

PROPOSAL FOR CHANGING METHODS OF VALUATION OF LAND

INTRODUCTION

The Shire of Boddington is currently reviewing the structure of its rating system. As a result of this, there were a number of apparent anomalies identified, which the Council would like further assessed. This review predominantly pertains to the method of valuation applied to a range of lots in the rural residential and rural small landholding areas.

PURPOSE

The information provided within this documentation is to outline Council's intention to undertake a rates review and to provide the community with the opportunity to comment prior to Council making a determination.

The purpose of the rate review is to provide a rating framework that observes the principles of objectivity, fairness and equity, consistency and transparency, and is administratively efficient within the confines of statutory requirements, regulations and guidelines.

With the growth and change in traditional land uses in the rural areas, equitable rating has been an ongoing focus, particularly with properties that are rated unimproved value (UV) but are essentially residential lots in a rural area.

As part of the initial assessment the Council has identified a number of lots which it is proposing to change the method or rating from unimproved value (UV) to gross rental value (GRV).

Land identified for the changes are:

- Rural Residential and Rural Smallholding zoned properties currently rated as UV.

MATTERS FOR CONSIDERATION

Operational Guidelines developed by the Department of Local Government Sport and Cultural Industries (guidelines) identify a number of guiding principles for local government to consider when developing or assessing their rating structures, these include;

- objectivity;
- fairness and equity;
- consistency;
- transparency; and
- administrative efficiency.

The Council has and will continue to apply these principles both through this current process and into the future when it is making decisions around rating.

The most significant challenge through this process is for the Council to make a determination around the use of properties. For example, in relation to properties in the

rural area, Council needs to make an assessment as to whether the predominant or primary use of a property is for a rural purpose, or in fact for a residential purpose. Unfortunately, the Act does not define the term “predominant”. Consequently, an assessment has to be made on a case by case basis as a question of “fact and degree” as to whether or not the use of a particular property should be categorised as predominantly rural or non-rural.

The Guidelines allow the local government to ‘spot value’ (by individual property) or by ‘subdivision’. Spot valuing is difficult to administer as land use can change from time to time without the Shire becoming immediately aware. On the other hand, by subdivision, offers consistency, fairness and equity in most instances.

In determining predominant land use all relevant factors will be considered, including the activity conducted on the land, any development on the property, income generated from or on the property and Local Planning Scheme restrictions.

DEFINITIONS

Land

For the purpose of rating land within the Shire of Boddington, the following objectives of each zone are included in the Shire of Boddington Local Planning Scheme No. 3.

Rural - Residential Zone

- To provide for lot sizes in the range of 1 ha to 4 ha.
- To provide opportunities for a range of limited rural and related ancillary pursuits on rural-residential lots where those activities will be consistent with the amenity of the locality and the conservation and landscape attributes of the land.
- To set aside areas for the retention of vegetation and landform or other features which distinguish the land.

Rural Smallholdings

- To provide for lot sizes in the range of 4 ha to 40 ha.
- To provide for a limited range of rural land uses where those activities will be consistent with the amenity of the locality and the conservation and landscape attributes of the land.
- To set aside areas for the retention of vegetation and landform or other features which distinguish the land.

Rural Zone

- To provide for the maintenance or enhancement of specific local rural character.
 - To protect broad acre agricultural activities such as cropping and grazing and intensive uses such as horticulture as primary uses, with other rural pursuits and rural industries as secondary uses in circumstances where they demonstrate compatibility with the primary use.
 - To maintain and enhance the environmental qualities of the landscape, vegetation, soils and water bodies, to protect sensitive areas especially the natural valley and watercourse systems from damage.
 - To provide for the operation and development of existing, future and potential rural land uses by limiting the introduction of sensitive land uses in the Rural zone.
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- To provide for a range of non-rural land uses where they have demonstrated benefit and are compatible with surrounding rural uses.

LEGISLATION

Section 6.28 of the Local Government Act 1995

6.28 Basis of rates

- (1) *The Minister is to –*
 - (a) *Determine the method of valuation of land to be used by a local government as the basis for a rate; and*
 - (b) *Publish a notice of the determination in the Government Gazette.*
- (2) *In determining the method of valuation of land to be used by a local government the Minister is to have regard to the general principle that the basis for a rate on any land is to be –*
 - (a) *Where the land is used **predominantly** for **rural purposes**, the unimproved value of the land; and*
 - (b) *Where the land is used predominantly for non-rural purposes, the gross rental value of the land.*
- (3) *The unimproved value or gross rental value, as the case requires, of rateable land in the district of a local government is to be recorded in the rate record of that local government.*

Interpretation of ‘rural purposes’

The phrase ‘**rural purpose**’ is not defined in the Local Government Act and has not been judicially considered. In these circumstances, the ordinary and natural meaning of the phrase should be applied taking into account the context of section 6.28 of the Local Government Act.

- ‘**Rural**’ means the character of non-urban areas where agriculture is carried out.
- “**Rural land**’ means lands on which grazing, vegetable, animal production or other agriculture or horticultural activities are conducted. In determining whether land is ‘rural land’, it is the physical use of the land which is relevant.

From these definitions, it can be inferred that a rural purpose would mean a purpose pertaining to agriculture. ‘Agriculture’ has been defined to mean the use or cultivation of land for any purpose of husbandry or horticulture, including the raising of livestock and the growing of crops. Using land for open space is not permitted use for agriculture and therefore would not be a rural use of the land.

Interpretation of ‘predominantly’

The word ‘predominantly’ is also not defined in the Local Government Act however the Land Valuation Tribunal of WA considered its meaning in a related context and laid down the following principles;

- The predominant use of land is one of fact and degree,
- “...where a part of the premises is used for a purpose which is subordinate to the purpose which inspires the use of another part, it is legitimate to disregard the former and treat the dominant purpose as that for which the whole is being used”, and
- The predominant purpose for which land is used is determined by more than simply the area of land that is occupied for a particular use.

Conclusions

- a) whether land is being used for rural purposes depends on whether agriculture is being carried out on land;
- b) whether rural use of the land is the predominant purpose is a question of fact and degree and must be determined on an individual basis by considering the use of the land as a whole and not simply the area of land occupied for a particular use;
- c) it is a question of fact and degree as to whether the particular agricultural activities that are being carried out on the land, including the commercial nature of those activities, are sufficient to conclude that the land 'is used predominantly for rural purposes' for the purposes of section 6.28 (2)
- d) as a general proposition, it is unlikely that land used as a hobby farm would satisfy the description of land 'used predominantly for rural purposes'; and
- e) unless, in a particular case, there is sufficient evidence that land 'is used predominantly for rural purposes', then the Shire would be correct in assessing rating charges on the gross rental value of the land and not the unimproved value of the land.

Rating Principles

In accordance with the Local Government Act 1995, Section 6.28 (2), the method of valuation of land to be used by a local government the Minister is to have regard to the general principle that the basis for a rate on any land is to be -

- a) where the land is used predominantly for rural purposes, the unimproved value of the land; and
- b) where the land is used predominantly for non-rural purposes, the gross rental value of the land.

Differential Rating

Council may consider the use of differential rating as a tool in which to realise equitable rating to the extent possible, and applied to rateable land on the basis of;

Unimproved Valuations (UV)

- The predominant purpose for which the land is held or used as determined by Council.

Gross Rental Valuations (GRV)

- The purpose for which the land is zoned under a Local Planning Scheme in force under the Planning and Development Act 2005;
 - Whether or not the land is vacant land.
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REVIEW PROCESS

There are several steps in the process of changing the method of valuation of land for rating purposes. Each step is important in achieving a successful outcome.

Step 1 – Identifying land use changes that may affect predominant use

Land use changes for the selected areas have been identified through a broad-based assessment of the planning, building & health approvals at the Shire of Boddington. The approvals have highlighted that it is likely these areas are not predominantly used for rural purposes.

Step 2 – Reviewing predominant use

Assessing the predominant use of land is fundamental to determining the method of valuation to be used for rating purposes. The Act does not define the term “predominant”. Consequently, an assessment has to be made on a case by case basis as a question of “fact and degree” as to whether or not the use of a particular property should be categorised as predominantly rural or non-rural.

Local Governments should take all relevant factors into consideration including the following:

a) Activity conducted on the land

Many activities may be associated with the use of the property. The nature, scale and extent of each activity should be considered in any assessment of predominant use.

Example:

A house is situated on a five (5) hectare property. On the property there is a vegetable patch and some fruit trees. The occupier also keeps livestock, including a cow, two sheep, two horses and several chickens and ducks. There is no doubt some rural activities are undertaken on the property. However, these activities are undertaken on a small scale. The produce is mainly for personal consumption. Although from time to time the occupier may sell some produce at a roadside stall, the occupier is not deriving his/her livelihood from “working the land”. The predominant use can be said to be residential.

b) Development on the land

The nature, scale and extent of the development of a property can give an indication of the nature, scale and intensity of associated uses. They can also affect the capacity for a property to be used for other purposes.

Example:

More than half of a small rural property is occupied by chalets and associated developments. The rest of the lot is used occasionally to graze sheep and cattle. Given the scale of the chalet development it would be difficult to determine that the predominant use is rural.

c) Income

Where a property is used for two (2) or more different purposes, the income generated from each use can be a guide to assessing the predominant use of the land.

Example:

A portion of a property is being used for an agricultural purpose and the remainder is being used for holiday accommodation. The income generated from the holiday

accommodation is significantly more than that from the agricultural pursuit. The predominant use could be said to be non-rural.

d) Local Planning Scheme restrictions

A local planning scheme can effectively restrict the use of land for a rural or non-rural purpose and should be considered in assessing predominant use.

Example:

The Shire of Boddington's Local Planning Scheme No 3 sets out land uses which can be considered in certain zones. The Scheme permits industrial uses. Any proposal requires Council approval and must be compliant with the adopted Design Requirements & Guidelines.

e) Vacant Land

As vacant land is generally not used for any purpose, it is arguable what the predominant use of such land might be. In determining the "predominant use" of vacant land, consideration should be given to the predominant use of the surrounding land and any planning/development restrictions that apply to the vacant land in question.

Example:

A vacant 2 hectare property is situated in a rural residential zone. The surrounding properties are of a similar size and zoning and most of them are developed for residential purposes with people living on them. Most of the residents of these properties keep some animals and grow produce mainly for personal consumption. However, due to the small scale of the "rural activities" the predominant use is residential. As the majority of the surrounding properties are used predominantly for non-rural purposes, the vacant land could be deemed to be predominantly non-rural.

Step 3 – Consulting affected parties

The public consultation for the consideration of changing methods of valuation of land is being undertaken.

Members of the public are invited to make comment on the proposal with all comments to be received in writing and addressed to the Chief Executive Officer within the twenty-eight (28) day submission period.

Property owners whose properties have been identified for a possible change in valuation method will be advised in writing and will be invited to make comment.

Step 4 – Changing the method of valuation

Once the advertising period has closed a report will be presented to Council. If Council supports the changes to rating methods, a submission will then be made to the Minister for Housing, Lands, Homelessness, and Local Government.

POTENTIAL IMPACT ON LANDOWNERS

The impact on those properties within the areas of review is that the valuation will be based on improvements to the land and the potential annual rental yield, with the exception of vacant land which would be derived from a calculation of 5% of the capital value. This is opposed to the current UV valuations which are assessed on the land with no improvements considered.

The exact financial implications are unknown, however, there may be instances where a landowner's rates may increase/decrease. The valuations would not be known until the Valuer General has carried out valuations on all of the identified properties.

IMPLEMENTATION DATE

Should the proposal be supported by Council and the Minister, the date of implementation is proposed to be 1 July 2024.

REFERENCE

Information relating to the changing methods of valuation of land in Local Government has been obtained from the Local Government Operating Guideline No 2 – Changing Method of Valuation. A copy of this document is available to download at

<https://www.dlgsc.wa.gov.au/departments/publications/publication/changing-methods-of-valuation-of-land>

SUBMISSIONS

Closing date for submissions is 2nd June 2023

Submissions are to be made in writing to:

Chief Executive Officer
Shire of Boddington
PO Box 4
BODDINGTON WA 6390

CHANGING METHODS OF VALUATION OF LAND REVIEW

FREQUENTLY ASKED QUESTIONS

Why has the Shire of Boddington sent this letter?

The Shire is required, pursuant to Section 6.28 of the Local Government Act 1995, to review and make recommendations to the Minister for Local Government, as to the method of valuation to be used for rating purposes.

The Shire of Boddington has given an undertaking to review the current rating structure for unimproved valuations where the land is not used predominantly for rural purposes, with a view to converting these properties to GRV.

What is the difference between UV and GRV?

Unimproved Values (UV)

Are based on the land, excluding any building or improvements, these values are applied to land used predominantly for rural purposes only. UV properties are revalued every year.

Gross Rental Values (GRV)

Are based on the gross annual rental value that the land, buildings and improvements might reasonably be expected to realise if let on a tenancy from year to year. GRV properties unlike UV are revalued every five (5) years.

How do valuation methods determine rates?

The Valuer Generals Office provide the Shire with values for all properties, either the GRV or UV depending on predominant land usage. This value is then multiplied by either the GRV or UV rate in the dollar determined by Council, to calculate rates for each individual property.

Are there guidelines for how the review is to be undertaken?

The Department of Local Government Sport and Cultural Industries have adopted a "*Local Government Guideline No 2 – Changing Method of Valuation*" within which local governments should work. (The full text of the document is available on the internet at dlgsc.wa.gov.au)

If my property changes from UV to GRV will my rates increase?

It is possible that if your property moves from unimproved value to a gross rental value your rates will increase.

Rates will however vary from property to property depending on the individual valuation of each property. Valuations for GRV are based on the rental potential of the property and each property has its own individual valuation. Thus a small 3x1 dwelling will pay less rates than a larger 4x2 dwelling in the same area.

Actual rates will depend on the valuation provided by the Valuer General and the Rate in the dollar applied by council.

What is Council's reason for reviewing the valuation methods used?

The purpose of the rate review is to provide a rating framework that observes the principles of objectivity, fairness and equity, consistency and transparency, and is administratively efficient within the confines of statutory requirements, regulations and guidelines.

With the growth and change in traditional land uses in rural areas, equitable rating has been an ongoing issue, particularly with properties that are valued under the unimproved value (UV) method, but are essentially residential lots in a rural area.

What happens if I do not return this declaration?

If the declaration is not returned it will be assumed that the land is used predominantly for non-rural purposes and the gross rental value (GRV) will be applied rather than the current unimproved value (UV).

Who determines the value of a property?

Valuations are carried out by the Valuer Generals Office.

When will these changes take place?

Our aim is to have these changes in place for the 2024/2025 financial year, and involves the following steps:

1. Officers consider the information, using a range of techniques, from aerial photographs to site visits to determine if they consider the change to be appropriate;
2. A report is prepared for Council to consider and approve the changes;
3. Details of the properties are sent to the Minister for approval;
4. Details are sent to the Valuer Generals Office for a Gross Rental Value to be determined. This involves copying all building plans and forwarding to the Valuer Generals Office to assist with their determination. The timeliness on this is dependent on the Valuer Generals priorities and outside of the control of the Shire of Boddington;
5. The Valuer Generals Office provides the Shire with the new GRV's, and staff update the rate records prior to the issuing of new rate notices.

As completion of this project includes participation from both the Valuer Generals Office and the Minister for Local Government, we are unable to guarantee that the process will be completed for the 2024/2025 financial year.

Will a change in valuation method affect my current use of the property?

If the method of valuing your property changes from UV to GRV, it does not affect, or change, the current land uses applicable to your property.

What if I think my property use will change in the future?

If your property use changes in future you can apply to the Shire of Boddington to have it reassessed. Additional declaration forms can be downloaded from the Shire of Boddington website at www.boddington.wa.gov.au