

# **ENVIRONMENT, NATURAL RESOURCES AND REGIONAL DEVELOPMENT COMMITTEE**

## **Inquiry into the sustainability and operational challenges of Victoria's rural and regional councils**

Bendigo — 25 October 2017

### Members

Mr Josh Bull — Chair

Mr Simon Ramsay — Deputy Chair

Ms Bronwyn Halfpenny

Mr Luke O'Sullivan

Mr Tim Richardson

Mr Richard Riordan

Mr Daniel Young

### Witnesses

Ms Sue Lafferty, Bendigo Domain Village; and

Ms Trish Elliott, Bendigo Retirement Village.

**The ACTING CHAIR (Ms Halfpenny)** — Welcome to the Bendigo hearings for the inquiry into the sustainability and operational challenges of rural and regional councils. We are really pleased that you could come in and talk to us today.

I am just going to go through some of the formalities before we hand it over to you for your presentation. The committee is hearing evidence today in relation to the inquiry into the sustainability and operational challenges of Victoria's rural and regional councils, and the evidence is being recorded. Afterwards, when the transcript is available, you will be given a copy of the proof to have a look at to check for accuracy prior to it becoming public. Anything you say at this hearing is subject to parliamentary privilege. However, if you make those same comments outside these hearings, those comments are not subject to parliamentary privilege.

On that note, again welcome and thank you for coming. Perhaps if we could start off with you giving your name and title just for the transcript and a little bit of background, and then go into your presentation.

**Ms LAFFERTY** — My name is Sue Lafferty. I have been secretary of the Bendigo Domain Residents' Committee previously for two years and assistant secretary for one year. During that whole time I have been on the RRVV Rates Justice Working Campaign Party.

**Ms ELLIOTT** — I am Trish Elliott. I am actually from the Bendigo Retirement Village. Sue is from the Bendigo Domain Village, so it is two different ones.

**The ACTING CHAIR** — Sorry. I do not think we have —

**Ms LAFFERTY** — I am also resident liaison officer with the RRVV. I have been on the Rates Justice Campaign for a couple of years as well.

**The ACTING CHAIR** — So the Bendigo Domain Village is a new development?

**Ms LAFFERTY** — December 2009, whereas Trish's village is older than that. I did put her name and title in the email to your officer.

**The ACTING CHAIR** — So two different retirement villages?

**Ms ELLIOTT** — Yes. Ours is 35 years old.

**The ACTING CHAIR** — Sorry, I thought I read that somewhere; it must have been misunderstood. Sorry about that. Would you like to make a short presentation before we go into questions?

**Ms LAFFERTY** — Good morning, Chair and committee members. Thank you for the opportunity to speak at this inquiry hearing. Local government rating for retirement villages has been a major concern for all Victorian retirement village residents for several years, with the RRVV petition to the Legislative Council in 2014, together with numerous letters and submissions to politicians, local councils and the recent Inquiry into the Retirement Housing Sector.

Our concern is the fairness, equity and adequacy of the council's rating system within the position of the general rate on a retirement village unit, which is the same as that imposed on a mainstream residence, although there are enormous contractual and other differences between these two types of residences.

Contractual arrangements exist between owner and resident, with a requirement to pay a monthly levy — currently \$255, rising annually — for the occupancy, tenure and payment of deferred management fees and refurbishment fees, and a monthly levy for six months upon departure, in addition to loss of capital gains on sale price. These circumstances do not apply to a residential house, which is valued on the same market value principle.

Vertical equity refers to justice or fairness in the treatment of properties in different circumstances. Our monthly levy covers many items relevant to village living, among which are the provision, maintenance, upgrade and replacement of roads, footpaths, kerbs, gutters, street lighting, power, parking, landscaping and street sweeping. Refer to attachment 1 for a comparison of council service provision to a retirement village unit versus residential house.

For ratepayers in a suburban residence these infrastructure items are accessible and funded via their local council rates. Our residents pay council the general rate in addition to the monthly levy paid to the owner, resulting in an inequitable imposition of double taxation on residents. Double taxation is also cited by the Property Council of Australia, which believes that retirement village residents bear an unfair rate burden in relation to the services they use and recommends a 25 per cent reduction of the general rate for retirement village residents.

In each submission to council since 2011 we have detailed the local government infrastructure services to which we have restricted access. Council has granted a 15 per cent concession for farming properties in recognition of their restricted access to many city services and also has granted three levels of commercial, industrial differential rates, based on locality within the municipality, which take into account the differing level of services provided by council. Yet in response to our differential rate request, council informs us that there is no link between services used and the amount of rates paid, as council provide infrastructure and many services for public benefit.

Council rate revenue derived from retirement villages due to village building density is magnified many times over rate revenue derived from mainstream residential development. This is a significantly enhanced rate revenue base, which is increased further by the financial benefit of undelivered services. In response to village submissions, council cite an assortment of extremely divergent reasons for granting or refusing a differential rate for retirement villages. Refer to attachments 3 and 4 for these council reasons.

In one municipality the council has continually refused a differential rate to retirement villages over the last three or four years. Then at a meeting earlier this year a council officer admitted that those villages actually received a 20 per cent discount on the CIV of their rates and that this arrangement had been unchanged for over 10 years. Residents were surprised to learn this as there is no evidence of this discount applied to the rate in the dollar on residents' rate notices, no indication of any discount process being applied on rating policy spreadsheet documents supplied by council and no mention of it in response to previous village submissions. It was not mentioned when council presented their submission to the recent Inquiry into the Retirement Housing Sector, which also addressed retirement village differential rates. Neither were the village owners aware of this discount.

It is our belief that the objective of a need for greater consistency, transparency and certainty across the 79 municipalities in Victoria, as cited in the Ministerial Guidelines for Differential Rating, April 2013, has not been achieved.

Valuation — the *Australia and New Zealand Property Journal* claims that a retirement village incorporates both an operating business and an interest in the real property, which is different from most conventional forms of real estate property. Also retirement village assets are different from traditional residential assets due to their operation in accordance with statutory legislation.

Valuation of a retirement village unit is covered under the Valuer-General of Victoria and Municipal Group of Valuers publication *Specialist Property Guidelines for Aged Care and Private Healthcare Facilities*, August 2011. The Municipal Association of Victoria passed a motion on 16 May 2014:

#### **Resolution**

That the MAV campaign to have the Valuer-General Victoria's methodology for statutory valuations in aged care be reviewed to take into account the negative impact the deferred management fee structure has on retirement village unit sale proceeds.

An update of this resolution's progress was requested from council in 2015 and again in 2017. Council reported that no advice of any change in valuation methodology has been received from the Valuer-General's department.

Village community and sporting facilities relieve council of the need for substantial financial expenditure to build and maintain such facilities for an increasing ageing population. These facilities push up valuations, and hence residents' rates are increased. The Valuer-General's guidelines cite that the value of common property is inherently taken into consideration in the unit's value and is not separately assessed.

In conclusion, mandatory legislation for a statewide differential rate for retirement villages was not recommended by the recent Inquiry into the Retirement Housing Sector. Hence it falls again to elderly village

residents to persuade local councils to change the inequitable rating system that is applicable to retirement villages. This places a huge load on the ageing, who are isolated due to reduced mobility, tyranny of distance and limited access to relevant information which may further their cause. Once in situ a suitable differential rate should be protected. To continue the imposition of double taxation on elderly village residents with declining health and resultant disabilities, who have been proactive in downsizing to age-appropriate accommodation, is unfair and inequitable. They are the weaker party in this scenario and deserve fair treatment by all government levels and protection from injustice. A statewide mandatory differential rate is imperative to finalise this prolonged matter of rate injustice.

I must draw your attention to something before you start questions. In attachment 3, due to time constraints and other gremlins, the City of Greater Bendigo's reasons were not included, but I did hand it to one of your officers.

**Mr RIORDAN** — Thank you for your presentation. We have been taking submissions from all sorts of groups, and you are the second group dealing with this issue around nursing homes, retirement villages and the like. I had a question, and I was trying to look through to see if the answer was there, but in your experience here in Bendigo, the value of the retirement unit that you are in relative to a comparable unit outside of the village — is there a discounted value on that in the marketplace? I think I saw a figure there of \$350 000. Would a comparable standalone unit in an ordinary street be a similar price, or is it a discounted amount?

**Ms LAFFERTY** — From reading the property sections in the paper, I believe we have a greater value for our units, and that is probably pushed up by the facilities we have. As I said before, the reason why residents move in — the major reason — is declining health. In my particular example, I had a disabled husband who was in very poor health, and we went looking around for units we could downsize to in the suburban streets, and it was not a very productive project. Then we decided to look at retirement villages, and we discovered the one at Junortoun. So we made inquiries and we did our homework — as much as we could regarding the retirement village given the limited access we had to information at that time, and I was doing it all because my husband was not capable of doing it — about the prospects of a better life in a retirement village and having some kind of assistance for us.

**Mr RIORDAN** — So the added benefits balance the value out? So there is not a value difference in the unit because of the extra benefits you get from that extra paid service that you have?

**Ms LAFFERTY** — Sorry, I did not hear that.

**Mr RIORDAN** — Because the rating system is based on value; right across the local government area the rate is struck based on your property value. Your point would be that your property that you are buying, even though it is a smaller plot, is actually at a premium price because of the other benefits that you have paid for by being a member of that retirement village?

**Ms LAFFERTY** — Well, we pay dearly for those extra benefits.

**Mr RIORDAN** — That is right. That keeps the value of your plot up, so it is not worth less than a comparable house out in the suburbs.

**Ms LAFFERTY** — I am not sure in that respect. Our argument is that the council do not provide those services I outlined before and other councils have recognised, as you will see in the attachments, that they have given a discount for the council not providing those services. It seems to me that the inconsistency of council reasons is a point for major investigation by the state government, because —

**Mr RIORDAN** — With your investigations, what are you suggesting is the preferred or ideal discount rate that should be applied to residential communities?

**Ms LAFFERTY** — Some council gave 25 per cent; others have given 10 per cent. It has been a really uphill battle because — I do not know whether you can imagine yourself as a person of elderly years, in ill-health living in a retirement village. You come across this rate injustice situation and all of a sudden you are thrown in at the deep end, and the only access to information you have, mostly, is through the internet, and then you find Residents of Retirement Villages Victoria. We go down — health permitting — once or twice a year to different meetings in Melbourne. Pensioners in other retirement villages have the same struggle to get information from the local

government and from state politicians and to establish some kind of rapport with those people to get them to see our situation. It is really — I cannot think of the word at the moment — but it is really —

**Ms ELLIOTT** — Completely frustrating.

**Ms LAFFERTY** — It is frustrating, yes. It is terribly frustrating.

**Ms ELLIOTT** — You are an isolated group. Because we have got all these ads on TV showing the champagne and the people looking like they are worth \$3 million each. Come out to our village and have a look: people shop at the op shop; they are worried about paying their monthly fees because they keep going up and they have lived too long. Our average age is 81.2. I can assure you we do not have people that are worth millions of dollars at our retirement village, yet every year the fees go up, the rates go up, everything goes up — it is not commensurate with what your pension goes up. And if you did have a nest egg, it is worth nothing, because there is no money you could be making on it. People are feeling very vulnerable and very scared.

People say, ‘Well, you’re lucky; you live in a retirement village’. Well, are you lucky? You have lost your husband, and it is a very scary situation out there now with drugs and what is going on in the wider community that you did not really have your eyes open to when you had someone to protect you. All of a sudden you are a widow on your own, you have got ill health and you think, ‘Where can I go that I’m safe? Where can I go that I’m not scared 24/7?’. So I looked into this situation and I thought, ‘Well, this is a place that I can go’. But it is another situation where they think everyone that is old, who has sold a house, has got lots of money, and they want a piece of you. I know I am sounding very ‘boohoo’, but I am sick of it. I am not asking for anything I should not have; I live in a 9.1-square unit with a fairly large single garage — I do not think that is luxury. Yet, our rates, I think, are outrageous.

**Mr RIORDAN** — What is the rate on your unit?

**Ms ELLIOTT** — I think without the pensioner discount it was nearly \$1700; I think it is outrageous. We pay for everything ourselves. Forget about the other services. If we look at infrastructure, our village is 35 years old. Our roads, our lighting, our footpath, our water, our sewerage — we have got to pay for all of that. So the council have nothing to do with the infrastructure, yet we pay for infrastructure with our rates. If I was living in a normal unit or a normal house and something happened to the road or the footpath, I would ring up the council, because every year you are paying. But we cannot seem to get the justice part of it across. We are not looking for a handout; we are just looking for a fair deal. Why are we paying twice? We are paying to the owner of the business at the village, and there is no capital gain because all of that goes to them — that is what I call ‘your lifestyle component’. Everyone laughs at me when I say that. I say, ‘I’m waiting for the lifestyle’. Since I have come it has all been just hardwork.

**Mr O’SULLIVAN** — But it is on the glossy brochure that they show you up front?

**Ms ELLIOTT** — Yes. Where is it? Because if you want that lifestyle, they do not tell you: you provide it yourself. They do not have staff that give you all of that; you have got to do it yourself. Do you want to come out and see 81 to 95-year-olds — actually, I think 97 is our eldest — providing that lifestyle? I mean, it does not happen.

**The ACTING CHAIR** — I think there certainly needs to be some further regulation of these companies based on the things we have seen on the television.

**Ms ELLIOTT** — I am telling you the truth of the reality of life. Now Sue’s retirement village is beautiful; it is seven years old or something now, isn’t it?

**Ms LAFFERTY** — Eight.

**Ms ELLIOTT** — Eight years old. But again, it is not like the brochures. There are still people who are on walkers, they are on sticks and they have got massive health issues.

**The CHAIR** — Do you own the land?

**Ms ELLIOTT** — No, you do not. You own your bricks and mortar and the land underneath it.

**The ACTING CHAIR** — And then the deal is that you are apportioned — in terms of calculation of council rates, that is all I am asking. If you do not own the land, the village owner —

**Ms ELLIOTT** — Basically all the common land is through the body corporates, and what Sue just read to you — the way the valuers do it is they add up all that land and they apportion it between the units. Is that correct?

**Ms LAFFERTY** — Yes.

**Ms ELLIOTT** — That is the way it is done.

**The ACTING CHAIR** — So all the common land, they come in and they work out how much value that is as opposed to the land of your house or your unit.

**Ms ELLIOTT** — Yes. Before coming into this I was on a 780-square-metre block, you know, with a much larger house, a garage, a shed, the whole thing. That is what you are paying for. But on this, you are wanting to know what is underneath your bricks and mortar, but all the area, which is common property — in other words you are all allowed to walk around on those pathways and things like that — they assess all of that. In our case it is 18 acres. All the units are on the 18 acres, and then you have got roads and whatever. That is apportioned between 163 units.

**Mr RIORDAN** — So with your rate notice, what amount of land is on your rate notice?

**Ms ELLIOTT** — I do not think it shows any land. I should have brought it in. I did not even think of it, sorry.

**The ACTING CHAIR** — Maybe. Could you send it to us?

**Ms ELLIOTT** — Of course.

**Mr RIORDAN** — So what you are saying is that your rate at \$1700 is struck on the unit and the dirt that the unit is on plus your portion of the common land?

**Ms ELLIOTT** — Yes, and the value of what council sees. I bought my unit in February 2014 for \$235 000. I do not think that is what you would call an up-market price. I was absolutely horrified then at how much the rates were. I mean they are small units. They are not big or palatial. Even your units are not really huge, are they?

**Ms LAFFERTY** — No.

**Mr RIORDAN** — What were you paying in your house before you moved in?

**Ms ELLIOTT** — I would have to look that up, but I do not think there was that much difference, to be honest. I do not think there was that much difference at all. And what they do is the facility area that you have got, which are the facilities provided by the owner of the business, they assess rates on that as well, and that rate is paid by all the residents through their monthly fees. So you are paying for that as well. You pay for everything.

**The ACTING CHAIR** — So there are the rates they have to pay plus yours?

**Ms ELLIOTT** — But the council still do not see that if we were outside on a public road, we are paying for that within the rate. But they do not have to provide that. We are paying for all that. To me the equitable situation would be: okay, well, council is not providing any of those infrastructure fees; they must have a component within their rate as to how they assess it for the whole community to be paying for that infrastructure. That is all we have been arguing about for all these years and we cannot get anywhere. Honestly, we cannot.

**The ACTING CHAIR** — I do not agree with user pays — that just because you go to a library everyone should pay for that — but that is not really what you are arguing. You are actually arguing about all the extra land that is being —

**Ms ELLIOTT** — I am not arguing that. Sue is not arguing that. RRVV is not arguing that. We have always said from the outset: this is a personal choice and from my own personal point of view I went to a retirement village for security and health reasons, because I do not have any family support in Bendigo.

**The ACTING CHAIR** — There are not that many retirement villages in comparison to population.

**Ms ELLIOTT** — There are two. You are looking at us.

**Ms LAFFERTY** — There are only us two.

**The ACTING CHAIR** — So in terms of the cost it would be if you had a different council rate, would it blow the bank? Have there been any calculations?

**Ms ELLIOTT** — No, there are only two in Bendigo, which is Bendigo Domain and Bendigo Retirement Villages. There are lots of other different types of set-ups though, aren't there, Sue?

**Ms LAFFERTY** — As of July this year, council informed us there were 674 retirement village units in Bendigo.

**The ACTING CHAIR** — That is individual units.

**Ms LAFFERTY** — Yes. But only 334 of those units are in our two villages, which under the Ministerial Guidelines for Differential Rating are considered appropriate because they come under the Retirement Villages Act, whereas with the other retirement villages, or lifestyle villages, they seem to just call everything that looks almost the same a retirement village, whereas it is not. They are covered under the Residential Tenancies Act.

**The ACTING CHAIR** — Yes, because I do not think they own the land.

**Mr O'SULLIVAN** — Congratulations on your presentation and submission. It is first class. Well done. It is one of the better ones that we have had, without a doubt. I agree with you. It is wrong.

**Ms ELLIOTT** — Thank you, Luke. It is wonderful to hear that.

**Mr O'SULLIVAN** — The way you have presented it was terrific. I agree that there should be a discount for residential properties.

**Ms ELLIOTT** — It is just fairness. It is just absolute basic fairness; that is all we are saying, and what Sue said before, you have to really think about. It gets put into the submissions that Sue does and I do. If you look at the land base, there are three units at least to every same area that would be outside the fence of the retirement villages, yet they are getting three times the rate. You are not robbing anyone in Bendigo. There is no other person in Bendigo who could say, 'Well, why should you be getting a benefit?'. Well, we are not really, because the rate base for all the amounts of taxation or rates that are being paid on all those units far outweighs if it was a housing situation.

**Mr O'SULLIVAN** — What would you like us to do?

**Ms ELLIOTT** — Make them give us a discount.

**Mr O'SULLIVAN** — We cannot make the council provide a discount.

**Ms ELLIOTT** — Well, then be very persuasive.

**Ms LAFFERTY** — I think in the recent Inquiry into the Retirement Housing Sector the impact of local government rating was one of the terms of reference. They decided not to mandate that differential rate, which I think was a great error. Some of the other recommendations were also what we would regard as inadequate. The Retirement Villages Act was due to be reviewed. That was in one of the recommendations, but I do not think there was any time line given for it. It is a very complex area.

**The ACTING CHAIR** — It is.

**Ms ELLIOTT** — Can I interrupt again? One thing I will say is I got a letter from the minister who was then the Minister for Local Government, Ms Hutchins, and it was a very long letter. It was very well thought out and very pertinent to what we were talking about before. She is saying now that they could not go further with that, but they have capped the rate. Now, I heard the CEO and Rod Fyffe talking about rate capping and the problem it has, but without rate capping, rates for general people are unsustainable in this community. I can tell you that right now.

**The ACTING CHAIR** — It is increasing at 8.1 per cent.

**Ms ELLIOTT** — It is ludicrous, the increases in Bendigo we are having. So she said in her letter to me that at least we have got that. Yes, we needed that, but we need that for everybody in this municipality, not just people in retirement villages. I still am very grateful for the work that the government has done on that for all people, but it still does not address the issues that Sue and I have been fighting hard for, and the RRVV and other organisations relevant to retired persons, whether they are in aged care or whatever, in this situation. We are not asking for anything that is not fair and reasonable is what I am saying. It is not that you do not use the library. All of those things are up to you as to whether you do it or not. Most of the villages have little libraries, but if you can still get out and you can still do that, that is fine. This is something to me that is very separate and apart. It is calculable, you can define it, you can look at it and then you can address it. That is why we have done what we have done.

**Mr O'SULLIVAN** — The next step for us as a committee is once we have compiled all the information with the assistance of the committee staff we will put together a committee report. We consider all the information that we have heard as part of the hearings and then we put up recommendations. I think as a committee we will certainly be happy to have a chat about this in our deliberations and see where we go with it. From my point of view I absolutely agree with where you are coming from.

**Ms LAFFERTY** — Thank you.

**Ms ELLIOTT** — Because we cannot get past the blocks. Every year the blocks are just getting deeper and wider. To me it almost feels as though the municipal association and the 79 councils have said, 'Listen, we're going to be unionised with this attitude. We will not allow this to happen'. There have been about up to —

**The ACTING CHAIR** — You might have to run for council!

**Ms ELLIOTT** — Oh, no, no — this is very stressful.

**Ms LAFFERTY** — In researching the reasons why councils did not give a differential rate or did give one, I downloaded various local council rating strategies and budgets. When I came across the Yarra Ranges council budget, I kind of looked at the screen and thought, 'God, what's this — *deja vu*?'. It was the exact same wording that Bendigo council gave to us. Sections of that statement appeared in other councils' rating budgets as well, so it kind of led me to wonder if somebody, some authority, had issued some generic statement to be issued to councils so that they could automatically give it back to the villagers in response to their submissions and not have to do much research themselves on the matter. It needs to be fully investigated by the state government.

**Ms ELLIOTT** — Because they keep throwing in the curve balls. This is how I see it: we say, 'Look, this is the criteria, and it is just that', and they keep saying, 'Well, we would be enhancing the business of the retirement village operator. You have got swimming pools, you have got bowling greens' or whatever. We do not have any of those things, and there are lots and lots and lots of places that do not — and if they do, it is irrelevant. The facts are the infrastructure component within the rates that we are paying to the council: they do not ever have to use that money in relation to that village. All the residents have to pay that for their benefit to be able to go in and have the safety, security and companionship of ageing people and whatever you want to go on with. It is as simple as that. But they make it so convoluted and so in 50 directions, and you are fighting at different levels when it has to be brought back to the reality of what it is. That is how I see it.

**The ACTING CHAIR** — You do not have to convince us. I think we are sort of all in furious agreement with you.

**Ms ELLIOTT** — Thank you, Bronwyn.

**The ACTING CHAIR** — It is unfair and it is ad hoc. As you say, different reasons given and all sorts of things.

**Ms ELLIOTT** — Well, Sue has worked so hard on that presentation to give you all the facts — and they are facts. She has done a marvellous job.

**The ACTING CHAIR** — Well, if we have any other questions when we are doing the report, is it okay for us to just write to you?

**Ms ELLIOTT** — I am not online, but Sue can.

**The ACTING CHAIR** — Okay, we can contact you through email, and the secretariat has got your details, no doubt.

**Ms LAFFERTY** — Thank you very much.

**The ACTING CHAIR** — Thank you.

**Ms ELLIOTT** — And I will not forget to send the rate notice. Thank you — and thank you for the support.

**Committee adjourned.**