



Government of **Western Australia**
Department of **Local Government and Communities**

Rating Policy

Rateable Land (s.6.26)

August 2013

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Rating Policy – Rateable Land (August 2013)

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Rating Policy

Rateable Land (s.6.26)

Objective

This policy aims to provide guidance underpinning the Ministerial declaration on land exempt from rates.

Legislative Provision – *Local Government Act 1995*

6.26. Rateable land

- (1) Except as provided in this section all land within a district is rateable land.
- (2) The following land is not rateable land —
 - (a) land which is the property of the Crown and —
 - (i) is being used or held for a public purpose; or
 - (ii) is unoccupied, except —
 - (I) where any person is, under paragraph (e) of the definition of **owner** in section 1.4, the owner of the land other than by reason of that person being the holder of a prospecting licence held under the *Mining Act 1978* in respect of land the area of which does not exceed 10 ha or a miscellaneous licence held under that Act; or
 - (II) where and to the extent and manner in which a person mentioned in paragraph (f) of the definition of **owner** in section 1.4 occupies or makes use of the land;
 - and
 - (b) land in the district of a local government while it is owned by the local government and is used for the purposes of that local government

other than for purposes of a trading undertaking (as that term is defined in and for the purpose of section 3.59) of the local government; and

- (c) land in a district while it is owned by a regional local government and is used for the purposes of that regional local government other than for the purposes of a trading undertaking (as that term is defined in and for the purpose of section 3.59) of the regional local government; and
 - (d) land used or held exclusively by a religious body as a place of public worship or in relation to that worship, a place of residence of a minister of religion, a convent, nunnery or monastery, or occupied exclusively by a religious brotherhood or sisterhood; and
 - (e) land used exclusively by a religious body as a school for the religious instruction of children; and
 - (f) land used exclusively as a non-government school within the meaning of the *School Education Act 1999*; and
 - (g) land used exclusively for charitable purposes; and
 - (h) land vested in trustees for agricultural or horticultural show purposes; and
 - (i) land owned by Co-operative Bulk Handling Limited or leased from the Crown or a statutory authority (within the meaning of that term in the *Financial Management Act 2006*) by that co-operative and used solely for the storage of grain where that co-operative has agreed in writing to make a contribution to the local government; and
 - (j) land which is exempt from rates under any other written law; and
 - (k) land which is declared by the Minister to be exempt from rates.**
- (3) If Co-operative Bulk Handling Limited and the relevant local government cannot reach an agreement under subsection (2)(i) either that co-operative or the local government may refer the matter to the Minister for determination of the terms of the agreement and the decision of the Minister is final.

- (4) **The Minister may from time to time, under subsection (2)(k), declare that any land or part of any land is exempt from rates and by subsequent declaration cancel or vary the declaration.**
- (5) Notice of any declaration made under subsection (4) is to be published in the *Gazette*.
- (6) Land does not cease to be used exclusively for a purpose mentioned in subsection (2) merely because it is used occasionally for another purpose which is of a charitable, benevolent, religious or public nature.

Principles

In making the decision, the following principles will be observed:

- Objectivity,
- Fairness and equity,
- Consistency,
- Transparency, and
- Administrative efficiency.

Application of principles to this declaration

1. An exemption will apply only to land that could not be exempted under one of the exemption categories listed in s 6.26(2).
2. Exemptions are only available to not-for-profit organisations.
3. The organisation and land use must be for public benefit, where that benefit is available to members of the public generally or a sufficient section of the general public.
4. Some consideration will be given to the quantum of the rates burden in relation to the turnover of the organisation.
5. An exemption will only be granted in **exceptional circumstances**.

ASSESSMENT

The principles will be applied as follows:

Objectivity

- Is the organisation not-for profit?
- How is the land being used? Is it being used solely for this purpose? If not, what are the other uses of the land and the frequency of use for these purposes?
- Does this properly fall within the exemption categories listed in s. 6.26 (2) (a)-(j)? (If so, a request for review should be lodged with the State Administrative Tribunal in accordance with s. 6.77 if the local government objection process has been exhausted.)
- What has precipitated the application?
- Has the land use changed?
- What is the quantum of rates as a proportion of the organisation's annual turnover?

Fairness and equity

- Have discussions occurred between the owners and the local government?
- What regard has been had to their feedback?
- Has an application been made to the local government? What was the outcome?
- Has an objection been lodged with the local government? What was the outcome?
- Has application been made to the State Administrative Tribunal for review? What was the outcome?
- Are the organisation and the land use for public benefit? How wide a section of the community benefits?

Consistency

- Are other properties used for similar purposes being rated/not rated?
- Are there exceptional circumstances in this case? What are they?

Transparency

- Has the decision not to grant the exemption been considered by Council and recorded in the Council minutes or was this taken under delegated authority of the Council?

Administrative efficiency

- Has the impact on similar land been considered?

Information to be provided with the request for a declaration

It is expected that the above matters will be covered in an application to the Minister for declaration. In particular, the following should be included:

- Accurate and clear description of the affected land (Certificate of title details, lot or location numbers and location names and street names, plans);
- Description of the nature of the organisation, its objects and membership base;
- Clear description of the use(s) of the land, including the frequency of use for this and other purposes and the proportion of the land used for each purpose;
- An explanation of any exceptional circumstances that exist;
- Details on consultation that has occurred and the local government's response, including a copy of the council's or delegate's written decision; and
- For applications that fall under the exemption categories listed in s. 6.26(2)(a)(i)-(j), confirmation that the process for objection to the decision made by the local government and application for review to the State Administrative Tribunal has been followed, with copies of relevant correspondence.

Land subject to exemption under s 6.26(2)

If a ratepayer believes that land properly falls within one of the exemption categories in section 6.26(2)(a)-(j), the organisation should make application to the relevant local government for exemption. Should the application fail, the organisation has recourse to an objection and review process under Division 6, Subdivision 7 of the *Local Government Act 1995*. The State Administrative Tribunal is the final decision-maker on these cases.

Objection and review process

- A person (or organisation) can object to land being classed by the local government as rateable under s. 6.76(1)(a)(ii).
- The person making the objection has to be the person named in the rate book as the owner of the land or the agent or attorney of that person (s. 6.76(3)).
- This objection must be made in writing within 42 days of the service of the rate notice and must identify the land and set out fully the grounds for objection (s. 6.76(2)). The person can apply to the local government for an extension of the 42 day objection period under s. 6.76(4).
- The local government can allow (fully or in part) or disallow the objection, and must notify the applicant.
- After service of this notice, if the applicant is dissatisfied with the decision they can apply to the State Administrative Tribunal within 42 days for a review under s.6.77. The Tribunal may allow an extended period for application if reasonable cause is shown.

Application form – Rateable land (s. 6.26(2)(k))

Name: [Click here to enter text.](#)

applies to the Minister for Local Government to make a declaration under Section 6.26(4) of the *Local Government Act 1995* that the land at the following address:

[Click here to enter text.](#)

is exempt from rates.

In support of this application, the following information is provided:

(If the information is contained in an Attachment such as the Council Minutes, refer to that Attachment Number rather than repeating the information.)

1. Accurate and clear description of the affected land (For example, certificate of title details, lot or location numbers and location names and street names, plans).

[Click here to enter text.](#)

- Who is the registered owner of the land?

[Click here to enter text.](#)

- In what local government district is the land?

[Click here to enter text.](#)

2. What is the nature/purpose of your organisation?

- Is it not-for profit? Yes No

- Is it membership based? Yes No

- If yes:

- How many members does it have?

[Click here to enter text.](#)

- What is the criterion for membership?

[Click here to enter text.](#)

3. Detailed description of the use(s) of the land, including the frequency of use for this and other purposes and the proportion of the land used for each purpose.

[Click here to enter text.](#)

- If the land use has changed, supply details.

[Click here to enter text.](#)

4. What has precipitated the application?

[Click here to enter text.](#)

5. What is the quantum of rates being imposed?

[Click here to enter text.](#)

6. What consultation has occurred with the local government?

[Click here to enter text.](#)

- What is the local government's response? (Include a copy of the council's or delegate's written decision.)

[Click here to enter text.](#)

7. Does this application fall under exemption categories in s. 6.26(2)(a)(i)-(j)?

Yes No

- Has a formal application been made to the local government? Yes No

- If no, why not?

[Click here to enter text.](#)

8. If the application was rejected by the local government, was an objection lodged? Yes No

- If not, why not?

[Click here to enter text.](#)

9. Has an application been made to the State Administrative Tribunal for a review of the local government's decision? Yes No

- If not, why not?

[Click here to enter text.](#)

10. What exceptional circumstances do you believe exist?

[Click here to enter text.](#)

11. If you are aware of similar properties that are exempt from rates, provide details.

[Click here to enter text.](#)

Attachments

- A map clearly showing the affected land and any buildings on the land (Attachment 1)
- A copy of the organisation's constitution (Attachment 2)
- A copy of the organisation's most recent Annual Report (Attachment 3)
- A copy of any relevant communication with the local government (Attachment 4)
- Relevant Council minutes or record of delegate's decision (Attachment 5)
- A copy of any correspondence to and from the local government in relation to the lodgement of an objection (Attachment 6)
- A copy of any correspondence to and from the State Administrative Tribunal in relation to a request for a review of the decision (Attachment 7)
- A copy of the most recent rates notice (Attachment 8)

Contact person:	Click here to enter text.		
Phone:	Click here to enter text.		
Email:	Click here to enter text.	Date:	Enter date.

Submissions

Please send your completed application form and relevant attachment(s) to:

Executive Director

Sector Regulation and Support

Department of Local Government and Communities

GPO Box R1250, PERTH WA 6844

or

Email: info@dlgc.wa.gov.au