

2 March 2017

Mr Greg Johannes
Secretary
Department of Premier and Cabinet
GPO Box 123
HOBART 7000

Dear Greg

LGAT Submission – Draft Local Government Amendment (Rates) Bill 2017

The Local Government Association of Tasmania (LGAT / the Association) is incorporated under the Local Government Act 1993 and is the representative body for Local Government in Tasmania.

The objectives of LGAT are to:

- Protect and represent the interests and rights of councils in Tasmania;
- Promote an efficient and effective system of Local Government in Tasmania; and
- Provide services to Members, councillors and employees of councils.

LGAT is aware of, and fully supports, those councils that have made their own submissions to the consultation process. Where a council has made a direct submission to this process, any omission of these specific council comments in the LGAT submission should not be viewed as lack of support by the Association for that specific issue.

LGAT is very supportive of the amendments to clarify the application of rating provisions to Crown land leases and licences which are not providing a public benefit. This reflects the issues raised through the Premier's Local Government Council by LGAT on behalf of several councils (Attachment 1).

Most councils have traditionally levied general rates on marine facilities in the municipal area which are on or adjacent to crown land based on valuation and property identification data from the Office of the Valuer-General. These properties exist on valuation rolls. The application of rates has been undertaken on the belief that the rating exemptions provided for under the *Local Government Act* supported the intentions of the 2003 financial reform agreement between State and Local Government, which was not to provide rating exemptions for private or commercial benefit from the use of such land.

Further, there has been support to date for amendments to clarify that land that is partially or wholly outside of the municipal boundary but a logical extension of the parcel of land can continue to be rated. The amendments will address the concerns around marine leases without creating any rating problems.

This is an important issue as it removes doubt regarding a council's power to rate certain land. The amendment to the *Local Government Act* proposed will ensure that structures and development beyond the municipal area are included within the municipal area, meaning that it is clear rates can continued to be charged.

Interestingly, both the *Building Act 2016* and the *Land Use Planning and Approvals Act 1993* contain the proposed definition of municipal area. As a result, councils have planning and enforcement powers over land partially or wholly outside the municipal boundary. It makes sense that councils would also have powers to levy rates in respect of the same land, which would offset the costs to a council for performing such tasks.

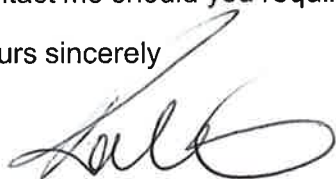
LGAT has sought and provided to the Local Government Division feedback and data from councils, to help ascertain the likely impacts on lease and licence holder ratepayers who currently do not pay rates and whom would be affected by the amendments. It should be noted that overall, there would be very few properties rated which had never been rated before and that largely, impacts would be confined to reimplementing a rating regime where there had been interruption while these matters were clarified. The rating patterns would reflect those properties that have been receiving valuation and property identification data from the Office of the Valuer-General and which have been previously rated in good faith on that basis.

For example:

- Hobart City Council (HCC) has 97 properties that are currently rated (\$1.35M levied in rates) which will continue to be able to be rated. HCC have advised they will not be rating properties in 2017/18 and onwards that have not historically been rated. Council did for 2016/17 uphold some objections to rate notices and remove general rates from a small number of properties due to the legislative discrepancies but all affected ratepayers understood this was for 2016/17 only and the legislation was likely to be changed for 2017/18 and moving forward. Council will resume rating these properties from 1 July 2017 (subject to the passing of the legislative amendments) that were not rated for 2016/17.
- Glenorchy City Council (GCC) currently rates 12 existing Crown Land leases and would continue to do so, taking the opportunity to address any inconsistencies identified through this process. In 2015 GCC identified 54 Crown Land 'marine facilities' within the municipality that were affected by advice in relation their ability to charge rates and the estimated cost of the removal of general rates from these properties was \$16,400. It is intended that rating of these properties would be resumed.
- Glamorgan Spring Bay Council has been rating these type of properties for many years and will continue to apply rates in the same manner. As is common in the sector, payment arrangements are available to those that are not able to pay by the end of the financial year with no interest accruing.
- Break O Day has only a small number of properties that fall into this category and where they ceased rating because of the lack of clarity, have determined they are not likely to recommence rating those properties.

I hope this information is useful in finalising the amendments to the Act. Please feel free to contact me should you require any further information.

Yours sincerely



Dr Katrena Stephenson

CHIEF EXECUTIVE OFFICER

Cc: Greg Brown, Deputy Director, Local Government Division

Attachment 1: Paper for PLGC October 2016

Rates on Crown land leases

Prepared by the Local Government Association of Tasmania

RECOMMENDATION

It is recommended that PLGC Officials note:

- That LGAT is seeking to ensure that the councils can continue to levy rates against marine facilities (boatsheds, slipways and jetties) with Public Reserve Classification (including commercial operations such as fish factories) which are on, or adjacent to crown land.
- That the *Local Government Act 1993* requires amendment to ensure the status quo (as above) is maintained.

KEY ISSUES

- There has been considerable public and media debate about rating exemptions including on crown leases.
- For years councils have been levying rates against properties (including commercial operations such as fish factories) which are on or adjacent to crown land, based on long running valuation/PID data from the Office of the Valuer General.
- Crown Land Services have recently started advising people seeking to renew their licences that they may be exempt from rates.
- There is a significant financial impact for some councils.
- It is unfair on the whole community to have some residents or businesses that make little or no contribution to community services and facilities. This is a matter of equity.

BACKGROUND

- For many years councils have levied rates against marine facilities (boatsheds, slipways and jetties) with Public Reserve Classification (including commercial operations such as fish factories) which are on or adjacent to crown land, based on long running valuation data from the Office of the Valuer-General.
- Councils pay for the valuations.
- Councils levied these rates believing that the legislation and policy frameworks allowed this, and with the knowledge and support of State Government.
- Recently, the Crown Land Services Department in State Government identified that the legislation may be deficient in this regard and started advising both lessees and Councils without regard to the consultation and communication protocols between State and Local Government.

- They based advice on a reinterpretation of s87 of the *Local Government Act* (that is it is exempt as a public reserve or marine facility as defined in the *Crown Lands Act 1976* or *Marine and Safety Authority Act 1997* respectively).
- However, the intent of the exemptions in the *Local Government Act* was to support the intent of the 2003 financial reform agreement between State and Local Government. Under this agreement national parks, conservation areas, public parks and roads, bridges and associated infrastructure are exempt from rates.
- The focus was always on public not private benefit. The exemptions were not intended to create private or commercial benefit from the use of such land at the expense of other residents and businesses in the municipality.
- In fact the Financial Reform Agreement states that both the State and Local Government are committed to the principle of non discrimination so that the law is administered on a consistent basis across all taxpayers and that the changes are not to have the effect of imposing an increased tax burden on any other tax payer.