Bayside
CITY COUNCIL

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Local Government Victoria
GPO Box 500
MELBOURNE VIC 3002

Dear Sir/Madam

Re: **Review of Local Government Act 1989**

Thank you for the opportunity to provide a submission regarding this important review. Please find our submission below. Our submission refers to existing Acts, with LGA being the Local Government Act, and VLA being the Valuation of Lands Act.

Date of Effect – Supplementary Valuations & levies

Clarify date of effect for supplementaries (in conjunction with s13DF Valuation of Land Act)

There is currently a lack of consistency in the way supplementary valuations are applied, in regards to what date the alteration takes effect:

- VLA s13DF(4) takes effect from the date of the return (eg quarterly etc)
- VLA s13DF(5) takes effect from "any period (Council) considers just"
- LGA s173 takes effect from the date of the change in rateability
- LGA s174A takes effect from the date of the change in use

These are obviously contradictory. If a property is changed by building or demolition, then there is no backdating which can penalise (demolition) or advantage (building) a ratepayer under VLA s13DF(4), yet if treated as an error it can be backdated to the date Council considers just (eg the date of demolition or occupancy certificate) under VLA s13DF(5). These situations should be treated the same as a property becoming rateable or non-rateable.

In all cases Council should have the option of using the date of effect (as supplied by the valuer), which should be the date of occupancy/demolition etc. This should be clarified so that a consistent approach is used across the industry, including for both rates and the Fire Services Property Levy.

Errors

Clarification should be included as to a maximum period to which an adjustment for errors under s13DF 2(l) and (o) of the VLA. Currently there is an industry recommendation of a maximum 6 years. However, the lack of a legislative limit causes angst for both ratepayers and councils, and inconsistencies through the industry. The onus on accuracy should be shared between Council and the ratepayer, who has the option to both query and object each year.

Valuations around General Revaluation

Valuers should be required to provide both old and new valuations (eg 2014 and 2016) between the time they close off for Stage 5 and say 31 December in that calendar year, in this case December 2016, to allow for backdating to the correct effective date under "Date of Effect" above. So if a construction or demolition occurs after Council advertises its proposed budget, or as happens frequently a builder fails to provide Council with the Certificate of Occupancy in a timely manner, the ratepayer should receive neither a windfall nor a penalty by Council's inability to backdate the adjustment. Currently, this is limited by software restrictions. The Valuer General in NSW provides both old and new year's valuations for every supplementary return for a number of months after the general revaluation is issued – Victorian Valuers should be required to do the same. The Valuer General should require accredited software providers to provide this functionality, as currently Councils are prevented from issuing supplementaries for up to 25% of their 2 yearly valuation cycle. In addition, the Valuer General could investigate the feasibility of aligning this with the backdating outlined under "Errors" above – is it feasible for Valuers to provide valuations backdated for 6 years for example?

Fees

All fees listed in the Local Government Act, in fact in all Acts, should be quoted in Fee Units, not dollars.

Rate Exemptions

Privately owned land leased to charities should be rateable. The rates paid by a private owner should not be altered by the status of their tenant. Residential landlords don't get a discount for tenants who are pensioners, so those pensioners effectively pay the full amount via their rent (ie rent is not reduced based on the tenant's pensioner status). Commercial landlords should be treated the same regardless of whether their tenants are charities.

Commercial enterprises run by charities, such as child care, pre schools, clubs, aged care and retirement villages and the like should be rateable. They are competing for customers in a commercial market, and should face the same expenses as private businesses. An exemption could be granted where services are provided on a charitable basis for example where fees charged are significantly lower than commercial fees, guidelines for an upper limit could be issued regularly for child care and aged care and the like similar to the process for Boarding House tariffs.

A review should be undertaken regarding the current provision whereby schools, churches and manses are treated as a single occupancy for the Fire Levy, as this conflicts with rateable properties such as a caretaker's residence. It also causes problems with addressing – if these properties are treated as one, they are often issued a single address which causes problems up the chain via Landata's VicMap and Emergency Services, and can lead to unintended consequences such as additional waste services being charged when there is one service for each "occupancy" ie one each for the church and manse.

Rate exemption (and benefits under the Cultural & Recreational Lands Act) should not be allowed where poker machines are installed – these should be treated as a commercial operation, similar to charity shops, as distinct from clubs without them. The AVPCCs could be updated to include 243.1 and 243.2 to allow for the differentiation (similar to 240.x vs 241/242).

Rate Capping – Valuation Errors & Non-Ratability Changes

Council's should be able to re-claim "lost" income when a supplementary valuation is issued under VLA s13DF(2)(l) or(o) ie errors. These are not supps, and should be neither a windfall nor a loss to Councils under Rate Capping. The actual income lost/gained should be added back on / subtracted from the total 30 June "permissible/notional" rates prior to applying the cap. So if Council writes off say $30,000 in income due to an error ($25,000 of which was backdated a number of years), that $25,000 should be added onto the following year's levy as a one-off, and the $5,000 current year's levy which was also reversed should be added back on permanently. Effectively Council should remain in the financial position it was prior to the error being identified. The reverse would apply if the error resulted in a gain to Council, the additional income would be removed from future years. There have been times when a significant loss is incurred. Councils should not be required to apply for a special cap increase under these circumstances – the adjustment should be automatic. This could be included in the calculators which are to be provided by ESC, as occurs in NSW's rate capping formula.

The same could apply for properties becoming rateable/non-rateable – again it should be neither a windfall nor a penalty for Council (and its ratepayers), as effectively non-rateable properties are subsidised by ratepayers.

Rate Capping – Setting of the Rate

Councils should be permitted to adjust their advertised (April) rate in dollar and total income before it is adopted by Council (June) where it is immaterial, for example if supplementaries processed after the budget is advertised alter the permitted cap and rate either up or down.

Annual Payment

The option for an annual "lump sum" payment should be removed. This would allow consistency across the industry, and also improve cash flow for vulnerable customers who currently put off their bills, then get caught with a huge bill due around the same time as the Christmas credit cards. It would

bring Local Government in line with other regular billers (electricity, water, telephone etc). Consideration could be given to the first instalment being due at the end of August, so that payments are spaced evenly across the year.

Enforcement Costs

Council's are encouraged to follow up with ratepayers before action is taken on unpaid accounts. However, this incurs costs, which are borne by the general ratepaying population. These direct costs should be able to be passed onto delinquent ratepayers if Council so chooses. This could include the expenses in tracing persons (similar to s605 NSW LGA), and legal letters and the like.

Language & Terminology

All references to "Rates" in financial reporting, publications, budgets, averages, and the like both by Councils and Government should refer to Rates and Municipal Charges only. Rate Capping only refers to these items, and waste charges are to become strictly "cost recovery". Therefore, reporting "average rates" and "rate increases" whilst including waste charges is both misleading and confusing.

This will require a small change to the reporting in the model budget that Councils use, and also to all reporting by ESC, MAV and DELWP. That way, a consistent approach is used by the industry, and ratepayers (and the media) will be provided with much clearer and more accurate information. Also, "Rates Increases" often currently refer to total rates, and not average rates, therefore a growing Council is seen to have large rates increases, when in fact they may not when viewed under the Rate Capping methodology of average rates.

If you require any further information please call Mr John Muzuk, Revenue & Valuations Coordinator, on telephone 9599 4480.

Yours faithfully

John Muzyk
REVENUE & VALUATIONS COORDINATOR