

2. ITEMS FOR DECISION

2.1 MOTION – OPTIONS FOR DIFFERENTIAL RATING – VACATION RENTAL PROPERTIES Council – Break O’Day Council

Decision Sought

That LGAT lobby the state government for the amendment of legislation to enable Councils to differentially rate vacation rental properties.

Background

Like many Councils, Break O’Day is experiencing low levels of accommodation availability throughout the municipality and of particular concern is availability of rental accommodation. Council is aware that properties moving from long term rental to vacation rental is not the only factor contributing to this but does believe that it is a factor. Council also believes that there are limited tools available for councils to intervene if it perceives an imbalance in the housing situation and differential rating is a tool potentially available to allow local government to intervene to “level the playing field”, if appropriate. The current wording of legislation (S107 of Local Government Act) identifies residential land use purposes as a category for differential rating but not specifically vacation rental land use. Council believes specific legislative powers should be clarified that enable councils to differentially rate vacation rental properties and thereby enable councils some capability to intervene to address this imbalance.

In investigating options for council to address the issue of long-term rental properties converting to vacation rental, it was identified that council’s “head of power” for differential rating is S107 of the Act and the Act is quite specific as to the land use categories that can be used for differential rating. The Act specifies “residential” purposes with no sub categories. Land use is not specified as such but we take this to mean the land use identified for the property by the Valuer General (VG).

It is also noted that the issue of long-term rental properties converting to vacation rental has been an issue for local governments around Tasmania, not only Break O’Day.

LGAT Comment

The *Local Government Act 1993*, Section 107¹ allows for variation in rates as follows (emphasis added):

(1) A council, by absolute majority, may declare that the general rate, a service rate or a service charge varies within the municipal area or within different parts of the municipal area according to any or all, or a combination of any or all, of the following factors:

- (a) the use or predominant use of the land;*
- (b) the non-use of the land;*
- (c) the locality of the land;*
- (d) any planning zone;*
- (e) any other prescribed factor.*

(2) For the purposes of subsection (1) (a) , use means use for any of the following purposes:

- (a) residential purposes;*
- (ab) commercial purposes;*
- (ac) industrial purposes;*
- (b) public purposes;*
- (c) primary production;*
- (d) sporting or recreation facilities;*
- (e) quarrying or mining.*

In regard to Section 107(1(e)) the *Local Government (General) Regulations 2015*, prescribes the following variation factors:

33. Variation factors

For the purposes of section 107(1)(e) of the Act, prescribed factors for general or service rates are –

- (a) the division of land by the issue of a separate strata title to each parcel subject to the Strata Titles Act 1998 ; and*
- (b) if separately assessed land is predominantly used for residential dwelling, the number of residential dwellings on that land; and*
- (c) the relevant subcategories, of the use or predominant use of the land, set out as uses of land in the most recent Land Use Codes provided to the councils by the Valuer-General and published on the internet by the Tasmanian Government as part of the Land Information System Tasmania (the "LIST").*

In the Land Use Code published on the LIST, there is no specific for a vacation rental property, with the closest R9 – Holiday Home / Shack.

¹ See: <https://www.legislation.tas.gov.au/view/html/inforce/current/act-1993-095#HP9@HD6@EN>