

**IPART REVIEW OF THE LOCAL GOVERNMENT RATING SYSTEM:
RESPONSE TO ISSUES PAPER**

INTRODUCTION

The NSW Federation of Housing Associations (the Federation) welcomes the opportunity to participate in the Review of the Local Government Rating System published in April 2016.

At the outset the Federation would like to acknowledge the important role played by Local Government in New South Wales in setting strategic directions, in managing growth and change, and in delivering essential services to their communities. The Federation also acknowledges the resource constraints within which Local Government operates and the importance of rates as a central part of Councils' revenue base.

In recognition of this context, this submission aims to provide a balanced response to the issues raised in the Review, drawing on input provided by the Federation's members and maintaining an awareness of the key roles and constraints for Local Government.

THE FEDERATION AND THE COMMUNITY HOUSING INDUSTRY

The NSW Federation of Housing Associations (the Federation) is the industry peak body for community housing providers in NSW. Since 1993 the organisation has provided leadership, support and resources for the further development of the industry, and has represented the aspirations and interests of the industry to all other stakeholders – government, partners, business and the wider community.

The Federation's purpose is to support the development of a not-for-profit rental housing sector which compares favourably to any around the world, and which makes a difference to the lives of lower income and disadvantaged households across the state. The Federation seeks to ensure that community housing providers are active in all housing markets, providing a full range of housing products.

Community housing providers are viable, ethically run businesses driven by strong social missions and values. In 2015, community housing providers managed 38,000 tenancies across New South Wales and owned \$1.7 billion worth of community housing assets. Income sources include rent, subsidies, and fees from services. The demographic of tenants living in community housing is similar to those of living in public housing, as tenancy allocations by community housing providers and Family and Community Services (FACS) are made from the common Housing Register.

COMMUNITY HOUSING AND THE LEVYING OF LAND RATES IN NEW SOUTH WALES

Community housing providers recognise the important role of Local Councils in delivering services to their areas. They also recognise the limitations on resources available to local government. At the same time, community housing providers are seeking acknowledgement of the important public services they provide in delivering affordable housing and related services to those in need in local communities.

Currently community housing providers, as charitable institutions, are partially exempt from payment of rates under section 556 of the Local Government Act 1993 (LG Act). This exemption is consistent with the principles identified in the Issues Paper as community housing providers provide a public benefit in the form of affordable housing and related services for low income and high need residents.

Note that, despite the provisions of the Local Government Act under section 556, some Councils have in the past sought to levy rates in respect to community housing owned properties. Such instances prompted one of the Federation's members, Community Housing Limited, to take legal action against six Local Councils seeking to apply rates to its properties. The action ultimately resulted in a successful appeal by Community Housing Limited to the New South Wales Supreme Court (see Community Housing Limited v Clarence Valley Council [2015] NSWCA 327).

Following the successful challenge, the Federation undertook a survey of its members in late 2015 to ascertain current practices and views in relation to the levying of council rates. Members were consulted again in the context of the current Review. This submission draws on input provided through each of these processes.

Not surprisingly, given the diversity of community housing providers, the input provided through these two rounds of consultation expressed a range of viewpoints. Nevertheless, there is clear convergence amongst most on several relevant matters:

- Strong and cooperative working relationships between Local Government and community housing organisations are vital;
- Community housing provides important public benefits to local communities and should be recognised as vital community infrastructure;
- Community housing organisations operating on a charitable basis should receive the same benefits as other charitable institutions;
- The nature of community housing operations means that providers operate with very constrained resourcing and any surplus returns on their properties are reinvested in the provision of affordable housing and related services; and
- Community housing residents benefit from local services.

The consultations also revealed:

- Strong support for maintaining at least partial rate exemptions in view of the important public benefits provided by community housing providers and the limited resources within which they operate;
- Some willingness amongst community housing providers to trade-off rate concessions with the provision of services for their clients, with one provider being prepared to pay full council rates in return for full access to council services for its clients and to facilitate outcomes across a range of areas;
- Under the current framework under Section 556 whereby community housing providers pay water and sewerage charges, waste management and other levies, it has been estimated that community housing providers pay roughly 50% of the regular contribution amount;
- Recognition that, should the implementation of the State Government's plans under "Future Directions for Social Housing in NSW" result in significant property transfers to community housing providers, this would impact on the rating base for local government in the future.

RECOGNITION OF COMMUNITY HOUSING AS ESSENTIAL COMMUNITY INFRASTRUCTURE

Public assets and facilities which are integral to the operation of a healthy community and economy should be treated as infrastructure. When managed as a portfolio of assets, Community Housing is a key item of social and economic infrastructure which provides for the needs of local lower income households within the communities, supports a properly housed workforce and is a determinant of healthy economic growth, in turn promoting the social and economic welfare of the community.

While local governments are not required to develop such housing themselves, the livelihood of their communities and the availability of essential services workers is dependent on the availability of affordable and well located housing infrastructure.

All levels of Government should contribute to the provision of affordable housing in the community. It is clear is that the charitable sector provides valuable services to communities and great value to society and therefore requires help in the form of exemptions support these.

The Federal Government provides national funding at a limited level and tax exemptions. State Governments administer funds and manage public housing and NSW is seeking to expand affordable housing through current policy initiatives. They also provide tax exemptions to community housing providers.

Currently, NSW Government land which is leased for private purpose is not exempt from rates as per section 555(1)(a) of the Local Government Act (the 'Act'), however properties held by community housing providers which are also charities are exempt under section 556(1)(h) of the Act. This enables community housing providers to provide more affordable housing and better services for their clients.

RESPONSE TO THE REVIEW

Drawing upon input received from community housing providers, the Federation's responses to the key matters of concern addressed in the Review relating to community housing are set out below under the following headings:

- 1 Continued availability of rate exemptions for properties held by CHPs with charitable status
- 2 Availability of exemptions for affordable housing properties managed but not owned by community housing providers
- 3 Continuation of exemptions on current basis or discretion for Local Government to vary/lower the level of rate exemption
- 4 Rate exemptions versus rebates
- 5 Encouraging urban renewal/valuation method
- 6 Commercial versus residential rates for boarding houses
- 7 Capacity for local government to use rating powers as one of a suite of housing policy instruments

1. Continued availability of rate exemptions

As indicated above, there was almost unanimous support amongst community housing providers for retaining a level of rate concessions in respect to properties they own in recognition of the significant public benefits of affordable housing and the constrained financial circumstances of providers.

Nevertheless, it was accepted that the clients of community housing providers benefit from the availability of services provided by Local Government and that the existing arrangements for partial payment of rates were not unreasonable.

Furthermore, the view was put that, as the clients of community housing providers make use of the many services provided by Local Councils, some further contribution towards this through rates could be appropriate and may allow providers to have some leverage over the type and quality of services delivered by Local Government. In addition, as one provider put it, they see themselves and their clients as being part of the local community and therefore consider it appropriate that they contribute to the community.

Federation's response: The continued availability of partial rate concessions for community housing providers is strongly supported in recognition of the important public benefits provided by community housing as essential social infrastructure and its crucial role in the ongoing viability of community housing providers.

2. Availability of exemptions for properties managed but not owned by CHPs and used for affordable housing

The practical difficulties of providing rate concessions for properties managed, but not owned, by community housing providers are acknowledged. It is also accepted that it may not be appropriate for rate concessions to be extended to social housing properties owned by the Land and Housing Corporation, as this may have a significant impact on revenue base of some Council. Furthermore, it may discourage support for the transfer of properties to community housing management.

As an alternative, there would be merit in considering the option of providing partial rate concessions for designated “Affordable Housing Projects” which house eligible low income households on a non-profit basis at a subsidised rental. Housing currently or previously owned, or fully funded by the Land and Housing Corporation could be excluded from this.

This approach could assist in facilitating new “Affordable Housing Projects” whilst ensuring assistance is targeted to genuine projects. The same framework could be used for other forms of assistance or facilitation for “Affordable Housing Projects” such as fast track planning approvals or exemption from section 94 contributions under the Environmental Planning and Assessment Act.

The current approach used for providing land tax exemptions for boarding houses providing affordable housing could be used as a reference in developing such an option.

Federation’s response: The Federation proposes consideration be given to the option of partial rate concessions for designated “Affordable Housing Projects” and would welcome the opportunity to be involved in the development of a suitable definition and guidelines for designated projects.

3. Continuation of exemptions on current basis or discretion for Local Government to provide a lower level of rate exemption.

Providers expressed mixed views on whether discretion should be given to Local Government to vary the level of rate concessions.

Strong concern was raised that the vast majority of Councils are unlikely to grant concessions to community housing providers if given the discretion not to do so. The example of the reluctance of many Councils to exempt community housing providers from levies, fees and other charges was cited as evidence of the limited appreciation of amongst some Councils of the public benefits provided by community housing.

If Councils were to be given discretion in this area, it was generally agreed that it must be on the basis that it be exercised in a transparent, equitable way across all charitable institutions, and not just applied to community housing organisations. It was also considered that there should be a minimum level of concession provided.

A high degree of discretion and flexibility could result in greater administration costs, and would be contrary to the principle of simplicity. The right balance between allowing some discretion, but also providing community housing providers with certainty, is important.

Federation's response: The Federation acknowledges that the provision of exemptions from rates should be linked with the accompanying public benefits. If Local Councils are to be given greater discretion in this area, clear guidelines and criteria should be developed to establish public benefits and minimum levels of targeted rate relief should be provided. This will allow for a greater level of scrutiny (ensuring that the relief granted is consistent with the intention) without imposing an enormous administrative impost on Councils. It will also provide community housing providers with certainty and transparency and help to avoid inequitable outcomes. Safeguards need to be put in place to ensure that valid applications are not erroneously rejected by Local Councils and similarly to prevent lobbying and pressure being applied to approve applications that are not valid.

4. Rate exemptions versus rebates

In general community housing providers are not as concerned with the manner in which concessions are delivered, as the need for certainty and consistency. If policies and formulas for providing rate concessions vary between Local Council jurisdictions, this will create uncertainty for community housing providers and be administratively costly. Thus transparency, accountability and the potential administrative burden to both Councils and providers are key considerations.

Caution is also raised about any framework which would make it easier for Councils to avoid rate concessions for providers of genuine public benefits.

Federation's response: The use of rebates would require the establishment of clear eligibility criteria and minimum relief provisions. If delivered in response to an application, a framework of rebates rather than blank concessions would expose the process to greater scrutiny, which could help to ensure an equitable outcome whereby relief is provided to appropriate organisations. However, there is a risk that such a process would be administratively onerous and, without strong supporting structure and accountability, it could potentially be unfair.

5. Encouraging urban renewal /valuation method

The Issues Paper at 4.6 deals with policies to encourage urban renewal and, as part of this, points to the capacity for Local Government to levy special rates to deliver additional services, facilities or activities to ratepayers. The value of such provisions in assisting to support essential infrastructure is recognised and supported, as is the ability of Local Governments to partner with other levels of government in developing and funding local infrastructure projects.

Earlier at 4.1.3, the Issues Paper refers to options for the valuation method to establish the rating base. Whilst this section refers to the efficiency principle, it does not directly acknowledge the impact of the valuation base on urban renewal. The use of unimproved value as a base is much preferred in this context, as the alternative of capital improved value acts as a disincentive for the redevelopment of land in accordance with the planning framework and objectives.

Also a switch to capital improved values would disadvantage community housing providers who, by the nature of their operations, generally hold multi-unit stock.

Federation's response: The capacity to utilise special rates to deliver services and infrastructure to local communities undergoing urban renewal allows appropriate responses to the special needs of areas undergoing change and is supported.

Caution is raised over any switch from unimproved to capital improved values as the basis for setting rates as this would act as a disincentive to urban renewal and disadvantage managers of much-needed multiunit housing, including community housing providers.

6. Commercial versus residential rates for boarding houses

Currently owners of boarding houses located in commercial zones can apply to their Local Council to have a commercial rate base varied to residential in recognition of the use of the property as genuine affordable housing (as opposed to backpacker accommodation for instance). It is important that the capacity to vary the rate base in such circumstances is retained.

Federation's response: The capacity to vary the rate basis from commercial to residential for eligible boarding houses should continue to be provided.

7. Capacity for local government to use rating powers as one of a suite of housing policy instruments

Local Government has a limited range of powers it can exercise to further better outcomes for their local areas. Rate setting is one of this limited range. If Councils are to play effective role in encouraging better housing outcomes in their areas, it is important that they have access to the fullest range of options.

If applied in a transparent and equitable way, there are clear benefits from Councils having capacity to use powers in this area to further housing policy objectives. For example, currently Local Governments with high levels of unoccupied housing stock are precluded from setting higher rates for vacant properties.

It would also be useful to facilitate the use of rates to encourage desirable forms of accommodation in short supply for example bedsitters or multiunit housing in regional areas.

Federation's response: Recommend consideration be given to supporting the use of Council's rating powers to further local housing policy objectives.

INVOLVEMENT IN STRATEGIC DIALOGUE

The Federation looks forward to engaging further in the Review process. In particular, we would welcome the opportunity to be involved in developing any proposals which would give Council's greater discretion in determining rate concessions in relation to community housing and in any consideration of other options put forward in this submission such as rate concessions for designated "Affordable Housing Projects".

Further, the implementation of the State Government's plans under "Future Directions for Social Housing in NSW" will result in changed arrangements for social housing. Potentially this may include the transfer of management and possibly ownership for a substantial portion of social housing stock, together with initiatives to provide additional housing opportunities. Changes of this order could substantially improve the financial capacity of, at least some, community housing organisations. Furthermore, a number of providers consulted in the context of this Review have indicated that should wider stock transfers proceed, there would be a basis for revisiting current rate concessions or for excluding transferred properties from any concession framework.

It would be appropriate in this context for the community housing industry to work with State and Local Government to ensure viable and equitable arrangements for setting local government rates. The Federation would welcome the opportunity to maintain a strategic dialogue in relation to this and other issues arising from this review.

Thank you for the opportunity to provide a submission to the Review of the Local Government Rating System and for agreeing to accept our submission on 27 May 2016.

For further information, please contact Adam West, on [REDACTED]
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Yours sincerely,

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