

I N D E X

Chief Executive Officer's Report

7 JUNE 2005

ITEMS ON REPORT

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ATTACHMENTS

NIL

CITY OF ARMADALE

Chief Executive Officer's Report

**Mayor and Councillors
City of Armadale**

Following is my Report for the period
ended 2 June 2005

1. BASIS OF RATES FOR THE 2005-06 RATING YEAR

NOTE:

Time does not permit for this matter to be dealt with in the usual manner via the Committee process and hence its submission to Council through the CEO's Report, ie. the Department of Local Government have a very limited timeframe in which to document our request for the Minister's consideration and approval AND then arrange the necessary gazettal of approved changes before the 1st July 2005.

WARD Jarrah
FILE REF: RAT/1
DATE 1st June 2005
REF JEAH
RESPONSIBL EDCorpS
E MANAGER

In Brief:

- This report responds to (5) objections received in response to Council's prior resolution CS31/4/05 of 26th April 2005 which dealt with the matter of changes to the method of valuation.
- The Report Recommendation is to support all (5) objections which for (4) of the properties, will require a rescission decision.

Tabled Items

Nil

Officer Interest Declaration

Nil

Strategic Implications

Corporate Services: – to achieve maximum community benefit from effective use of resources (staff, finances and information technology).

Legislation Implications

S6.28 of the Local Government Act 1995 states:

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 $\frac{3}{4}$*

(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.*

The interpretation of the terms “rural use” and “used predominantly” are explained in the following excerpts from a recent legal opinion provided by Council’s lawyers, ie.

Interpretation of ‘rural purposes’

The phrase ‘rural purposes’ 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: Schnoor v Penrith City Council (1985) 19 APAD219.

‘Rural land’ means lands on which grazing, vegetable, animal production or other agricultural or horticultural activities are conducted: Butterworths Australian legal Dictionary (1997). In determining whether land is ‘rural land’, it is the physical use of the land which is relevant: Cordinup Resorts Pty Ltd & Ors v Terana Holdings Pty Ltd (1997) 143 FLR 18.

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 a 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 the 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 City would be correct in assessing rating charges on the gross rental value of the land and not on the unimproved value of the land.*

Council Policy/Local Law Implications

Nil

Budget/Financial Implications

The report recommendation whether agreed or not agreed, will have a nominal impact on future rate revenues.

Consultation

Residents/ratepayers

Rating Review Working Party

BACKGROUND

The initial step to each year's Rating Program is to review and determine the Basis of Rates for the coming year, ie. whether properties are to be rated on their gross rental or unimproved valuation which is dependent on whether the land is being used predominantly for rural or non-rural purposes.

The vast majority of the City's approximate (20,000) rateable properties are rated on their gross rental value with only (325) properties currently rated on their unimproved valuation.

Recently, 26th April 2005, Council resolved (resolution CS31/4/05 refers) to request the Minister for Local Government to change the method of valuation for (110) properties from unimproved (UV) to gross rental value (GRV) with effect from 1st July 2005 (reason being that in accordance with Section 6.28 of the Act, Council had assessed these (110) properties as no longer being used predominantly for rural purposes).

Subsequent to Council's resolution, letters were sent to all (325) properties involved in the review process advising of Council's decision. In response, (5) objections were received and this report deals with these objections.

DETAILS OF PROPOSAL

Details of the objections received together with officer recommendations are as follows:

(i) Assess 176944 – 32 Redtail Lane Roleystone

As per Council's April 2005 decision, this property was assessed as being used predominantly for rural purposes and as such, its method of valuation, being UV, should continue.

The owner has since advised that:

- they purposely did not complete and return the Land Use Declaration form issued by Council as part of the review process, believing that no form would serve to automatically change the basis of their rates to GRV,
- the predominant use of the property is that of a hobby farm and as such is not used predominantly for rural purposes and therefore should be rated on a GRV basis.

The officer recommendation, on the basis of the owner's subsequent advice and return of their Land Use Declaration form which declares the property as *not* being used predominantly for rural purposes, is to support the objection, ie. take steps to place the property on a GRV method of valuation with effect from 1st July 2005.

(ii) Assess 117796 – 1279 Brookton Highway, Karragullen

As per Council's April 2005 decision, this property was assessed as no longer being used predominantly for rural purposes and as such its method of valuation should be changed to GRV.

The owner of the property has since advised, quote,

- *this district, including this property was severely affected by a bushfire between 15 & 17 January 2005,*
 - *this property was one of the most severely affected. This involved the loss of pastures, all internal fencing and the death of livestock being agisted on the property,*
 - *under such circumstances, it was impossible to correctly complete the Declaration form as requested by your letter of 24th December 2004, because of the*
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- uncertainty caused by such destruction, and because of the effect of the events on us personally,*
- *this property has been used for grazing livestock for some time, but that activity has been progressively decreased, although some income is still being derived from this source in most years,*
 - *during the 2 years 2003-05, the property has been developed through additional fencing of pens and small paddocks, and the renovation of dams, for the agistment of high value livestock (those being used in research and testing protocols) . The animals killed belonged to and had been involved in trials on behalf of a WA-based chemical company.*
 - *it is our view that the agistment of high value livestock constitutes agricultural activities.*
 - *the destruction of the pen and paddock facilities has effectively prevented any further use of the property for these purposes in the short term. Replacement of the facility has only just begun, because of the need to sort out complex matters involving our insurer and their appointed assessor.*
 - *In these circumstances, we request that any alteration to the basis for rating be deferred.*

The officer recommendation, based on the foregoing additional information, is to support the owner's objection, ie. take steps to rescind that part of Council's prior resolution thereby leaving the property on a UV method of valuation.

(iii) (3) properties:

Assess 119259 – 1759 Canning Road, Karragullen

Assess 119407 – 432 Chevin Road, Roleystone

Assess 115724 – 106 Irymple Road, Roleystone

As per Council's April 2005 decision, these (3) properties were assessed as no longer being used predominantly for rural purposes and as such the method of valuation be changed to GRV.

The owners of the (3) properties have since advised that their properties are in fact used predominantly for rural purposes, ie.

- For Assess 119259, the owner has advised that whilst this particular lot is relatively small and is used primarily for residential purposes, it nevertheless forms an integral part of a larger orchard activity which occurs on several lots immediately surrounding this lot. The other surrounding lots have a UV method of valuation and all lots are owned by the same person.
 - For Assess 119407, the owner has since confirmed by return of their Land Use Declaration form that the property is primarily used for stabling/agisting horses and orchard production and that the income derived from these agricultural activities forms a considerable portion of their total income.
 - For Assess 115724, the owner has advised (and its since been confirmed by the return of their Land Use Declaration form) the property is primarily used for
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animal grazing and as an orchard and that the income derived from these agricultural activities forms a considerable portion of their total income.

The officer recommendation, based on the feedback of the property owners and a further assessment of the circumstances, is to support all (3) objections, ie. take steps to rescind that part of Council's prior resolution thereby leaving the (3) properties on a UV method of valuation.

CONCLUSION

It is recommended that all (5) objections received be supported by Council via the following recommendation.

RECOMMEND

1. That Council rescind that part of its prior resolution CS31/4/05 of 26th April 2005 as relating to the following (4) properties, ie.

Assess No	Property	House No	Street Name	Suburb
117796	LOT: 14 D/P: 116390	1279	Brookton	KARRAGULLEN
119259	LOT: 1 D/P: 25682	1759	Canning	KARRAGULLEN
119407	LOT: 2 D/P: 48540	432	Chevin	ROLEYSTONE
115724	LOT: 4 D/P: 51110	106	Irymple	ROLEYSTONE

Absolute Majority Resolution Required

2. That Council, in accordance with Section 6.28(1) of the Local Government Act 1995, request the Minister for Local Government and Regional Development to determine, with effect from 1st July 2005, the method of valuation for the following property as being the gross rental valuation of the land, ie.

Assess No	Property	House No	Street Name	Suburb
176944	LOT: 3 O/L: 2 D/P: 74357	32	Redtail Lane	Roleystone

Moved Cr _____
Motion Carried (.....)

WARD All
FILE REF: CIB
DATE 1 June 2005
REF SDS
RESPONSIBLE CEO
MANAGER

In Brief:

- Councillors' Information Bulletin – Councillors are advised to take note of the information submitted in Issue No.11/2005 to be received by Council.

Strategic Implications

Corporate Services

- 2.1 Identify and implement mechanisms to improve communication and achieve common understanding of corporate issues and objectives.

COMMENT

The following general information and memorandums were circulated in Issue No. 11 on 1 June 2005.

Correspondence & Papers

- **Local Government News**
Issue No.19.05 – 20 May 2005
Issue No.20.05 – 27 May 2005
- **ALGA News**
18 May 2005 – Roads Congress Special Edition
20 May 2005
27 May 2005
- **Media Releases**
Budget Needs to Fix Election Vote Buying – 25 May 2005
Budget Surplus at the Expense of Local Roads – 26 May 2005
Is Public Open Space Policy Meeting our Needs? – 31 May 2005

Information from Human Resources

- Employee Movements

Information from City Strategy

- **Progress Reports on outstanding Matters**
Progress Report on Contingency, Operational & Strategic Projects
Report on Outstanding Matters – City Strategy Committee
- **Financial & Corporate**
Accounting Services Report
- **Minutes from Occasional Advisory Committee**
South East Regional Energy Group

Information from Development Services

- Report on Outstanding Matters – Development Services Committee
- Health Services Manager's Report for April 2005
- Planning Services Manager's Report for April 2005
- Town Planning Scheme No. 2 – Amendment Action Table
- PAW Closure Report – Significant Actions During April 2005
- Subdivision Applications – Recommendations Table (April / May 2005)
- Compliance Officer's Report for April 2005
- Building Services Manager's Report for April 2005

RECOMMEND

That Council acknowledge receipt of Issue No 11/2005 of the Information Bulletin



R S TAME
CHIEF EXECUTIVE OFFICER
