The impact of Windfall Gains Tax on Local Government and its communities

We call on the State Government to:

Exempt Councils from the provisions of the Windfall Gains Tax where land in a Public Use Zone or Public Park and Recreation Zone is being rezoned to its underlying zone to facilitate strategic asset management practices.

Windfall Gains Tax (WGT) is a State Government tax, applicable from 1 July 2023. WGT is unique to Victoria. It is aimed at taxing the increased value of land resulting from rezoning decisions.

The tax is intended to support the funding of public infrastructure; however the revenue raised from WGT is to be deposited into State Government's consolidated revenue. Unlike GAIC (Growth Areas Infrastructure Contribution) revenue, there is no 'WGT-specific fund' with no certainty of expenditure on public infrastructure. As the legislation currently stands, Councils are treated unfavourably compared to private landowners and universities, which raises concerns of equity, efficiency, and fairness to an organisation that aims to improve our local communities.

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The objective of the Windfall Gains Tax is to share the private economic benefits that arise out of the rezoning of land within Victoria.

In the Victorian Local Government context where land is held in government hands for the benefit of current and future generations there is no private economic benefit that arises as a result of a Council realigning its property portfolio to meet the needs of an evolving community.

The economic benefit of taking land from a properly assigned Public Use Zone as is required under the Victorian Planning Provisions to a zone allowing use of that property by the private sector as is recommended in the Local Government Best Practice Guidelines is a public benefit not a private one.

Funds realised are used to support the creation of new assets that provide essential services to the local community that has invested in these property holdings over many years.

Taxing local councils for implementing strategic asset management practices is contrary to the stated intent of creating an efficient and equitable method of capturing "windfall" gains to enable greater government investment in services and infrastructure.

The unintended consequence of this legislation is a reduction in the capacity of responsible local governments to practice strategic asset management, in turn leading to a reduction in service dividend to the community.

Taxing local councils for implementing strategic asset management practices is contrary to the Minister's intent when introducing the Windfall Gains Tax

" Taxing windfall gains allows a share of the private economic benefits from rezoning to be captured as a revenue stream, in an efficient and equitable way, so that the benefits of such a windfall can be returned to the community through greater Government investments in services and infrastructure."

Treasurer Hon.
Tim Pallas

October 2021

How are Different Landowners Being Treated?

Councils face a disadvantage when dealing with rezoned land compared to private landowners and universities.

Private landowners can negotiate transactions before rezoning and defer WGT which, because of the time value of money, has significant value to a purchaser.

Universities enjoy various exemptions, such as WGT exemption after 15 years of continuous ownership and use of rezoned land, transfer of rezoned land without triggering WGT, and exemption if the revenue is used for non-commercial purposes.

In contrast, Councils that comply with the LGBP (Local Government Best Practice) Guideline can only transfer rezoned land, which necessitates immediate payment of WGT by Council due to the sale and loss of any deferral right for a purchaser, thereby resulting in lower land values for Council and an unintended direct transfer of wealth to the private sector.

Rationale Behind Our Advocacy Position

The three key reasons behind Councils advocacy position are:

1. Council Profile: Councils do not profit from the retention or dealing in land like a private landowner. They hold land on behalf of the community they represent. Any value uplift achieved from a rezoning is of benefit to that community and not private shareholders or investors. The full benefit of that uplift is applied to community purposes.
2. Council Owned Land: Council owned land is a form of public asset. If the value of land is increased via a rezone, it is for the benefit of the public. Land owned by a Council is often repurposed (through a rezone) to unlock and realise further value for the benefit of the community for which the land is held.
3. Policy Reasoning: There are no good policy reasons for taxing Councils on the same basis as (or more onerously than) private landowners, developers and speculators. Taxing Councils on value creation will disincentivise Councils from creating value. Ultimately the community will suffer from this outcome. WGT will impose an additional layer of administrative and legal compliance burden on Councils.

Aims and Benefits of our Advocacy

The aims of Council advocacy are to:

1. Achieve better outcomes under the new tax regime, focusing on equity, efficiency, and administrability.
2. Redress the relative disadvantage of Council land dealings compared to private land dealings.
3. Create a nexus between the value created and the municipality where it is utilized/applied.
4. Exempt Councils from the provisions of the Windfall Gains Tax to facilitate strategic asset management practices.

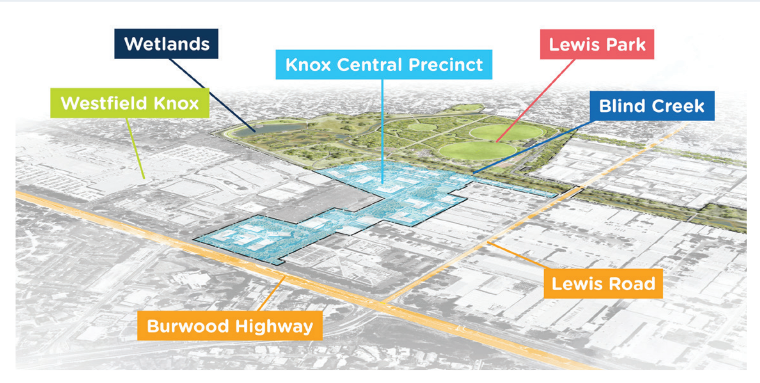
The benefits of achieving these aims include:

1. Greater equity and efficiency in the application of WGT to Councils.
2. Recognition of the unique community contributions made by Councils.
3. Redress of the value shift that would otherwise occur to the private sector.
4. Maintenance of Council financial autonomy and responsibility.
5. Reduced legal compliance costs for Councils dealing with WGT.

By advocating for these changes, Councils can work towards a more equitable, efficient, and fairer application of the WGT for all stakeholders.

Case Studies

Below are two case studies which show how Windfall Gains Tax has already had direct impact on Council's budget planning and impacted a better planning outcome for the community.



CASE STUDY 1

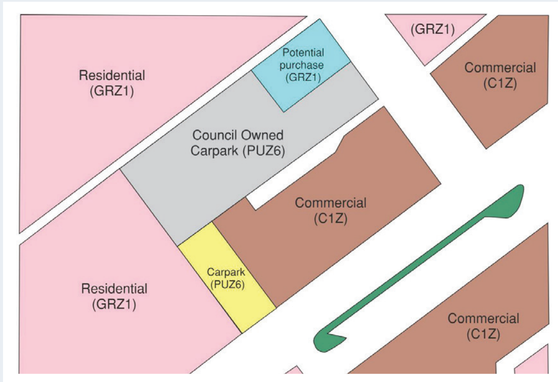
Knox Central offers one of the most significant opportunities to deliver the future housing needs of Melbourne's outer east.

Knox City Council owns nine hectares between Burwood Highway and Blind Creek, next to Westfield Knox. A structure plan for the precinct envisages high density residential development up to 12 storeys that could house a population of up to 5000 people.

Housing options will include apartments, villas and townhouses, and incorporate social and affordable housing. It will likely include offices to support the changing local employment profile in Knox.

This new community will need community facilities and high quality open spaces to support this kind of higher density living. Council has already invested heavily to move its depot, purchase land to facilitate road access, establish a new library and improve landscaping along Blind Creek. A masterplan for Lewis Park identifies further improvements including recreational infrastructure at a cost of more than $9 million. These investments were intended to be funded through the eventual sale of Council land for development.

The land will need to be rezoned from Public Use to facilitate its redevelopment for residential and commercial purposes, thereby attracting Windfall Gains Tax. This would strip millions from Knox's budget; money that was earmarked for services and facilities needed to support the Victorian Government's housing targets.



CASE STUDY 2

A private dwelling was listed for sale in one of our Council areas.

This site presented an opportunity for Council to improve the layout and efficiency of its existing adjacent car park by acquiring the dwelling and converting it to parking.

To offset the costs, the other road entrance (colored yellow) could have been sold for a commercial offering, improving the shopping centre Streetscape, improving pedestrian safety by removing a crossover from a main thoroughfare and boosting economic activity.

Unfortunately, the land marked in yellow is zoned Public Use Zone and would therefore require rezoning prior to sale, thus triggering a Windfall Gains Tax burden.

This burden is significant and makes, what would otherwise have been a better outcome for the community, completely unfeasible.

FOR MORE INFORMATION

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