements (see item 5.3). 	<p>This will also be impacted upon if a real positive strategic direction that could evolve as outlined under point 0.4 Rationale is provided and expected from the State Government. If this was undertaken the Roles that arise would and should form the platform for which local government operates.</p> <p>Refer also to comments under 5.3 Council Communications Agreements</p>
	<p>5.2.1 - Mayor or President Role</p> <ul style="list-style-type: none"> It is proposed to amend the Act to specify the roles and responsibilities of the Mayor or President. While input and consultation will inform precise wording, it is proposed that the Act is amended to generally outline that the Mayor or President is responsible for: <ul style="list-style-type: none"> Representing and speaking on behalf of the whole council and the local government, at all times being consistent with the resolutions of council Facilitating the democratic decision-making of council by presiding at council meetings in accordance with the Act Developing and maintaining professional working relationships between councillors and the CEO Performing civic and ceremonial duties on behalf of the local government Working effectively with the CEO and councillors in overseeing the 	<p>This will also be impacted upon if a real positive strategic direction that could evolve as outlined under point 0.4 Rationale is provided and expected from the State Government. If this was undertaken the Mayor or Presidents Role that arise would and should form the platform for which local government operates.</p>

CURRENT REQUIREMENTS	PROPOSED REFORMS	BILL BOEHM WA COMMENTS
	<p>delivery of the services, operations, initiatives and functions of the local government.</p>	
	<p>5.2.2 - Council Role</p> <ul style="list-style-type: none"> • It is proposed to amend the Act to specify the roles and responsibilities of the Council, which is the entity consisting of all of the councillors and led by the Mayor or President. • While input and consultation will inform precise wording, it is proposed that the Act is amended to generally outline that the Council is responsible for: <ul style="list-style-type: none"> ○ Making significant decisions and determining policies through democratic deliberation at council meetings ○ Ensuring the local government is adequately resourced to deliver the local governments operations, services and functions - including all functions that support informed decision-making by council ○ Providing a safe working environment for the CEO; ○ Providing strategic direction to the CEO; ○ Monitoring and reviewing the performance of the local government. 	<p>This will also be impacted upon if a real positive strategic direction that could evolve as outlined under point 0.4 Rationale is provided and expected from the State Government. If this was undertaken the Principles that arise would and should form the platform for which local government operates.</p>
	<p>5.2.3 - Elected Member (Councillor) Role</p> <ul style="list-style-type: none"> • It is proposed to amend the Act to specify the roles and responsibilities of all elected councillors. • While input and consultation will inform precise wording, it is proposed that the Act is amended to generally outline that every elected councillor is responsible for: <ul style="list-style-type: none"> ○ Considering and representing, fairly and without bias, the current and future interests of all people who live, work and visit the district (including for councillors elected for a particular ward) ○ Positively and fairly contribute and apply their knowledge, skill, and judgement to the democratic decision-making process of council ○ Applying relevant law and policy in contributing to the decision-making of the council ○ Engaging in the effective forward planning and review of the local governments' resources, and the performance of its operations, services, and functions ○ Communicating the decisions and resolutions of council to stakeholders and the public ○ Developing and maintaining professional working relationships with all other councillors and the CEO ○ Maintaining and developing their knowledge and skills relevant to 	<p>This will also be impacted upon if a real positive strategic direction that could evolve as outlined under point 0.4 Rationale is provided and expected from the State Government. If this was undertaken the Councillor Role that arises would and should form the platform for which local government operates.</p>

CURRENT REQUIREMENTS	PROPOSED REFORMS	BILL BOEHM WA COMMENTS
	<p>local government</p> <ul style="list-style-type: none"> ○ Facilitating public engagement with local government. • It is proposed that elected members should not be able to use their title (e.g. “Councillor”, “Mayor”, or “President”) and associated resources of their office (such as email address) unless they are performing their role in their official capacity. <hr/> <p>5.2.4 - CEO Role</p> <ul style="list-style-type: none"> • The <i>Local Government Act 1995</i> requires local governments to employ a CEO to run the local government administration and implement the decisions of council. • To provide greater clarity, it is proposed to amend the Act to specify the roles and responsibilities of all local government CEOs. • While input and consultation will inform precise wording, it is proposed that the Act is amended to generally outline that the CEO of a local government is responsible for: <ul style="list-style-type: none"> ○ Coordinating the professional advice and assistance necessary for all elected members to enable the council to perform its decision-making functions ○ Facilitating the implementation of council decisions ○ Ensuring functions and decisions lawfully delegated by council are managed prudently on behalf of the council ○ Managing the effective delivery of the services, operations, initiatives and functions of the local government determined by the council ○ Providing timely and accurate information and advice to all councillors in line with the Council Communications Agreement (see item 5.3) ○ Overseeing the compliance of the operations of the local government with State and Federal legislation on behalf of the council ○ Implementing and maintaining systems to enable effective planning, management, and reporting on behalf of the council. 	<p></p> <hr/> <p>This will also be impacted upon if a real positive strategic direction that could evolve as outlined under point 0.4 Rationale is provided and expected from the State Government. If this was undertaken the CEO’s Role that arises would and should form the platform for which local government operates.</p>

CURRENT REQUIREMENTS	PROPOSED REFORMS	BILL BOEHM WA COMMENTS
5.3 Council Communication Agreements		
<ul style="list-style-type: none"> The Act provides that council and committee members can have access to any information held by the local government that is relevant to the performance of the member in their functions. The availability of information is sometimes a source of conflict within local governments. 	<ul style="list-style-type: none"> In State Government, there are written Communication Agreements between Ministers and agencies that set standards for how information and advice will be provided. It is proposed that local governments will need to have Council Communications Agreements between the council and the CEO. These Council Communication Agreements would clearly specify the information that is to be provided to councillors, how it will be provided, and the timeframes for when it will be provided. A template would be published by DLGSC. This default template will come into force if a council and CEO do not make a specific other agreement within a certain timeframe following an election. 	<p>State Governments have devolved responsibility for functions to a Ministerial and departmental level and as such the need to communicate across departments is perhaps of paramount importance.</p> <p>In contrast Local Government is its sole entity and any communications strategy is really for each entity to determine according to their own specific circumstances. This is more by way of a policy position, which if required, should be set locally.</p>
5.4 Local Governments May Pay Superannuation Contributions for Elected Members		
<ul style="list-style-type: none"> Elected members are eligible to receive sitting fees or an annual allowance. Superannuation is not paid to elected members. However, councillors can currently divert part of their allowances to a superannuation fund. Councils should be reflective and representative of the people living within the district. Local governments should be empowered to remove any barriers to the participation of gender and age diverse people on councils. 	<ul style="list-style-type: none"> It is proposed that local governments should be able to decide, through a vote of council, to pay superannuation contributions for elected members. These contributions would be additional to existing allowances. Superannuation is widely recognised as an important entitlement to provide long term financial security. Other states have already moved to allow councils to make superannuation contributions for councillors. Allowing council to provide superannuation is important part of encouraging equality for people represented on council – particularly for women and younger people. Providing superannuation to councillors recognises that the commitment to elected office can reduce a person's opportunity to undertake employment and earn superannuation contributions. 	<p>The proposal is not supported but the need to ensure that elected members receive appropriate level of remuneration is.</p> <p>In a simplistic sense increasing the allowance would be a simpler method to achieve the desired outcome of providing more encouragement to recruiting potential councillors. Including superannuation as part of the mix is more complicated and can blur the lines between elected members and staff.</p> <p>It is also not necessarily the level of remuneration that is the issue but the type of tasks that an elected member has to deal with. From experience there are many good local citizens of high quality that will put their hands up for a position at a community level but not as a councillor. In part this is due to the pressure from constituents but also in part due to ever increasing government compliance requirements, which if simplified, would assist in recruitment.</p> <p>This will also be impacted upon if a real positive strategic direction that could evolve as outlined under point 0.4 Rationale is provided and expected from the State Government.</p>

CURRENT REQUIREMENTS	PROPOSED REFORMS	BILL BOEHM WA COMMENTS
5.5 Local Governments May Establish Education Allowances		
<ul style="list-style-type: none"> Local government elected members must complete mandatory training. There is no specific allowance for undertaking further education. 	<ul style="list-style-type: none"> Local governments will have the option of contributing to the education expenses for councillors, up to a defined maximum value, for tuition costs for further education that is directly related to their role on council. Councils will be able to decide on a policy for education expenses, up to a maximum yearly value for each councillor. Councils may also decide not to make this entitlement available to elected members. Any allowance would only be able to be used for tuition fees for courses, such as training programs, diplomas, and university studies, which relate to local government. Where it is made available, this allowance will help councillors further develop skills to assist with making informed decisions on important questions before council, and also provide professional development opportunities for councillors. 	<p>As a suggestion rather than specifying a mandatory form of training, perhaps institute wider skill-based training programs that evolve from and are consistent with how to implement if a real positive strategic direction that could evolve as outlined under point 0.4 Rationale.</p> <p>Elected member have important roles in making decisions but also in listening to the public and managing expectations. Relationship development is essential. Perhaps having an in-depth knowledge of finance and legislation is less important. That should be responsibility of the CEO and the Council should be expected to rely on that advice. Certainly, that is what is expected in other jurisdiction's.</p>
5.6 Standardised Election Caretaker period		
<ul style="list-style-type: none"> There is currently no requirement for a formal caretaker period, with individual councils operating under their own policies and procedures. This is commonly a point of public confusion. 	<ul style="list-style-type: none"> A statewide caretaker period for local governments is proposed. All local governments across the State would have the same clearly defined election period, during which: <ul style="list-style-type: none"> Councils do not make major decisions with criteria to be developed defining 'major' Incumbent councillors who nominate for re-election are not to represent the local government, act on behalf of the council, or use local government resources to support campaigning activities. There are consistent election conduct rules for all candidates. 	<p>Part of a continuous improvement process</p>
5.7 Remove WALGA from the Act		
<ul style="list-style-type: none"> The Western Australian Local Government Association (WALGA) is constituted under the <i>Local Government Act 1995</i>. The Local Government Panel Report and the Select Committee Report included this recommendation. 	<ul style="list-style-type: none"> The <u>Local Government Panel Report</u> recommended that WALGA not be constituted under the <i>Local Government Act 1995</i>. Separating WALGA out of the Act will provide clarity that WALGA is not a State Government entity. 	<p>This will also be impacted upon if a real positive strategic direction that could evolve as outlined under point 0.4 Rationale is provided and expected from the State Government.</p> <p>Essentially WALGA should be viewed as a positive resource for the sector but also for the State Government. How this develops is perhaps more important than the legislative framework that underpins WALGA's operation. The stronger the partnership the greater the outcomes.</p>

Local Government Reform – Consultation on Proposed Reforms

CURRENT REQUIREMENTS	PROPOSED REFORMS	BILL BOEHM WA COMMENTS
5.8 CEO Recruitment		
<ul style="list-style-type: none"> Recent amendments introduced provisions to standardise CEO recruitment. The recruitment of a CEO is a very important decision by a local government. 	<ul style="list-style-type: none"> It is proposed that DLGSC establishes a panel of approved panel members to perform the role of the independent person on CEO recruitment panels. Councils will be able to select an independent person from the approved list. Councils will still be able to appoint people outside of the panel with the approval of the Inspector. 	<p>This will also be impacted upon if a real positive strategic direction that could evolve as outlined under point 0.4 Rationale is provided and expected from the State Government.</p> <p>Essentially prescription is not a solution. Each local government should develop up its own approach and choose for itself as it sees fit without interference an appropriate independent person.</p>

Theme 6: Improved Financial Management and Reporting

CURRENT REQUIREMENTS	PROPOSED REFORMS	BILL BOEHM WA COMMENTS
6.1 Model Financial Statements and Tiered Financial Reporting		
<ul style="list-style-type: none"> The financial statements published in the Annual Report is the main financial reporting currently published by local governments. Reporting obligations are the same for large (Stirling, Perth, Fremantle) and small (Sandstone, Wiluna, Dalwallinu) local governments, even though they vary significantly in complexity. The Office of the Auditor General has said that some existing reporting requirements are unnecessary or onerous - for instance, information that is not relevant to certain local governments, or that is a duplicate of other published information. 	<ul style="list-style-type: none"> The Minister strongly believes in transparency and accountability in local government. The public rightly expects the highest standards of integrity, good governance, and prudent financial management in local government. It is critically important that clear information about the financial position of local governments is openly available to ratepayers. Financial information also supports community decision-making about local government services and projects. Local governments differ significantly in the complexity of their operations. Smaller local governments generally have much less operating complexity than larger local governments. The Office of the Auditor General has identified opportunities to improve financial reporting, to make statements clearer, and reduce unnecessary complexity. Recognising the difference in the complexity of smaller and larger local governments, it is proposed that financial reporting requirements should be tiered – meaning that larger local governments will have greater financial reporting requirements than smaller local governments. It is proposed to establish standard templates for Annual Financial Statements for band 1 and 2 councils, and simpler, clearer financial statements for band 3 and 4. Online Registers, updated quarterly (see item 3.4), would provide faster and greater transparency than current annual reports. Standard templates will be published for use by local governments. Simpler Strategic and Financial Planning (item 6.2) would also improve the budgeting process. 	<p>Part of a continuous improvement process. Reform welcome and long overdue.</p> <p>Compared to other States, provisions contained in Western Australian Local Government place an unrealistic level of reporting within a framework that arguably rather than aid in transparency and accountability, actually creates confusion. Compliance with Australian Standards may be appropriate but of little benefit to the general public and indeed elected members.</p> <p>This also comes at a significant increased cost and requires a level of expertise that is not always readily available, especially in small rural local governments.</p> <p>Depending on how these reforms translate in practice will depend upon whether the changes are a success or not. If the change is driven through the lens of an accountant eyes all that will be achieved will be less work with little end positive outcome.</p> <p>In previous years local government accounting, which is fundamentally soundly based, was simple to manage. If the industry must have standardised reports, perhaps look to these areas where simplicity can be reintroduced. Having each entity operate on a fully accrual basis makes it more transparent. Perhaps having additional adjustments at audit can be undertaken keeping everyone happy. Eg (adjusted operating surplus, adjusted cash position etc).</p>

CURRENT REQUIREMENTS	PROPOSED REFORMS	BILL BOEHM WA COMMENTS
6.2 Simplify Strategic and Financial Planning		
<ul style="list-style-type: none"> Requirements for plans are outlined in the Local Government Financial Management and Administration Regulations. There is also the Integrated Planning and Reporting (IPR) framework. While many councils successfully apply IPR to their budgeting and reporting, IPR may seem complicated or difficult, especially for smaller local governments. 	<ul style="list-style-type: none"> Having clear information about the finances of local government is an important part of enabling informed public and ratepayer engagement and input to decision-making. The framework for financial planning should be based around information being clear, transparent, and easy to understand for all ratepayers and members of the public. In order to provide more consistency and clarity across the State, it is proposed that greater use of templates is introduced to make planning and reporting clearer and simpler, providing greater transparency for ratepayers. Local governments would be required to adopt a standard set of plans, and there will be templates published by the DLGSC for use or adaption by local governments. It is proposed that the plans that are required are: <ul style="list-style-type: none"> Simplified Council Plans that replace existing Strategic Community Plans and set high-level objectives, with a new plan required at least every eight years. These will be short-form plans, with a template available from the DLGSC Simplified Asset Management Plans to consistently forecast costs of maintaining the local government's assets. A new plan will be required at least every ten years, though local governments should update the plan regularly if the local government gains or disposes of major assets (e.g. land, buildings, or roads). A template will be provided, and methods of valuations will be simplified to reduce red tape Simplified Long Term Financial Plans will outline any long term financial management and sustainability issues, and any investments and debts. A template will be provided, and these plans will be required to be reviewed in detail at least every four years A new Rates and Revenue Policy (see item 6.3) that identifies the approximate value of rates that will need to be collected in future years (referencing the Asset Management Plan and Long Term Financial Plan) – providing a forecast to ratepayers (updated at least every four years) The use of simple, one-page Service Proposals and Project Proposals that outline what proposed services or initiatives will cost, to be made available through council meetings. These will become Service Plans and Project Plans added to the yearly budget if approved by council. This provides clear transparency for what the functions and initiatives of the local government cost to deliver. Templates will be available for use by local governments. 	<p>Part of a continuous improvement process. Reform welcome but this will depend on how these reforms translate in practice will depend upon whether the changes are a success or not.</p> <p>Some specific comments are as follows:</p> <ul style="list-style-type: none"> Simplified Council Plans, Simplified Asset Management Plans and Simplified Long Term Financial Plans Plans do not have to be complex to be relevant regardless of the size of the local government. Having a longer timeframe may not necessarily be appropriate as strategic directions are one of the most important aspects of local community management. This will also be impacted upon if a real positive strategic direction that could evolve as outlined under point 0.4 Rationale is provided and expected from the State Government. A new Rates and Revenue Policy Refer comments under Attachment 6.3 1 Rates Options. Service Proposals and Project Proposals. Service Plans and Project Plans This will depend on how these reforms translate in practice Use of Templates. These sound good in theory but can invariably promote or influence a fixed way of thinking so there use should be tempered and certainly not mandated.

CURRENT REQUIREMENTS	PROPOSED REFORMS	BILL BOEHM WA COMMENTS
6.3 Rates and Revenue Policy		
<ul style="list-style-type: none"> Local governments are not required to have a rates and revenue policy. Some councils defer rate rises, resulting in the eventual need to drastically raise rates to cover unavoidable costs – especially for the repair of infrastructure. 	<ul style="list-style-type: none"> The Rates and Revenue Policy is proposed to increase transparency for ratepayers by linking rates to basic operating costs and the minimum costs for maintaining essential infrastructure. A Rates and Revenue Policy would be required to provide ratepayers with a forecast of future costs of providing local government services. The Policy would need to reflect the Asset Management Plan and the Long Term Financial Plan (see item 6.2), providing a forecast of what rates would need to be, to cover unavoidable costs. A template would be published for use or adaption by all local governments. The <u>Local Government Panel Report</u> included this recommendation. 	<p>This will also be impacted upon if a real positive strategic direction that could evolve as outlined under point 0.4 Rationale is provided and expected from the State Government.</p> <p>The need to have a coherent Long Term Financial a Plan and Asset Management Plan is essential and this amongst other things this will include all sources of revenue and expenses including rates</p> <p>The use a Rates Policy is or should be used to explain the rationale behind the rates system adopted including any policy issues that may affect the distribution of rates amongst individual ratepayers.</p> <p>In this regard the current rates system (Annual Value Minimum Rate and Differential Rating) including requirements to seek Ministerial in certain aspects, makes rational explanation difficult and subjective with a blurring of the lines between Rates as a Tax and Rates as a service.</p> <p>There are numerous examples elsewhere of far more rational systems where in-built flexibility is provided by supportive legislation. It is then up to each local government to then apply this to local circumstances, generally without any Ministerial approval.</p> <p>By way of explanation Attachment 6.3.1 Rates Options highlights how rates could / should be viewed, the pros and cons of valuation methods, discussion on the relevant principles of taxation and some of the lessons and examples that could apply. An example of a Rating Policy is also attached.</p> <p>A coherent rating system is essential and especially so if a real positive strategic direction that could evolve as outlined under point 0.4 Rationale is provided and expected from the State Government.</p>

CURRENT REQUIREMENTS	PROPOSED REFORMS	BILL BOEHM WA COMMENTS
		<p>It is acknowledged that a major change to the rating system might be seen as politically too hard, but after all this reform has been identified as <i>“the most significant package of major reforms to local government in Western Australia since the Local Government Act 1995 was passed more than 25 years ago.”</i></p>
6.4 Monthly Reporting of Credit Card Statements		
<ul style="list-style-type: none"> No legislative requirement. Disclosure requirements brought in by individual councils have shown significant reduction of expenditure of funds. 	<ul style="list-style-type: none"> The statements of a local government’s credit cards used by local government employees will be required to be tabled at council at meetings on a monthly basis. This provides oversight of incidental local government spending. 	<p>The oversight of credit card transactions should be undertaken in the same manner as general financial transactions with oversight by the Council.</p> <p>Whether there is a need to have any financial transactions publicly released is a moot point. A review of practices in other States might be worthwhile.</p>
6.5 Amended Financial Ratios		
<ul style="list-style-type: none"> Local governments are required to report seven ratios in their annual financial statements. These are reported on the MyCouncil website. These ratios are intended to provide an indication of the financial health of every local government. 	<ul style="list-style-type: none"> Financial ratios will be reviewed in detail, building on work already underway by the DLGSC. The methods of calculating ratios and indicators will be reviewed to ensure that the results are accurate and useful. 	<p>Review work proposed will be useful.</p> <p>As indicated in a 2019 WALGA commissioned independent review of Financial Performance Indicators prepared R J Back & Associates amongst other things the review indicated that calculations are affected by various factors including the effects in relation to Federal Government’s Financial Assistance Grant (Grants Commission). Perhaps and most significantly it was concluded that</p> <p><i>“Financial Ratios measure financial performance and do not measure a local government’s efficiency or effectiveness in delivering its programs and services”.</i></p> <p>In reality it is not which indicators are used but how they are interpreted and used in providing public insight and influence decision making. They are a poor indicator of financial health.</p>

CURRENT REQUIREMENTS	PROPOSED REFORMS	BILL BOEHM WA COMMENTS
		<p>This aspect is really up to each local government to look at a variety of measures and perhaps develop their own set of measures</p> <p>One basic measure that represents sound practice regard in financial performance terms is to measure the amount of available cash as shown by the combined Cash Reserves and Net Current Assets Position and develop and continually update its asset management and long-term financial plans. This is essential and provides a good context to a Council's overall Financial Performance and would be aided if additional adjustments at audit as outlined under comments 6.1 Model Financial Statements and Tiered Financial Reporting were undertaken.</p>
6.6 Audit Committees		
<ul style="list-style-type: none"> Local governments must establish an Audit Committee that has three or more persons, with the majority to be council members. The Audit Committee is to guide and assist the local government in carrying out the local government's functions in relation to audits conducted under the Act. The Panel Report identified that Audit Committees should be expanded, including to provide improved risk management. 	<ul style="list-style-type: none"> To ensure independent oversight, it is proposed the Chair of any Audit Committee be required to be an independent person who is not on council or an employee of the local government. Audit Committees would also need to consider proactive risk management. To reduce costs, it is proposed that local governments should be able to establish shared Regional Audit Committees. The Committees would be able to include council members but would be required to include a majority of independent members and an independent chairperson. 	<p>This proposal has merit and is probably at the minimum end of the spectrum of reform. It does though rely on the Chair having the requisite skills and understanding and provided staff and councillors with the opportunity to improve.</p>
6.7 Building Upgrade Finance		
<ul style="list-style-type: none"> The local government sector has sought reforms that would enable local governments to provide loans to property owners to finance for building improvements. This is not currently provided for under the Act. The Local Government Panel Report included this recommendation. 	<ul style="list-style-type: none"> Reforms would allow local governments to provide loans to third parties for specific building improvements - such as cladding, heritage and green energy fixtures. This would allow local governments to lend funds to improve buildings within their district. Limits and checks and balances would be established to ensure that financial risks are proactively managed. 	<p>A good initiative</p>

CURRENT REQUIREMENTS	PROPOSED REFORMS	BILL BOEHM WA COMMENTS
6.8 Cost of Waste Service to be Specified on Rates Notices		
<ul style="list-style-type: none"> No requirement for separation of waste charges on rates notice. Disclosure will increase ratepayer awareness of waste costs. The Review Panel Report included this recommendation. 	<ul style="list-style-type: none"> It is proposed that waste charges are required to be separately shown on rate notices (for all properties which receive a waste service). This would provide transparency and awareness of costs for ratepayers. 	<p>This is standard practice elsewhere in other States and has been for many many years.</p> <p>Justification for the proposed change however is not so much to would provide transparency and awareness of costs for ratepayers, as this is really a budget and reporting issue, but as part of a general reform of rating generally. As indicated in Attachment 6.3.1 Rates Options a waste charge accords with and is justified by using User Pays Principle of taxation.</p>

Attachments

Local Government Reform Positions and Recommendations

Brief Background Bill Boehm Murchison WA

February 2022

Career Summary

Date	Organisation	Position Held
July 2019 to now	Murchison Shire Council Murchison WA	Chief Executive Officer
Jan 2017 to May 2019	Flinders Council Flinders Island Tas	General Manager
June 1999 to June 2016	Roxby Council Roxby Downs SA	Administrator / Chief Executive Officer
Jan 1996 to June 1999	Tatiara District Council Bordertown SA	Manager Environmental Services
Jan 1995 to Nov 1995	Paramaniac Shire Council Warracknabeal & Rupanyup Vic	Interim Manager Dunmunkle District Manager Services Planning
June 1990 to Jan 1995	Dunmunkle Shire Council Rupanyup Vic	Chief Executive Officer Shire Engineer
Sep 1988 to June 1990	Wycheproof Shire Council Wycheproof Vic	Deputy Shire Engineer
Nov 1982 to Sep 1988	Mirboo Shire Council Mirboo North Vic	Assistant Shire Engineer
Jan 1980 to Nov 1982	Bairnsdale Town Council Bairnsdale Vic	Assistant Engineer
May 1978 to Jan 1980	Dandenong Valley Authority Dandenong Vic	Engineering Assistant

Education Qualifications & Memberships

2002	Class 8 Graduate Australian Rural Leadership	Australian Rural Leadership Foundation
2000	Graduate Diploma Local Government Management	Deakin University Victoria
1994	Graduate Diploma Building Surveying	Royal Melbourne Institute of Technology
1983	Graduate Diploma Municipal Engineering	Warrnambool Institute of Advanced Education
1977	Bachelor Civil Engineering	Swinburne College of Technology

**Local Government Reform
Positions and Recommendations
Local Government Observations and Opportunities**

February 2022

Introduction

In the following summary I have provided a very brief outline of some my observations and experience with Local Government within the four (4) States that I have worked in along with some potential opportunities. They are, just that, observations and suggestions not necessarily forming a complete analysis.

Item	Victoria	South Australia	Tasmania	Western Australia
Context	Financially strong large economy with minimal mining	Financially weak, moderate economy with minimal mining	Financially weak small economy with minimal mining	Financially sound with extensive mining which props up economy
	Exports GST revenue	Relies on federal support Requires GST Revenue	Relies on federal support. Requires GST Revenue	Relies on some federal support. Requires GST Revenue via special deal
	Small State good connectivity with all areas covered by local government.	Large State moderate connectivity. With large areas in remote areas and some small number of islands not under formal local government.	Very small State good with all areas including two islands covered by local government.	Very large Small with moderate good connectivity with all areas covered by local government.
	Electoral System Lower House single person electorates preferential system of voting Upper House single person electorates preferential system of voting	Electoral System Lower House single person electorates preferential system of voting Upper House single person electorates preferential system of voting	Electoral System Lower House 5 electorates each with 5 representatives elected on Hare Clark Proportional Representation System Upper House different regional representation system with many independents	Electoral System Lower House single person electorates preferential system of voting Upper House two regions and now proportional system of voting
Local Gov't Structure	Major amalgamations in late 1990's with significant reductions in numbers of Councils and new boundaries that were completely different to what existed. Some anomalies such as Borough of Queenscliff and Greater City of Geelong still exist. Most amalgamated boundaries still exist with one or two exceptions	Some amalgamations and reductions by only by combinations on a voluntary basis. Reviews comparisons largely based on financials economies of scale etc	Some amalgamations and reductions by State directions following an external review. Reviews comparisons partly based on financials economies of scale etc but also community of interest aspects but stayed more or less within the then boundaries. Part of then review included an examination of the aftermath from the Victorian experience. Flinders and King Island retained autonomy for obvious geographic reasons	Minimal / no amalgamations voluntary basis.

Item	Victoria	South Australia	Tasmania	Western Australia
	Major Reform of operating expectations. Commissioners part of the transitional phase. Included as part by major regional rereviews with some sort if an end in mind, even if it was perhaps ideologically driven. Eg 20% rate cut and imposition of compulsory competitive tendering	Minimal Other Reforms	Minimal Other Reforms	Minimal Other Reforms
State Expectations	Individual Councils in the main very strong financially	Individual Councils in the main strong financially in Adelaide and moderately strong financially in rural areas.	Individual Councils in the main strong financially in urban Hobart and Launceston but weak financially in rural areas.	Individual Councils in the main strong financially in Perth but weak financially in rural areas.
	High order governance and compliance expectations	Moderate order governance and compliance expectations	Low order governance and compliance expectations	High order governance and compliance expectations
<p>Opportunities <i>Following research of each State's particularly circumstances background strategy etc and in conjunction with the WA Governments Strategy explore opportunities for a renewed approach based in future needs and requirements.</i></p>				
Relationship between State and Local Government	Strong in some cases local government is largely self-sufficient. Strong Local Government Sector	Strong supportive and collegiate. Supportive Local Government Sector with good influence	Strong supportive and collegiate. Strong Local Government Sector. Supportive Local Government Sector with good influence Electoral System strongly influences the governance of the State with a notable collegiate relationship with Local Government. As an example despite the Tasmanian Local Governments unsuccessful attempt to takeover TasWater a positive relationship was retained.	Largely centrally driven. Supportive Local Government Sector with some influence
Local Government Associations	Municipal Association of Victoria (MAV)	South Australian Local Government Association (SALGA) SALGA owns it own Local Government Finance Authority and they fund all of Local Governments borrowings at rates more competitive than the State	Tasmanian Local Government Association (TasLGA) Local Government owns collectively TasWater (Tasmania's Water and Sewerage Authority). This provides for improved rollout of infrastructure and services plus a small dividend for each local government	West Australian Local Government Association (WALGA)
	Refer to MAV for background role influence etc	Refer to SALGA for background role influence etc	Refer to TLGA for background role influence etc	
<p>Opportunities <i>Following research of each State's particularly circumstances background strategy etc and in conjunction with the WALGA explore opportunities for a renewed approach based in future needs and requirements.</i></p>				

Item	Victoria	South Australia	Tasmania	Western Australia
Local Government Act	Local Government Act 2020	Local Government Act 1999	Local Government Act 1993	Local Government Act 1995
Role or Objects	<ul style="list-style-type: none"> ~ to provide good governance in its municipal district for the benefit and wellbeing of the municipal community. ~ A Council provides good governance if— <ul style="list-style-type: none"> (a) it performs its role in accordance with section 9; (b) the Councillors of the Council perform their roles in accordance with section 28. ~ In performing its role, a Council may— <ul style="list-style-type: none"> (a) perform any duties or functions or exercise any powers conferred on a Council by or under this Act or any other Act; and (b) perform any other functions that the Council determines are necessary to enable the Council to perform its role. ~ if it is necessary to do so for the purpose of performing its role, a Council may perform a function outside its municipal district. 	<p>To provide for the government and management of its area at the local level and, in particular—</p> <ul style="list-style-type: none"> ~ to act as a representative, informed and responsible decision-maker in the interests of its community; and ~ to provide and co-ordinate various public services and facilities and to develop its community and resources in a socially just and ecologically sustainable manner; and ~ to encourage and develop initiatives within its community for improving the quality of life of the community; and ~ to represent the interests of its community to the wider community; and ~ to exercise, perform and discharge the powers, functions and duties of local government under this and other Acts in relation to the area for which it is constituted. 	<ul style="list-style-type: none"> ~ to promote the continuance of a system of local government in South Australia under which elected local government bodies are constituted for the better governance of the State in a manner that is consistent with the provisions of Part 2A of the <i>Constitution Act 1934</i>; and ~ to encourage the participation of local communities in the affairs of local government and to provide local communities, through their councils, with sufficient autonomy to manage the local affairs of their area; and ~ to provide a legislative framework for an effective, efficient and accountable system of local government in South Australia; and ~ to ensure the accountability of councils to the community; and ~ to improve the capacity of the local government system to plan for, develop and manage local areas and to enhance the capacity of councils to act within their local areas as participants in the Australian system of representative government; and ~ to encourage local government to provide appropriate services and facilities to meet the present and future needs of local communities and to provide for appropriate financial contributions by ratepayers to those services and facilities; and ~ to encourage local government to manage the natural and built environment in an ecologically sustainable manner; and ~ to define the powers of local government and the roles of council members and officials. 	<ul style="list-style-type: none"> ~ governs the local government’s affairs; and ~ is responsible for the performance of the local government’s functions. <p>Without limiting subsection (1), the council is to</p> <ul style="list-style-type: none"> ~ oversee the allocation of the local government’s finances and resources; ~ determine the local government’s policies.

Item	Victoria	South Australia	Tasmania	Western Australia
<p>Principals</p>	<ul style="list-style-type: none"> ~ Council decisions are to be made and actions taken in accordance with the relevant law; ~ priority is to be given to achieving the best outcomes for the municipal community, including future generations; ~ the economic, social and environmental sustainability of the municipal district, including mitigation and planning for climate change risks, is to be promoted; ~ the municipal community is to be engaged in strategic planning and strategic decision making; ~ innovation and continuous improvement is to be pursued; ~ collaboration with other Councils and Governments and statutory bodies is to be sought; ~ the ongoing financial viability of the Council is to be ensured; ~ regional, state and national plans and policies are to be taken into account in strategic planning and decision making; ~ the transparency of Council decisions, actions and information is to be ensured. <p>In giving effect to the overarching governance principles, a Council must take into account the following supporting principles—</p> <ul style="list-style-type: none"> ~ the community engagement principles; ~ the public transparency principles; ~ the strategic planning principles; ~ the financial management principles; ~ (e) the service performance principles. 	<ul style="list-style-type: none"> ~ provide open, responsive and accountable government; ~ be responsive to the needs, interests and aspirations of individuals and groups within its community; ~ participate with other councils, and with State and national governments, in setting public policy and achieving regional, State and national objectives; ~ give due weight, in all its plans, policies and activities, to regional, State and national objectives and strategies concerning the economic, social, physical and environmental development and management of the community; ~ seek to co-ordinate with State and national government in the planning and delivery of services in which those governments have an interest; ~ (ea) seek to collaborate, form partnerships and share resources with other councils and regional bodies for the purposes of delivering cost-effective services (while avoiding cost-shifting among councils), integrated planning, maintaining local representation of communities and facilitating community benefit; ~ seek to facilitate sustainable development and the protection of the environment and to ensure a proper balance within its community between economic, social, environmental and cultural considerations; ~ manage its operations and affairs in a manner that emphasises the importance of service to the community; ~ seek to ensure that council resources are used fairly, effectively and efficiently and council services, facilities and programs are provided effectively and efficiently; ~ seek to provide services, facilities and programs that are adequate and appropriate and seek to ensure equitable 		

Item	Victoria	South Australia	Tasmania	Western Australia
		<p>access to its services, facilities and programs;</p> <ul style="list-style-type: none"> ~ seek to balance the provision of services, facilities and programs with the financial impact of the provision of those services, facilities and programs on ratepayers; ~ achieve and maintain standards of good public administration; ~ ensure the sustainability of the council's long-term financial performance and position 		
Functions		<ul style="list-style-type: none"> ~ to plan at the local and regional level for the development and future requirements of its area; ~ to provide services and facilities that benefit its area, its ratepayers and residents, and visitors to its area; ~ to determine the appropriate financial contribution to be made by ratepayers to the resources of the council; ~ to provide for the welfare, well-being and interests of individuals and groups within its community; ~ to take measures to protect its area from natural and other hazards and to mitigate the effects of such hazards; ~ (ea)to manage, develop, protect, restore, enhance and conserve the environment in an ecologically sustainable manner, and to improve amenity; ~ to provide infrastructure for its community and for development within its area (including infrastructure that helps to protect any part of the local or broader community from any hazard or other event, or that assists in the management of any area); ~ to promote its area and to provide an attractive climate and locations for the development of business, commerce, industry and tourism; 	<ul style="list-style-type: none"> ~ to provide for the health, safety and welfare of the community; ~ to represent and promote the interests of the community; ~ to provide for the peace, order and good government of the municipal area. ~ In performing its functions, a council is to consult, involve and be accountable to the community. ~ A council may do anything necessary or convenient to perform its functions either within or outside its municipal area. ~ A council may transfer to a single authority or a joint authority – <ul style="list-style-type: none"> o any of its assets and liabilities on any condition it determines; or o any of its employees. ~ A council may – <ul style="list-style-type: none"> o acquire, hold, dispose of and otherwise deal with property; and o (b) sue and be sued in its corporate name. 	

Item	Victoria	South Australia	Tasmania	Western Australia
		<ul style="list-style-type: none"> ~ to establish or support organisations or programs that benefit people in its area or local government generally; ~ to manage and, if appropriate, develop, public areas vested in, or occupied by, the council; ~ to manage, improve and develop resources available to the council; ~ to undertake other functions and activities conferred by or under an Act. 		
Roles Objects Principals and Functions	<p>Opportunities <i>Following research of each State's particularly circumstances background strategy etc and in conjunction with the WA Governments Strategy explore opportunities for a renewed approach based in future needs and requirements.</i></p>			

Summary

As a general observation it seems that

- ~ empowerment, not regulation will more and is perhaps a more appropriate course to follow, especially where a sector or state is weak.
- ~ having a strong respectful and positive State / Local Government Relationship is essential
- ~ the structure that follows should echo a strategy, which can be enhanced if all share the overall vision and contribute to it.

*Bill Boehm
February 2022*

Local Government Reform Positions and Recommendations

VOTING EXAMPLES

First Past The Post Preferential Proportional Representation December 2021

Introduction

The following brief paper has been developed to highlight the practical application of each methodology for the main voting systems used in local government, namely First Past The Post, Preferential and Proportional Representation.

An overall explanation is attached.

In addition, a mythical voting distribution (the last sheet) is provided support the calculation for to highlight the pros and cons for each system ie; First Past The Post, Preferential and Proportional Representation for both a single and multi-position electorates. The results for each are different. For a manual count, distribution sheets are often used as this simplifies the analysis but it also shows what is happening.

The voting distribution, whilst mythical, highlights a raft of issues and anomalies that have actually occurred in practice.

Premise

In this analysis there are five candidates **Abby**, **Bernie**, **Chris**, **Dave** and **Eddie** each who share 100 votes. The Voting distribution sheet shows where each candidates preferences flow right down to the last preference. Notional Primary Votes are summarised as follows.

Candidate	Votes
Abby	31
Bernie	10
Chris	10
Dave	40
Eddie	9
Total	100

First Past The Post

Winner Takes All

For a **One Position** election Dave is elected with 40% of the vote. On the surface this appears clear cut.

For **Three Positions** Dave and Abby are elected. Eddie is eliminated. Draw by lots between Bernie and Chris for the remaining position

Having candidates drawn by lots is hardly democratic. This situation occurs not infrequently in practice. The lowest candidate Eddie also only misses by one vote and if there was some discrepancy in the acceptance of ballot papers could conceivably get over the line with 9 not 10% of the vote!!!

Preferential

An absolute majority is required. In multi position elections those that achieve an absolute majority distribute their excess at full value.

For a **One Position** election Abby is elected.

In this instance despite trailing Dave on first preferences Abby triumphs on a two-candidate preferred basis of 54% to 46%, reasonably comfortably. This mirrors what happens at a State and Federal Level and most other local government jurisdictions and changes the selection compared with first past the post.

Essentially Preferential Voting mirrors and is a short form of Exhaustive Ballot Voting where the elector casts a single vote for their chosen candidate. However, if no candidate is supported by an overall majority of votes, then the candidate with the fewest votes is eliminated and a further round of voting occurs. This process is repeated for as many rounds as necessary until one candidate has a majority.

Because voters may have to cast votes several times, the exhaustive ballot is not used in large-scale public elections. Instead, it is usually used in elections involving, at most, a few hundred voters, such as the election of a prime minister or the presiding officer of an assembly.

For **Three Positions** candidates elected in the following order - Abby, Chris and Bernie

In this instance the highest ranked on first preferences misses out. This shows how those on a "ticket" can have enormous influence and shows up a major flaw. A number of years ago this system applied in Victorian Local Government but has now been replaced by Proportional Representation.

Proportional Representation

A quota is required. A Quota is the $(\text{No of Votes} / \text{Number of vacancies plus 1}) \text{ Plus 1}$. In multi position elections those that achieve a quota distribute their excess at a reduced value.

For a **One Position** election proportional representation is not applicable it is effectively a preferential system as the quota required is an absolute majority.

For **Three Positions** Candidates are elected in the following order - Dave, Abby and Eddie.

In this instance unlike other systems Eddie gets elected over Bernie and Chris, largely on the back of Dave's distribution. This system applies nationally for the Senate and also other jurisdictions such as the Tasmanian lower house and Tasmanian and Victorian and local government.

A manual count can use distribution sheets but input into a computer program is often used given the nature of the calculations

Ticket Voting

Ticket voting effectively describes the current How to Vote Cards that are distributed in State and Federal politics and on occasion Local Government. If voters were mature enough to ignore them, as they are only advisory in nature, then the impact would be minimal, but as history shows they are effective. They only work if the ballot papers are the same on all occasions. There is also a potential advantage if a person draws the top spot on the ballot paper.

However, if the ballot papers are randomly ordered the use of How to Vote Cards becomes redundant and would be confusing to the voter. Tasmania use the Robson Rotation method of random order with the number of variations depending on the number of candidates. They also have a law making it illegal to distribute how to vote cards at voting stations.

Summary

As a summary it is considered that for one vacancy elections Preferential Voting is the preferred democratic method but for multi position elections Proportional Representation should be used. Both are in widespread use in Australia for these types of situations. First past the post only has the advantages in that it may be more easier understood, simple and quick .Use of randomly ordered ballot papers should also be used to reduce / eliminate the potential effect of "*Ticket Voting.*"

Bill Boehm

VOTE COUNTING SYSTEMS – PREFERENTIAL AND PROPORTIONAL REPRESENTATION

Candidates in local government elections are elected under one of two vote counting systems, depending on the electoral structure of the particular council.

In **single-member wards**, votes are counted under the ‘full preferential’ system (also known as ‘majority preferential’). Under this system:

- all candidates must be given a preference by the voter for the vote to be counted
- all first preference votes are counted for each candidate. If a candidate receives an ‘absolute majority’ of formal first preference votes, i.e. 50 per cent of votes plus one, that candidate is elected
- if no candidate has an absolute majority, the candidate with the fewest first preference votes is excluded and the second preference votes from their ballot papers are transferred to the other candidates at full value
- if still no candidate has an absolute majority, the next candidate with fewest first preference votes is excluded and their second preference votes are transferred at full value
- this process continues until one candidate obtains an absolute majority and is declared elected
- a by-election is required when an extraordinary vacancy occurs and where the preferential system was used at the previous election.

The full preferential system is used for the House of Representatives at the federal level, the lower houses in Victoria, South Australia, Western Australia and the Northern Territory, and in many local government elections where a single member is to be elected. It is designed to ensure that the elected candidate is acceptable to a majority of people who cast a valid vote.

In **multi-member wards** and **unsubdivided** councils, the proportional representation system of vote counting is used to elect councillors. Under this system:

- All candidates must be given a preference by the voter.
- All first preference votes are counted for each candidate.
- To be elected, a candidate must receive a ‘quota’, which is calculated by dividing the total number of formal ballot papers by one more than the number of candidates to be elected, and adding one to the result.

Example

Where four councillors are to be elected from 5,000 formal votes:

$$\text{The quota} = \frac{5,000}{(4 + 1)} + 1 = 1,001$$

- Each elected candidate's surplus votes (if any) are transferred to the remaining candidates according to the preferences on the ballot papers. Because it is not possible to tell which votes elected the candidate and which are surplus, all the elected candidate's votes are transferred, but at a value less than one.
- The value of the transferred votes is worked out by dividing the surplus by the total number of ballot papers for the candidate. Each ballot paper transferred to another candidate has this value.

Example

If Candidate X receives 1,600 votes when the quota is 1,001, that candidate is elected and their surplus votes total 599. Their transfer value is:

$$\frac{599}{1,600} = 0.374$$

On transfer of the Candidate X's votes, their 1,600 ballot papers give 405 ballot papers to Candidate Y. Candidate Y therefore receives 151 votes (405 x 0.374).

- Any candidate who has gained the quota once the surplus votes have been transferred is elected.

- If there are still vacancies to fill once the surplus votes have been distributed, the candidate with the lowest number of votes is excluded and their ballot papers are then transferred to the remaining candidates (at the value they were received) according to the preferences on them.
- A 'countback' is conducted to fill councillor extraordinary vacancies where proportional representation vote counting was used at the previous election. Votes cast for the vacating councillor at the previous election are redistributed to remaining candidates, rather than a by-election being required.

A council with a mix of single and multi-member wards will use both vote counting systems depending on the individual ward structure.

Proportional representation aims to produce 'proportional' election results, where councillors are elected in proportion to the votes cast. It is used in the Senate and in the upper houses of New South Wales, Victoria, South Australia and Western Australia.

Other vote counting systems

There are a number of variations of the proportional representation system used in liberal democracies throughout the world. Australia and a small number of other countries use the 'single transferable vote' system, which places emphasis on votes cast for individual candidates. Western Europe generally uses other systems, which operate on the assumption that party lists are important to the electoral process – these however may not be suited to Victorian local government elections where political parties do not play a significant role.

Within Australia there are variations on how votes are counted. Tasmania – where no single-member wards currently exist in local government – uses the 'Hare-Clark' variation of proportional representation in its state and local government elections. A feature of this system is the requirement that the order of candidates on individual ballot papers is randomly selected (commonly known as the 'Robson rotation' system), which effectively renders ticket voting and candidate preferencing obsolete. This system

also has no 'above the line' voting (which occurs in the Senate and other state upper house elections), thus removing party control over how votes are distributed.

There are also variations within Australia on how many boxes need to be filled on ballot papers by voters. Western Australia uses 'first past the post' counting in local government elections. Voters place an indication against only one candidate – preferences are not required. In Queensland state and single-member local government ward elections, 'option preferential voting' is used. Voters may mark numbers against as many candidates' names on ballot papers as they like.

Both 'first past the post' and optional preferential voting have advantages in that voting is simplified and informality is reduced, however both can result in candidates being elected with very little support across the whole electorate.

Having two systems to elect councillors may confuse candidates (but not necessarily be of concern to voters). Under a uniform vote counting system, all councillors would be elected by either preferential or proportional representation systems. This may have particular relevance to those councils with both single and multi-member wards where both preferential and proportional representation is mandated, and councillors are elected under different voting rules and with differing levels of support.

Filling extraordinary vacancies

The countback system is a recognised system of filling vacancies under proportional representation. It uses the votes cast at the general election to ascertain which of the remaining candidates was most supported by the voters who voted for the vacating councillor. It is used in Victorian and Tasmanian local government, but not in New South Wales or South Australian local government, where proportional representation is used.

Previously elected councillors are excluded from the countback. If a vacancy cannot be filled by countback – for example there are no remaining unelected candidates – a by-election is conducted.

Countbacks have three distinct advantages:

- they enable the proportionality of representation achieved at the general election to be retained
- they allow a vacancy to be filled in a few weeks (avoiding a delay of about three months in the case of a by-election) and
- are significantly less expensive to conduct than a new election.

Concerns have been raised that countbacks are based on dated nominations and votes, and that as people may have changed their views in the intervening period, they should be given a fresh vote. Other concerns centre on the justifiability of automatically electing a sole remaining candidate without a count. That candidate may have received very few votes in the first place, and there is no reason to think that the voters who elected the departing councillor would support the remaining candidate as a replacement.



Questions

- 6.5 Is the vote counting method important to how electorates are represented? Why?
- 6.6 Which system do you think offers the best means of ensuring effective representation? Why?

VOTING EXAMPLES

First Past the Post

Preferential

Proportional Representation

December 2021

First PastThe Post						
Candidate		%	No Votes	Distrib	Subtotal	
<i>Highest three elected. If a tie draw by lots</i>						
1st Preference Votes						
Abby	A	31.0%	31			
Bernie	B	10.0%	10			
Chris	C	10.0%	10			
Dave	D	40.0%	40			
Eddie	E	9.0%	9			
Total			100			
Summary						
<i>One Position - Dave is elected.</i>						
<i>Three Positions - Dave and Abby are elected. Eddie is eliminated. Draw by lots between Bernie and Chris for the remaining position</i>						

Preferential Voting					
Candidate		%	No Votes	Distrib	Subtotal
<i>Target is an absolute majority (No of votes / (no of vacancies +1) plus 1</i>					
<i>If no absolute majority after the first count eliminate lowest candidate and distribute their preference's. If no one has an absolute majority continue process until one is elected. Once one is elected redistribute first elected back to original votes and repeat process till next elected. Continue process until all positions are filled. On all occasions votes are transferred at a value of 1.</i>					
1st Preference Votes					
Abby	A	31.0%	31		
Bernie	B	10.0%	10		
Chris	C	10.0%	10		
Dave	D	40.0%	40		
Eddie	E	9.0%	9		
Total			100		
Target			51		
No Absolute Majority. Distribute Lowest Candidate Eddy					
Abby	A		31	4	35
Bernie	B		10	3	13
Chris	C		10	2	12
Dave	D		40	0	40
Eddie	E		9	-9	0
Total			100	0	100
No Absolute Majority. Distribute Lowest Candidate Chris					
Abby	A		35	8	43
Bernie	B		13	4	17
Chris	C		12	-12	0
Dave	D		40	0	40
Eddie	E		0	0	0
Total			100	0	100
No Absolute Majority. Distribute Lowest Candidate Bernie					
Abby	A		43	15	58
Bernie	B		17	-17	0
Chris	C		0	0	0
Dave	D		40	2	42
Eddie	E		0	0	0
Total			100	0	100
Abby has an absolute majority and is elected. Now start again and redistribute Abby's preferences to the remaining candidates					
Abby	A		31	-31	0
Bernie	B		10	9	19
Chris	C		10	18	28
Dave	D		40	1	41
Eddie	E		9	3	12
Total			100	0	100
None of the remaining candidates has an absolute majority. Now redistribute lowest candidate's preferences (Eddy) to the remaining candidates					
Abby	A		0	0	0
Bernie	B		19	8	27
Chris	C		28	4	32

Preferential Voting					
Candidate		%	No Votes	Distrib	Subtotal
Dave	D		41	0	41
Eddy	E		12	-12	0
Total			100	0	100
None of the remaining candidates has an absolute majority. Now redistribute lowest candidate's preferences (Bernie) to the remaining candidates					
Abby	A		0	0	0
Bernie	B		27	-27	0
Chris	C		32	19	51
Dave	D		41	5	46
Eddy	E		0	0	0
Total			100	-3	97
Chris has an absolute majority and is elected. Now start again and redistribute Abby's and Chris's preferences to the remaining candidates					
Abby	A		31	-31	0
Bernie	B		10	27	37
Chris	C		10	-10	0
Dave	D		40	4	44
Eddie	E		9	10	19
Total			100	0	100
None of the remaining candidates has an absolute majority. Now redistribute lowest candidate's preferences (Eddie) to the remaining candidates					
Abby	A		0	0	0
Bernie	B		37	17	54
Chris	C		0	0	0
Dave	D		44	2	46
Eddie	E		19	-19	0
Total			100	0	100
Bernie has an absolute majority and is elected.					
Summary					
One Position - Abby is elected					
Three Positions - Candidates elected in the following order - Abby, Chris and Bernie					

Proportional Representation							
Candidate		Quota	No Ballot Papers	Transfer Ballot Papers	Transfer Value	Actual Votes	Subtotal
<p>Target is the (number of votes divided by the no of vacancies plus 1) plus 1 ignoring decimals (Quota) If no one has a quota eliminate lowest candidate and distribute their preferences to other candidates. Prefereces are transfered at a value of 1. Once a person reaches a quota and is elected distibute that persons excess votes to continuing candidates at a transfer value in proportion to the number of first preference that they received. Repeat process as required for continuing candidates until a quota is achieved. If a quota is not achieved, but all continuing candidates have been eliminated, then that person is elected</p>							
Ist Preference Votes							
Abby	A	1.192	31				
Bernie	B	0.385	10				
Chris	C	0.385	10				
Dave	D	1.538	40				
Eddie	E		9				
Total			100				
Target			26				
<p>Dave & Abby have reached a quota and are elected. Now redistribute Dave's amd Abbys's excess preferences to all other candidates at a transfer value based on their votes in excess over the quota</p>							
Distribute Daves at a Transfer Value>>>>					0.350		
Abby	A	Elected	31	0	0.000	31.000	
Bernie	B	Continuing	10	8	2.800	12.800	
Chris	C	Continuing	10	6	2.100	12.100	
Dave	D	Elected	40	-40	-14.000	26.000	
Eddie	E	Continuing	9	26	9.100	18.100	
Total			100	0	0.000	100.000	
Distribute Abby's at a Transfer Value>>>>					0.161		
Abby	A	Elected	31.000	-31	-5.000	26.000	
Bernie	B	Continuing	12.800	9	1.452	14.252	
Chris	C	Continuing	12.100	19	3.065	15.165	
Dave	D	Elected	26.000	0	0.000	26.000	
Eddie	E	Continuing	18.100	3	0.484	18.584	
Total			100.000	0.000	0.000	100.000	
<p>No one of the continuing candidates has reached a quota so the lowest (Bernie) is eliminated. Now redistribute Bernie's preferences to all other continuing candidates at a transfer value of 1 plus those transfered votes that Bernie received from Dave and Abby in the previous distribution at their respective transfer values</p>							
			Initial	Bernie Transfer	Bernie via Dave Transfer	Bernie via Abby Transfer	
Abby	A	Elected	26.000	0	0.000		26.000
Bernie	B	Elliminated	14.252	0	-2.800	-1.452	10.000
Chris	C	Continuing	15.165	4	1.750	1.129	18.044
Dave	D	Elected	26.000	0	0.000		26.000
Eddie	E	Continuing	18.584	6	1.050	0.323	19.956
Total			100.000	10	0.000	0.000	100.000
<p>Eddie is now then highest ranked candidate and Chris is now ellimlated. As a result notwithstanding that Eddie has not achived a quota he is elected as the last remaining candidate</p>							
Summary							
One Position - Not Applicable							
Three Positions - Candidates elected in the following order - Dave, Abby and Eddie							

Local Government Reform

Positions and Recommendations

Alternative Rating Options

February 2022

Introduction

The following is an adjunct to commentary associated with Item 6.3 Rates and Revenue Policy under the Local Government Reform Positions and Recommendations Submission February 2022.

Its main aim is to highlight Alternative Rating Options that can better address the Minister Request.

It comprises the following.

- ~ commentary relating to lessons and observations from reform of rating that was undertaken on Flinders Island Tasmania that was undertaken in 2017
- ~ a summary of features of respective Rating Systems in Tasmania and in Western Australia and
- ~ Flinders Rates Information Briefing April 2019 Paper.

Finders Council Rating Features Lessons and Observations

Some of the key features, lessons and observations derived following a major Reform of Rating at undertaken at Flinders Council in 2017 included the following.

Review and Changes Introduced

- 1 The overall legislative provisions were conducive to major changes with a raft of flexible options available to the Council. These included provisions to
 - (a) rate on Capital Value (CV) or Annual Value (AAV) with either a fixed charge component or minimum rate component (each which had its own limits)
 - (b) rate differentially on land use, planning and or location
 - (c) specify that rates are a tax and for the purpose of rating the valuation signifies a properties capacity to pay
 - (d) requirements to adopt a Rating Policy but with the provision that any rates levied cannot be declared invalid if the rates do not accord with policy
 - (e) ability to levy a charge of rate for a specific service provided
 - (f) the State Government having no roll in any part of the process either before, during or after any changes made or in levying rates thereafter and thereafter.
- 2 The attached Flinders Council Rating Information Paper April 2017 which is included as part of the Flinders Rates Information Briefing April 2019 Paper provides detailed commentary in relation to each option as well as discussion on rating generally.
- 3 As indicated under 1(c) above tying a valuation to a properties capacity to pay provided a sound principle-based approach to rating generally. This was also supported by previous work commissioned by the Tasmanian State Government which also amongst other things encouraged a move away from AAV Rating to CV but significantly did not mandate it
- 4 In Tasmania at the time major revaluations occurred once every 6 years. In the intervening years biannual adjustments were undertaken. As are result if a major change was to be introduced it was politically wise to do so at the time of a major revaluation; a situation that subsequently occurred on Flinders and led to then timing of a major review.

- 5 In Tasmania, with the exception of crown land, all properties including those owned by the State pay rates. As an offset the Council paid Payroll Tax to the State.
- 6 Prior to a raft of changes being adopted, the Council was provided with a raft of modelling and examples benchmarking with other Councils. Public communication was also undertaken.
- 7 The Rating component of the then finance system was designed to model handle the changes but a detailed excel analysis assisted in providing detailed comparisons that could be used to model options quickly.
- 8 The previous Waste Levy used was then not directly linked to a specific service and not liked nor understood.
- 9 The net result was as smooth transition with no adverse comments received despite a range of fluctuations at an individual ratepayer level.

Key Features

- 10 Rates adapted were made up of a Fixed Charge Component plus a rate in the \$ based on a properties Capital Value. A General Rate is then declared for all properties on this basis.
- 11 The General Rate was then varied according to an individual properties land use as specified and assigned by the Valuer General. This applies only to the valuation component. In addition, properties on Cape Barren Island were provided with a reduction based on locality.
- 12 The attached Flinders Council 2018/19 Rate Resolution which is included as part of the Flinders Rates Information Briefing April 2019 Paper provides specific details.
- 13 The previous Waste Levy was abolished.

Lessons and Observations

- 14 The general public did not understand what the AAV valuation was or how it was derived. For the vast majority of properties, the AAV was not measured accurately and set as a set percentage of the CV, meaning that for most properties a de facto CV rating applied.
- 15 In the transition properties such as Motels / Hotels received a significant reduction in rates. This was anticipated, and able to be catered for in equity terms by having hotels rated at a different differential than other commercial properties.
- 16 Benchmarking and local judgement saw the Residential Rate reduced slightly. The rural sector was at the time quite buoyant and successful being generally made up of a strong beef or sheep production and in the main were very successful small businesses
- 17 At a later stage three Transport-Aviation local airstrips, which had commercial businesses operating from them, were assigned separate differential. These were located on rural properties and were rated differentially with a significant increase imposed. The actual rates though were not excessive as the valuations were low in comparison to other adjacent areas. It was also considered that they could have been using the Council Airport, which was a significant financial cost to the community.
- 18 The Valuer General was responsible for determining all rating parcels including any separate tenancies that may exist through a separate occupation. The Council's role was to assist the Valuer General to identify any potential separate occupancy using local knowledge. When this occurred the Valuer General would verify the circumstances and if true would issue a separate revaluations. Examples included the following.
 - ~ A separate hairdresser was separately occupied but was part of a local supermarket property
 - ~ A local church, which was non-rateable, had a residence separately tenanted. This mirrored a similar situation in Roxby Downs in South Australia where a doctors surgery and dentist located within a hospital, which was non-rateable, were separately rated.
- 19 When rates were modelled for the following year, it was undertaken on the basis of excluding any changes brought about from new properties, additional tenancies, revaluations through additional works on a property or changes to any differential classification. The Rates increase from the previous year's rates base was expressed as a "percentage excluding natural growth".
- 20 The overall system provided good opportunities for the Council to review the equity across various property classifications but also in a manner that was not too complex. It didn't differentiate down to the smallest level that was possible.

Comparison of Rating Systems Tasmania and Western Australia

The following brief summary comparison of Rating Systems on both Flinders Island and Western Australia is provided as follows.

Rating Element	Tasmania	Western Australia
1 Valuation Component	Capital Value or Annual Value	Unimproved Value and Gross Rental Value
2 Specified Legislative Rationale	Specify that rates are a tax and for the purpose of rating the valuation signifies a properties capacity to pay	Nil
3 Minimum Rate Option	Minimum Rate or Fixed Charge but not both Total No of properties on Minimum Rate cannot exceed 50% of total rates collected Applies to every property regardless of differential classification or location at the same rate	Total No of properties on Minimum Rate cannot exceed 50% of total rates collected and also 50% within each differential classification. Any variation required Ministerial Approval. Applies to every property regardless of differential classification but rates can vary between classification.
4 Fixed Charge Option	Minimum Rate or Fixed Charge but not both Total No of properties on Minimum Rate cannot exceed 50% of the rates collected Applies to every property regardless of differential classification or location at the same rate	Not Available
5 Differential Rates	Planning or Land Use via a suite of Land Use Classifications Location	Limited Land Uses Ministerial Approval Required if differentials imposed are more than twice the lowest general rate. Application to DLGCSI requires answer of some 12 Questions with 12 Attachments Required.
6 Separate Rate	Various special circumstances	Various special circumstances
7 Service Rates or Charges	Both Options available	Not Applicable but being reviewed under 6.8 Rates and Revenue Policy under the Local Government Reform Positions and Recommendations
8 Tenancy Occupancy	Normal practice controlled by Valuer General supported by the Council	Upon Application to Valuer General. Ratepayer has some say
9 Rating of State Government Land	Yes for State owned properties. No for Crown Land	No for State owned properties. No for Crown Land
10 Council Pays Payroll Tax	Yes	No
11 Ministerial involvement in rating process	Nil	Approval Required for minimum rates and differential rates in certain circumstances as outlined above.

Rating Element	Tasmania	Western Australia
12 Public involvement in rating process	Nil	Draft Rates are published prior to budget being considered as well as draft Rates and Objects. Submissions can be made to the Council who must consider submissions prior to adopting rates
13 Rating Policy	Yes	Not Applicable but being reviewed under 6.3 Rates and Revenue Policy under the Local Government Reform Positions and Recommendations

Comment

As indicated above there are a raft of other considerations with respect to a Rates Policy that could / should be reviewed and are more relevant than that addressed under the specific request under 6.3 Rates and Revenue Policy under the Local Government Reform Positions and Recommendations. All of the points shown above as applied in Tasmanian offer significant improvements and are represent as more principle-based approach.

Within the context of the “*structure follows strategy*” a significant review is considered essential, especially in the context of strengthening local government to better position the State to meet the economic challenges as outlined under **0.4 Rationale**.

Flinders Rates Information Briefing April 2019

The attached Flinders Rates Information Briefing April 2019 Paper comprises

- ~ Flinders Council 2018/19 Rate Resolution
- ~ Flinders Council Rates and Charges Policy
- ~ Flinders Council Rating Information Paper April 2017

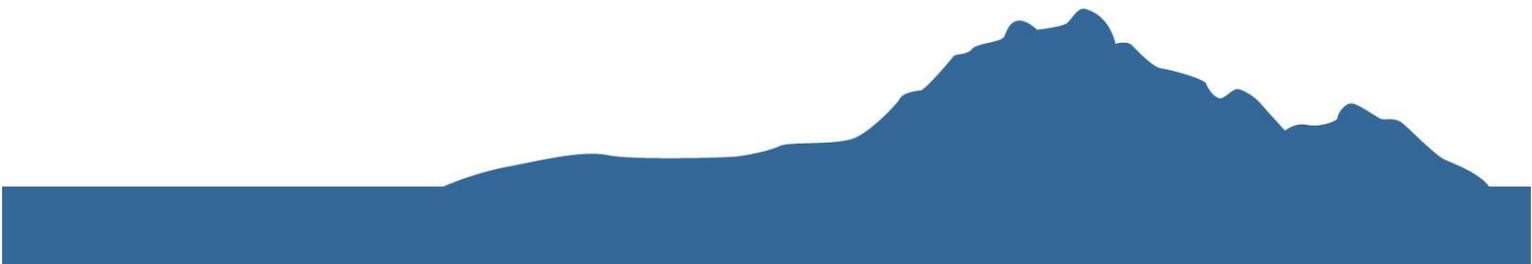
The Rating Information Paper provides the rationale and justification for the changes that subsequently followed. It includes extracts from and references to a raft of other external works undertaken on this subject.

Bill Boehm
February 2022



Rates Information Briefing

15 April 2019



Introduction

The following information is provided as a general overview on the rating system that Council has adopted and utilises. Information includes the following

Flinders Council 2018/19 Rates Resolution

This describes the current rates which includes the following components

- General Rate comprising a Fixed Charge and Rate in the \$ per Capital Value (CV).
- Differential rates from the general rate based on
 - ~ Land Use (Land Use Codes).
 - ~ Locality. Cape Barren Island and Bass Strait islands, (the balance of the municipality)

Note that under the *Local Government Act 1993 (Act)* rates are not a fee for service but a tax. As such the principles of taxation apply with the Fixed Charge component representing the Benefit Principal and the Rate in the \$ representing the Capacity to Pay Principle as determined under the Local Government Act. These principles are described in the Rating Information Paper April 2017

As far as possible Land Use Codes these have been grouped into specific classes for simplicity but where there is a reason such as for hotels and airfields that have been segmented.

With respect to locality Cape Barren Island receives 10% discount on the rate in the \$ component. Under the *Act* the Fixed Charge must apply equally across the municipality.

The third commonly used taxation principal (User Pays) is not used. It should only apply when a service is provided that is identical and only for specific ratepayers and shouldn't be confused with the Benefit Principal. E.g. a waste kerbside collection

F6 Rates and Charges Policy

This further describes all of the elements that cover how we treat ratepayers and decisions behind the rates system

Rates and Charges Policy Agenda Item 20 July 2017

This summarises the rationale for the adoption of the current system which preceded lengthy discussion papers, workshops which took advantage of the municipal wide general valuation which occurs once every 6 years. Pragmatically this is the only real time to introduce wholesale changes as there are often wide valuation fluctuations. The change two years ago has seen a modernisation of the rates system and little adverse comment following introduction of the change

Rating Information Paper April 2017

This outlines in more detail the subject of rating that helped explain the changes introduced in 2017/18. For those keen, there are other more detailed documents referenced.

Rates Modelling

In the normal course of event rates modelling of all properties is undertaken at the end of the budget process, after any general rates increase has been broadly agreed to. Modelling is undertaken in categories, and at an individual property level. Benchmarking with other Councils is also undertaken.

FLINDERS COUNCIL 2018/19 RATES RESOLUTION

Extract from Council Meeting Minutes 16 August 2018

211.08.2018 Moved: Cr G Willis

Seconded: Cr K Stockton

In accordance with the provisions of the *Local Government Act 1993*, the Flinders Council hereby makes the following rates and charges for the period commencing 1 July 2018 and ending 30 June 2019:

1. Definitions & Interpretations

- (a) **'Act'** means the *Local Government Act 1993*;
- (b) **'Council'** means the Flinders Council;
- (c) **'land'** has the meaning given to that term in section 86 of the Act;
- (d) **'Land Use Codes'** means the relevant subcategories, of the use or predominant use of the land, set out as uses of land in the most recent Land Use Codes provided to the councils by the Valuer-General and published on the internet by the Tasmanian Government as part of the Land Information System Tasmania;
- (e) **'Municipal Area'** means the municipal area of the Council as defined in section 3 of the Act;
- (f) **'rateable land'** means all land excepting land exempt by operation of section 87(1) of the Act; and
- (g) **Super Land Use Group** means the groups of Land Use Codes set out in column B of Annexure 15 to this resolution.

2. General Rates & Variations

- 2.1. Pursuant to sections 90 and 91 of the Act, Council makes the following two-component general rate for all rateable land within the Municipal Area for the financial year commencing on 1 July 2018 and ending on 30 June 2019:
 - (a) a rate **0.392697** cents in the dollar of Capital Value; and
 - (b) a Fixed Charge in the amount of **\$380**.
- 2.2. Pursuant to section 107(1) of the Act, Council hereby varies the general rate (as previously made) according to one or more of the following factors:
 - (a) the use or predominant use of the land;
 - (b) the non-use of land;
 - (c) the locality of the land; and/or
 - (d) the prescribed factor of Land Use Codes pursuant to r.33(c) of the *Local Government (General) Regulations 2015* (here referred to as **Land Use Codes**),in accordance with the following Variation Table:

VARIATION TABLE		
Locality	Use/Non-use/Land Use Codes	Variation
Flinders Island Bass Strait Islands	Rateable land subject to any Land Use Code within the Super Land Use Group "Commercial" EXCEPTING the following: <ul style="list-style-type: none"> • C40 (Hotel / Motel); • P32 (Transport – Aviation); • P321 (Transport-Aviation-Private); and • V2 (Vacant-Commercial). (i.e. Non-Vacant Commercial)	The rate of 0.0392697 is increased to 0.471236 cents in the dollar of Capital Value
Flinders Island Bass Strait Islands	Rateable land subject to the Land Use Code C40 (Hotel / Motel). (i.e. Non-Vacant Commercial – Hotel / Motel)	The rate of 0.392697 is increased to 0.510506 cents in the dollar of Capital Value
Flinders Island Bass Strait Islands	Rateable land subject to any of the following Land Use Codes: <ul style="list-style-type: none"> • P32 (Transport – Aviation); and • P321 (Transport-Aviation-Private). (i.e. Non-Vacant Commercial – Aviation)	The rate of 0.392697 is increased to 0.530141 cents in the dollar of Capital Value
Flinders Island Bass Strait Islands	Rateable land subject to any Land Use Code within the Super Land Use Group "Residential" EXCEPTING the following: <ul style="list-style-type: none"> • V5 (Vacant-Rural Residential); • V4 (Vacant-Englobo/Broad Hectares); • V1 (Vacant-Residential); and • V (Vacant Land). (i.e. Non-Vacant Residential)	The rate of 0.392697 is reduced to 0.373062 cents in the dollar of Capital Value
Cape Barren Island	Rateable land subject to any Land Use Code within the Super Land Use Group "Commercial" EXCEPTING V2 (Vacant-Commercial). (i.e. Non-Vacant Commercial)	The rate of 0.392697 is increased to 0.431966 cents in the dollar of capital value
Cape Barren Island	Rateable land subject to the Land Use Codes within the Super Land Use Group "Residential" EXCEPTING the following: <ul style="list-style-type: none"> • V5 (Vacant-Rural Residential); • V4 (Vacant-Englobo/Broad Hectares); • V1 (Vacant-Residential); and • V (Vacant Land). (i.e. Non-Vacant Residential)	The rate of 0.392697 is reduced to 0.333792 cents in the dollar of Capital Value
Cape Barren Island	<ul style="list-style-type: none"> • Rateable land subject to any of the Land Use Codes within the Super Land Use Group "Community Services" that is not vacant. (i.e. Non-Vacant Community Services)	The rate of 0.0392697 is reduced to 0.353427 cents in the dollar of Capital Value

VARIATION TABLE		
Locality	Use/Non-use/Land Use Codes	Variation
	<ul style="list-style-type: none"> • Rateable land subject to any of the Land Use Codes within the Super Land Use Group "Primary Production" that is not vacant. (i.e. Non-Vacant Primary Production) • Rateable land subject to any of the following Land Use Codes: <ul style="list-style-type: none"> ~ V2 (Vacant-Commercial); ~ V5 (Vacant-Rural Residential); ~ V4 (Vacant-Englobo/Broad Hectares); ~ V1 (Vacant-Residential); and ~ V (Vacant Land). (i.e. Vacant)	

3 Fire Service Contribution

3.1 Pursuant to Section 81 of the *Fire Service Act 1979* and Section 93A of the Act, for the period commencing 1 July 2017 and ending 30 June 2018 Council hereby makes the following service rate for the purposes of collecting the fire service contribution from all rateable land in the Municipal Area:

- (a) a rate of **0.3620900** cents in the dollar of Assessed Annual Value with a minimum amount payable of **\$40.00**.

4 Separate Land

4.1 For the purposes of these resolutions, the rates and charges shall apply to each parcel of land which is shown as being separately valued in the valuation list prepared under the *Valuation of Land Act 2001*.

5 Adjusted Values

5.1 For the purposes of each of these resolutions, any reference to Capital Value and Assessed Annual Value includes a reference to that value as may be adjusted pursuant to section 89 of the Act.

6 Payment of Rates & Charges

6.1 Pursuant to section 124 of the Act, the rates and charges as set out in parts 2 and 3 of this resolution will be payable in two instalments with the following payment schedule:

- (a) the first instalment must be made on or before the 31st day of October 2018; and
 (b) the second instalment must be made on or before the 28th day of February 2019.

- 6.2 Pursuant to section 124(5) of the Act, where a ratepayer fails to pay any instalment within 21 days of the date on which that instalment falls due for payment, Council may require the ratepayer to pay the full amount owing for the financial year.
- 6.3 Pursuant to section 128 of the Act, if any rate or instalment is not paid on or before the date it falls due for payment Council imposes the following penalties:
- (a) a penalty of 10% of the amount of the unpaid rate or instalment; and
 - (b) a daily interest charge 0.023013% (8.4% per annum) in respect of the relevant outstanding amount.

CARRIED (4-1)

For: Deputy Mayor Marc Cobham, Cr Chris Rhodes, Cr Ken Stockton and Cr Gerald Willis.

Against: Mayor Carol Cox

VALUER GENERALS LAND USE CODE CLASSIFICATIONS

Column A	Column B	ColumnC
LANDUSECODE	SUPERLANDUSEGROUP	LANDUSE
V2	Commercial	Vacant-Commercial
S21	Commercial	Indoor Sport-Private
S31	Commercial	Water Sport-Private
S51	Commercial	Indoor/Outdoor Sport-Private
S61	Commercial	Showground/Racetrack-Private
C171	Commercial	Motor Vehicle Rental Depot
C36	Commercial	Self Storage Units
C	Commercial	Commercial
C0	Commercial	Business & Residence
C1	Commercial	Retail/Business
C10	Commercial	Shop
C11	Commercial	Department Store
C12	Commercial	Mixed-Shops/Offices
C13	Commercial	Showroom/Store
C14	Commercial	Shopping Centre
C15	Commercial	Supermarket
C16	Commercial	Nursery/Roadside outlet-Retail
C17	Commercial	Yard-Motor,Supplies,Domestic
C18	Commercial	Service Station
C180	Commercial	Service Station-self serve
C181	Commercial	Service Station-not self serve
C19	Commercial	Converted house/business
C2	Commercial	Office space
C20	Commercial	Office
C21	Commercial	Bank
C22	Commercial	Professional Room-Surgery,etc.
C3	Commercial	Commercial Services
C30	Commercial	Funeral Parlour,Crematorium
C31	Commercial	Studio/Atelier
C32	Commercial	Cinema/Theatre
C33	Commercial	Restaurant
C34	Commercial	Car Park
C35	Commercial	Stockyard
C4	Commercial	Licenced Premises
C40	Commercial	Hotel/Motel
C41	Commercial	Tavern
C42	Commercial	Wine & Spirit merchant
C43	Commercial	Licenced Club
C5	Commercial	Tourism
C50	Commercial	Motel
C51	Commercial	Private Hotel/Boarding House
C52	Commercial	Holiday Apart/Resident. club
C53	Commercial	Caravan,Camping-park
C54	Commercial	Tourist complex
C55	Commercial	Tourist hostel

VALUER GENERALS LAND USE CODE CLASSIFICATIONS

Column A	Column B	ColumnC
LANDUSECODE	SUPERLANDUSEGROUP	LANDUSE
C6	Commercial	Day Care Centres/Child Minding
C7	Commercial	Media
C70	Commercial	Print Media
C71	Commercial	Broadcasting Media
C8	Commercial	Marine Services
C80	Commercial	Comm. Slipway/Jetty/Chandlery
C81	Commercial	Marina
C9	Commercial	Serv Ind(Store,Retail,SemIndu
P11	Commercial	Telecom. Services Incls Post
P3	Commercial	Transport
P30	Commercial	Transport-Railway
P301	Commercial	Transport-Railway-Private
P302	Commercial	Transport-Railway-Authority
P31	Commercial	Transport-Bus & Taxi
P311	Commercial	Transport-Bus & Taxi-Private
P312	Commercial	Transport-Bus & Taxi-Authority
P32	Commercial	Transport-Aviation
P321	Commercial	Transport-Aviation-Private
P322	Commercial	Transport-Aviation-Authority
P33	Commercial	Transport-Marine/Wharves
P331	Commercial	Transport-Marine/wharves-Priv.
P332	Commercial	Transport-Marine/wharves-Auth.
P82	Commercial	Medical Centre
P821	Commercial	Medical Centre-Private
P822	Commercial	Medical Centre-Authority
S11	Commercial	Outdoor Sport-Private
P	Community Services	Public Serv./Institut./Utility
S62	Community Services	Showground/Racetrack-Authority
P10	Community Services	Fire/Police/Ambulance
P12	Community Services	Executive/Leglislat.& Judicial
P13	Community Services	Utility Services-Sewer/Water
P14	Community Services	Gaol/Reformatory
P15	Community Services	Transp. Beacons-Radio,Visual
P16	Community Services	Cemetery
P2	Community Services	Education
P20	Community Services	School-Primary,Secondary
P201	Community Services	School-Primary,Second-Private
P202	Community Services	School-Primary,Second-Public
P21	Community Services	Colleges-Tertiary
P4	Community Services	Military Installations
P5	Community Services	Cultural
P50	Community Services	Entertainment/Civic
P501	Community Services	Entertainment/Civic-Private
P502	Community Services	Entertainment/Civic-Authority
P51	Community Services	Library

VALUER GENERALS LAND USE CODE CLASSIFICATIONS

Column A	Column B	ColumnC
LANDUSECODE	SUPERLANDUSEGROUP	LANDUSE
P511	Community Services	Library Private
P512	Community Services	Library Authority
P52	Community Services	Museum-Art Gallery
P521	Community Services	Museum,Art Gallery-Private
P522	Community Services	Museum,Art Gallery-Authority
P53	Community Services	Gardens etc
P531	Community Services	Gardens etc.-Private
P532	Community Services	Gardens etc.-Authority
P6	Community Services	Place of Assembly
P60	Community Services	Church
P61	Community Services	Hall
P62	Community Services	Lodge/Meeting Room
P63	Community Services	Youth Centre/Camp
P8	Community Services	Medical Services
P80	Community Services	Hospital
P801	Community Services	Hospital-Private
P802	Community Services	Hospital-Authority
P83	Community Services	Quarantine Station
P831	Community Services	Quarantine Station-Private
P832	Community Services	Quarantine Station-Authority
P9	Community Services	Aboriginal Cultural Purposes
S1	Community Services	Outdoor Sport
S12	Community Services	Outdoor Sport-Authority
S2	Community Services	Indoor Sport
S22	Community Services	Indoor Sport-Authority
S3	Community Services	Water Sport
S32	Community Services	Water Sport-Authority
S4	Community Services	Domestic Slipway/Jetty
S41	Community Services	Domestic Slip/Jetty-Private
S42	Community Services	Domestic Slip/Jetty-Auth.
S5	Community Services	Indoor/Outdoor Sport Facility
S52	Community Services	Indoor/Outdoor Sport-Authority
S6	Community Services	Showground/Racetrack
P1	Community Services	Government/Local Government
V3	Industrial	Vacant-Industrial
I	Industrial	Industrial
I0	Industrial	Warehouse
I1	Industrial	Manufacturing
I10	Industrial	Manufacturing Workshop
I11	Industrial	Manufacturing Factory
I110	Industrial	Manuf.Factory-Food Processing
I111	Industrial	Manuf.Factory-Not food Process
I112	Industrial	Manufacturing others
I12	Industrial	Coolstore
I13	Industrial	Sawmill

VALUER GENERALS LAND USE CODE CLASSIFICATIONS

Column A	Column B	ColumnC
LANDUSECODE	SUPERLANDUSEGROUP	LANDUSE
I14	Industrial	Abattoir
I15	Industrial	Refinery/Fuel Installation
I16	Industrial	Shipbuilding & Repair Mainten.
I17	Industrial	Storage Compounds (Ltd Bldgs)
Q	Industrial	Quarrying and Mining
Q1	Industrial	Mine
Q11	Industrial	Mine-Private
Q12	Industrial	Mine-Authority
Q2	Industrial	Quarry-Sand,Gravel etc.
Q21	Industrial	Quarry-Sand,Gravel,etc-Private
Q22	Industrial	Quarry-Sand,Gravel,etc-Authori
Q3	Industrial	Quarry/Mine-Natural fuel
Q31	Industrial	Quarry/Mine-Natural-Private
Q32	Industrial	Quarry/Mine-Natural-Authority
S	Other	Sporting Facility/Recreation
S02	Other	Park,Recreation Area Authority
S01	Other	Park,Recreation Area-Private
S0	Other	Park,Recreation Area
L252	Primary Production	G'house/Nurse/Flower-Pt. irrig
L253	Primary Production	G'house/Nurse/Flower-All irrig
L254	Primary Production	G'house/Nurse/Flower-Irr.schem
L3	Primary Production	Forestry
L31	Primary Production	Forestry-Artificial Plantation
L311	Primary Production	Forestry-Artificial-Authority
L312	Primary Production	Forestry-Artificial-Private
L32	Primary Production	Forestry-Nursery
L321	Primary Production	Forestry-Nursery-Authority
L322	Primary Production	Forestry-Nursery-Private
L33	Primary Production	Forestry-Natural Bush
L331	Primary Production	Forestry-Natural Bush-Authorit
L332	Primary Production	Forestry-Natural Bush-Private
L4	Primary Production	Aquaculture
L41	Primary Production	Aquaculture-Research Facility
L42	Primary Production	Aquaculture-Fish Farm
L43	Primary Production	Aquaculture-Licenced Beds
L	Primary Production	Primary Production
L1	Primary Production	Farming
L10	Primary Production	Farming-Mixed
L101	Primary Production	Farming-Mixed-Not irrigated
L102	Primary Production	Farming-Mixed-Part irrigated
L103	Primary Production	Farming-Mixed-All irrigated
L104	Primary Production	Farming-Mixed-Irrigat.scheme
L11	Primary Production	Farming-Cropping
L111	Primary Production	Farming-Cropping-Not irrigated
L112	Primary Production	Farming-Cropping-Part irrigate

VALUER GENERALS LAND USE CODE CLASSIFICATIONS

Column A	Column B	ColumnC
LANDUSECODE	SUPERLANDUSEGROUP	LANDUSE
L113	Primary Production	Farming-Cropping-All irrigate
L114	Primary Production	Farming-Cropping-Irrig.scheme
L12	Primary Production	Farming-Dairying
L121	Primary Production	Farming-Dairy-Not irrigated
L122	Primary Production	Farming-Dairy-Part irrigated
L123	Primary Production	Farming-Dairy-All irrigated
L124	Primary Production	Farming-Dairy-Irrigat.scheme
L13	Primary Production	Farming-Poultry
L14	Primary Production	Farming-Mutton Bird Rookeries
L141	Primary Production	Farming-Mutton Bird-Private
L142	Primary Production	Farming-Mutton Bird-Crown
L15	Primary Production	Farming-Grazing/Pastoral
L151	Primary Production	Grazing/Pastoral-Not irrigated
L152	Primary Production	Grazing/Pastoral-Part irrigate
L153	Primary Production	Grazing/Pastoral-All irrigated
L154	Primary Production	Grazing/Pastoral-Irrig.scheme
L155	Primary Production	Grazing/Pastoral-Open,run,bush
L16	Primary Production	Farming-Pigs
L17	Primary Production	Farming Speciality Animals
L18	Primary Production	Farming-Horses
L181	Primary Production	Farming-Horses-Not irrigated
L182	Primary Production	Farming-Horses-Part irrigated
L183	Primary Production	Farming-Horses All irrigated
L184	Primary Production	Farming-Horses Irrigation sche
L185	Primary Production	Farming-Horses Open,run,bush
L19	Primary Production	Farming-Speciality
L2	Primary Production	Horticulture/Market Gardening
L20	Primary Production	Orchard
L201	Primary Production	Orchard-Not irrigated
L202	Primary Production	Orchard-Part irrigated
L203	Primary Production	Orchard-All irrigated
L204	Primary Production	Orchard-Irrigation scheme
L21	Primary Production	Hops
L211	Primary Production	Hops-Not irrigated
L212	Primary Production	Hops-Part irrigated
L213	Primary Production	Hops-All irrigated
L214	Primary Production	Hops-Irrigation scheme
L22	Primary Production	Vineyard
L221	Primary Production	Vineyard-Not irrigated
L222	Primary Production	Vineyard-Part irrigated
L223	Primary Production	Vineyard-All irrigated
L224	Primary Production	Vineyard-Irrigation scheme
L23	Primary Production	Soft Fruit & Nut
L231	Primary Production	Soft Fruit & Nut-Not irrigated
L232	Primary Production	Soft Fruit & Nut-Part irrigate

VALUER GENERALS LAND USE CODE CLASSIFICATIONS

Column A	Column B	ColumnC
LANDUSECODE	SUPERLANDUSEGROUP	LANDUSE
L233	Primary Production	Soft Fruit & Nut-All irrigated
L234	Primary Production	Soft Fruit & Nut-Irrig. Scheme
L24	Primary Production	Market Garden
L241	Primary Production	Market Garden-Not irrigated
L242	Primary Production	Market Garden-Part irrigated
L243	Primary Production	Market Garden-All irrigate
L244	Primary Production	Market Garden-Irrigat. scheme
L25	Primary Production	G'house/Nurse/Flower-No retail
L251	Primary Production	G'house/Nurse/Flower-Not irrig
V5	Residential	Vacant-Rural Residential
V4	Residential	Vacant-Englobo/Broad Hectares
V1	Residential	Vacant-Residential
V	Residential	Vacant Land
R1	Residential	Dwelling
R2	Residential	Flat/s
R3	Residential	Unit/s
R30	Residential	Villa units
R31	Residential	Conjoined units
R32	Residential	Multiple storey units
R4	Residential	House & Flat/s
R5	Residential	Rural Residential
R6	Residential	Institution Residential Accom
R7	Residential	House & Rooms other use
R9	Residential	Holiday home / Shack
R91	Residential	Holiday home / Shack Priv Land
R92	Residential	Holiday home / Shack Crown Lnd
R93	Residential	Holiday home / Shack HEC Land
R	Residential	Residential
P812	Residential	Home for Aged-Authority
R10	Residential	Domestic Garage/Workshop
P81	Residential	Home for Aged
P811	Residential	Home for Aged-Private



RATES AND CHARGES POLICY

FILE NO: FIN/0701 FIN/1207
ADOPTED BY COUNCIL: 26 July 2012
AMENDED BY COUNCIL: 20TH JULY 2017

MINUTE NO: 220.07.2012
MINUTE NO: 169.07.2017

Rates and Charges Policy

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1 INTRODUCTION

- 1.1 In Tasmania, municipal rates are a form of property tax levied by Local Government entities as the primary source of funding for the many mandatory and discretionary services that they provide. The rating process is administered by the *Local Government Act 1993* (the LG Act) which allows some flexibility for each council to make decisions that best suit its local community.
- 1.2 This policy meets the requirements of section 86B of the LG Act, which states each council must prepare and adopt a 'Rates and Charges Policy' by 31 August 2012 and review that policy at the end of each successive four-year period after that date.
- 1.3 For the 2017/18 financial year the Flinders Council (Council) has been subjected to a municipal wide revaluation by the Valuer General as part of a 6-year revaluation cycle. Given the resultant movements in property values and as part of a continuous improvement process, at the April 2017 Ordinary Meeting of Council it was resolved to undertake a thorough review of Council's rating system and with it a review of Council's Rates and Charges Policy.

2 OBJECTIVES & PRINCIPLES

- 2.1 The objectives of this policy are to outline Council's approach to determining and collecting rates from its community.
- 2.2 Rates constitute taxation for the purposes of Local Government, rather than a fee for service. As such, the total amount of rates paid may not directly relate to or reflect the services used by each individual ratepayer.
- 2.3 Property values (as determined by the Office of the Valuer-General) play an important role in determining how much each individual ratepayer contributes to the cost of delivering Council services and activities. The LG Act advances the principles that the value of rateable land is an indicator of the capacity of the ratepayer in respect of that land to pay rates (s.86A(1)(b)). As such, the higher the value of the property the higher the capacity of the ratepayer of that property to pay municipal rates.
- 2.4 As rates constitute taxation there are a number of principles of taxation that apply and need to be considered. These principles include the following:
 - (a) The Equity Principle
There are two parts to the Equity Principle namely:
 - The 'Capacity to Pay Principle'; the higher the value of the property the higher the rates paid.
 - The 'Benefit Principle': ratepayers should receive some benefits from paying rates but that benefit will not necessarily be directly commensurate to the amount of rates paid. The use of a 'fixed charge' or a 'minimum amount payable' are typical examples.
 - (b) User Pays Principle
He who uses the service pays. A Waste Collection Service is a typical example of this.
 - (c) The Efficiency Principle
Does the rating system significantly distort property ownership and development decisions? In this respect, local government rating is typically modest compared to other costs associated with acquiring and holding property.

Rates and Charges Policy

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- (d) The Simplicity Principles – (Administratively and Compliance Simplicity).
Rates must be easy to understand, hard to avoid and easy to collect.

2.5 Excepting land which is subject to specific exemptions (see s.87 of the LG Act), all land within Council’s municipal area is rateable land. In addition to using a general rate, Council also raises revenue through fees and charges which are set by giving consideration to the cost of the service provided and any equity issues.

3 SCOPE

3.1 This policy covers the following subject matters:

- (a) The relationship between Council’s strategic plans, its budget and rates structure;
- (b) Council’s revenue raising powers;
- (c) Method used to value land;
- (d) Adoption of valuations;
- (e) Fixed Charge vs Minimum Rate;
- (f) Concessions;
- (g) Discounts;
- (h) Payment of rates;
- (i) Late payment of rates;
- (j) Recovery of Rates;
- (k) Sale of land for non-payment of rates;
- (l) Remission and postponement of rates; and
- (m) Rebate of rates.

4 PROCEDURE

Strategic Focus

- 4.1 Council is faced with balancing its service levels, the needs and expectations of the Community and setting appropriate taxation levels to adequately resource and fulfil its roles and responsibilities.
- 4.2 In determining rates for the financial year Council gives primary consideration to:
 - (a) Council’s Strategic Plan;
 - (b) the requirements of the LG Act;
 - (c) current economic climate; and
 - (d) likely impacts on the Community.

The resources required to successfully achieve this outcome are documented in Council’s Annual Plan.

The General Rate

Rates and Charges Policy

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- 4.3 Council considers the best combination for the making of General Rates is one that is based on two components; namely one which is based on the value of rateable land and the other which is a fixed charge. This combination best reflects the Capacity to Pay and Benefit Principles as outlined in section 2.4(a) of this policy and provides the fairest and most equitable method of charging rates to the Community.
- 4.4 Council considers that the imposition of a fixed charge component is the most fair and equitable means of ensuring that all ratepayers contribute in part on an equal, non-discriminatory basis, for the availability of a range of infrastructure, services and actions that Council provides.
- 4.5 From an equity or fairness consideration the use of a fixed charge is preferable to a minimum rate. A minimum rate arbitrarily assigns a minimum amount to a property but it only applies to a percentage of properties as determined under the LG Act. By contrast, a fixed charge treats everyone equally because, to a degree, all ratepaying properties are considered to derive similar benefit from all of the services and activities of Council.
- 4.6 Council adopts the Capital Value (CV) method as determined by the Valuer-General as the valuation method to be used in determining rates. Council considers that the CV method of valuing land provides a fair method of distributing the rates burden across all ratepayers on the following basis:
- (a) Rates constitute a system of taxation and the capacity to pay aspect of the equity principle of taxation requires that ratepayers of similar wealth pay similar taxes and ratepayers of greater wealth pay more tax than ratepayers of lesser wealth. Property value is the legislated indicator of wealth, and the assessed capital value is reflective and a strong indicator of the overall market value of a property.
 - (b) Essentially, CV is more representative of a ratepayer's capacity to pay under the LG Act. This can be contrasted with Assessed Annual Value (AAV) which is essentially a theoretical rental value. There are also no distortions due to artificial minimum caps imposed under AAV and the data that underpins the valuation is more transparent.
 - (c) Being much easier to explain to ratepayers is an advantage and a change which is in line with the State Government's desire to eventually eliminate AAV as a valuation basis and ultimately reduce the revaluation costs for all councils.

Service Charge

- 4.7 Council considers that the fairest means to charge for waste infrastructure is as part of the General Rate because this service forms just one of many activities that Council undertakes and should not be singled out. Were it to be singled out, only a small percentage of the costs should be recovered as a rate or charge.
- 4.8 Council considers that waste collection services, if provided, would be more equitably funded through the imposition of a waste service charge. This accords with the User Pays Principle set out in section 2.4(b) of this policy. If applied it would be set as a service charge and only levied on those properties that are actually supplied with a waste collection service, the form and frequency of which would be determined by Council.

Differential Rating

Rates and Charges Policy

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- 4.9 Under the LG Act Council is able to vary by declaration a different general rate, service rate or service charge in different parts of the municipal area according to a variety of factors. These include but are not limited to the use or predominant use of land, the non-use of land and any other prescribed factor which includes adoption of Land Use Codes that are provided to the councils by the Valuer-General and published on the internet by the Tasmanian Government as part of the Land Information System Tasmania (see r.33 of the *Local Government (General) Regulations 2015*).
- 4.10 Council has decided that the General Rate will be varied for all Non-Vacant Commercial and Non-Vacant Residential Properties throughout the Municipality. In addition, the General Rate will be also varied for all properties located on Cape Barren Island.
- 4.11 Council has also decided that, if a waste collection service is provided, then the costs and extent of the service will be varied according to locality and/or the level of service being provided.

Fire Protection Service Rate

- 4.12 Council collects a fire service levy on behalf of the State Fire Commission. Council is required to collect a set amount and deliver this, less set collection costs, to the Fire Services Commission.
- 4.13 The Fire Service Rate is based on the cents in the dollar of AAV, with a minimum fire levy charge as set by the Fire Services Commission.

Rate Exemptions

- 4.14 There are a number of properties which are public, educational, religious or charitable in use or ownership and properties as defined under the *Aboriginal Lands Act 1995* which are, in part or in full, exempt from the general rate.

Adoption of Valuations

- 4.15 Council adopts the CV as assessed by the Office of the Valuer-General as the valuation method to be used in determining rates. If a ratepayer is dissatisfied with the valuation made, the ratepayer may object to the Office of the Valuer-General in writing.
- 4.16 Council has no role in the assessment of objections to valuations. The lodgement of an objection does not alter the due date for the payment of rates. Rates must be paid in accordance with the relevant rates notice until otherwise notified by Council.

Objections to Rates Notice

- 4.17 Council will consider any objections to rate notices in accordance with section 123 of the LG Act.

Rate Concessions

Rates and Charges Policy

F6

- 4.18 The State Government, in providing equity across Tasmania, funds a range of concessions in relation to Council rates. The concessions are administered by various State Government agencies that determine eligibility and pay the concession directly to Council on behalf of the ratepayer. Concessions are available only on a ratepayer's principal place of residence.
- 4.19 Ratepayers seeking a rate concession are not to withhold payment of rates pending assessment of an application by the State Government. Rates must be paid in accordance with the relevant rates notice.
- 4.20 A refund will be paid to an eligible person if Council is advised that a concession applies and rates instalments have already been paid.

Payment of Rates

- 4.21 Council rates are payable by two equal instalments in October and February. The total outstanding balance of rates may be paid in full at any time. Any arrears outstanding are payable along with the first instalment.
- 4.22 Any ratepayer who may, or is likely to, experience difficulty meeting an instalment should contact Council's Rates Officer to discuss alternative payment arrangements. Such enquiries are treated confidentially by Council.
- 4.23 A discount at a rate set by Council's annual Rates Resolution applies for rates paid in full before or on the due date of the first instalment.

Late Payment of Rates

- 4.24 Council has determined that penalties for late payments will be imposed in accordance with the provisions of the LG Act and any relevant Council procedures.
- 4.25 A penalty at a rate set by Council's annual Rates Resolution may be imposed on instalments not paid by or on the due date.
- 4.26 Daily interest at a rate set by Council's annual Rates Resolution may be applied in respect of the unpaid rate or instalment for the period during which it remains unpaid.

Recovery of Rates

- 4.27 In accordance with sound financial management principles, Council's Rates Department will apply prudent debt management practices to Rate Debtors. This includes an ongoing review of rates in arrears and following a systematic debt recovery approach in line with Council's Debt Collection Policy.
- 4.28 Rates, which remain in arrears for a period exceeding 21 days from the due date of an instalment, will be subject to a reminder notice.
- 4.29 Council will seek to recover a rate debt through Council's debt collection agency if an amount remains overdue after the final instalment date.
- 4.30 Prior to taking legal action Council will provide the ratepayer with a notice in writing of its intention to recover the outstanding debt through legal action and provide 14 days for payment prior to lodging the outstanding debt with its debt collection agency.
- 4.31 Prior to taking legal action Council will take all reasonable steps to establish a payment arrangement or negotiate settlement of the outstanding debt.

Sale of Land for Non-payment of Rates

Rates and Charges Policy

F6

4.32 The LG Act provides that a Council may sell any property where the rates have been in arrears for a period of three years or more. Council is required to among other things:

- (a) Notify the owner of the land of its intention to sell the land;
- (b) Provide the owner with details of the outstanding amounts; and
- (c) Advise the owner of its intention to sell the land if payment of the outstanding amount is not received within 90 days. Except in extraordinary circumstances, Council will enforce the sale of land for arrears of rates.
- (d) In the event the owner cannot be contacted follow the procedure as outlined within the Act.

Remission and Postponement of Rates

4.33 Application for remission of rates and charges or postponement of rates will be considered under the discretionary provisions of section 129 of the LG Act.

Rebate of Rates

4.34 Council has determined that rebates of rates will be only granted when the applicant satisfies the requirements for mandatory rebates under applicable sections of the LG Act.

Compliance with policy

4.35 A rate cannot be challenged on the basis of noncompliance with this policy and must be paid in accordance with the required payment provisions (see s.86B(6) of the LG Act).

4.36 Where a ratepayer believes that Council has failed to properly apply this policy, it should raise the matter with Council. In the first instance contact should be made with Council's Rates Officer.

5 GUIDELINES

5.1 Rates constitute taxation for the purposes of Council, rather than a fee for service.

5.2 The value of rateable land is an indicator of the capacity of ratepayers to pay rates.

5.3 There is a commitment to the broad principle of fairness and equity in the distribution of rates across all ratepayers.

5.4 Capital Value (The valuation of the rental potential of the property) as determined by the Valuer-General each year, is used as the basis for valuing land within the Council area.

5.5 A general rate comprising a rate in the dollar of Capital Value and a Fixed Charge with variations through differentials according to land use and location will be applied as a means of raising taxation revenue within the Community.

5.6 An annual service charge for Waste Infrastructure will now not specifically apply separately to land within the Municipal Area but if a Waste Collection Service is applied it will be set as a Service Charge but only applied to those properties that are actually provided with such a service: the form and frequency of which would be set by Council.

5.7 The fire service levy that Council collects on behalf of the State Fire Commission is based on the cents in the AAV dollar.

Rates and Charges Policy

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- 5.8 Eligible Pensioner ratepayers are entitled to a remission of rates, subject to a range of criteria. This remission does not apply to holders of the Commonwealth Seniors Health Cards.
- 5.9 Council will apply rebates in accordance with the LG Act. Council will adhere to the LG Act in granting full or part exemption for general rates for properties which may include public, educational, religious, aboriginal, cultural or charitable in use and ownership.
- 5.10 Council will continue to accept the payment of rates in full or by two instalments. Council will consider other payment arrangements with ratepayers when requested.
- 5.11 Council will impose late payment penalties strictly in accordance with the LG Act.
- 5.12 Council may enforce the sale of land for non-payment of rates in accordance with the LG Act.
- 5.13 Council advises that a rate cannot be challenged on the basis of noncompliance with this policy and rates must be paid in accordance with the required payment provisions.

6 COMMUNICATION

All Councillors and employees will be briefed on this policy as part of the induction program and on an on-going basis as and when required.

7 KEY LEGISLATION

The rating and valuation methods available to Local Government are prescribed under various pieces of legislation. In particular, Part 9 of the LG Act and parts of the *Valuation of Land Act 2001* are the most relevant.

8 DEFINITIONS

Part 9, Section 86, of the LG Act provides definitions for the key terms used in the Local Government rating system.

9 RELATED INSTRUMENTS

Flinders Council Strategic Plan
Local Government Act 1993
Valuation of Land Act 2001
Fire Service Act 1979
Aboriginal Lands Act 1995

10 APPLICATION OF POLICY

- 10.1 The Rates and Charges Policy applies to Councillors in setting annual rates and charges for the Community.
- 10.2 Upon adoption, the Rates and Charges Policy will apply for a 4-year period unless there are circumstances, as envisaged under the LG Act, that warrant its amendment.

B. CORPORATE SERVICES

Item B1: Rates and Charges Policy

ACTION	Decision
PROPONENT	Council Officer
OFFICER	Bill Boehm General Manager
FILE REFERENCE	FIN/0701, FIN/1207
ASSOCIATED PAPERS	<i>Annexure 5: Rates and Charges Policy – current Annexure 6: DRAFT Rates and Charges Policy - Amended</i>

INTRODUCTION:

In Tasmania, Council rates are a form of property tax levied by Local Government as the primary source of funding for the many mandatory and discretionary services that are provided. Rates are administered in line with the *Local Government Act 1993* (the Act), which allows some flexibility for each Council to make decisions that suit its local community.

Section 86B of the *Local Government Act 1993*, states each Council must prepare and adopt a Rates and Charges Policy by 31 August 2012 and review this at the end of each successive four-year period after this date.

For 2017/18 Council, has been subjected to a municipal wide revaluation by the Valuer General as part of a 6-year revaluation cycle. Given the resultant movements in property values and as part of a continuous improvement process, at the April 2017 Meeting of Council it was decided to undertake a thorough review of Council's rating system, the natural consequence of which means that a review of amending accompanying policy is required.

This report summarises this review and recommends the appropriate policy improvements via the attached policy ahead of putting forward resolutions for the 2017/18 Budget.

PREVIOUS COUNCIL CONSIDERATION:

26 July 2012	220.07.2012
23 October 2012	Letter from the Local Government Division of Premier and Cabinet raising aspect of a potential change in rating methodology
3 March 2016	Council Workshop - Presentation from the Local Government Division of Premier and Cabinet regarding a potential change in rating methodology
5 April 2017	Council Workshop - Rating Discussion Paper
20 April 2017	Council Meeting – The following resolutions were adopted

95.04.2017 Moved: Cr G Willis Seconded: Cr D Williams

That in light of a council wide revaluation and subject to receiving and reviewing reports

*on rate comparison using AAV and CV and modelling the effects of a fixed charge
Council considers the following changes for the 2017/18 rating year:*

- (e) Abolition of a minimum rate to be replaced by a fixed charge per property assessment;*
- (f) Change from the AAV method of rating to Capital Value method;*
- (g) Remove waste levy as it is currently applied and incorporate this into the fixed charge and foreshadows that there may be a future introduction of a waste levy as a service charge for a kerbside waste collection.*

CARRIED UNANIMOUSLY (7-0)

For: Mayor Carol Cox, Deputy Mayor Marc Cobham, Cr Chris Rhodes, Cr Peter Rhodes, Cr Ken Stockton, Cr David Williams and Cr Gerald Willis.

96.04.2017 Moved: Cr P Rhodes Seconded: Deputy Mayor M Cobham

That as part of the rates modelling for the 2017/18 year, the following aspects be considered:

- (a) Review and introduction of differential rates per specific land use categories;*
- (b) Review and introduction of differential rates per specific locations for each island in the Furneaux Group and other locations that Council considers appropriate;*
Endeavour to ensure that the entire amount of any increase in rates associated with natural growth is delivered through rates modelling; and
- (c) Review and benchmark our current level of rating*

2 June 2017	Council Workshop – Meeting with the Valuer General regarding new municipal wide valuations
29 June 2017	Council Budget Workshop
6 July 2017	Council Workshop

OFFICER'S REPORT:

Background

In preparation for and later as a result of the 2017/18 Council-wide revaluation undertaken by the Office of the Valuer General, a detailed best practice review was undertaken into the rating system that operated in the Municipality.

In part this action was promoted by the Local Government Division of Premier and Cabinet who has advised that the government supports a general industry move away from the use of Annual Value (AAV) towards a Capital Value (CV) system of rating. The general intent is that, once a majority of Councils have made the change to CV, AAV's will not be provided by the Office of the Valuer General. When this occurs, revaluation costs for all Councils will reduce.

Council has also received significant feedback questioning the fairness and application of certain aspects of our current rates system, particularly with respect to the Waste Levy, where lowly valued properties and vacant land are specifically affected as those ratepayers question the equity for perceiving to pay for Waste Management Infrastructure on the same basis as

those that use the facilities to a greater extent. Council staff have had difficulty explaining AAV based rating and have had to resort to CV to explain how rates are calculated.

As a result, a Rating Information Paper was prepared and reviewed by Council in April 2017. This provided a sound basis to review all of the aspects under the Act associated with rating; for there are many options available. In addition, Council's current methodology which uses AAV, a Minimum Rate and a Waste Levy was compared against the principles of taxation which the Act uses to underpin Local Government rating (see s.86A of the Act).

From a "principle policy based perspective" the current system was seen as significantly inferior with some inequities and at the April 2017 Council Meeting, Council resolved, as indicated above, to examine detailed rate modeling and examine the effects for a variety of options. These included comparing AAV and CV modeling with a minimum and fixed charge, use of differential rating for land use and island locations and the potential removal / repositioning of the Waste Levy. Benchmarking with other Councils was also commissioned.

Review Findings

This work was undertaken and reports examined and discussed in detail at two subsequent Council Workshops. Key aspects included the following:

- (a) There are many factors in play such that rates modelling has and will invariably throw up changes at a revaluation, some major and some minor both up and down reinforcing the current timing of a thorough review.
- (b) Flinders has a very small rates base and a large operational deficit and additional rates associated with additional properties and new developments and extensions that have arisen since the start of the previous financial year represent "natural growth" is of particular significance.
- (c) Under the Act rates are a form of taxation - not a 'fee for service'. As such there are a number of principles of taxation that need to be considered. These include the following:
 - The Capacity to Pay Principle broadly measured by a property's valuation.
 - The Benefit Principle which identifies that all ratepayers, regardless of valuation, receive some benefit from the services provided by Council on an equal basis. The Fixed Charge component of the rate reflects this.
 - The User Pays Principle which is virtually he who uses pays. A waste collection service, if offered in the future, would be such an example.
- (d) CV is viewed as more truly representative of a ratepayer's capacity to pay under the Act, unlike AAV, which is essentially a theoretical rental value. There are also no distortions due to artificial minimum caps imposed under AAV and the data that underpins the valuation is more transparent. Being much easier to explain to ratepayers is an advantage and this change would be in line with the State Government's desires to eventually eliminate AAV and thereby reduce Council's revaluation costs.
- (e) From an equity or fairness consideration, the use of a Fixed Charge is preferable to a Minimum Rate. A Minimum Rate arbitrarily assigns a minimum amount to a property but it only applies to a percentage of properties as determined under the Act whereas a fixed charge treats everyone the same; all rate paying properties are considered to derive similar benefit from all of the services and activities of Council.

- (f) The previous and not well liked Waste Levy was applied to all properties and was set at levels that coincided with the costs to operate waste management facilities. As there was no waste collection component this element was not included.

It however had no regard to the fact that each property's waste management needs varied yet they were charged the same amount. Effectively it acted like a Fixed Charge except that unlike a Fixed Charge it applied at a 100% level rather than the much lower cap that is required to be met for a Fixed Charge under the Act. It was also considered unfairly landed on lower valued properties, especially those on a minimum rate. An important consideration is the waste levy did not recover all of the medium and long term operational costs for waste management and, if retained and applied in its current form, retention would have invariably meant significant increases in waste levy costs thereby compounding the situation.

- (g) As previously indicated and highlighted by the Office of the Valuer General, AAV tends to hit higher on commercial properties and when CV is applied there can be a significant redistribution. The redistribution is not also equal with some types of properties tending to have significant higher AAV's as a percentage of their CV; which in reality was found to be difficult to justify. Use of an increased commercial differential was identified as a legitimate option.
- (h) In reviewing the sea access issues associated with the outer islands it was considered that Cape Barren Island warranted some consideration as they provide some of the traditional municipal services at their own cost.
- (i) Benchmarking with King Island and other Northern Tasmanian Councils also indicated that by and large rates on Flinders were on average around levels set elsewhere with a few exceptions as follows:
- higher for vacant land and in the residential sector;
 - lower in the primary production sector; and
 - where there are separate waste infrastructure charges, Flinders was inordinately high.

Summary

Dealing with the effects of the vagaries of a revaluation as well as a change in methodology is always a challenge but as indicated above moving to CV based rating with a Fixed Charge, eliminating the waste levy and introducing differential rating has a number of upsides namely:

- (i) significantly improving equity and fairness along sound policy lines;
- (ii) facilitating the growth of the rates base naturally and fairly at a greater rate than would otherwise be the case;
- (iii) changing to CV based rating will be welcome by the State Government and supports the push for reduced valuation costs; and
- (iv) providing the Council with more direct influence in the rates distribution through the use of differential rating.

Legal Implications

Sections 86A and 86B of the *Local Government Act 1993* (Act) impose the requirement for Council to adopt, and periodically review, a Rates and Charges Policy (Rates Policy).

Section 86B(2) prescribes certain matters that Council's Rates Policy is required to contain. Those matters are:

- (a) a statement of the policy that the council intends to apply in exercising its powers, or performing its functions, under Part 9 of the Act; and
- (b) a statement of policy in respect of prescribed matters, if any.

Currently, there are no 'prescribed matters' for the purposes of paragraph (b) above.

In addition to the requirements of s.86B(2), s.86A(1) sets out principles that Council is required to take into account when it adopts policies and makes decisions concerning the making or varying of rates. Those principles are:

- (a) rates constitute taxation for the purposes of local government, rather than a fee for a service; and
- (b) the value of rateable land is an indicator of the capacity of the ratepayer in respect of that land to pay rates.

The current impetus to review and amend Council's Rates Policy stems from the fact that:

1. Council proposed to adjust the composition of its current general rate for the 2017/2018 rating year; and
2. S.86B(4) requires Council to review its Rates Policy at the same as, or before, making an adjustment of this nature.
3. The Rates and Charges Policy must be reviewed at least every 4 years from 31 August 2012.

Section 86B(5) of the Act requires the Council, as soon as practicable after adopting or altering its Rates and Charges Policy, to make available copies of the policy as so adopted or altered to the public. This is the substantive legislative requirement.

Against that background, I have had the draft revised Rates Policy externally reviewed by Council's legal advisors but also in relation to Council's G4 – Council Policy Manual Policy.

In essence, Policy G4 divides the creation of new policies (or the amendment of existing policies) into a two-stage process which involves a 28-day public consultation feedback.

The process is as follows:

1. the new or amended policy is placed before Council and, if approved, it is placed on public exhibition for 28 days and members of the public are able to make comment;
2. if no comments are received, the new or amended policy is taken to be adopted and brought into force; however
3. if comments are received, the new or amended policy along with the comments are placed before Council for further consideration.

This policy is entirely of Council's making - it is not a requirement of any legislation or other instrument which governs Council's behavior.

Accordingly, it is open to Council to make exceptions for the application of the Policy if the circumstances warrant it.

In the case of Council's required 2017/2018 Rates Resolution:

- (a) the changes to Council's general rate, etc. require amendments to Council's Rates and Charges Policy;
- (b) the changes could not have been undertaken earlier due to the extensive and in depth analysis of the principles and impacts that the Council undertook; and
- (c) these amendments must be adopted before or at the same time as Council makes its 2017/2018 Rates Resolution.

In light of the timeframe restrictions on making the rates for the 2017/2018 financial year, if the amendments to the Rates and Charges Policy are publicly exhibited in accordance with Council's Policy G4, this would likely require Council to hold a special meeting in late August 2017. This is not an ideal outcome.

Accordingly, it is open to the Councillors to dispense with compliance with Council's Policy G4 in the interests of making Council's 2017/2018 Rates Resolution at the ordinary meeting in either July or August (but no later than 31 August 2017).

In this instance the policy itself is only required to put into legal effect a proposed budget decision which itself is a core responsibility on behalf of the Community.

Moving forward, it has also been suggested that Council dispense with Council Policy G4 and simply put new or amended Council policies out for public consultation on a case by case basis as the circumstances dictate. This is one of those circumstances as the rationale and transparent nature of the work undertaken over a long time and more particularly over the past 4 months is there for all to see.

The amended F6 Rates and Charges Policy is attached as Annexure 6. Upon adoption, it will apply for a 4-year period unless there are circumstances such as introduction of new differential rates, as envisaged under The Act, that warrant its amendment.

STATUTORY REQUIREMENT:

Local Government Act 1993

POLICY/STRATEGIC IMPLICATIONS:

4. Strategic, Efficient and Effective Organisation - Responding to risks and opportunities.
 - 4.3 Ensure Council meets its statutory obligations and manages corporate and community risk.
 - 4.3.9 Maintain Council's Policy Manual and Instrument of Delegation.
 - 4.3.12 Annual budget estimates and reviews.

BUDGET AND FINANCIAL IMPLICATIONS:

Adoption of this policy provides the legislative framework to make the required rates resolutions to raise the necessary funds for the implementation of the Annual Plan 2017-18

and to achieve Council's strategic outcomes detailed in Council's Strategic Plan and Annual Budget.

Should this policy and accompanying resolutions not be passed by 31 August 2017, then there will be a delay in sending out rates notices and as a result ratepayers will have a reduced period by which to pay the first rates installment. Delaying those ratepayers who normally pay their rates ahead of the due date from being unable to do so will likely have some potential minor effects in cashflow, and hence loss of interest.

RISK/LIABILITY:

Moderate to High.

Maintaining Council in a sound financial position is a critical and prime function of a Council. Failure to be financially accountable has significant implications for Council. The Rates methodology investigated and upgraded has a significant impact on the financial operations of the Council. Having a sound policy-based position enhances Councils credibility. From a community and political perspective given the 6-year revaluation cycle such a major review should only be implemented at a time of a major revaluation. Failure to act now would effectively postpone improvements in policy considerations for 6 years.

Should this policy and accompanying resolutions not be passed by 31 August 2017 then Council will be in breach of the Act which has serious consequences for the Council. This is likely to be viewed in a negative light by the Local Government Division of Premier and Cabinet Department, and potentially the Minister, especially as the delay would have been caused by Council's internal practices which are an additional layer to the normal decision making process under the Act and to which Council is in sole control of.

Delay will also impact ratepayers who will have a reduced period by which to pay the first rates installment and claim, if they wish to do so, a discount on their rates.

VOTING REQUIREMENTS:

Simple Majority

OFFICER'S RECOMMENDATIONS:

That in accordance with the provisions of the *Local Government Act 1993*, the Flinders Council hereby adopts F6 Rates and Charges Policy as attached (Annexure 6) and that it remains in force unless it is required to be amended under provisions of the *Local Government Act 1993*.

DECISION:

169.07.2017 Moved: Cr G Willis **Seconded:** Cr K Stockton

That in accordance with the provisions of the *Local Government Act 1993*, the Flinders Council hereby adopts F6 Rates and Charges Policy as attached (Annexure 6) and that it remains in force unless it is required to be amended under provisions of the *Local Government Act 1993* or amended in accordance with council policy to review policies every 4 years.

AMENDMENT

170.07.2017 Moved: Deputy Mayor M Cobham **Seconded:** Cr C Rhodes

That in accordance with the provisions of the *Local Government Act 1993*, the Flinders Council hereby adopts F6 Rates and Charges Policy as attached (Annexure 6) and that it remains in force unless it is required to be amended under provisions of the *Local Government Act 1993*

or amended in accordance with council policy to review policies every 4 years and further resolves that this policy comes into immediate effect without publicly exhibiting the policy in accordance with Council's Policy Manual Policy G4, as legislation dictates that the 2017/2018 rates must be set before the 31st August 2017 and Council has previously authorised such a review.

CARRIED (4-2)

For: Deputy Mayor Marc Cobham, Cr Chris Rhodes, Cr Ken Stockton and Cr Gerald Willis.

Against: Mayor Carol Cox and Cr D Williams

SUBSTANTIVE MOTION

That in accordance with the provisions of the *Local Government Act 1993*, the Flinders Council hereby adopts F6 Rates and Charges Policy as attached (Annexure 6) and that it remains in force unless it is required to be amended under provisions of the *Local Government Act 1993* or amended in accordance with council policy to review policies every 4 years and further resolves that this policy comes into immediate effect without publicly exhibiting the policy in accordance with Council's Policy Manual Policy G4, as legislation dictates that the 2017/2018 rates must be set before the 31st August 2017 and Council has previously authorised such a review.

CARRIED (4-2)

For: Deputy Mayor Marc Cobham, Cr Chris Rhodes, Cr Ken Stockton and Cr Gerald Willis.

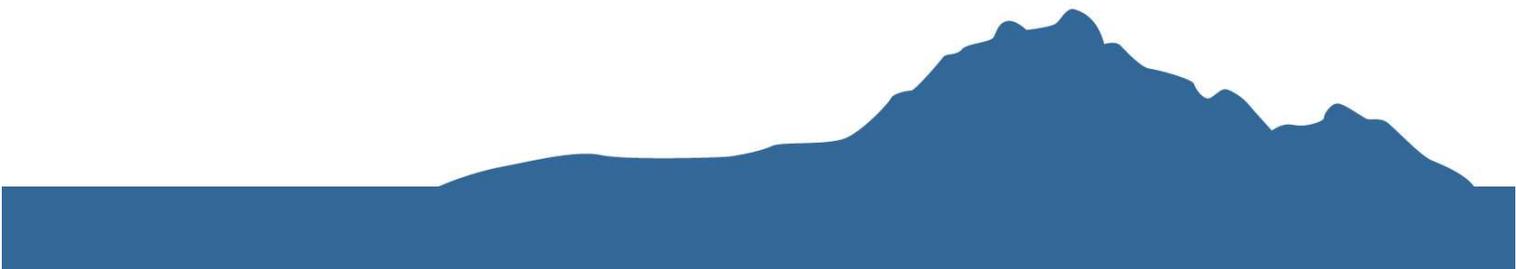
Against: Mayor Carol Cox and Cr D Williams

Note: Section (e) under the heading "Review Findings" in the Officer's Report was amended at the meeting for the purposes of clarity.



Rating Information Paper

April 2017



1 EXECUTIVE SUMMARY

This Information Paper has essentially been prepared now in response to previous work by Council where it was foreshadowed that the 2017 General Municipal Property Revaluation presented the ideal opportunity to modernise Council’s Rate methodology to move from the current minimum rate and AAV method to a fixed charge and Capital Value methodology.

The Information Paper presents sound, logical, “principle” based reasons for the change to be implemented for the 2017/18 financial year.

Importantly it also highlights a large array of other factors and options for Council to use that will assist in a transition, improve the 2017/18 rate modelling but also provide the basis for improved public education on this vexed topic.

2 INTRODUCTION

There are many elements that make up the operation of a Council and like most structural issues there is more to them than meets the eye. Often they are complex with no real definitive answer.

Like all Councils, the subject of Council Rates is the most topical, confusing and in some ways, emotive. Perhaps it’s because it is upfront and “appears” to be simple.

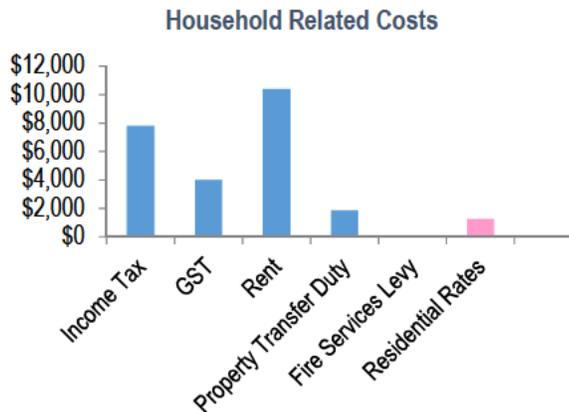
2.1 Upfront

Council rates are reviewed annually. Some Councils send out a summary of the budget and annual business plan with the first rates notice of the financial year. In this a brief explanation of major aspects including rating changes is provided. Notwithstanding that an increase in rates may have been flagged or expected, inevitably for many it’s the first time a change in rates is highlighted.

On Flinders, this is further compounded as there are many properties whose ownership is “off island” and as a small remote community every \$ cost is often magnified in its real or perceived impact. Yet Commonwealth taxes hit us all every day of our lives through taxation of our wages and salaries or through the GST. We all just become acclimatised. We forget that.

Below is list of typical property related household type costs which is graphed for illustrative purposes only to show relativities.

Income Tax	Tax on \$50,000
GST Fuel Tax	Estimate \$2,000 per household
Rent	\$200 per week
Property Transfer Duty	Av valued house of \$292,343 over 5 years
Fire Services Levy	Minimum
Residential Rates	Incl Waste Levy



Of course, this all adds up but it appears easiest to complain to a Council because we are here; whereas Federal and State Governments are remote with many of the taxes and charges hidden and not in one lump sum that is easily identified. Even when we do receive our tax return and see the amount of income tax we pay; we usually focus on the amount we must pay or in many instances what we receive back. We forget that all that has occurred is us receiving money that we have effectively been overcharged for!!!

2.2 Simple

We all understand rating, don't we? It's a property tax, isn't it? The higher the value our property the more we pay? True, to a point, but do you know the principles behind rating, how rates are derived, how the level is set or what controls there are on a council in making decisions about rates?

3 REASONS FOR RATES

Rates revenue is used to provide a range of services such as road construction rehabilitation, and maintenance, footpath repairs, storm water drainage, the collection of rubbish and recyclable materials, ongoing maintenance of parks, gardens and buildings, street cleaning, community economic development, planning and building, animal control, planning and enforcement of local laws, tourism support etc...

Rates are only levied to "balance the budget" for a program of works and services that are required or desired by the Community. Because these are general in nature it is not possible to identify who should pay for what, hence the need for some form of general taxation. Normally any significant increase in a council's expenditure to support a higher level of service will also have to be funded by an increase in rates or a reduction in another area of service. The price of delivering and providing these services is spread across the community in the form of rates.

4 EXPENDITURE CONSIDERATIONS

When setting rates each year, Council considers many aspects on the expenditure side of the equation such as driving the strategic plan forward, in our case toward population growth; potential expectations from the State Government regarding performance; inflation effects; community infrastructure needs and community wishes for increased service levels that are incorporated into Council's Annual Business Plan and Budget.

Council however needs to operate in a fiscally responsible manner. As far as practicable it must meet the principles of intergenerational equity to ensure that the residents and community of today pay their contribution towards the running costs of the Municipality and do not leave a burden for future ratepayers.

The simplest way to express this is that a council should strive to have a balanced operational budget; not necessarily every year but over the long term. If this occurs then depreciation, (which is essentially the recognition of the "non-cash" value of the assets that have been consumed by today's ratepayers) will be funded so that future ratepayers will not need to fund their replacement.

So, the rates that are applied every year do not necessarily relate to activities of that particular year.

5 TAXATION PRINCIPLES

The Local Government Act provides the legislative framework to allow councils to levy and collect rates. Section 86A of the Act covers the general principles in relation to the making or varying of rates as follows:

- (1) *A council, in adopting policies and making decisions concerning the making or varying of rates, must take into consideration the principles that*
 - (a) *rates constitute taxation for the purposes of local government, rather than a fee for service; and*
 - (b) *the value of rateable land is an indicator of the capacity of the ratepayer in respect of that land to pay rates*

Accordingly, rating is a form of taxation and as such, there are several principles of taxation that apply as follows:

5.1 The Efficiency Principle

If a tax is designed to change consumer's behaviour and the behaviour changes, the tax is efficient (e.g. tobacco taxes), but if the tax is designed to be neutral in its effect on taxpayers and it changes taxpayer's behaviour, a tax is inefficient.

Within the context of rating, does the methodology significantly distort property ownership and development decisions in a way that results in significant efficiency costs? Local Government rating is typically modest compared with other costs associated with acquiring and holding property.

5.2 The Equity Principle

Does the tax burden fall appropriately across different classes of ratepayers?

Equity is a subjective concept that is difficult to define. What is considered fair for one person may be considered unfair for another. There are two main equity concepts used to guide the development of rating strategies (and taxation more generally): namely the *Benefit Principle* (Horizontal Equity) and *Capacity to Pay Principle* (Vertical Equity).

5.3 The Benefit Principle

Taxpayers should receive some benefits from paying tax, but not necessarily to the extent of the tax paid. Ratepayers in similar situations should pay similar amounts (ensured mainly by accurate property valuations undertaken in a consistent manner, their classification into homogenous property classes and the right of appeal against valuation).

Rating using land value more directly addresses the *Benefit Principle* criteria than capital value. Land values better reflect any enhancement to property values arising from Local Government property services than capital value. For example, landscaping and beautification of adjoining open spaces or provision of drainage or road infrastructure by a council, will have a similar positive impact on the market value of a vacant allotment and an adjoining developed property. The capital value of a property will be affected by all the same variables that affect land value plus the effect of any change in the level and cost of built improvements thereon.

The degree to which AAV satisfies the *Benefit Principle* again rests on the extent to which the AAV of a given property reflects its underlying value as an asset. Where it does, AAV will be consistent with land value or capital value, depending on whether the land has improvements. Where it does not, the outcome is uncertain. The 4% CV cap imposed in Tasmania also distorts the situation.

5.4 The Capacity to Pay Principle

In levying taxes the ability of the taxpayer to pay the tax must be considered. Those who are better off should pay more than those worse off (the rationale applies for the use of progressive and proportional income taxation. It implies a “relativity” dimension to the fairness of the tax burden).

Compared with land value, use of capital value or AAV allows Local Governments to better address capacity to pay considerations. In general, people who live in properties with a higher market value have higher incomes (at least over their lifetimes). Use of capital value therefore means (all other things equal) that owners of higher valued properties pay proportionately more in rates than owners of lower valued properties. Of course, cases of ‘asset poor, income rich’ can still face potential cash flow issues.

Similarly, higher AAV typically reflects a higher level of income (all other things equal) and is – at least over the long run – generally reflective of higher property value (whether land value or capital value). The linkages between AAV and income also mean it may be preferable from a cash flow perspective (rents are a form of cash income), however in many cases AAV is imputed and hence no cash flow is generated. The correlation between land value and wealth, though in many cases significant, is nonetheless weaker.

5.5 The Simplicity Principle

The tax must be understandable, hard to avoid and easy to collect. In this context, there are two broad concepts of simplicity namely *Administrative Simplicity* and *Compliance Simplicity*.

5.6 Administrative Simplicity

The simplicity with which the tax system is administered, and the cost-effectiveness of revenue collection, are also important design criteria. Key considerations in this regard include ease of identification of tax payers, ease of collection of tax revenue and time and effort involved in ensuring compliance and enforcement.

Local Government rates are in general hard to avoid as real property is immobile, property owners are readily identifiable and Councils have legislative powers to force property sales to recover outstanding rates. Consequently, they are relatively easily enforced compared with other forms of taxation. However, the cost and effectiveness of Local Government taxation can vary based on system design and valuation and rating practices, processes and simplicity of explanation of the methodology.

5.7 Simplicity of Compliance

Tax design must also have regard for its impacts on tax payers. A best practice tax should be easily understood and simple to comply with, ensuring that the burden placed on taxpayers is minimised. In their simplest form, Local Government rates generally satisfy these criteria well, especially compared with the onerous compliance requirements associated with many state and federal taxes. However, this can vary significantly depending on the rating base employed and the characteristics of the rating system (e.g. the number of differentials). For instance, CV rating is generally easier to explain to ratepayers than AAV as it is intuitively understood. In practice, when Rates Officers explain AAV rating to ratepayers it is usually in reference as a percentage of CV anyway.

The overt nature of Local Government taxation (compared with, for example, the GST or personal income tax), means that community concern can readily manifest itself in a way that creates additional costs for administrators.

5.8 Sustainability

Does the system generate sustainable, reliable revenues for councils and is it durable and flexible in changing conditions (i.e. can it adequately withstand volatility)?

Managed appropriately, all available property valuation bases have the capacity to provide councils with a sustainable long term revenue stream in most cases. However, the valuation bases vary in their inherent stability. AAV is generally a more stable revenue base than capital value and especially land value, where the vast majority of movements in capital value are generated.

Rents tend to be slower to adjust than property prices, due partly to the common use of fixed term contracts which lock in rates for a given duration. Rents are also not subject to the influences of investor behaviour, which, depending on economic and financial market conditions, can be a major source of fluctuation in property markets. However, stability is also influenced heavily by the valuation process which – as the Tasmanian experience demonstrates – can be a major source of volatility itself (irrespective of the valuation base employed).

5.9 Summary

To some extent these principles conflict with each other. Governments must balance the application of the principles, the policy objectives of taxation, the need to raise revenue and the effects of the tax on the Community.

Summarising the discussion in the preceding sections, the following table (*Access Economics Rating Review - page 32*) provides an indicative quantitative assessment of each valuation base against key criteria. In undertaking this assessment, factors specific to the Tasmanian context have, to the extent relevant, been considered. For example, the added complexity generated by the 4% minimum rule has been reflected in the ranking assigned to AAV.

Naturally, in the absence of detailed analysis, an assessment of this nature is largely illustrative, in part, as there has been no weighting attached to the analysis and hence the strength of conclusions drawn from it are limited. Nevertheless, it provides a useful reference point for comparing the alternative bases available in the administration of Local Government rating.

	Economic Efficiency	Benefit Principle	Capacity to Pay	Administrative Simplicity	Compliance Simplicity	Sustainability
Land Value	5/5	4/5	2/5	4/5	3/5	3/5
Capital Value	3/5	2/5	4/5	3/5	4/5	4/5
AAV	4/5	2/5	4/5	2/5	1/5	4/5

When choosing a valuation base this is ultimately a policy decision. The key consideration would be capacity to pay and in this context, the scope to assess relative capacity to pay would be greater within property classes rated against capital value.

This view is further supported by the current practice and direction of the Valuer General who has indicated that once most councils move away from AAV towards Capital Value as a valuation base, the AAV will not be provided. When this occurs revaluation costs to all Councils will reduce.

Currently Clarence, Kingborough, George Town and Sorell all rate using Capital Value. I understand a few others are undertaking modelling for a shift. These include Devonport, Launceston and Hobart.

The Local Government Division of the Department of Premier and Cabinet have advised that the government supports this change, hence previous assistance with rate modelling that was previously provided to Council at a workshop in February 2016.

6 RATING TOOLS

The Local Government Act provides councils with an array of options or Rating Tools by which to influence how the rating system is administered and how the tax burden is distributed across the community. Rating tools refer to the structure of the general rate (ad valorem with and without fixed and service charges); structure and range of service rates and charges; variations across classes of ratepayers (differentials); variations across the Municipality (locality) and limitations on its value (minimums, maximums or caps).

6.1 Differential Rates

Differential rates or variations in rates under Section 107 of the act allow different classes of ratepayer (e.g. properties in different localities and/or different forms of land use) to be taxed differently. The application of differential rating does not affect the amount of overall revenue raised, but can mean that properties with the same value but with different uses or in different localities pay different levels of rates.

Differentials therefore provide a tool for addressing both *Capacity to Pay* and *Benefit Principle* considerations. Commercial uses, for example, may be charged a proportionally higher rate either because their economic capacity is higher, or that the benefits they derive from council services are greater.

However, careful consideration needs to be taken in applying differentials. Too many can cause confusion. As noted above, it is probable, for example, that additional or more ready access to council benefits enjoyed by some properties relative to those elsewhere are already capitalised into property values and hence, all other things being equal, these properties will pay higher general rates. *Capacity to Pay* considerations are likely therefore to be of more criticality in determining the merit of applying differential rates.

For instance, on Flinders there would seem to be adequate opportunity to charge a separate reduced rate for Cape Barren and other islands given that they cannot access many of the services physically provided due to isolation by sea.

6.2 Fixed Charges and Minimums

The rationale for a rates minimum (i.e. in total dollar terms) or fixed charge, stems from the fact that for many aspects of council services, the benefits are distributed relatively evenly across properties and therefore ratepayers. From an optimal taxation design perspective, a fixed charge is generally preferable to a minimum rate for addressing these considerations.

Some services are people-related, or benefit all property owners equally, rather than property values proportionately and a fixed charge can best accommodate this. Application of minimums often result in some (or many) owners of low value properties paying a disproportionate share of the cost of service provision. Importantly it puts a further element of arbitrary judgement into the mix which is difficult to substantiate when reviewing this against the *Benefit* and *Capacity to Pay Principles*.

In other jurisdictions, many local governments choose to rate using capital values because it better accommodates capacity to pay considerations. While capacity to pay is more closely correlated with capital value than with land value, this correlation is far from perfect. A fixed charge has the effect of reducing the increase/decrease in rates paid by a property with higher/lower value. For example, it will result in a property with double the value of another paying something less than double the amount of rates (how much less will depend on the value of the fixed charge). A fixed charge can therefore be used to reduce the influence the value of a property has in determining the amount of rates payable.

However, over-reliance on a fixed charge – or other rating mechanisms with a similar intent – can compromise capacity to pay considerations, especially where capacity to pay (i.e. income or wealth) varies markedly across a council. In the extreme, capacity to pay is entirely undermined by a flat charge. Hence, while a significant fixed charge can also aide in generating stability, the circumstances under which this can be achieved in a non-regressive manner are limited.

The Local Government Act also restricts the application of both minimum rates and fixed charges as follows:

- A minimum rate may be set but not if there is a fixed charge. You can't have both.
- The level of a minimum rate is capped by provision within the Local Government Act.
- A fixed charge must apply equally to each rateable land assessment and the total amount collected from this aspect must not exceed 50% of the Council's general rates.

6.3 Property Valuation

This component covers the value of the property. Principally this is because it is usually the best measure of a ratepayer's "means" or ability to pay. Yet all that the property valuation attempts to do is to establish that one ratepayer with a higher valued property has more "means" than one with a lower valued property, and hence should pay more; in much the same way income tax varies with levels of income. Property value is therefore used as a "surrogate" as a measure of a property's ability to pay and importantly under section 86A(1)(b) of the Local Government Act the value of rateable land is deemed to be an indicator of the ratepayer's "*Capacity to Pay*".

Councils are required to engage an independent Valuer to carry out the task of determining property values. In Tasmania, this is carried out by the Tasmania Valuer General's Department. Unlike some other States who revalue annually, a formal revaluation of the entire municipality is only undertaken every six years. General municipal-wide adjustments through percentage change are carried out in between this period every 2 years. Properties which undertake some major change by way of redevelopment or land use change are however revalued annually. As a "general" rule valuations are of a general nature and usually 'conservative'. Any disputes over a property's valuation are dealt with by the Valuer-General, not the Council.

6.4 Land Use Differences

The Local Government Act allows rating to be varied according to a property's land use. This can be by zoning, or in our case, by designated land use categories as established by the Valuer General's Department. This method is superior as it can consider mixed land use and allow a Council to "differentiate" in the way it uses the rating system.

Unlike several Councils, we have not adopted differential rating for residential, commercial, industrial and vacant land. In other local governments, commercial and industrial rates in the dollar are slightly higher than residential rates.

One of the principal reasons stated is that commercial and industrial properties operate businesses and, therefore, the services provided by the Council assist in the property deriving a

profit with rates paid being tax deductible. This also applies to General Farming operations which are businesses. In addition, the road network in an area is by far the greatest and most costly asset that a Council must maintain and it is the one most affected by traffic load. For instance, the wear and tear or axle load by one large commercial truck is equivalent to about 10,000 cars! Commercial, industrial and farm properties rely heavily on commercial vehicles hence the potential for slightly elevated contribution through differential rates.

6.5 User Charges and Service Rates / Charges

The basis for raising general rates from ratepayers is to pay for the goods and services that a local government provides to its community. Many of the services provided cannot be charged out on an individual basis. For example, you cannot charge the property owner who has a streetlight outside the property for the benefits received from the streetlight because many people share in the benefits.

However, there are goods and services that the council provides that are specifically provided to individuals and for which a user charge can be set. Councils already make such user charges – e.g. swimming pool fees, hall hire, tennis court hire, recreation centre activities. Local governments need to give careful consideration to the goods and services provided to determine whether user charges should be adopted for some goods and services.

User charges are an appropriate mechanism for councils to use to reduce the rate burden on ratepayers. From the *Benefit Principle* perspective, it is obviously fair that people pay for the services they use, if the benefit is restricted to a particular individual. This is even more important in cases where individuals from outside the Council area use the services – if the cost is recovered through general taxation, ratepayers are subsidising non-ratepayers. e.g. Airport carparking. The *Capacity-to-Pay Principle* must also be considered when setting user charges to ensure that the economically disadvantaged can still access the services. Concession fees or vouchers are appropriate means of providing such services.

Councils are also permitted to provide a separate service rate or set specific user charges for the delivery of specific services which are defined as nightsoil removal, waste management, stormwater removal, fire protection and any other prescribed service that may be defined by the State Government. This method is ideal when the benefit of a service is identical for all. From an equity viewpoint, all should pay the same charge; hence it is entirely and appropriately based on the *Benefit Principle* as it's essentially a fee for service.

An example would be a domestic kerbside waste collection service in which the actual service provided, through frequency and size, is the same to all subject properties. Another test of this principle would be that if the service was withdrawn then so would the charge.

It should be noted that in the Flinders context the current waste levy, although classified as a service charge under the Act, is more akin to a fixed charge as the benefit currently offered is not identical, yet the levy is and it is not possible to withdraw the service as it needs to be provided anyway.

6.6 Rate Rebates and Non-Rateable Property

On a continuous basis, Council reviews all land classified within the Council area by the Valuer General. This is to ensure that those properties that are rateable under the *Local Government Act* as a separate occupancy are appropriately rated and that each makes an equitable contribution towards the costs of running the Municipality.

The provisions contained within the Act are specific, although on some occasions the interpretation is not necessarily straight forward. For those organisations that are exempt the

test is usually around the notion of the property being owned and exclusively occupied for the designated community or charitable purposes.

Rate rebates however can be potentially more discretionary in nature. In a policy sense, it is incumbent of the Council to justify any discretionary rebates within a sound policy framework that avoids specific judgements that can potentially lead to precedents that can be difficult to redress and undermine the objectivity of the rates system. Use of a rate rebate for aspects of hardship may be one such application

6.7 Rate Capping

Section 88A of the Local Government Act provides the Council with the ability to cap rate increases. Whilst this aspect does provide a good mechanism to allow the Council to phase in major changes that for instance arise through a cyclic revaluation process or change in methodology, it nevertheless introduces many layers of complexity that only increase in subsequent years. For instance:

- There is a significant degree of subjectivity associated with setting applicable levels which are often hard to justify.
- It can add to the workload of the rates officer as programming the software to take into account all scenarios is difficult and manual workarounds have been done in the past to overcome anomalies.
- Unwanted unfair outcomes can result in, for example,
 - ~ the scenario where new identical properties are created during that financial year where those properties are not capped but the existing identical property next door is capped or
 - ~ where a property that was vacant land at the start of the financial year then has an improvement added.

For these reasons, it is not considered to be the first means of managing a change given that there are significant arrays of other mechanisms which are more soundly based in policy terms.

6.8 Separate Rates and Charges

Separate rates or charges are also a specific type of user charge. Section 100(2)(c) of the Act provides that a Council can make a separate rate or charge:

“for the purposes of planning, carrying out, making available, maintain or improving anything that in the Council’s opinion is, or is intended to be, of particular benefit to

- (i) the affected land or*
- (ii) the owners or occupiers of that land*

Councils are also permitted to make a separate rate or levy for a specific area. This is usually for a specific project that only benefits the area concerned. There is virtually no limit as to the flexibility afforded so long as the provisions within the Act can be justified, although there are invariably community / political arguments to consider. One example could be a levy on a retail area for specific business support or for a specific infrastructure upgrade.

6.9 Construction Rates and Charges

Section 97 of the Act also provides Council opportunities to make a construction rate or charge to address public stormwater systems improvements for land that is more than 30m from the public stormwater system.

6.10 Summary

So, as you can see RATES are not really simple! They are very complex and involve a degree of subjectivity in their application but administratively provide a large array of options.

Alas, it's not the perfect system but it must have something going for it as it is used in most western countries to fund local government activities. It's the only system that we have. It's been around for "years" and is unlikely to go away.

7 COMPARISONS

So why are rates on a property on Flinders different than a similar valued property elsewhere?

You cannot meaningfully compare actual property valuations between two councils and the resultant rates. There are simply too many variables. For instance, let's compare two different councils each with a different valuation base but identical services.

Item	Council A	Council B
Total Capital Value	400mill	250mill
No of Properties	1250	1250
Budget Rate Income	\$1,500,000	\$1,500,000
Average Valuation	\$320,000	\$160,000
Fixed Charge	\$350	\$250
Rate in the dollar	0.2656 cents	0.4750 cents
Rates for a property valued at \$300,000	\$1,146.88	\$1,675.00
Rates for an average valuation	\$1,200.00	\$1,010.00
Average Rate	\$1,200.00	\$1,200.00

As shown, even though the number of properties and budget income is identical for each Council the comparison of rates for a property valued at \$300,000 and the rates for an average valuation varies markedly. Add into the potential variation in the valuation method equation - differential rates, minimum rates, fixed charges and service rates - then a meaningful comparison is virtually impossible.

7.1 So why has the valuation of my property dropped, yet my municipal rate increased?

From year to year, the total capital valuation of the Council area will vary in total, and within a specific locality. In most instances valuations increase but on some occasions the reverse may be true. - In all instances however, a property's value is derived through market forces whilst the costs of the municipality and therefore rates required are not.

"So the concept of a council receiving windfall gain from valuation movements is just another myth."

Aside from any rate increase imposed to reflect increased costs to carry out works, the same amount of revenue still needs to be raised. The rate in the \$ will naturally vary to suit. If the total valuation drops, it is likely that the rate in the \$ will rise to compensate. If the valuations drop the rate in the \$ will increase. However, if an individual property's valuation dropped less than the average, then their rate may actually remain the same or rise.

"Contrary to popular belief, council rates are not set by a property's valuation but are instead only partly derived from the valuation"

7.2 Natural Growth

The only instances where a rate base grows is when the Council experiences growth caused not by general valuation movements but due to what is termed "Natural Growth".

There are generally three (3) forms of natural growth which justify an additional increase in the total rates collected above and beyond any general increase.

1. A property changes in value due to a capital improvement. In these circumstances the *Capacity to Pay Principle* kicks in.
2. A property land use changes into a higher classification and therefore will attract a higher rate in the \$ for the valuation component of the rates calculation if a higher differential is set. e.g. residential to commercial or vacant land to capital improved land.
3. A property is subdivided either physically or by there being more than one land use on the property. The *Equity Principle* applies as there are now additional persons benefiting from the services provided by the Council and therefore should pay their proportion.

On such a small island with a small rate base it is essential that Council understands the importance and isolates this aspect so that future rates modelling reflects any growth rather than having this absorbed in any general rates increase, otherwise growth will cross-subsidise existing ratepayers.

7.3 Any other Rating Quirks?

Yes, there are other things such as contiguous land (same ownership and occupation) and tenancy apportionments (one title but separate occupancies). Also, the Fire Service Levy by the State Government obliges the Council to collect the levy on behalf of the State Government for no net gain. The levy is set as a rate in the \$ on the properties AAV subject to a minimum amount and is shown as a separate charge on the rates notice.

7.4 OK. So, have we ever tried to compare rates with another area?

Of course, we all have and have all made the same error. As indicated it's impossible to compare one area with another. There are simply too many variables. It's like comparing apples with oranges. Whilst they are both fruit they look different, feel different, taste different and cost different amounts!

7.5 But if we do compare what measure can we use?

Given the large range in land use types and different types of property within an area there are only three "half" reliable measures.

The first revolves around comparing like with "like-ish". It's clearly no good comparing a rural coastal Council with one on the urban fringe. The property composition and expenditure profiles are completely different as is the land use by which rates are determined.

The second is the average rates for a particular classification, a municipality: the residential land use being a particular pointer as unlike many other classifications there are less variables. It is usually the first question someone asks as it sort of gives you a feel for the level of rating in an area. It ignores whether the area is valued highly or lowly and absorbs distortions through a fixed charge or municipal rate. At the same time, it is inherently better than a capital value of a property or the rate in the dollar.

The third is the Community's "perceived" capacity to pay. Most local governments make from year-to-year some form of value judgement at the budget time when determining whether to increase rates and by how much. For example, in rural areas when there is a drought or a poor season the following year's rate increase tends to remain static or rise only slightly. Yet in "good" years the rise may often tend to be greater. Councillors invariably have a feel for changes in their constituents' income and react accordingly.

7.6 Does Size and Location Matter?

It's obvious size and location always matters. Large councils have economies of scale whereas on Flinders we don't; notwithstanding that in part this is recognised in the distribution of Grants

Commission funds through the equalisation methodology. As an island, we also have inherent cost disadvantages which impact not just on the operations of Council but also on the island community.

7.7 What about implications for the future?

As part of the State Government's review of the Local Government sector generally, Council has been participating in a resource Sharing Project with other Northern Tasmanian Councils. Review, reform and the potential amalgamations will always be on the agenda and inter alia the analysis of revenue and expenditure of all local governments will continue to be a feature. It is inevitable that the State Government will form judgements on how much each Council is doing for itself. The State Grants Commission also undertakes revenue annually, although unlike the State Government no judgements on performance are made.

The role and level of local revenue raising and impacts on Council's underlying financial performance will always be open to scrutiny. Whether an increase in rates within Flinders above the general average increase applicable is justified through benchmarking and analysis or not remains open for consideration, especially if the Council is to have an active role in growing our population. Research and quantifying a long-term strategy is essential. The data collected as part of the Northern Tasmanian Local Government review may prove useful.

Unfortunately, this aspect is extremely important but also in the Community's eyes potentially highly emotive. In all levels of government decisions need to be taken with a long term as well as a short-term view in mind but each councillor is in for only a fixed term. For instance, our operating deficit is a consistent feature but in reality, it is in part due to previous decisions over many years. The responsibility however remains with the current and future Councils.

8 CURRENT RATES SYSTEM

Council current Rates system comprises various elements. These are described below along with comments relating to the rating principles as previously outlined.

8.1 Land Use Category as defined by the Valuer General

The land use category as defined by the Valuer General is superior to zoning as it provides opportunities to allow for mixed land use across a municipality regardless of the applicable zoning, especially given the age of Council's planning scheme and lack of specific definition of zone boundaries.

8.2 Rate in the \$ based on a properties AAV

As indicated in the above analysis the use of AAV as a long term reliable modern basis to measure a property's capacity to pay is problematic in part as in the future its use will likely be discontinued. It compares poorly in relation to the *Simplicity Principles* and has the added disadvantage of having an arbitrary cap of 4% of a CV applied which weakens the *Capacity to Pay principle*. It is also less easily understood by ratepayers and the community who whilst understanding the concept of Capital Value do not as easily understand AAV.

8.3 Use of a minimum rate

Application of a minimum rate introduces a further element of arbitrary judgement into the mix which is difficult to substantiate when reviewing this against the *Benefit and Capacity to Pay Principles*. It means that each property has two elements or tests to meet in how the rates are calculated.

8.4 A fixed waste levy per property assessment

In design terms this element is strictly speaking a form of fixed charge rather than a user service fee as the benefit currently offered is not identical yet the levy is. It is also difficult to explain why this particular service and not others are treated separately.

8.5 One uniform rate in the \$ for all properties

For simplicity, having one uniform rate in the \$ makes it relatively simple to understand. However, many local governments adopt differential rating as a standard practice. Differentiating the ad valorem general rate based on land use and adjusting differentials on a year-to-year basis provides a strategy for managing different rates of growth across different elements of the property market (as well as satisfying other rating policy criteria). For instance, if handled sensitively a higher vacant land rate for residential properties could be applied to discourage those that do not develop. The time of a revaluation allows Council to potentially respond to the fluctuations that may be generated by introducing differential rates. As indicated in the above commentary the use of differential rates for businesses compared to residential properties has some merit.

Currently Council provides no differential rates for other locations such as Cape Barren and other Bass Strait islands. On the surface this appears inequitable simply as the means to access services on Flinders Island is by air or sea and the costs are greater. Flinders Council currently receives allowances in the Grants Commission methodology for the increased costs of transport to the island for its sea leg so arguably some allowance should apply for other islands in the Furneaux Group.

In any case, retention of the status quo or moving to a differential locational basis needs to have some justification.

9 CHANGES TO RATE METHODOLOGY

As indicated in the above commentary there are sound reasons to change the current rate methodology to more accurately accord with the relevant taxation principles associated with rating, to be more responsive to changing circumstances and more modern with respect to contemporary local government practice.

Specifically, the following changes are proposed to be implemented in a policy sense now and be implemented in the 2017/18 rating year which will include a Council wide revaluation.

- (a) Abolition of a minimum rate to be replaced by a fixed charge per property assessment
- (b) Change from the AAV method of rating to Capital Value method
- (c) Remove waste levy as it is currently applied and incorporate this into the fixed charge
- (d) Foreshadow the future use of the waste levy as a service charge for a kerbside collection waste collection, should this additional service be provided in the future.

The Local Government Division of the Department of Premier and Cabinet formally raised the matter of a change in the rating methodology with Council on 23 October 2012 with a view to transition by 1 July 2016. A detailed presentation to Council by the Department was subsequently undertaken at the February 2016 Workshop. I understand that it was then foreshadowed that Council consider a change for the 2017/18 year as part of the six-year revaluation of Council's land base.

This view accords with other councils who have introduced changes in response to variations in their revaluation, in part as it allows major movements in property valuations to be managed in a more responsible manner with less public reaction at a time when potential adverse public comment can be expected merely because of the 6-year revaluation cycle.

In addition, and as part of the rates modelling for the 2017/18 year, the following aspects should be considered:

- (e) Review and introduction of differential rates per specific land use categories.
- (f) Review and introduction of differential rates per specific locations for each island in the Furneaux Group and other locations that Council considers appropriate.
- (g) Endeavour to ensure that the entire amount of any increase in rates associated with natural growth is delivered through rates modelling.
- (h) Review and benchmark our current level of rating.

In relation to points (e) and (f), these are provided to potentially address aspects associated with the revaluation and as part of a policy improvement framework that may arise. It is considered that in the first instance these elements are sufficient and will be less problematic than the introduction of rate capping.

Point (g) ensures that in policy terms Council maximises the benefit in its efforts to maximise growth in rates and with it address in more equitable terms costs to provide for population growth.

Finally point (h) is something that all council's need to undertake. Flinders is small and more at risk financially than many.

10 SUMMARY

This paper is part of a continuous improvement process for sound policy based decisions. Whilst the initial recommendations (a), (b) and (c) can be enacted in principle with confidence now, the others require additional benchmarking work and modelling which still needs to be done.

Like all aspects of Councils operation, a sound communication process needs to be undertaken which could include a Budget and Rating Summary Flyer being included with the first rates notice.

Confused Yet??? Yes, rates are complex but the analysis and suggested responses provides a sound way forward

11 REFERENCES

Several references are available to support this Rating Paper. Some, as specifically noted below, have been referenced in the body of this report.

1. Local Government Rating - A Discussion Paper prepared for Playford Council by Skilmar Systems - December 1998. (*Skilmar Rating Review*)
2. Valuation and local government rating in Tasmania: a robust framework for the Future. Prepared for Local Government Division, Department of Premier and Cabinet (Tasmania) by Access Economics – October 2010. (*Access Economics Rating Review*)

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