

Submission to Discussion Paper

Name	Robin McLiesh
Suburb	Wooragee, VIC, 3747
Age*	77
Gender*	Male

**Please see the last page of this document for our terms and conditions around privacy of your information*

If you work in an organisation/council, please provide the following information:

Organisation/council name:	
Position/job title	
Are you providing this submission on behalf of yourself or the organisation?	Myself

On the following pages are questions on each chapter of the discussion paper to assist you in the preparation of your submission. In addition, there is space at the end of the document to add your own views/comments on any matters relating to the Local Government Act review.

Discussion paper questions

Chapter 2 – The role of councils

1. What should the key roles and functions of council be?
2. Does describing the key objectives, roles and functions of councils in the *Local Government Act 1989* ('the Act') assist councillors, council staff and members of the community understand the role that councils play? Should these key objectives, roles and functions be retained in the Act or revised in any way?
3. What powers are required by councils to perform these roles and functions? Should there be any limitations to council powers?
4. Which provisions in the Act should be normative (setting out desirable behaviour) general (setting out broad principles to be followed) and which should set out prescriptive (detailed) requirements?
5. Should the legislation provide consequences such as penalties or sanctions, for any non-compliance with either the general and prescriptive provisions? If so, what form should these take?
6. Do you have any other questions/comments about the content in this chapter?

Response:

1. The role of council is to provide residents access to the third level of Government (Local Government)
2. To administer the collection and expenditure of rates to serve the needs of the community.
3. To provide a conduit by which residents can raise issues of concern and have those issues formally addressed
4. To provide advocacy to address issues that may fall beyond the normal province of the council but may rest with other government departments.
5. To establish regular meetings open to the community to identify and discuss issues pertaining to the local community
6. To establish the activities required of the council to provide essential services to the community together with the planning and governance services that will ensure community wellbeing and good order
7. To ensure that people recruited to fill council administrative positions have

the qualifications and experience necessary to demonstrate a high level of competency. The practice of filling positions by relocation of underutilized staff should be prohibited and all positions should be advertised to ensure that all potential candidates are encouraged to apply.

8. Councils have now become entities with significant financial responsibilities. Their structure should be aligned with our large companies with the CEO providing direction, broad ranging experience and financial acumen. Senior council officers fill the role of Executive Directors and councillors can be seen as Non-Executive Directors. If this comparison is accurate do our current appointees meet the requirements? Appointment of personnel with a limited range of commercial experience and selected on previous council experience limits the vision and capacity of our personnel. Selection criteria should be wider and appointment should be based on merit.

Chapter 3 – How councils are elected

1. What are the key elements of a system aimed at ensuring the integrity of council elections that should be included in the Act?
2. To ensure integrity of the electoral system should additional powers be provided to:
 - a) the Minister?
 - b) the Victorian Electoral Commission?
 - c) council CEOs?
3. Do you have any other questions/comments about the content in this chapter?

Response:

1. Council elections should reflect the systems that have been established for State and Federal elections.
The involvement of the Victorian Electoral Commission should provide confidence that elections are both fair and secure.
Efforts should be directed to greater use of internet voting to reduce cost, encourage greater involvement, provide faster reporting of results and construction of a data base from inputs to provide greater detail of voting directions



**Review of the
Local Government Act 1989**

Chapter 4 – How councils operate

1. What are the critical elements of a council's operations that should be governed by the Act (e.g. requirements for mayoral elections, notice of, and requirements for open meetings)?
2. What penalties or sanctions should be imposed on councils who do not comply with the requirements relating to their operations?
3. Do you have any other questions/comments about the content in this chapter?

Response:

1. Normal council meetings together special committee meetings and Section 86 committee meetings should be open to the public.
2. The time taken for meeting minutes to be approved (ie. next meeting) can be excessive and minutes often miss the nuances that take place during the meeting. Gallery members should be permitted to record the meeting for their personal use to assist them when raising issues with the council.
3. Council meetings should be held in facilities that ensure that people in the gallery can hear what is being discussed and where necessary microphones should be used. This situation has become worse since councillors have started to access the agenda using Ipads and speaking at their Ipad rather than the gallery. Data projectors are an advantage when printed agendas are not available for people in the gallery.
4. Briefing meetings held as Assembly of Councillors should not replace the requirement to raise issues, provide background information and encourage productive debate at an open council meeting. Council meetings should not be seen as a rubber stamping process for decisions reached behind closed doors.
5. Gallery participation in the determination of resolutions should be encouraged as a disciplined opportunity to speak to the resolution before voting takes place. Members of the gallery may often have a sound knowledge of the matter in hand and can provide additional information prior to determination of the resolution



**Review of the
Local Government Act 1989**

[Empty rectangular box for form content]

Chapter 5 – Planning and reporting

1. What requirements should be imposed in the Act on councils in relation to planning and reporting on their strategy, budget and operations?
2. Can council planning and reporting processes be streamlined? If so, how?
3. What rights should be granted to ratepayers to better contribute to council planning and reporting processes?
4. What sanctions should be imposed on councils not complying with planning and reporting requirements?
5. Do you have any other questions/comments about the content in this chapter?

Response:

1. The community should be made aware of the budget preparation early in the process to encourage and support community input. The practice of council officers commencing the budget process early in the year and then inviting community input at mid-year when it has been basically completed is unacceptable.
2. Key performance measures adopted for the budget should be real and measurable.
3. Projects selected for the budget should provide financial performance indicators and all large projects should provide in-depth measurable analysis such as discounted cash flows.
4. Councils should be encouraged to utilise the services of consultants skilled in the areas of performance measurement and corporate structure to provide a broader view of potential opportunities. These services can be expensive but used responsibly can reap significant benefits.
5. Councils seeking to utilize rates to support activities such as tourism should provide hard financial evidence sourced from organizations such as the Chamber of Commerce. The use of a tourism levy imposed on tourism operators would provide guidance for council expenditure.

Chapter 6 – Council rates and charges

1. Is the current method of declaring rates and charges based on “land” still appropriate?
2. What powers do councils require in relation to levying rates and charges?
3. What obligations or restrictions should be imposed on councils in relation to these powers?
4. What rights should rate-payers have in relation to the exercise of councils powers in relation to levying rates and charges?
5. Should there be detailed legislative provisions regarding processes associated with levying rates and charges? If so, are the current processes for levying rates and charges in the Act appropriate? If not, what changes should be made?
6. What sanctions should be imposed on councils failing to comply with the requirements relating to levying rates and charges?

7. Do you have any other questions/comments about the content in this chapter?

Response:

1. The current rating system that claims equitable allocation through the use of rate differentials is unacceptable, with farmers required to subsidise the rates of urban landholders. The use of Capital Improved Value while imprecise and inaccurate provides a base for the rating system. However the practice of charging farmers rates based on the value of all their holdings (their income producing assets) rather than the CIV of their house and curtilage is anachronistic and should cease.
2. **I have attached a paper on municipal rates that I hope you will include in the discussion that will take place following the completion of submissions**

The Equitable Allocation of Rates for Rural Properties.

Introduction:

This paper seeks to draw attention to the inequitable system currently in force for rural properties in Victoria. The content draws on specific statements made by the Municipal Association of Victoria and utilises rating practices in force in the Indigo Shire. The document should be regarded as representative of rural councils across Victoria. Retention of this practice will continue to diminish the contribution made by Agriculture to the State and National Economies; it is a problem that should be addressed at all levels of government.

The current property tax that is used to establish the rates that must be paid on rural farming properties has been in force in Victoria for many years. Farmers who have complained against the inequity of this system have been largely ignored as they represent a minority of the population in rural centres and therefore struggle to influence rural councils.

The Municipal Association of Victoria which has a membership of 79 councils, including 38 rural councils held a Local Government Finances Workshop on 29 April 2008; much of the workshop content focussed on the efforts of the Association to validate the stance they have adopted for rates imposed on rural properties. Examination of the findings reported in the workshop clearly indicate that the "Capacity to Pay" policy adopted by councils is inequitable and forces farmers to subsidise the rates of urban residents, while at the same time acknowledging the fact that farmers are unable to make effective use of many of the services that councils provide.

Municipal Rates:

- The primary reason for the existence of rates is to raise revenue to fund Local Government services and infrastructure for public benefit ¹

Who pays rates:

- Rates are levied on most property owners. Exemptions apply to crown land,

charitable land, land used for religious purposes and land used exclusively for mining or forestry.¹

- There is no connection between the amount of rates on a property and the services received.¹
- All property owners should pay a FAIR share of rates regardless of their CHOICE to use or not use council services, programs and infrastructure.¹

How are rates determined:

- Rating equity is guided by 'Beneficiary Pays' and/or 'Capacity to Pay'.¹

The Local Government Act enables the use of municipal rates to fund local government on the basis of either site value, net annual value or capital improved value.

Councils have determined that the Capital Improved Value (CIV) of a property should be used to establish Capacity to Pay. However, this measure focuses on only one component of the accumulation of personal wealth. It takes no account of the new entrants to farming that are struggling to meet loan repayments as they seek to acquire a property, or farmers that have experienced difficult years, or conversely the urban property owners who have large holdings in shares, bonds and bank deposits.

It effectively penalises farmers who derive their income from the land.

The land other than the small section of land surrounding their residence is the asset base from which they derive their income; this income must be reported to the ATO and the relevant tax payments made.

The urban ratepayers who derive income from large investment holdings (assets) are treated in the same manner in that they must also declare the income and make payments to the ATO.

The significant difference between the two ratepayers is that the farmer is then required to pay council rates on the value of his income producing assets while the second ratepayer does not. The MAV rejects any concern expressed as to the fairness of this system on the basis that other tax systems exist to collect anything that is missed.¹

There is a lack of equity in this system as farmers should only be required to pay rates on the value of their dwelling and the land adjacent to the dwelling, or the curtilage of the property.

Rating Equity.

When assessing rate equity the MAV has decided that they will follow their policy of:

- Beneficiary pays and Capacity to Pay principles.¹

The MAV has established financial principles to support the policy that they have introduced and the principles provide the basis for their interpretation of equitable treatment.

- There is a distinct relationship between property holdings and disadvantages – less wealthy own lower value housing stock.¹

- Those with higher asset values have greater capacity to pay.¹

- Property taxes do not take into account individual debt or income levels of owners - other taxes do this.¹

The current system does not allow councils to access information on personal income that is held by accredited bodies such as the ATO, putting in question the use of asset values as a measure of capacity to pay. However, the use of the property CIV derived from a consistent base can provide a simple, transparent, in-house process that can be used to establish a sliding scale of rate payments. The system also allows residents who dispute the CIV assigned to their property to utilise the services of the Valuer General to review the determination and the system is also structured to provide rate relief for those people who are suffering financial distress.

But in all cases the determination of CIV must be consistent across properties and should be based on the value of house and garden surrounds.

How did the Farm rate system originate.

In 1696 the English Government seeking funds to pursue wars in Europe imposed rates on people who they considered had capacity to pay. One of the taxes they introduced was a window tax that was a property tax based on the number of windows in a house.

At that time many people in Britain opposed income tax, on principle, because they believed that the disclosure of personal income represented an unacceptable governmental intrusion into private matters and a potential threat to personal liberty. This was an on-going source of discontent in the country but the tax was not repealed until 1851.²

When Australia was settled the property tax that was in use in England was introduced to Australia and payments were based on property values, once again seeking to utilise property value as a measure of capacity to pay. The property tax on farming properties ultimately proved to be unpopular in England and was repealed in the 1920's, but still remains in force in Australia.³

Do farmers receive a rate reduction for the services they cannot use:

Farmers often find it difficult to allocate time and to travel large distances to access services provided by the council. This restricts their opportunity to utilise services such as library facilities, swimming pools, skate ramps, street lighting and Meals on Wheels.

Councils have stated that they will not provide any rate reduction for ratepayers who choose not to or cannot utilise the services provided by the council.

- All property owners should pay a FAIR share of rates regardless of their CHOICE to use or not use council services, programs and infrastructure.¹

Farmers are required to contribute to the community services provided by councils, but they maintain that the cost of these services should be spread evenly across all ratepayers.

Does the use of differential rates make the present system equitable.

The current rating system has been established using Residential Property values as the base

from which to determine rates to be paid on other types of property in the shire.

For example vacant land within the town boundaries has a rate differential of 200%; Commercial premises have a rate differential of 125%'

Farming properties in excess of 40 hectares have a rate differential of 75% and while this may seem to provide an equitable treatment for farming properties that cannot utilise many of the council services, an example of the actual rates to be paid is more concerning.

If we look at a residential property situated within the town borders that has a CIV of \$400,000 and compare it with a Rural 1 property with the same house and surrounds, but with income producing assets in the form of farming land that results in a CIV for the total property of \$2,000,000.

The rate comparisons have been determined using the differential rating percentages contained in the Indigo Shire 2014-2015 Draft Budget.

	CIV House and Surrounds	Income Producing Assets	CIV for Rates	Rates Cents per \$ CIV	Calculated Rates
Residential property	\$400,000	\$1,600,000	\$400,000	0.35512	\$1,420
Rural 1 Property (>40 Ha)	\$400,000	\$1,600,000	\$2,000,000	0.26634	\$5,327

The example shows that a farmer who is unable to use many of the services provided by the council must pay \$5,327 in rates and must subsidise his urban counterpart who is only required to pay \$1,420. The example also shows that the focus on property value as the basis for Capacity to Pay is unfair to farmers.

The urban based ratepayer can construct an investment portfolio that will provide a significant income, yet those income producing assets are not taken into account when determining the council rates that must be paid. The farmer's income producing assets should be treated in the same manner.

How can the system be improved:

The change that should be made to the existing system is the establishment of CIV based on the value of the house and surrounds, which has been defined as the curtilage of the property. The rate differential for rural farming properties would no longer be required as urban and rural properties could be rated as residential

The reallocation of rates will be a challenge as the current rating system has required farmers to subsidise urban ratepayers. Currently urban ratepayers own 63% of the rateable properties but only pay 54% of the rates whereas Rural 1 property ratepayers own 17% of the properties but are required to pay 23% of the rates.⁴

Does farming make a significant contribution to our economy.

Victoria's food and agriculture industries are our largest export sector. Together they contribute more than \$9.4 billion to the State's economy and employ more than 145,000 people.⁵

Australia is a major agricultural producer and exporter. Agriculture and its closely related sectors earn \$155 billion-a-year for a 12% share of GDP. There are approximately 134,000 farm businesses in Australia. As of 2010-11 there were 307,000 people employed in Australian agriculture.⁶

We are seeing an increasing level of food imports as supermarkets seek to take advantage of the low wages and poor working conditions endured in many overseas countries.

Recently we have seen the Prime Minister, Senior Government Ministers and leaders of the largest businesses in Australia visiting Japan, China and Korea on a mission to establish Free Trade Agreements with them, to achieve a level playing field for trade between the countries and the elimination or reduction in tariffs and on-costs.

At the same time we have a Local Government association that fails to recognise its responsibility to establish equitable cost allocations within our State. In many overseas countries farmers are still paid substantial subsidies to maintain food production. Our councils have a duty to eliminate penalty costs which are reducing our competitiveness and restricting employment opportunities.

References:

- 1 – Municipal Association Victoria - Local Government Finances Workshop 29 April 2008
- 2 - Window tax – Wikipedia
- 3 – Victorian Farmers Federation June 29 2011
- 4 – Indigo Shire 2014-2015 Draft Budget
- 5 – Victorian Farmers Federation April 2014
6. – National Farmers Federation Farm Facts 2012

Chapter 7 – Service delivery and financial decision-making

1. What powers do councils need to undertake their financial decision-making functions?
2. What obligations or restrictions should be imposed on councils in relation to their financial decision-making functions?
3. Should the Act contain detailed processes regarding councils financial decision-making? If so, what sanctions should apply for non-compliance with these requirements?
4. Do you have any other questions/comments about the content in this chapter?

Response:

1. Council officers need to be aware of the requirement to provide support for project expenditure that is financially beneficial (energy efficient street light replacement, installation of solar panels on council buildings, etc.) but they should also be aware of their responsibility towards the community needs that in many cases will not have measurable financial benefits (new footpaths, community health, etc.). The projects should be categorized within the budget and balanced to maintain sound financial performance.
2. Councils should be aware that financial expenditure on education, health, historic and other areas are responsibilities shared with our State and Federal governments. Every effort should be made to involve our political representatives to ensure that opportunities that exist for support are identified and acted upon.



**Review of the
Local Government Act 1989**

Chapter 8 – Councillor conduct, offences and enforcement

1. Do standards of councillor conduct need to be improved? If so, how can this be achieved?
2. What powers do councils need to deal with instances of councillor misconduct?
3. Does the system of councillor conduct panels need to be improved? If so, how?
4. Is there a need for additional offences to be included in the Act? If so, what are they?
5. Is there a need to improve investigation and enforcement of the Act in any way? If so, how?
6. Do you have any other questions/comments about the content in this chapter?

Response:

1.

Chapter 9 – Ministerial powers

1. Should the role of the minister be described in the Act? And if so, how should this be described?

2. What powers should be provided to the minister in the Act in relation to:
 - a) the structure of the sector (i.e. circumstances in which new councils are established or existing councils amalgamated, numbers of councillors etc)?
 - b) to ensure councils comply with the Act?
 - c) to ensure the integrity of governance and standards of behaviour?
 - d) What penalties should be included in the Act in relation to councils not complying with the exercise of the minister's powers?

3. Do you have any other questions/comments about the content in this chapter?

Response:

1.

Chapter 10 – Harmonisation of the Local Government Act

1. What aspects of the Act should be amended to better harmonise with related legislation?
2. How can council responsibilities in relation to other legislation be made clearer?
3. Are there provisions in the Act that could be improved to clarify their interaction with other legislation? How could they be improved?
4. Is there other Victorian legislation that inappropriately impacts on provisions under the current Act that could be improved or clarified? How could they be improved?
5. Does the Act contain any matters that should be transferred to other Victorian legislation? If so, why?
6. Do you have any other questions/comments about the content in this chapter?

Response:

1.

Any other comments?

Do you have any other questions/comments not raised in the above chapters?

Response:

1.

Terms and conditions of this submission paper

Privacy Policy

Bang the Table Pty Ltd (Bang the Table) manages the website on which this consultation takes place – on behalf of DELWP (Review of Local Govt Act 1989).

Bang the Table takes the privacy of the participants using this site very seriously.

Our collection, use and disclosure of your personal information is regulated by the National Privacy Principles under the *Privacy Act 1988*, as amended from time to time and also by the relevant State legislation (depending on the State in which the client is located). You can find more information about your privacy rights at the Privacy Commissioner's web site, <http://www.privacy.gov.au>

Note: This Privacy Policy applies to the Bang the Table's behaviour and treatment of your information and should be read in conjunction with the DELWP (Review of Local Govt Act 1989) Privacy Policy.

DELWP (Review of Local Govt Act 1989) - Privacy Policy

Who do I contact for more information?

Bang the Table may be contacted in relation to privacy policy issues by email at myprivacy@bangthetable.com or addressed to Bang the Table Pty Ltd, Suite 15, 104 Moor Street Fitzroy VIC 3065 Australia.

What information do we collect?

Basic Identifying Information

We collect information from you when you register to use the website www.yourcouncilyourcommunity.vic.gov.au. This information may vary depending on the specific needs of DELWP (Review of Local Govt Act 1989), however, at a minimum is includes your:

- Screen Name
- Email Address

Additional demographic information such as your age, sex, suburb and interests may also be collected at this time.

Why do we collect this information?

To Collect and Collate your Feedback to Inform Better Policy

The principle reason for collecting this information is to help inform the creation of better policy. The information is therefore provided to DELWP (Review of Local Govt Act 1989) for analysis and interpretation at their discretion.

To Send you Periodic Emails

The email address you provide for registering on the site may be used by either Bang the Table or DELWP (Review of Local Govt Act 1989) to send you information and updates pertaining to the issues discussed on this site or any other site that we feel may be of interest to you.

Note: If at any time you would like to unsubscribe from receiving future emails, we include a simple unsubscribe link at the bottom of each email.

To Protect the Integrity of the Discussion

By monitoring the information you provide we are able to protect the integrity of the discussion from individuals and groups who may attempt to unduly influence the outcomes of the consultation process.

To Improve the Website & Software

The principle use of this information by Bang the Table is to help us to improve this website and the software that underpins it. We are continually striving to improve the experience of our participants based on your feedback.

Who has access to this information?

When you sign up for a user account you provide three types of information:

1. Publicly available information
2. Information available to both DELWP (Review of Local Govt Act 1989) and Bang the Table
3. Information available to Bang the Table only

Publicly Available Information

Publicly available information is limited to your screen name and any comments you leave under that name in the forums or other tools on the site.

Note: We strongly recommend use of an anonymous screen name.

Individual survey responses, voting patterns and quick poll responses will not immediately be made available publicly on the site, however, feedback (including overall results of polls and surveys, and in some instances, unidentifiable and randomly chosen quotes or comments from surveys) may be published in publicly available reports at the end of the consultation period.

Please also keep in mind, however, that under most local Freedom of Information laws formal submissions uploaded to this site can be made available for public viewing by DELWP (Review of Local Govt Act 1989) at its own volition or at the request of a member of the public.

Information available to both DELWP (Review of Local Govt Act 1989) and Bang the Table includes:

- All information from the Sign Up form.
- Comments
- Survey, Quick Poll, and comment voting responses
- General site activity such as document downloads.

Information Available to Bang the Table only

Information which is available only to Bang the Table is restricted to your IP address for site security purposes.

Do we disclose any information to third parties other than DELWP (Review of Local Govt Act 1989)?

We do not sell, trade, or otherwise transfer to outside parties your personally identifiable information. This does not include trusted third parties who assist us in operating our website, conducting our business, or servicing you, so long as those parties agree to keep this information confidential. We may also release your information when we believe release is appropriate to comply with the law, enforce our site policies, or protect our or others rights, property or safety.

However, we may from time to time notify you about other sites we are managing when we feel they may of direct relevance and interest to you. Please note that you can easily unsubscribe from these notifications at any time.

Third Party Links

Occasionally DELWP (Review of Local Govt Act 1989) may include links to third party sites. These third parties have separate and independent privacy policies. We therefore have no responsibility or liability for the content and activities of these linked sites.

Terms and Conditions

Please also visit our Terms and Conditions section establishing the use, disclaimers, and limitations of liability governing the use of our website.

Your Consent

By using our website, you consent to this Privacy Policy.