

LOCAL GOVERNMENT ACT 1995 — RURAL PROPERTIES — RATING

Grievance

MR C.J. TALLENTIRE (Thornlie — Parliamentary Secretary) [9.24 am]: My grievance is to the Minister for Local Government. People outside suburban areas are rightly concerned about the application of section 6.28 of the Local Government Act 1995 regarding the rating of rural properties. In preparing this grievance, I acknowledge the work being done by the Bullsbrook Residents and Ratepayers Association and the Gidgegannup Progress Association, especially its chairperson, Sally Block.

I declare I am a former member of the GPA. I also acknowledge the assistance of Jess Shaw, the member for Swan Hills, in preparing this grievance. The root of the problem is in the weirdly agri-centric interpretation of the phrase “rural purpose”. Note that I say “interpretation” and not “definition”, because “rural purpose” is not defined in the Local Government Act 1995, yet it is upon this interpretation that major decisions are currently made about the rates property owners will pay. Section 6.28(2) of the act states —

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.

Community concern has come about because of a failure of local governments to properly interpret what rural purpose land is. The example is the City of Swan. That authority is pushing for changes to rates from unimproved value to gross rental value for about 4 000 affected landholders. The City of Swan says that “rural” means the character of non-urban areas where agriculture is carried out. “Rural land” means land on which grazing, vegetable and animal production or other agriculture or horticultural activities are conducted. People are being asked to complete a land use declaration form template to meet the rural purposes test. They have to submit that they earn their livelihood from agricultural activities, a copy of a primary producers registration—no-one knows what that is—and a copy of an Australian business number certificate. There is a slightly menacing note on the declaration form that states that it is unlikely that land used as a hobby farm would satisfy the definition.

It is my submission to the Minister for Local Government that section 6.28(2) of the act needs a third category, which could read “where land is used primarily for conservation or provides amenity value or some other public good”. In those cases, owners of such properties should be paying no rates or at least substantially less than the unimproved value or gross rental value method for rating properties. That is a change that we as legislators should be making, although a less satisfactory alternative would be for a case to be taken to the State Administrative Tribunal for a determination on what “rural purposes” is. The City of Swan and others are proposing to switch a range of property owners to the GRV rating system because of this skewed interpretation of the term “rural purposes”. This ignores and discriminates against people who might be horse property owners, who have cattle or alpaca studs, or who indeed might be lifestyle property owners in one form or another. That is grossly unfair.

Central to my grievance is the idea that people who own land for conservation purposes should be afforded some recognition. Currently, the only assistance they get is an exemption from land tax, which is a quite separate issue, and that is only if they have a conservation covenant on their properties. It seems odd that we are rewarding those who seek to exploit the land while those who want to conserve are being penalised with higher rates. I also think this is very unfair for those self-sufficiency-style property owners who want to add to the amenity of a region. I know that the minister will recall the 1970s BBC series *The Good Life*, in which actors Felicity Kendal and Richard Briers played a couple intent on becoming totally self-sufficient, all to the anguish of their neighbours, played by Penelope Keith and Paul Eddington. Right across WA, people want to enjoy their properties in such a way that they can add to the amenity value of an area. They are, I know, in all cases prepared to be subject to some tests to demonstrate their credentials as land managers. We know there are some cases whereby rural properties, those smaller holdings, can be badly managed and lead to weed infestations, soil erosion and other poor outcomes, but the vast majority of rural property owners want to do the right thing. Giving them some incentive by acknowledging that in the rates they are charged would be an excellent way of enabling them to do a better job.

The menacing tone of the land use declaration form is not helpful at all, and I really think it is an example of a local government not understanding where its community is heading and what the character of an area is. It is not seeking to help enhance and preserve a rural flavour that might not necessarily be about meeting the strict definition of “commercial agriculture”. I also point out that the definitions being used are completely at odds with other important legislation in this area—namely, the Taxation Administration Act, which defines rural purposes and primary businesses in particular ways. I think in this case, we could have a much broader definition that would be much more helpful to landholders and would enable us to preserve and enhance amenity value and achieve great conservation benefits.

I look forward to the minister's response and to working through this issue with him, as I know will many people in rural Western Australia.

MR D.A. TEMPLEMAN (Mandurah — Minister for Local Government) [9.30 am]: I want to thank the member for Thornlie for this grievance; it is a very important issue. He is right; section 6.28 of the Local Government Act sets out the basis for determining the valuation of land. As he highlighted, section 6.28(2) states —

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.

The member's specific grievance relates to definitions and the effectiveness of those definitions with regard to determination. I acknowledge where he is coming from there.

In response to the member's important grievance, I want to highlight to the house that a number of factors need to be considered. The first, of course, is that the key consideration in determining the basis for rating is the use of the land. A property that is predominantly used for residential purposes is a non-rural land use and therefore has a GRV rating applied to it. The size of the property is not a relevant factor; nor is the zoning. There are a number of indicators to consider when local government is determining land use, including whether the property derives a significant income from agricultural activities.

The member's reference to land that is used for conservation that determines land use is an issue that should also be considered; I accept that and I think the member makes a good point there. He also mentioned people who seek to live a more self-sufficient lifestyle and that they should not be effectively deterred from that, if you like, by the rating process. I accept that argument. As the member for Thornlie will be aware, local governments undertake rating reviews of properties from time to time, and that is based on the predominant land use. Some local governments, particularly ones like Swan, Kwinana, Rockingham and Armadale, regularly request a change of method for the change of valuation from rural to non-rural. Usually that occurs when there are subdivision processes underway and that land use is required.

To support my determination under section 6.28 of the Local Government Act, I have implemented a policy that describes the legislative and policy foundation and guides the assessment. That is available on the Department of Local Government, Sport and Cultural Industries website. Ultimately, when a local government seeks to review land use and its impact upon how that land is rated, communication is an important aspect. I note the member's comments about the City of Swan's communication. I am also aware that the City of Swan has proposed a public forum, which will be an important part of that process, and I expect it will be very, very well attended.

I urge all the ratepayers who are affected and have been consulted on a significant issue such as this to, of course, make sure they have their say and put forward a full and frank submission. On the fourth point the member mentioned, I can understand someone interpreting the City of Swan's letter as having some undertones of deterring them from responding in a certain way. I would still urge all ratepayers who receive those letters—there are 4 000 of them, as the member highlighted—to make sure they make a significant submission to that process. The member for Thornlie mentioned the Gidgegannup Progress Association chairperson; I listened to her on the radio yesterday and she put forward some very strong points about the concerns of ratepayers in that area.

Another important thing is that I urge any local government to make sure its communication lines are absolutely transparent and effective and given in a timely manner to ensure that ratepayers have a good lead-in time to make comment, ask questions and make submissions on any proposed changes. It is too early to ascertain exactly what responses we will get, but I guess that quite a lot of people will understandably be concerned about what might be proposed. Once a determination is made, it is essentially up to the City of Swan to make an application to me under section 6.28. I can assure the ratepayers of the City of Swan and others who are part of this review process that I will consider a determination based upon a whole range of factors. The member's point about revisiting the definitions was a good one and I am pleased to tell the member that in phase 2 of the review of the Local Government Act, which, of course, will commence early next year, the specific aspect relating to ratings will be reviewed. That will be another opportunity, apart from this process, which is specific to circumstances in the City of Swan, for people to make a submission to the review of the Local Government Act. I think that is an excellent opportunity to highlight the points the member made, particularly regarding definitions and even the issue of conservation. The member mentioned recognition of those who seek to conserve ambience and the ascetics of local areas in a rural context. That should also be a consideration and I would welcome that as part of submissions to phase 2 of the local government review process early next year.

I am committed to making sure that phase 2 delivers a modern piece of legislation that reflects people's current and future aspirations for the rating process. I thank the member for his grievance.