PAXON

WALGA

Local Government Rating of Renewable Energy Facilities

Version 1.0 | July 2025

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Paxon acknowledges the Traditional Owners of Country. We pay our respects to Elders past and present.

EXECUTIVE SUMMARY

Purpose of the Report

Paxon Group has been engaged by the Western Australian Local Government Association (WALGA) to review the rating mechanisms available for Western Australia (WA) Local Governments to recover costs associated with large-scale renewable energy projects.

This report aims to provide clarity on land value rating methods and provide supporting information to WALGA on any changes, including potential amendments to legislation, to ensure WA Local Governments are able to equitably and fairly rate renewable energy facilities.

Rating Options Considered

The rating options considered in this report include:

- Gross Rental Value (GRV) Rating - Under this model, the GRV is applied to the improvements on the land and the proponent pays rates according to legislative principles of the *Local Government Act 1995* (WA) (LG Act) and the *Valuation of Land Act 1978* (WA) (VL Act).
- Differential Rating - In this model, the renewable energy provider pays unimproved value (UV) or GRV on their rates, but at a differential rate determined by the local government, and
- Payment in Lieu of Rates (PiLoR) - Under this model, it allows the Councils and proponents to negotiate annual contributions based on an agreed methodology, such as on the capital investment value or a rate for each kWatt hour of renewable energy generated in that local government district.

In addition, the current legislative basis for 'spot / split rating' of renewable energy assets has also been considered.

Rating Approaches by Other Jurisdictions

Review of other Australian jurisdictions shows there is considerable variance in the valuation bases used, and different options and restrictions on Councils. New South Wales (NSW), Queensland and WA either fully or partially use unimproved or site value to determine rates. In contrast, Victoria and South Australia (SA) mostly use capital improved value (CIV), although SA specifically excludes electricity generation plant and equipment from capital valuations. All Australian states permit the use of differential rates, only Victoria and WA place a ratio limit on their use, and further, Victoria is the only jurisdiction to allow Councils to levy payments in lieu of rates.

Of interest, Local Governments in Victoria and Queensland have the ability to levy considerably higher rates (or receive payments made in lieu of rates) compared to other jurisdictions, including WA. Despite this, Victoria and Queenland have much stronger growth in renewable energy capacity than WA, indicating the magnitude of Council rates is not a significant driver of renewable energy investment decisions. In fact, Victoria, which receives some of the highest contributions, continues to attract the greatest renewable energy capacity additions out of all the states.[1] This suggests that rating options that increase the quantum of contributions cannot be discounted on the basis that higher rates would hinder the State Government's energy transition program.

[1] Common Capital, States of Transition, Renewable Energy Progress Across Australian Jurisdictions, June 2025.

Key Findings

The key findings from this report are outlined below:

1. Under the current legislative framework, there is no clear method that allows WA Local Governments to impose rates on renewable energy facilities in their area, with certainty.
2. Each rating option considered in this report would require some legislative change to become a more certain and reliable avenue for Local Governments in the rating of renewal energy facilities.
3. In each case, the legislative change could be achieved with fairly 'blunt' legislative amendments – that is, introduction of a new standalone provision (or set of standalone provisions), and minimal amendments required to existing legislation.
4. Any legislative amendments to tighten the rating approach and/or introduce PiLoR should not (in principle) need to be extensive or overly complex.
5. With the PiLoR framework in particular – whilst this may involve more substantial legislative drafting (given that a new framework is needed), if the Victorian model was to be generally followed, this framework would be relatively straightforward and self-contained. This makes it arguably a 'cleaner' approach than the other options, as a (mostly) standalone mechanism – and a clear process – that has minimal interference with existing rate setting processes. Of course, practical matters, namely reaching political alignment on the specifics of the mechanism (especially methodology) and the roll-out / application, may instead give rise to challenges.
6. On all the options considered, the exact nature of the amendments should be determined by which approach or position will be most palatable from a political and policy perspective. For example, whilst WA Local Governments may wish to avoid the time and uncertainly involved with a Ministerial determination / approval on any matters, it is unlikely that it can be avoided entirely (in which case the amendments would need to capture whatever approval rights would sit with the Minister).
7. Finally, if different options or permeations of rating options are used for different types of renewable energy assets, this would create another layer of legislative complexity and increase the scale of changes required.

The key advantages, limitations and ranking of the rating options are summarised in the table below. This is based on the finding that each of these options require legislative amendment to enable WA Local Governments to rate renewable energy facilities with certainty.

Table 1: Advantages, Limitations and Ranking of Rating Options

Option	GRV Rating	Differential Rating based on UV	Differential Rating based on GRV	PiloR
Description	• Rates on land with renewable energy assets are calculated based on the GRV for either the entire property, or the portion of (or lot(s) within) the property with renewable energy assets	• Rates on land with renewable energy assets are calculated based on the UV, but at a higher and uncapped differential rate determined by the Council	• Rates on land with renewable energy assets are calculated based on the GRV, but at a higher and uncapped differential rate determined by the Council	• Payment in lieu of rates is negotiated between the Council and the renewable energy proponent based on an agreed methodology
Advantages	• Well known and understood rating system in WA • Relatively simple to achieve certainty from a legislative perspective • Can scale fairly based on the value of the facility • Precedent from Victoria that applies CIV • Potentially more palatable to the State Government, as it provides a direct benefit through the emergency services levy and general health levy rate	• Well known and understood rating system in WA • Relatively simple to achieve certainty from a legislative perspective • Enables Councils to determine the differential rate to align with their fiscal position • No requirement for a valuation. • Aligns with other interstate jurisdictions that don't apply a differential ratio limit based on UV	• Well known and understood rating systems in WA • Enables Councils to determine the differential rate to align with their fiscal position	• A standalone mechanism, bespoke to renewable energy assets • Enables the use of different mechanisms per asset type (for example, rate per kWatt for solar assets and rate per sqm for energy storage systems) • Causes minimal interference with the existing rate setting process • An established framework in Victoria that is understood and accepted by renewable energy proponents • Commercial arbitration legislation in Victoria, which ties into third party dispute resolution process under the framework, is largely like WA's approach

Option	GRV Rating	Differential Rating based on UV	Differential Rating based on GRV	PiloR
Limitations	• Requires the Valuer-General to conduct a valuation, which is a costly and potentially lengthy process • GRV rating is less suitable for windfarm assets • Likely to still require Ministerial determination	• Likely unpalatable for Ministerial determination/approval to be fully relinquished • May interfere with the existing rate setting process, for example, would the ratio limit only be removed in relation to rating of renewable energy facilities	• More complicated to achieve certainty from a legislative perspective given amendment required to GRV and differential rating system • Requires the Valuer-General to conduct a valuation which is a costly and lengthy process • GRV is less suitable for windfarm assets • Likely unpalatable for Ministerial determination/approval would be fully relinquished • May interfere with the existing rate setting process, for example, would the ratio limit only be removed in relation to rating of renewable energy facilities • Applying the differential rate to GRV is likely to generate a level of contribution that is seen as unfair to renewable asset owners and may deter investment	• Involves more substantial change given an entirely new framework would need to be developed and rolled-out • Methodology / payment mechanism may be contentious • Likely to sit across two Ministerial portfolios – being the Department of Local Government, Industry Regulation and Safety and the Department of Energy and Economic Diversification adding complexity
Ranking (1 being the highest)	3	2	4	1

As shown in Table 1, the rating options are ranked as follows:

1. PiloR Framework
2. Differential Rating based on UV with no ratio limit
3. GRV Rating
4. Differential Rating based on GRV with no ratio limit

Although the PiLoR framework is more complex to implement, it is ranked first as it enables Councils to fairly and equitably rate renewable energy facilities through a cleaner, mostly standalone rating mechanism, bespoke to renewable energy assets, which is understood and accepted by the renewable energy sector.

The ability to apply a higher and uncapped differential rate determined by the Council is ranked second. This option is favoured over both the GRV options, as unlike the GRV options, this option does not require a valuation and is suitable for all renewable asset types.

Recommendations

Based on the report's findings, the following recommendations are made:

1. WALGA to endorse support for the adoption of the PiLoR framework approach to the rating of renewal energy facilities.
2. WALGA to make representation to both the Department of Local Government, Industry Regulation and Safety and the Department of Energy and Economic Diversification on the merits of the PiLoR framework.
3. WALGA to advocate for legislation amendment to enable WA Local Government to negotiate annual contributions with renewable energy proponents in lieu of rates.
4. WALGA should advocate State Government to ensure any funds received through a potential community benefit arrangement are clearly identified as separate from the annual rates contributions.

1. INTRODUCTION

1.1 Purpose of the Report

Paxon Group has been engaged by the WALGA to review the rating mechanisms available for Local Governments to recover costs associated with large-scale renewable energy projects.

This report aims to provide clarity on land value rating methods and provide supporting information to WALGA on any changes, including potential amendments to legislation, to ensure WA Local Governments are able to equitably and fairly rate renewable energy facilities.

1.2 Background

It is commonly acknowledged that WA needs to increase its renewable energy generation, storage and transmission infrastructure to meet the State Government's energy transition program. According to recent projections, WA will need to generate at least 37.5TWh of renewables to meet the State Government's commitment to retire its state-owned coal-fired power stations by 2030. This would require a deployment rate that is around 4.5 times the current rate.[2] Most of this infrastructure will be located on agricultural land in regional WA. While regional communities that host these developments potentially benefit from the investment, these facilities also place pressure on the local landscape and community.

Concerns have been raised as to the ability for Local Governments to recover costs (i.e. road maintenance, additional services used etc) incurred as part of these facilities. There is a current lack of clarity around the best mechanism for achieving cost recovery, and the applicable land value rating method of these facilities.

1.3 Options Considered

This report investigates and assesses the following rating options for WA Local Governments:

GRV

Under this model, the GRV is applied to the improvements on the land and the proponent pays rates according to legislative principles of the LG Act and the VL Act.

Differential Rating

Under this model, the renewable energy provider pays UV on their rates, but at a differential rate determined by the local government. Without separate Ministerial approval this can yield double the UV rate.

An alternative variant of this option is where the differential rate is applied to the GRV.

PiLoR Framework

This model allows Councils and proponents to negotiate annual contributions based on an agreed methodology, such as on the capital investment value or a rate for each kWatt hour of renewable energy generated in that local government district.

Of note, community benefit arrangements provide another mechanism for local communities to access compensation from proponents of renewable energy projects. These types of arrangements are being considered separately by WALGA, who are currently in the process of developing a Renewable Energy Community Benefits and Engagement Guide to support local government. The State Government has also recently released a Community Benefits Guideline, which is currently out for community consultation. Accordingly, these types of arrangements are out of scope.

[2] Common Capital, States of Transition, Renewable Energy Progress across Australian Jurisdictions, June 2025

1.4 Approach

This report consists of the following components:

1. Legislative Framework Review: A review of the current legislative provisions and relevant case law in relation to the rating of renewable energy assets.
2. National and WA Review: A review of other Australian jurisdictions and WA Local Governments' approach to managing the rating of renewable energy assets. This included consultation with the following WA Local Governments:
    - City of Albany
    - Shire of Dandaragan
    - Shire of Narrogin
    - Shire of Wagin, and
    - Shire of Waroona.
3. Options Assessment and Recommendations: An assessment of available rating options, including potential legislative changes, and a series of recommendations in relation to the rating of renewable energy facilities by WA Local Governments going forward.

2. LEGISLATIVE FRAMEWORK REVIEW

This section provides an overview of the review of the current legislative provisions available to WA Local Governments in the rating of renewable energy facilities, as well as relevant case law. The legislative review considers the requirements relating to 'rateable land' under LG Act only – that is, it does not consider land that is currently exempt from any rates.

2.1 Legislative Framework

The rating system in WA is governed by the LG Act and the VL Act. Generally, the quantum of rates that is payable to a Local Government is determined by three factors:

- the method of valuation of the land,
- the valuation of the land (and where applicable the improvements), and
- the rate in the dollar applied to that valuation by the Local Government.

A Local Government may also impose a service charge or a specified area rate.

2.1.1 Method of Valuation

The Minister for Local Government (Minister) determines the method of valuation of land to be used by a Local Government in relation to a particular property (s. 6.28 LG Act). The method is based on the predominant use of the land, in that the LG Act requires that the following general principle is applied by the Minister:

- where the land is used predominantly for rural purposes, the UV of the land; and
- where the land is used predominantly for non-rural purposes, the gross rental value of the land (s. 6.28).

The Minister also applies the Department's 'Rating Policy: Valuation of Land' which contains general principles and processes, rather than further guidance on specific land uses.

As land use changes from predominantly rural to predominantly non-rural (or vice versa), a Local Government must apply to the Minister (in accordance with the Rating Policy) to make a new determination as to the method to be used.

2.1.1.1 Spot and Splitting Rating

Section 6.28 of the LG Act (as discussed above) sets out the basis on which the Minister determines the method of valuation of land, to be used by a Local Government in relation to a particular property. It does not specifically contemplate 'spot' valuations and 'split' valuations. However, Section 6.28 is supported by a section in the 'Local Government Operational Guidelines' which set out systems and considerations for facilitating changes to the method of valuation, though this is guidance and not law.

'Spot' valuations and 'split' valuations are discussed by these Guidelines, as being within the bounds of section 6.28. This is because (according to the Guidelines) legal advice suggests that 'land' (as used in s. 6.28 for the purpose of determining predominant use) could be applied to 'part of a location' and it is for those administering section 6.28 (i.e. the Minister) to define the term 'and' according to the 'prevailing circumstances'.

Note that the Guidelines state that split ratings:

- should only be considered as an option where the predominant use of a property cannot be determined objectively and fairly or where it is appropriate to do so for reasons of rating fairness; and
- must be used consistently and fairly, particularly in relation to properties of a similar type and use.

Noting that, any change in valuation methodology (and any ability to apply split / spot ratings) is still ultimately determined by the Minister.

2.1.2 Valuation

The Valuer-General values the land in accordance with the VL Act (s. 18 VL Act). Primarily, 'gross rental value' is the gross annual rental that the land might reasonably be expected to realise if let on a yearly tenancy, upon condition that the landlord is liable for certain specified charges and expenses (s. 4 VL Act). However, if the gross rental value cannot reasonably be determined on that basis, the gross rental value shall be the 'assessed value' (s. 4 VL Act).

'Assessed value' is defined as the prescribed percentage of the 'capital value' with 'capital value' defined as:

- the capital amount which an estate of fee simple in the land might reasonably be expected to realise upon sale; but
- except where the capital value cannot reasonably be determined on such basis, in which case it is the sum of the UV of the land and the estimated replacement cost of improvements to the land (after making allowance for obsolescence, physical depreciation, and such other appropriate factors).

In respect of the above concepts:

- 'land' is defined in the VL Act to mean lands, tenements and hereditaments, and any improvements to land (and also includes any interest in land);
- 'land' can also be interpreted with regard to the definition of land in the *Interpretation Act 1984* (WA), which defines land to include buildings and other structures, land covered with water, and any estate, interest, easement, servitude or right in or over land;
- 'improvements' is defined in the VL Act to mean the value of all works actually effected to land, whether above or below the surface, and including fixtures, but not including:
    - machinery (whether fixed or not); or
    - any below ground works used to extract minerals or petroleum;
- the exclusion that is 'machinery' is not defined in the VL Act, and so it is unclear whether this would encompass wind turbines, solar panels and associated plant which are affixed to the land.

It should also be noted that any improvements that are (in the opinion of the Valuer-General) not capable of occupation will not be included for the purposes of determining the GRV (s. 24(2) VL Act). Conversely, the following items must be included in any determination of GRV if fixed to the land:

- lifts, escalators or hoists of any description;
- air conditioning, cooling, heating or circulating equipment;
- water heating, cooling or pumping equipment;
- sewerage or drainage pumps;
- vehicle turntables;
- door control and surveillance equipment of any nature; and

including the associated control equipment (s. 24(3) VL Act).

2.1.3 Differential rates and minimum payments

A Local Government may impose a single general rate which applies to the properties in the UV or GRV category. Alternatively, the Local Government can distinguish between land in either category based on its zoning, use, whether it is vacant land, other characteristics set out in regulations, or a combination of these factors, and apply a differential general rate to each (s. 6.33(1) and (2) LG Act).

In imposing a differential general rate, a Local Government cannot impose a differential rate which is more than twice the lowest differential general rate, without the approval of the Minister (s. 6.33(3) of the LG Act). In practice, Local Governments need to comply with the Department's 'Rating Policy – Differential Rates' when making an application.

A Local Government can also impose a minimum payment, which can be separately applied to GRV properties, UV properties or each differential rating category where differential rates are imposed (s. 6.35(1) LG Act). If the calculation of the GRV or UV by the rate in the dollar results in an amount less than the minimum payment, then the minimum payment will be the rate payable.

The rationale for the imposition of a minimum payment is generally to ensure that every ratepayer makes a reasonable contribution to the rate burden.

There is no restriction on the proportion of properties subject to the minimum payment, if the minimum is not more than the prescribed amount (currently $200). If the minimum is over $200, no more than 50% of the properties in the category within that local government area can be subject to the minimum unless it is a differential rating category for vacant land and Ministerial approval is granted (s. 6.35(4) LG Act). Also, a portion of a district can pay a lower ('lesser') minimum payment in a category (as compared to the 'general' minimum payment payable by others in that category), but that portion cannot constitute more than 50% of the properties in the relevant category – again, unless it is a differential rating category for vacant land and Ministerial approval is granted (s. 6.35(2) and (3) LG Act).

On this basis, if the land subject to the minimum is not in a differential rating category for vacant land, there is no Ministerial discretion to approve a Local Government imposing a minimum payment (general or lesser) that applies to more than half of the properties — which means the Local Government cannot impose such a minimum.

A Local Government may only impose a differential rating or minimum payment following a public notice and comment process, which prescribes consideration of any public submissions before imposing the proposed rate (s. 6.36(3) and (4) LG Act).

2.1.4 Specified area rates or service charges

For completeness, it is noted that a Local Government can impose other charges, in addition to rates, as follows:

- service charges on owners or occupiers of land within the district (or a defined part of the district) for a financial year to meet the cost to the Local Government in provision of a prescribed work, service or facility, typically being basic community services (e.g. waste collection);
- a specified area rate on rateable land within a portion of its district, for the purpose of meeting the cost of an additional / specific work, service or facility provided by the Local Government. This applies if the Local Government considers that the ratepayers or residents within the relevant area will benefit, have access to or will contribute to the need for that work, service or facility (or have already done so).

Accordingly, these mechanisms can be used to recoup costs of additional services such as constructing, servicing and maintaining specific infrastructure in a particular geographical area (e.g. roads or drainage infrastructure), or if an area needs (and receives), for example, a higher frequency or standard of a particular service (e.g. environmental maintenance or landscaping). As such, the rate or charge accrued must be used for the intended purpose in the relevant area or placed in a reserve account established for that purpose (s. 6.37 and 6.38 LG Act).

2.2 Case Law Review and Other Decisions

No decisions were found in WA that specifically considered the methodology of valuation for Renewable Energy Assets in the context of valuing land; and / or whether Renewable Energy Assets are fixtures or other improvements of land, including for the purposes of the LG Act and the VL Act.

With respect to the decisions of the Federal courts and other State courts, no precedent decisions were found that would be binding.[3]

There are two Court decisions in other States that considered whether wind farm assets should be valued as part of improvements of land. See Section 2.2.1. However, the key takeaways are that:

- these decisions do not present a consistent position (as further set out below) and instead, highlight the difficulty in determining whether certain assets (particularly infrastructure assets) should be treated as fixtures (and therefore improvements to the land), as well as the importance of considering the impact of the relevant statutory regime and the specific factual scenario; and
- the principles in these decisions may be considered and even applied by a WA Court (or the WA State Administrative Tribunal (Tribunal)), however it cannot be said with any certainty that even in a comparable factual scenario, these decisions would necessarily lead to a similar outcome or decision.

This is because there are 'general law ('common law') principles or factors that are applied to a set of circumstances, to determine whether something is a fixture (and become part of the land). Whether assets would be treated as fixtures based on these factors, will depend on a close examination of the factual scenario, including things like the terms and conditions of the lease (if there is one). Furthermore, Courts have a high level of discretion in the application, and weighing up of, these factors. Therefore, factual nuances can lead to different or even contradictory findings on the characterisation of a specific asset.

In addition, the Court (or Tribunal) would also consider the statutory framework within which the question is being considered (e.g. the relevant part of the VL Act). That is, it would likely consider the meaning of 'improvements' in the context of the relevant definitions and provisions of the VL Act. The WA Supreme Court recently reiterated the importance of this aspect when considering a different question with respect to the VL Act[4]. This means that ultimately, each case depends on its own circumstances and would also require consideration of the relevant definitions in, and broader context of, the relevant WA legislation (e.g. the LG Act and the VL Act).

On a related and important note, the definition of 'improvements' in the VL Act refers to '…*the value of all works actually effected to land, whether above or below the surface, and including fixtures*…' such that an item does not necessarily need to be a fixture, to be an improvement. There has however only been limited consideration of what constitutes an 'improvement' for the purposes of this definition, see Section 2.2.2 below.

[3] A decision is binding on a WA court if the precedent was made by a superior court that is 'higher' in the hierarchy of courts, relevant and the circumstances are sufficiently similar. In this respect, the Federal Court of Australia or the High Court of Australia are superior to the Supreme Court of WA, but decisions of other State Supreme Courts are not binding in the same way.

[4] This was the case in *Deflector Gold Pty Ltd v Valuer General [2024]* WASC 252. We also note that s. 18 of the *Interpretation Act 1984* (WA) provides that in the interpretation of a provision of a written law, a construction that would promote the purpose or object underlying the written law (whether or not that object is expressly stated) shall be preferred to a construction that would not do so.

2.2.1 Case law in other States

There were two decisions in respect of the valuation of Renewable Energy Assets (specifically wind farm assets), in 2020 and 2021, that were the subject of widespread commentary. No subsequent Australian decisions were found that dealt with this same question in the context of Renewable Energy Assets.

In *AWF Prop Co 2 Pty Ltd v Ararat Rural City Council [2020]* VSC 853 (the AWF Case), the Supreme Court of Victoria found that critical wind farm assets, including wind turbines, were not fixtures (though some elements, e.g. turbine foundations and roads, were). This decision was upheld on appeal.

However, in contrast, the Supreme Court of NSW in *SPIC Pacific Hydro Pty Ltd v Chief Commissioner of State Revenue [2021]* NSWSC 395 and *SPIC Pacific Hydro Pty Ltd v Chief Commissioner of State Revenue (No 2) [2021]* NSWSC 486 (together, the SPIC Case) found that wind turbines and other assets affixed to the land were fixtures.

2.2.1.1 AWF Case

In the AWF Case, the principal question was whether wind farm assets, brought onto land leased by a tenant wind farm company, formed part of the land to be valued – that is, whether the assets were fixtures – for the purposes of calculating the fire services levy for the relevant land. It was found that that wind turbines and towers, substation, wind-monitoring masts, and buildings were not part of land to be valued for the purposes of assessing 'capital improved value' under the *Valuation of Land Act 1960* (Vic), specifically:

- applying common law principles, the wind turbines and towers, substation, wind-monitoring masts, and buildings were not fixtures at common law;
- even if they were fixtures, the effect of specific legislation in Victoria (as in s. 145A of the *Property Law Act 1969* (Vic)) was to exclude them from the interest to be valued; and
- the turbine foundations, the roads, fences and carpark, and the underground cabling were however, fixtures and part of the land to be valued.

The Court considered a number of factors to establish whether the assets were fixtures at common law. It was significant that the assets were on leased land and the lease required removal of the wind turbines, towers etc on termination.[5]

2.2.1.2 SPIC Case

In the SPIC Case, the AWF Case was 'distinguished' (i.e. identified as a case that did not need to be treated as persuasive precedent) from the outset because it addressed a different statutory regime. That said, the NSW Supreme Court acknowledged that the common law principles to be taken into account were generally the same as those considered in AWF Case and considered how those factors were applied in the AWF Case (and other cases that did not specifically concern wind farm assets). However, the Court in the SPIC Case did not agree with the weight attributed to certain factors in the AWF Case. In particular, the Court did not consider that the tenant's right to remove the assets during the lease term, and obligation to remove them at the end of the lease term, is determinative of the question of affixture, and queried the degree of weight placed on the terms of the lease (and the planning permit) in the AWC Case.

Having applied common law principles and considering the NSW statutory context, the Court concluded that the wind turbine generators and all the other plant and equipment affixed to the land at the wind farm were fixtures.

[5] The Court noted that this finding was consistent with two private binding rules by the Australian Taxation Office (ATO) concerning wind farm assets located on leased land (in the context of the *Income Tax Assessment Act 1997* (Cth)). We note in this context (and more broadly) that a private binding ruling by the ATO is only legally binding with respect to the particular scheme or circumstances that it describes, and does not set precedent (with respect to the ATO or courts).

At the time of these decisions, it was expected that the question of whether wind farm assets are fixtures would come before a higher court in Australia for a ruling in the near future. However, this has not yet transpired. This may be, in part, because the duties legislation in various States (including NSW) has been amended (either prior to or after the SPIC Case) to clarify the meaning of 'land' to include anything affixed to the land regardless of whether the thing is a 'fixture' at law or not.

In addition, neither the AWC Case or the SPIC Case have been considered or otherwise cited (i.e. recognised as being potentially relevant) in a WA Court or by the Tribunal. In other State and Federal courts, only the SPIC Case has been applied as in *Meridian Energy Australia Pty Ltd v Chief Cmr of State Revenue [2022]* NSWSC 1074. However, this case concerned power stations, not Renewable Energy Assets, with a very specific regulatory framework, and, in any event, the SPIC Case was applied in respect of a slightly different point of law.

2.2.2 Definition of 'improvements' in VL Act Generally

In this review of the legislative framework, there was found only very limited consideration of the definition of 'improvements' in the VL Act.

In *Sanctus Nominees Pty Ltd and Valuer-General [2019]* WASAT 63 (Sanctus Case), the Tribunal considered the scope of the definition in relation to pontoon jetties. Relevantly, the question was whether the 'pontoon jetties' were 'improvements' as defined in the VL Act and therefore included in a GRV calculation for the purposes of determining rates under the LG Act. The Tribunal:

- reiterated that it was a question of fact to be determined having regard to the relevant circumstances;
- considered the words '…works actually effected to land' in the definition of 'improvements' and noted that phrase is not used elsewhere in the VL Act, nor is the term 'works' defined. The Tribunal determined that 'works' was therefore to be interpreted in accordance with an ordinary and current meaning that fitted within the context of the broader wording of the definition, being an engineering structure or engineering operation; and
- the Tribunal noted that this does not mean the pontoon jetties are automatically 'improvements' and effectively considered the common law principles as to whether the jetties were fixtures, to determine that the jetties were '…works actually effected to the land' unless they were 'machinery', as per the definition of improvements in the VL Act.

With respect to the interpretation of 'machinery', the Sanctus Case referred to *Griffin Windfarm Holdings Pty Ltd and Valuer General [2013]* WASAT 164 (Griffin Case) where the Tribunal considered what elements of a power station were 'machinery' for the purposes of the definition of 'improvement' in the VL Act and therefore be excluded in an assessment of capital value. The Tribunal considered that an appropriate definition for the term 'machinery' as it appears in the VL Act is:

'A complex device that consists of a number of interrelated parts, together applying, using or generating motion and force to perform a certain kind of work, and includes the casing or enclosing frame of the device.'

The Tribunal had followed a 1981 decision of the WA Supreme Court on the meaning of the word 'machinery' as used in this context in the VL Act, together with a decision of the Supreme Court of NZ.

That definition was applied as follows:

- in the Griffin case, the Tribunal was only asked to consider whether three limited categories of items were 'machinery' and found that, on the facts, all the categories - being the built infrastructure of the power station, fire services equipment and mere receptables were not 'machinery' and were therefore capable of (but not automatically / necessarily) 'improvements' as defined in the VL Act; and
- in the Sanctus Case, the pontoon jetties were not 'machinery' because they do not apply motion or force to anything, use motion or force to achieve anything and do not generate motion or force; and they do not perform any kind of work.

Aside from the fact that, neither the Griffin Case nor the Sanctus Case concern Renewable Energy Assets, a WA Court may have some consultative regard to these decisions (at most), but would not be bound by them. Further, the approach taken by the Tribunal in the Sanctus Case to the interpretation of *'….works actually effected to the land… including fixtures*' is contestable as it is not clear how the Tribunal maintained the breadth of the 'works' concept when applying the common law principles of fixtures.

2.3 Summary

Under the current legislative framework, there is no clear method that allows WA Local Governments to impose rates on Renewable Energy Assets in their area, with certainty.

The value of Renewable Energy Assets will only be included in the value of the rateable land, if:

- the Minister has determined that the land is to be valued on a GRV basis under the VL Act; and
- the Valuer-General has taken the view that:
    - the GRV framework can be applied; or
    - the GRV cannot reasonably be determined, such that an assessment of 'capital value' is required,
- and the Valuer-General determines that the Renewable Energy Assets are 'improvements' on the land.

However, it is unclear on the current legislative and policy framework, whether:

- the relevant land would be assessed on a GRV basis in the first instance; and/or
- where the land is assessed on a GRV basis, whether Renewable Energy Assets would in fact be considered 'improvements' – beyond any predetermined assets which fall within the limited categories of items deemed to be fixtures under the VL Act (e.g. drainage equipment affixed to the land). In this respect:
    - there is no case law in WA with respect to the treatment of Renewable Energy Assets as being 'improvements' or not, and very limited consideration of the scope of 'improvements' in the VL Act generally; and
    - there are no binding rulings from other courts in Australia. In fact, rulings by other State courts have arguably created more uncertainty about how renewable energy facilities would be treated.

Noting this uncertainty, the options currently available to WA Local Governments with respect to rating Renewable Energy Assets appear to be to:

1. Impose a differential rate (higher that the general rate) for land used for renewable energy purposes. However, a Local Government cannot impose a differential rate which is more than twice the lowest of its other differential general rates without the approval of the Minister. This means that there is no certainty that such a higher rate imposition will be approved. Additionally, this must follow the public consultation processes; and / or
2. Impose a minimum payment for the relevant rate category / categories. However, there are restrictions on how many properties within the category can be required to pay the minimum payment, which means there is no certainty (and in some cases, it is not possible) for all land within a Renewable Energy Asset to be subject to a minimum payment (of more than $200).

Separate to rates, it is also open to Local Governments to impose a specified area levy or service charge within the parameters under the LG Act – however fundamentally, these charges only allow recovery of costs of a specific work, service or facility provided by the Local Government.

3. BENCHMARK REVIEW

The following sections provide a summary of how other Australian jurisdictions and WA Local Governments manage the rating of large-scale renewable energy facilities.

3.1 Other Jurisdictions

3.1.1 Victoria

In Victoria, Local Governments receive annual contributions from electricity generators, including renewable energy, through either:

- General rates determined by applying the applicable differential rate in the dollar to the capital valuation of each property (Part 8 of the *Local Government Act 1989* (Vic)); or
- Payment in lieu of rates, comprising a fixed annual base payment and a variable component based on the capacity of power being generated by the facility, and levied under section 94(6A) of the *Local Government Act 1989* (Vic).

With respect to the rates payable under the *Local Government Act 1989* (Vic), the *Valuation of Land Act 1960* (Vic) (amended in 2023) makes it clear that all items affixed to land are included in the capital improved value of land, regardless of who owns the items and whether the items are considered fixtures at law. This was intended to largely remove the need to apply the common law test distinguishing fixtures from chattels for various valuation purposes, including Council rates and levies.

The PiLoR framework allows Councils and electricity generators to negotiate payments in lieu of rates. It is a standalone provision in the *Electricity Industry Act 2000* (Vic) (s. 94) supplemented by a separate Order (made in 2024) with respect to the fee calculation methodology. For most generators, the methodology includes both a fixed and variable component, the latter based on the nameplate capacity of the power station. Charges are indexed in accordance with the Consumer Price Index (CPI) each financial year.

The provision is relatively concise and sets out the following process:

- the framework can be utilised by any ‘generation company’ (or their associate) or certain other entities, with respect to land used primarily for the generation of electricity (whether the land is one or more parcels of land);
- either the local council or the generator may seek to require / make an annual payment in lieu of rates;
- the two parties may negotiate annual payments of any size mutually agreeable to them;
- however, if agreement cannot be reached, the framework includes principles to guide third-party arbitration, including a fee calculation methodology;
- that methodology generally includes a fixed and variable component, the latter linked to capacity;
- the exception is smaller solar and wind generators (of up to 25MW capacity) and ‘community’ generators, for whom the fee is a variable charge only based on generation sent to the grid (subject to a minimum amount payable). The minimum amount is $7.5k for non-community generators.

It’s understood that in practice, governments and generators often refer to the stipulated methodology to set fees, even when third party arbitration is not required.

Victoria’s Department of Energy, Environment and Climate Action (DEECA) is considering amending the PiLoR framework to introduce an arbitration methodology specific to energy storage systems as there are concerns the current methodology may disadvantage the owners of storage technologies and deter investment. DEECA is currently seeking feedback from stakeholders on the design of this methodology.

The PiLoR framework focuses on the activity of electricity generation itself, not necessarily on who owns the land. Therefore, even if a generator leases the land, they are still expected to engage in PiLoR negotiations with the Council. The Victorian legislation has a specific provision that appears to address this (section 94(8A) of the *Electricity Industry Act 2000* (Vic)). This provision 'deems' that, for the purposes of the PiLoR framework (only), electricity generators are liable to pay rates in respect of land used for generation functions, if the generator is liable to pay rates under an agreement with the person who must pay the rates under the *Local Government Act 1989* (Vic) – in other words, if they are required to pay rates to the landowner under a lease or other agreement. The practical effect (and intention) appears to be that the framework can also be used with respect to electricity generators who lease (or licence) land.

Of note, the PiLoR framework applies to electricity generation generally (i.e. including coal and gas), not just renewable energy sources.

3.1.2 New South Wales

In NSW, Local Governments levy rates on the UV (i.e. the value of the land without improvements). This is the value of the property without any buildings, houses or other capital investments.

The NSW Government has also developed a renewable energy planning framework to support the transition to renewable energy. It includes guidelines for wind and solar energy generation and transmission infrastructure. The aim of the framework is to support the industry by providing more investment certainty and also to make sure that communities benefit from the renewable energy projects they are hosting through community benefit arrangements.

3.1.3 Queensland

Queensland Local Governments have more autonomy than Councils in other states in setting their rating structures under the *Local Government Act 2009* (Qld) and the *Local Government Regulation 2012* (Qld). Councils can levy rates on electricity generators based on the generation capacity (MW) of the plant, with differential rates applied based on the category of the energy sector development. This results in higher rates than rural or commercial land uses on such properties. It is understood that most Queensland Councils with renewable energy developments in their jurisdictions choose this approach.

The Queensland government is also developing a renewable energy regulatory framework to address current community concerns and deliver an energy system that is affordable, reliable and sustainable. A discussion paper was released last year, with submissions currently being assessed to confirm the approach.

3.1.4 South Australia

In SA, rates are generally levied on the CIV. However, improvements to electricity generation plant and equipment are specifically excluded from capital valuations used by SA Councils to levy rates. This exclusion is provided via rates prohibition clauses in the *Electricity Corporations (Restructuring and Disposal) Act 1999* (SA) (ECRD Act) which aimed to maximise the potential sale price of SA's electricity assets as part of the privatisation of the sector.

This historic decision is now seen as a significant impediment to the levying of appropriate and equitable general rates on the energy sector in SA, with calls from Councils to amend the legislation.

3.2 WA Local Governments

The consultation with local government organisations demonstrated that there are different approaches and views to the rating of large-scale renewable energy facilities. Key points from the consultation on each of the rating options are discussed in more detail below.

3.2.1 GRV Rating

Some Councils strongly support the GRV rating option for renewable energy assets and advocate for legislative change to enable Councils to apply GRV valuations to these facilities with certainty. The key benefit of this option is that it already exists, is well known and understood, and it provides a system which can scale fairly based on the value of the facility. This option may also be more palatable to the State Government, as it provides a direct benefit to the State. This is because the State's Emergency Services Levy funding is derived from a GRV formula. Similarly, the general health levy rate under the *Health (Miscellaneous Provisions) Act 1911* (WA), section 40, is derived from a GRV based calculation.

However, some Councils are not in support of GRV rating, primarily due to the requirement for the Valuer-General to provide a valuation. They see this as a significant impediment, given the long timeframes and substantial costs in obtaining a valuation.

3.2.1.1 Spot and Split Rating

Other Councils are looking to apply spot or split value rating under GRV for solar energy and storage-only assets. For example, the Shire of Narrogin Rates Policy Manual, section 3.13 states:

'Where the predominant use cannot be clearly identified or where two or more significant activities occur, Council may apply spot or split rating (in circumstances where the projected increase in rates revenue is likely to exceed the cost of undertaking that split)'.

3.2.2 Differential Rating

Most Councils are seeking to utilise differential rates for rating of renewable energy assets, noting this option can only yield double the UV rate without separate Ministerial approval. Whilst better than the UV rating, this option falls short of the yield potential of a GRV rating.

No Councils consulted indicated a desire to levy rates on a differential basis using GRV.

3.2.3 PiLoR Framework

A PiLoR framework, similar to Victoria's model, is where payment is linked to capacity, or potentially capital investment value, in lieu of rates. This approach is advocated for by the Shire of Narrogin given it is seen as a more appropriate rating option for windfarm assets.

Whilst other Councils consulted were not necessarily against this option, they felt this approach would be more complicated to implement and questioned the need to replace an existing well known and understood rating system. They also felt that determination of a rate based on kWatt capacity could be contentious. Alternatively, determination could be linked to the capital investment value although this may result in proponents being liable for rates that are disproportionate to their burden on local government infrastructure and services.

3.3 Summary

There is considerable variance in the valuation bases used in each Australian state, and different options and restrictions on Councils. NSW, Queensland and WA either fully or partially use unimproved or site value to determine rates. In contrast, Victoria and SA mostly use CIV, although SA specifically excludes electricity generation plant and equipment from capital valuations. All Australian states permit the use of differential rates, but only Victoria and WA place a ratio limit on their use, whilst Victoria is the only jurisdiction to allow Councils to levy payments in lieu of rates.

Local governments in Victoria and Queensland have the ability to levy considerably higher rates (or receive payments made in lieu of rates) than other jurisdictions, including WA. Despite this, Victoria and Queenland have much stronger growth in renewable energy capacity than WA, indicating that the magnitude of Council rates does not significantly influence renewable energy investment decisions.[6]

A summary of jurisdictions' approach to managing the rating of renewable energy facilities is provided in the table overleaf.

[6] Common Capital, States of Transition, Renewable Energy Progress Across Australian Jurisdictions, June 2025

Table 2: Summary of other Jurisdictions' Approach to Rating

Option	Victoria	QLD	NSW	SA	WA
Basis of Rating Valuation	CIV (land and fixed improvements), site value or net annual value, but wind and likely solar assets are considered chattels, and thereby not improving land value.	Site value for non-rural and unimproved value for rural land.	Unimproved value.	Capital value (land and fixed improvements) is the default valuation method, however, electricity generating plant and equipment is specifically excluded.	GRV for non-rural land and unimproved value for rural land
Differential Rating Permitted	Able to levy rates on uniform or differential basis. Highest differential rate cannot be more than 4 times the lowest differential rate.	Able to levy rates on uniform or differential basis.	Able to levy rates on uniform or differential basis. Four rating categories are permitted, being residential, business, farmland and mining.	Able to levy rates on uniform or differential basis.	Able to levy rates on a uniform or differential basis. Differential rates may only apply based on zoning, predominant use and/or whether land is vacant.
PiLoR Framework	The *Electricity Industry Act 2000* (Vic) (EI Act) allows Councils to receive payments in lieu of rates. A methodology currently exists under section 94(6A) of the EI Act for estimating payments and applies to all coal, gas, hydro, wind and solar generators.	N/A	N/A	N/A	N/A

4. WAY FORWARD

Under the current legislative framework, there is no clear method that allows WA Local Governments to impose rates on all renewable energy facilities in their area, with certainty. An assessment of each of the rating options has therefore been undertaken to identify the legislative changes required to provide Local Governments with greater certainty and other considerations.

4.1 Considerations

The table overleaf sets out the relevant considerations for each rating option being considered.

Table 3: Considerations

Option	Position under Current Legislation	Legislative changes required (assuming the change applies to all renewable energy assets)	Other considerations
GRV Rating	There is currently no certainty that: • land with any renewable energy facilities that generate electricity (RE Assets) will be rated on a GRV basis; • even where land is rated on a GRV basis, that the renewable energy assets will be treated as improvements (and rated). In addition, whilst the Minister currently interprets the LG Act such that it allows 'split' or 'spot' rating within a parcel of land, under certain guidelines: • there is no explicit right to do so under the LG Act – and so split / spot rating may be open to challenge by ratepayers, or the Minister could choose to change the guidelines; and • the split / spot rating must be approved by the Minister.	For example, a new section to the effect that: • if land has any RE Assets, the Minister will determine that the method of valuation is GRV for either the entire property, or the portion of (or lot(s) within) the property with RE Assets, irrespective of the existing methodologies in the LG Act; • when calculating the GRV under the VL Act, works effected to the land and items affixed to the land (including turbines, towers, masts and monitoring systems, panels, buildings, substations and connection points, roads, fencing, foundations cabling / connectors etc), are improvements, irrespective of whether above ground or underground, and irrespective of who owns the items.	<u>Method of valuation</u> • The simplest approach would be to simply mandate that the basis of rating land with any RE Assets is GRV, however that is unlikely to be palatable given this is a very significant policy shift (i.e. in the method of valuation being legislated without contemplating any Ministerial involvement. • The amendments would more likely need to be more of a 'halfway' house. We have proposed an example of this, that still acknowledges the framework of Ministerial determinations (and also gives the Minister a clear power to determine that a spot or split rating can, and should, be applied instead of GRV on the whole property) but effectively gives LGs certainty of a GRV approach. There would likely be a be a policy underpinning the Ministerial determinations, like there is for all other aspects of the rating system that require these determinations. • The State Government may however expect that more discretion sits with the Minister, and look to replicate the approach in s. 6.29 of the LG Act. This section was introduced in 2009 re: valuation of land with mining and petroleum interests. It gives the Minister wide discretion under the Act itself re: method of valuation, however there are parameters on the Minister's decision (including parameters that require certain capital improvements to be taken into account) at a policy level.

Option	Position under Current Legislation	Legislative changes required (assuming the change applies to all renewable energy assets)	Other considerations
			<u>Improvements</u> • With respect to the clarification re improvements, the proposed approach: – is not dissimilar to s. 24(3) of the VL Act, which lists several items that must be included in any determination of GRV, if fixed to the land; – also incorporates elements of the changes made to the *Victorian Valuation of Land Act* (see below). • On that last point above, the *Valuation of Land Act 1960* (Vic) was amended in 2023 to make it clear that all items 'affixed' to land are included in the capital improved value of land, regardless of who owns the items and whether the items are considered fixtures at law. Whilst this intended to (and does) largely address the uncertainty that arises from the common law test distinguishing fixtures from chattels for valuation purposes, there is potentially still some residual ambiguity, in part because it is drafted broadly and not with reference to a specific asset class (e.g. RE Assets). • We have suggested that this clarification is made: – in respect of renewable energy related assets only (not 'fixtures' more broadly); and – to the LG Act only (rather than the VL Act or both Acts), to minimise any ambiguity and also minimise the broader ramifications / implications, which would add to both the complexity and (likely) the political / policy feasibility.

Option	Position under Current Legislation	Legislative changes required (assuming the change applies to all renewable energy assets)	Other considerations
Differential Rating (UV)	• LGs can apply a differential rating to RE Land, subject to going through the public consultation process. • However, the rate cannot be more than twice the lowest differential rating category, without the approval of the Minister.	• A new section of the LG Act to the effect that the Minister's approval is not required where the (higher) differential rating category relates to land with RE Assets. • This could / would be accompanied by a subsection with conditions or parameters on the setting of a higher differential rate, or requirement for compliance with a subsidiary document that contained such parameters. • If the public consultation process (in s. 6.36 of the LG Act) was to be removed or pared back for land with RE Assets, a new subsection in the LG Act would be required, to the effect that the process either did not need to be followed for this category, or setting out a more limited way in which it would apply.	• Whilst straight-forward from a legislative amendment perspective, this kind of broad discretion and / or removal of public consultation requirements may be unpalatable from a policy and political perspective, even with a set of conditions, given the Department's general focus on fairness and equity in rate setting. • It may also raise questions as to why, for example, the limitations continue to apply to other categories. • More politically palatable approaches may include: – increasing the rate that can be levied (e.g. so the value of the rate can be 4 x the value of the lowest category) before Ministerial approval is required; and/or – retaining the requirement for Ministerial approval, but include (in the LG Act) specific factors that the Minister must consider in deciding whether to approve the higher rate (either specific to renewable energy or more broadly). The current Ministerial policy on approving differential rates would then need to be amended accordingly; or – updating the Ministerial policy to provide more certain parameters on when approval would be given in respect of renewable energy assets. • However, these alternatives naturally provide less certainty overall to LGs with respect to the outcome and may also introduce some (manageable) complexity / administration.
Differential Rating (GRV)	• As per comments under the GRV Rating and Differential Rating (UV) Options.	• As per legislative changes required under the GRV Rating and Differential Rating (UV) Options.	• This option would require both the Differential Rating (UV) changes, as well as the GRV Rating changes. However, if the GRV Rating Option changes are implemented, this may reduce the need for LGs to rely on differential rating.

Option	Position under Current Legislation	Legislative changes required (assuming the change applies to all renewable energy assets)	Other considerations
PiLoR framework	N/A	A new legislative section(s) setting out: • the legislative ability for an annual payment in lieu of rates; • which land the process can apply to – noting in Victoria, it's land 'predominantly used' for the generation of electricity; • the process for determining the quantum of the payment – ideally with a payment calculation methodology, at least as a 'fall back'; • a third party dispute resolution process; and • any exemptions.	• If the Victorian model was to be generally followed, the mechanics and the framework would be relatively straightforward from a legislative amendment perspective. • It is noted that the commercial arbitration legislation in Victoria (which ties into the Victorian legislative framework as the third party dispute resolution process) is largely like that in WA. • There would likely, however, be complexity in the related matters of: – achieving consensus on the various elements (e.g. the payment calculation); – the practical application, at least in the first few years. • This would be exacerbated if additional / different nuances were introduced in a WA equivalent – in particular, more complicated or more numerous payment methodologies, timing, different approaches for wind vs solar, or more complicated requirements around the land / assets / ratepayers that the framework applies to. • The Victorian framework is implemented via the *Electricity Industry Act 2000* (Vic). This may be a product of the policy and political context for the Victorian framework, including a desire for the mechanism to sit within the remit of DEECA. However, consideration would need to be given to whether the LG Act is the most effective / appropriate instrument for the framework.

4.2 Summary of Findings

The options assessment shows that legislative changes for each of the rating options being considered would allow WA Local Governments to impose rates on all renewable energy facilities in their area, with certainty. These legislative changes could be introduced via fairly 'blunt' legislative amendments - that is, a new standalone provision (or set of standalone provisions), with minimal consequential amendments required to existing legislation.

Naturally, the PiLoR framework would involve a more substantial change, given that an entirely new framework would need to be developed and introduced. If the Victorian model was to be generally followed, the mechanics and the framework would be relatively straightforward from a strict legislative amendment perspective, through alignment on the exact changes required, plus the practical application is arguably less so. Also, if additional or different nuances were introduced for a WA equivalent (e.g. more complicated or more payment calculations) this could easily lead to complexity in the legislation. Consideration would also need to be given to which department would administer the framework and whether the framework should sit in the LG Act or electricity legislation.

For the remaining options, they can, technically, be easily implemented with relatively straight forward legislative amendments. In practice, there will likely be policy and political considerations that necessitate more nuance. For instance, it may be difficult to gain State Government support for proposed changes to the differential rating system that seeks to remove or amend the ratio limit. This is because it could lead to questions as to why the ratio changes doesn't apply to other sectors, such as mining. This would likely complicate any decision and agreement by State Government to amend the ratio.

The proposed GRV amendments provide a more rational policy basis, plus mining is already dealt with separately. Legislation amendments are also limited to the LG Act, which reduces complexity and drafting timeframes. Further, there is precedent in Victoria for rating based on a capital improvement basis. However, the challenges faced by Local Councils in obtaining valuations from the Valuer-General are not easily overcome. The Valuer-General is responsible for valuations in many different contexts, so it would be incredibly complex and likely defeated if WALGA sought to take valuations out of the hands of the Valuer-General. Further, the GRV rating option is challenging in relation to windfarm assets, and if different options or permutations are used for different types of renewable energy assets, this would create another layer of legislative complexity and increase the scale of changes required.

In conclusion, the legislative change is the relatively easy part. It is more a decision as to which option is likely more palatable from a policy perspective. Any option that seeks to reduce Ministerial oversight or involvement, however, will likely face greater opposition, as there is very little in the rate setting provisions where WA Local Governments have total control.

The key advantages, limitations and ranking of the rating options are summarised in the table below. This is based on the finding that each of these options require legislative amendment to enable WA Local Governments to rate renewable energy facilities, with certainty.

Table 4: Advantages, Limitations and Ranking of Rating Options

Option	GRV Rating	Differential Rating based on UV with no ratio limit	Differential Rating based on GRV with no ratio limit	PiloR
Description	• Rates on land with renewable energy assets are calculated based on the GRV for either the entire property, or the portion of (or lot(s) within) the property with renewable energy assets	• Rates on land with renewable energy assets are calculated based on the UV, but at a higher and uncapped differential rate determined by the Council	• Rates on land with renewable energy assets are calculated based on the GRV, but at a higher and uncapped differential rate determined by the Council	• Payment in lieu of rates is negotiated between the Council and the renewable energy proponent based on an agreed methodology
Advantages	• Well known and understood rating system in WA • Relatively simple to achieve certainty from a legislative perspective • Can scale fairly based on the value of the facility • Precedent from Victoria that applies CIV • Potentially more palatable to the State Government, as it provides a direct benefit through the emergency services levy and general health levy rate	• Well known and understood rating system in WA • Relatively simple to achieve certainty from a legislative perspective • Enables Councils to determine the differential rate to align with their fiscal position • No requirement for a valuation • Aligns with other interstate jurisdictions that don't apply a differential ratio limit based on UV	• Well known and understood rating systems in WA • Enables Councils to determine the differential rate to align with their fiscal position	• A standalone mechanism, bespoke to renewable energy assets • Enables the use of different mechanisms per asset type (for example, rate per kWatt for solar assets and rate per sqm for energy storage systems) • Causes minimal interference with the existing rate setting process • An established framework in Victoria that is understood and accepted by renewable energy proponents • Commercial arbitration legislation in Victoria, which ties into third party dispute resolution process under the framework, is largely like WA's approach

Option	GRV Rating	Differential Rating based on UV with no ratio limit	Differential Rating based on GRV with no ratio limit	PiloR
Limitations	• Requires the Valuer-General to conduct a valuation, which is a costly and potentially lengthy process • GRV rating is less suitable for windfarm assets • Likely to still require Ministerial determination	• Likely unpalatable for Ministerial determination/approval to be fully relinquished • May interfere with the existing rate setting process, for example, would the ratio limit only be removed in relation to rating of renewable energy facilities	• More complicated to achieve certainty from a legislative perspective given amendment required to GRV and differential rating system • Requires the Valuer-General to conduct a valuation which is a costly and lengthy process • GRV is less suitable for windfarm assets • Likely unpalatable for Ministerial determination/approval would be fully relinquished • May interfere with the existing rate setting process, for example, would the ratio limit only be removed in relation to rating of renewable energy facilities • Applying the differential rate to GRV is likely to generate a level of contribution that is seen as unfair to renewable asset owners and may deter investment	• Involves more substantial change given an entirely new framework would need to be developed and rolled-out • Methodology / payment mechanism may be contentious • Likely to sit across two Ministerial portfolios – being the Department of Local Government, Industry Regulation and Safety and the Department of Energy and Economic Diversification adding complexity
Ranking (1 being the highest)	3	2	4	1

As shown in Table 4, the rating options are ranked as follows:

1. PiloR Framework
2. Differential Rating based on UV with no ratio limit
3. GRV Rating
4. Differential Rating based on GRV with no ratio limit

Although the PiLoR framework is more complex to implement, it is ranked first as it enables Councils to fairly and equitably rate renewable energy facilities through a cleaner, mostly standalone rating mechanism, bespoke to renewable energy assets, which is understood and accepted by the renewable energy sector.

The ability to apply a higher and uncapped differential rate determined by the Council is ranked second. This option is favoured over both the GRV options, as unlike the GRV options, this option does not require a valuation and is suitable for all renewable asset types.

4.3 Recommendations

Based on the report's findings, the following recommendations are made:

1. WALGA to endorse support for the adoption of the PiLoR framework approach to the rating of renewal energy facilities.
2. WALGA to make representation to both the Department of Local Government, Industry Regulation and Safety and the Department of Energy and Economic Diversification on the merits of the PiLoR framework.
3. WALGA to advocate for legislation amendment to enable WA Local Government to negotiate annual contributions with renewable energy proponents in lieu of rates.
4. WALGA should advocate State Government to ensure any funds received through a potential community benefit arrangement are clearly identified as separate from the annual rates contributions.

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