


| | RATES EXEMPTIONS | | |
|---|---|---|---|
| **POLICY OWNER:** | Council | | |
| **DEPARTMENT:** | Office of the CEO | **RESPONSIBLE OFFICER:** | Executive Manager Corporate Strategy & Performance |
| **CREATION DATE:** | 23/05/2023 | **REVIEW SCHEDULE:** | Annually |
| **RELATED PROCEDURES:** | | | |
| **RELATED FORMS:** | Application for Rate Exemption | | |
| **RELATED DELEGATIONS:** | | | |
| **RELATED POLICIES:** | | | |
| **LEGISLATION:** | Local Government Act 1995,<br>Charities Act 2013 (Commonwealth) | | |

| DOCUMENT CONTROL | | | |
|---|---|---|---|
| **DATE REVIEWED:** | **REVIEWED BY:** | **CHANGES (IF ANY):** | **ENDORSED BY COUNCIL:** |
| 23/05/2023 | Council | Nil | FC11/5/23 |
| 28/11/2023 | Council | Nil | OCM 11/11/23 |
| 24/09/2024 | Council | Nil | OCM 03/09/2024 |
| 19/10/2026 | Council | Major: refer to minutes | OCM 07/26 |

**Rates Exemptions**

**OBJECTIVES**

To provide a clear, consistent, and equitable framework for assessing applications for rates exemption, ensuring decisions are compliant with legislation, transparent, and defensible, while recognising the impact on the Shire's revenue base.

**SCOPE**

This policy applies to charitable and not-for-profit organisations that are liable for the payment of rates on land within the Shire, either as owner or as a lessee under a lease agreement.

**POLICY STATEMENT/S**

Rates exemptions will be applied in a consistent, transparent, and equitable manner, ensuring decisions are based on the use of land and legislative requirements.

**Introduction**

Section 6.26(2) of the Local Government Act 1995 (WA) identifies categories of land that are not rateable. While many of these categories are clearly defined, Section 6.26(2)(g), relating to land used exclusively for charitable purposes, requires interpretation.

The Shire is committed to applying the Act in a manner that is fair, equitable, and defensible, while recognising the contribution of organisations that provide a benefit to the community. Applicants are required to evidence their right to an exemption, and demonstrate the land is used exclusively for charitable purposes.




As the Act does not define "charitable purpose", reference is made to the Charities Act 2013, which outlines recognised charitable purposes, including the advancement of health, education, social or public welfare, religion, culture, and other purposes beneficial to the community.

In assessing applications under Section 6.26(2)(g), the following key principles apply:

- The assessment is based on the use of the land, not the nature or status of the organisation.
- The land must be used exclusively for a charitable purpose.
- The use must provide a public benefit, either to the community generally or to a defined section of the community.

Consistent with Australian case law, land will not be considered to be used exclusively for charitable purposes where it is used for dual or mixed purposes. However, incidental activities that generate income will not necessarily disqualify the exemption where they are subordinate to, and in furtherance of, the charitable purpose.

**Provisions:**

**1. Application for a Rates Exemption Under Section 6.26(2)(G) of the Act**

1.1. All applications must be made in writing by completing an Application for Rates Exemption Form (Appendix A) and provide any supporting documentation As outlined in the application checklist.

1.2. The applicant bears the responsibility of providing sufficient information to demonstrate eligibility for exemption. Incomplete applications will not be assessed until all required information is provided.

1.3. If any information has not been provided or is unclear, the applicant may be required to provide additional information before the application will be assessed.

1.4. Where the property is subject to a lease, a copy of the lease agreement must be provided to confirm liability for payment of rates.

Rates and charges must continue to be paid in accordance with the annual rates notice until a determination is made. Approval of an exemption is not guaranteed, and any approved exemption may be applied retrospectively where applicable. Applicants must provide adequate evidence of land use, including details of activities conducted on the property, to demonstrate that the land is used exclusively for charitable purposes.

**2. Making a Determination**

2.1. Applications will be assessed by Shire Officers against the requirements of this policy. Where the application is considered to meet the relevant criteria, a report will be prepared for Council's consideration at an Ordinary Council Meeting. The Chief Executive Officer may seek legal advice where an application is complex or requires further interpretation.

2.2. To be eligible for consideration, the applicant must:

2.2.1. be a registered charity with Australian Charities and Not-for-profits Commission (ACNC) or an incorporated Not-for-Profit organisation.




2.2.2. own the property on which rates are levied or be a tenant liable for payment of the rates under a lease.

2.2.3. demonstrate that the land is used exclusively for charitable purposes, as defined in the Charities Act 2013.

2.3. The use of the land must not include commercial activities, except where such activities are incidental to and directly support the charitable purpose.

2.4. In assessing eligibility, consideration will be given to any revenue-generating activities conducted on the land, including the sale of goods or services, to determine whether the use remains consistent with a charitable purpose.

2.5. Council may request additional information at any stage of the assessment process where necessary to determine eligibility. Information requested may include but, is not limited to:

2.5.1. copies of the Constitution of the organisation,

2.5.2. recent financial statements of the organisation

2.5.3. information demonstrating precisely how any land that is subject of the application is used.

## 3. Grant of Rates Exemptions

3.1. An exemption shall only be granted if the applicant has demonstrated they are eligible under the relevant legislation, by completing the appropriate application form and providing supporting documentation.

3.2. Any exemptions granted will be until the expiration of the next triennium when all such current exemptions will next be reviewed. An annual review may be conducted to confirm that eligibility criteria for the exemption continue to be met.

3.3. Applicants will be notified in writing of any determination, with correspondence to include details of:

- the date the exemption applies from.
- the relevant section of the Act.
- The timing of the next review, noting that exemptions are generally reviewed every three years, with provision for earlier annual review where required. and,
- the amount of the general rates exemption applied.

3.4. An exemption is only applicable to the rates component of the annual rates and charges. Where exemption from rates is approved, the property will still be subject to the Emergency Services Levy and any other charges.

3.5. If the property has been used for the stated purpose as at 1 July of the relevant financial year, the exemption can be applied from that date and a refund given if rates have been paid prior to the determination.




3.6. Where the land use has changed during a financial year, any exemption granted is only applicable from the date of the change.

3.7. A partial exemption can be applied where only part of a defined lot is used for a charitable purpose.

3.8. The granting of an exemption in any year does not guarantee an ongoing exemption.

3.9. All exemptions are to be reviewed together every three years. In a few cases exemptions may cease prior to the three yearly review e.g. lease expiry. (Rating records will record such events)

In the instance where a local government may refuse a rates exemption application, the applicant can make an application to the Minister for Local Government for consideration that the property be rates exempt. If Ministerial approval is subsequently granted, the Council must apply a non-rateable status for that property, to the extent of the decision.

Under Section 6.47 of the Local Government Act 1995 a Council may apply a Concession because of the nature of the undertaking of the organisation where a property does not fall into any category of Section 6.26. Concessions will be considered on a a case-by-case decision and presented Council to determine.

## 4. Rejected Applications

4.1. Where an application is declined, the applicant has options to challenge the determination.

4.1.1. The applicant may object under Section 6.76 of the Act, on the basis that the land or part of the land was not rateable land.

4.1.2. The applicant has the right to appeal a decision made under Section 6.76 to the State Administrative Tribunal (SAT).

4.1.3. An applicant may apply for a concession under Section 6.47 of the Act. Such applications would be considered on a case-by-case basis and determined by Council.

4.2. Where all appeals are not successful, the final option available to the applicant is to apply to the Minister for Local Government, to make a final determination, under Section 6.26(4) of the Act.

This policy supports equitable and evidence-based decision-making in the application of rates exemptions, ensuring alignment with legislative requirements while maintaining the financial sustainability of the Shire.