

Guidelines for the identification of rateable land in Indigenous local government areas

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GUIDELINES

Background

All land is rateable under the *Local Government Act 2009* (the LGA) unless the land is exempted from rates.

It is the responsibility of each local government to identify which land in its area is rateable and then notify the Valuer-General so that annual valuations can be issued under the *Land Valuation Act 2010*.

These guidelines will summarise the various exemptions to rateable land to assist local governments identify rateable land in their areas.

Exemptions

The LGA and the *Local Government Regulation 2012* (the LGR) provide for the following exemptions for rateable land.

Government Land¹

Unallocated State land and land occupied by the state government, a local government or other government entity is generally exempt from rates. This exemption also applies to State forests, timber reserves, rail corridors, strategic port land, airport land and land occupied by government owned corporations unless the corporation is required to pay rates.

Important to note: Where the state government or a local government leases land or grants a permit to occupy to a non-government entity the rating exemption no longer applies and the land becomes rateable.

¹ See section 93(3)(a),(b),(c),(e), (f) and (g) of the LGA

Aboriginal and Torres Strait Islander land exemptions²

Aboriginal land under the *Aboriginal Land Act 1991* and Torres Strait Islander land under the *Torres Strait Islander Land Act 1991* is exempt from rating except for any part of the land which is used for commercial or residential purposes.

Religious exemptions³

Land, smaller than 20 hectares, that is owned by a religious entity is exempt from rating if the land is used for religious purposes, education purposes, health or community services, the administration of the religious entity or housing incidental to these purposes.

Community organisation exemptions⁴

Land, smaller than 20 hectares, owned by a community organisation is exempt from rating if the land is used for accommodation associated with the protection of children, accommodation for students or educational services for improving employment or leisure opportunities.

Sport and recreational exemptions⁵

Where land is placed under the management and control of a person under legislation to use for recreational or sporting purposes, the land is exempt from rating. Also, a local government may, by resolution, exempt land from rating where the land is primarily used for showgrounds or horseracing.

Charity exemptions⁶

Where land is placed under the management and control of a person under legislation to use for charitable purposes, the land is exempt from rating. In addition, a local government may resolve to exempt land used for charitable purposes from rating.

Public hospitals⁷

Land which is used for a public hospital is exempt from rating if the part of the land used for the public hospital is greater than 2 hectares and is separate from any private hospital complex.

Exemption for cemeteries⁸

Land used as a cemetery is exempt from rating.

² See section 93(3)(d) of the LGA

³ See section 73(a) of the LGR

⁴ See section 73(d) of the LGR

⁵ See section 93(3)(h) of the LGA and 73(b)(i) of the LGR

⁶ See section 93(3)(i) of the LGA and 73(b)(ii) of the LGR

⁷ See section 73(c) of the LGR

⁸ See section 73(e) of the LGR

Identification of rateable land in Indigenous local governments

The majority of land in an Indigenous local government area will be Aboriginal Land under the *Aboriginal Land Act 1991* or Torres Strait Islander land under the *Torres Strait Islander Land Act 1991* and as such will not be rateable unless it is used for commercial or residential purposes.

As such it is important to identify the use of each parcel of land within Indigenous local government areas to determine whether it is being used for commercial or residential purposes.

After identifying all land used for commercial or residential purposes, it is necessary to identify whether any of the other specific exemptions to rateable land apply.

In particular, if the commercial or residential purpose is being undertaken on land under the control of the local government or State government then it will not be rateable unless the relevant government entity has entered into a lease providing exclusive tenure to a non-government entity.

Where specific land in an Indigenous local government area is not Aboriginal Land or Torres Strait Islander land (for example freehold land such as Miller's block in Hope Vale), the land will be rateable unless one of the other specific exemptions to rateable land applies.

The following table sets out the process for determining whether a particular parcel of land is rateable.

Is the land...	Yes	No
1. Aboriginal land or Torres Strait Islander land	Go to 1.1	Go to 2
1.1. used for commercial or residential purposes	Go to 2	Not rateable
2. Occupied by the local government or State government	Go to 2.1	Go to 3
2.1. has the land been subleased for exclusive use by a non-government entity	Go to 3	Not rateable
3. Occupied by a religious entity for religious, educational, health or community services or housing incidental to these purposes	Not rateable	Go to 4
4. Occupied by a community organisation for accommodation to protect children, accommodation for students or the provision of educational services for improving employment or leisure opportunities	Not rateable	Go to 5
5. Occupied by an entity authorised under legislation to conduct recreational or sporting purposes or where the local government has, by resolution, exempted showgrounds or a racetrack from rating	Not rateable	Go to 6
6. Occupied by an entity authorised under legislation to conduct a charitable purpose or where the local government has, by resolution, exempted a charity from rating	Not rateable	Go to 7
7. Occupied by an entity running a public hospital separate from a private hospital complex	Not rateable	Rateable

Examples

The following table examines whether particular examples of land are rateable.

Example land	Rateable	Rationale
Social housing on 40 year lease to State	No	Specific exemption for public housing
99 year lease to individual for home ownership	Yes	Privately occupied residential land
30 year lease to individual for farm and/or home	Yes	Privately occupied residential and commercial land
Council house provided to employee as part of employment package	No	Council occupied land
Council house tenanted by member of community	No	Council managed land
10 year lease of petrol station to company to operate	Yes	Commercial land
5 year exclusive lease from Council of building to not for profit organisation providing community services	No	Not residential or commercial
30 year exclusive lease from Council of building to not for profit organisation operating grocery store	Yes	Commercial land
10 year tenancy agreement from Council for part of building to operate commercial enterprise	No	Council managed land
5 year exclusive lease from prescribed body corporate to sporting association	No	Not residential or commercial
Land granted in freehold to individual by trustee	Yes	Freehold land