



# Emergency Services Levy Manual of Operating Procedures

(guidelines issued under Section 36Y of the *Fire and Emergency Services Act 1998*)

**2021-22 Version**

## OVERVIEW

On 1 July 2003, a property-based Emergency Services Levy (ESL) was introduced by amendments to the *Fire and Emergency Services Act 1998 (FES Act)*, based on the level of service available and calculated on the Gross Rental Value (GRV) of most urban properties, with a fixed rate charge per property in rural and remote areas.

In the interest of uniformity and equity, the same ESL rates apply to all properties within each defined “Emergency Service Levy Category”. ESL Categories have been established by Regulation and, in accordance with determinations by the Minister for Emergency Services; (the Minister) all properties within WA have been given a category classification.

This document sets out the operating arrangements and business rules that apply to the ESL. This Manual of Operating Procedures (the Manual) forms the basis of ESL guidelines issued by the Minister under Section 36Y of the *FES Act*. Local government practices in relation to general rating procedures have been followed where practical, however some minor departures have been necessary in particular instances.

The content contained within this Manual is designed to ensure a consistent application of the ESL administration processes and procedures across all local governments. The key operating arrangements associated with the ESL can be summarised as follows:

- All property owners are required to pay either a GRV based **OR** fixed charge ESL to provide the majority of the source of funds for the operation of the following:
  - The Career Fire and Rescue Service (CFRS);
  - The Volunteer Fire and Rescue Service (VFRS);
  - Volunteer Fire and Emergency Service (VFES) Units;
  - Bushfire fighting and management services including local government Bush Fire Brigades (BFB) and the Rural Fire Division;
  - Aerial Firefighting (engaged over the high-risk bushfire season);
  - 50% of the South West Emergency Rescue Helicopter service;
  - State Emergency Service (SES) Units;
  - The Volunteer Marine Rescue Service (VMRS);
  - Emergency response services provided by ChemCentre; and
  - DFES’ corporate support costs associated with the above services.
- Local governments raise and collect ESL on their rates notices. The ESL is required to be shown as a separate line item on the rates notice reading “**Emergency Services Levy**”. The *FES Act* and *Regulations* specify other ESL related information that is to be shown on, or issued with, the rates notice. DFES has financed upgrades to local government rates/ESL systems to incorporate ESL administration functionality.
- With some minor variations, the way that the ESL is determined and collected follows the same procedures that currently apply to general rates.
- The ESL is a service availability based levy payment arrangement.
- Properties that are currently exempt from general rates under the *Local Government Act 1995* are required to pay the ESL. These properties and their assessed GRVs are provided by Landgate:
  - to each local government, where the local government is required to bill ESL, and;
  - to DFES, where it has been determined that DFES will bill organisations directly, including:
    - Public Financial, Non-Financial Corporations and Agencies outside the State’s Public Sector (refer to **Schedule 1**); and
    - Local governments (refer below).

- The State Government makes an annual lump sum contribution to DFES in recognition of emergency service protection afforded to its own property based on the Government Property Register, with the assessment being issued by DFES to Treasury. Hence, individual State Government (Crown) owned properties, nor the Agencies that own them, are not directly charged the ESL (refer to **Schedule 2**).
- Local governments are required to pay ESL for the properties that they own. However, the levy is only calculated on improved properties and DFES directly invoices local governments for the ESL payable on these properties.
- The Commonwealth Government makes a contribution to DFES for protection provided for property owned by Commonwealth Agencies. Consequently, Commonwealth property is not to be directly charged ESL.
- The majority of local governments have elected to pay DFES 100% of the ESL billed (refer to **2.2.12** Option B arrangements). ESL amounts collected by local governments that are not on Option B arrangements are required to be remitted to DFES on a monthly basis.
- An annual administrative fee is paid to local governments for the services they provide in administering the ESL.
- The procedures set down in this Manual will continue to be reviewed on an ongoing basis with a view to improving the efficiency and equity of the arrangements based on the experience gained from ESL administration.

#### **ESL Administration - Critical Dates Summary**

<b>Activity</b>	<b>Option A</b>	<b>Option B</b>
ESL Cat 5 Non-Rated and LG Owned Properties Verified	30 April	
DFES and ESL Budget Determination	April - May	
Property Data Provided by Landgate to DFES	30 April	
ESL Rates and Charging Parameters Declared	31 May (or another "Relevant Day" - declared by the Minister)	
Option B Agreements Executed	N/A	May – Aug
Revised Version of MOP Declared/Issued	June - July	
Option B Transitional Payments Agreed	N/A	Aug - Oct
Initial ESL Billing Declaration Lodgement <sup>(1)</sup>	Within 14 Days of Rates Run/Issue	
ESL Payments Due	21 Day of Month *	21 Day of Sept, Dec, March and June *
ESL Collection Remittance Lodgement <sup>(2)</sup>	21 Day of Month *	N/A
ESL Write-Off Applications Lodgement with DFES	Any Time During Year	
ESL Billing Adjustment Advice Lodgement <sup>(3)</sup>	N/A	31 July
Year End ESL Reconciliation Lodgement <sup>(4)</sup>	31 July	N/A
Totalled Aged Debtors Report Lodgement	31 July	N/A
ESL Administration Fee Paid to LGs	31 Oct	
LGs to Pay ESL for Improved Property	31 Oct	

\* To be submitted prior working day if 21<sup>st</sup> is a weekend or public holiday.

(1) Form A

(2) Option A Form B

(3) Option B Annexure A

(4) Option A Form C

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## 1 PURPOSE OF THE MANUAL

### 1.1 Introduction

1.1.1 This Manual contains a detailed overview of the operating rules and procedures that apply under the ESL funding arrangements. It provides a basis for the resolution of procedural matters and a platform for the development of internal manuals.

### 1.2 Ministerial Guidelines

1.2.1 This Manual, which is issued and periodically updated by DFES, forms the basis of ESL related guidelines issued by the Minister under Subsection 36Y(1) of the *FES Act*.

### 1.3 Review Arrangements

1.3.1 This Manual will be reviewed on an annual basis and revised versions issued to local governments as appropriate. A current version of this Manual is available on the DFES website ([www.dfes.wa.gov.au/esl](http://www.dfes.wa.gov.au/esl)).

## 2 OVERVIEW OF THE FUNDING SYSTEM

### 2.1 Scope

2.1.1 The ESL will finance the operations of the following services:

- The Career Fire and Rescue Service (CFRS);
- The Volunteer Fire and Rescue Service (VFRS);
- Volunteer Fire and Emergency Service (VFES) Units;
- Bushfire fighting and management services including local government Bush Fire Brigades (BFB) and the Rural Fire Division;
- Aerial firefighting (engaged over the high-risk bushfire season);
- 50% of the South West Emergency Rescue Helicopter service;
- State Emergency Service (SES) Units;
- The Volunteer Marine Rescue Service (VMRS);
- Emergency response services provided by ChemCentre; and
- DFES' corporate support costs associated with the above services.

### 2.2 Summary of ESL Determination Arrangements

2.2.1 Each property in WA has been classified according to the type of service available in that area. Five ESL Categories have been determined as follows:

**ESL Category 1**      **Communities supported by:**

- a network of CFRS stations; and
- the state-wide SES network.

**ESL Category 2**      **Communities supported by:**

- a CFRS station; and
- the state-wide SES network.

**ESL Category 3**      **Communities supported by:**

- a VFRS brigade or BFB, with the availability of a network of CFRS stations; and
- the state-wide SES network.

**and/or**

**Communities supported by:**

- a VFRS brigade with additional on-site support from members of DFES staff; and
- the state-wide SES network.

- ESL Category 4**      **Communities supported by:**
- a VFRS brigade; or
  - a VFES Unit or BFB with structural firefighting capabilities; and
  - the state-wide SES network.

- ESL Category 5**      **Communities supported by:**
- a BFB, a VFES Unit or members of DFES staff, and
  - the state-wide SES network.

2.2.2 To provide an indication, the following ESL Category classifications apply to the following broad geographic locations (and have been specifically defined by the ESL boundaries which have been gazetted):

- **ESL Category 1**  
Properties located within the Perth Metropolitan area;
- **ESL Category 2**  
Properties located in the City centres of Albany, Bunbury, Greater Geraldton, Kalgoorlie-Boulder and Mandurah;
- **ESL Category 3**  
Properties located within the periphery of the Perth Metropolitan area;
- **ESL Category 4**  
Properties located within country townships throughout WA where VFES Units, VFRS brigades or BA equipped BFBs are located;
- **ESL Category 5**  
All other areas of the State.

2.2.3 In ESL Categories 1 to 4 inclusive, the annual ESL charge is based on the GRV of each property multiplied by the specific ESL rate in the dollar as annually declared by the Minister for each ESL Category.

2.2.4 In ESL Category 5 a fixed charge applies to all properties regardless of their size, use or value. This charge is declared by the Minister on an annual basis.

2.2.5 The ESL rates are “budget and property value driven”. That is, once DFES' budget and the ESL budget have been formulated and approved by the Minister, the ESL rates are determined by dividing the approved ESL budget, less the State's ESL contribution, by the weighted aggregate GRVs within each of the ESL Categories (1 to 4) and the number of properties in ESL Category 5, while constrained by the minimum and maximum ESL charge limits.

2.2.6 The same ESL rate in the dollar applies to all property within each ESL Category classification, regardless of property use. ESL rates will be advised to each local government by no later than 31 May each year (or any other “relevant day” as determined by the Minister).

2.2.7 Minimum and maximum levy payments applicable to property use are determined by the Minister on an annual basis and advised to each local government no later than 31 May each year (or any other “relevant day” as determined by the Minister).

2.2.8 In most cases, ESL is invoiced and collected by local governments in association with the collection of local government rates. The ESL is required to be shown as a separate line item on local government rates notices as

**“Emergency Services Levy”**. All ESL information required to be shown on, or sent with, a local government rates notice is set out in Section 36J (2) of the *FES Act* and Regulation 8 (refer to **6.1**).

- 2.2.9 Where a local government offers an instalment plan for its general rates, the ESL is to be included in the plan on offer to the property owner. There are no early payment discount or charges for access to the instalment payment options applicable to the ESL.
- 2.2.10 Where the ESL is invoiced with rates and other local government charges, local governments are required to offer instalments if rates charges are \$200 or more.
- 2.2.11 If the ESL is the only charge on a rates notice sent (i.e. in case of some non-rated properties), local governments are required to offer a four-payment instalment plan for the ESL if the annual levy is equal to, or more than, the declared threshold (Refer to **Schedule 3**). For ESL amounts less than the declared threshold the local government has the discretion to decide whether or not to offer an instalment plan. (This is intended to align to the \$200 limit established under the *Local Government Act 1995* for rates instalment payment plans and may be varied from time to time).
- 2.2.12 In accordance with the enacting legislation, local governments may elect to pay DFES 100% of the ESL billed, in which case Ministerial approval is required, and if given, an appropriate payment plan will be negotiated between DFES and the local government. Throughout this Manual this is referred to as “Option B”. A copy of the “Option B Agreement” is shown at **Schedule 8**. In summary, under this alternate ESL administrative arrangement local governments:
- pay DFES 100% of ESL that they invoice, in an agreed instalment arrangement; and  
*(Form A - Schedule 4 “Annual ESL Billing Reports” are still required to be lodged. Where lodgement of the Form A occurs after 15 August, DFES will initially use an ESL billing estimate to determine instalments and then adjust instalments as required following Form A lodgement).*
  - assume responsibility for unpaid and deferred ESL and retain all ESL late payment interest and payments made by the Office of State Revenue (OSR) for pensioner and senior concessions (rebates and deferment interest) which will be made directly to the local government.

Special transitional arrangements will be negotiated between DFES and a local government where the local government elects to operate under the “Option B” arrangements for the first time. All other local governments will be referred to as operating under “Option A”.

- 2.2.13 With the exception of those local governments that choose “Option B” (refer to **2.2.12**), the ESL collected by local governments must be remitted to DFES in monthly payments. Liability of ESL by local government to DFES is limited to amounts collected and not remitted to DFES and excludes amounts due but not collected.

### **3 PROPERTY OWNER ESL LIABILITY AND BILLING PROVISIONS**

#### **3.1 General**

- 3.1.1 Unless exempted by the Minister (see **3.13**), all owners of property are required to pay the ESL. In this context, the term “owner” has the meaning as contained in the *FES Act*.



- 3.1.2 The owners of properties located in ESL Categories 1 to 4 are assessed for ESL based on the GRV of their properties (land and buildings) as determined by Landgate. A fixed charge applies to property in ESL Category 5.
- 3.1.3 In all cases, and subject to the effect of the application of declared minimum and maximum ESL payments, the GRV of the properties is used to determine the annual ESL charge (except in ESL Category 5 where a fixed charge applies).
- 3.1.4 If a property straddles the boundary of an ESL Category, then the ESL Category classification that applies to that property is determined by Landgate based on the ESL Category in which the majority of the property is situated.
- 3.1.5 Multiple owners of a property are jointly and severally liable for the levy. In this respect, service of a notice in relation to the levy on one owner is deemed to be service of the notice on all owners.
- 3.1.6 Where property ownership changes hands in any financial year, liability for the levy is proportional to the percentage of time each respective owner owned the property during that period. The administration of this transaction is not a local government responsibility, but a matter dealt with at property settlement.

### **3.2 Private Property Owners**

- 3.2.1 Local governments are responsible for assessing ESL on privately owned property within their districts in conjunction with the collection of local government rates (an exception applies to property owned by CBH Group (Cooperative Bulk Handling) refer to **3.2.3**).
- 3.2.2 The property data required to calculate the ESL payable for all properties that are located in ESL Categories 1 to 4 is provided to local governments by Landgate, either through their general rates roll or through a separate ESL roll for private property that is not rated. (Refer to **5.1**)
- 3.2.3 Local governments are not required to issue ESL charges for property owned by CBH Group (Cooperative Bulk Handling). Special arrangements apply for these properties requiring DFES to invoice ESL directly to CBH Group.
- 3.2.4 Owners of private rated properties maintain their existing objection and appeal rights against their GRV assessments. This right of appeal is extended to non-rated property.
- 3.2.5 Acts of Parliament, or any other agreements, that have approved special rating arrangements for certain private properties, have no bearing on assessment arrangements for the ESL unless that legislation specifically refers to the ESL.

### **3.3 Multi-Residential Properties**

- 3.3.1 Multi-Residential Properties are generally groups of flats, apartments or units that appear on a single land title and for which one rates assessment is issued. Such properties are classified by Landgate as **Residential** properties. However, these properties also have a number recorded in the “subs” field that is greater than “1”.
- 3.3.2 The maximum ESL to be assessed for these properties shall be equal to the maximum residential ESL charge declared for the levy year, multiplied by the recorded number of dwellings or “subs”. Local government systems automatically calculate the maximum ESL payable for these properties in accordance with this procedure.

*For example, a property classified as ESL Category 1, consisting of 10 residential units on a single assessment (i.e. 10 “subs”) has a maximum ESL charge threshold of 10 times the declared ESL Category 1 residential maximum charge for a residential property.*

- 3.3.3 The minimum ESL to be assessed for multi-residential properties shall be equal to the minimum residential ESL charge declared for the levy year, **irrespective** of the number of dwellings or “subs”.

### **3.4 Property Rated by Local Governments based on Unimproved Value (UV)**

- 3.4.1 ESL charges for properties classified ESL Categories 1 to 4 are to be based on their GRV, including those that are rated by local governments based on UV. Where required and not previously made available, GRVs will be provided to local governments by Landgate, at DFES’ expense, on a DFES GRV ESL roll (refer to **5.1.4**). Existing GRV objection/appeal rights still apply (refer to **3.2.4**).
- 3.4.2 A fixed charge per property applies in ESL Category 5 irrespective of the local government rating arrangements.
- 3.4.3 Should a GRV not be made available by Landgate for a UV rated property located in ESL Categories 1 to 4 at the time of billing ESL, that property is, initially, only to be levied the applicable minimum ESL charge.

### **3.5 Non-Rated Private Property**

- 3.5.1 All private property that is exempt from local government general rates under the *Local Government Act 1995* is nevertheless liable for ESL under the *FES Act*. Special arrangements apply to property owned by local and State Governments. (See **3.6** and **3.7**)
- 3.5.2 GRVs for private non-rated properties that lie within ESL Categories 1 to 4 inclusive have been provided by Landgate on the DFES GRV ESL roll and must be used for ESL determination purposes (refer to **5.1.4**). Existing GRV objection/appeal rights still apply (refer to **3.2.4**).
- 3.5.3 Local governments are required to identify and maintain in their databases, details of private non-rated properties that are located in ESL Category 5 areas. Valuations are not required for these properties as they attract a fixed ESL charge. DFES may request details of the properties from the local government as required.
- 3.5.4 Annual ESL assessments are to be issued by the local government for these private non-rated properties and, subject to **2.2.11**, the local government’s instalment plan options are to apply to those payments in the normal manner.
- 3.5.5 In circumstances where the ESL is the only charge raised upon the property by a local government, and no local government rates or other charges are raised, then the ESL must still be assessed, and a notice served.

### **3.6 Local Government Property**

- 3.6.1 Local governments are required to pay ESL charges on improved property that they own (including improved Crown Land under management of the local government, that is not leased to a third party – refer to **3.9.1**). Local government unimproved properties are exempt from ESL by Regulation 5(a) enacted in accordance with Section 36D of the *FES Act*.
- 3.6.2 Improved property is defined as land upon which a building or other significant physical structure has been erected and which is used to house Council or community services and activities. It excludes monuments, playing fields or

- other sporting or recreational areas, unless they are fully integrated with a significant sporting complex (e.g. tennis courts and large associated clubhouse). In the latter case, all such land will be categorised as improved.
- 3.6.3 Improved properties are determined and valued by Landgate (ESL Categories 1 to 4). While parks, open spaces, ovals, bushland etc. owned by local government are not valued or assessed for ESL purposes, any improvement(s) (as determined by Landgate) on such land is assessable for ESL.
- 3.6.4 Curtilage associated with improvements on local government owned properties is assessable for ESL. This encompasses any land necessary to accommodate buildings and ancillary improvements such as car parks, landscaping and the like, reasonably required under the planning and building regulations. This is determined by Landgate as part of the GRV assessment process.
- 3.6.5 If a local government owns improved land that is leased to a third party (whether rated or not rated), the local government is deemed to be the “owner” and the ESL assessment is to be issued to the local government by the DFES Commissioner. If the property is rated, it will be coded with a ‘9x series’ ESL category code to indicate that it is not to be issued an ESL assessment on a rate notice (refer to **5.1.2**). If local government owned improved land is partly utilised by the local government and partly leased to a third party, then Landgate will (for rates calculation purposes only) issue a part valuation to the local government for the leased area with a ‘9x series’ ESL category code, and also provide DFES with a valuation for the whole of the property (to enable DFES to issue the ESL assessment to the local government).
- 3.6.6 Landgate provides DFES with a full listing of the GRVs for each local government’s own improved property in ESL Categories 1 to 4. This data is maintained by Landgate and provided to DFES on a separate roll. DFES maintains a separate listing of all improved local government owned property that is located in ESL Category 5 areas.
- 3.6.7 A list of improved property owned by each local government (derived from the sources referenced in **3.6.6**) will be distributed to each local government annually in July. Local governments are required to verify these lists and advise of any discrepancies within 30 days of the lists being distributed.
- 3.6.8 Local governments are *not* required to assess ESL on local government owned properties. DFES directly bills ESL to local governments based on the verified, local government improved property lists (refer to **3.6.7**).
- 3.6.9 Local government improved property that is located in another local government jurisdiction is not to be charged ESL by the other local government. It should be classified with an ‘9x series’ ESL Category code to indicate that it will be levied by DFES (refer to **5.1.2**). Local governments should notify Landgate and DFES where this occurs.
- 3.6.10 Direct payment from local governments to DFES in respect of the ESL liability on its own properties is due 35 days from the assessment date. The due date is not to be before 31 October of a given year. Penalty interest, at a rate determined and declared by the Minister (refer to **Schedule 3**), may be charged to local governments by DFES if late payment occurs.

### 3.7 State Government Property

- 3.7.1 DFES directly assesses the ESL payable by State Government Agencies (refer to **Schedule 2**) and by Public Financial, Non-Financial Corporations and Agencies Outside the State's Public Sector (refer to **Schedule 1**) for the property that these entities own, subject to the exceptions described in **3.7.2 to 3.7.5**.
- 3.7.2 Where a local government currently rates the occupier of properties owned by the State Government or Public Financial, Non-Financial Corporations and Agencies Outside the State's Public Sector, (e.g. commercial leases) they are also to bill and collect ESL through the issue of a rates notice in accordance with the applicable sections of this Manual.
- 3.7.3 Where a property is owned by the State Government and partially rated by a local government because part of the building is leased for commercial use, then two, or more, different parties are liable for the ESL. In such cases, local governments are to request Landgate to create separate VENs for the rated portion/s, in order that:
- The VEN which holds the valuation for a portion that is rated can continue to be provided by Landgate to the local government for rating and ESL charging purposes; and
  - The VEN which holds the valuation for a portion that is State Government owned and not leased/rated can be provided by Landgate to DFES for direct billing of the ESL to the Government. This portion will be classified with an '9x series' ESL Category code to indicate that it will be levied by DFES (refer to **5.1.2**).
- 3.7.4 Residential property owned by the Housing Authority (Department of Communities) is to be assessed the ESL by local governments in conjunction with local government rates. If the tenant is responsible for a percentage of the rates (under rental/sales arrangements), then the ESL should be split between the owning agency and the tenant in the same manner that applies to rates. Where applicable, the ESL is to be included in the summary invoice rendered by local governments to these agencies in respect to rates charges.
- 3.7.5 Local governments are **not** required to levy any property owned by the WA Land Authority (a subsidiary of DevelopmentWA). Where these properties are rated by local government, they will continue to appear on rates rolls and should be classified with an '9x series' ESL Category code to indicate that they will be levied by DFES (refer to **5.1.2**). Local governments are encouraged to assist Landgate to identify these properties. When WA Land Authority properties are transferred to private ownership, local governments must advise Landgate to remove ESL Category "9x series" code so that the new property owners are charged ESL on rates notices issued by local governments the next year.
- 3.7.6 Landgate will identify State Government properties located in ESL Categories 1 to 4 for which local governments require valuations but are **not** required to assess ESL. Local governments should assist in the identification of these properties. These properties will be classified with an '9x series' ESL Category code to indicate that they will be levied by DFES (refer to **5.1.2**).

### 3.8 Commonwealth Property

- 3.8.1 In accordance with a national Memorandum of Understanding, the Commonwealth makes a direct contribution to DFES for protection afforded

to Commonwealth properties owned by Australian Government Agencies situated in Western Australia.

- 3.8.2 Accordingly, properties owned by Australian Government Agencies (including Commonwealth property leased to a private concern and property owned by the Australian Broadcasting Corporation) are not subject to the ESL and are not to be assessed ESL by local governments. Where the local government continues to require a valuation for property to be provided on the GRV roll, it should be classified ESL Category 90, to identify that it is not to be levied.

### **3.9 Crown Land**

- 3.9.1 For ESL purposes, the owner of Crown Land is the entity which holds the right to occupy the land. This means that the holder of a management order over the land is deemed to be the owner, unless a lease exists, in which case the lessee is deemed to be the owner. Unallocated Crown Land is deemed to be owned by the State Government for the purposes of the ESL.
- 3.9.2 ESL in respect of Crown Land is to be assessed and billed in the same manner as other property owned by the entity deemed (per **3.9.1**) to be the owner, in accordance with the relevant procedures of this Manual.

### **3.10 Property Owned by Foreign Diplomatic Missions**

- 3.10.1 Property within Western Australia that is **owned** by a foreign diplomatic mission (e.g. an embassy, consulate, or the residence of privileged foreign national) is not to be charged ESL.
- 3.10.2 Where the local government continues to require a valuation for these properties to be provided on the GRV roll, it should be classified ESL Category 90, to identify that it is not to be levied.

### **3.11 Concessions for Pensioners and Seniors**

- 3.11.1 Under the *Rates and Charges (Rebates and Deferments) Act 1992*, pensioners and seniors are entitled to the same rebate/deferment benefits on ESL that applies to local governments rates. The qualifying requirements mirror those that apply to local government rates. To enable pensioners and seniors living under “lease for life” arrangements to qualify for the concession under section 29A or 29B of the *Rates and Charges (Rebates and Deferments) Act 1992*, they must:
- occupy land as a resident of a retirement village or caravan park;
  - have entered into a written prescribed charge arrangement with the administering body by which he or she agrees to pay the prescribed charges on the land which he or she occupies; and
  - remain liable to pay the prescribed charge as an amount payable under the prescribed charge arrangement.
- 3.11.2 Where a pensioner/senior obtains a rebate on their local government rates, such an election will be interpreted to also apply to the ESL. The same applies in relation to a decision to defer, however this does not remove the rights of the pensioner/senior to treat the ESL separately from rates where they elect to do so.
- 3.11.3 No capping is applicable to ESL concession rebates, thus the rebate capping that applies to local government rates do not apply to ESL charges.
- 3.11.4 The operation of the ESL is independent of the concessional arrangements that apply to local government rates and charges. Therefore, any rebate that applies to the ESL does not form part of the concession limit that applies to local government rates and charges.

- 3.11.5 Where a pensioner/senior rebate is allowed on the basis that only a part of the property is used for residential purposes, and the Council makes a determination about the portion of the valuation that is attributed to the residential use in order to determine the rates rebate, then that same determination is also to apply to the ESL charge to determine the ESL rebate.
- 3.11.6 Qualifying pensioners that are exempt from late payment interest on their local government rates are similarly not to be charged any late payment interest on outstanding/overdue ESL. Where appropriate, these amounts are to be deemed to be deferred at the end of each financial year. This follows the practice legislated in the *Local Government Act 1995* and adopted for general rates.
- 3.11.7 Claims for ESL rebates and foregone interest on ESL deferrals are to be generated by local government systems and lodged with the Office of State Revenue (OSR), in accordance with processes currently in place for rates rebates and deferrals. ESL related claims are required to be lodged on separate claim files from those that are currently submitted by local governments for rate rebates and deferral interest.
- 3.11.8 The OSR provides advice on rejected and approved claims and makes payments for approved ESL related rebate and deferral interest claims directly to the local governments.
- 3.11.9 Local governments that administer ESL under “Option A” arrangements are to include the ESL related payments made to them by OSR in their next monthly remittance to DFES and show such amounts in the Monthly Remittance Report (**Schedule 5 – Form B**).

### **3.12 Mining Tenements**

- 3.12.1 Whilst mining tenements are generally rated by local government, the same does not necessarily apply to the ESL. Only tenements defined as “Leases” and Petroleum Production Licences attract the ESL charge.
- 3.12.2 On this basis, the following tenements are assessable and charged ESL:
- Mining and Mineral Leases (Codes M, AM, ML, CML, GML & AML);
  - General Purpose Leases (Codes AG);
  - Tailing Leases and Licences (Codes TL & LTT);
  - Special Licences (Code ASL); and
  - Petroleum Production Licences (Code PPL).
- 3.12.3 The following tenements are exempt from ESL under Regulation 5(b) and (c) enacted in accordance with Section 36D of the *FES Act*:
- Exploration Licences;
  - Prospecting Licences;
  - General Purpose Licences;
  - Miscellaneous Licences;
  - Petroleum Exploration Permits;
  - Retention Licences;
  - Machinery Licences; and
  - Mining and Mineral Claims.
- 3.12.4 Given that local governments already rate these tenements, information of the various lease/licences/permits above is already codified on the rolls. Hence, a special “flag” (DFES Chargeable - “Y” or “N”) has been attached to the tenements referred to in **3.12.2** to facilitate the application of the ESL charge.

- 3.12.5 All mining tenements that are subject to the ESL are to be levied the fixed rate charge (refer to **Schedule 3**), irrespective of the ESL Category in which they are located.
- 3.12.6 If a leviable mining tenement crosses the boundaries of two or more Local Government areas in which the tenement applies, then each Local Government is to levy a fixed ESL charge on the portion of the tenement that is located within their boundary.
- 3.12.7 Mining tenement ESL charges are based on the existence of the leviable mining tenement on 1 July of the levy year. Where a mining tenement that has attracted ESL is cancelled part-way through a financial year, there is no refund (either in part or in full) of the ESL. Mining tenements that were not approved as at 1 July of the levy year are not to be assessed any ESL for that year.

### **3.13 Special Exemptions**

- 3.13.1 Certain properties or types of properties are exempt from ESL by Regulation 5 enacted in accordance with Section 36D of the *FES Act*. Exemptions currently apply to unimproved (vacant) land owned by local governments (refer to **3.6.1**), certain types of Mining Tenements (refer to **3.12**) and the Wittenoom townsite (as declared contaminated land where no emergency services are provided). Where appropriate, local governments are consulted in this regard.
- 3.13.2 Where a special exemption determination is Regulated, the property or properties involved are not to be charged ESL.
- 3.13.3 Local governments will be appropriately advised by DFES/Landgate where exempt properties are rated and located in areas classified as ESL Category 1, 2, 3 or 4. To ensure that exempt properties are not levied, local governments should assist Landgate to identify those Valuation Entity Numbers (VENs) that should have an “ESL Category 90” classification included in the GRV roll (refer to **5.1.2**).

## **4 ESL DETERMINATIONS**

### **4.1 Notification and Determination of ESL Category Boundaries**

- 4.1.1 Regulation 6 to the *FES Act* has established five ESL Category classifications. ESL Category boundaries for areas classified in ESL Categories 1 to 4 have been so declared and published in the *Government Gazette*.
- 4.1.2 All properties located outside of these boundaries are (by default) classified ESL Category 5.

### **4.2 Property Data**

- 4.2.1 On 30 April each year, DFES obtains data from Landgate concerning the GRV and property use type of all properties in ESL Categories 1 to 4, and leviable Mining Tenements.
- 4.2.2 DFES also maintains information from local governments regarding property numbers in ESL Category 5 that are subject to “fixed” ESL charges.
- 4.2.3 This data is used by DFES for its own modelling purposes and to determine ESL rates and operating parameters to apply in the succeeding financial year for each ESL Category.

### **4.3 Property Use Classifications**

- 4.3.1 For the purposes of the application of ESL, the Minister determines what constitutes the various Property Use Categories (as advised by Landgate).
- 4.3.2 The following Property Use Categories have been adopted – Residential, Vacant, Commercial, Industrial, Farming and Miscellaneous. Separate arrangements apply for the Mining Tenements Property Use classification (refer to **3.12**).
- 4.3.3 The Property Use classification of each property in ESL Categories 1 to 4 is provided to local governments by Landgate. Hence, local governments are required to use and maintain this data.
- 4.3.4 Property owners may lodge an objection to the Minister against their Property Use determination and ultimately appeal the Minister’s decision regarding their objection. This process also applies to non-rated properties. All Property Use objections and appeals should be referred to DFES.

### **4.4 Minimum and Maximum ESL Payments**

- 4.4.1 The *FES Act* provides the Minister the flexibility to declare different minimum and maximum ESL payment thresholds, and fixed amount charges, for the various Property Use classifications and the different ESL Categories.
- 4.4.2 The same minimum thresholds currently apply to all properties, across all ESL Categories regardless of Property Use. The Category 5 and Mining Tenement fixed amount is also currently set at the minimum rate. Maximum ESL charge thresholds vary depending on ESL Category and Property Use classifications. In addition, the maximum threshold for ‘Multi-residential’ properties is dependent on the number of ‘sub-properties’ present (refer to **3.3**).
- 4.4.3 The Minister declares the minimum and maximum ESL payments to apply by 31 May each year (or any other “relevant day” that the Minister may declare). The necessary advice is then sent to each local government as set down in **Schedule 3**.
- 4.4.4 Where valuations (GRVs) are required for ESL determination purposes for properties classified in ESL Categories 1 to 4, each property is separately identified by Landgate through the use of a VEN. For the purposes of the application of minimum and maximum ESL payment thresholds, each property (or VEN), is to be considered individually.

### **4.5 Setting the ESL Rates and Penalty Interest Charge**

- 4.5.1 The *FES Act* provides the Minister the flexibility to declare different ESL rates for the various Property Use classifications and the different ESL Categories.
- 4.5.2 Different ESL rates apply for the different ESL Categories and the same ESL rate currently applies to all properties within an ESL Category.
- 4.5.3 The Minister declares the ESL rates by 31 May each year (or any other “relevant day” that the Minister may declare). The necessary advice is then sent to each local government as set down in **Schedule 3**.
- 4.5.4 The Minister has declared the ESL Penalty Interest Charge as shown in **Schedule 3**.



## 5 ESL PROPERTY DATA AND LOCAL GOVERNMENT SYSTEMS

### 5.1 Set up of Local Government Systems for ESL Billing Purposes (Schedule 7 – Diagram A)

- 5.1.1 Local governments are provided with ESL related data (GRV, ESL Category classification, Property Use classification and the Number of Subs) for all properties that are located in ESL Categories 1 to 4 which appear on their GRV rates roll.
- 5.1.2 Where properties are required to appear on a local government GRV rates roll but are not to be levied ESL by the local government, Landgate will flag the property using a '9x series' code for the ESL Category as follows:
- 90 for property is not subject to the levy
  - 91 for property levied by DFES and classified as ESL Category 1
  - 92 for property levied by DFES and classified as ESL Category 2
  - 93 for property levied by DFES and classified as ESL Category 3
  - 94 for property levied by DFES and classified as ESL Category 4
  - 95 for property levied by DFES and classified as ESL Category 5
- 5.1.3 Local governments are requested to advise Landgate to stop supplying GRVs for properties that they no longer need for general rates and/or ESL purposes (i.e. remove those properties from the roll), or code non-leviable properties with the relevant ESL Category '9x series' code if GRVs are still required.
- 5.1.4 Landgate has also created a DFES GRV ESL roll for all **private non-rated** and **UV rated properties** in ESL Categories 1 to 4 that are to be levied ESL on a GRV basis. This roll has been loaded into each local government's property database, with updates provided by Landgate annually in May/June (unless requested otherwise by a local government).
- 5.1.5 DFES maintains a list of "privately owned non-rated properties" and "improved properties owned by the local government", where these properties are located in ESL Category 5 areas. DFES seeks local government assistance to verify this data (refer to **3.5.3** and **3.6.7**). Valuations are not required for these properties for ESL purposes as they each receive only a fixed ESL charge.
- 5.1.6 Local governments are required to invoice ESL to the "privately owned, non-rated properties" that they identify. DFES will centrally invoice the local government for the improved properties owned by the local government which will include ESL Category 5 properties.
- 5.1.7 The existing Mining Tenements UV roll has been modified by Landgate to include a 'flag' (DFES Chargeable – "Y" or "N") against each tenement specifying if it is to be charged a "fixed charge" ESL by the local government. In accordance with current processes, these Mining Tenement rolls, now inclusive of the additional ESL information, are supplied to local governments annually. Wherever feasible, the 'flag' will also be included on periodic updates of mining tenement information.
- 5.1.8 With the exception of exempt Mining Tenements, all other **rateable** property not included on the extracts referred to in **5.1.1**, **5.1.4** or **5.1.5**, are, by default, classified by local government systems as ESL Category 5. The ESL Category classification of each of these rated properties is to be held within each local government's property database and local governments are required to levy them accordingly.

## **5.2 Maintaining Local Government Systems for ESL Billing Purposes (Schedule 7 – Diagrams B & C)**

- 5.2.1 As part of the standard cyclical periodic revaluation process, Landgate will provide local governments with an update of GRV rolls (which will include “private non-rated properties” and “UV rated properties” that require a GRV for ESL billing purposes). This will ensure that all relevant billing information for these properties (GRV, ESL Category and Property Use identifier) is updated in years when a revaluation occurs (every 3 to 6 years, depending on location).
- 5.2.2 In addition to the periodic revaluation updates, when Landgate provides advice of a property valuation change (via an “interim” GRV valuation), the interim schedule also includes the ESL Category classification and Property Use identifier of that property. This information is to be loaded into local government rating systems to maintain the currency of ESL related data.
- 5.2.3 As the ESL is not subject to part-year adjustments, this GRV/ESL related information is only to trigger a reassessment of the ESL payable if it affects the ESL charge that should have been calculated on 1 July. Otherwise, only rates and any other GRV based local government charges are affected.
- 5.2.4 In accordance with normal processes, Mining Tenement UV rolls are also provided annually to update relevant ESL related data. In addition, Mining Tenement Schedules, periodically issued when required throughout a levy year, include a DFES Chargeable - “Y” or “N” flag to indicate whether or not the tenement is to be levied the next full levy year (refer to **3.12**).
- 5.2.5 The ESL Category that applies to particular properties/areas may change when the type of fire and emergency service provided is altered. For example, the establishment of a Career Fire and Rescue Service may alter the ESL Category classification of properties in the area. This would usually increase ESL charges in the next financial year and increase ESL collections from the local government area. All ESL Category amendments are made in consultation with key stakeholders.
- 5.2.6 Where the ESL Category that applies to an area is changed, Landgate will supply the relevant local government(s) the new ESL Category classifications via the GRV roll in a revaluation year, or via an extract report from the valuation system in a non-revaluation year. This information is to be loaded into the local government’s property database and applied for ESL billing.
- 5.2.7 In addition, local governments will receive a separate advice during the year if the Property Use classification of a property changes. This may occur to correct a classification error or may be the result of a successful appeal against a property classification. While no property valuation changes are associated with such advices, these changes may require an adjustment of the original ESL assessment if it affects the ESL charge that should have been calculated on 1 July.
- 5.2.8 At the request of a local government, Landgate will provide extracts of rolls to enable the current ESL related data stored in rates systems to be checked at any time. These extracts are provided in accordance with the terms and conditions established between Landgate and the local government and any charges applicable for this service will be the responsibility of the local government.

## 6 RAISING, COLLECTING AND REMITTING THE LEVY

### 6.1 Calculating and Billing the Annual ESL Charges

- 6.1.1 Local governments determine the ESL amount payable for each property based on the GRV applicable as at 1 July (ESL Categories 1 to 4) and apply the declared fixed ESL charge to properties in ESL Category 5 and Mining Tenements.
- 6.1.2 The *FES Act* and *Regulation 8* issued under subsection 36J (2)(b) currently requires that for ESL purposes the rates/ESL notices display the following ESL related information:
- the Date the notice is issued;
  - a description of the land;
  - the GRV of the property (where applicable and not otherwise shown);
  - the ESL Category;
  - the ESL rate (not required for properties in ESL Category 5 or leviable Mining Tenements);
  - the Property Use classification (not required for properties in ESL Category 5);
  - the total ESL charge (shown as “**Emergency Services Levy**”);
  - payment due by dates;
  - instalment amounts and due dates;
  - any available ESL rebate (may be combined with the rates rebate); and,
  - ESL arrears and ESL penalty interest (may be combined with local government rates arrears).
- 6.1.3 In addition, it is recommended that local governments display the following ESL related advice on the rear of the Rates Notices or on related publications:
- The Emergency Services Levy (ESL) is a State Government charge applicable to all land in WA and is invoiced and collected by local governments on behalf of the Department of Fire and Emergency Services (DFES). The ESL provides the majority of funding required for the emergency services provided by DFES, and for local government Bushfire Brigades and SES units.*
- The amount of ESL to be collected, and the applicable rates and charging parameters, are declared annually by the Minister for Emergency Services.*
- For more information please refer to the DFES website ([www.dfes.wa.gov.au/esl](http://www.dfes.wa.gov.au/esl)) or enquire on 1300 136 099.*
- Local governments are required to seek DFES approval of any additional wording that they may wish to include relating to the ESL.
- 6.1.4 DFES will supply local governments with ESL information material (e.g. brochures or flyers) on an annual basis. Local governments are required to include these in the envelopes containing Rates Notices or, where Rates Notices are distributed electronically, include a link to an electronic version of the flyer, which will be provided by DFES before the start of the levy year.
- 6.1.5 The ESL is to be included, in equal portions, in the instalment option plans available to the property owner. No early payment discounts or instalment plan charges currently apply to the ESL.
- 6.1.6 Unpaid ESL and any associated interest is ultimately secured against the property. As with local government rates charges, the ESL is recoverable on any subsequent sale or disposal of the property.

## 6.2 Special Cases

- 6.2.1 If the ESL is calculated on a property based on its GRV as at 1 July and subsequently sub-divided and re-valued, then the ESL liability (as assessed on 1 July) is to be proportionally allocated between the new sub-divisions based on their new valuations. The combined total allocation should not exceed the original aggregate ESL payment.
- 6.2.2 Where Landgate has issued a “group valuation” that has been adopted by the local government for rating purposes (e.g. a number of contiguous properties with the same property owner/s and recorded under a common VEN), the same arrangements shall apply to ESL and the grouped properties shall be treated as one.
- 6.2.3 If a property that is located in ESL Category 5 crosses over the boundaries of two or more local government districts, and no part of that property forms part of a group valuation (as described in **6.2.2**), the local government with the district name that ranks first alphabetically shall be responsible for issuing the ESL charge (when determining alphabetical order the local government’s title e.g. ‘Shire of’, ‘Town of’ should **not** be considered). The local governments that are not responsible for issuing the ESL charge on such properties must ensure that their rates systems are updated to reflect this.
- 6.2.4 If a property located in ESL Category 5 crosses over the boundaries of two or more ward boundaries within one local government jurisdiction, then the local government is to ensure that only one fixed ESL charge is levied to the property owner.

## 6.3 Calculating Required Adjustments to Annual ESL Charges

- 6.3.1 ESL assessments are based on the GRV applicable on 1 July each year. If there is any change in a property’s “GRV” or “Property Use” classification notified during the financial year, an adjustment of the ESL assessment is only required if the adjustment affects the ESL charge that should have been applied as at 1 July. As no part-year adjustments apply to the ESL, no adjustment is necessary where a GRV or Property Use classification changes during the financial year and the effective date is after 1 July.
- 6.3.2 If, after annual ESL assessments have been issued, advice is received that, to address an error or omission, a variation has been made to a property’s GRV which effects the ESL calculation for any levy year/s, then an adjustment of the ESL assessment can only be made for the **current year** and that adjustment must be processed during the current year. No penalty interest applies where there has been an underpayment.
- 6.3.3 If, after annual ESL assessments have been issued, advice is received that, as a result of an objection to the valuation of land under the *Valuation of Land Act 1978*, a variation has been made to a property’s GRV which affects an annual ESL calculation for any levy year/s, then adjustment/s of the original ESL assessment/s for any year/s is/are to be calculated and a credit or debit invoice issued as appropriate. In cases where credit adjustments apply, if the property owner has overpaid the ESL, then the overpayment is to be refunded along with interest calculated at the prescribed interest rate (refer to **Schedule 3**). In cases where debit adjustments apply, an adjustment notice is to be issued to recover the adjustment amount from the property owner along with interest calculated at the prescribed interest rate (refer to **Schedule 3**). However, no recovery action may occur until 30 days after the adjustment notice was issued.

- 6.3.4 Where an amended ESL assessment is issued, any unpaid adjusted ESL and accumulated interest may be carried forward to the following financial year as arrears.
- 6.3.5 Amended ESL assessments are to be issued on the same notice that contains the adjustment of the property's general rates assessment. If a property is exempt from any local government rates and charges, the amended ESL assessment is to be issued to the property owner on an 'ESL adjustment only' notice.
- 6.3.6 For "Option A" local governments, monies collected from ESL adjustments are to be collected and remitted in the same way that applies to ordinary collections (refer to **2.2.13**) and reported on the Form C. For local governments administering ESL under "Option B" (refer to **2.2.12**), such adjustment amounts are to be taken into account and reported on the Annexure A.

#### **6.4 Mode of ESL Payment**

- 6.4.1 Property owners are to be able to pay ESL using the same payment methods available for payment of their general rates.
- 6.4.2 The cost to local government of the range of payment methods offered has been taken into account in the determination of ESL Administration Fees (refer to Section 6). Changes to these payment profiles will be included in the annual review of the fee arrangements.
- 6.4.3 Where a person specifically elects to pay local government charges but not the ESL, then the funds are to be allocated accordingly (manually if necessary) and the outstanding ESL is to remain as a debt due and attract late payment interest (excludes pensioner deferrals) and be pursued in the usual manner.

#### **6.5 Dealing with Queries Regarding ESL Assessments**

- 6.5.1 Local government officers are expected to offer general advice to property owners regarding ESL assessments.
- 6.5.2 Complex enquiries can be directed to the ESL Help Line (1300 136 099) or to DFES nominated contact points to ensure that all customers are provided with a prompt and informative response.

#### **6.6 ESL Receipting and Acquittance**

- 6.6.1 Local governments are to receipt ESL in the same manner that they receipt general rates. In the ordinary course of events, such payments are to form part of a payment to the local government for general rates and other charges.
- 6.6.2 Where a property owner makes a payment, then the amount is to be acquitted by first discharging all outstanding arrears as follows:
  - Where the local government can accommodate pro-rata allocations, by adopting a pro-rata allocation basis for all arrears charges, including the ESL; **OR**
  - Where the local government acquits payments in a hierarchical manner, then ESL arrears are to precede local government rates arrears.Followed by discharging the balance as follows:
  - Where the local government can accommodate pro-rata allocations, by adopting a pro-rata allocation basis for all current years charges, including the ESL; **OR**

- Where the local government acquits payments in a hierarchical manner, then ESL charges are to precede current local government rates.

6.6.3 If the ESL is the only charge on a notice, then all payments are to be directly acquitted against outstanding ESL amounts.

## **6.7 Accounting and Banking Arrangements**

6.7.1 With the exception of those local governments that administer ESL in accordance with “Option B” (refer to **2.2.12**), it is expected that ESL is not to be regarded as an asset that is “controlled” by a local government. The enacting legislation provides local governments the discretion to bank ESL collections in their Municipal Account or in a Trust Fund. Hence, ESL is to be excluded from the main financial statements and disclosed separately in the notes to each local government’s financial statements (as “administered” but not “controlled” items). Notwithstanding this, the accounting treatment to be adopted with respect to the ESL is a matter to be determined by each local government in consultation with their auditors.

## **6.8 Delinquent ESL Accounts and Write Off Procedures**

6.8.1 Local governments are required to pursue delinquent ESL accounts in the same manner that applies to general rates. The Administration Fee paid by DFES to local governments takes account of costs associated with the pursuit of delinquent debt, including recovery action initiated by local government staff.

6.8.2 Where follow-up action is taken, for local governments that administer ESL in accordance with “Option A”, such costs should form part of the outstanding liability of the particular property owner.

6.8.3 In circumstances where legal action is taken in respect of the ESL, such costs are to be recovered against the debtor. Where a local government is operating under “Option A” and costs are unable to be recovered from the debtor, then legal costs are to be shared between the local governments and DFES on an ad valorem basis. It is expected that legal matters will be the subject of ongoing consultation between DFES and local government.

6.8.4 Delinquent ESL is a charge against the property and ultimately recoverable through sale of the property. In the case of leases/licenses, this may not be the case. However, recourse to the owner under such circumstances may also exist and should be pursued.

6.8.5 ESL arrears are to continue to be shown on annual assessment notices along with accumulated interest (refer to **6.9**) until such time as the debt is cleared by payment or ultimately against the proceeds of the sale or transfer of the property to which the ESL applies.

6.8.6 A local government may submit a request (Form D, refer to **Schedule 9**), to write-off unrecoverable ESL accounts for DFES approval. DFES will examine/investigate applications and will provide local governments advice regarding those accounts that have been approved for write off in accordance with statutory requirements. The request is to identify the property, the property owner, the amount of ESL and ESL interest outstanding and provide a reason for the recommended write-off action. Local governments will be advised if, and when, write-off action has been authorised. A local government is not required to seek approval for the write-off of penalty interest in accordance with the determinations shown in **Schedule 10**.

- 6.8.7 Where a write-off request (submitted as per **6.8.6**) is approved and the local government administers ESL under 'Option A' arrangements, the amount written off is to be reported in the local government's end of year ESL reconciliation (Form C) submission under 'ESL write-offs'. This amount will be deducted from the balance owing to DFES from the local government.
- 6.8.8 Where a write-off request (submitted as per **6.8.6**) is approved and the local government administers ESL under 'Option B' arrangements, no adjustment will be made to the balance owing to DFES from the local government. This is as under the 'Option B' agreement, the local government has agreed to remit to DFES the total ESL billed in a levy year, regardless of whether it is able to be collected. DFES approval of the write-off is nevertheless required to provide local governments authority to clear outstanding ESL balances.
- 6.8.9 Local governments may waive or write-off ESL interest in accordance with the determinations shown in **Schedule 10**.
- 6.8.10 Local governments may negotiate with DFES to administer the recovery action in certain circumstances.

## **6.9 Property Owner Late Payment Penalties**

- 6.9.1 With the exception of qualifying pensioners who are exempt from local government late payment penalty interest on rates/ESL, and subject to the determinations outlined in **Schedule 10**, property owners that fail to pay the required (full or part) payment of the ESL on time are to be charged late payment penalty interest on the ESL at a percentage interest rate declared by the Minister.
- 6.9.2 This penalty interest rate is declared by the Minister and notified to local governments (refer to **Schedule 3**). Subject to the determinations outlined in **Schedule 10**, local governments are required to apply the late payment penalty interest rate to the ESL. The same late payment penalty interest rate applies to unpaid ESL amounts regardless of whether the ESL assessment is issued by the local government or by DFES.
- 6.9.3 Late payment penalty interest charges associated with unpaid ESL amounts are to be calculated by local governments at the end of each levy year and included (with arrears) on the rates/ESL assessment notice issued for the succeeding financial year.
- 6.9.4 Subject to the determinations outlined in **Schedule 10**, outstanding late payment penalty interest arrears are also subjected to late payment penalty interest. Accordingly, all outstanding ESL arrears balances, inclusive of penalty interest arrears, are to be taken into account when calculating the amount of penalty interest to be charged.

## **6.10 ESL Investment by Local Governments**

- 6.10.1 Local Governments may invest any ESL that has been collected, prior to remitting collections to DFES, in accordance with the investment provisions of the *Local Government Act 1995*.
- 6.10.2 Local Governments may retain, as part of its ordinary revenues, all of the interest earned on the investment of the ESL prior to remitting collections to DFES.

## **6.11 ESL Remittance Timelines for Local Government**

- 6.11.1 With the exception of local governments that elect to administer ESL in accordance with "Option B" and unless otherwise declared, each participating

local government is required to remit to DFES all ESL collected during a calendar month by the close of business on the 21st day of the next month. Where the 21st day of the month is not a working day, then ESL collections are to be remitted to DFES by the close of business on the **previous** working day.

- 6.11.2 ESL collections/payments are to be remitted to DFES electronically (EFT) where possible.
- 6.11.3 Those local governments that administer ESL in accordance with “Option A” are to submit a remittance report (refer to Form B **Schedule 5**) at the same time that they remit their ESL collections. A “zero” return must be lodged where there are no ESL collections in the previous month.
- 6.11.4 A late payment interest rate is declared by the Minister, published in the *Government Gazette*, shown in **Schedule 3**, and notified to local governments by DFES by 31 May (or any other “relevant day” that the Minister may determine).
- 6.11.5 Local governments that fail to remit the ESL or make payments to DFES in accordance with the agreed timetable may be issued a “Late Remittance/Payment Interest Notice” by DFES when their remittance or payment is eventually received.
- 6.11.6 Local governments that elect to administer ESL under the “Option B” ESL arrangements (refer to **2.2.12**) are required to remit ESL in accordance with their agreement

## **6.12 Concessions Funding and Accounting**

- 6.12.1 Local governments are required to claim funding for ESL concessions in a similar way that rates concessions are claimed via the OSR.
- 6.12.2 Separate claim files are required to be lodged for ESL rebates and ESL deferment costs. Rates systems have been automated in order that appropriate support information is generated to accompany ESL rebate claims (periodic) and ESL deferment interest claims (annual) for lodgment with the OSR (in accordance with processes/timelines currently adopted for rates related rebate/deferment claims).
- 6.12.3 The OSR will approve ESL related claims that qualify for rebates and deferment interest and forward payment and claim approval advice to local governments.
- 6.12.4 With the exception of local governments that administer ESL under “Option B” arrangements (refer to **2.2.12**), local governments are required to on-forward ESL related payments to DFES made to them by the OSR in the following month.
- 6.12.5 If a concession is granted to rates and ESL that is subsequently found to be in error, then the local government is to pursue the property owner to obtain the ESL balance when pursuing outstanding rates.

## **6.13 Reporting Arrangements**

- 6.13.1 To facilitate the provision of the information required by DFES, local government databases have been upgraded to enable them to generate reports associated with the administration of ESL.
- 6.13.2 In order to advise the actual amount of ESL invoiced on rates notices issued each financial year, local governments are required to complete and submit



to DFES, a signed Form A (shown at **Schedule 4**) within 14 days of the annual issue of rates notices.

6.13.3 A Form B (shown at **Schedule 5**) is to be completed by local governments that elect to administer ESL in accordance with “Option A” and is to be submitted to DFES to accompany each monthly ESL remittance by the 21st of the month. (Payments made by local governments for their own properties are **not** to be included on Form B). A “zero” return must be lodged where there are no ESL collections in the previous month.

6.13.4 At the end of each financial year, and no later than 31 July of the following financial year, local governments that administer the ESL under ‘Option A’ are to submit to DFES a signed **Form C** (shown at **Schedule 6**), to report mid-year levy adjustments, approved ESL write-offs and the end of year status of levy collections.

6.13.5 At the end of each financial year, and no later than 31 July of the following financial year, local governments that administer the ESL under ‘Option B’ are to submit to DFES a signed **Annexure A** (shown at **Schedule 8**), to report mid-year ESL billing adjustments.

6.13.6 For local governments that administer ESL in accordance with “Option A”:

- ESL interest written-off as part of the ESL interest determinations (shown at **Schedule 10**) are to be reported to DFES through inclusion with the write-off amounts reported in the Form C submission (refer to **5.13.4**); and
- Records are to be kept detailing ESL interest waived as part of the ESL interest determinations (shown at **Schedule 10**). These records are to show the amount of interest waived against each assessment and are to be provided to DFES if requested.

6.13.7 Local governments that administer ESL in accordance with “Option B” are not required to report ESL interest written-off as part of the ESL interest determination (shown at **Schedule 10**) to DFES.

## **6.14 Auditing Provisions**

6.14.1 As part of the annual financial procedures, local governments are to subject their ESL administration processes and procedures to standard audit processes to ensure compliance with this Manual and the enabling legislation.

## **7 FEES PAYABLE TO LOCAL GOVERNMENTS BY DFES**

### **7.1 Fee Calculation and Payment**

7.1.1 For administering the ESL, local governments are paid an annual ESL administration fee which is determined by the Minister in accordance with agreed arrangements.

7.1.2 The ESL administration fee is paid to local governments by 31 October each year. Where a local government has not advised DFES with a Form A for that year, an estimate provided by DFES will be used in calculating the administration fee payment to that local government.

7.1.3 The aggregate ESL administration fee to be paid to local governments will be notified to local governments by DFES (Refer to **Schedule 3**).

7.1.4 The fee will be distributed based on a formula, which will incorporate:

- a percentage payment to each local government for the value of ESL raised; plus

- a balancing payment based on the number of ESL notices issued by each local government; subject to:
  - a minimum payment per local government as determined by DFES;
  - with the proviso that the payment to each local government cannot exceed 25% of the amount of ESL invoiced.

## **7.2 Basis of Fee Payment**

7.2.1 The ESL administration fee recognises and compensates local governments for the following ESL administrative functions:

- Maintaining a complete list of properties and their GRVs (where applicable) that are liable for ESL assessment;
- Maintenance of GRVs for those properties not subject to normal local government rating that are charged ESL;
- Calculation of annual ESL assessments and adjustments;
- Invoicing of annual and adjusted ESL;
- Administering ESL concessions schemes for pensioners/seniors;
- Dealing with general ESL queries;
- Collecting the ESL;
- Pursuing delinquent ESL in conjunction with outstanding rates accounts, including the issue of a letter signalling intent to initiate legal proceedings where necessary;
- Acquitting the ESL;
- Accounting for and auditing the ESL;
- Banking the ESL (including associated bank/account charges);
- Remitting the ESL to DFES;
- Producing and transmitting the required ESL related reports;
- On-forwarding OSR pensioner/senior concession payments;
- Transmitting ESL administrative reports to DFES;
- Producing and transmitting other “periodic” ESL related information to DFES that may be required from time to time; and
- Ongoing maintenance of existing ESL administration functionality in rates systems.

7.2.2 DFES has financed changes to local governments’ software systems to automate the majority of these ESL functional requirements.

## SCHEDULE 1 PUBLIC NON-FINANCIAL AND FINANCIAL CORPORATIONS, AND AGENCIES OUTSIDE THE STATE'S PUBLIC SECTOR

Local governments are **not** required to issue ESL assessments to the Corporations/Agencies listed below as DFES will issue ESL assessments, subject to the following:

- If a property owned by a Corporation/Agency listed below is subject to local government rates, the property should also be billed the ESL on the rates notice issued by the local government (refer to **3.7.2**).
- Special rules apply for property owned by the Housing Authority (refer to **3.7.4**), Western Australian Land Authority (refer to **3.7.5**) and Cooperative Bulk Handling (refer to **3.2.3**).

### **Public Non-Financial Corporations**

Animal Resources Authority  
Bunbury Water Corporation  
Busselton Water Corporation  
Department of Communities (Housing Authority)  
Electricity Networks Corporation (Western Power)  
Electricity Generation and Retail Corporation (Synergy)  
Forest Products Commission  
Fremantle Port Authority  
Gold Corporation and its subsidiaries  
Kimberly Ports Authority  
Lotteries Commission  
Metropolitan Cemeteries Board

Metropolitan Redevelopment Authority  
Mid West Ports Authority  
Pilbara Ports Authority  
Public Transport Authority of Western Australia  
Racing and Wagering Western Australia  
Regional Power Corporation (Horizon Power)  
Rottnest Island Authority  
Southern Ports Authority  
Water Corporation  
Western Australian Coastal Shipping Commission  
Western Australian Land Authority

### **Public Financial Corporations**

Country Housing Authority  
Insurance Commission of Western Australia  
Keystart Housing Scheme, comprising  
Keystart Bonds Ltd  
Keystart Loans Ltd  
Keystart Support Pty Ltd  
Keystart Support (Subsidiary) Pty Ltd  
Keystart Housing Scheme Trust  
Keystart Support Trust

RiskCover  
Western Australian Treasury Corporation

### **Agencies Outside the State's Public Sector**

Construction Industry Long Service Leave Payments Board  
Curtin University and its subsidiaries  
Edith Cowan University  
Fire and Emergency Services Superannuation Board  
Government Employees Superannuation Board

Legal Contribution Trust  
Murdoch University and its subsidiaries  
Public Trustee  
Parliamentary Superannuation Board  
The University of Western Australia and its subsidiaries

*Source: 2020-21 Economic and Fiscal Outlook – Budget Paper No. 3 (Appendix 1)*

## SCHEDULE 2 STATE GOVERNMENT AGENCIES

The State Government will make a single direct ESL payment to DFES for property owned by the Agencies listed below. However, if a property owned by an Agency listed below is subject to local government rates, then the property should instead be billed the ESL on the rates notice issued by the local government (refer to 3.7.2).

Source: Economic and Fiscal Outlook – Budget Paper No. 3 (Appendix 1)

### General Government

Agricultural Produce Commission	Mid-West Development Commission
Building and Construction Industry Training Board	North Metropolitan TAFE
Botanical Gardens and Parks Authority	North Metropolitan Health Service
Central Regional TAFE	North Regional TAFE
Chemistry Centre (WA)	Office of the Auditor General
Child and Adolescent Health Service	Office of the Director of Public Prosecutions
Combat Sports Commission	Office of the Information Commissioner
Commissioner for Children and Young People	Office of the Inspector of Custodial Services
Commissioner for Equal Opportunity	Office of the Parliamentary Inspector of the Corruption and Crime Commission
Commissioner of Main Roads	Parliamentary Commissioner for Administrative Investigations
Corruption and Crime Commission	Parliamentary Services Department
Department of Biodiversity Conservation and Attractions	Peel Development Commission
Department of Communities	Perth Theatre Trust
Department of Education	Pilbara Development Commission
Department of Finance	Professional Standards Council
Department of Fire and Emergency Services	Public Sector Commission
Department of Health (including public hospitals)	Quadriplegic Centre Board
Department of Jobs, Tourism, Science and Innovation	Racing Penalties Appeal Tribunal of Western Australia
Department of Justice	Rural Business Development Corporation
Department of Local Government, Sport and Cultural Industries	Salaries and Allowances Tribunal
Department of Mines, Industry Regulation and Safety	School Curriculum and Standards Authority
Department of Planning, Lands and Heritage	ScreenWest Inc.
Department of Primary Industries and Regional Development	Small Business Development Corporation
Department of Training and Workforce Development	South Metropolitan TAFE
Department of Transport	South Metropolitan Health Service
Department of Treasury	South Regional TAFE
Department of the Legislative Assembly	South West Development Commission
Department of the Legislative Council	The Aboriginal Affairs Planning Authority
Department of the Premier and Cabinet	The ANZAC Day Trust
Department of the Registrar, Western Australian Industrial Relations Commission	The Board of the Art Gallery of Western Australia
Department of Water and Environmental Regulation	The Burswood Park Board
Disability Services Commission	The Coal Miners' Welfare Board of Western Australia
East Metropolitan Health Service	The Library Board of Western Australia
Economic Regulation Authority	The National Trust of Australia (W.A.)
Gascoyne Development Commission	The Queen Elizabeth II Medical Centre Trust
Gaming and Wagering Commission of Western Australia	The Western Australia Museum
Goldfields Development Commission	Trustees of the Public Education Endowment
Governor's Establishment	Western Australia Police Force
Great Southern Development Commission	Western Australian Country Health Service
Health and Disability Services Complaints Office	Western Australian Building Management Authority
Health Support Services	Western Australian Electoral Commission
Heritage Council of Western Australia	Western Australian Energy Disputes Arbitrator
Independent Market Operator	Western Australian Greyhound Racing Association
Keep Australia Beautiful Council (W.A.)	Western Australian Health Promotion Foundation
Kimberley Development Commission	Western Australian Institute of Sport
Law Reform Commission of Western Australia	Western Australian Land Information Authority
Legal Aid Commission of Western Australia	Western Australian Meat Industry Authority
Legal Costs Committee	Western Australian Planning Commission
Local Health Authorities Analytical Committee	Western Australian Sports Centre Trust
Mental Health Commission	WorkCover Western Australia Authority
Minerals Research Institute of Western Australia	Wheatbelt Development Commission
	Zoological Parks Board

**SCHEDULE 3  
 Emergency Services Levy Rates and Declarations 2021-22**

<b>ESL Rates and Charging Paramters [Refer to 4.4 &amp; 4.5]</b>									
ESL Category	Parameter	Property Use							
		Res (Single)	Res (Multiple)	Vac	Farm	Comm	Indust	Misc	Mining Tenement
ESL Cat 1	Min	\$88	\$88	\$88	\$88	\$88	\$88	\$88	\$88 Fixed Charge
	Max	\$446	Subs x \$446	\$446	\$446	\$254,000	\$254,000	\$254,000	
	ESL Rate	\$0.015497	\$0.015497	\$0.015497	\$0.015497	\$0.015497	\$0.015497	\$0.015497	
ESL Cat 2	Min	\$88	\$88	\$88	\$88	\$88	\$88	\$88	
	Max	\$335	Subs x \$335	\$335	\$335	\$191,000	\$191,000	\$191,000	
	ESL Rate	\$0.011623	\$0.011623	\$0.011623	\$0.011623	\$0.011623	\$0.011623	\$0.011623	
ESL Cat 3	Min	\$88	\$88	\$88	\$88	\$88	\$88	\$88	
	Max	\$223	Subs x \$223	\$223	\$223	\$127,000	\$127,000	\$127,000	
	ESL Rate	\$0.007748	\$0.007748	\$0.007748	\$0.007748	\$0.007748	\$0.007748	\$0.007748	
ESL Cat 4	Min	\$88	\$88	\$88	\$88	\$88	\$88	\$88	
	Max	\$156	Subs x \$156	\$156	\$156	\$89,000	\$89,000	\$89,000	
	ESL Rate	\$0.005424	\$0.005424	\$0.005424	\$0.005424	\$0.005424	\$0.005424	\$0.005424	
ESL Cat 5	Fixed Charge	\$88							

**Note:**

There are not separate property use classifications for "Residential (single)" and "Residential (Multiple)" properties. All residential properties are classified as "R" (residential) and Local Government rates/ESL Billing Systems perform a sub-routine to calculate the maximum ESL charge that applies if a single ownership residential property contains more than 1 dwelling (or "sub" as it appears in Landgate property records).

<b>Late Payment of ESL – Interest Rate - FES Act s36S(2) [Refer to 4.5.4 &amp; 6.9.2]</b>	<b>7%*</b>
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<b>Late Remittance of ESL – Interest Rate - FES Act s36X(2) [Refer to 6.11.4]</b>	<b>7%</b>
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<b>ESL Adjustment Refund/Recovery – Interest Rate - FES Act s36ZH(3) &amp; Reg 11 [Refer to 6.3.3 and 6.3.4]</b>	<b>7%</b>
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<b>Instalment Plan to be Offered [Refer to 2.2.11]</b>	
Where the ESL is the only charge on the notice sent to the property owner, Local Governments are required to offer a four-payment instalment plan where the ESL charge is equal to, or more than:	<b>\$200</b>

<b>ESL Administration Fee [Refer to 7.1.3]</b>	<b>\$2,250,000</b>
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\* Subject to the ESL Interest Determinations as shown at **Schedule 10**.

## SCHEDULE 4 EMERGENCY SERVICES LEVY BILLING DECLARATION FORM (FORM A)

Form A

### DECLARATION OF ANNUAL EMERGENCY SERVICES LEVY BILLING CURRENT YEAR ONLY

(To be Submitted to DFES Within 14 Days of the Annual Rates Run)

Return For Financial Year:

[Insert Local Government Name]

[Australian Business No.]

Ref	Property Use	Current Year ESL Only - As Applicable to Each ESL Category											
		ESL Category 1		ESL Category 2		ESL Category 3		ESL Category 4		ESL Category 5		TOTAL	
		No. of Assessments	ESL Billed (\$)	No. of Assessments	ESL Billed (\$)	No. of Assessments	ESL Billed (\$)	No. of Assessments	ESL Billed (\$)	No. of Assessments	ESL Billed (\$)	No. of Assessments	ESL Billed (\$)
1	Residential												
2	Vacant												
3	Farming												
4	Commercial												
5	Industrial												
6	Miscellaneous												
7	Mining Tenements												
8	ESL Category 5												
9	<b>TOTAL</b>												

**Declaration of Accuracy & Compliance**  *[Signature]*  / /   
*[Date]*

**Name of Declaring Officer**  *[Please Print]*

**Position Title of Declaring Officer**  *[Please Print]*

**Contact Details of Declaring Officer**  *[Phone]*  *[Email]*

**SCHEDULE 5  
 EMERGENCY SERVICES LEVY REMITTANCE ADVICE RETURN (FORM B)**

*Form B*

**EMERGENCY SERVICES LEVY REMITTANCE REPORT**  
 (To be submitted to DFES to Support each Month's ESL Collections)

Return For Month:

*[Insert Local Government Name]*

*[Australian Business No.]*

Ref	Property Use		ESL Collected (\$) As Applicable to Each ESL Category					TOTAL
			ESL Category 1	ESL Category 2	ESL Category 3	ESL Category 4	ESL Category 5	
1	Residential	Previous Years						
2		Current Year						
3	Vacant	Previous Years						
4		Current Year						
5	Farming	Previous Years						
6		Current Year						
7	Commercial	Previous Years						
8		Current Year						
9	Industrial	Previous Years						
10		Current Year						
11	Miscellaneous	Previous Years						
12		Current Year						
13	Mining Tenements	Previous Years						
14		Current Year						
15	ESL Category 5	Previous Years						
16		Current Year						
17	TOTAL ESL	Previous Years						
18		Current Year						
19	PLUS Interest Collected							
20	ESL Rebate (Paid by OSR)							
21	ESL Deferment Interest (Paid by OSR)							
22	TOTAL REMIT TO DFES							

Name of Contact Officer  *[Please Print]*  / /  
*[ Date ]*

Title of Contact Officer  *[Please Print]*

Contact Details  *[ Phone ]*  *[ E-mail ]*

**SCHEDULE 6  
 EMERGENCY SERVICES LEVY END OF YEAR RECONCILIATION REPORT FORM (FORM C)**

*Form C*

**EMERGENCY SERVICES LEVY  
 ANNUAL RECONCILIATION ADVICE**

(To be Submitted to DFES by 31 July for the Preceding Financial Year Ending 30 June)

Return For Financial Year:

[Insert Local Government Name]

[Australian Business Number]

Ref	Item	ESL Category 1	ESL Category 2	ESL Category 3	ESL Category 4	ESL Category 5	TOTAL
1	Balance Brought Forward From Previous Year (Arrears ESL and Interest)						
2	ESL Raised in Current Year (Total on Form A)						
3	<b>Total ESL Collectable (Including Interest) [ 1+2 ]</b>						
	<b>Plus or Less</b>						
4	Interest Raised and Interest Adjustments						
5	ESL Adjustments						
6	ESL Write-Offs						
7	Rebate Claims (To be Lodged, Lodged and/or Paid by SRD)						
8	<b>Total Adjusted ESL Collectable (Including Interest) [ 3+4+5+6+7 ]</b>						
	<b>Less</b>						
9	Current Year ESL Collections						
10	Previous Year ESL Collections						
11	Interest Collections						
12	<b>Total Collections (Total of Form B) [ 9+10+11 ]</b>						
13	<b>Balance Owing [ 8 - 12 ]</b>	Deferred					
14		Other					

Declaration of Accuracy & Compliance

[Signature]

[Signature]

/ /

[Date]

Name of Declaring Officer

[Please Print]

[Please Print]

Position Title of Declaring Officer

[Please Print]

[Please Print]

Contact Details of Declaring Officer

[Phone]

[Phone]

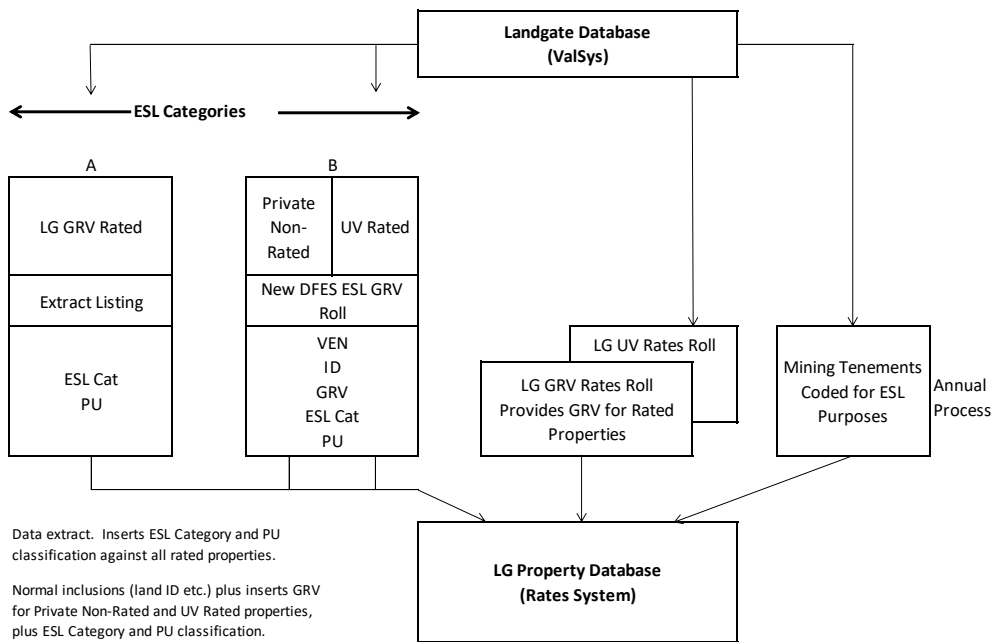
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**SCHEDULE 7**  
**PROVISION OF PROPERTY RELATED DATA AND ESL BILLING INFORMATION TO LOCAL GOVERNMENTS BY LANDGATE WHEN ESL CATEGORY CHANGES FROM 5 TO 1,2,3 OR 4.**

A. Project Initialisation



**A** Data extract. Inserts ESL Category and PU classification against all rated properties.

**B** Normal inclusions (land ID etc.) plus inserts GRV for Private Non-Rated and UV Rated properties, plus ESL Category and PU classification.

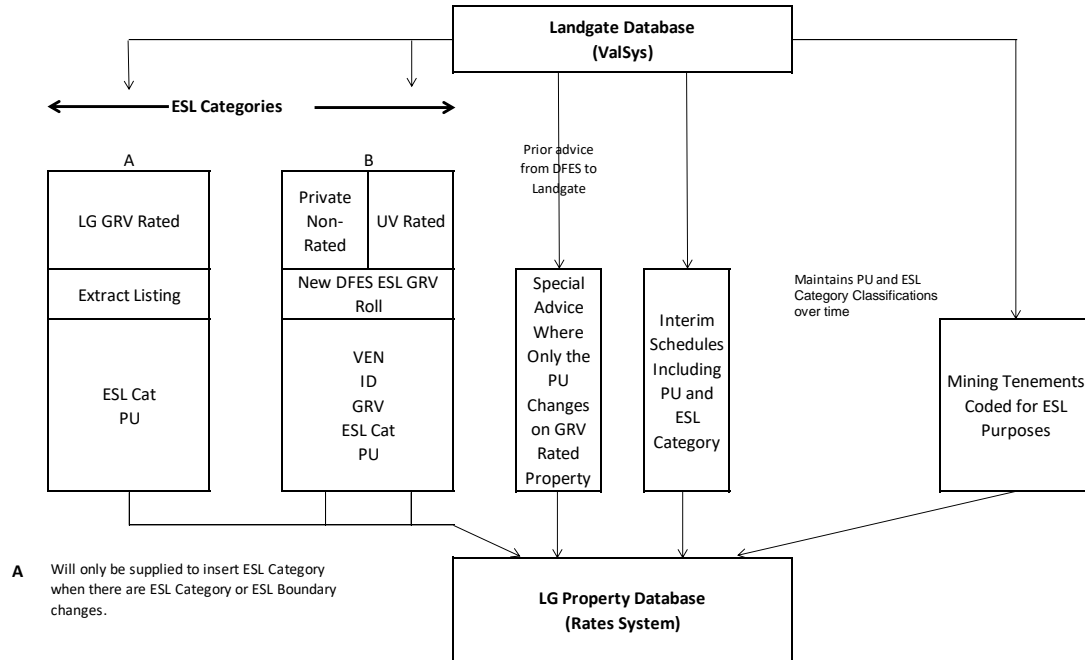
**Note:** ESL Category 5 inserted by default by local government systems against rated properties that are not referenced in A or B above.

**Local Government to:**

- 1 Add private non-rated in ESL Category 5.
- 2 Confirm billing address details for private non-rated properties
- 3 Advise DFES of their own improved property numbers in ESL Category 5 areas.
- 4 Input ESL rates and charging parameters.

**PROVISION OF PROPERTY RELATED DATA AND ESL BILLING INFORMATION TO LOCAL GOVERNMENTS BY LANDGATE VIA INTERIMS**

**B. System Maintenance**



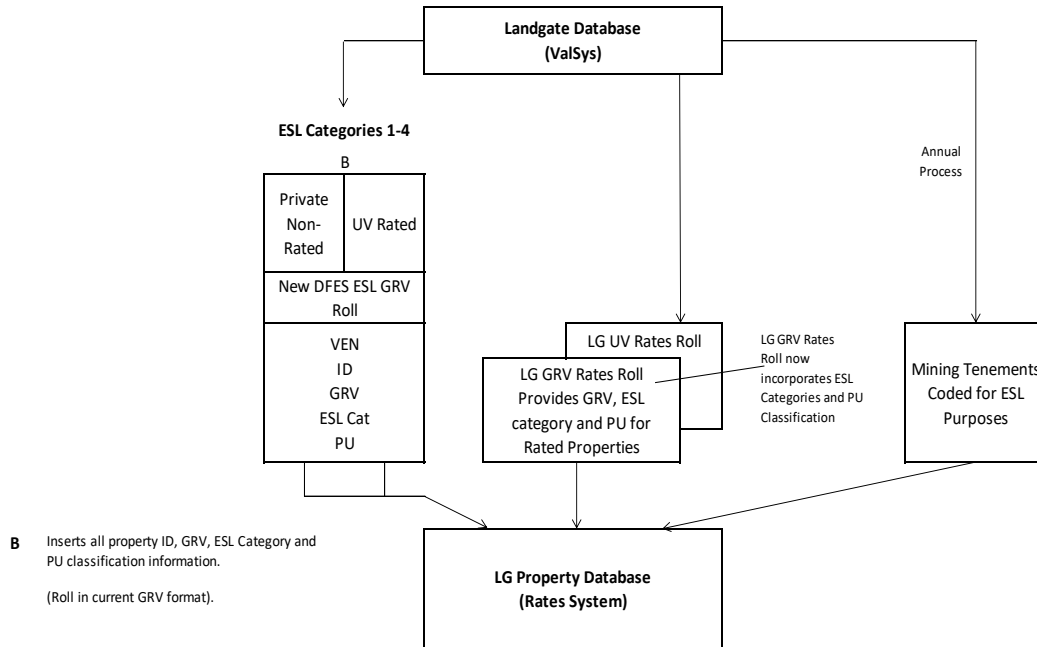
- A** Will only be supplied to insert ESL Category when there are ESL Category or ESL Boundary changes.
- B** Updates any changes from last year and inserts GRV for Private Non-Rated and UV Rated properties, and when ESL Category/PU changes.

**Local Government to:**

- 1 Add new private non-rated in ESL Category 5.
- 2 Confirm billing address details for new private non-rated properties
- 3 Advise DFES of any changes in their own improved property numbers in ESL Category 5 areas.
- 4 Imports new PU and ESL Categories as part of the normal interim schedules update process.
- 5 Imports PU changes only when PU is required to change.
- 6 Input ESL rates and charging parameters each year.

**PROVISION OF PROPERTY RELATED DATA AND ESL BILLING INFORMATION TO LOCAL GOVERNMENTS BY LANDGATE VIA REVALUATIONS**

C. Revaluations



**SCHEDULE 8**  
**OPTION B AGREEMENT – ALTERNATE ESL ADMINISTRATION ARRANGEMENT**

THIS AGREEMENT is made the 1st day of July XXXX

BETWEEN

The **Department of Fire and Emergency Services**, established by the *Fire and Emergency Services Act 1998*, of 20 Stockton Bend, Cockburn Central WA ("**DFES**")

AND

the local government whose name and address appear in Item 1 of the Schedule hereto ("**LG**")

WHEREAS

- (A) Under section 36ZJ of the Fire and Emergency Services Act 1998 ("**the FES Act**") DFES may, with the approval of the Minister, enter into a written agreement with a local government that provides for the local government to pay to DFES an amount equal to the total amount of levy payable for a levy year on all leviable land in the local government's district.
- (B) The LG is a local government incorporated under the *Local Government Act 1995* and has agreed to enter into this ESL agreement with DFES.
- (C) The Minister for Emergency Services; Corrective Services has approved DFES entering into this ESL agreement.

NOW THE PARTIES HERETO AGREE AND DECLARE as follows:-

1. Words and expressions specifically defined in the FES Act whenever used in this ESL agreement shall have the same meaning as in the FES Act unless expressly defined herein or the context otherwise requires.
2. This ESL agreement is made subject to the provisions of the FES Act and the parties hereto shall observe, perform and comply with all applicable provisions of the FES Act and the Regulations thereunder and any Ministerial guidelines for the time being issued by the Minister under section 36Y of the FES Act ("**the Guidelines**") as if fully set forth herein as agreements by the parties.
3. This ESL agreement shall commence on the date mentioned in Item 2 of the Schedule ("**the Commencement Date**") and shall endure until one of the parties gives to the other at least 3 months written notice that this ESL agreement is to terminate ("Term") whereupon after the said period of notice this ESL agreement is to end.
4. The LG shall calculate the total amount of levy payable for each separate levy year the subject of this ESL agreement on all leviable land, excluding land owned by the LG, for the time being in the LG's district ("**the Total ESL**") at the time or times and in the manner specified in the FES Act and Regulations thereunder and the Guidelines.

5. (a) The LG shall pay to DFES the Total ESL for the current levy year without abatement or deduction whatsoever EITHER:
- (i) by four instalments on the twenty-first day of the months of September, December, March and June respectively of that levy year; OR
  - (ii) with the prior written consent of DFES, by one single instalment on the twenty-first day of September in the levy year.
- The payment option to apply will be specified in Item 3 of the Schedule ("**Elected Payment Option**").
- (b) The September, December and March instalments under clause 5(a)(i) shall each be for an amount equal to thirty per cent (30%) of the Total ESL for that levy year.
  - (c) The June instalment under clause 5(a)(i) shall be for an amount equal to ten per cent (10%) of the Total ESL for that levy year.
  - (d) The LG must ensure that each instalment under clause 5(a)(i) or 5(a)(ii) (as the case may be) is received by DFES no later than 5.00 p.m. on the date hereinbefore fixed for payment of that instalment, and in this respect time shall be of the essence of this agreement PROVIDED that if the date fixed for payment of an instalment is a Saturday, a Sunday or a gazetted public holiday in Western Australia, the LG must ensure that the instalment is received by DFES prior to that date on a day which is not a Saturday, Sunday or gazetted public holiday.
6. (a) Within fourteen (14) days after the date of issue by the LG of its levy assessment notices in each levy year, the LG must duly complete and deliver to DFES an Emergency Services Levy Assessment Profile Return Form in accordance with Schedule 4 of DFES's Emergency Services Levy Manual of Operating Procedures issued for the leviable year concerned.
- (b) In the event that an Emergency Services Levy Assessment Profile Return Form is not delivered by 1 September of the leviable year concerned, **DFES will estimate** the ESL payable for land that is located within the LG area concerned. This ESL billing estimate will determine quarterly instalment amounts under clause 5(a)(i) or the single payment amount under clause 5(a)(ii) and any variation between the LG assessment and the DFES estimate will be adjusted in the next instalment for a LG paying quarterly instalments under clause 5(a)(i) or as a special adjustment (invoice for increase or refund for reduction, as the case may be) for a LG making a single payment under clause 5(a)(ii).

- (c) Following the completion of each and every levy year to which this Agreement relates, and prior to 31 July next, the LG must duly complete and provide to DFES an ADVICE OF EMERGENCY SERVICES LEVY ADJUSTMENT ("ADVICE"), in the form of Annexure "A" hereto, containing full written details of any adjustments made or required to be made to any of the figures previously supplied to DFES by the LG, under the provisions of this ESL agreement, to ensure that payments due under this Agreement can be accurately calculated in accordance with clauses 6(d) and 5(e).
  
  - (d) Where any adjustments have been made to any of the figures previously supplied to DFES by the LG under the provisions of this ESL agreement and full written details of those adjustments have been supplied to DFES under clause 6(c), by a LG making payments in accordance with clause 5(a)(i):
    - (i) on or before 31 May, then, if requested by the LG, the June instalment of that levy year will be increased or reduced (as may be appropriate) by the full nett amount of any adjustments referred to in the ADVICE provided by the LG under clause 6(c); or
    - (ii) on or before 31 July, then the September instalment of the next levy year will be increased or reduced (as may be appropriate) by the full nett amount of any adjustments referred to in the ADVICE provided by the LG under clause 6(c); or
    - (iii) after 31 July, the next available levy instalment will be increased or reduced (as may be appropriate) by the full nett amount of any adjustments referred to in the ADVICE provided by the LG under clause 6(c).
  
  - (e) Where the LG with the prior written consent of DFES pays to DFES the Total ESL for the current levy year by one single instalment under clause 5(a)(ii), the provisions of clauses 5(b), 5(c), and 6(d)(i) shall not apply. If 6(d)(iii) applies the LG must pay to DFES the full amount of any adjustment due and owing to DFES contemporaneously with its provision of the ADVICE, or DFES must refund to LG the full amount of any overpayment by LG within 21 days of receipt of the ADVICE.
7. DFES shall pay to the LG the fees determined by the Minister from time to time under section 36W of the FES Act for the LG's assessment, collection and recovery of the levy and levy interest in each levy year, not later than 31 October in the levy year.

8. (a) EXCEPT as expressly provided in this ESL agreement, DFES shall not be liable or obliged to pay or reimburse the LG for any loss, costs, fees, charges, duties, expenses or liabilities whatsoever in respect of or arising out of or related to the assessment, collection and recovery of the levy or levy interest or the performance of the LG's obligations under this ESL agreement or the FES Act.
- (b) The LG must pay to DFES in full all monies payable by the LG to DFES under this ESL agreement on the due dates for payment thereof notwithstanding that the LG has failed or been unable to collect, recover or receive any of those monies from the person or persons liable for payment thereof for whatever reason or cause.
9. (a) If the LG commits a breach or default of any provision of this ESL agreement or the FES Act which is capable of being remedied by subsequent performance, DFES may, without prejudice to any right of action or remedy which has accrued or may accrue in favour of either party, by notice in writing to the LG specify the breach or default and require the LG within a reasonable time specified in the notice to remedy the breach or default.
- (b) DFES may, by notice in writing to the LG, immediately terminate this ESL agreement in whole or in part, but without prejudice to any right of action or remedy which has accrued or may accrue in favour of either party where the:-
  - (i) LG is in breach or default of a material or essential term of this ESL agreement, whether or not DFES has given notice under paragraph (a) herein in relation to that breach or default;
  - (ii) LG has failed to comply with a notice under paragraph (a) of this clause;
  - (iii) LG commits a breach or default under this ESL agreement or the FES Act which is not capable of being remedied, whether or not DFES has given notice under paragraph (a) in relation to that breach or default; or
  - (iv) Council of the LG is suspended or dismissed under Part 8 of the *Local Government Act 1995*.
10. The provisions of this Agreement may only be changed by written agreement between the parties.
11. DFES and the LG shall also observe, perform and comply with the Additional Clauses (if any) contained in Item 4 of the Schedule hereto.

In witness whereof the parties have executed this ESL agreement on the day and year first hereinbefore written.

**Darren Klemm AFSM**  
**Commissioner**  
**Department of Fire and Emergency Services**

\_\_\_\_\_ Commissioner

in the presence of:

\_\_\_\_\_ Witness

The Common Seal of  
**The City/Shire/Town of XXXXXXXXXX**  
was hereunto affixed by the authority of a resolution  
of the Council in the presence of:

\_\_\_\_\_ Lord Mayor/Mayor/President

\_\_\_\_\_ Chief Executive Officer



## **THE SCHEDULE**

### **Item 1 ("LG"):**

The City/Shire/Town of XXXXXXXX

### **Item 2 ("Commencement Date"):**

1st July XXXX

### **Item 3 ("Elected Payment Option"):**

5(a) (i) or 5(a) (ii) [select whichever is appropriate]

### **Item 4 ("Additional Clauses"):**

- 12        (a)        LG hereby acknowledges and agrees that it has issued assessment notices under section 36J(1) of the FES Act to owners of leviable land in its local government district for the levy payable for the levy years 2003-04 to XXXX/XX inclusive, without entering into an ESL agreement in respect of that period with DFES under section 36ZJ of the FES Act.
- (b)        In consideration of DFES entering into this present ESL agreement with LG for the Term, LG shall pay to DFES an amount equal to the total amount of levy payable for the levy years 2003-04 to XXXX/XX inclusive, on all leviable land in its district in accordance with the assessment notices referred to in clause 12(a) (LESS the total amount of levy, if any, already paid by LG to DFES in respect of those periods pursuant to section 36V of the FES Act) at the time or times and in the manner hereinafter provided, namely as agreed in separate correspondence to be exchanged in due course, following completion of the XXXX/XX year end ESL reconciliation and reporting process.

**FES ACT 1998 SECTION 36ZJ (OPTION B) AGREEMENT - ANNEXURE A**

*Annexure A*

**ADVICE OF EMERGENCY SERVICES LEVY ADJUSTMENT**

(To Be Submitted by 31 July for the Previous Levy Year Ending 30 June)

**Return For Financial Year:**

*[Insert Local Government Name]*

*[Australian Business No.]*

Ref	Property Use	Current Year ESL Only - As Applicable to Each ESL Category											
		ESL Category 1		ESL Category 2		ESL Category 3		ESL Category 4		ESL Category 5		TOTAL	
		No. of Assessments	ESL Billing Adjustment (-) or + (\$)	No. of Assessments	ESL Billing Adjustment (-) or + (\$)	No. of Assessments	ESL Billing Adjustment (-) or + (\$)	No. of Assessments	ESL Billing Adjustment (-) or + (\$)	No. of Assessments	ESL Billing Adjustment (-) or + (\$)	No. of Assessments	ESL Billing Adjustment (-) or + (\$)
1	Residential												
2	Vacant												
3	Farming												
4	Commercial												
5	Industrial												
6	Miscellaneous												
7	Mining Tenements												
8	ESL Category 5												
9	<b>TOTAL</b>												

**Declaration of Accuracy & Compliance**

*[Signature]*

*[Date]*

**Name of Declaring Officer**

*[Please Print]*

**Position Title of Declaring Officer**

*[Please Print]*

**Contact Details of Declaring Officer**

*[Phone]*

*[E-mail]*

Note: This advice is to be submitted to notify DFES of ESL billing adjustments carried out in the levy year where billing errors have been rectified, interim valuations, which altered the 1st July GRV, have been processed and ESL charge cappings have been amended.



**SCHEDULE 10  
ESL INTEREST DETERMINATIONS**

**IN ACCORDANCE WITH THE DETERMINATION OF THE MINISTER FOR EMERGENCY SERVICES:**

**LOCAL GOVERNMENTS ARE AUTHORISED TO WRITE OFF (OR WAIVE) ESL INTEREST AMOUNTS UP TO \$2.00 PER PROPERTY IN ANY ONE LEVY YEAR.**

**(POLICY DETERMINATION 25 OCTOBER 2004)**

**LOCAL GOVERNMENTS ARE AUTHORISED TO WAIVE OR WRITE-OFF ESL INTEREST AMOUNTS ACCRUED AGAINST AN ESL ASSESSMENT DURING THE PERIOD FROM 1 FEBRUARY 2020 TO 30 JUNE 2021.**

**THIS ACTION IS ONLY TO BE TAKEN TO ALIGN ESL INTEREST CHARGES WITH THE LOCAL GOVERNMENT'S POLICIES IN RESPECT TO INTEREST IMPOSED ON UNPAID LOCAL GOVERNMENT CHARGES.**

**(POLICY DETERMINATION 19 MAY 2020)**

**LOCAL GOVERNMENTS ARE AUTHORISED TO WAIVE INTEREST THAT WOULD OTHERWISE BE ACCRUED AGAINST AN ESL ASSESSMENT DURING THE PERIOD FROM 1 JULY 2021 TO 30 JUNE 2022, IN RELATION TO UNPAID ESL PAYABLE BY A PERSON CONSIDERED BY THE LOCAL GOVERNMENT TO BE SUFFERING FINANCIAL HARDSHIP DUE TO THE COVID 19 PANDEMIC.**

**FOR THE PURPOSE OF THIS DETERMINATION, A PERSON SUFFERING FINANCIAL HARDSHIP DUE TO THE COVID 19 PANDEMIC, IS A PERSON THAT WOULD MEET THIS CRITERIA IN RESPECT TO THE ISSUE OF LOCAL GOVERNMENT RATES AND CHARGES.**

**(POLICY DETERMINATION JUNE 2021)**