



Our Info: 2019/02940

Local Government Act Review Team

Department of Local Government, Sport and Cultural Industries

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Rates, Fees and Charges: Rates exemptions

The Department of Communities (Communities) is providing this submission to address one issue under review, that 'land used exclusively for charitable purposes' is not rateable land and therefore exempt from Local Government (LG) rates. Any change to the LG rates exemptions could have a significant financial impact on some Community Housing Providers (Providers) and Local Government Authorities (LGAs), so needs to be carefully considered, including a cost-benefit analysis.

Communities provides the following recommendations:

1. Communities **supports** clarifying the definition of 'land used exclusively for charitable purposes'.
2. Communities **supports** retaining the LG rates exemption for 'land used exclusively for charitable purposes'.
3. Communities **does not support** defining land as 'not exclusively used for charitable purposes' if the land is used as a residence and is exclusively occupied by persons, including a caretaker.
4. Communities **supports** a consistent approach to LGAs' decisions on LG rates exemptions across WA, especially where it enhances the provision of social housing.

Background information to support the above positions is included in **Attachment 1**.

In addition, given the growth in the community housing sector over the last decade, resulting in an increase in dwellings eligible for LG rates exemptions, Communities would like to discuss with you the financial impact of such arrangements on both Providers and LGAs.

As this matter is of considerable concern to our valued stakeholders – both Providers and LGAs – Communities is committed to assisting the Department of Local Government, Sport and Cultural Industries (DLGSCI) and recommends the formation of a working group to:

1. Clarify the definition of 'land used exclusively for charitable purposes';
2. Investigate the financial impact of changes in rates exemptions on Providers; and
3. Investigate the financial impact of community housing growth on LGAs.

Should you like to pursue these matters further, please contact me on [REDACTED] or [REDACTED]

Yours sincerely

Scott Hollingworth

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Department of Communities

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Attachment 1: Supporting Information for Department of Communities' Positions on the Local Government Act 1995 Review (Rates, Fees and Charges: Rate exemptions)

1. 'LAND USED EXCLUSIVELY FOR CHARITABLE PURPOSES'

Community Housing Providers (Providers) are predominantly not-for-profit (NFP) entities or Local Government Authorities (LGAs). The majority of community housing dwellings in WA are managed by NFP Providers, who are registered with the Australian Charities and Not-for-profits Commission (ACNC), so have already met the requirements to be identified as a charitable organisation.

The LG Act currently allows for 'land that is used exclusively for charitable purposes' to be exempt from rates, however this is not further defined. The various definitions of 'charity' and 'charitable purposes' available throughout all levels of Government have made decisions that rely on such definitions (such as LG rates exemptions) problematic. Notwithstanding many State Administrative Tribunal (SAT) decisions that have ruled in favour of Providers receiving LG rates exemptions, there are still ad hoc responses by each LGA to applications from Providers on dwellings where they have sought exemptions. This lack of consistency reduces the efficiency of both Providers and LGAs.

Communities **supports** clarifying the definition of 'land used exclusively for charitable purposes'.

The "Rates, Fees and Charges" Discussion Paper notes:

"A number of organisations provide important services within the community with very limited funding. If these organisations are required to pay rates, it may impact on the ability for them to provide these services. This may ultimately cost the local government in having to provide the services in house or alternatively the services to the community are removed or reduced...[e.g.] domestic violence services and disability service providers."

Providers deliver the abovementioned services, as well as many other subsidised housing products, including social housing¹. Residential accommodation is provided as part of many domestic violence services and disability services, and many more vital services to the community. Sixty (60) LGAs also provide social housing, demonstrating their commitment to providing such community services. Social housing dwellings provided by Communities (the Housing Authority) and LGAs are not rateable, under Section 6.26 (2) (a) and (b) of the LG Act, so it follows that community housing should also not be rateable.

Communities **supports** retaining the LG rates exemption for 'land used exclusively for charitable purposes'.

¹ Rental housing for households on very low incomes, that provides a subsidy to ensure tenants pay no more than 25% of their income on rent.

2. LAND USED AS A RESIDENCE

One of the reform options proposed by the Review of the LG Act is that land be defined as not used exclusively for charitable purposes if it is used as a residence. The Discussion Paper notes that LGAs *“lost more than \$44 million in revenue due to rate exemptions”* and that *“charitable organisations accounted for a majority of rate revenue loss (35 per cent).”* It does not articulate the uses of land which account for the remaining foregone revenue (65 per cent), or further articulate the proportion of that 35% that is attributable to residential accommodation. Communities suggests further investigation is required of the amount of rates revenue foregone that is attributable to ‘charitable purposes’ specifically related to residential accommodation.

Communities has an interest in nearly 10,000 rental dwellings across WA that are managed by Providers, across many LGAs. These dwellings are used to house a variety of clients with different needs, including, but not limited to:

- crisis accommodation for people experiencing or at risk of domestic violence;
- supported social housing for people with disability, or mental health issues;
- boarding and lodging facilities, primarily for people experiencing or at risk of homelessness; and
- social housing for people on very low incomes.

These dwellings, managed by Providers, contribute a valuable service to the community that Communities could not deliver alone. **Communities considers these dwellings to be ‘used exclusively for charitable purposes’.**

Communities **does not support** defining land as not used exclusively for charitable purposes if the land is used as a residence and is exclusively occupied by persons, including a caretaker.

Some Providers manage ‘affordable housing’ in WA, which is accommodation for people on a low to moderate income. Rent charged for ‘affordable housing’ is required by contract with Communities to be set at 30% of tenants’ income, up to 74.9% of market rent, to maintain their GST-free supply status (under *A New Tax System (Goods and Services Tax) Act 1999* (GST Act)). These dwellings are still subsidised and could be considered to be used for ‘charitable purposes’, however Providers that manage ‘affordable housing’ have indicated that they do not apply for LG rates exemptions on these ‘affordable housing’ dwellings.

3. FINANCIAL VIABILITY OF PROVIDERS

The Community Housing Sector is a diverse sector, providing housing and support services to clients experiencing disadvantage. Of the 215 Providers and nearly 10,000 dwellings, the largest 10 Providers manage just over 6,500 dwellings between them, while the remaining majority of Providers manage fewer than 20 dwellings each.

Many Providers have organisational missions consistent with alleviating poverty, and some specialise in assisting specific groups of people. Subsidised rental accommodation is one of the many products and services they provide to their clients and this subsidy comes from many sources. Providers operate on a limited revenue including a variety of ad hoc and sometimes intermittent funding sources, including the limited rent received on some dwellings, Commonwealth Rent Assistance, grants and program funding from the Commonwealth and State Governments. Due to this limited funding, and the client groups they provide housing and/or services to, many Providers rely on the exemptions and concessions available to them to maintain their financial viability. Any change in the LG rates exemptions available to Providers may have a significant financial impact on Providers. **Communities supports further investigating the extent of this potential impact on Providers before any decisions are made on this matter.**

Communities surveyed Providers as part of a larger “Community Housing Study”, and asked respondents if they receive LG rates exemptions. There were 37 NFP Provider respondents, of which 30 indicated they received LG rates exemptions on some dwellings. While these results cannot be generalised to the entire community housing sector, they give an indication of the potential impact of any changes to LG rates exemptions.

Consistent with the composition of the broader sector, these 30 respondents operated across the complete range of property portfolio sizes:

- 8 respondents managed property portfolios of 1 – 5 dwellings each
- 8 respondents managed property portfolios of 6 – 20 dwellings each
- 14 respondents managed over 21 dwellings each

The Community Housing Industry Association (CHIA) WA conducted their own survey on the extent of LG rates exemptions among their members. Thirteen of the 14 respondents to the CHIA WA survey stated that they claim LG rates exemptions. However, the larger Provider respondents indicated that (on average) they only received LG rates exemptions on 22% of their property portfolio. There are many reasons that these respondents did not receive exemptions for some of their dwellings including, but not limited to:

- some respondents applied for exemptions but were not approved; and
- some respondents did not seek exemptions on their ‘affordable housing’ dwellings.

Some respondents to the CHIA WA survey indicated that when they had received LG rates exemptions, they had paid a service charge for essential services such as waste collection. This is an option that is worth considering, to balance the financial viability concerns from both Providers and LGAs.

Communities **supports** a consistent approach to LGAs’ decisions on LG rates exemptions across WA, especially where it enhances the provision of social housing.