Implementation Guide: Clarification of rateability for miscellaneous licences and small prospecting licences

Introduction

The *Local Government Amendment (Rating of Certain Mining Licences) Act 2026* (the Amendment Act) clarifies the rateable land categories in section 6.26 of the *Local Government Act 1995* (the Act).

The primary effect of the Amendment Act is to reinstate the longstanding understanding that miscellaneous licences and small prospecting licences (small prospecting licences of 10 hectares or less) on Crown land are not subject to rating.

The Amendment Act further clarifies that this operates retrospectively from the 2017-18 financial year onwards, reflecting that in the context of a 2025 Supreme Court decision some local governments may have back rated these licences to 2017-18.

Following Royal Assent of the legislation, which occurred on **25 June 2026**, all rates and liabilities relating to miscellaneous licences and small prospecting licences on Crown land from 1 July 2017 to 30 June 2026 are extinguished and local governments will be required to:

- issue refunds to affected ratepayers **within 90 days** after the validation day (by **24 September 2026**) where rates were imposed on the basis of a miscellaneous or small prospecting licence on Crown land for the period 1 July 2017 to 30 June 2026;
- update the rate record to reflect this change;
- maintain a detailed record of refunds, ensuring the local government council is kept informed of the financial implications, including for future budgeting and reporting purposes.

This document is intended as a general guide to assist local governments in understanding the implications of the Amendment Act, including the treatment of miscellaneous licences and small prospecting licences on Crown land for rating purposes going forward. It is not legal advice, and local governments should seek their own independent legal advice as appropriate.

Key takeaways

- The longstanding understanding regarding rateability of miscellaneous licences and small prospecting licences on Crown land that are held under the *Mining Act 1978* applies.
- A small prospecting licence means a licence with an area not exceeding 10 hectares.
- The amendments apply retrospectively for rates notices from the start of the 2017-18 financial year and subsequent financial years.
- Miscellaneous licences and small prospecting licences often have overlapping tenure, in terms of the area of the licensed land, with other mining tenements and interests (e.g. exploration licences, mining leases).
- While a rates notice cannot be issued in relation to a miscellaneous licence or small prospecting licence on Crown land, this does not impact the rateability of other rateable interests over the same area of land (e.g. an exploration licence can be rated, even if the land of the exploration licence overlaps with the land of a miscellaneous licence).
- The Rating Policy: Valuation of Land — Mining (the Policy) remains in force. The Policy describes the legislative and policy basis for Ministerial approval for the land valuation method to consider capital improvements on land subject to a relevant interest. Relevant interests – such as mining tenements other than miscellaneous licences or small prospecting licences on Crown land – may continue to be applied for in accordance with the Policy.
- The initial determination of whether land is rateable remains the responsibility of the relevant local government, with the right of objection to the State Administrative Tribunal.

Implications for local governments

Who is eligibile?

- Refunds apply to all rates (and related liabilities) paid in relation to a miscellaneous licence or small prospecting licence for the 2017-18 to 2025-26 financial years.

Who can authorise refunds?

- Where a statutory obligation arises under the Act to refund rates, this obligation attaches to the local government as a matter of law.
- In practice, the administration – under the CEO's responsibility – may give effect to this obligation, including identifying overpayments and administering refunds.
- Having regard to the 90-day refund timeframe, the financial implications should be reported to the council for visibility and oversight, consistent with other compliance obligations.
- Local governments should consider any budgetary, financial management or governance processes that may be required to facilitate refunds within the timeframe.

What is to be refunded?

- Any rates, charges (imposed under sections 6.43, 6.45, or 6.51) or other liabilities imposed on, or in respect of, an interest in Crown land held under a miscellaneous licence or small prospecting licence for the period from 1 July 2017 to 30 June 2026.
- This includes any amounts paid in respect of those liabilities, including instalment interest and overdue interest.
- For more information on relevant refunds and liabilities, refer to Part 10 of the Act (Extinguishment, validation and other provisions for *Local Government Amendment (Rating of Certain Mining Licences) Act 2026*).

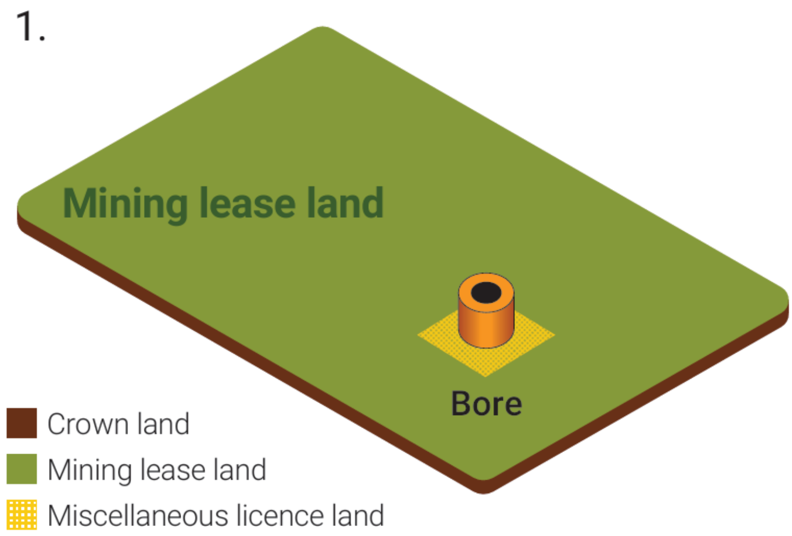
When are the refunds due?

- Refunds to affected ratepayers must be made within 90 days after the validation day (by **24 September 2026**).
- A longer period may apply where the person entitled to the refund agrees.
- Local governments are encouraged to proactively communicate with affected ratepayers regarding the basis of the refund and the anticipated timing of issuing refunds.

Scenario modelling

Note that all scenarios are on underlying Crown land.

Scenario 1



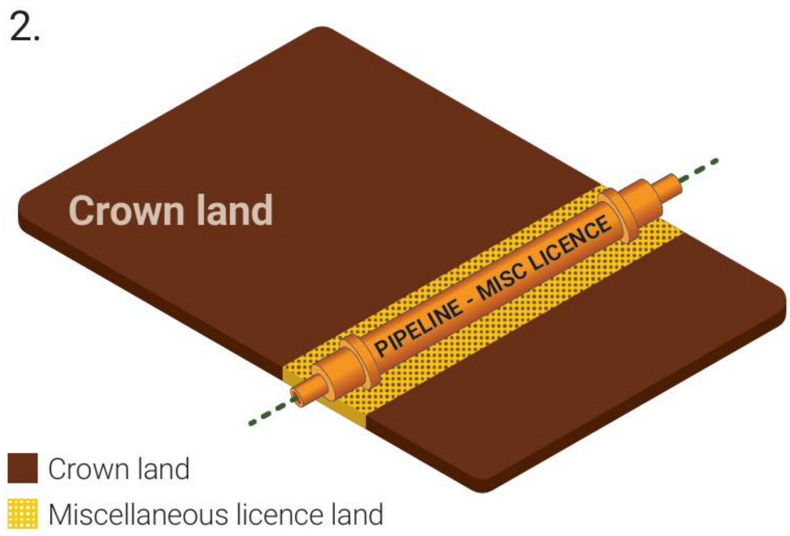
Scenario:

- A **bore** under a **miscellaneous licence** is over the same area of land as a **mining lease**.

Outcome:

- The rateability of the **mining lease** is not impacted by the **miscellaneous licence**.
- Rates can be imposed on the portion of land that is the **mining lease land**.
- The **miscellaneous licence** cannot be separately rated (i.e. no ‘double rating’).

Scenario 2



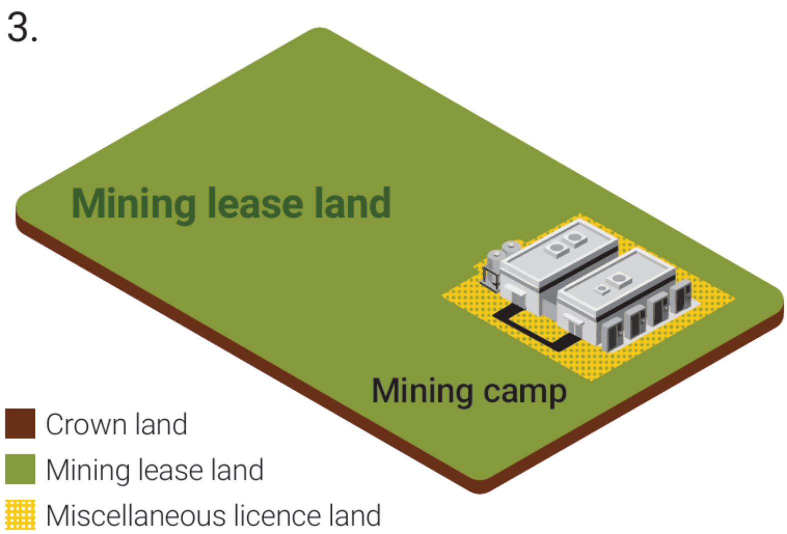
Scenario:

- A **pipeline** has been constructed on a **miscellaneous licence**.
- There is no other rateable mining tenement in relation to the land.

Outcome:

- Rates cannot be imposed on the land.

Scenario 3



Scenario:

- A **mining camp** is located on a **miscellaneous licence**.
- The **miscellaneous licence** overlaps the same area of the **mining lease land**.

Outcome:

- The rateability of the **mining lease** is not impacted by the overlapping **miscellaneous licence**.
- Rates can be imposed on the portion of land that is the **mining lease land**.
- If the requirements of the Policy are met, the local government can apply to have **Gross Rental Value (GRV)** valuation applied to the **mining camp** on the basis of capital improvements to the land, subject to an approval under section 6.29 of the Act.
- The **miscellaneous licence** cannot be separately rated (i.e. no ‘double rating’ of the camp).

Next steps for local governments

Note: This section of the guide applies to local governments that have issued rates notices in relation to miscellaneous licences or small prospecting licences on Crown land in the period from 1 July 2017 to 30 June 2026.

1. Understand statutory requirements

☐ Consider the *Local Government Amendment (Rating of Certain Mining Licences) Act 2026* and this guidance document.

☐ Brief relevant staff on obligations and timeframes.

2. Identify affected properties and ratepayers

☐ From the rate book (rates system), identify all properties on Crown land comprising miscellaneous licences and/or small prospecting licences.

☐ Use both local government references and Landgate references to confirm records.

☐ Identify all ratepayers associated with each affected property (noting there may be multiple ratepayers over time).

3. Compile financial data (2017-18 to 2025-26)

For each affected property and ratepayer:

☐ Identify all rates, interest and other relevant amounts raised between **1 July 2017** and **30 June 2026**.

☐ Identify all payments received.

☐ Identify any concessions, write-offs and outstanding balances.

4. Calculate refund entitlement

For each property and each individual ratepayer:

☐ Calculate total amounts raised.

☐ Subtract concessions and write-offs and any current outstanding charges.

☐ The resulting amount represents the refund payable.

☐ Maintain a consolidated record of refunds by financial year for budgeting, reporting, and audit purposes.

5. Amend the rate book

For each affected property:

☐ Reverse all historical transactions in chronological order (oldest to most recent), including charges, concessions and write-offs by financial year.

☐ Confirm that the resulting credit balance on the property record equals the calculated refund total.

6. Validate and approve refunds

☐ Reconcile calculated refund amounts against rate book balances.

☐ Submit calculations to an independent senior officer for review.

☐ Obtain approval to process refunds in accordance with internal financial delegations and controls.

7. Process refunds and accounting treatment

☐ Process all refunds to affected ratepayers.

☐ Refunds should be expensed as a reduction in rates revenue.

8. Ratepayer communication and recordkeeping

☐ Prepare and issue communications to affected ratepayers.

☐ Maintain clear records of methodology and calculations, approvals and communications issued.

Further information

Information on rate setting is available on the Department's Rate Setting webpage.

Local governments should consider the implementation of these requirements in the context of their financial and budget planning processes.

For enquiries relating to the application of the Act, including refund processes and the levying of rates, local governments may contact the Local Government Financial Policy team at LG.accounting@lgirs.wa.gov.au.