RATING OF RESOURCE PROJECTS

Prepared by
UHY Haines Norton (WA) Pty Ltd
In conjunction with
Ray Hadlow

July 2011

Contact
Paul Breman
Director
UHY Haines Norton (WA) Pty Ltd
16 Lakeside Corporate
24 Parkland Road
Osborne Park WA 6017
08 9444 3400

Disclaimer

Our engagement was not an audit in accordance with Australian Auditing Standards or a review in accordance with Australian Auditing Standards applicable to review engagements. Had we undertaken such an auditor review, other matters might have come to our attention that would have been reported to you. Our report is solely for the Shire's information and is not to be used for any other purpose. We do not express any assurance on the balances stated in this report.

UHY Haines Norton is an association of independent firms. Responsibility for this report rests with UHY Haines Norton (WA) Pty Ltd, which carries on business separately and independently from other UHY Haines Norton associated offices in Australia and UHY associated offices worldwide. These other independent offices shall have no legal liability to your organisation.

Copyright

© UHY Haines Norton (WA) Pty Ltd
ABN 71 026 896 609

This work is subject to the Copyright Act 1968 which permits fair dealing for study, research, news reporting, criticism or review. Selected passages, tables or diagrams may be reproduced for such purposes provided acknowledgment of the source is included.

INTRODUCTION

The Shire of East Pilbara engaged UHY Haines Norton on behalf of the Shires of Ashburton, Broome, East Pilbara, Roebourne and the Town of Port Hedland to prepare a background report on the rating of resource developments and the impact of restrictive rate clauses contained in State Agreements.

BACKGROUND

There are numerous major resource projects currently in operation or planned for the Pilbara and Kimberley. Some of these projects are covered by State Agreements which limit the capacity of a local government to apply a gross rental valuation (GRV) to the affected land.

Some local governments have negotiated voluntary agreements with major resource companies to make cash contributions toward community infrastructure while other local governments are seeking to establish such agreements.

There is a desire to rate major resource projects that are the beneficiaries of this rate restriction in the same way as others using the provisions contained in the Local Government Act 1995 (Act), however to do so may risk current and future voluntary contributions. Further there is also a concern restrictive rating clauses may again be included in new agreements or resource developments.

It is understood representatives from the State Government, WALGA and Pilbara/Kimberley local governments met to consider the rating of projects which are the subject of State Agreements. It has been suggested the State develop a draft policy relating to the rating of resource projects and also that GRV valuations should apply to major projects in relation to permanent residential, recreational, administrative facilities and workshops on the land.

STATE AGREEMENTS

A State Agreement is a negotiated contract made between the State Government and the proponent of major resources projects and sets out the rights and responsibilities of each party. Restrictive clauses contained in some State Agreements generally limit the basis of valuation of affected land to unimproved (UV). The rationale for this restriction is in the past there was the propensity for these projects to supply purpose built towns and infrastructure leading to the project placing little demand on local government services. Since the "nominalisation" process in the 1980's this situation has largely been reversed and Local Government generally now provides all services in what were one company towns.

For reference, **Attachment A** contains a typical restrictive rating clause from a current State Agreement (Iron Ore Processing (BHP Minerals) Agreement Act 1994).

STATE AGREEMENTS (Continued)

The restriction on GRV does not apply to residential accommodation associated with the project, or commercial premises not directly related to the project which are currently able to be rated based on a GRV.

In 2004 the State Government advised that future State Agreements would not automatically impose rating restrictions on local governments. This has resulted in some of the latter agreements (such as the FMG Chichester Agreement, 2006) only containing a "no discriminatory charges" clause but no restriction on the method of valuation.

There are currently 71 State Agreements administered by the Department of State Development (DSD) and 51 of these include some form of rating restrictions. A list of State Agreements currently administered by DSD can be found at **Attachment B.**

LEGISLATIVE FRAMEWORK

The Local Government Act 1995, contains various provisions that set out the basis of rating land used for mining or petroleum processing. Extracts of the relevant provisions are presented at **Attachment C** as follows:

Local Government Act	Definition of owner Section 6.26 Ratable land Section 6.28 Basis of rates Section 6.29 Valuation and rates on mining and petroleum interests Section 6.30 Valuation and rates on certain land Section 9.41 providing Ownership, occupancy, and other tings by certificate
Valuation of Land Act	Definition of Unimproved Value

FINANCIAL ASSISTANCE GRANTS

In addition to considering the impact of any rating change on voluntary contributions there may also be an impact on the level of Financial Assistance Grants (FAG) as a result of the methodology used to distribute these grants.

In 2008, the West Australian Local Government Grants Commission (Commission) began a review into the grant determination methodology for FAGs. The allocations for 2008/09 were pegged at 2007/08 levels, with an uplift factor in each subsequent year. It is expected the review will be released in the last half of 2011 with the revised methodology to be applied to the 2012/13 grant pool.

FINANCIAL ASSISTANCE GRANTS (Continued)

It is not expected the methodology will dramatically change as a result of the review as there remains a requirement to comply with the horizontal fiscal equalisation principles outlined in the Intergovernmental Agreement on Federal Financial Relations. However, the resumption of this methodology will impact on the level of grants distributions throughout the State in 2012/13.

Equalisation is achieved when the difference between the assessed expenditure need and the assessed revenue raising capacity of each local government is met by the grant amount. Part of this revenue assessment involves rate revenue. The higher the land valuations, the greater the assessed capacity to raise rate revenue. Hence an increase in the valuation base (all other things remaining the same) may result in a change in the revenue assessment and grant allocation.

If land used in a mining operation is issued a valuation (regardless of whether a rate notice is raised) there is an increase in the local government's revenue capacity. In essence, if the valuation base increases relevant to other local governments the lower the Financial Assistance Grant. If GRV valuations are issued for improvements on land used for mining operation this is likely to reduce the local government FAGs over time.

The local road funding component of the FAG is determined using an Asset Preservation Model and is not impacted by changes in land valuations.

Local governments may currently receive a voluntary contribution from resource companies toward community infrastructure. Under the Commission's previous methodology a contribution by external parties toward capital improvements was not included as ongoing revenue for the purposes of the assessment, however this is not the same for contributions toward operations. Although it is possible this treatment may change as a consequence of the review that seems unlikely to us. If any local governments are presently negotiating a voluntary contribution from external parties toward operations it would be in their interest to be aware of the grant methodology and the impact of such a contribution.

OPTIONS GOING FORWARD

It would seem to us local governments affected by resource development rating restrictions have a number of options going forward as set out below:

a) Utilise fully the current capacity

Each local government has the capacity to rate land which is the subject of a State Agreement as follows:

- Rate all the subject land based on its UV in accordance with sections 6.29 and 6.30. Please note under Section 6.30 there is a concession permitted for parties to a State Agreements (commonly known as section 533B provisions) where the Company elected to have the provisions apply on the commencement of the Local Government Act 1995. Where this election was made it effectively limits the unimproved value to the following calculation.

  (c*) $1.00 per 4 000 square metres for each of the first 40 000 hectares or part thereof;*

  (d) $0.75 per 4 000 square metres for each of the second 40 000 hectares or part thereof;

  (e) $0.50 per 4 000 square metres for each of the third and fourth 40 000 hectares or part thereof;

  (f) $0.25 for each 4 000 square metres in excess of 160 000 hectares.

  The above provision and associated dollar values were inserted into the 1960 Local Government Act during 1970 and were carried over into the current 1995 Act however are no longer available to resource companies in new State Agreements.

  As an example of the impact of this concession 40,000 hectares would attract a UV of $100,000 whereas unaffected land under a mining lease using the current fees and charges from the Department of Mines and Petroleum ($15 rent per ha.) would result in a UV of $525,000.

- Obtain a GRV valuation for any land where accommodation units or housing for the company's workforce are located or is occupied in connection with such accommodation units or housing.

- Obtain a GRV valuation for any land which contains improvements that are used in connection with a commercial undertaking not directly related to the activities outlined in the agreement.

OPTIONS GOING FORWARD (Continued)

Each local government should ensure they have appropriate values for all rateable land and are aware of any capacity to value the land as GRV in accordance with the exclusion. This can be achieved through the following process:

- Clearly identify all land which is impacted by a State Agreements,
- Classify this land as improved or unimproved,
- Identify the purpose of the improvements, and
- For any improvements which are not exempted from GRV by the agreement seek the Ministers approval to value the land as GRV under Section 6.28 and 6.29 of the Act.

b) Lobby to oppose any restriction on rating resource developments

Affected local governments may oppose any form of restriction to rating capacity applied by the State Government under a State Agreement. This would include seeking changes to ensure the Local Government Act treats these major resource developments no differently to any other form of development.

c) Lobby to expand the capacity to rate projects which are subject to a State Agreement

If Local Government was successful in having State Agreements changed or negotiating a greater capacity to rate improvements on the land the result would be a greater capacity to raise rate revenue. As indicated above, it may also result in a change to the local governments FAG allocation due to application of the Commissions equalisation principles.

The amount of any change in the FAG is difficult to predict due to the many variables involved and uncertainty over the future methodology.

The amount of rate revenue resulting from an increased capacity to GRV rate the land may be determined if the land is clearly identified and notional values obtained from the Valuer Generals Office (VGO). Notional values are not always easy to obtain and the cost are sometimes prohibitive. We are aware some notional values may have been generated as part of the recent "Study into the effects of State Agreement rate clauses on local government revenue" by the Department of Resource Development. It is not known if these values would be made available on request. Although we believe that some of the participants may have been unofficially advised of the values.

OPTIONS GOING FORWARD (Continued)

d) Lobby to increase the concession rating restrictions

The concessional rating restrictions contained in Section 6.30 (1) of the Act have lost relative value over time. A change to the Act to bring those values up to a contemporary level may result in increased rate revenue.

The concession is only applicable to land covered by older State Agreements where an election under Section 533B was made and hence this action is likely to be most beneficial to the Shires of East Pilbara and Ashburton.

e) Land used for resource projects not impacted by State Agreements

Not all resource projects are subject to a State Agreement with some recent projects subject to the full provisions of the Act. If not already undertaken, consideration should be given to maintaining a register of land subject to State Agreements. In this way it will be clear which land may be rated under the Act without restriction.

Land used for mining purposes (not restricted to UV by a State Agreement) can be rated as follows:

- If the land is the subject of a mining tenement the land is to be rated based on its UV, except where capital improvements are located on the land and an application under section 6.28 of the Act is made to the Minster to change the basis to GRV. It is not uncommon for GRV spot rating on mining tenements to occur where improvements are present and is not limited to accommodation units.

f) Land used for resource projects not impacted by State Agreements (continued)

- If land is not the subject of a mining tenement then the basis of valuation remains determined by section 6.28 subsection (1) and (2).

- The land may be differentially rated in accordance with the Act.

g) Differentially Rating Mining Operations

It may be possible to differentially rate major resource projects that are subject to a State Agreement. It is important to note some agreements contain a no discriminatory rate clause (an example of which can be found at **Attachment A)** however it may still be possible to rate the land differentially if it can be argued the company in not being discriminated against as the same rate is applied to others. If considering this option it is strongly recommended the local government seek legal advice on its capacity to do so in the face of such a clause.

STRUCTURAL FINANCIAL IMPLICATIONS OF RATING RESOURCE PROJECTS UNDER GRV

If a local government is able to expand its current valuation base by rating resource projects using GRV it is important to recognise the inherent temporary nature of this revenue. Mining operations can fluctuate with the economic cycle, demand and international pricing. If a mining operation closes any GRV rated land will revert to a very low UV resulting in an immediate reduction in rate revenue capacity. For this reason it would be prudent to implement financial safeguards to ensure the local government does not rely on this revenue stream to fund its recurrent operations.

Appendix A

Extract from a selected State Agreement

Agreement: Iron Ore Processing (BHP Minerals) Agreement Act 1994

Rating

31. (1) The State shall ensure during the currency of this Agreement that notwithstanding the provisions of any Act or anything done or purported to be done under any Act the valuation of the lands the subject of any lease, licence or other title granted pursuant to this Agreement (except any parts of such lands on which accommodation units or housing for the Company's workforce is erected or which is occupied in connection with such accommodation units or housing and except as to any part upon which there stands any improvements that are used in connection with a commercial undertaking not directly related to the activities carried out by the Company pursuant to approved proposals) shall for rating purposes under the *Local Government Act 1960*, be deemed to be on the unimproved value thereof, and no such lands shall be subject to any discriminatory rate. (2) It is hereby declared and agreed that the provisions of section 533B of the *Local Government Act 1960* shall not apply to any lands the subject of this Agreement.

No discriminatory rates

32. Except as provided in this Agreement, the State shall not impose, nor shall it permit or authorise any of its agencies or instrumentalities or any local or other authority of the State to impose, discriminatory taxes, rates or charges of any nature whatsoever on or in respect of the titles, property or other assets products, materials or services used or produced by or through the activities of the Company in the conduct of its business hereunder, nor will the State take or permit to be taken by any such State authority any other discriminatory action which would deprive the Company of full enjoyment of the rights granted and intended to be granted under this Agreement

Appendix B

The Department of State Development lists the following State Agreements under administration as follows:

Link http://www.dsd.wa.gov.au/6641.aspx

State Agreement Acts

The Department administers 71 State Agreement Acts on behalf of the Government of Western Australia. The list outlines agreements, by commodity, as at the end of the 2008/2009 reporting year.

Agreement Acts Administered by the Department

Government Agreements Act 1979

Alumina

Alumina Refinery Agreement Act 1961
Alumina Refinery (Mitchell Plateau) Agreement Act 1971
Alumina Refinery (Pinjarra) Agreement Act 1969
Alumina Refinery (Wagerup) Agreement and Acts Amendment Act 1978
Alumina Refinery (Worsley) Agreement Act 1973

Charcoal Iron and Steel

Wundowie Charcoal Iron Industry Sale Agreement Act 1974

Coal

Collie Coal (Griffin) Agreement Act 1979
Collie Coal (Western Collieries) Agreement Act 1979

Copper

Western Mining Corporation Limited (Throssell Range) Agreement Act 1985

Diamonds

Diamond (Argyle Diamond Mines Joint Venture) Agreement Act 1981

Energy

Goldfields Gas Pipeline Agreement Act 1994
Pilbara Energy Project Agreement Act 1994
Ord River Hydro Energy Project Agreement Act 1994

Appendix B

Forest Products

Albany Hardwood Plantation Agreement Act 1993
Bunbury Treefarm Project Agreement Act 1995
Collie Hardwood Plantation Agreement Act 1995
Dardanup Pine Log Sawmill Agreement Act 1992
Paper Mill Agreement Act 1960
Wesply (Dardanup) Agreement Authorization Act 1975 (Terminated)
Wood Chipping Industry Agreement Act 1969 (Terminated)
Wood Processing (WESFI) Agreement Act 2000
Wood Processing (Wesbeam) Agreement Act 2002

Gas

North West Gas Development (Woodside) Agreement Act 1979
Barrow Island Act 2003 (which incorporates the Gorgon Gas Processing and Infrastructure Project Agreement)

Gold

Tailings Treatment (Kalgoorlie) Agreement Act 1988

Iron Ore and Steel

BHP Billiton (Termination of Agreements) Agreement Act 2006
Iron Ore (The Broken Hill Proprietary Company Limited) Agreement Act 1964 (Terminated)
Iron Ore (Channar Joint Venture) Agreement Act 1987
Iron Ore (FMG Chichester Pty Ltd) Agreement Act 2006
Iron Ore (Goldsworthy-Nimingarra) Agreement Act 1972
Iron Ore (Hamersley Range) Agreement Act 1963
Iron Ore (Hamersley Range) Agreement Act Amendment Act 1968
Iron Ore (Hope Downs) Agreement Act 1992
Iron Ore (McCamey's Monster) Agreement Authorization Act 1972
Iron Ore (Marillana Creek) Agreement Act 1991
Iron Ore (Mount Bruce) Agreement Act 1972
Iron Ore (Mount Goldsworthy) Agreement Act 1964
Iron Ore (Mount Newman) Agreement Act 1964
Iron Ore (Murchison) Agreement Authorization Act 1973
Iron Ore (Rhodes Ridge) Agreement Authorisation Act 1972
Iron Ore (Robe River) Agreement Act 1964
Iron Ore (Wittenoom) Agreement Act 1972
Iron Ore Processing (BHP Minerals) Agreement Act 1994 (Terminated)
Iron Ore Beneficiation (BHP) Agreement Act 1996
Iron Ore Direct Reduced Iron (BHP) Agreement Act 1996
Iron Ore (Yandicoogina) Agreement Act 1996
Iron & Steel (Mid West) Agreement Act 1997 (Terminated)
Iron Ore Processing (Mineralogy Pty Ltd) Agreement Act 2002

Appendix B

Mineral Sands

Mineral Sands (Eneabba) Agreement Act 1975
Mineral Sands (Cooljarloo) Mining and Processing Agreement Act 1988
Mineral Sands (Beenup) Agreement Act 1995

Nickel

Nickel (Agnew) Agreement Act 1974
Nickel Refinery (Western Mining Corporation Limited) Agreement Act 1968 (Terminated)
Nickel Refinery (Western Mining Corporation Limited) Agreement Act Amendment Act 1970 (Terminated)
Poseidon Nickel Agreement Act 1971

Oil

Oil Refinery (Kwinana) Agreement Act 1952

Railway and Port

Railway and Port (The Pilbara Infrastructure Pty Ltd) Agreement Act 2004.

Salt

Dampier Solar Salt Industry Agreement Act 1967
Evaporites (Lake MacLeod) Agreement Act 1967
Leslie Solar Salt Industry Agreement Act 1966
Onslow Solar Salt Agreement Act 1992
Shark Bay Solar Salt Industry Agreement Act 1983

Uranium

Uranium (Yeelirrie) Agreement Act 1978

Miscellaneous

Cement Works (Cockburn Cement Limited) Agreement Act 1971
Industrial Lands (CSBP & Farmers Limited) Agreement Act 1976
Industrial Lands (Kwinana) Agreement Act 1964
Pigment Factory (Australind) Agreement Act 1986
Silicon (Kemerton) Agreement Act 1987
Commonwealth Oil Refineries Limited (Private) Act 1940
Texas Company (Australasia) Limited (Private) Act 1928
Railway and Port (The Pilbara Infrastructure Pty Ltd) Agreement Act 2004

Appendix C

LOCAL GOVERNMENT ACT 1995

owner, where used in relation to land —

(a) means a person who is in possession as —

(i) the holder of an estate of freehold in possession in the land, including an estate or interest under a contract or an arrangement with the Crown or a person, by virtue of which contract or arrangement the land is held or occupied with a right to acquire by purchase or otherwise the fee simple;

(ii) a Crown lessee or a lessee or tenant under a lease or tenancy agreement of the land which in the hands of the lessor is not rateable land under this Act, but which in the hands of the lessee or tenant is by reason of the lease or tenancy rateable land under this or another Act for the purposes of this Act;

(iii) a mortgagee of the land; or

(iv) a trustee, executor, administrator, attorney, or agent of a holder, lessee, tenant, or mortgagee, mentioned in this paragraph;

(b) where there is not a person in possession, means the person who is entitled to possession of the land in any of the capacities mentioned in paragraph (a), except that of mortgagee;

(c) where, under a licence or concession there is a right to take profit of Crown land specified in the licence or concession, means the person having that right;

(d) where a person is lawfully entitled to occupy land which is vested in the Crown, and which has no other owner according to paragraph (a), (b), or (c), means the person so entitled;

(e) means a person who —

(i) under the *Mining Act 1978*, holds in respect of the land a mining tenement within the meaning given to that expression by that Act;

(ii) in accordance with the *Mining Act 1978* holds, occupies, uses, or enjoys in respect of the land a mining tenement within the meaning given to that expression by the *Mining Act 1904* [3]; or

(iii) under the *Petroleum and Geothermal Energy Resources Act 1967* holds in respect of the land a permit, drilling reservation, lease or licence within the meaning given to each of those expressions by that Act;

or

(f) where a person is in the unauthorised occupation of Crown land, means the person so in occupation;

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 hectares 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;

(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;

(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;

(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;

(e) land used exclusively by a religious body as a school for the religious instruction of children;

(f) land used exclusively as a non-government school within the meaning of the *School Education Act 1999*;

(g) land used exclusively for charitable purposes;

(h) land vested in trustees for agricultural or horticultural show purposes;

(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 company and used solely for the storage of grain where that company has agreed in writing to make a contribution to the local government;

(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 company 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.

6.27. Multiple rating

Where —

(a) under the *Mining Act 1978* or a Government agreement a person holds in respect of land a mining tenement within the meaning given to that term by that Act or agreement;

(b) in accordance with the *Mining Act 1978* a person holds, occupies, uses or enjoys in respect of land a mining tenement within the meaning given to that term by the *Mining Act 1904* [3]; or

(c) under the *Petroleum and Geothermal Energy Resources Act 1967* a person holds in respect of land a permit, drilling reservation, lease or licence,

the land the subject of that tenement, permit, drilling reservation, lease or licence is rateable land under this Act notwithstanding that the land may be rateable under this Act in the hands of the holder of another estate in that land.

[Section 6.27 amended by No. 35 of 2007 s. 99(3).]

6.28. Basis of rates

(1) The Minister is to —

(a) determine the method of valuation of land to be used by a local government as the basis for a rate; and

(b) publish a notice of the determination in the *Government Gazette*.

(2) In determining the method of valuation of land to be used by a local government the Minister is to have regard to the general principle that the basis for a rate on any land is to be —

(a) where the land is used predominantly for rural purposes, the unimproved value of the land; and

(b) where the land is used predominantly for non-rural purposes, the gross rental value of the land.

(3) The unimproved value or gross rental value, as the case requires, of rateable land in the district of a local government is to be recorded in the rate record of that local government.

(4) Subject to subsection (5), for the purposes of this section the valuation to be used by a local government is to be the valuation in force under the *Valuation of Land Act 1978* as at 1 July in each financial year.

(5) Where during a financial year —

(a) an interim valuation is made under the *Valuation of Land Act 1978*;

(b) a valuation comes into force under the *Valuation of Land Act 1978* as a result of the amendment of a valuation under that Act; or

(c) a new valuation is made under the *Valuation of Land Act 1978* in the course of completing a general valuation that has previously come into force,

the interim valuation, amended valuation or new valuation, as the case requires, is to be used by a local government for the purposes of this section.

[Section 6.28 amended by No. 1 of 1998 s. 20.]

6.29. Valuation and rates on mining and petroleum interests

(1) In this section —

relevant interest means —

(a) a mining tenement held under the *Mining Act 1978* (whether within the meaning given to that term by that Act or by the *Mining Act 1904* [3]); or

(b) a permit, drilling reservation, lease or licence held under the *Petroleum and Geothermal Energy Resources Act 1967*.

(2) Regardless of any determination made under section 6.28(1), the basis for a rate on a relevant interest is to be the unimproved value of the land, except as provided for in subsection (3).

(3) Subsection (2) does not apply to a relevant interest in a portion of land on which capital improvements are located if —

(a) the Minister has determined under section 6.28(1) that the gross rental value of the land is to be used as the basis for a rate on that interest; and

(b) the determination expressly excludes the application of subsection (2).

(4) The Minister cannot determine under section 6.28(1) that the gross rental value of the land is to be used as the basis for a rate on a relevant interest in a portion of land if another estate in that portion of land is rateable on the basis of the gross rental value of the land.

(5) For the purpose of subsection (3)(b) a determination is to be taken to expressly exclude the application of subsection (2) if the determination —

(a) was made before the commencement of the *Local Government Amendment Act 2009* section 38 [1]; and

(b) specifically applies to the particular relevant interest.

[Section 6.29 inserted by No. 17 of 2009 s. 38.]

6.30. Valuation of and rates on certain land

(1) Subject to subsection (2), the owner of any land —

(a) held or granted pursuant to a Government agreement, which agreement provides that for the purposes of imposing rates under this Act, the land is to be assessed on the unimproved value thereof; or

(b) held under a production licence for petroleum granted under the *Petroleum Act 1967*,

and to whom this section applies by virtue of the operation of section 533AA of the *Local Government Act 1960* [4] as in force before the commencement of this Act is to have the land valued for the purpose of imposing rates under this Act on the following basis —

(c) $1.00 per 4 000 square metres for each of the first 40 000 hectares or part thereof;

(d) $0.75 per 4 000 square metres for each of the second 40 000 hectares or part thereof;

(e) $0.50 per 4 000 square metres for each of the third and fourth 40 000 hectares or part thereof;

(f) $0.25 for each 4 000 square metres in excess of 160 000 hectares.

(2) This section does not apply to any part of the land upon which —

(a) there is erected a dwelling house; or

(b) there stand any improvements that are used in connection with a commercial undertaking other than that of the person for the time being entitled to the benefit of the agreement referred to in subsection (1)(a) or the production licence for petroleum referred to in paragraph (b) of that subsection.

[Section 6.30 amended by No. 19 of 2010 s. 51.]

9.41. Proving ownership, occupancy, and other things by certificate

(1) Evidence that a person is the owner of land may be given by tendering a document purporting to be —

(a) a certificate signed by the Registrar of Deeds, a substitute for the Registrar of Deeds, or an assistant Registrar of Deeds, stating that the person appears from a memorial of registration of a deed, conveyance, or other instrument to be the owner of the land; or

(b) a certificate signed by the Registrar of Titles or an Assistant Registrar stating that the person's name appears in a register kept under the *Transfer of Land Act 1893* as that of the owner of the land.

(2) Evidence that a person is the lessee or occupier, as the case requires, of land may be given by tendering a document purporting to be a certificate signed by the chief executive officer of the Department principally assisting with the administration of the *Land Administration Act 1997* or the *Mining Act 1978* stating that the person is registered in that Department as the lessee or occupier of the land

Appendix C

VALUATION OF LAND ACT 1978

Unimproved value means —

(a) in relation to any land situate within a townsite, except land referred to in paragraph (b)(ii), the site value;

(b) in relation to any land not included in any area referred to in paragraph (a), where any such land is —

(i) land —

(I) held under a lease granted under the *Land Administration Act 1997*, or any Act repealed thereby, for grazing purposes;

(II) held under a lease, licence or permit under the *Conservation and Land Management Act 1984*; or

(III) other than a mining tenement, held pursuant to an agreement made with the Crown in the right of the State and scheduled to an Act approving the agreement,

the value thereof is an amount equal to 20 times the annual rental reserved by the lease or agreement or the value of the land in fee simple, whichever is the lesser sum;

(ii) land in respect of which —

(I) a mining tenement is held pursuant to an agreement made with the Crown in the right of the State and scheduled to an Act approving the agreement —

(A) 5 times the annual rent per hectare for the first 1 000 hectares or part thereof;

(B) 2.5 times the annual rent per hectare for the next 9 000 hectares or part thereof;

(C) 0.25 times the annual rent per hectare for each hectare in excess of 10 000 hectares,

where the annual rent referred to is the rent that would be payable if the mining tenement were held under the *Mining Act 1978*;

(II) an exploration licence is held under the *Mining Act 1978* — 2.5 times the rent payable for the exploration licence under that Act;

(III) a petroleum production licence or geothermal production licence is held under the *Petroleum and Geothermal Energy Resources Act 1967* — 2.5 times the fee payable for the relevant licence under that Act;

(IV) any other leases or licences are held under the *Mining Act 1978* or exploration permits held under the *Petroleum and Geothermal Energy Resources Act 1967* — 5 times the rent or fee payable for those leases, licences or permits under the relevant Act;

(V) any mineral estate or interest in land is registered under the *Transfer of Land Act 1893* — 5 times the rent that would be payable if the land were held as a mining lease under the *Mining Act 1978*;