



Council Rate Cap Compliance 2022–23

Compliance Report

23 November 2022



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Introduction

The Essential Services Commission monitors and reports on Victorian councils' compliance with the rate caps under the Fair Go Rates system (see Appendix A and B for more information).

This report outlines:

- whether each council, in setting its rates for 2022–23, was compliant with the average rate cap or a higher cap (if applicable)
- changes to service rates and charges for 2022–23.

Compliance with the rate caps for 2022–23

How rate caps are set

The Fair Go Rates system limits the maximum amount a council can increase its average rates in a year without seeking approval for a higher cap. 'Average rates' refers to the rates paid by the notional average ratepayer. It is calculated as total revenue from general rates and municipal charges divided by the number of rateable properties.

Each year the Minister for Local Government sets the average rate cap for the following rating year by general order. A council may apply to us for a higher cap. If we are satisfied that the proposed higher cap meets legislative requirements, we set a higher cap by special order. No councils applied for a higher cap for 2022–23.

To comply with the rate cap, the percentage change in a council's average rates must not exceed the rate cap specified in a general order or special order that applies to it.¹

All councils complied with the rate cap

Based on the data councils provided to us in the annual compliance information for 2022–23, all councils complied with the average rate cap.

The Minister for Local Government set the average rate cap at 1.75 per cent for the 2022–23 rating year, which all councils were required to comply with. Most councils set their rate increase to 1.75 per cent. However, two councils decided not to increase their rates.

Each council's compliance information is certified as accurate by the council's chief executive officer. We run a range of checks on the data submitted by councils to validate their compliance, but do not independently verify the underlying data submitted by each council.

Councils followed different processes to amend their rates after adopting their budgets

Councils are required to declare their rates and adopt their budgets by 30 June of each year. To ensure they are compliant with the rate cap, some councils amend their rates in the dollar or municipal charge after adopting their budgets.² Councils do this when unexpected valuation

¹ The definition for the average rates is shown in Appendix A.

² A property's general rates are calculated by multiplying the valuation of property by the rate in the dollar. If a council decreases its rate in the dollar, it decreases its general rates revenue and average rates. Similarly, if a council decreases its municipal charge, it decreases its municipal charge revenue and average rates.

changes or other calculation errors means that the rates the council initially set would not have complied with the rate cap.

In 2022–23, five councils changed their rates in the dollar or municipal charge to ensure they were compliant with the rate cap. We note that these councils followed different processes in resetting their rates:

- Swan Hill Rural City Council redeclared their rates in a council meeting before updating their internal systems.
- Glenelg Shire Council, Macedon Ranges Shire Council, Mitchell Shire Council and Yarra Ranges Shire Council updated their rates in their internal systems but did not consider that the change was large enough to require a council meeting.

These councils provided the commission with evidence to show that the amounts levied on their communities were compliant with the rate cap. It is the responsibility of councils to ensure that the process they follow to amend their rates meets the requirements of the *Local Government Act 2020*.

Rebates, waivers, and deferrals do not affect the rate cap

The rate cap is calculated using the maximum leviable amounts councils can raise each year. Councils' actual rates and charges income can be lower than the maximum leviable amount if councils provide rebates, deferrals, or waivers, or if ratepayers do not pay their rates for other reasons.

This means that the decision to remove or expand rebate programs does not affect a council's compliance with the rate cap. For example, many councils introduced rebates during the coronavirus pandemic to provide financial relief to households. The way the rate cap operates allowed councils to provide this financial relief without affecting how their rate base would grow in the long term.

For 2022–23, Glenelg Shire Council removed a long-standing rebate on farm properties as part of broader changes to introduce a differential rating system. As a result, the actual rates revenue the council will receive will increase by the rate cap plus the value of the rebate the council previously did not collect (a 19 per cent increase which is spread across all types of ratepayers). However, the council is compliant with the rate cap as the maximum leviable rates revenue for 2022–23 is increasing by 1.7 per cent, which is less than the current 1.75 per cent rate cap. The difference between the maximum leviable revenue and the actual revenue is shown in Table 1.

Glenelg Shire Council decided to implement this change following a process in which it considered community views throughout 2021–22. The council developed a discussion paper that explored options for updating its rating system and sought views from the community on how it should structure its rates. The council then proposed the current changes and further consulted as part of

the budget process before adopting its budget in consideration of community feedback and legislative requirements.

Table 1 How rebates factor into Glenelg Shire Council’s compliance

	As at 30 June 2022 (base average rate)	As at 1 July 2022 (capped average rate)	Percentage increase
Leviable general rates revenue (maximum)	23 453 000	23 850 000	1.7%
Rebate	3 435 000	0	
General rates revenue less rebate	20 018 000	23 850 000	19.1%

The table only shows the impact of rebates. Council’s actual revenue may be lower if ratepayers do not pay rates for other reasons.

Changes to individual rate notices may be different from the rate cap

A council can comply with the rate cap even if individual ratepayers experience increases in their rate notices that are higher than the rate cap.

The total amount shown on an individual rate notice includes general rates, municipal charges, and other charges and levies. Changes in individual rate notices may be different from the rate cap for three reasons:

- The value of a property may increase or decrease relative to other properties in the municipality.
- Different rates in the dollar (called ‘differential rates’) may apply depending on how a property is classified. For example, whether it is classified as residential, commercial, industrial, or rural. If the classification of a property changes, the differential rate that applies to that property may change.
- Other charges and levies that are not included in the rate cap, such as service charges, may increase or decrease. The rate cap applies to general rates and municipal charges only.

Service rates and charges in 2022–23

Service rates and charges are not included in the rate cap. We monitor and report on councils that change the structure of their service rates and charges. This helps us identify any unexplained or unusual increases in service rates and charges revenue. Service charges are flat charges and services rates are rates applied against the value of the ratepayer's property. We report more broadly on trends in council rates and charges in our biennial outcomes report.³

Nearly all councils use service rates or charges to recover waste costs

Nearly all councils levy either service rates or charges to fund kerbside and community waste services. Councils can also use service rates or charges to recover the cost of water supply and sewerage services, however this is not common practice.

As of 2022–23, only two of the 79 councils do not use services rates or charges and fully recover waste costs through other revenue sources. All other councils partially or fully recover the cost of kerbside collection and community waste services through service rates and charges.

Overall, councils are budgeting to increase service rates and charges revenue to \$1.01 billion in 2022–23. This will increase service rates and charges as a proportion of rates and charges to 14.2 per cent, up from 9.5 per cent when rate capping was introduced.

We observe that councils take different approaches in how they fund waste services:

- The cost recovery of household collection services varies in terms of service level (for example, by bin size and collection frequency) and whether the charge fully or partially recovers waste costs.
- Some councils use waste charges to only recover the costs of household collection services while others also fund other services, such as street cleaning, public bins, and litter collection.
- The annual change in service charge revenue per property varies, with an average increase of 7.4 per cent and a range from a 2.1 per cent decrease (Macedon Ranges Shire Council) to a 50 per cent increase (Mansfield Shire Council).

Five councils introduced new service rates or charges

Each year, we report on the introduction of new service rates or charges to ensure that councils moving revenue between general rates and municipal charges (capped revenue) and service rates and charges (uncapped revenue) are transparent and accountable to their ratepayers.

³ Our outcomes report is published every two years and is available on our website at <https://www.esc.vic.gov.au/local-government/rate-capping-outcomes-reports>.

For 2022–23, four councils introduced service rates or charges for the first time (Banyule City Council, Darebin City Council, Melbourne City Council and Port Phillip City Council). East Gippsland Shire Council also introduced a service charge to be included alongside their existing charges. We asked these councils to show the impact it has on their community, summarise their engagement activities and provide an updated revenue and rating plan.

Banyule City Council

Banyule City Council introduced two service rates: a public waste rate to recover general community waste services (such as street cleaning and litter) and kerbside waste rate to recover the costs of kerbside waste collection. The introduction of the rates is revenue neutral.⁴ Council consulted the community as part of its planning and budget process, seeking community views from an online portal and through deliberative engagement workshops.

Darebin City Council

Darebin City Council introduced a service charge for kerbside waste collection and a service rate for public waste collection and disposal. The introduction of the waste rate and charge is not revenue neutral, however council provided evidence to show that it is cost reflective. Council consulted with its community as part of the budget process and advertised the changes on its website and on social media.

East Gippsland Shire Council

East Gippsland Shire Council introduced an additional waste charge and did not increase its existing waste charges. The introduction of the new charge is not revenue neutral, however council states that it reflects costs related to new waste initiatives, increases in the state-wide ‘waste levy’ and other compliance costs.⁵ Council consulted with its community as part of the budget process and advertised the change on its website and in local papers.

Melbourne City Council

Melbourne City Council introduced a waste charge for households receiving kerbside waste collection services for residential properties and a public realm waste rate for non-residential properties. The increase is not revenue neutral, however it is cost reflective. Council provided evidence that shows the additional revenue matches increases in costs in 2022–23. Council

⁴ Revenue neutrality refers to the overall change in new waste charge revenue and general rates revenue. We consider that new waste charges are ‘revenue neutral’ when the shift in revenue from general rates to service rates and charges does not result in more overall revenue than the council can raise under the rate cap.

⁵ The Victorian waste levy is charged on certain waste streams to provide incentives to reduce waste. See the Environment Protection Authority Victoria website for details <https://www.epa.vic.gov.au/waste-levy>.

consulted with its community as part of the budget process and will continue to seek feedback from the community on its implementation.

Port Phillip City Council

Port Phillip City Council introduced a waste charge to recover the direct costs of kerbside waste collection services only. The introduction of the new charge is revenue neutral. Council consultation activities included a series of workshops and pop-up community stalls before engaging as part of the budget process.

Next steps

Updated compliance guidance

We will release the updated annual compliance information template and guidance for councils on complying with the rate cap in early 2023. We will publish this on our website and notify councils by email.

We encourage councils to contact us to discuss any queries regarding the annual compliance information. Councils can call us on (03) 9032 1300 or email us at localgovernment@esc.vic.gov.au.

Information for ratepayers

Visit our website for more information on our role under the Fair Go Rates system or to access past compliance reports www.esc.vic.gov.au/local-government.

Appendix A: How average rates are calculated

Base average rate^a

BAR = R_b/L where

- BAR is the base average rate
- R_b is the total annualised revenue leviable from general rates and municipal charges as at 30 June in the base year (2021–22)
- L is the total number of rateable properties as at 30 June in the base year (2021–22)

Capped average rate^b

CAR = R_c/L where

- CAR is the capped average rate
- R_c is the total annualised revenue leviable from general rates and municipal charges as at 1 July in the capped year (2022–23)
- L is the total number of rateable properties as at 1 July in the capped year (2022–23)

^a Section 185B, *Local Government Act 1989*. ^b Section 185C, *Local Government Act 1989*.

Appendix B: Our role in monitoring and reporting compliance

Under section 10E(1)(a) of the *Essential Services Commission Act 2001*, we must monitor and review council compliance with the rate caps set under Part 8A of the *Local Government Act 1989*. Under section 10E(2) of the *Essential Services Commission Act*, we must prepare an annual report on council compliance with the rate caps.

How we assess compliance with the rate caps

To assess council compliance with the rate caps:

1. All councils must submit annual compliance information to us in September each year. This includes the annual compliance information template and rating system reports certified by each council's chief executive officer.
2. We ask each council to explain any differences between the template and rating system reports and any other anomalies.
3. The template uses each council's data to calculate its base average rate, capped average rate and average rate increase (rounded to two decimal places).

$$\text{Average rate increase} = (\text{capped average rate} - \text{base average rate}) / \text{base average rate} \times 100$$

4. We assess whether each council's capped average rate does or does not exceed its base average rate by more than the rate cap.
 - A council is compliant if its capped average rate does not exceed its base average rate by more than the rate cap (i.e. its average rate increase does not exceed the rate cap).
 - A council is non-compliant if its capped average rate does exceed its base average rate by more than the rate cap (i.e. its average rate increase does exceed the rate cap).

We generally consider that non-compliance is 'immaterial' if it is negligible and of no immediate concern.