

CLAUSE NOTES

Local Government Amendment (Rates) Bill 2017

Clause 1: Short title

Clause 1 is a formal provision specifying the title of the proposed Act.

Clause 2: Commencement

Clause 2 is a formal provision specifying that the Bill will commence on the day it receives Royal Assent.

Clause 3: Principal Act

Clause 3 identifies that the amendments relate to the *Local Government Act 1993*.

Clause 4: Section 16 amended (Municipal areas)

Clause 4 amends section 16(3) of the Act to include marine structures, such as wharves or jetties, that are outside a municipal area but adjoin the municipal area.

Clause 4 also amends section 16(3) to provide that municipal area includes marine structures that are situated partly within a municipal area and partly on or over an area of the seabed outside a municipal area.

Clause 4 also amends section 16(3) to provide that municipal area includes seabed land, that is subject to a lease or licence, which allows for the use of an adjoining marine structure, such as a wharf or jetty.

Clause 5: Section 86 amended (Interpretation of Part 9)

Clause 5 amends section 86 of the Act to insert a definition of 'relevant right to occupation'.

Clause 6: Section 86AA inserted –Relevant right to occupation

Clause 6 inserts a new section 86AA that defines that a relevant right to occupation means a relevant lease or a private purposes licence.

Subsection 86AA(2) clarifies that a relevant lease does not include a lease, in relation to a seabed, that is granted under Part 4 of the *Marine Farming Planning Act 1995*.

Subsection 86AA(3) provides that a private purposes licence is a licence that confers a right on the holder to exclude all, but the Crown, from the land and is not a licence primarily for the benefit of the Crown.

Subsection 86AA(4) clarifies that the right to exclusive occupation determines whether it is a private purposes licence and not the wording of the licence agreement.

Subsection 86AA(5) provides that a licence for the benefit of the Crown includes those granted for weed, pest or vegetation management, beautification or another responsibility of the Crown as prescribed.

Subsection 86AA(5)(b) provides for further licence types to be prescribed at a later date to exempt a class of licence if required.

Clause 7: Section 87 amended (Exemption from rates)

Clause 7 amends section 87(1) to clarify that an exemption from non-service rates does not apply to land where a relevant right to occupation exists.

Subsection 87(1)(ba)(i) provides an exemption from non-service rates to seabed Crown land that is subject to a lease granted under Part 4 of the *Marine Farming Planning Act 1995*.

Subsection 87(1)(ba)(ii) provides an exemption from non-service rates to seabed Crown land that is not subject to a lease or a licence.

Clause 8: Section 120 amended (Liability for rates)

Clause 8 amends section 120 to provide that the holder of a relevant right to occupation over land is the ratepayer and would be liable for the payment of rates.

Subsection 120(2A) provides that if an occupier of land agrees to be a ratepayer of that land, that occupier is then liable for the payment of any rates.

Subsection 120(2B) provides that the Crown may agree to be the ratepayer of Crown land that is subject to a relevant right to occupation.

Subsection 120(2C) provides that if the Crown agrees to be the ratepayer of Crown land that is subject to a relevant right to occupation, the Crown is liable for any rates payable.

Clause 8 amends section 120(3A) to clarify that the general manager is to be notified if the holder of a relevant right to occupation is liable for any rates or the Crown has agreed to be liable for any rates payable.

Clause 9: Section 350B inserted –Validation, &c., of certain rates notices

Clause 9 inserts a new section 350B that validates rates notices issued before the day that the Bill is introduced to the House of Assembly in relation to land that was held or owned by the Crown as defined in section 87(1)(b) or any part of land that was not within a municipal area.

Clause 9 does not validate rates notices that have been issued to the Crown for these areas of land.

Clause 10: Repeal of Act

Clause 10 is a formal provision that repeals this Amendment Act on the 365th day from Royal Assent from commencement.