

9 September 2024

To: Crown Lands and Public Spaces, NSW
Department of Planning, Housing and Infrastructure
Level 28, 12 Darcy Street
Parramatta NSW 2150

Dear Crown Lands and Public Spaces NSW,

RE: Crown Lands Financial Concessions Policy

Thank you for the invitation to provide a submission on Crown Lands Financial Concessions Policy.

The Aged & Community Care Providers Association (ACCPA) is the national Industry Association for over 1,000 aged care providers offering retirement living, seniors housing, residential care, home care, community care and related services.

ACCPA and its members have concerns regarding the significant increases in annual rents being imposed on NSW-based aged care and retirement living operators that hold leases on Crown Land. These rent hikes are based on updated market value determinations of the land, and for many providers, the sharp rise in costs is unsustainable. These operators are Not For Profit (NFP) providers with a long history of mission based work, providing care and services to the marginalised in our community. They were granted Crown Land leases to ensure they could continue to provide such services, but unfortunately their survival is now under threat.

These increases will jeopardise essential aged care and retirement living services in local communities and, in some cases, could lead to service closures.

As per discussions with Crown Lands, the impacted operators have no objection to the market valuation process itself. The issue lies with how the outcome of the valuations is applied through the Crown Lands Financial Concessions Policy. This policy currently does not provide the necessary protection or support to aged care and retirement living operators, creating an unsustainable financial burden.

The Australian Aged Care Financial System Context

Aged care providers in Australia are currently operating in an extremely challenging financial environment. The Australian aged care sector is dependent on government funding and legislatively defined resident contributions to cover the costs of care. However, these funding mechanisms are often insufficient to meet the rising operational costs that providers face.

In addition to funding limitations, the aged care sector is grappling with significant workforce shortages, increased compliance and reporting requirements, and the escalating costs of delivering care, exacerbated by inflationary pressures and rising wages.

The most recent StewartBrown financial report indicates 50% of aged care providers were operating at a loss as of March 2024.¹ These pressures are forcing some operators to consider cutting back on services or close – further reducing the availability of care for the NSW ageing population.

¹ [StewartBrown Aged Care Financial Performance Survey \(March 2024\)](#)

In this context, the additional financial burden of significant rent increases on Crown Land presents an insurmountable challenge for many providers. These operators are already operating on slim margins, and without a fundamental change to the policy, the risk of closures and reduced services is very real.

It is important to acknowledge that while some providers may experience financial stability in a given year, and Crown Lands have highlighted some of these with reference to healthy balance sheets on the ACNC website. However, these are community funds and are reinvested into the community – building much needed accommodation for older Australians. The aged care sector is complex and inherently volatile, with providers facing unpredictable challenges such as fluctuating occupancy rates, rising operational costs and changes in government funding. A provider that appears to be doing well in one year may quickly find itself in financial distress the next, particularly if unexpected costs, such as rent increases on Crown land, are imposed.

Regulatory Context

Aged care and retirement living operate under strict financial regulations, limiting their ability to absorb sharp increases in rent:

- **Retirement Villages** - rent increases for residents in NSW retirement villages are restricted by legislation to the Consumer Price Index (CPI), ensuring predictability for both residents and operators. Under NSW retirement village legislation, if a proposed rent increase exceeds the CPI, residents must be consulted and have the right to vote and reject the proposed changes. For example: One operator occupying Crown Land has received rent redetermination notices with increases (from 'current' rent to FY25-26, including applied concessions, as per notice) on 3 x leases of 465%, 5,278% and 6,324%. This would equate to weekly fee increases of approximately \$70-\$80 for each resident living in the village. Clearly this is not reasonable nor sustainable. This would also likely result in a dispute between operator and residents and end up in the NSW Civil and Administrative Tribunal (NCAT).
- **Residential Aged Care** - the Federal Government oversees care funding through the Australian National Aged Care Classification (AN-ACC) system, and accommodation pricing is regulated and approved by the Aged Care Pricing Commissioner. These frameworks ensure fairness but restrict operators' ability to manage sudden cost increases, such as those resulting from rental hikes.

Simply offering hardship relief to operators does not address the underlying issue, but rather delays the inevitable. A revision of the Crown Lands Financial Concessions Policy is urgently needed to address this issue in a sustainable way. Both ACCPA and Crown Lands recognise that there may be less than 12 operators occupying Crown Land across NSW and to create an appropriate classification for retirement living and aged care operators would not appear to be detrimental to government revenue.

For both retirement village and residential aged care residents, who are often on fixed incomes such as the Age Pension, any increase in accommodation costs could lead to undue and severe stress, exacerbating existing health conditions and diminishing their quality of life.

Current Crown Lands NSW Policy Context

The current **Crown Lands Financial Concessions Policy** acknowledges the need for financial relief in certain instances, including provisions for rebates, waivers and other concessions under specific

circumstances such as financial hardship, environmental protection or public interest. However, the policy lacks clear provisions for aged care and retirement living, despite their essential community service role, creating a policy gap.

Recommended Policy Change

We recommend that the policy be updated to create a new category specifically for aged care and retirement living operators. It is important that these services, which play an essential role in supporting older Australians, are recognised appropriately.

Aged care and retirement living providers should not be treated the same as commercial enterprises such as those offering gambling or alcohol services. The negative social impact of such activities contrasts sharply with the positive and essential care provided by aged care and retirement living.

We are seeking a revised policy that would cap rental increases for these providers at a reasonable level, such as CPI, ensuring that they can continue offering essential services to the older population in NSW. We are also seeking to ensure that any increases to the 'current' rent, as per notices, be no greater than CPI.

We are aware that impacted operators have been advised to apply for financial hardship concessions under the current Crown Lands Financial Concessions Policy. However, this approach only provides temporary relief and does not address the core issue. Such hardship applications merely act as a band-aid solution, postponing the inevitable - an eventual and unsustainable financial burden that could result in the closure of these essential services, causing loss of jobs for staff, financial stress and potentially homelessness for older Australians

If you have any further questions or would like to discuss, please contact Mark Prosser, Director Retirement Living & Seniors Housing at mark.prosser@accpa.asn.au.

Yours sincerely,



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Aged & Community Care Providers Association