

COUNCIL POLICY

Council Policy Title:	Residential Properties deemed to be Not Rateable as used for Charitable Purposes
Council Policy ref. no:	11.5
Responsible Department:	Corporate and Community Services
Date of adoption/review:	24 July 2013

1. PURPOSE

The purpose of this policy is to establish guidelines for the assessment of the rateability of properties that are used to provide residential accommodation for members of the community, where these properties are owned by charitable or community organisations.

2. SCOPE OF THE POLICY

The policy applies to properties owned and/or operated by organisations that are registered with the Australian Tax Office as “charitable organisations” or are “not for profit” organisations.

The organisation must directly use the property for the provision of residential accommodation.

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.

3. LEGISLATIVE FRAMEWORK

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

Legal opinion 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.

4. POLICY

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.

Whether or not the resident enjoys exclusive occupancy of the dwelling will be assessed using the attached criteria (Attachment 1).

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 “charitable organisation”
- is a “not for profit” organisation
- is an organisation that exists for the purpose providing accommodation and other residential care services to clients.

5. IMPLEMENTATION

Properties considered likely to be eligible to be deemed not rateable under this policy will be assessed against the attached criteria to ascertain whether residents have exclusive occupation of the dwelling/s.

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

The policy will be implemented by the Revenue Co-ordinator. Decisions made by that officer will be overseen by the General Manager, Corporate and Community Services.

6. REVIEW

This policy is to be the subject of a periodic review.

7. CRITERIA FOR ASSESSING “EXCLUSIVE OCCUPANCY”

A list of criteria to be used in assessing whether or not a resident has exclusive occupancy of a dwelling is attached. The list of criteria is not an exhaustive list and other relevant criteria should be considered as they become apparent.

ADOPTED/AMENDMENT OF POLICY

Policy Review Date	Reason for Amendment
28 March 2007	Adopted by Council
25 November 2009	Review
24 July 2013	Review

Attachment 1

Assessment of Exclusive Occupation

Property Address:

	Aspect of Tenancy	Applicant's Response	In Exclusive Occupation
1	Are residents responsible for "day to day" management of unit?		Yes
2	Do residents pay for services used (eg; utilities)?		Yes
3	Do residents regard units as their private home?		Yes
4	Are units completely self contained?		Yes
5	Does each unit have an entrance/exit separate from other units?		Yes
6	Are residents free to invite visitors to stay in the unit?		Yes
7	Does the accommodation provider retain right of entry at their discretion?		No
8	Does accommodation provider retain a key to units?		No
9	Are residents free to furnish flats as they wish?		Yes
10	Are residents free to paint walls or make internal structural changes to unit etc		Yes
11	Do residents select which unit they want to live in?		Yes
12	Is permission required for certain activities (eg: keeping pets)		No
13	Is resident required to notify accommodation provider of intended absences?		No
14	Are standards for cleanliness of units prescribed by accommodation provider?		No
15	Is building insurance provided by accommodation provider?		No
16	Is a "Superintendent" available for repairs, assistance etc		No
17	Is the tenancy covered by a standard (REIV) tenancy agreement?		Yes
18	Is resident able to be moved to other accommodation by accommodation provider?		No
19	Is tenancy part of a staged aged care program offered by the accommodation provider?		No
20	Are other institutional services provided by the accommodation provider?		No

OUTCOME:

From 20 listed criteria that denote a resident has "exclusive occupation", these units match xxx of the criteria.

As this represents xxxx% of the listed criteria, it is considered residents in these units do /do NOT enjoy exclusive occupancy.