



**TO: Rating System Review Panel**

**CC: Minister for Housing; Minister for Local Government**

**FROM: Affordable Housing Industry Advisory Group**

**RE: Rate exemption for Registered Housing Agencies providing Affordable Housing**

11 March 2020

Dear Panel

The Affordable Housing Industry Advisory Group (the Advisory Group) is a member-based group comprising of organisations with direct experience in the financing, development, planning, design and management of Affordable Housing. Members include the UDIA, Property Council, Community Housing Industry Association Victoria and individual developer, financier and Registered Housing Agencies.

Advisory Group Members share the view that Affordable Housing is essential to Victoria's productivity and liveability and seeks to inform the development of government policy and investment to ensure industry can participate, partner, deliver and manage the resulting supply of Affordable Housing at scale.

The Advisory Group recently became aware of the review into local government rate setting and welcomes the opportunity to submit.

Rates impose a significant cost on Registered Housing Agencies and limit their ability to grow the supply of housing for the most vulnerable households in a community. This in turn impacts on the sustainable and proper development of the State.

Despite allowance under the Act for exemptions for charities and for concessions to be provided to Registered Housing Agencies, there is very little evidence of exemptions being provided.

The Advisory Group recommends that the legislation is amended to clarify that Registered Housing Agency owned residential property that is provided for the purposes of Affordable Housing meets the existing requirements for a full and automatic rate exemption to rates.

The Advisory Group also note that whilst an exemption to Registered Housing Agency owned properties would be a revenue loss for Councils, this loss will be low with fewer than 14,000 dwellings owned by the sector across Victoria, and could be potentially offset by other changes such as charging rates of profit-generating activities.

Whilst not a preferred outcome, should a full exemption not be supported, the Advisory Group recommends government consideration is given to an automatic partial rate exemption or concession, potentially offset by State funding such as occurs with pensioner discounts.

### **Definitions and Key Concepts**

Affordable Housing is defined by the *Planning and Environment Act 1987* as "housing, including Social Housing, that is appropriate for the housing needs of very low, low and moderate income households". Social Housing is a form of Affordable Housing allocated to households eligible under the Victorian Housing Registrar.

Registered Housing Agencies are not-for-profit organisations regulated under the *Housing Act 1983* with a charitable purpose is to provide affordable rental housing to lower income households. This housing is predominantly provided at below-market rents reflecting the charitable purpose and reduced capacity of targeted households to pay market prices.

Registered Housing Agencies must meet strict requirements as charities, meeting regulatory requirements set and monitored by the Victorian Housing Registrar, Australian Charities and Not-for-Profit Commission and the Australian Tax Office.

Registered Housing Agencies own and manage an estimated 13,338 dwellings across Victoria. Attachment 1 sets out the number of properties by Local Government Area.

### **Current Practice**

Clauses in the *Local Government Act* relevant to this submission are set out at Attachment 2. Of note, the Act provides for exemptions for charities (of which Registered Housing Agencies are), and specifically highlights that Registered Housing Agencies provided Affordable Housing is eligible for a rate rebate or concession.

The requirement to pay rates on residential property owned and managed by Registered Housing Agencies is a significant cost that impacts on Housing Agencies capacity to provide and sustainably manage Affordable Housing. Rates can comprise 25% or more of the operating surpluses associated with a single dwelling and are estimated to make up between 10 and 15 per cent of an Agency's portfolio operating costs.

There are very few known examples of Councils providing rate exemptions to Registered Housing Agencies despite the legislative framework and a number of Housing Agencies requesting exemptions over time.

The Advisory Group highlight:

- The Act clearly states that any land used exclusively for charitable purposes is not rateable (154(2)(c)). Registered Housing Agencies are required to be charities in order to be registered as a Housing Agency.
- Clause 154(4) is interpreted by Councils to mean that land provided as housing to a low income person at below-market rent is not considered a charitable purpose under the Act, despite the provision of housing for lower income and/or disadvantaged households being established as a clear charitable purpose by the Australian Charities and Not-for-Profit Commissioner, the Victorian Housing Register and the ATO.
- Clause 169(1) allows for a concession to be granted if the land supports "*proper development of the district*". The provision of Affordable Housing is essential part of ensuring the sustainable and 'proper' development of an area in accordance with the objectives of the *Planning and Environment Act*, which include "*to facilitate the provision of Affordable Housing in Victoria*".
- Clause 169(1)(d) confirms that a Local Government can provide a rebate or concession to a Registered Housing Agency to support the provision of Affordable Housing reinforces that this purpose is in accordance with the intentions of the Act but leaves it to the discretion of Councils as to whether to grant an exemption under clause 161(1).
- In practice Registered Housing Agencies are not being considered by a local government to qualify as organisations that use land for a charitable purpose, and exemptions and concessions are not being granted when relief is requested despite:
  - Registered Housing Agencies being required to be charities in order to be registered;
  - Agencies providing a specific charitable purpose through the provision of housing, supporting the most vulnerable in the community;
  - Significant evidence of the need for Affordable Housing and the importance of ensuring Affordable Housing as part of the sustainable development of land; and

- An increasing number of Councils have or are developing strategies that call for significant new investment and supply of Affordable Housing.

### **Impact of Rates on Charitable Outcomes**

Rates have a significant cost impact on Registered Housing Agencies capacity to provide housing for the most vulnerable households.

Assuming a conservative \$1000 / annum in rates for each of the 13,338 dwellings owned by Agencies equals to \$13.3 m in rates that are paid by these charitable organisations each year. This is likely to be an underestimate. Rate liability of larger Housing Associations exceed \$3 m / annum.

This is money that could otherwise support new Affordable Housing, with indicative estimates that up to 27 new Affordable Housing dwellings could potentially be purchased and provided by the sector per year, assuming funds currently paid in rates were instead reinvested in purchasing dwellings with an average market value of \$500,000.

It is noted that Registered Housing Agencies as charities are exempt from land tax and receive a stamp duty concession, setting precedent for rate exemptions.

### ***Review Question: What types of properties should receive rating exemptions? Why would this be fair?***

The Panel Discussion Paper notes that many Councils apply differential rates to support those who are perceived as having a lower capacity to pay and highlights a number for-profit and charitable organisations that receive rate exemptions under the Act (such as gambling venues run by charities). Questions of appropriateness and fairness are legitimately raised in the discussion paper issued by the Panel in relation to these forms of activities.

The provision of Affordable Housing is not an income generating activity in the same way a gambling venue generates income for a charity to re-distribute. Residents of Affordable Housing in the majority pay significantly below-market rents. These rents support the Registered Housing Agency to maintain the property and meet operating costs associated with owning the dwelling – including currently, rates. Any small surplus that may be generated from any rent is only able to be used for the specific and regulated purpose of meeting the organisation purpose to provide and manage Affordable Housing.

The Advisory Group recommends that properties that are owned by a Registered Housing Agency and used the purpose of providing Affordable Housing for lower income and disadvantaged Victorians receive an automatic full rating exemption on the basis they are providing a charitable purpose and on the principle of equity. Capacity to pay rates is also impacted by the below-market rental return, with the supply of Affordable Housing reduced as a result of the requirement that Agencies utilise their limited resources to pay rates. An exemption would reflect the intent of the legislation which automatically exempts charities from rates.

Whilst an exemption may result in the shifting of the tax liability to other property owners, a broad based approach to funding for Affordable Housing that spreads the costs of delivery and does not place the burden on those with the least capacity to pay is considered more equitable and fair.

### ***Review Question: Does the Local Government Act 1989 (and other requirements) provide clear rules and guidance to councils to set and levy rates? What could be improved?***

There is a lack of guidance in relation to Councils around the provision of exemptions or concessions to Registered Housing Agencies, with interpretations resulting in a discretionary application, which in the context of constrained revenue, is resulting in concessions being denied.

The Advisory group recommend clarifying that Registered Housing Agencies providing housing for the purposes of Affordable Housing are charities for the purposes of an automatic exemption from rates.

Should the legislation continue to allow for Councils to apply discretion in the provision of concessions, government is recommended to consider providing support to Councils to provide a rate concession or exemption to Agencies such as occurs with pensioner discounts.

## **Recommendation**

The Affordable Housing Industry Advisory Group recommend:

1. The *Local Government Act* is amended to make clear that Registered Housing Agencies (which are charities) providing Affordable Housing (as defined under the as defined under the Planning and Environment Act) are charities for the purposes of an automatic rate exemption.
2. Should recommendation 1 not be agreed by Government, that the *Local Government Act* is amended to provide for an automatic partial rate exemption for Registered Housing Agencies (with a rate set within the Act), or, government support Councils to provide full or partial concessions on application.

Please contact Kate Breen at [kate@adoutcomes.com.au](mailto:kate@adoutcomes.com.au) or 0452 260 955 should you have any questions about this submission. Thank you for your consideration.

Yours sincerely



**Nicola Foxworthy, Chair**

**Affordable Housing Industry Advisory Group**

## ATTACHMENT 1

<b>Local government area</b>	<b>Community Housing Owned Dwellings</b>
Alpine	7
Ararat	7
Ballarat	476
Banyule	289
Bass Coast	80
Baw Baw	51
Bayside	8
Benalla	26
Boroondara	58
Brimbank	312
Buloke	7
Campaspe	171
Cardinia	65
Casey	210
Central Goldfields	34
Colac Otway	52
Corangamite	14
Darebin	364
East Gippsland	307
Frankston	322
Gannawarra	7
Glen Eira	133
Glenelg	43
Golden Plains	4
Greater Bendigo	610
Greater Dandenong	334
Greater Geelong	876
Greater Shepparton	513
Hepburn	29
Hindmarsh	4
Hobsons Bay	138
Horsham	58
Hume	356

<b>Local government area</b>	<b>Community Housing Owned Dwellings</b>
Indigo	22
Kingston	160
Knox	154
Latrobe	291
Loddon	17
Macedon Ranges	99
Manningham	115
Mansfield	0
Maribyrnong	469
Maroondah	317
Melbourne	786
Melton	213
Mildura	226
Mitchell	58
Moira	46
Monash	268
Moonee Valley	199
Moorabool	50
Moreland	372
Mornington Peninsula	154
Mount Alexander	40
Moyne	32
Murrindindi	12
Nillumbik	9
Northern Grampians	43
Port Phillip	775
Pyrenees	2
Queenscliff	0
South Gippsland	24
Southern Grampians	11
Stonnington	83
Strathbogie	8
Surf Coast	11
Swan Hill	177

<b>Local government area</b>	<b>Community Housing Owned Dwellings</b>
Towong	4
Wangaratta	116
Warrnambool	158
Wellington	81
West Wimmera	3
Whitehorse	155
Whittlesea	335
Wodonga	149
Wyndham	290
Yarra	693
Yarra Ranges	133
Yarriambiack	13
<b>State Total</b>	<b>13,338</b>

Source: DHHS Housing assistance additional service delivery data 2018–19

## **ATTACHMENT 2**

### **Local Government Act – Clauses of relevance to rate exemption for Registered Housing Agency owned Affordable Housing:**

#### **Section 154 What Land is Rateable:**

*(2) The following land is not rateable land—*

*(c) any part of land, if that part is used exclusively for charitable purposes;*

*(4) For the purposes of subsections (2)(c) and (2)(d), any part of the land is not used exclusively for charitable purposes if it is in any of the following categories—*

*(a) it is separately occupied and used for a purpose which is not exclusively charitable;*

*(b) a house or flat on the land—*

*(i) is used as a residence; and*

*(ii) is exclusively occupied by persons including a person who must live there to carry out certain duties of employment;*

*(c) it is used for the retail sale of goods;*

*(d) it is used to carry on a business for profit (unless that use is necessary for or incidental to a charitable purpose).*

#### **Section 169 – Rebates and Concessions**

*(1) A Council may grant a rebate or concession in relation to any rate or charge—*

*(a) to assist the proper development of the municipal district; or*

*(b) to preserve buildings or places in the municipal district which are of historical or environmental interest; or*

*(c) to restore or maintain buildings or places of historical, environmental, architectural or scientific importance in the municipal district; or*

*(d) to assist the proper development of part of the municipal district.*

*(1A) A Council resolution granting a rebate or concession must specify the benefit to the community as a whole resulting from the rebate or concession.*

*(1D) Without limiting subsection (1), a Council may grant a rebate or concession in relation to any rate or charge, to support the provision of affordable housing, to a registered agency.*

*(3) In this section, "registered agency" has the same meaning as it has in section 4(1) of the Housing Act 1983.*