

To: Hon John Carey MLA, Minister for Local Government

Re: Local Government Act 1995 Reforms

25 February 2022

Introduction

AMEC appreciates the opportunity to provide a submission on the reforms of the *Local Government Act 1995* to highlight to Government several areas of concerns that exist in the Western Australian Local Government rating structures on the mining and mineral exploration industry. This has been an ongoing issue for the industry and AMEC. Previously, in 2019, AMEC provided feedback on the Local Government Act Review 1995 to communicate this matter and the problems it creates for Industry. However, the Local Government rating structure continues to place a significant burden on Industry, disproportionate to the service provided.

About AMEC

The Association of Mining and Exploration Companies (AMEC) is a leading national industry association representing over 460 members from all around Australia. Our members are explorers, emerging miners, producers, and a wide range of businesses working in and for the industry.

The mining and exploration industry make a critical contribution to the Australian economy, employing over 255,000 people, and in 2018/19 collectively paid over \$39 billion in royalties and taxation. In 2019/20 resources companies invested \$35 billion in new capital and generated more than \$176 billion in mineral exports. \$2.8 billion was spent on minerals exploration in 2019/20, representing an 18% increase from the previous year.

General Feedback

Local Government Authorities (LGAs) collect rates from property owners to raise revenue and provide essential services and infrastructure to the community. Local rates are one of the primary sources of revenue for LGAs. In Western Australia, the power of determining local rates has been delegated to LGAs, with minimal oversight from the State Government. This power, combined with the strong presence of the resources industry in WA, has resulted in situations where there is a perception that LGAs take advantage of the resources industry.

AMEC has previously provided feedback to the Department of Local Government, Sport and Cultural Industries (DLGSC) on this matter. In January 2018, AMEC and the Chamber of Minerals and Energy of Western Australia (CME) commissioned Economics Consulting Services (ECS) to provide a report on the way Local Government rates are set for mining and exploration tenements in WA. The report, titled *Local Government Rating of Mining Tenements* (ECS Report), outlines the significant rate burden being placed on mining and mineral exploration companies.

The ECS report made a wide range of findings and a total of 18 recommendations, all of which are supported by AMEC. This report and an accompanying submission were provided to Government as feedback on the Local Government Act Review 1995 – Phase 2. Since the ECS report was provided

to the State Government in 2019, no change has been made to the rating structure or policy for LGAs. The recommendations from the ECS report are provided at Appendix 1.

AMEC Recommendations

The current rating structure adopted by some LGAs is taking advantage of the mining and mineral exploration.

AMEC continues to believe that the exploration and prospecting tenements in Western Australia should be exempt from local government ratings, as is the case in Queensland, New South Wales, South Australia and the Northern Territory. This approach is motivated for the desire to encourage mineral exploration to discover new mining projects and realise that employment, economic and social benefits that they bring.

However, AMEC recognises that the longstanding local government rating exploration and prospecting tenements in Western Australia is unlikely to change because of the reliance on the substantial revenue provided to regional and remote local governments.

With this in mind, AMEC is recommending that the State Government introduce changes that would prevent local governments from continue to significantly ratchet up greater rate revenue from exploration and mining companies without restriction.

AMEC suggests that the State Government adopt the below recommendations, to ensure this system is fair and just.

- 1. Require Ministerial approval to impose a concession of greater than 15%**
- 2. Focus rating setting on benefit to community by having the Minister reinstate the Benefit Principle in rate setting, and having LGAs clearly publish benefit to overall community when imposing concessions**
- 3. Comprehensive Local Government financial information regarding sources of rate revenue and details of expenditure should be publicly available online through My Council portal.**
- 4. Require LGAs to have representatives from high-rate revenue paying industries as part of Rating Advisory Board to ensure adequate representation and input into decision making.**

Mining and Mineral Exploration

Currently, only a limited number of LGAs make a distinction between mining and exploration in the structure of their rates. Bundling both mining and exploration under one rate type, usually labelled “Mining/Other”, does not demonstrate an adequate understanding of the vast differences between the two activities. Mineral exploration work is typically more seasonal and temporary in nature, with lower levels of fixed accommodation and infrastructure as a result. Where mine sites are large scale operations, exploration activities can be as low impact as one geologist walking the ground to take

samples. The activities that these exploration companies undertake, such as pegging, soil sampling, drilling and airborne surveys, occur in remote areas and leave a small, if any, footprint.

Mining companies, on the other hand, are largely self-sufficient, generally, they use and maintain their own services and infrastructure. Mine sites often have their own private roads, airports, electricity, accommodation and recreational facilities such as gyms and pools, and consequently do not use existing or require additional local government services.

AMEC recognises that all property owners are required to pay rates to contribute to the local community in exchange for the services they use and the infrastructure they impact. However, it should be noted that both mining and mineral exploration, often, have negligible impact on local services and infrastructure.

Setting Rates

Rates are determined by land valuations, which are categorised as either unimproved value (UV) or gross rental value (GRV). UV is the value of the land only and is typically applied to rural, pastoral or vacant land. GRV is the gross annual rental that a property is expected to earn annually if it were to be rented and is generally applied to residential and non-rural businesses. Rates on mining and mineral exploration companies are typically categorised as UV rates. In some cases, mining companies may also fall under GRV, this usually applies to mining tenements with substantial accommodation villages and processing plants.

LGAs can choose to set differential rates. These rates are sub-categorised and differ based on the characteristics of the land that is being rated. Numerous LGAs in WA adopt differential rates for pastoral, mining, exploration and/or prospecting. The State Government defends the imposition of differential rates as “generally to ensure that every landowner makes a reasonable contribution to the rate burden.”¹

Currently, the only restriction that the State Government imposes on LGA rates structures is that the highest rate cannot be more than twice the lowest rate without Minister’s approval. However, the ECS report found that, “Local Government have been able to develop categories and rates at their own discretion. This has led to significant inconsistency, and unjustified/unreasonable rate increases targeted towards resources sector companies”.

UV Mining and Pastoral Rates

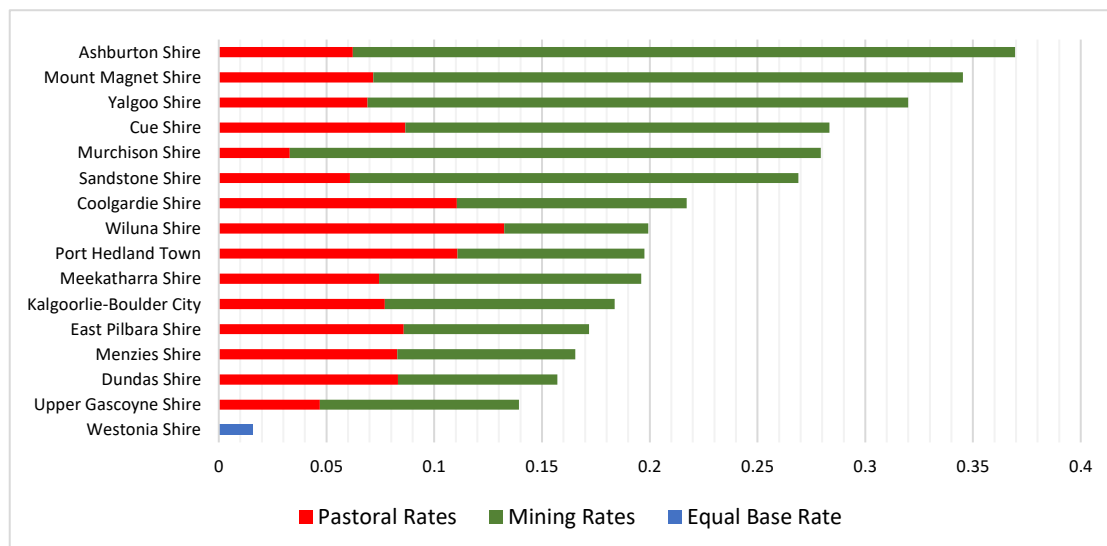
Most LGAs impose a differential general rate. This has permitted LGAs to charge the mining industry inordinate rates, in comparison to other industries. Figure 1 below compares mining tenement rates to pastoral rates for 16 regions that utilise differential rates. The difference is staggering and unjustified.

For most regions, mining rates are significantly higher than pastoral rates. Ashburton recorded the highest mining rate, of 36.96 cents per dollar, almost six times the pastoral rate which is just 6.22 cents per dollar. In no circumstance is the pastoral rate is higher than the mining rate. Only Westonia

¹ <https://www.dlgsc.wa.gov.au/department/publications/publication/rating-policy-differential-rates>

recorded a mining rate equal to the pastoral rate of 1.59 cents per dollar.

Figure 1: UV rates comparison for mining tenements and pastoral properties (cents per dollar)



These types of numbers are hard to justify, and LGAs rarely undertake the effort to respond to the concerns of mining companies, or to explain the rationale behind their rating strategies.

The current system does not provide an equitable outcome for the mining industry, especially explorers, in comparison to other rate payer groups and industries.

GRV Mining Rates

In 2015, the State Government endorsed the Rating Policy: Valuation of Land – Mining (Rating Policy).² The policy outlines the application of GRV to the resources industry. Under Section 5(1), GRV mining land is limited to capital improvements for the purposes of accommodation, recreation and administration, and for maintenance workshops within 100 meters of these facilities.

Recently, LGAs have been seeking to expand their revenue base through pushing the limitations of the policy set.

In January 2021, The Town of Port Hedland provided notice of its intent to change the method for valuation for mining land from UV to GRV. The justification is that the land is used for non-rural services. However, this is not outlined in the Rating Policy as acceptable and requires approval from a Minister.

While the Rating Policy does not prevent other capital improvements from being included or excluded under GRV, it is urged that the original intention of the policy is maintained. The Minister's approval to have the valuation method in Port Hedland changed would set a dangerous precedent for other LGAs

² <https://www.dlgsc.wa.gov.au/department/publications/publication/rating-policy-valuation-of-land---mining>

to follow. It would be detrimental to the resources industry and further the inequity that already exists with regards to rates.

Growth in Rate Revenue

Over time, the revenue sourced from rates has significantly increased. The past five years have also seen a considerable spike in the rating set on mining and exploration tenements. The most notable, is the Town of Port Hedland.

In 2016-17, Port Hedland budgeted for \$4,105,569 from both GRV and UV rates from the mining industry. In 2020-21, this budget increased by \$26,667,115 (649.54%) to \$30,772,684. In comparison, pastoral rates increased from \$135,584 in the 2016-17 budget to \$244,914 in the 2020-21 budget. This is an increase of \$109,330 (80.64%). Table 1 demonstrates the rate revenue growth from 2016-17 to 2020-21 budgets for both mining and pastoral tenements across 15 LGAs.

Table 1: Rate Revenue growth for mining and pastoral rates

Council	Mining Rate Revenue			Pastoral Rate Revenue		
	2016-17	2020-21	Growth (\$)	2016-17	2020-21	Growth (\$)
Port Hedland Town	\$4,105,569	\$30,772,684	\$26,667,115	\$135,584	\$244,914	\$109,330
Ashburton Shire	\$23,516,553	\$36,371,703	\$12,855,150	\$384,576	\$677,672	\$293,096
Wiluna Shire	\$3,458,604	\$5,460,805	\$2,002,201	\$142,124	\$275,511	\$133,387
East Pilbara Shire	\$6,144,600	\$7,817,727	\$1,673,127	\$288,600	\$716,272	\$427,672
Kalgoorlie-Boulder City	\$4,186,638	\$5,591,664	\$1,405,026	\$169,295	\$232,894	\$63,599
Coolgardie Shire	\$4,533,714	\$5,655,115	\$1,121,401	\$139,898	\$992,596	\$852,698
Yalgoo Shire	\$1,625,375	\$2,558,158	\$932,783	\$57,747	\$69,377	\$11,630
Menzies Shire	\$2,345,537	\$3,208,967	\$863,430	\$61,180	\$69,150	\$7,970
Dundas Shire	\$1,228,361	\$1,839,336	\$610,975	\$29,399	\$71,907	\$42,508
Meekatharra Shire	\$3,157,345	\$3,583,564	\$426,129	\$264,991	\$300,610	\$35,619
Mount Magnet Shire	\$823,348	\$1,150,633	\$327,285	\$40,544	\$49,054	\$8,510
Sandstone Shire	\$825,309	\$1,025,113	\$199,804	\$40,286	\$49,490	\$9,204
Cue Shire	\$2,147,093	\$2,235,105	\$88,012	\$42,660	\$44,916	\$2,256
Murchison Shire	\$340,301	\$415,381	\$75,080	\$40,425	\$50,016	\$9,591
Westonia Shire	\$235,337	\$272,634	\$37,297	\$570,270	\$720,004	\$149,734

Halls Creek had the second largest percentage growth from 2016-17 to 2020-21 for mining and exploration rates. Over the five-year period, Halls Creek have increased their budgeted revenue for rates for the mining and exploration industry by 62.6%, compared to 4.95% for pastoral tenements.

These figures underscore the reliance and burden LGAs are placing on the mining and mineral exploration industry.

The Benefit Principle

The rates charged to the mining industry are significantly disproportionate to the services and infrastructure used. In most cases, mining companies are self-sufficient, and exploration companies are low impact. Often these companies require little access to the local services and infrastructure that Local Government rates fund.

However, counterintuitively, some LGAs are almost completely reliant on industry to bear the costs of establishing and maintaining these services and infrastructure. Analysis of the 2020-21 budgets for different LGAs indicates that for some regional LGAs, over 59% of total revenue and 96% of rates revenue were brought in from the mining and mineral exploration industry (Figure 2).

Table 2 displays the five highest regions for mining rates as a percentage of revenue. The figures are as budgeted for the 2020-21 income year. Ashburton is the highest with 65.66% of revenue being sourced from the mining industry. This is significantly disproportionate to the industry's impact on local services and infrastructure.

Table 2: Top 5 regions for mining rates as a percentage of total revenue

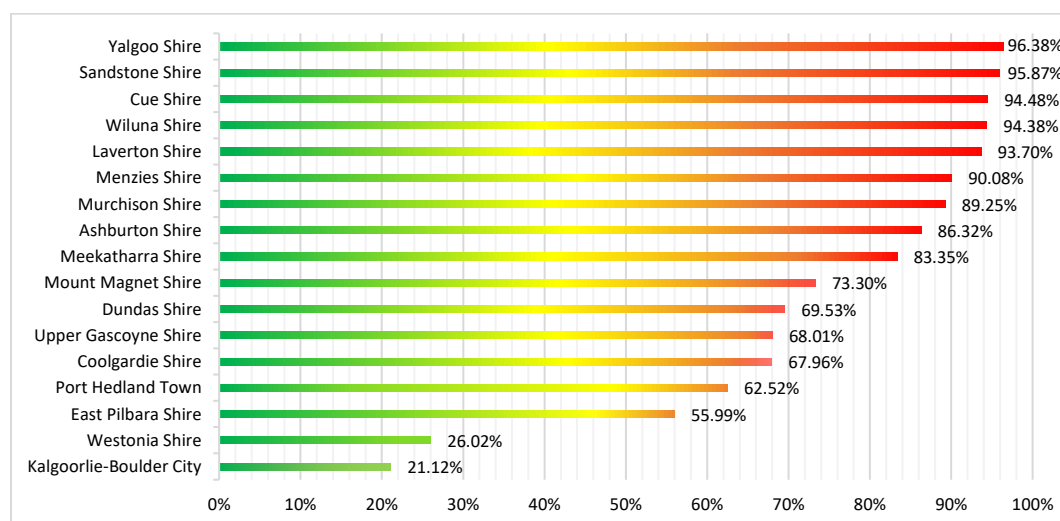
Council	Type of Rate	Individual Rate Revenue	Total Rate Budget	% Rate Budget	Total Budget	% Total Budget
Ashburton Shire	Mining	\$36,371,703	\$42,138,000	86.32%	\$55,393,981	65.66%
Laverton Shire	Mining	\$5,161,620	\$5,508,900	93.70%	\$8,716,905	59.21%
Menzies Shire	Mining	\$3,208,967	\$3,562,400	90.08%	\$5,505,607	58.29%
Cue Shire	Mining	\$2,235,105	\$2,365,615	94.48%	\$4,438,366	50.36%
Coolgardie Shire	Mining	\$5,655,115	\$8,321,468	67.96%	\$13,136,824	43.05%

Mining and mineral exploration companies generally operate in remote areas, away from communities. They carry their own equipment and provisions and have limited impact on the community infrastructure and services provided by LGAs.

Despite this, mining and exploration companies are usually the highest rate payers in regional LGAs. The mining and exploration industry are rated at consistently higher levels than other industries, notably the pastoral and agricultural industries. This is at best unfair and unreasonable.

Analysis of 2020-21 Budgets for 17 key mining regions demonstrated a heavy reliance on the mining and mineral exploration industry, compared to other rate payers (Figure 2). As shown, most LGAs depend on the industry for more than 50% of their rate revenue. Six Shires brought in over 90% of their rates revenue from industry alone, with Yalgoo recording the highest percentage of 96.38%. On average, mining and exploration rates contributed 55.30% of total rate revenue.

Figure 2: Mining rates revenue as a percentage of total rate revenue



The Benefit Principle refers to the economic concept that each person or entity's contribution to government taxes that fund public goods should be proportional to the benefit they receive.

By reinstating the Benefit Principle in rating policies, the actual impact of prospecting, exploration and mining activities on Local Government services could be fairly assessed, and rates set accordingly. Application of the Benefit Principle during the rate setting process would ensure actual use of local services and infrastructure by the resources sector is fairly assessed.

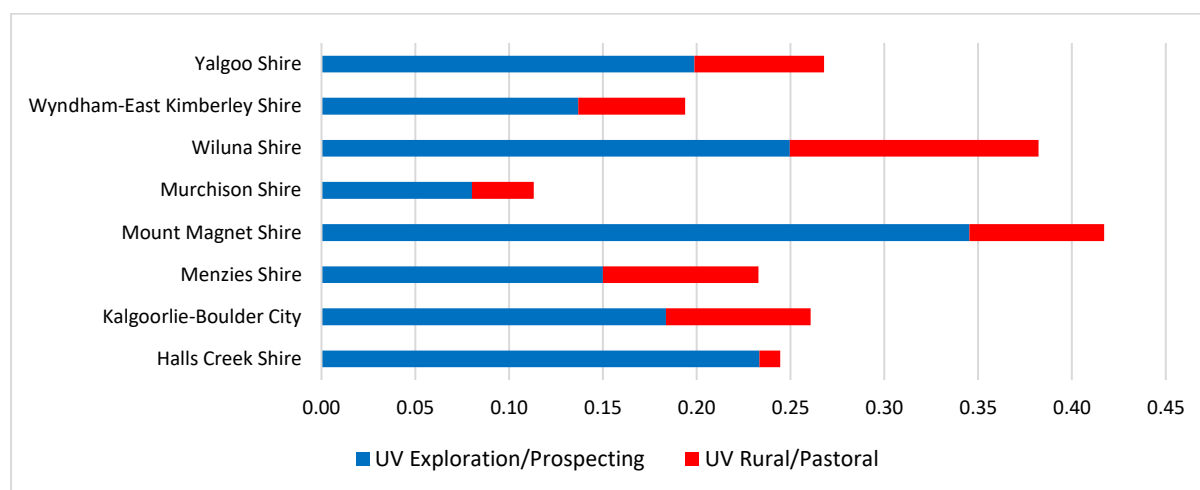
Exemptions for Exploration

Exploration companies (which hold rateable exploration tenements) rely on the ability to raise private investment capital. These companies do not have a revenue or income stream, and do not operate working mines to provide revenue or profit. These companies must convince investors to commit money to support exploration and drilling programs in the hope of discovering a commercially viable resource or economic deposit that can be developed.

Exploration or prospecting activity has little if any impact on land use, community infrastructure or services. Often, these tenements go years at a time without on-ground activity while companies await access or approvals and raise capital to support future exploration programs.

Seven Shires have set differential rates for exploration/prospecting and mining. Analysis of these rates show that despite the limited impact explorers have on the local community, the rates remain significantly high compared to other industries. Figure 3 compares the UV rates for exploration/prospecting and pastoral across the seven Shires.

Figure 3: UV rates for comparison for exploration/prospecting and pastoral (cents per dollar)



In all cases, the rates for exploration/prospecting tenements are at least 80% higher than the rates for pastoral land. Halls Creek had the highest difference in differential rates, with exploration tenements rated at 0.2334 cents per dollar, 1983.8% higher than the rate for pastoralists of 0.0112 cents per dollar.

The probability of an explorer finding an economic deposit from a greenfield exploration project is estimated to be 1 in 100³. In Australia, it is then, on average, a further thirteen years between that discovery and production. Until such time as a company is able to get a project developed into an operating mine, only then does a revenue stream begin to flow. This follows a lengthy and expensive exploration program, hundreds of millions of dollars in capital investment to build and commission the mine before there is any opportunity to receive a return on its investment.

Exploration companies continue to pay a significant fees and others holding costs, during the lengthy period of exploration and project development. Local government rates are a substantial and growing additional cost for these companies.

Western Australia is the only State that imposes rates for exploration tenements. The ECS report found that all other Australian jurisdictions have exemptions for rates for exploration tenements or have some form of rate-capping in place. These policies exist to promote the development of the resources sector, through actively encouraging exploration. The ECS report recommended that WA phases in the exemption of prospecting and exploration tenements to promote the investment into and development of industry. AMEC supports this recommendation.

Concessions on Differential Rates

Under Section 6.33(3) of the Local Government Act 1995 (the Act), Ministerial approval is required in order for an LGA to impose a general differential rate more than twice that of the lowest differential rate.

³ https://treasury.gov.au/sites/default/files/2019-03/C2014-011_Alexander_Research.pdf

Additionally, under Section 6.47 of the Act and subject to the Rates and Charges (Rebates and Deferments) Act 1992, LGAs may resolve to grant concessions in relation to a rate or service charge. Concessions can be offered by LGAs and subsequently applied for by ratepayers for a rate reduction during times of financial difficulty.

Many LGAs are currently misusing their power to grant concessions as an alternative means to lower the rates of pastoralists without having to seek the Ministers approval.

Case Study – Shire of East Pilbara

Since 2019-20 the Shire of East Pilbara has imposed two UV rating categories - UV – Pastoral/Special Leases and UV – Mining/Other, which encompasses mining and exploration, as well as any other tenements. In 2019-20, the East Pilbara Shire increased the rate for UV – Pastoral/Special to be 50% of the UV – Mining/Other rate, as is legislatively compliant. This saw a 41% increase in the UV – Pastoral/Special rate from \$0.06089 to \$0.08590.

The Shire determined this increase was too significant and subsequently implemented a 23% concession for pastoral/special leases. This was budgeted as a \$102,549 loss in revenue and has set a precedent for following years with the Shire implementing a concession for pastoralists ever since.

In 2020-21, a rate freeze was implemented in response to COVID-19 and the UV – Pastoral/Special rate remained steady at \$0.08590. Despite this, the Minutes of the May 2021 Council Meeting outline a 55% concession for UV – Pastoral/Special.

In the 2021-22 budget, the Shire of East Pilbara increased the UV – Mining/Other rate by 64.67%. The pastoral rate has also increased 64.67%, to remain at a rate half that of the UV – Mining/Other rates. The Shire determined that this increase would place too great a burden on pastoralists and provided all rate payers under the UV – Pastoral/Special Leases with a 63% concession, essentially rendering the 64.67% increase irrelevant. The reason given in the budget is “to implement consistency to general rate through staged increases.” The UV – Mining/Other ratepayers, however, have been offered no concession and have been subject to the full impact of the increase.

The introduction of the 63% concession has brought the estimated concessional rate for UV – Pastoral/Special tenements down to a rate considerably below of that charged to UV – Mining/Other tenement holders. Despite the legislation requiring the lowest rate to not be more than 50% that of the highest rate, through using concessions the Shire of East Pilbara have brought down the rate for UV – Pastoral/Special tenement holders to an estimated 19% of the rate charged to UV – Mining/Other tenement holders. This is further evident in the 2021-22 Budget, which predicts a total loss of \$549,481 in revenue from applying concessions to UV – Pastoral/Special tenements. This represents a 54% loss in revenue from the budgeted revenue of \$711,442 in 2020-21 (Table 4)

This use of concession is a deliberate evasion of the legislation. The Shire is requiring mining and exploration companies pay greater rates while pastoralists and other ratepayers are not impacted. The legislative reforms must fix this.

Table 4: Total lost revenue with concession applied

Rate Type	2020-21 Budget Revenue	2021-22 Budget Revenue	2021-22 Concession Discount	2021-22 Revenue less concession	Real Revenue Growth
UV – Pastoral/Special	\$711,442	\$879,986	\$549,481	\$330,505	- 54%
UV – Mining/Other	\$7,786,277	\$12,952,950	\$0	\$12,952,950	66%

Conclusion

Greater mineral exploration is needed to discover the mines of the future. In the long term, these projects will create jobs, royalties and the economic and social benefits for regional communities and the State.

The current local government rate structure is inequitable and unjust. Mining and mineral exploration companies are being unfairly targeted by some LGAs needing to increase their revenue. It is important to AMEC that this issue is addressed, so that this burden is not placed so heavily on industry. We would welcome the opportunity to discuss this submission.

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Local Government Rating of Mining Tenements March 2018



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Executive Summary

Under legislation, the State Government is responsible for defining the role of Local Government and hence has a role in the efficient delivery of local services.

Local Government revenue is primarily intended to come from rates on property owners and charges for services and supplemented by grants from other levels of government. The State Government maintains minimal oversight of revenue presumably on the basis that the council of elected members will endeavour to deliver services efficiently and minimise the impact on ratepayers. This report concludes the State Government needs to become more involved in the rate setting process to ensure effective rate setting and efficient use of funds.

Many Local Governments in regional Western Australia cannot raise enough revenue in their own jurisdictions to provide satisfactory services and depend on external grants to survive. The resources industry has been targeted by Local Governments disproportionately to other rate payers as a source of rates revenue. The industry is a *soft* target and has very limited capability to influence rate setting.

Mineral exploration and prospecting tenements are only “access rights”. They are not property rights and they have limited tenure. Rating these tenements at a high level compared to other broadacre land uses is inequitable given the negligible impact of activities on land use and services. There has been a dramatic increase in the rates paid on exploration tenements in some Local Governments without any measurable change in services.

The resources industry recognises that Local Government needs to recover the costs associated with its impact on local infrastructure and services. However, most resources sector companies are self-sufficient and have very little requirement to access Local Government services and / or infrastructure. The rates paid by resources companies are now supporting numerous Local Governments that are not efficient nor viable in the long term.

The freedom given to Local Governments to set rates, and the removal of the ‘Benefit Principle’ from the rate setting principles, has allowed Local Governments to set Differential Rates which raise substantial revenue from the resources sector. When combined with high minimum payments, Local Governments can target resources companies regardless of the impact of their activities.

Unimproved Value rates on mining and mineral exploration tenements should be rated equitably against other broadacre land uses such as pastoral leases. The State Government should direct Local Governments to apply a uniform UV rate to pastoral, exploration, prospecting and retention tenements and the UV part of Mining Leases on the basis they have a similar impact on the services and facilities provided by Local Government. Western Australia is the only Australian jurisdiction that rates mineral exploration tenements. There is a strong precedent for the exemption of exploration, prospecting, and retention licence tenements from rates.

The State Government needs to take a more proactive role in Local Government budgeting, rate setting, measurement and reporting processes. The resources industry supports the Auditor General being tasked with auditing the performance and efficiency of Local Governments but seeks to ensure this process is properly funded and scrutinised to make sure it is not simply a ‘tick the box’ exercise. The audit process should initially focus on those Local Governments that have high rates and high minimum payments for resources companies.

The principles for setting Differential Rates should include the Benefit Principle with rates based on the measured impact on land use and Local Government costs. The current random approach to rate setting and minimum payments reflects a lack of rigor in rate setting and government approval processes.

Where the resources sector provides a significant source of Local Government funding, a formal consultative approach is essential to ensure this vital industry has input into Local Government expenditure and rate setting.

Differential Rates notices should be posted on the MyCouncil website with full justification provided in the Statement of Objectives and Reasons. Local Governments should adhere to the principles outlined in the rating policies and demonstrate material efforts to improve efficiency and cut costs to minimize reliance on additional rates revenue. At least 28 days, from the date the Statement of Objectives and

Reasons are made public on the MyCouncil website, should be provided for stakeholders to make submissions.

Rate-pegging or rate-capping is an approach used, or under consideration, in several Australian States. This determines the maximum percentage amount by which a Local Government may increase its rateable income for the year. Local Governments have discretion to determine how to allocate the rate-peg/rate-cap increase between different ratepayer categories. There is a case for consideration of such a policy in Western Australia and it is recommended that this be undertaken during Phase 2 of the Local Government Act Review.

The resources industry recognises the challenges faced in remote areas and the difficulties that will arise from any significant reduction in rate payments. A transition process is supported for mineral exploration tenements moving to pay rates at the same level as pastoral properties, while phasing them out completely over the following three years.

Regional airports play a vital role in resource exploration and development. There is a wide disparity in the fees and charges set by regional airports across the State. The need for a consistent and transparent has been recognised by the Department of Transport in the development of a *Strategic Airport Asset and Financial Management Framework*. The government review of the *Local Government Act 1995* would also be an appropriate forum for reviewing regional airport fees, charges and management strategies.

Recommendations:

1. Ministerial approval to limit the highest rate to less than double the lowest be retained and Department checks strengthened to ensure Local Governments do not find 'creative' ways around it.
2. The Minister reinstate the Benefit Principle as a requirement in differential rate setting to ensure that actual use of local services and infrastructure is reflected in rates.
3. Audits conducted by the Auditor General should ensure there is no "double dipping" or cross subsidising where Local Governments justify rate increases due to local impacts (such as road use) and then levy local user charges for the same (such as road user charges).
4. Differential rates should be provided by Local Governments to the Department of Local Government, Sport and Cultural Industries (DLGSCI) for immediate upload to the MyCouncil website at the time of advertisement to enable greater transparency and easy access for all ratepayers.
5. Ratepayers should be given a minimum of 28 days to make a submission in response to rates notices.
6. Where Ministerial approval is required for differential rate increases, the Minister must be fully satisfied that the Local Government has given appropriate weighting to the Benefit Principle in the setting of its differential rates.
7. The Minister request the Auditor General undertake a performance audit of Local Governments that have approval for a mining, exploration or prospecting Differential Rate more than double the lowest rate, and Local Governments that have set minimum payments more than double the average of UV rates.
8. The *Valuation of Land Act 1978* should be amended so that retention licences are valued using the 2.5 multiplier.
9. The government should prevent increases in minimum payments targeted towards industry, which results in an effective rate in the dollar that is more than twice the lowest in the relevant rating category.
10. The State Government should require Local Governments to seek Ministerial approval for increases in resource rates above the rate of inflation.
11. The Minister should ensure Local Governments adhere to the requirement set out in their Objects and Reasons and provide evidence of the steps they have taken to improve efficiency as part of any justification for an increase in rates.
12. Comprehensive Local Government financial reports and information regarding funding sources should be publicly available online through portals such as the MyCouncil website.
13. The State Government review the viability of the small regional Local Governments that rely heavily on external grants and resources sector revenue to survive and consider options that provide long term sustainability.
14. That Western Australia phases in the exemption of prospecting, exploration and retention tenements from Local Government rating to promote investment and development of the mining industry for the benefit of all Western Australians.
15. That the State Government undertake an inter-jurisdictional review of rate capping systems in Phase 2 of the Local Government Act Review to assess the benefits of such a policy in WA.
16. When setting airport fees and charges, Local Governments should be required to make the methodologies, objectives and reasons publicly available.
17. Airport operators should consult in a meaningful way with users including resources companies and provide transparent and comprehensive justification for any changes in fees and charges.
18. The Minister for Local Government should ensure fees and charges levied by Local Governments through airports are justifiable, and that revenue is allocated and utilised in a transparent manner.

19. The setting, use and reporting of Local Government airport fees and charges should be considered in the DLGCSI's review of the *Local Government Act 1995*.

1 Introduction

The Chamber of Minerals and Energy of Western Australia (CME) and the Association of Mining and Exploration Companies (AMEC) engaged Economics Consulting Services to provide a report that examined the way Local Government rates are set for mining and exploration tenements in Western Australia.

Specifically, the Scope of Work requires a report which recommends appropriate policy changes to rating strategies, and including:

- a. Background to current WA rating policies on mining and mineral exploration tenure.
- b. Benchmarking against other relevant Australian jurisdictions in relation to:
 - Valuation of land methodologies;
 - Gross Rental Valuation methodologies;
 - Differential Rating strategies;
 - Minimum payments;
 - Airport arriving and departing passenger fees and concessional road pricing policies applicable to mining and mineral exploration tenure.
- c. A case recommending changes to relevant WA Rating Policies and user charges, including the exemption of mineral exploration and prospecting tenements from Local Government rates and an associated transition strategy.
- d. Estimated changes to the annual cost of Local Government revenue for each recommendation, where possible.

2 Local Government history and functions

Local Governments are established under State Government legislation and the State can restructure or impose operating changes at any time.

The responsibilities of Local Governments have varied over time. They were created by colonial governments and allowed cash-strapped central governments to transfer responsibilities to local communities for services such as drainage, water supply, public transport, roads, gas, and other local infrastructure. Eventually, some of these services reverted to central government when it became clear the expense and administration were too great for Local Governments.

Local Governments retain a strong local community focus. Following the Second World War, community expectations increased, and Local Governments took on more quality of life issues. This partly coincided with greater Commonwealth support for the Local Government sector.

Local Government functions differ from state to state but typically include local infrastructure, building and planning responsibility, public health services, community services and cultural and sporting facilities. This broad list of functions has many overlaps with services provided by the State and sometimes, Federal Governments. There is clearly scope for confusion over responsibility and delivery.

Over 80% of Western Australian Local Governments are in rural and regional areas meaning they have a strong interaction with the resources industry.

Findings:

The State is responsible for defining the role of Local Government and ensuring the efficient delivery of services.

The current review of the *Local Government Act 1995* provides a valuable opportunity to reshape the framework for Local Governments in Western Australia.

3 Local Government rate setting

3.1 Sources of Funds

Western Australia provided legal backing to universal Local Government in 1979 but did not guarantee any specific method or funding. They set up the Local Government Grants Commission which recommends to the Minister how to distribute Commonwealth funds to the 138 Local Governments in Western Australia. These Financial Assistance Grants are untied and can be spent in any way.

Local Government revenue can be broadly categorized into four sources - rates, user charges, grants from Federal and State Governments and other sources such as fines, public enterprises and revenue from investments. In 2014-15, rates accounted for 42% of total revenue for Local Governments in Western Australia with 22% from charges for goods and services. *Other* sources provided 21% while Grants and subsidies from the Federal and state/territory governments provided 13%.

Local Government accounting practices record most external revenue under one heading – *Operating Grants, Subsidies and Contributions*. This can cover a wide range of funds from other arms of government. In recent years, many regional Local Governments have received substantial funding under the State Government Royalties for Regions program. Hence, revenue has been significantly above long-term trends.

There are significant challenges in undertaking financial analysis of Local Government funding due to the limited detail and transparency in the accounts provided under the standard reporting template. The category, *Operating Grants, Subsidies and Contributions* provides much of the revenue in many regional Local Governments and there is frequently no notes or breakdown on this revenue. For example, in 2016-17, this category was budgeted to provide nearly 80% of the Sandstone Local Government revenue with most being grants from other levels of government. For any analysis of Local Government finances, it is essential that greater detail be provided on the source of funding.

3.2 Rating Powers and Guidelines

3.2.1 Rate setting

The *Local Government Act 1995* requires Local Governments to raise rates from land owners and land users. The quantum of rates is set to meet 90 -110% of the budget deficiency that would exist without rates in the yearly Local Government budget, unless Ministerial approval is granted to do otherwise. In other words, the rates revenue is set to meet pre-defined budget expenditure. All land is rateable with some exemptions, although the Minister has the power to declare that any land be deemed not rateable. State Government policy is that exemption will only be considered in exceptional circumstances.

The rate is applied to the value of the land in recognition of the capacity to pay philosophy for taxation. The method of land valuation depends on the type of land title and the land use. Valuation is either Gross Rental Value (GRV) or Unimproved Value (UV) with UV predominantly used for vacant/rural/pastoral land and GRV for more valuable land uses. Land valuations are carried out by the Valuer-General.

3.2.2 Differential rates

A Local Government can apply a uniform rate in the dollar to all properties of the same valuation type or it can apply different rates. Differential Rates can be applied to land use zones, land use or a combination of both. The State Government does not impose any restrictions on Differential Rate structures other than to ensure that within each category, the highest rate cannot be more than twice the lowest rate without Ministerial approval. Despite this, Local Governments have found creative ways to increase the rating of resource companies.

Local Governments have been able to develop categories and rates at their own discretion. This has led to significant inconsistency, and unjustified/unreasonable rate increases targeted towards resources sector companies.

If a Local Government decides to impose differential general rates, it must advertise the proposed rates in a newspaper circulating generally throughout the district and on a noticeboard at the Local Government offices and all libraries in the district. This will occur after 1 May and must provide a minimum of 21 days after the advertisement appears for any elector or ratepayer to make a submission.

Submissions must be considered by Local Governments before imposing the proposed rate or minimum payment with or without modification. The newspaper advertisement need only appear once and the notice in the offices or library for seven days. The Local Government is required to prepare a paper setting out the logic and reasons for each rate and the minimum payment. This Objects and Reasons Statement needs to be detailed and demonstrate full adherence to the State Government's rate setting policies.

While not required, most Local Governments also provide this information on their websites. However, this is not always the case in regional and remote areas and this information can be difficult to find.

This process could be improved by publishing information on the MyCouncil website with sufficient notice to allow stakeholders to make a submission. An objection period of 28 days is recommended and changes above the rate of inflation should be notified electronically to all affected ratepayers.

Local Governments have also called special meetings of Council members to make decisions on rate changes. If a special meeting is called there is no requirement for public notification of the meeting and ratepayers are not made aware of the outcome of the decision until they receive their notices in the mail. Transparency of Local Government meetings and associated stakeholder consultation could be improved by including a review of these in audits conducted by the Auditor General.

Should a Local Government seek to apply a Differential Rate structure that does not meet the Rating Policies and Ministerial approval is sought, the DLGSCI provides a checklist of five principles that will be considered in obtaining Ministerial approval:

- Objectivity
- Fairness and Equity
- Consistency
- Transparency
- Administrative Efficiency

The test of fairness and equity is described in a guideline paper on rating policy. It states the Local Government must:

- Have reviewed its expenditure and considered efficiency measures in the decision to impose differential rates and/or minimum payments;
- Have set out the reasons for imposing differential rates in a public document;
- The reasons clearly explain why each differential rate is proposed; and
- Set out why the specific rate was proposed.

These are tests that relate to the process of rate setting and notification. They do not consider the broader issues of equity in service delivery or the impact on those paying the rates.

A review of rating in New South Wales proposed five measures against which rating measures should be assessed. The final report is awaiting release by the Minister¹.

Stakeholders generally agreed with the use of those proposed measures, which are as follows:

- Efficiency
- Equity
- Simplicity
- Sustainability
- Competitive neutrality

Efficiency comprises two sub-principles: The Benefit Principle, and the principle that taxes should minimise changes in behaviour that work to erode the tax base. The Benefit Principle requires each person's share of funding for public goods should be proportional to the benefits they receive.

The Western Australian Local Government Association website states:

*Local Government rates are an appropriate taxation mechanism for Local Governments to utilise to fund their activities. Local Government rates adhere to the five principles of taxation: equity, **benefit**, ability to pay, efficiency, simplicity.*

Further:

*There are **benefits** associated with rates in terms of Local Government services.*

In February 2015, the State Government issued a revised policy:

*The imposition of differential rates represents a conscious decision by a council to redistribute the rate burden in its district by imposing a higher impost on some ratepayers and a lower impost on others. This should follow the **Benefit** Principle – the concept that there should be some relationship between the rates paid and the benefits received. This does not mean that rates should equal benefits, but it is expected that those bearing the higher rate burden through the imposition of differential rating are receiving greater benefits from council activities.'*

The Benefit Principle no longer appears in government policies. It can be argued it forms part of the "fairness and equity" principle but the explanation of this criteria in the government policy documents relates to process and not benefits. A common statement in the Differential Rate Statement of Objects and Reasons of Local Governments is:

The proposed rate is comparatively higher when compared to the pastoral/rural category on the basis that mining operations require additional ongoing maintenance of the roads network that services this land use along with additional costs associated with administration...

Mining companies, exploration companies and prospectors argue this statement is not correct as there is a low level of activity or usage of Local Government services associated with mineral exploration and mining. Mining companies often maintain their own private roads, airport, electricity, water and in many cases waste services; and therefore do not use existing, nor require additional, municipal services. When there is significant road use by resource companies, Local Governments frequently seek additional funding for road improvements in addition to setting a higher differential rate. Application of the Benefit Principle during the rate setting process would ensure actual use of local services and infrastructure by the resources sector is fairly assessed.

Exploration or prospecting activity has little if any impact on land use, community infrastructure or services. Often, these tenements have no on-ground activity for years at a time. Similarly, subject to remoteness mining tenements have very limited impact on local community infrastructure and services provided by Local Governments. By reinstating the Benefit Principle

¹ IPART: Review of the Local Government Rating System 2016, page 21

in rating policies, the actual impact of prospecting, exploration and mining activities on Local Government services could be fairly assessed, and rates set accordingly.

Application of differential rates is normal in Australia as it allows Local Governments to levy a lower rate on classes of property considered to have a lower use of Local Government facilities or a higher rate on properties considered to make greater use of Local Government services or community assets. There is clear evidence some Local Governments have used rates levied from resources sector rate payers to bolster revenues with very significant increases over reasonably short durations. The UV rate in four selected regional Local Government areas increased by more than 28% over the seven-year period to 2016-17 (*Table 1*). By way of comparison, the consumer price index for Perth over that duration rose by 15%.

Table 1: UV mining rates in selected Local Governments (cents)

Local Government	2009-10	2016-17	Change (%)
Port Hedland	23.67	37.93	60%
Ashburton	24.49	38.25	56%
Halls Creek	28.92	38.70	34%
Karratha	10.69	13.63	28%

Source: LGA Annual Reports

Findings:

Differential Rates allow Local Governments to impose charges that reflect the services provided. Local Governments are generally able to set any rates that provide the income they need for services subject to some narrow limits on the structure of differential rates.

The exclusion of the Benefit Principle removes one of the key principles underlying the case for Differential Rates, this principle is supported by the WA Local Government Association.

Several Local Governments have increased UV mining rates by excessive amounts without acceptable justification. Further, no economic or other justification is given for excessively high differential rates on UV exploration, prospecting and mining leases.

Recommendations:

1. Ministerial approval to limit the highest rate to less than double the lowest be retained and Department checks strengthened to ensure Local Governments do not find 'creative' ways around it.
2. The Minister reinstate the Benefit Principle as a requirement in differential rate setting to ensure that actual use of local services and infrastructure is reflected in rates.
3. Audits conducted by the Auditor General should ensure there is no "double dipping" or cross subsidizing where Local Governments justify rate increases due to local impacts (such as road use) and then levy local user charges for the same (such as road user charges).
4. Differential rates should be provided by Local Governments to the DLGSCI for immediate upload to the MyCouncil website at the time of advertisement to enable greater transparency and easy access for all ratepayers.
5. Ratepayers should be given a minimum of 28 days to make a submission in response to rates notices.
6. Where Ministerial approval is required for differential rate increases, the Minister must be fully satisfied that the Local Government has given appropriate weighting to the Benefit Principle in the setting of its differential rates.

3.2.3 Minimum rates

A Local Government may also apply a minimum payment to each land category, provided that the minimum payment does not apply to more than 50% of properties in that category. This provides considerable flexibility allowing a large share of the properties to pay more than the amount that would apply if the rate and property value were to be used.

Findings:

There is no State Government involvement in the setting of minimum rate payments. Such payments can be used to significantly increase the rate revenue for half the properties (or tenements) in a category considerably diluting the principles that have applied in setting the overall rate for that category.

Recommendation:

7. The Minister request the Auditor General undertake a performance audit of Local Governments that have approval for a mining, exploration or prospecting Differential Rate more than double the lowest rate, and Local Governments that have set minimum payments more than double the average of UV rates.

4 Mining tenements, rates, and other funding

4.1 Mining rate setting

Provisions in the *Local Government Act 1995* relevant to the rating of mining tenements include:

- All land within a district is rateable
- Land that is not rateable includes Crown Land held for a public purpose
- Crown land that is unoccupied is rateable if it is held as a mining tenement under the *Mining Act 1978* except if it is held as a Prospecting Licence of less than 10 hectares or a Miscellaneous Licence.

4.2 Valuation of mining tenements

4.2.1 Mining valuation policies

The *Valuation of Land Act 1984* included provision for valuation of mining related tenure with fixed costs for Exploration Licences (\$0.25 a hectare), Prospecting (\$2.50 a hectare), and Mining or General-Purpose Lease (\$25 a hectare)².

In 1994, following considerable negotiation and political party acrimony, a revised methodology was included in the Valuation Act: -

1. Exploration licence - 2.5 times the rent payable for an exploration licence under the Mining Act
2. Mining and any other Licences or Leases - 5 times the annual rent per hectare for the first 1,000 hectares or part thereof, 2.5 times the annual rent per hectare for the next 9,000 hectares or part thereof and 0.25 times the annual rent per hectare for each hectare more than 10,000 hectares

The Minister for Local Government in 1994 made the following statements in Parliament as part of the third reading speech:

***Paul Omodei (Minister for Local Government)** I make it very clear to the people who read both this legislation and these speeches that it is not intended that this legislation will lead to a windfall revenue gain for local government. It is meant to be put in place so that local governments can rate their constituencies on a more equitable basis. That may mean that they gain some revenue from the mining industry and lose some in other places. This legislation is not to enable local governments to screw the living daylights out of ratepayers and the mining industry. I thank members for their support in general for the Bill and still believe that the by-law making ability in clause 6 of the Bill will prove to be at least a mechanism to contain the problem. If it does not work, we may need to come back to the Parliament for further amendment³.*

In 2006, the combination of changes to the *Mining Act 1978* tenement rents and Valuer General valuation methodologies resulted in huge increases in the rates payable of mining tenure. The then Department of Mines and Petroleum, had introduced stepped rates which jumped in years 4 and 5 (by 55%), then again in years 6 and 7 (36%) and again in year 8 (90%). The aim was to encourage companies to surrender ground and improve land turnover.

The Valuer General revised the valuation methodology to pick up the higher rates with the result that older tenements were faced with increases of up to 800% in their unimproved value. The *Valuation of Land Act 1984* was subsequently amended at the request of AMEC and CME to address unintended consequences that had arisen and changed to ensure valuations are to be based on the first-year tenement rental.

² Valuation of Land Act 1978-1981, Acts Amendment (Mining Tenements) (Rating). 1984

³ Hansard Thursday 20 October 1994. Third reading speech

This change in methodology resulted in some valuations being significantly reduced (following a one-year windfall gain) which lead to some Local Governments increasing their UV rates to overcome the reduced valuations.

The multipliers used (2.5 and 5) appear to be political decisions and have no financial or economic foundation. The clearest anomaly is the multiple applied to Retention Licences. These were only introduced into the Mining Act in 2006 and the general “catch-all” term of “other leases” means they attract the valuation multiple of 5. Given active projects or mining activities cannot occur under a Retention Licence, this type of tenure should be valued using the 2.5 multiple.

The method of valuation means the indexation applied to tenement rentals by the Department of Mines, Industry Regulation and Safety (DMIRS) is automatically reflected in tenement valuations. In recent years, the Department has applied increases more than the consumer price inflation. Local Governments have then applied further inflation adjustments to the UV rates thus meaning a double inflation impacting resources sector rates. This is clearly an inequitable unintended consequence and should be addressed.

In 2011, the Government developed a policy for Gross Rental Valuation (GRV) of mining tenements. The policy was implemented on a trial basis for three years and following industry consultation was adopted on a permanent basis in 2015. GRV can be used for land with improvements such as administration, recreation and accommodation facilities, and maintenance workshops within 100 metres of these facilities. The policy included lands under State Agreements and land with other forms of title where the primary use was for resource-related activities such as processing or refining. A Local Government is obliged to consult with the affected landowner and then seek Ministerial endorsement before land is classified as GRV. The policy has ongoing support from the resources industry and does not require any further amendments.

Findings:

The rating of mining tenements allows rates to be collected from the same land for both pastoral activities and mineral explorers.

The valuation methodology for mining tenements (where UV is used) is applied with limited consistency, including valuation of Retention Licences using a multiple of 5 even though no mining activities are allowed under this licence type.

The GRV policy, which was developed with extensive industry consultation, is functioning as intended and does not require amendments.

Recommendation:

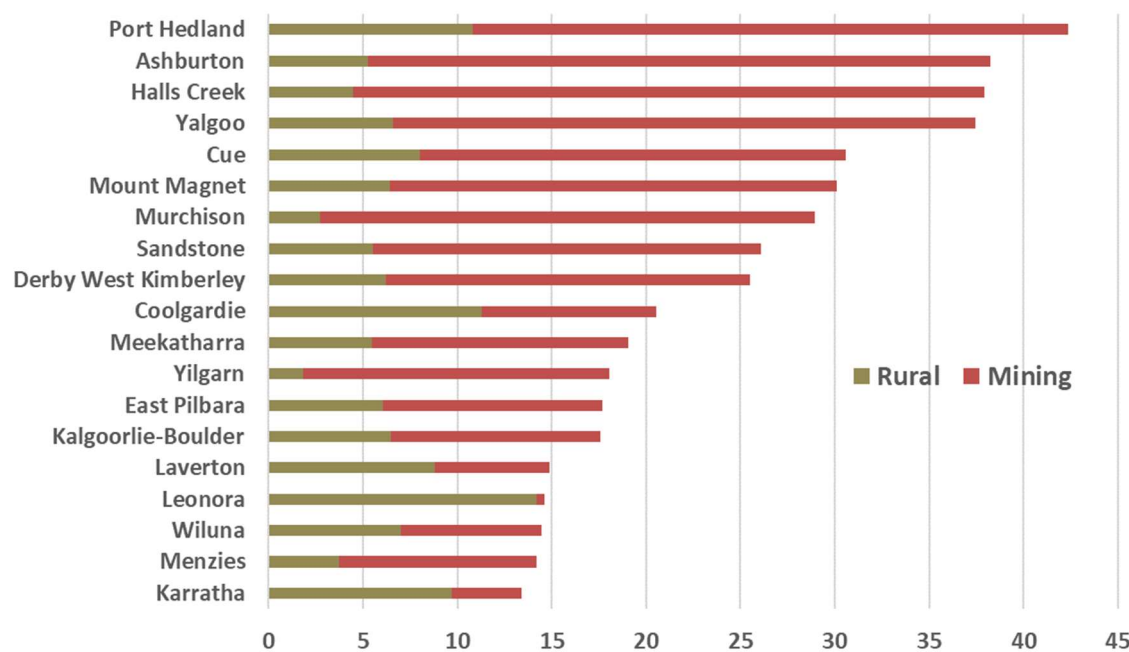
8. The *Valuation of Land Act 1978* should be amended so that retention licences are valued using the 2.5 multiplier.

4.2.2 Mining and rural rates

The application of differential rate policies and the method of valuation of mining tenements has meant the rates applied to mining tenements in the UV category are far larger than the UV rates applied to rural properties. Most mining tenements are in pastoral areas and the difference between mining and pastoral rates is substantial (*Figure 1*). In the most extreme case (Port Hedland), the mining rate is four times the rural rate.

There appears to be no justification for Local Government to differentiate between rates on the unimproved value of pastoral leases and the unimproved value of exploration, prospecting and mining leases. The more intensive land uses in resources industry projects are now covered by GRV rates and valuations.

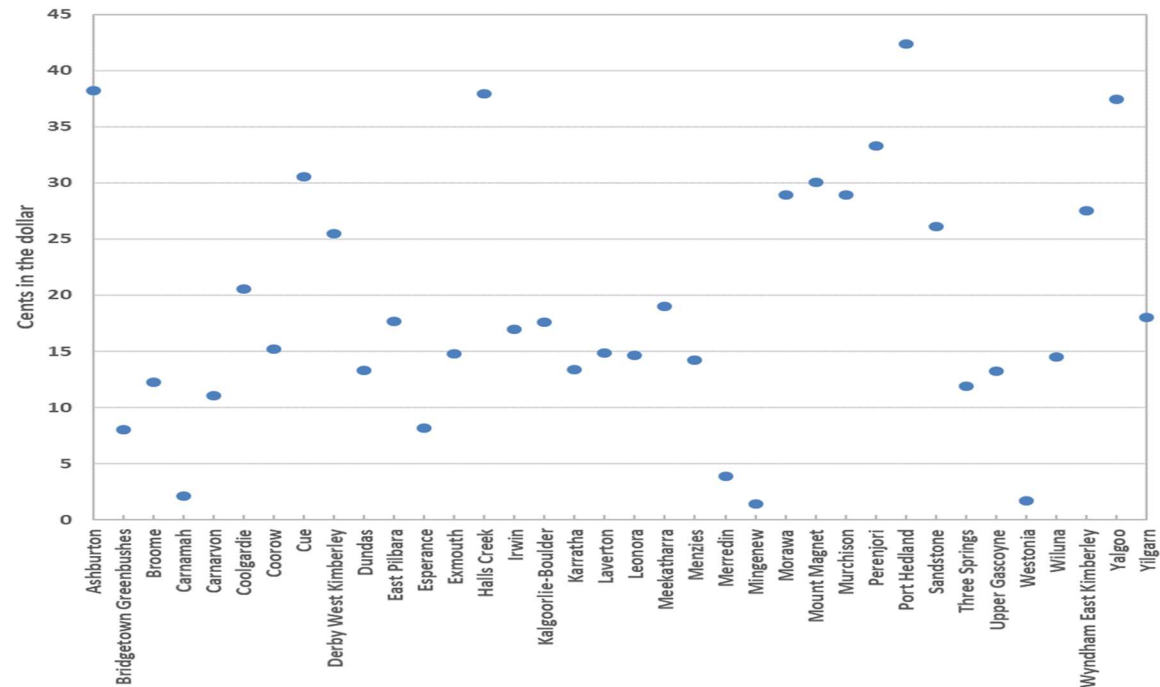
Figure 1: UV rates on mining tenements and pastoral properties (cents in dollar)



4.2.3 Differential rate consistency

At least 34 Local Governments in the State levy a Differential Rate for mining related tenure. The rate structure varies widely from a single mining category up to six categories for Mt Magnet. The rates for UV categories vary from 1.7 cents in the dollar (Westonia) to 42 cents (Port Hedland) with an average of 21 cents (*Figure 2*). This scatter of UV rates suggests a lack of consistent methodology or application of rate setting principles. It is a fair reflection of the fact that rates are set by backward accounting to cover expected costs rather than the application of rate setting principles to determine an appropriate rate level.

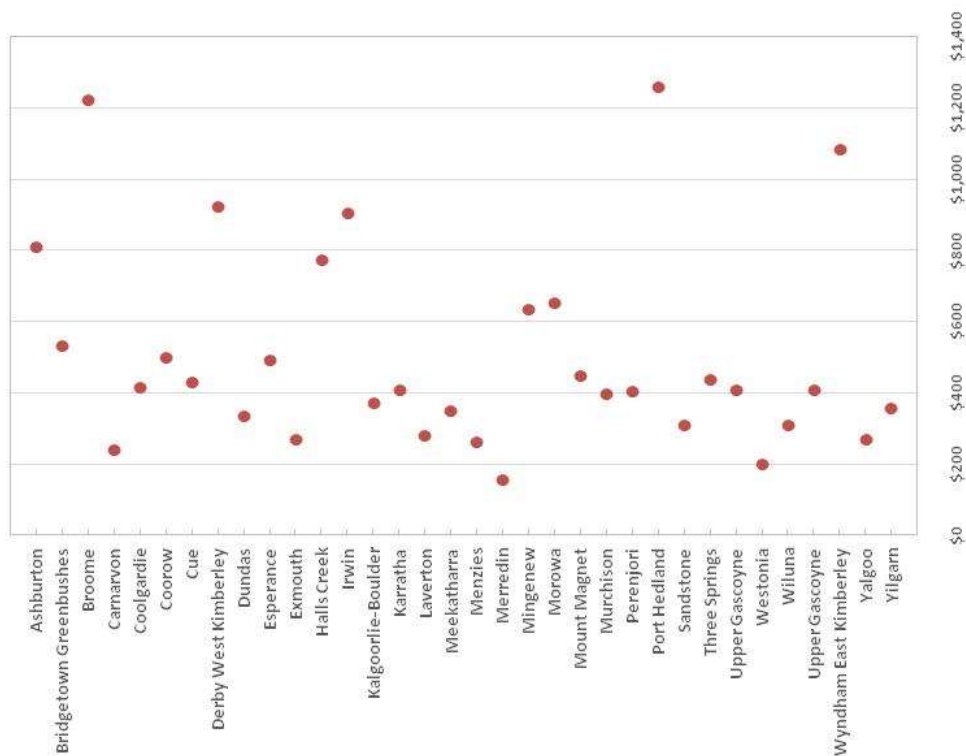
Figure 2: UV rates in Local Government areas



4.2.4 Minimum payments

Minimum payments are set in all Local Government areas ranging from \$156 in Merredin to \$1,260 in Port Hedland, with an average of just over \$500 (*Figure 3*). The variation in the range of minimum payments also suggests a lack of consistent methodology to establish those payments.

Figure 3: UV minimum payments in Local Government Areas



Evaluation of the minimum payments in 20 rate categories covering 14 “mineral” Local Government areas demonstrates how minimum payments can significantly increase the rate paid on tenements in this category. The effective rate for tenements subject to the minimum payment can be calculated from the revenue collected for this group compared to the assessed rateable value. For example, Wiluna had 192 UV mining tenements in 2015-16 subject to the minimum payment with a total assessed value of \$73,247. Wiluna collected \$59,520 in rates from this group for an effective rate of \$0.813 in the dollar of value (*Table 2*). The UV rate for mining tenements in Wiluna in that year was \$0.153 meaning that the 192 properties in the minimum payment group made payments that averaged 5.3 times the prescribed rate for that class of tenements.

Over the 14 sample Local Government areas, the minimum payment group saw effective payments that ranged from 27 cents in the dollar (Leonora) up to 93 cents (Ashburton) (*Table 2*). This represents an effective rate in the range 1.3 to 5.3 times the budget rate for the UV properties as a group.

The minimum payment group of UV tenement holders generally provide less than 8% of UV revenue and are not a major source of rate revenue. However, there is the potential to use minimum payments to boost revenue while arguing the overall rate has not been changed in a significant way. The use of minimum payments needs to be monitored to ensure they are not used to boost revenue and avoid the scrutiny of an overall rate increase.

Table 2: UV valuations and rates for minimum rate mining properties

Local Government	Budget rate in dollar	Number subject to minimum	Rated value \$,000	Rates collected \$'000	Effective rate in dollar ⁴	Ratio
Wiluna UV mining	0.1535	192	\$73	\$60	0.8126	5.3
Murchison UV exploration/prospecting	0.0976	4	\$5	\$2	0.3343	3.4
Kalgoorlie/Boulder mining	0.1768	348	\$247	\$132	0.5320	3.0
Menzies UV mining	0.1441	63	\$49	\$19	0.3892	2.7
Mount Magnet UV mining	0.3129	35	\$20	\$16	0.8000	2.6
Ashburton	0.3825	435	\$431	\$402	0.9337	2.4
Cue	0.3132	124	\$84	\$55	0.6498	2.1
Menzies exploration	0.1421	169	\$152	\$45	0.2945	2.1
Menzies prospecting	0.1400	211	\$304	\$116	0.2805	2.0
Meekatharra	0.1904	332	\$177	\$50	0.3824	2.0
Coolgardie	0.2204	721	\$728	\$310	0.4261	1.9
Laverton	0.1516	390	\$387	\$112	0.2881	1.9
Wiluna UV exploration/prospecting	0.2268	42	\$30	\$13	0.4301	1.9
East Pilbara	0.1723	590	\$418	\$136	0.3250	1.9
Leonora (all UV properties)	0.1463	712	\$787	\$216	0.2751	1.9
Mt Magnet UV exploration	0.3129	14	\$11	\$7	0.5778	1.9
Kalgoorlie/Boulder exploration	0.1862	401	\$369	\$109	0.2945	1.6
Mt Magnet UV prospecting	0.3129	52	\$52	\$24	0.4708	1.5
Port Hedland	0.3700	63	\$31	\$16	0.5346	1.4
Sandstone	0.2522	46	\$43	\$14	0.3337	1.3

Source: Local Government Annual reports and Moore Stephens Local Government Rate Comparison Report

Findings:

Given that the government has adopted a GRV rating policy for the active areas of a mining tenement, there is no justification for mining tenements in the UV category to be rated at a multiple of the UV rate for pastoral properties.

The lack of uniformity between rates and minimum payments for UV rated mining activities points to a lack of consistent methodology in determining these amounts.

Minimum payments can be used by Local Governments to increase revenue while making smaller changes in the overall UV rate.

In some instances, the effective rate in the dollar is more than twice the lowest rate, however this has not received Ministerial consideration.

Recommendation:

- The government should prevent increases in minimum payments targeted towards industry, which results in an effective rate in the dollar that is more than twice the lowest in the relevant rating category.

⁴ Effective rate for tenements in the minimum category calculated by dividing revenue collected by rated value

4.2.5 Significance of mining sector payments

Local Governments in mining areas can derive a significant proportion of their rate income from resources sector and mining tenements, with the highest proportion being 95% for Sandstone Local Government. Six Local Governments budgeted to receive 89% or more of their rate income from mining tenements in 2016-17 (*Table 3*). In six, mining related rates provided 40% or more of the total revenue.

Table 3: Local Government performance in mining areas

Local Government	Revenue (\$m)	Rate revenue (\$m)	Mining rates (\$m)	Mine share of rates (%)	Mine share of total revenue (%)
Wiluna	\$7.00	\$3.70	\$3.42	92%	49%
Coolgardie	\$9.97	\$6.29	\$4.53	72%	45%
Cue	\$4.54	\$2.21	\$2.04	92%	45%
Laverton	\$7.81	\$3.75	\$3.51	94%	45%
Ashburton	\$47.90	\$25.86	\$20.26	78%	42%
Menzies	\$6.02	\$2.64	\$2.40	91%	40%
Mount Magnet	\$4.05	\$1.21	\$0.88	73%	22%
Meekatharra	\$15.67	\$3.81	\$3.12	82%	20%
Sandstone	\$7.37	\$0.90	\$0.85	95%	12%
East Pilbara	\$44.21	\$11.26	\$7.59	67%	17%
Karratha	\$98.50	\$41.91	\$7.85	19%	8%
Port Hedland	\$53.85	\$23.68	\$4.11	17%	8%
Kalgoorlie/Boulder	\$77.96	\$23.17	\$4.19	18%	5%
Murchison	\$11.39	\$0.38	\$0.34	89%	3%

Source: Local Government 2016-17 rating budgets, Local Government National Report 2014-15 – DIRD

A reduction in mining related tenement rates would impact significantly on a small number of Local Governments. For example, a halving of UV revenue would reduce total revenue by about 15% in Wiluna, Coolgardie, Cue, Laverton, Ashburton, and Menzies. These Local Governments are highly exposed to the fortunes of the resources sector and face both volatile and uncertain future income.

During upward economic cycles, more tenements are taken out and rate payments rise. There is a tendency for Local Governments to expand their budgets to match the increased income, however increased land use does not necessarily equate to increased service demand. The risk for Local Governments is that resources cycles are volatile and rates revenue are likely to decrease during economic downturns, which would result in a budget deficit for Local Governments.

In response, Local Governments often increase mining related rates to balance the expanded budget rather than look at cost control and other measures to restrain rate increases. By focusing on improving efficiency and cost control Local Governments are likely to reduce their exposure to any downturn in the resources sector.

The State Government has no control over the increase in rates because it only provides broad principles for rate setting and minimum payments and has minimal involvement in ensuring the efficiency of Local Government operations.

Findings:

Long term sustainability of Local Governments is questionable, given the cyclical nature and finite life span of mining projects.

Recommendations:

10. The State Government should require Local Governments to seek Ministerial approval for increases in resource rates above the rate of inflation.
11. The Minister should ensure Local Governments adhere to the requirement set out in their Objects and Reasons and provide evidence of the steps they have taken to improve efficiency as part of any justification for an increase in rates.

4.3 Local Government Reliance on external funds

There is a natural tension at all levels of government between community expectations and willingness to pay and hence Local Governments look to “external providers” for extra funding wherever possible. With the takeover of income taxation powers by the Commonwealth government in 1942, a vertical fiscal imbalance was created in Australia with the Commonwealth collecting most of the income and the States responsible for the delivery of most services. This imbalance was overcome with grants from the Commonwealth to the States and then grants by the States to Local Government.

Commonwealth government funding of Local Government began with funding for roads and was justified based on the Local Government’s expertise in road building and maintenance. The Commonwealth government now provides a range of funding with the main source being the Financial Assistance Grants paid through State Governments. There are also specific grants such as Road Safety Black Spot, Roads to Recovery, Bridges Renewal and Building Better Regions.

While State and Commonwealth Grant funds provide on average less than 15% of Local Government revenue, some Local Governments rely more heavily on this revenue.

Metropolitan Local Governments with large populations have a significantly greater rate revenue base from which to draw. Consequently, these Local Governments are far less reliant on grant revenue. For regional and remote Local Governments this is not the case.

This is one measure of the capacity of these Local Governments to support their activities from the local ratepayer base. It has been estimated that 15 rural and regional Local Governments sourced 40% or more of their revenue by way of grants, subsidies or contributions (*Table 4*). The estimates are based on Local Government budgets for 2016-17.

Table 4: Local Government Revenue dependence on Grants

Local Government	Grant, Subsidy and Contribution revenue
Murchison	94%
Upper Gascoyne	88%
Sandstone	78%
Shark Bay	72%
Halls Creek	63%
Yalgoo	56%
Westonia	54%
Carnamah	57%
Mt Magnet	48%
Kellerberrin	43%
Kondinin	43%
Carnarvon	40%
Morawa	40%
Wiluna	40%

Source: LGA Annual Reports

Dalwallinu had a 64% share in 2016-17 but has been excluded as this was an unusual year with the three previous years being around 30%. Were a 30% cutoff to be used, an additional 10 Local Governments would join the list taking the total to 25 out of 137 in the State.

Another way of considering viability is the level of Financial Assistance Grants on a per capita basis. In 2014-15, thirteen Local Governments were to be paid more than \$2,000 per resident to provide enough finance to meet a satisfactory level of service delivery (*Table 5*). Three Local Governments required more than \$10,000 a resident (Murchison, Sandstone, Upper Gascoyne). By way of comparison, most metropolitan Local Government areas received the minimum amount of \$20 per resident.

Table 5: Financial Assistance Grants by Local Government

Rank	Local Government	\$ per capita
1.	Murchison	\$20,030
2.	Sandstone	\$12,772
3.	Upper Gascoyne	\$10,030
4.	Cue	\$4,124
5.	Menzies	\$4,033
6.	Nungarin	\$3,954
7.	Yalgoo	\$3,809
8.	Trayning	\$2,939
9.	Mount Marshall	\$2,901
10.	Koorda	\$2,738
11.	Westonia	\$2,569
12.	Mukinbudin	\$2,223
13.	Ngaanyatjarraku	\$2,029

Source: Local Government National Report: Australian Government, 2014-15

Combining these lists suggests that at least 21 Local Governments require significant external support to deliver an acceptable standard of local services (*Table 6*). These Local Governments are relying heavily on grants and resources sector rates (as outlined in Section 4.1 and 4.2) as a revenue stream and would not be viable without the support of this sector.

Table 6: Local Governments requiring substantial financial support

Carnamah	Mt Magnet	Menzies
Carnarvon	Murchison	Nungarin
Cue	Koorda	Yalgoo
Halls Creek	Sandstone	Trayning
Kellerberrin	Shark Bay	Mt Marshall
Kondinin	Upper Gascoyne	Ngaanyatjarraku
Morawa	Westonia	Mukinbudin

Findings:

A significant number of regional Local Governments rely heavily on grants, subsidies and contributions from other arms of government and appear unable to operate on revenue raised within the Local Government.

For proper analysis of Local Government finances, it is essential that greater detail be provided on the source of funding.

Recommendations:

12. Comprehensive Local Government financial reports and information regarding funding sources should be publicly available online through portals such as the MyCouncil website.
13. The State Government review the viability of the small regional Local Governments that rely heavily on external grants and resources sector revenue to survive and consider options that provide long term sustainability.

4.4 Sustainability of Regional and Remote Local Governments

The financial sustainability of regional and remote Local Governments has long been in question. In 2006, WALGA's System Sustainability Study (In Your Hands Panel Report)⁵ noted that 83 Local Governments were not financially sustainable without major changes. WALGA's 2008 landmark Systemic Sustainability Report (known as the SSS Report)⁶ presented 39 recommendations to improve the sustainability of Local Governments.

While greater regional collaboration has occurred, and many new initiatives introduced or undertaken, there has not been significant structural or organisational change that would significantly improve the financial sustainability in regional Local Governments since this time.

The State Government created the MyCouncil⁷ website to provide data that would enable the community to look at the financial performance of their Local Government (*Table 7*). Although the data provided in a single year may not present a full picture, it provides a reasonable indication of the financial sustainability and financial trajectory when viewed across a three-year period (or longer as new data becomes available).

⁵ 2006, Systemic Sustainability Study; In Your Hands: Shaping the Future of Local Government in Western Australia Final Panel Report, Western Australian Local Government Association.

⁶ 2008, Systemic Sustainability Study The Journey: Sustainability into the Future Final Report, Western Australian Local Government Association

⁷ MyCouncil Website, <https://mycouncil.wa.gov.au>

Table 7: Financial Health Indicator (FHI)

Local Government	2013-14	2014-15	2015-16
Carnarvon	29	45	30
Coolgardie	51	42	52
Derby-West Kimberley	76	59	34
Halls Creek	24	66	39
Mingenew	31	48	55
Moora	58	97	66
Morawa	49	43	47
Mount Marshall	33	56	47
Murchison	67	67	40
Sandstone	65	98	56
Upper Gascoyne	33	50	38
Westonia	50	81	31
Wiluna	67	87	57
Yalgoo	37	79	28
Yilgarn	60	59	58

Source: MyCouncil website

The Department of Local Government, Sport and Cultural Industries advises that a Financial Health Indicator (FHI) of 70 and above indicates sound financial health. In 2015-16, the average FHI score across all regional Local Government was 55 - substantially below the 70 benchmark,⁸ for metropolitan Local Governments, it was 76.

The heavy reliance of some Local Governments on mining rates, combined with reliance on external grants, highlights whether some regional Local Governments would be sustainable without these sources of revenue.

5 Rating in Australian Jurisdictions

The importance of rates in the revenue of Australian Local Governments varies significantly between jurisdictions ranging from 27% in the Northern Territory to 61% in South Australia. Rates in all jurisdictions are based on land value. The application of rates to mining tenements in the core mining states are as follows.

New South Wales

There are four categories of rateable land with “mining” one of the specified categories. “Mining” land is where the dominant use is coal or metallic ore extraction. A Local Government may make sub-categories according to the kind of mining involved. Owners of mining leases permitting the extraction of coal or metallic minerals will be subject to rates.

Exploration or prospecting permits are not rateable, mining leases can be rated.

⁸ MyCouncil FAQs page, <https://mycouncil.wa.gov.au/Home/faqs>

Queensland

Local Governments may apply rates to land subject to a “mining claim” or “mining lease” as defined in the *Mineral Resources Act 1989 (Qld)*. A “mining lease” does not include a prospecting or exploration permit and hence these are exempt from rates. In practice, rates are not applied to mining claims, only to mining leases. The land may be valued by the Local Government in the current year or using an average of historic values.

Exploration or prospecting permits are not rateable, mining leases can be rated.

South Australia

All land (and anyone with any legal interest or right in the land) is rateable, other than specifically exempted land. However, mining tenements (including exploration and prospecting permits) other than those at Coober Pedy are defined as unalienated Crown Land and are hence not rateable. All land must be valued for rating purposes using land value, a fixed sum or a combination of both.

Mining related tenements are not rateable in South Australia apart from the opal mines at Coober Pedy.

Northern Territory

The Territory has 17 Local Government areas resulting from a reform process completed in 2008. A review of the sustainability of these areas was completed in 2013, found many to have insufficient revenue to deliver the expected standards of service.

Under the *Local Government Act 2014*, land within a Local Government area is divided into three categories - rateable land, conditionally rateable land and exempt land.

Conditionally rateable land is generally either a pastoral lease or mining tenement. A uniform rate across the Territory is applied to mining tenements and for 2017-18 has been set at the Unimproved Capital Value multiplied by 0.0034 and with a minimum of \$871.

Rateable land comprises all land that is not conditionally rateable or exempt. Rates are set for mining tenements with minimum payments and Unimproved Capital Value is applied.

Exploration or prospecting permits are not rateable.

Victoria

Land that is used exclusively for coal or metalliferous metal extraction is exempt from rate payments. The *Local Government Act 1989* defines land used for mining as not subject to rating.

Mining related tenements are not rateable in Victoria.

Findings:

Western Australia appears to be the only Australian jurisdiction that imposes rates on mineral exploration and prospecting tenements.

Recommendation:

14. That Western Australia phases in the exemption of prospecting, exploration and retention tenements from Local Government rating to promote investment and development of the mining industry for the benefit of all Western Australians.

6 Rate-capping in Australian Jurisdictions

Rate-pegging or rate-capping is an approach used, or under consideration, in several Australian States which determines the maximum percentage amount by which a Local Government may increase its rateable income for the year. Local Governments have discretion to determine how to allocate the rate-peg/rate-cap increase between different ratepayer categories.

The rate-peg or rate-cap applies to rateable income in total, and not to individual ratepayers' rates. If its total rateable income remains within the set maximum increase, Local Governments may increase categories of rates by higher or lower than the rate-peg or rate-cap.

New South Wales

In NSW, the rate-peg is set by the Independent Pricing and Regulatory Tribunal (IPART). The rate-peg in NSW is mainly based on the Local Government Cost Index (LGCI) which measures price changes over the previous year for the goods and labour an average Local Government will use. Rate-pegging has been in place in NSW for over 30 years. In 2018-19, IPART has set the rate peg for NSW Local Government at 2.3%.

Under the *Local Government Act 1993* (NSW), councils can seek additional increases in general income beyond the annual rate peg, by applying to IPART for a special rate variation.

Victoria

Rate-capping in Victoria, known as the Fair Go Rates system 'gives ratepayers transparency and confidence in their council's rating system. It provides an assurance that ratepayers are receiving maximum value for money'.

For 2016/17, The Minister for Local Government set a cap on rate increases at 2.5%, in line with that period's Consumer Price Index (CPI), after a decade of uncontrolled rate rises. Victorian Local Government rate rises in 2017/18 are capped at that period's forecast CPI of 2%, under advice from the Essential Services Commission (ESC).

For the 2018-19 financial year, Local Government rate rises are to be capped at 2.25% in line with the period's CPI forecast and advice from the ESC.

Local Governments can apply for a higher cap if they can demonstrate community support and a critical need for spending on services or projects that requires a rate rise above 2%. Only the general rate and municipal charges part of a rates bill have been capped. All other parts, such as waste charges and other fees and levies, remain uncapped.

All of Victoria's 79 Local Governments have been operating under rate caps since 1 July 2016. Six councils were given (ESC) approval to adopt rate caps higher than 2.5% in that first year (2016-17). Four were given approval for higher caps for 2017-18.

Queensland

In Queensland no general rate-capping exists, however in 2016 the State Government acted to introduce an Infrastructure Cap on developer contributions/charges per house. This policy is intended to put downward pressure on housing process and housing affordability, and to stop unreasonable demands on private sector developers which must pass the cost onto homebuyers. Several Queensland Local Governments also implement self-enforced rate-capping.

South Australia

The upcoming South Australian election will be held in March 2018, with the State Opposition campaigning on a platform of introducing rate-capping, arguing that Local Government rate increases regularly outstrip inflation.

Western Australia

In 2013, WA Labor took a rate-capping policy to the State Election promising to introduce a 2% cap above CPI. No new commitment around rate-capping was given by WA Labor ahead of the 2017 election, or since coming to Government.

It is important to note although rate-pegging/rate-capping constrain overall rate growth, it still enables Local Governments to spread the weight of rating increases across different rating categories.

In justifying the implementation of rate-capping policies State Governments have cited a number of reasons, including:

- To drive efficiencies with Local Governments;
- To ensure best value for ratepayers;
- To reduce cost of living expenses; and
- To provide a clear and transparent framework for Local Government budgeting.

Importantly, the introduction of rate-capping policies has been well received by the broader community in these States.

Findings:

State Governments are responsible and accountable for protecting state interests and have shown a willingness to set rules around rating and other charges for Local Governments on matters that have a wider State or community impact.

Rate-pegging or rate-capping strategies do not stop Local Government weighting rate increases across rating categories, but they do cap the total rate increase which prevents unreasonably large rate increases for all ratepayers

Recommendation:

15. That the State Government undertake an inter-jurisdictional review of rate capping systems in Phase 2 of the Local Government Act Review to assess the benefits of such a policy in WA.

7 Airport Charges

Regional airports play a vital role in resource exploration and development. They are an essential component of a modern and efficient transport network. It is important that they be operated to facilitate development. High charges or inefficient operations encourage resource companies to develop their own facilities which are then of limited benefit to the broader community.

There is presently a disparity in the fees and charges set by regional airports across WA. The need for a consistent and transparent approach in asset management and establishing fees and charges has been recognised by the Department of Transport. In response, the Department has commenced a process to develop a *Strategic Airport Asset and Financial Management Framework*. The development of this framework supports the case for a consistent policy for the operation and maintenance of airports in regional areas.

There are 17 regional airports run by Local Governments in Western Australia with publicly available information on landing fees and passenger handling charges. Generally, these airport levy charges based on aircraft landing weight, passenger movements (mostly arrivals and departures) and security. There are frequently other use charges such as equipment hire, parking, fuel services and after-dark surcharges.

The effective cost is in the range \$25 – \$80 a passenger movement based on a Dash 8 aircraft (*Table 8*). The charge does not change materially for larger aircraft because planes have a similar ratio of take-off weight to passenger seats.

The average effective cost per inward plus outward passenger movement, excluding the airstrip at Halls Creek, is \$49 which is close to the effective cost at Perth airport of \$52. These costs all exclude security screening which is assumed to be passed on at cost (no net revenue to the Local Government) and only occurs at some of the airports.

Table 8: Regional airport costs*

Airport	Inward cost (per pax)	Outward cost (per pax)	Landing (per 1000kg)	Other	Total per passenger excluding screening
Onslow	\$32.73	\$32.73	\$30.00		\$80.00
Albany	\$27.71	\$27.71	\$23.64		\$66.88
Ravensthorpe	\$27.00	\$27.00	\$23.64		\$65.46
Kalgoorlie-Boulder	\$26.45	\$26.45	\$13.25	\$2.75 ¹	\$59.41
Esperance	\$21.82	\$21.82	\$32.27		\$59.28
Port Hedland	\$21.72	\$21.72	\$22.00	\$1.40 ⁴	\$55.51
Newman	\$22.00	\$22.00	\$20.70		\$54.04
Laverton	\$11.82	\$11.82	\$22.36	\$512.00 ²	\$50.62
Busselton	\$20.00	\$20.00	\$18.82		\$49.12
Geraldton	\$20.45	\$20.45	\$16.36		\$48.84
Carnarvon	\$20.70	\$20.70	\$16.36		\$49.33
Wiluna	\$19.09	\$19.09	\$15.00		\$45.45
Karratha	\$11.91	\$11.91	\$38.09		\$42.29
Curtin	\$11.82	\$11.82	\$24.55		\$35.54
Derby	\$10.91	\$10.91	\$24.55		\$33.72
Mount Magnet	\$9.55	\$9.55	\$17.73		\$27.70
Fitzroy Crossing	\$6.82	\$6.82	\$24.55		\$25.54
Halls Creek				\$200.00 ³	\$6.06

* Based on 16,000kg MTOW aircraft carrying 33 passengers, ¹ common user licence flat fee,

² fuel levies \$0.20 per litre on assumed 80% tank, ³ flat landing fees, ⁴ common user check-ins

Passenger fees average \$36 and represent an average of 75% of the total airport cost excluding screening. Landing fees average \$22 per tonne of aircraft.

The airport model for setting fees requires annual review and a process of notification to airport users. Airline operators report that some airport operators are open and transparent in dealing with users while others lack a consultative approach.

Some Local Governments raise revenue from airport operations while others treat it as revenue neutral to encourage visitors and promote economic development. The City of Kalgoorlie/Boulder has an economic objective while receiving substantial income. In 2015-16, the airport budgeted to pay the City \$4.2m for return on capital.

Fees and charges at Local Government operated airports across the state vary widely (*Table 8*). Information used as the basis for the setting of these fees and charges is not often publicly available. Further, it is also often unclear how the revenue from airports is utilised due to inconsistent reporting in Local Government financial reports. As a result, it is difficult to determine whether the revenue raised from airports is justifiable, or whether this revenue is being used to cross-subsidise other Local Government services or projects.

Cross-subsidisation presents a problem because this practice has the potential to unfairly target a single source of income, rather than evenly dispersing the burden of raising revenue across a broader base. This is particularly evident in regional airports, because Local Governments often have a monopoly hold on these assets. Increasing transparency and accountability at a Local Government level would assist in ensuring that revenue raised through local airports is directed towards aviation related activities, rather than entering general revenue streams. This would

provide a stronger correlation between the level of fees and charges, and the level of service and throughput at the airport.

The State Government needs to adopt a consistent policy on regional airport fee structures and asset management. This policy should recognise the economic development role of regional airports and the importance of airports servicing multi-users, including resources companies, the community and other industries. The Department of Transport's Strategic Airport Asset and Financial Management Framework is a positive move towards increasing the transparency and operation of regional airports. The government review of the *Local Government Act 1995* would also be an appropriate forum for reviewing regional airport fees, charges and management strategies.

Finding:

Airports are vital infrastructure in regional areas and the State Government has a responsibility to outline a consistent policy that recognises their importance to economic development.

Recommendations:

16. When setting airport fees and charges, Local Governments should be required to make the methodologies, objectives and reasons publicly available.
17. Airport operators should consult in a meaningful way with users including resources companies and provide transparent and comprehensive justification for any changes in fees and charges.
18. The Minister for Local Government should ensure fees and charges levied by Local Governments through airports are justifiable, and that revenue is allocated and utilised in a transparent manner.
19. The setting, use and reporting of Local Government airport fees and charges should be considered in the DLGSCI's review of the *Local Government Act 1995*.