

1.4: RETROSPECTIVE APPROVAL 2011/2012 MINIMUM RATES

Proponent	: City of Albany
Attachments	: Letter dated 7 August 2012 from Department of Local Government
Responsible Officer(s)	: Acting Chief Executive Officer (L Hill)

IN BRIEF

- In the 2011/12 budget the City of Albany imposed minimum payments that did not comply with the *Local Government Act 1995*.
- There is no financial impact to City of Albany or ratepayers
- Approval has been granted by the Minister to reimpose the quashed rates
- A resolution of Council is required to reimpose the quashed rates

RECOMMENDATION

ITEM 1.4: RESOLUTION
VOTING REQUIREMENT: ABSOLUTE MAJORITY

MOVED: COUNCILLOR DUFTY
SECONDED: COUNCILLOR SUTTON

THAT the imposed minimum payments of Gross Rental Value rated land for 2011-12, as quashed by the Minister for Local Government, be reimposed.

CARRIED 12-0
ABSOLUTE MAJORITY

BACKGROUND

1. Specifically the non compliance relates to the minimum payments of Gross Rental Value rated vacant land contrary to s 6.35(5) of the *Local Government Act 1995*, and the required Ministerial approval was not obtained prior to the minimum payment being imposed.
2. Twenty eight local governments within WA breached the Act with their budgets for 2011/12.
3. Of those 22 local governments, the City of Albany's breach was the most minor offence.
4. McLeod's Barristers and Solicitors represented all affected local governments, including the City of Albany, at a State Administrative Tribunal (SAT) hearing on 18 June 2012.

DISCUSSION

5. Section 6.35(4) of the *Local Government Act 1995* states:

A minimum payment is not to be imposed on more than the prescribed percentage of:

- a) The number of separately rated properties in the district; or
- b) The number of properties in each category referred to in subsection (6)

unless the general minimum does not exceed the prescribed amount.

6. Section 6.35(5) provides:

“if a local government imposes a differential general rate on any land on the basis that the land is vacant it may, with the approval of the Minister, impose a minimum payment in a manner that does not comply with subsections (2), (3) and (4) for that land”.

7. The Department of Local Government, under instructions from the Minister for Local Government, instructed the State Solicitors Office to commence proceedings in the SAT, under s 6.82 of the *Act*, to quash the invalid minimum payment.
8. The outcome from the SAT Review DR 116/2012-Minister for Local Government v City of Albany is as follows:

The parties seek the following orders by consent:

1. The general rate imposed by the City of Albany upon rateable land within its district to be rated on gross rental value for the 2011-12 financial year pursuant to s 6.32(1) of the *Local Government Act 1995 (WA)* is quashed pursuant to s 6.82 of that Act.
 2. There is no order as to costs.
9. The City of Albany submitted a request to the Minister for Local Government that the general rate imposed by the City for the 2011-12 financial year pursuant to s 6.32(1) of the *Local Government Act* should be quashed pursuant to s 6.82 of the Act.
10. Approval has been granted by the Minister, therefore the quashed rates are required to be reimposed by resolution of Council.
11. This is a compliance issue with no cost to City of Albany or ratepayers.

GOVERNMENT CONSULTATION

12. State Administrative Tribunal
13. State Solicitors Office
14. Department of Local Government

PUBLIC CONSULTATION / ENGAGEMENT

15. Nil – not required

STATUTORY IMPLICATIONS

16. Refer to paragraphs 1, 5, and 7

STRATEGIC IMPLICATIONS

17. **Organisational Performance** – *Financial Management*

POLICY IMPLICATIONS

18. Annual Budget 2011/2012.

RISK IDENTIFICATION & MITIGATION

19. The risk identification and categorisation relies on the City's Risk Management Framework.

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<i>Legal and compliance implications</i>	<i>Possible</i>	<i>Moderate</i>	<i>Medium</i>	<i>Support officer recommendation</i>
<i>Reputation in the community</i>	<i>Possible</i>	<i>Minor</i>	<i>Medium</i>	<i>Support officer recommendation Ensure budgeting process meets legislative requirements</i>
<i>Financial impact on City</i>	<i>Possible</i>	<i>Moderate</i>	<i>Medium</i>	<i>Support officer recommendation Ensure budgeting process meets legislative requirements</i>

FINANCIAL IMPLICATIONS

20. Nil.

LEGAL IMPLICATIONS

21. The City of Albany has now obtained approval from Minister of Local Government, no further legal implications apply to this issue.

ALTERNATE OPTIONS

22. Nil

Consulted References	:	Local Government Act 1995 (WA)
File Number (Name of Ward)	:	FM.BUG.2
Previous Reference	:	