



Council Policy

11.5 RESIDENTIAL PROPERTIES USED FOR CHARITABLE PURPOSES

PURPOSE

The purpose of this policy is to provide clarity regarding Council's position on which residential land is being used 'exclusively for charitable purposes' under Section 154(2)(c) of the Local Government Act. Under this provision of the Act such land is deemed not rateable.

SCOPE

The subject property must be used directly for the provision of residential accommodation and must be owned or operated by an organisation that is:

- registered with the Australian Tax Office as a 'charitable organisation'; or
- is a 'not for profit' organisation; and
- is an organisation that exists for the purpose of providing accommodation and other residential care services to clients.

A fee or rental for residential accommodation may be charged but all income derived must be used to defray the costs of providing the accommodation and/or ancillary services provided by the organisation.

DEFINITIONS

Nil

REFERENCES

Section 154 (2)(C) - Local Government Act 1989

STATEMENT OF POLICY

Section 154 (2)(C) of the Local Government Act 1989 states that 'any part of land, if that part is used exclusively for charitable purposes' is to be 'not rateable' land.

Council's position is that the provision of residential accommodation by a charitable organisation could, in itself, be a charitable purpose, provided the resident does not have exclusive occupancy of the dwelling.

Exclusive occupancy is denoted by the resident enjoying a high level of autonomy from the accommodation provider. As such, a property used to provide residential accommodation to a resident would be rateable if the resident was deemed to be in exclusive occupation of the unit.

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Properties used to provide residential accommodation for a fee or rental will be deemed not rateable provided the resident does not enjoy exclusive occupancy of the dwelling.

In assessing whether or not a resident has exclusive occupancy of a dwelling Council will consider all relevant information, including the following criteria. This is not intended to be an exhaustive list.

1. Are residents responsible for 'day to day' management of unit?
2. Do residents pay for services used (e.g. utilities)?
3. Do residents regard units as their private home?
4. Are units completely self contained?
5. Does each unit have an entrance/exit separate from other units?
6. Are residents free to invite visitors to stay in the unit?
7. Does the accommodation provider retain right of entry at their discretion?
8. Does accommodation provider retain a key to units?
9. Are residents free to furnish flats as they wish?
10. Are residents free to paint walls or make internal structural changes to unit etc.
11. Do residents select which unit they want to live in?
12. Is permission required for certain activities (e.g. keeping pets)?
13. Is resident required to notify accommodation provider of intended absences?
14. Are standards for cleanliness of units prescribed by accommodation provider?
15. Is building insurance provided by accommodation provider?
16. Is a 'Superintendent' available for repairs, assistance, etc.?
17. Is the tenancy covered by a standard (REIV) tenancy agreement?
18. Is resident able to be moved to other accommodation by accommodation provider?
19. Is tenancy part of a staged aged care program offered by the accommodation provider?
20. Are other institutional services provided by the accommodation provider?

Property owners may also apply for consideration of the rateable status of their property. These properties will also be assessed against the above criteria.

The policy will be implemented by the Revenue Co-ordinator. Decisions made by that officer will be overseen by the Manager Financial Services. Any contentious properties would be referred to Council for a decision.

RELATED DOCUMENTS

Colac Otway Shire Council - Assessment of Exclusive Occupation

DOCUMENT CONTROL

Policy owner	Manager Financial Services	Division	Corporate Services
Adopted by council	28 March 2007	Policy Number	11.5
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