



PROPOSAL FOR CHANGING METHODS OF VALUATION OF LAND

INTRODUCTION

The Shire of Wandering (Council) is currently reviewing the structure of its rating system. As a result of this, there were a number of apparent anomalies identified in 2017 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 and Industrial areas.

PURPOSE

The information provided herein 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:

- Land at the Ferguson Drive Industrial Area which is zoned Industrial and is predominantly used for non-rural purposes; and
- Rural Residential zoned properties.



MATTERS FOR CONSIDERATION

Operational Guidelines developed by the Department of Local Government and Communities (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, 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 taken into account, 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 Wandering, the following objectives of each zone are included in the Shire of Wandering Town Planning Scheme No. 3:

Industrial Zone

- (a) to provide for the needs of light and general industry to support the community.
- (b) to provide appropriate buffers between industry and adjacent land uses, so as to avoid land use conflicts.
- (c) to provide appropriate buffers to the industrial area.
- (d) to avoid non-industry related uses establishing in the industrial area.



Rural - Residential Zones

- (a) to select areas wherein closer subdivision will be permitted to provide for such uses as hobby farms, horse breeding, rural-residential retreats, and rural-based commercial uses that are consistent with a rural residential zone.
- (b) to generally select areas that are within approximately 8 kilometres of the town of Wandering to facilitate the provision of services to residents.
- (c) to make provision for retention of the rural landscape and amenity in a manner consistent with the orderly and proper planning of such areas.
- (d) having regard for the size of the district, the fragile nature of the environment in many places, and the difficulties faced by the local government in providing services away from the town of Wandering, the local government will generally favour Rural-Residential zones be located close to the town of Wandering and then only where the environmental impacts are manageable.

Rural Zone

- (a) to ensure the continuation of broad-hectare agriculture in the district encouraging where appropriate the retention and expansion of agricultural activities.
- (b) to provide for diversification and intensive agricultural uses in suitable areas.
- (c) to consider non-rural uses where they can be shown to be of benefit to the district and not detrimental to the natural resources or the environment.
- (d) to allow for facilities for tourists and travellers, and for recreation uses.
- (e) to have regard to use of adjoining land at the interface of the Rural zone with other zones to avoid adverse effects on local amenities.

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 adduced 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.



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 Wandering. The approvals have highlighted that 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 taken into account 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 Wandering'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 Local Government and Communities.

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 taken into account.

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.

In applying a new rate structure to properties the Council has adopted a policy to phase in the rate in the dollar over a period of three (3) years period, to therefore avoid possible significant increases/decreases in property rates.

IMPLEMENTATION DATE

Should the proposal be supported by Council and the Minister, the date of implementation is proposed to be 1 July 2021.



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/department/publications/publication/changing-methods-of-valuation-of-land>

SUBMISSIONS

Closing date for submissions is Friday 23rd October 2020

Submissions are to be made in writing to:

Chief Executive Officer
Shire of Wandering
22 Watts Street
WANDERING WA 6308