

NT Shelter

Submission to the Legislative
Amendments to the *Local Government
Act 2019*

June 2025



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NT Shelter

NT Shelter is the Northern Territory’s peak body for affordable housing and homelessness. We advocate for affordable and appropriate housing for all Territorians, especially those on low incomes who are particularly vulnerable and disadvantaged in the housing market.

NT Shelter’s work involves research and policy development, advocacy and communications, sector consultation and coordination, and capacity building.

NT Shelter is proud to work with and represent a range of organisations that make a significant contribution each day to the lives of people for whom housing is unaffordable and inaccessible. Our member organisations are specialist providers of services relating to housing and homelessness. Their focus is on low to moderate income Territorians who have a wide range of social and affordable accommodation needs, including crisis, transitional, short-term, low-cost, and supported housing. Many NT Shelter member organisations also provide professional services to support people who are experiencing homelessness or at risk of homelessness.

NT Shelter membership is as follows:



Associate Members



Preamble

NT Shelter welcomes the opportunity to contribute this submission on the Legislative Amendments to the *Local Government Act 2019*. NT Shelter has an auspicing agreement with CHIA NT, to ensure efforts are aligned and mutually supportive to ensure Community Housing (CH) representation for registered CH providers and strengthen and grow the registered CH sector, whilst jointly addressing the complex challenges associated with housing stability and homelessness in the Northern Territory (NT). It is noted the papers cover a wide range of topics, with each paper focusing on specific areas of the legislation.

- **Part A** focuses on practical amendments to delegations, procurement, and regulatory improvements.
- **Part B** details proposed changes to superannuation payments, rating frameworks and principal member appointment, requiring more in-depth policy consideration.
- **Part C** is dedicated to proposed amendments to the Code of Conduct. Given the foundational role the Code of Conduct plays in shaping the integrity and behaviour of elected members, a separate paper on this topic is being released to allow for more detailed feedback and discussion.

Of these, the NT Shelter's focus is on *Part B, Chapter 6 – Conditional rating and rates exemptions for social and affordable housing*.

Rates are a critical revenue source for local governments, yet the limited capacity of charities, including Community Housing Providers (CHPs), to pay—combined with ambiguity and inconsistency in how exemptions are applied—poses significant challenges. While the growth of the CH sector is essential to addressing the NT's housing crisis, where homelessness rates are 12 times the national average, applying a 100% rates exemption to all CHP properties would have significant impacts on local government revenue streams.

We envision a collaborative framework where Local Governments and CHPs partner to develop equitable solutions that prioritise community well-being. The first step in achieving this will be the establishment of clear and consistent guidelines for rate exemptions, developed through open dialogue and mutual agreement.

NT Shelters overarching position is:

- Clearer legislative criteria for rate exemptions for charities and CHPs are essential to promote consistent application throughout the NT and align exemptions with broader social and affordable housing policy goals.
- Uniform criteria would provide local governments and CHPs with a transparent framework for decision-making, reducing disputes and administrative burden. Such clarity supports equitable treatment of providers, encourages sector growth, and helps safeguard local government revenue critical for community services.
- We recommend that any criteria incorporate flexibility to account for varying circumstances and the financial capacities of different providers, perhaps through a sliding scale or case-by-case approach. Crucially, these criteria should be developed collaboratively with stakeholders,

including local governments and CHPs, to ensure practical, sustainable outcomes that meet the NT's urgent housing needs without unintended financial strain on either CHPs or councils.

- Regardless of who manages or occupies a property, the registered owner—whether government, private entities, or others—remains ultimately responsible for meeting local government rate obligations. This principle ensures accountability and clarity in revenue collection.
- It is widely recognised across nearly all Australian states/territories that land owned by charities and used for charitable purposes is entitled to either full or partial exemption from local government rates, reflecting the important community benefits these organisations provide.

Further details and explanations of these positions are included below addressing the specific questions asked or raised within the paper which include:

1. Do you support the proposed change? Please explain.
2. How do you think this proposal will impact your council or community in practice?
3. Are there any unintended consequences or practical implementation issues you foresee with this change?
4. Do you have any additional comments or examples to support your feedback?

Conditional Rating and Rate Exemptions for social and affordable housing

5. Should a comparable valuation method for pastoral leases and mining tenements be considered to provide clarity and comparability across regions?
6. Would introducing a threshold for rate increases during any adjustment period support stability for the mining and pastoral sectors?
7. Should local governments be enabled to apply differential rating powers for conditionally rateable land, subject to safeguards similar to other jurisdictions (e.g. Ministerial review if rates exceed a set threshold)?
8. How can rating adjustments be phased in to ensure both fiscal sustainability for councils and affordability for ratepayers in the mining and pastoral sectors?

Rates Exemptions

9. Should section 222(1)(g) be clarified to more explicitly define “non-commercial” use in the context of housing provided by charitable organisations that charge rent?
10. Would clearer legislative criteria help ensure that rates exemptions are applied consistently across the Territory and aligned with the broader objectives of social and affordable housing policy?

This submission is informed by NT Shelter member organisations and CHIA NT Regional Group members. It is also informed by recent research and reports conducted by NT Shelter, all of which are available on our website: <https://ntshelter.org.au/latest-reports/>

Background

Importance of Local Government Revenue

NT Shelter acknowledges that local governments rely heavily on rates to help deliver services and programs and assists with the ongoing costs for the management and maintenance of the communities they serve. Any significant reduction in revenue without compensatory mechanisms threatens service delivery quality.

Capacity constraints of charities and CHPs

Many CHPs operate on tight margins, relying on subsidies, government grants and charitable funding. Their limited financial capacity and business models for providing social and affordable housing means they cannot absorb full rate costs without compromising service delivery or development capacity. Charities are required to be not-for-profit. This means that they cannot distribute income or assets to individuals for private benefit either during operation or upon winding up (other than to the intended beneficiaries for charitable purposes)ⁱ.

Growth of the CH sector and its impact

The sector is expanding to meet the urgent housing needs in the NT, especially given the homelessness rate is 12 times higher than the national average. This growth is positive but has implications for local government budgets due to increased demand for services and infrastructure maintenance. Predictable and fair rate exemption frameworks are critical to ensuring sustainable growth without unintended negative impacts.

The Northern Territory Government (NTG) has committed to support the growth and development of the CH sector in the NTⁱⁱ. The NTG is partnering with the CH sector to transform the delivery of social and affordable housing in the NT and to improve housing outcomes for Territorians.

CHPs are critical partners in delivering safe, secure, and affordable housing for individuals and families unable to access the private rental market. They must balance financial sustainability with their mission to alleviate housing stress and reduce homelessness.

While private companies can be registered as CHPs, non-profit CHPs operate for charitable purposes and reinvest operational surpluses back into their businesses, thereby generating more scope for capital upgrades, community building, increasing tenant skills through education and capacity building, and growing their housing stock through development. The performance expectations placed on registered CHPs under NRSCH are more onerous than non-registered “housing providers” and state and territory housing authorities. For example, registered CHPs have asset replacement schedules and proactive maintenance programs.

Avoiding unintended consequences

Rushed or poorly considered legislative amendments risk creating loopholes, inequities, or financial shortfalls that could harm both local governments and the people CHPs serve. Unintended outcomes might include reduced housing supply, increased pressure on other social services, or unfair financial burdens shifted to other ratepayers. A deliberate, consultative process helps anticipate and mitigate such risks.

Discussion Paper B Chapter 6

Section: Conditional Rating and Rates Exemptions for social and affordable housing (pages 14 – 17)

Rates exemptions play a pivotal role in enabling CHPs to sustain affordable housing initiatives while managing their limited resources effectively. Even a partial rate liability could compromise a CHP's capacity to deliver affordable housing and maintain essential services, undermining their core social mission. Given the high levels of homelessness and housing stress in the NT, it is critical that rate exemption policies do not inadvertently hinder CHPs from addressing these urgent needs.

It is unclear what change the discussion paper is proposing. Due to the title of the section, it is assumed a proposal to include CHPs as a specific land use for conditional rating. The focus on a potential introduction of Conditional Rating for social and affordable housing raises broader questions about fairness and consistency in how charitable organisations are treated under *the Local Government Act 2019*. While balancing local government revenue needs is important, singling out CHPs for conditional rateability—without applying similar principles to other charitable entities—could create inequities within the sector.

A clear, collaborative framework that ensures rate exemption policies align with broader social and affordable housing goals is essential. This approach would ensure that revenue strategies do not compromise the viability of CHPs or detract from their vital contributions to the NT's housing crisis.

Do you support the proposed change? Please explain.

NT Shelter support efforts to clarify rate exemption policies for CHPs to reduce ambiguity and promote fair and consistent treatment under the *Local Government Act 2019*. Clearer legislative guidance is vital to provide certainty for both CHPs and local governments, encouraging collaboration and stability in the sector.

NT Shelter support collaborative framework that ensures rate exemption policies are aligned with broader social and affordable housing objectives. Such an approach will help safeguard both local government revenue needs and the viability of CHPs, enabling them to continue their vital role in addressing the NT's urgent housing crisis.

How do you think this proposal will impact your council or community in practice?

Clearer guidelines will reduce administrative complexity for councils and CHPs, promoting consistent application of exemptions. For communities, this will safeguard the availability of affordable housing by allowing CHPs to allocate resources to housing services rather than rates liabilities. However, it is crucial to ensure that any financial shifts do not compromise CHPs' ability to meet community needs, potentially leading to reduced housing availability or increased rents.

Are there any unintended consequences or practical implementation issues you foresee with this change?

Applying conditional rateability to CHPs highlights a perceived inequity, as they would be the only charities subjected to a provision primarily targeted at highly profitable industries. This discrepancy risks eroding public trust in the government's commitment to supporting vulnerable populations through social and affordable housing initiatives.

Unlike mining or pastoral leases, CHPs operate within a capped rent model and have little capacity to offset additional costs. Forcing CHPs to pay rates under a conditional exemption framework would erode their already constrained budgets, reducing their ability to address the complex needs of tenants and exacerbating social issues like antisocial behaviour and asset damage.

Conditional rateability under section 219 of the *Local Government Act 2019* appears to have been designed for profit-driven industries, such as mining and pastoral sectors, which possess a significant commercial capacity. Extending this provision to CHPs, which operate as non-profits serving vulnerable communities, fails to acknowledge their fundamentally different purpose and capacity.

Do you have any additional comment or examples to support your feedback?

Consultation with CHPs and councils is essential to design a practical and equitable framework.

Section: Rates Exemptions (pages 18 – 20)

NT Shelter supports amending Section 222(1)(g) of the *Local Government Act 2019* (NT) to explicitly define ‘non-commercial use’ in relation to CHPs. This amendment should recognise CHPs as charitable organisations delivering essential social and affordable housing, consistent with the original intent of rate exemptions for charitable purposes.

CHPs are regulated under the National Regulatory System for Community Housing (NRSCH)ⁱⁱⁱ. Fifteen entities are NRSCH registered within the NT of which all but one are registered with the Australian Charities and Not-for-Profits Commission (ACNC) as charities and as a Public Benevolent Institution (PBI) subtype of charity^{iv}. This regulation ensures transparency, governance standards, and financial viability, with surpluses reinvested into their core mission of providing affordable housing. CHPs play a crucial role in supporting people who cannot afford to participate in the private housing market. Without exemptions or reduction, council rates can reduce a CHPs financial capacity to maintain and expand affordable housing, ultimately disadvantaging the vulnerable tenants they serve.

The NTG currently pays council rates on all its social housing stock. With plans to transfer approximately 40% of public housing—around 2,200 properties by 2032—and approximately 750 properties are transferred as of 2025, clear rating exemption guidelines for CHPs are essential^{vi}. Such exemptions also align with the NTG’s objectives of fostering social and affordable housing through partnerships with CHPs, as outlined in the *Northern Territory Community Housing Growth Strategy 2022-32*. This strategy recognises the vital role CHPs play in delivering sustainable, quality housing to vulnerable Territorians and supports the growth of the sector as part of the broader housing strategy.

Legal precedents affirm that CHPs’ provision of affordable housing serves a charitable purpose. The 2025 NTCAT decision in *Venture Housing Company Limited v City of Palmerston* confirms that affordable housing provided by a registered charity qualifies as a ‘non-commercial purpose’ under Section 222(1)(g) of the *Local Government Act 2019*, supporting eligibility for rates exemption^{vii}. This decision aligns with the New South Wales Court of Appeal ruling in *Community Housing Limited v Clarence Valley Council* [2015], which recognised that providing below-market rents is a charitable activity^{viii}. However, as the NTCAT decision is currently under appeal, legislative clarity is crucial to prevent ongoing uncertainty and ensure consistent and equitable application across the NT.

Do you support the proposed change? Please explain.

Yes, with reservations. Clarifying Section 222(1)(g) is necessary to reduce ambiguity and provide consistency in rate exemptions for CHPs. However, the amendment should explicitly recognise the ACNC and PBI regulatory frameworks. This safeguard ensures the financial sustainability of CHPs while preserving the original intent of the exemption.

How do you think this proposal will impact your council or community in practice?

Clearer legislative criteria will reduce disputes over rate exemption eligibility, improve administrative efficiency for councils, and provide operational certainty for CHPs. This will enable CHPs to allocate more resources toward meeting housing needs instead of navigating regulatory ambiguities.

Are there any unintended consequences or practical implementation issues you foresee with this change?

The definition of 'non-commercial' must be carefully crafted to avoid excluding CHPs that rely on below market rental income to maintain financial viability. Councils may face reduced revenue if exemptions are broadly applied without transitional or compensatory measures. Clear safeguards are needed to prevent misuse of exemptions by organisations that do not fully align with charitable objectives.

Do you have any additional comment or examples to support your feedback?

The NTCAT precedent affirming below-market rental housing as a charitable purpose provides a strong foundation. Aligning legislation with this interpretation will advance social and affordable housing goals while ensuring fairness and clarity across the sector.

References

ⁱ Commissioners Interpretation Statement: Provision of Housing By Charities,

<https://www.acnc.gov.au/tools/guidance/commissioners-interpretation-statements/commissioners-interpretation-statement-provision-housing-charities>

ⁱⁱ NTG, 2022, *Northern Territory Community Housing Growth Strategy 2022-32*

https://tfhc.nt.gov.au/_data/assets/pdf_file/0009/1099170/tfhc-community-housing-growth-strategy-202232.pdf

ⁱⁱⁱ National Regulatory System for Community Housing (NRSCH), <https://nrsch.gov.au/>

^{iv} Australian Charities and Not-for-profits Commission (ACNC), <https://www.acnc.gov.au/>

^v Commissioner's Interpretation Statement: Public Benevolent Institutions,

<https://www.acnc.gov.au/tools/guidance/commissioners-interpretation-statements/commissioners-interpretation-statement-public-benevolent-institutions>

^{vi} Northern Territory Government, *Community Housing Growth Strategy 2022-32*, Department of Housing and Community Development, https://dhlgcd.nt.gov.au/_data/assets/pdf_file/0009/1099170/tfhc-community-housing-growth-strategy-202232.pdf

^{vii} *Venture Housing Company Limited and City of Palmerston* [2025] NTCAT 1, <https://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/nt/NTCAT/2025/1.html>

^{viii} *Community Housing Limited v Clarence Valley Council* [2015] NSWCA 327, <https://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/nsw/NSWCA/2015/327.html>