

POSITION PAPER FRINGE BENEFITS TAX HOUSING

NOVEMBER 2024

ABOUT THE KIMBERLEY REGIONAL GROUP

The Kimberley Regional Group (KRG) is an alliance of the four Kimberley Shires, being the Shire of Broome, the Shire of Derby West Kimberley, the Shire of Halls Creek and the Shire of Wyndham East Kimberley. Our Vision is to maintain and enhance the rich diversity and liveability of the Kimberley for its people and the world. Collaboratively the group seeks to drive positive impact across the region through improved social, economic and cultural outcomes. This paper is designed to highlight the issues as known to Local Government at the time of writing and the potential pathways that are supported.

CONTEXT

- The attraction and retention of staff is critical to creating vibrant Kimberley communities and supporting positive economic and social development.
- Staff turnover is historically high in the Kimberley, between 25-40% per annum, and home ownership has been seen as solution to retain staff.
- Employers and employees in the Kimberley have access to specific Fringe Benefits Tax (FBT) concessions and exemptions related to remote housing which apply equally as an additional benefit to a total reward package or if salary sacrificed. Providing housing assistance is necessary as employees tend to move for work, there is insufficient residential accommodation, and it is an industry norm.

- The way the FBT is currently structured, the employee will benefit most (and the overall cost of employment kept to a minimum) if provided with remote accommodation by the employer, with likelihood of a full FBT exemption available. It is not designed to incentivise employees to acquire their own housing in remote areas.
- Home ownership across the Kimberley is a smaller part of the housing mix than in most parts of WA, with about half of homes provided through non-market mechanisms. This can be seen in Figure 1¹.

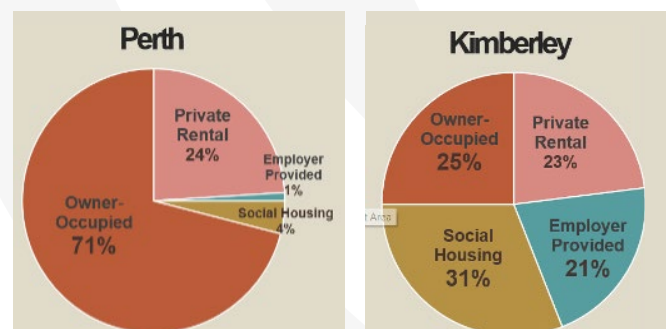


Figure 1. Housing mix Perth and the Kimberley

Most common housing FBT benefits

The most common benefits provided for in the Fringe Benefits Tax Assessment Act 1986 (FBTAA) are:

1. Remote Area Housing Benefit

Found in Section 58ZC of the FBTAA, this benefit offers a full (100%) exemption from FBT when an employer provides a housing fringe benefit - either owned or leased by the employer - to an employee rent-free or at a reduced rent. This allows employers to offer remote area housing tax-free to employees, provided all conditions are met.

2. Remote Area Housing Loan

Under Section 60(1) of the FBTAA, employers can provide interest-free or low-interest housing loans to employees. A "housing loan" is defined as a loan used entirely for purchasing or constructing a new home. The taxable value of this loan fringe benefit is reduced by 50% during the "occupation period" when all relevant requirements are satisfied.

3. Remote Area Mortgage Interest

Section 60(2) of the FBTAA allows for a 50% reduction in the taxable value of an expense payment fringe benefit related to interest on a remote area housing loan from a financial institution to an employee. This concession applies only to interest payments, not the loan principal.

4. Remote Area Rent

Section 60(2A) of the FBTAA provides a 50% reduction in the taxable value of an expense payment fringe benefit when an employer reimburses an employee for rent paid to a third party. The 50% reduction is based on the gross rent amount before deducting any employee contributions. Therefore, if an employee contributes 50% of the rent, the employer may not owe any FBT.

Issues with the FBT legislation

1. Administrative Burden

Employers face complex rules and extensive record-keeping to qualify for FBT exemptions and concessions on remote area accommodation. This can be particularly challenging for smaller employers who may lack resources.

2. Valuation of Benefits

The taxable value of housing benefits is typically based on market rental value, which may exceed the actual benefit perceived by the employee. This leads to higher FBT liabilities for employers in regional areas, disproportionate to the benefit's value to employees.

3. Inconsistent Exemptions for Similar Benefits

While remote area housing benefits can be fully exempt, remote area housing loans and rent only receive a 50% reduction in taxable value. The 50% reduction is applied differently between remote area mortgage interest and remote area rent. The benefit's treatment depends on whether the property is owned or leased by the employer. Employees receive greater benefits when the employer owns or leases the property, creating inequity based on property ownership.

4. Incentives

The way the FBT is currently structured, the employee will benefit most (and the overall cost of employment kept to a minimum) if provided with remote accommodation by the employer, with likelihood of a full FBT exemption available. It is not designed to incentivise employees to acquire their own housing in remote areas.

If the employer provides incentives to employees to acquire housing in remote areas by way of mortgage interest or a housing loan and the necessary conditions are met, only a 50% reduction of the taxable value is available to the employer.

Amendments to the FBT will support increased home ownership in the Kimberley, reducing reliance on rental housing and contributing to increased housing supply.

5. Eligibility Criteria

The criteria for what constitute a “remote area” is strict, complex and outdated resulting in different outcomes for similar employers and employees.

6. Equity

The FBT outcomes vary significantly comparing situations where the landlord enters into a lease with a local government contrast with where an employee enters into a lease directly with a landlord. The former circumstance allows a complete exemption from FBT for free or discount housing to employees as opposed to a 50% reduction for the latter arrangement.

Ultimately this would increase the cost for local government to deploy key staff to the regions if those local governments do not have the capacity to provide employer owned or leased housing to these employees.

Kimberley housing is characterised by skyrocketing demand, especially for rentals with as yet no response on the supply side. The lack of homes has increased medium weekly rent for a home in the Kimberley significantly above the WA median price, with rentals over \$1000 a week in Broome.

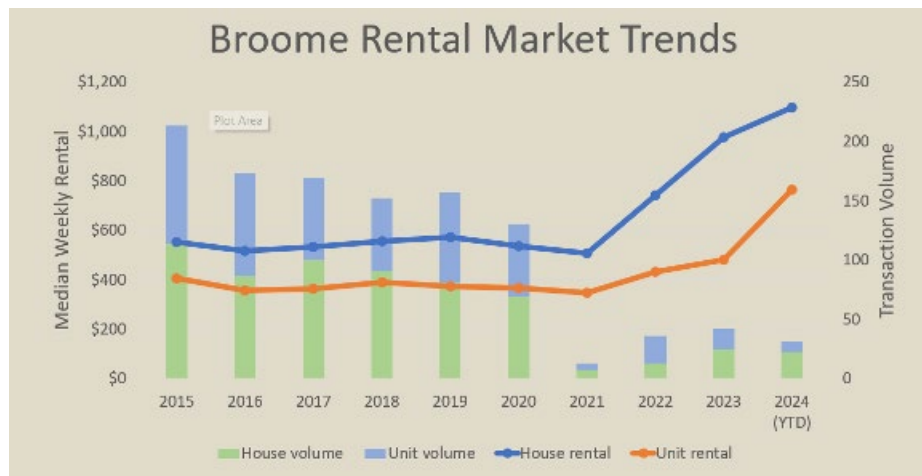


Figure 2. Rental trend prices, Broome 2015-2024.

FBT Scenarios

- **Scenario 1** - Employee rents house from the private market. They can salary sacrifice rent, but only 50% of the rent is FBT exempt. I.e. FBT applies to the other 50% of the rent.
- **Scenario 2** - Shire rents house from private market and sub-leases to employee. Employees can then salary sacrifice rent with a 100% FBT exemption.
- **Scenario 3** - Employee owns home. Can salary sacrifice interest only on mortgage, however only 50% is FBT exempt. I.e. FBT applies to the other 50% of the mortgage interest payment.

OBJECTIVES

- » Attracts and retains staff contributing to vibrant regional communities.
- » Reduce the employer burden by enabling employers focus on their core functions.
- » Increase housing supply by promoting home ownership.

GUIDING PRINCIPLES

- **Equity:** Fair tax treatment regardless of property ownership.
- **Incentivises** employees to buy or to build homes in remote areas.
- **Simplifies taxation,** reducing administrative complexity.
- **Reflects actual benefits:** recognises similar value to employees, regardless of ownership.

POLICY PRIORITIES

- That the Federal Government fully exempt both employer and employee-owned remote area housing from Fringe Benefits Tax.

- Ensure fair tax treatment regardless of property ownership.
- Recognise similar value to employees regardless of ownership.
- Reduce the employer burden of moving into property ownership and becoming landlords.
- Reduce the administrative burden through consistent exemptions.
- Encourage home ownership, aligning with broader government priorities to increase housing supply.
- Retain staff enabling them to put down roots in the community through home ownership.
- That a review is undertaken of what constitutes a remote area for the purpose of this tax.

ENDNOTES

1. Kimberley Development Commission (2023) Kimberley Residential Housing and Land Snapshot, 2023.
2. Header Image: Copyright © Shire of Broome: <https://www.broome.wa.gov.au/News-articles/housing-affordability-strategy>