

LOCAL GOVERNMENT LAW JOURNAL

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ARTICLES

Distributive justice, ordinary rates and the categorisation of land for rating purposes in New South Wales: An update – Guy J Dwyer

The taxation of property, in the form of land rates, has traditionally served as one of the main sources of revenue for local government authorities throughout the world. Revenue raised from rates is often allocated by local government to the funding of vital infrastructure services and amenity facilities. In New South Wales, there are two types of rates that can be made by a local council: ordinary rates and special rates. This article is concerned with the former. Before a local council may make an ordinary rate for a parcel of rateable land, it is required to have declared that parcel of land to be within one of the following categories: farmland, residential, mining or business. Stakeholders will often attempt to secure, for themselves, the best possible rating outcome they can. This can often turn upon the category that a parcel of land has been classified as for the purposes of ordinary rates. Distributive inequities or injustices may flow from the inappropriate categorisation of land for rating purposes. With this in mind, this article examines a recent decision of the Land and Environment Court which provides timely and important insights into the categorisation of land for the purposes of ordinary rates in NSW. It is argued that this decision indicates that there are two key factors to be considered in determining the category of a parcel of land for such purposes: statutory interpretation and construction, and actual or existing use of land. This article also suggests that other factors which may possibly influence categorisation, such as the owner's intended future use of the land or the reasons behind acquisition of the land, may be regarded as ancillary or supplementary at best, or immaterial at worst. The case examined in this article also provides lessons for local councils with respect to approaching the task of categorising parcels of land for the purposes of ordinary rates.

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Retreat from retreat – the backward evolution of sea-level rise policy in Australia, and the implications for local government – Justine Bell and Mark Baker-Jones

Climate change is expected to cause rising sea-levels, threatening communities and the built environment. Most Australian State Governments have responded to the threat of rising sea-levels by implementing laws and policies guiding future development in at risk areas. However, a number of Australian States have taken action to weaken these policies in the wake of State elections, allowing for increased development in vulnerable areas. This creates a conundrum for local governments, which are required to implement policy, approve developments, and potentially bear the risk if properties are subsequently flooded. This article will use the Queensland example as a case study of evolving sea-level rise policy, and assess the legal risk implications for local government. It will conclude that failure to implement clear policies with effective allocation of risk will result in litigation against both State and local governments.

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