

## 2/013 RATES EXEMPTION POLICY (NON RATEABLE LAND)

### 1. Introduction

This policy will provide an administrative framework for assessing any application for properties to be classified as not rateable land on the ground of being used for charitable purposes.

### 2. Purpose and Application of the Policy

In accordance with section 6.26 (2) of the *Local Government Act 1995*

#### *6.26. 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.

### 3. Provisions

- a) All applications for exemption under s6.26(2)(g) of the *Local Government Act 1995* must be in writing on the prescribed form and contain a declaration as to the accuracy of the information contained therein,
  - b) An application will be required to be lodged every two years and is to be assessed in accordance with this policy,
  - c) Council may request information from an organisation on a yearly basis if, Council considers this appropriate,
  - d) Council may request additional information from an organisation making application if it considers it necessary to do so,
  - e) Information requested under paragraph d. above is not limited to, but typically include copies of the Constitution of the organisation, recent financial statements of the organisation and information demonstrating precisely how any land the subject of the application is used,
  - f) For land to be treated as newly recognised not rateable land under section 6.26(2)(g), or if a new application for exemption is required under paragraphs b. or c. above, an application must be made by 31 March for the rating year that precedes the rating year to which the applications relates. Late applications submitted after the due date will not be considered under any circumstances and instead will be deferred to the next financial year for consideration by Council.
4. Policy

Determination of whether land is 'used exclusively for charitable purposes' for the purpose of section 6.26(2)(g) of the *Local Government Act 1995* is made by reference to the common law on charitable purposes. Council is only able to grant an exemption from rates under section 6.26(2)(g) if an applicant demonstrates that the land in question is being used exclusively for charitable purposes according to criteria that has been developed by case law on this subject.

The essential elements for an exemption under section 6.26(2)(g) are:-

- a) It is the use of the land that is in question, not whether the body in question has a charitable purpose,
- b) The use in question must be for charitable purposes as that is defined by common law; and
- c) The land must be used exclusively for a charitable purpose.

An exemption under this policy is will only be available to not-for-profit organisations. The organisation and land use must be for public benefit, where that benefit is available to members of the public in general or a sufficient section of the general public. Consideration will be given to the quantum of the rates burden in relation to the turnover of the organisation.

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Date of adoption of amendment and resolution number do not delete the previous dates	22 February 2012 OCM 25 February 2015 OCM (201415/177)
Relevant legislation	Local Government Act 1995
Delegated authority	
Business unit	Finance
Directorate	Corporate Services
Review frequency	As Required

## 2/014 RATES CONCESSION POLICY (RATEABLE LAND)

### 1. Introduction

This policy will provide an administrative framework for assessing an applications requesting the waiving or granting concession from rates to 'not for profit' community based organisations occupying rateable land.

### 2. Purpose and Application of the Policy

In accordance with section 6.47 of the *Local Government Act 1995*

*6.47 Concessions*

*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.*

*And Financial Management Regulations 1996*

*69A. When concession under Act s. 6.47 can not be granted*

*A local government is not to exercise a power to grant a concession in relation to a rate or service charge under section 6.47 of the Act in circumstances where the concession is based on whether or not, or the extent to which, the land in respect of which the rate or service charge is imposed is occupied by a person who owns the land. [Regulation 69A inserted in Gazette 7 Jan 2005 p. 72.]*

The purpose of the policy is to identify a process to be followed by any 'not for profit' community based organisation providing a benefit to the community from rateable land for the relief from rates.

### 3. Provisions

- a) All applications for exemption must be in writing on the prescribed form and contain a declaration as to the accuracy of the information contained therein.
- b) An application will be required to be lodged every two years and is to be assessed in accordance with this policy.
- c) Council may request information from an organisation on a yearly basis if, Council considers this appropriate,
- d) Council may request additional information from an organisation making an application if it considers it necessary to do so,
- e) Information requested under paragraph c. above is not limited to, but may typically include copies of the Constitution of the organisation, recent annual financial statements of the organisation and information demonstrating precisely how any land the subject of an application is used,
- f) An application must be made by 31 March of the rating year that precedes the rating year to which the application relates. Late applications submitted after the due date will not be considered under any circumstances and instead will be deferred to the next financial year for consideration by Council.

## 4. Policy

It is the policy of the Town of Port Hedland that any concession of rates in respect of any rateable land in the Council area will be available only when the applicant satisfies the requirement of this Policy.

Rates concessions will only be provided to community groups or associations that operate as a body corporate or an Incorporated Association and not to an individual.

The Town of Port Hedland will determine what is of benefit to the community for the purpose of this policy.

Rates concessions for residential properties not used in the primary service delivery of the community group or association's activities or services will not be eligible for a concession.

Community groups or associations, that in the opinion of the Council, provide activities, which are not core activities, and are in direct competition with a service provided by any established private operator within the district, will not be eligible for a rates concession.

The percentage ranges from 50% to 100% of the rates that are payable. Whether a concession is granted in response to an application or, if a concession is granted, the percentage of the rates that may be waived, is entirely at the discretion of Council and the granting of a concession in any year, will not guarantee that any future concessions will be granted.

To apply for an exemption under this policy, the owner of the property must be listed as a Charitable Institution as well as use the property for a charitable purpose only.

The following organisations may be registered as charitable institutions:

- religious bodies
- public benevolent institutions
- universities and university colleges (not charitable institutions for payroll tax)
- primary and secondary schools
- kindergartens
- institutions that
- mainly care for sick, aged or infirm persons
- relieve poverty
- provide full-time care for children (e.g. foster homes)
- are primarily charitable or for the public good (the principal object or pursuit must not be leisure, recreational, social or sporting).

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