



Aboriginal Housing Victoria

Submission

To

The Local Government Rates Review

Introduction

Aboriginal Housing Victoria (AHV) welcomes the Government's Local Government Rating Review. We appreciate the opportunity to make a submission to the review and congratulate the Panel on framing the review in the context of "fairness and equity".

AHV's primary interest in the Review relates to rate exemptions and rebates and in particular to the equity principle of taxation cited in the Panel's Discussion Paper – "*Capacity to pay (vertical equity)*: Those ratepayers with greater economic means should contribute more to rates."

Background and Context

AHV is the largest Aboriginal housing agency in Australia. AHV's Vision is that Aboriginal Victorians secure appropriate, affordable housing as a pathway to better lives and stronger communities.

The Aboriginal Housing Board of Victoria (AHBV) was established in 1981 by a group of Aboriginal leaders, in response to the needs of many Aboriginal people and their families who were denied the right to safe, appropriate and affordable housing, due to entrenched disadvantage and discrimination. AHBV became Aboriginal Housing Victoria and in 2009 the organisation achieved registration as a housing provider. AHV achieved housing association registration in 2016.

AHV targets its services to Aboriginal households in highest need. In 2017-18, 17 per cent of Victoria's Aboriginal population had cause to seek assistance from specialist homelessness services. Approximately 56 per cent of these people were already homeless when they sought assistance. If mainstream Victorians sought assistance at this rate more than one million Victorians would be presenting to homeless services.

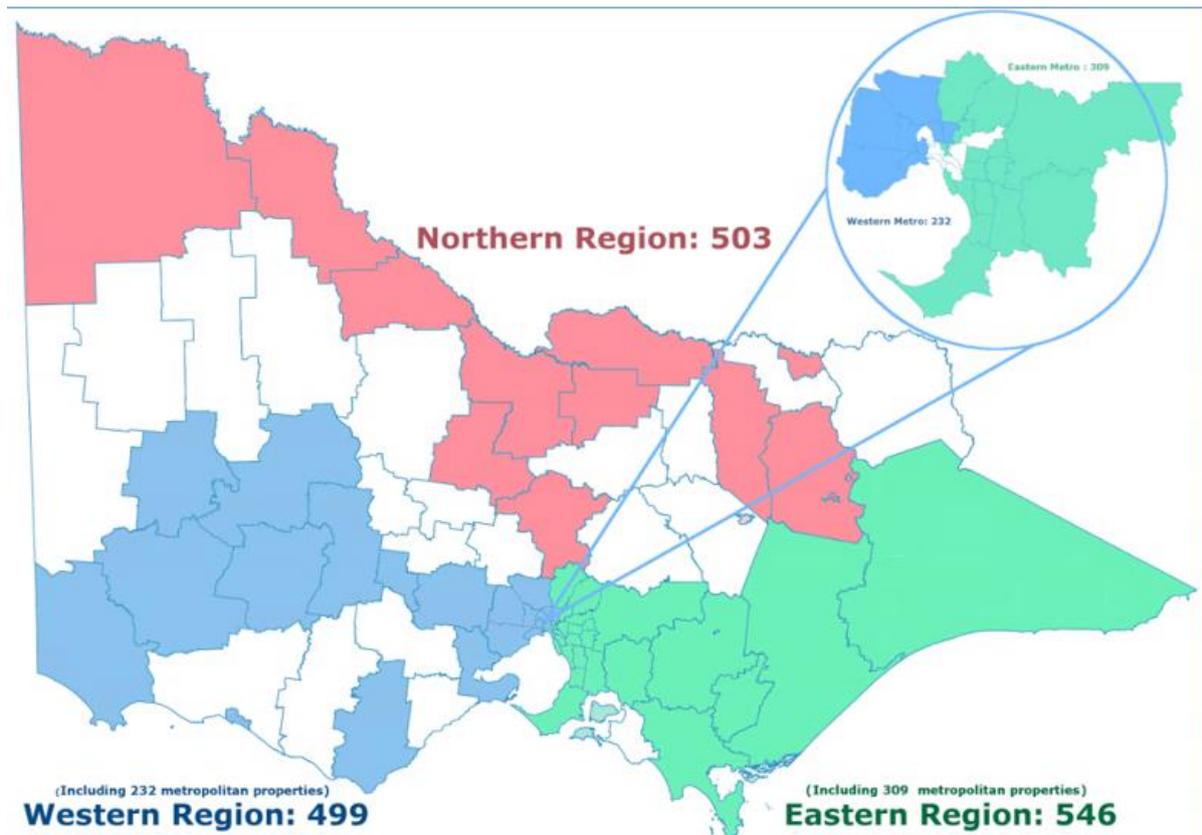
In the context of high demand for social housing, management and asset transfers reduce the ongoing operating loss of the public housing program to the state government. The Andrews State Government has fulfilled its commitment to transfer State owned properties previously managed by AHV, to AHV ownership. The first tranche of property title transfers occurred in July 2016, and a further 474 properties were transferred in July 2017. The third and final tranche of 458 properties was transferred on 1 July 2018. Five properties remained on the general lease as at 1 July 2018, pending completion of subdivision. The transfer of housing assets to AHV valued at almost \$500 million dollars is one of the most significant acts of self determination in Victorian history.

Today AHV provides housing to around 3850 low income Aboriginal Victorians, which represents approximately 8% of the total Victorian Aboriginal population.¹ As at 30 June 2019, AHV had a property portfolio of 1,565 properties, of which 1560 were owned (including our Scotchmer Street Office and 16 blocks of vacant land). AHV owns or manages 1,548 housing units including 503 residential properties located in the North Region, 499 properties in the West Region and 546 in the East Region.

The location of AHV properties is mapped in Figure 1 below.

¹ ABS Census of Population and Housing, 2016

Figure 1: The location of AHV's housing stock in Victoria portfolio



The importance of the AHV program has grown as the shortage of affordable housing in Victoria has become more acute. Population growth has outstripped growth in social housing nationally over the past decade. Despite recent investments, Victoria has a lower proportion of social housing than other states. Victoria's public housing stocks have hovered between 64,000 and 65,000 units since 2007, during a period in which the Victorian population has grown by around one million people.

The Victorian Government's recurrent expenditure on social housing per person was \$82.94 in 2017-18, compared with an average national expenditure of \$166.93. Victoria's expenditure per person is less than half the national average. These patterns of investment will result in a continuing decline in the market share of social housing, making it more difficult for Aboriginal and other disadvantaged people to access social housing. While nationally social housing makes up between 4% and 5% of the market, in Victoria it constitutes little more than 2%.

Around one in four Aboriginal people depend on social housing in Victoria. As the capacity of social housing to meet demand has declined, homelessness in disadvantaged communities is becoming more conspicuous. The productivity commission Report on Government Services 2019 report found that the proportion of Aboriginal Victorians requiring homeless support had grown by 33% in four years. Victoria is the state with the highest rate of contact of Aboriginal citizens with homeless services and our rate of growth in this respect is rising faster than that of any state. There are currently 4,134

Aboriginal people on the waiting list of the Victorian Housing Register, urgently seeking housing support. 32% of these people are classified by the registrar as “homeless”.

Rates and AHV Programs

The intent of the *Local Government Act 1989* (the Act) is to provide exemptions for organisations which operate on “land used for an exclusively charitable purpose” (S154(2)(c)) and rebates to “support the provision of affordable housing” by “a registered agency” (S169 (1D)). Aboriginal Housing Victoria (AHV) is a not-for-profit company limited by guarantee and regulated by the Australian Charities and Not-for-profit Commission, and the Australian Securities and Investment Commission. AHV is a registered housing association under the *Housing Act 1983 (Vic)* and was the first Aboriginal housing agency to be registered as a housing provider and housing association in Victoria.

Aboriginal Housing Victoria houses the most disadvantaged people in Victoria at below market rental to contain mounting rates of homelessness in the Aboriginal community. It is not disputed that land owned by Aboriginal Housing Victoria is used exclusively for charitable purposes. It is therefore anomalous that the historical convention in Victoria has been for councils to charge full council rates to social housing providers such as AHV. Nor does AHV receive any rebates from any council despite being a registered affordable housing provider. Aboriginal Housing Victoria receives no recurrent grant funding from the state for housing almost 4,000 people who would otherwise be homeless or accommodated by the state. The rent paid by our tenants funds our not for profit program and council rates are the second highest expenditure we incur. Without that cost, AHV would be in a position to house dozens of the 10,885 Aboriginal Victorians who presented to homeless services in 2017-18.

There is a notable absence of transparency in the non-application of the ‘charitable purpose’ exemption (S154(2)(c)) under the Act to AHV and other social housing providers. AHV is aware of some legal opinion which has suggested that perhaps the existence of a provision in another section of the Act (s169(1D)) allowing for rebates to be granted “to support the provision of affordable housing” by a registered housing agency may imply that the ‘charitable purpose’ provision does not apply to affordable housing providers. If this is the case:

- it has never been articulated in these terms to AHV by any council; and
- we receive no rebate from any council despite councils having the discretion to grant one and this clause sometimes being cited as the basis for excluding us from the ‘charitable purpose’ clause.

This suggests that if the existence of the rebate provision is obviating the granting of an exemption to those services housing the most vulnerable Victorians, we are caught in a double bind which disqualifies us from an exemption but does not confer us a rebate, despite meeting both the ‘exclusively charitable’ and ‘affordable housing’ provider tests. This suggests that the intent of the Act may be being undermined by its interpretation by councils.

This takes us to the fairness and equity framework guiding the Panel’s review and the equity principle at the heart of fair taxation. (“*Capacity to pay (vertical equity)*: Those ratepayers with greater economic means should contribute more to rates.”) Our tenants clearly have very limited capacity to pay for a sustainable housing safety net. The evidence is clear in the structural deficit embedded in the financial statements of public housing authorities around our nation that without concessions or offsets it is extremely difficult to even afford the maintenance of cost recovery housing to Victorians on extremely low incomes. AHV margins are extraordinarily slim. All rental

income is used to maintain our properties, support tenancies of vulnerable tenants, and seek capital funding to grow our stock in the face of a household population growth in the Aboriginal community of 4 per cent per annum.

The Panel's Discussion Paper makes the point that **“Many of the current exemptions are long standing and some can be traced back to the *Local Government Act 1874*, the first specific local government legislation in Victoria.”** (They were formulated at a time when Aboriginal land in Victoria was being systematically appropriated from Aboriginal people – taxing our people for its use was a far later development.) This may help to explain why mining companies and some of the wealthiest schools in Victoria pay no rates but an agency housing the most disadvantaged people in our state pays full rates with no concessions or rebates. The rating provisions were largely put in place before a community housing sector existed. The 1958 Act from which many of the later provisions derive was operating at a time when Aboriginal people were not counted as citizens in our state and the state was still active in their economic and cultural dispossession. Whether the problem is in the drafting or the interpretation, it is time for the Local Government Act to be amended to unequivocally reflect contemporary community expectations and values rather than those of the nineteenth century.

Conclusion

The evidence is quite clear that given discretion to grant concessions or rebates to Aboriginal Housing Victoria, Victoria's councils will decline to do so. We therefore recommend that an amendment be made to the *Local Government Act 1989* to explicitly exempt providers of social housing to disadvantaged Victorians from the payment of rates. One of the few advantages of the social housing sector in Victoria being so small (accounting for far less than 1 per cent of all housing stock), is that such an exemption may be granted without triggering more than a completely marginal redistributive impact of the rating burden on other ratepayers.

Thank you for your consideration of this submission.

Aboriginal Housing Victoria

October 2019