

10 February 2017

Residential Tenancies Act Review  
Consumer Affairs Victoria

Via email: [yoursay@fairersaferhousing.vic.gov.au](mailto:yoursay@fairersaferhousing.vic.gov.au)

Dear Sir/Madam

### **Residential Tenancies Act Review – MAV Submission**

Thank you for the opportunity to provide comment on the “Heading for Home – Residential Tenancies Act Review – Options Discussion Paper”.

Councils have a number of interactions and interests with the Residential Tenancies Act, including the requirement to provide information for the Rooming House Register to Consumer Affairs Victoria (CAV), powers to authorise officers to enter properties to check for compliance with the provisions of the Act, application of exemptions for various types of holiday accommodation and powers to issue notices to caravan parks whose emergency management plan may not comply. They are also the responsible agencies for registering prescribed accommodation involving rental agreements, including caravan parks under the Residential Tenancies Act, and rooming houses under the Public Health and Wellbeing Act.

Additionally, councils work closely with CAV authorised officers to identify un-registered rooming houses, and monitor compliance with the standards of accommodation required under the regulations supporting the Residential Tenancies Act, the Public Health and Wellbeing Act, planning and building legislation.

Acknowledging that a number of councils have provided submissions in response to the various discussion and options papers over the last 18 months, the MAV wishes to alert CAV to a number of issues in particular. These are:

- Interaction with other legislation
- Caravan parks
- Rooming houses
- Emerging forms of holiday and short-stay accommodation
- Rubbish disposal and impact for public amenity
- Review of the Public Health and Wellbeing Act Regulations 2008
- Consultation with councils.

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### **Interaction with other legislation**

One of the major issues for councils in dealing with the Residential Tenancies Act and its regulations is their interaction with other legislation councils enforce, such as prescribed accommodation they register under the Public Health and Wellbeing Act, building and planning legislation and regulations. This creates a complex operating environment which necessitates an understanding of the various legal frameworks and the development of relationships with other regulators. We recommend that all residential and accommodation models are accurately identified and that the regulatory framework that applies to each be identified and its effectiveness assessed.

While we are not suggesting they be merged, as the various regulatory instruments are designed for their specific purposes, it is important that the definitions of properties align as much as possible. For example, if a rooming house doesn't meet building requirements, councils may be unwilling to register them as prescribed accommodation, even though all the requirements of public health registration have been met. Conversely proprietors may avoid registering as prescribed accommodation if they are trying to avoid building and planning regulations.

### **Caravan parks**

Councils have a direct and active role in the regulation of caravan and other residential parks. We look forward to providing more detailed comments when CAV reviews the provisions relating to caravan parks once the final report of the Parliamentary Inquiry into the Retirement Housing Sector has been concluded in March 2017. We agree that it is important to await the findings of this inquiry before CAV canvasses options relating to caravan and other residential parks.

### **Rooming houses**

We reiterate our support for the recent introduction of requirements for rooming house operators to be licensed with CAV. This complements the regulatory activities undertaken by councils, and the maintenance of the Rooming House Register. These have been important initiatives that have strengthened the capacity of regulators to monitor compliance with the various standards of accommodation required to be provided by proprietors of rooming houses. We encourage CAV to continue to resource and authorise its own officers in rooming house regulation, as the partnership between state and local government has strengthened the capacity of the overall system of regulation. We also encourage CAV to consider giving CAV authorised officers access to rooms of rooming houses, not just the common areas.

Reviewing the definition of a rooming house through an inter-governmental working group would assist in capturing emerging trends. For example, councils have observed an emerging trend of state government funded supported residential care facilities transitioning to being classified as a rooming house which then needs to be registered by the council, when supported residential care services are withdrawn. There may also be some establishments with rooms in more than one building that to all intents and purposes should fall under the definition of a rooming house. The increase in rooming houses being operated out of apartments, often in high-rise towers, is emerging as an issue, and these can be difficult to detect or investigate.

We support investigation of tenancy agreements for occupancy of rooms in rooming houses being replaced by alternative residency agreements in order to remove ambiguity about what is a rooming house versus shared accommodation. We also support improving the use and application of house rules, for example requiring these to be displayed in common areas, and for these to include appropriate behaviour for occupants as well as not to cause a nuisance to neighbouring residents.

### **Emerging forms of holiday and short-stay accommodation**

Holiday rentals, including Airbnb type arrangements, are emerging as a form of accommodation which requires re-assessment. Generally councils do not register properties under the Public Health and Wellbeing Act which fall under the exemptions for houses under the exclusive occupation of the occupier. While longer term rentals generally raise no issues, short-term rentals that can be used as weekend "party houses" can pose more of a problem and garner more complaints to councils from adjoining or nearby residents. While some coastal councils have begun registering holiday rentals as prescribed accommodation, we note that if this were to be broadened in applicability, this would significantly increase the regulatory burden on councils and owners of holiday properties. There would be many councils which would not support this approach, but consider that "party houses" should be addressed in an alternative manner that considers regulatory burden and practicality in application.

Tenancies on farm and remote townships where no town water is available is a potential risk to the health of tenants when private water supply systems are run down or poorly managed. We suggest that awareness raising materials need to be developed to enable tenants better understand what they need to do to access safe drinking water where this is privately sourced on the property.

### **Rubbish disposal and impact for public amenity**

Councils would like to see a greater emphasis on landlords being responsible for ensuring that tenants appropriately dispose of rubbish (including furniture and mattresses) when vacating premises, and that any costs that councils might have to incur because this has not been undertaken in a timely manner are recouped prior to the release of the bond.

### **Review of the Public Health and Wellbeing Act Regulations 2008**

We note that the Public Health and Wellbeing Regulations 2009 will sunset on 15 December 2019. We suggest that in considering changes to the Residential Tenancies Act that their interaction with the public health legislation be considered and recommendations developed that that can assist the public health legislative review that will no doubt be undertaken as the sunset period nears.

### **Consultation with councils**

Councils have considerable interests in the detailed wording of the Residential Tenancies Act and its regulations, and they would welcome being involved in CAV's consideration of changes that will affect their regulatory role and activities. The MAV is willing to assist facilitate these discussions. This will be particularly relevant for the development of the Government's response to the Parliamentary Inquiry into the Retirement Housing Sector, and the implications this may have for the regulation of caravan and residential parks.

Should you have any queries about this matter, please contact Rosemary Hancock at the MAV, email [rhancock@mav.asn.au](mailto:rhancock@mav.asn.au).

Yours sincerely,



**ROB SPENCE**  
Chief Executive Officer