

POSITION PAPER RATE EXEMPTIONS

APRIL 2025

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

Rates contribute to the delivery of important local government services and facilities including roads, libraries, recreational facilities, community services, public health, and town planning. When properties are exempt from rates, the shortfall in revenue must be made up by other ratepayers or by cutting back on services. Rates in the Kimberley are high relative to the West Australian average. This is impacted by the remote location and size of the local government districts requiring Councils to deliver service over long distances.

How are rates calculated?

The rates payable to a local government is determined by three factors: the method of valuing the land; the valuation of the land and improvements; and the rate in the dollar applied to that valuation by the local government. The Minister for Local Government determines the method for land valuation, and whether the unimproved value (UV) or gross rental value (GRV) of the land applies according to legislation and rating policy [LG Act s.6.28]. The Valuer-General values the land in line with the Valuation of Land Act 1978¹.

Councils generally impose a uniform general minimum for all rate categories in the recognition that every property receives some minimum level of benefit of works and services.

Councils can set differential rates according to zoning, land use, whether the land is vacant or a combination of these [LG Act s.6.33]. Differential rates ensure that every ratepayer makes a reasonable contribution to the rates burden. *Subject to the Rates and Charges (Rebates and Deferments) Act 1992*, a local government may at the time of imposing a rate or service charge or at a later date resolve to waive a rate or service charge or resolve to grant other concessions in relation to a rate or service charge.

Each year, the costs and revenues of Council services and facilities are determined, and the net cost equals the amount required from rates. The amount required from rates to balance the budget is then divided by the total valuations to give a rate in the dollar. The rate in the dollar is then multiplied by the valuation of each property which gives the rates payable. Rates are subject to a minimum payment set annually by Council.

Rate exemptions.

The Local Government Act provides that all land is rateable unless it is listed as exempt. Councils are required to keep a rates exemption register. Broome has around 5,150 GRV Residential properties in total. An examination of the Shire of Broome's rate exemption register indicates that there are 513 exempt properties, of which 198 are Shire properties, 194 crown properties and 121 have charitable status.

Exemptions for pensioners.

For example, pensioners, if they meet the eligibility criteria, are entitled to claim a rebate capped to an annual maximum amount by the State Government. Holders of a Commonwealth Seniors Health Card and the WA Seniors Card receive the same rebate as pensioners. Acknowledging the budgetary impact of offering these concessions to Councils, the WA Government provides funding to local governments to cover the cost of these rebates.

Exemptions for charitable purposes.

Section 6.26(2)(g) of the Local Government Act provides a rates exemption for 'land used exclusively for charitable purposes'. 'Charitable purposes' is not defined in the Local Government Act 1995 or other statutes; rather charity is defined at common law. Determinations by the State Administrative Tribunal indicate: *the condition that to be charitable a purpose must tend to benefit the public is satisfied if the purpose tends to the benefit of the public at large or a class or section of the public*².

Rate exemptions provide a significant financial benefit for charities and supports them to deliver services for their members or the public. Local governments recognise that many charities provide important services with limited funding and if required to pay rates, it may impact on their ability for them to provide those services. Unfortunately, this rate exemption has expanded to include the commercial activities of charities. For example, charities that offer aged housing, independent living units and lease for life homes often qualify for rate exemptions even when residents are required to purchase the right to occupy their unit, at market value, and pay maintenance.

The WA State Government, including the Department of Housing is not obliged to pay local government rates. The Department of Housing has historically, and continues to make, rate payments to Local Government for social housing. This practice recognises that public housing tenants consume and benefit from Local Government services and facilities.

Properties leased by the Department of Housing to organisations with charitable status such as community housing organisations (CHOs) are exempt from paying rates. Over recent years, the Department of Housing has increased the devolving management of social housing to charitable providers. State and Federal government housing policy is supporting the growth of housing provision through the community housing sector.

This provides considerable risk to local governments in terms of lost rate revenue. Local government discretion may be exercised but only to the extent of assessing: If the land is used exclusively for a purpose consistent with s.6.26 provisions, and If only a portion of the land is used exclusively for a s.6.26 purpose, what proportion, with exemption only applying to that proportion.

Local governments welcome an increase in social housing to meet community need. However, for local governments such as the Kimberley where there is high percentage of social housing, they are often the communities that can least afford to underwrite the cost of rate exemptions. This contributes to an increasing divide in the level of services and facilities for communities with most need. The estimated lost rate revenue for properties leased / owned by community housing organisations equates to approximately \$222K per year. In recognition of the impact of rate loss, some CHOs pay rates, and others have MOUs with local governments outlining financial contributions. However, many seek rate exemptions. It is only the rates which are exempt. They must pay for Council fees and charges such as waste collection.'

There is a key role for State and Federal Government to ensure that rates are received for social housing properties, ensuring that local governments do not unreasonably lose critical income to provide services and facilities.

Exemptions for land used or held by the Crown (State Government) for a public purpose.

Local governments do not have the authority to levy rates on unallocated Crown Land in Western Australia. Also, Government Trading Entities (GTEs) are exempt from local government rates under the Government Trading Enterprises Act 2023. Section 150 of the Act states that land vested in, or under the care, control, or management of a GTE, and used or reserved exclusively for the performance of the GTE's functions is not rateable. Only if a GTE leases or lets land vested in it, or under its care, control or management, the land is by reason of the lease or tenancy rateable land³.

However, there is provision in Section 151 that requires GTEs to pay an amount to the WA Government equivalent to the local government rates that they would have been liable to pay but for the exemption. The rates are kept by Treasury as consolidated revenue.

Projects under the State Agreement Act.

A State Agreement is a legal agreement between the WA Government and a proponent of a major project⁴. They generally pertain to specific industries or large-scale projects and are designed to provide long-term certainty for the proponents and ensure that the projects contribute to the economic development of Western Australia. They are negotiated on a case by case basis and generally the proponent does not pay local government rates. A report by the Office of the Auditor General 2024 on the Management of State Agreements found that the social and community benefits delivered by State Agreements are not transparently reported⁵. There are three State Agreements in the Kimberley covering the Argyle Diamond Mine, Ord River Hydro Energy Project and North West Gas Development (Woodside), but with development pipelines there may be future agreements developed. Argyle Diamond mine paid around \$12,000 in rates per annum when its estimated operating budget was \$420 million per year.

OBJECTIVE

- » To ensure local governments receive appropriate rate income to enable them to provide services and facilities to enable their communities to flourish.
- » To provide a robust framework to determine which entities qualify for a rate exemption and which should not and why, and how local governments are compensated for lost revenue.

GUIDING PRINCIPLES

- **Equity:** Fair tax treatment regardless of property ownership.
- **Fairness:** Rate income is received by local government to ensure that the burden of maintaining local government assets is borne equitably by all property owners.

POLICY PRIORITY

- That the WA and Federal Governments include in lease agreements for the management of social, affordable or transitional housing a contractual obligation for the payment of local government rates, regardless of the provider's charitable status, as recognition of the services that local governments provide to housing tenants.
- That the WA Government:
 - » Amend legislation so rate equivalency payments made by Development WA and other Government Trading Entities are made to the relevant Local Governments instead of to the WA State Government.
- » Amend the *Local Government Act 1995* to clarify that Independent Living Units should only be exempt from rates where they qualify under the *Commonwealth Aged Care Act 1997*;
- » Either:
 - a) amend the charitable organisations section of the *Local Government Act 1995* to eliminate exemptions for commercial (non-charitable) business activities of charitable organisations; or
 - b) establish a compensatory fund for Local Governments, similar to the pensioner discount provisions, if the State Government believes charitable organisations remain exempt from payment of Local Government rates.
- » Undertake a broad review into the justification and fairness of all rating exemption categories currently prescribed under Section 6.26 of the *Local Government Act 1995*.
- » Ensure that resource projects covered by State Agreement Acts pay Local Government rates.

ENDNOTES

1. <https://www.dlgsc.wa.gov.au/local-government/local-governments/rates-setting>
2. *Rates and Charitable Land Use Exemption Applications, Best Practice Guidelines*, WALGA and WA Rates Officers Association, Nov 2021.
3. https://classic.austlii.edu.au/au/legis/wa/consol_act/gtea2023347/s150.html?form=MGOAV3
4. <https://www.wa.gov.au/organisation/departments-of-jobs-tourism-science-and-innovation/state-agreements>
5. https://audit.wa.gov.au/wp-content/uploads/2024/10/Report-3_Management-of-State-Agreements.pdf