# DRAFT SECOND READING SPEECH

## HON. PETER GUTWEIN MP

### *Local Government Amendment (Rates) Bill 2017*

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I move that the Bill now be read for the second time.

Madam Speaker, on 14 April 2016, the High Court of Australia handed down its decision in relation to *Coverdale v West Coast Council* [2016] HCA 15 (the High Court decision).

There were four major issues arising from the High Court decision that impact on long standing State Government policy regarding the application of local government rates and the valuation practices of the Valuer-General under the *Valuation of Land Act 2001*. The practical implications of the High Court decision are:

- seabeds that fall within municipal areas are subject to valuations and consequently local government rates;
- marine farms that are within municipal areas are subject to valuations and consequently local government rates;
- land that adjoins municipal land but is outside the municipal boundary can no longer be valued and rated; and
- Crown land leases and licences that fall into a classified exemption category under section 87(1)(b) of the *Local Government Act 1993* are exempt from non-service rates, regardless of whether the land is used for non-public use.

The intention of this Bill is to rectify the impacts of the High Court decision and to provide clarity to local government in relation to the rating of certain parcels of land.

Madam Speaker, this Bill is also about supporting the intention of the 2003 agreement between local government and the State Government.

In July 2003, the "Statewide Partnership Agreement between the Government of Tasmania and Tasmanian Councils on Financial Reform" was entered into with an aim to simplifying and making more transparent the financial relations between the two spheres of government.

At its meeting on 29 July 2003, the Premier's Local Government Council agreed to a number of reforms where the State agreed to pay rates on some land and local government agreed to pay State taxes. Some exemptions were agreed on by both spheres of government to ensure that the reforms were revenue neutral.

Amongst others, the recommended reform model stated that:

- rating of Crown land should be based on land usage rather than ownership; and
- exclusively non-commercial and public purpose assets of the Crown and local government should be quarantined from rating and taxation liability. This would encompass:
  - national parks, forest reserves, conservation reserves, public parks and recreation areas; and

– roads, bridges and associated infrastructure, including railway line corridors.

However, in light of the High Court decision, it has been identified that the previous amendments to the Act have not adequately given effect to these financial reforms. Commercial or non-public users of Crown land were not intended to be granted an exemption through the financial reforms.

It has been standard practice for the Valuer-General to value leases and licences over Crown land, irrespective of the Crown land classification. Using these valuations, some councils would then levy rates on that land as per section 89A of the Local Government Act.

The current exemptions within section 87(1)(b) of the Local Government Act do not qualify that the land held or owned by the Crown must be used solely for a public purpose in order to be exempt from non-service rates, as per the intention of the financial reforms.

Given this, there has been an inconsistent application of the exemptions across councils.

Consistent with the intent of the 2003 financial reforms, some councils have not applied the non-service rate exemptions relevant under section 87(1)(b) of the Local Government Act to Crown land that is used for non-public purposes, such as commercial and private use.

In other municipal areas councils are applying the rates exemption to Crown land regardless of whether the land is being used for public, commercial or private use.

This has resulted in an inconsistent and inequitable application of rates for commercial operators and private users of Crown land throughout the State.

Let me provide two examples.

Currently Freycinet Lodge is rated by the Glamorgan-Spring Bay Council. The Lodge is situated in a National Park. It is a successful business that uses the services and infrastructure of the Council. Any reasonable person would agree that this business should pay rates.

If complied with in its current form, the Local Government Act provides that this successful business, which benefits from all of the services the Council provides, should be subject to a rates exemption by virtue of its location within a National Park.

Just outside of the National Park, a few kilometres from Freycinet Lodge, is Saffire. Another successful Tasmanian business which benefits from all of the services the Council provides. There is no doubt under the Legislation that Saffire is to pay rates. Again no reasonable person would argue this.

These examples provide a glaring illustration about the inequity of how the current legislation could be applied.

In addition to commercial operators, there are numerous smaller leases throughout the State that provide exclusive use of reserved Crown land, like shacks, jetties and boat sheds.

Madam Speaker, these amendments assist local government by providing them with the clear capacity to allow them to rate equitably.

If they choose to, councils can integrate the amendments into their individual rating policies and, together with the wide range of tools already available under the Local Government Act, allow councils to implement rating resolutions appropriate to their areas.

The amendments will also provide councils with the capacity, if they choose to implement them, to ensure that private purpose leaseholders of Crown land to contribute, through the payment of general rates, to the infrastructure and services provided by councils to their communities.

The amendments will also provide councils the capacity to rate private purpose licences on Crown land that have a right to exclusive occupation conferred as part of their licence agreement. Again, if the council chooses to rate these, it will ensure that these private purpose licence holders contribute to the infrastructure and services provided by councils to their communities.

Madam Speaker, this Bill is about consistency and providing councils with the tools to provide equity for ratepayers and allowing councils to ensure that those who exclusively use reserve Crown land for commercial or private purposes, contribute for that use.

Rates go to the wide range of services provided by councils throughout the State that are available to all ratepayers.

Without these amendments, a number of major commercial operators throughout the State will cease to pay rates. Councils will still need the budgeted revenue so the rating burden will fall on the rest of the ratepayers within the municipal area to make up the shortfall.

Madam Speaker, it is acknowledged that there will be some people who will now be liable for rates that previously were not. However, the Local Government Association of Tasmania has advised that overall, there would be very few properties rated which had never been rated before and that largely, impacts would be confined to re-implementing a rating regime where there had been interruption while these matters were clarified. The rating patterns would reflect those properties that have been receiving valuation data from the Valuer-General and which have been previously rated in good faith on that basis.

Madam Speaker, the amendments relating to Crown land seabeds are about consistency and equity.

The High Court decision has created a policy inequity where marine farming leases which fall within municipal areas are valued and therefore liable to be rated and those outside municipal areas are not valued and therefore not rated.

I am advised that there are 88 marine farm leases over Crown lands that are within municipal areas which will now potentially be subject to rates.

There are 67 marine farm leases over Crown lands that are outside a municipal area, and therefore not liable to be rated.

In addition, there are 35 marine farms that are partly within and partly outside the municipal area, which provides another layer of complexity to the issue.

It is important to note that marine farms still pay for the relevant onshore operations and still contribute to the relevant municipal area, through rates, state taxes and employment.

Prior to the High Court decision, all unallocated Crown land under water (Crown land seabed), regardless of whether it fell within or outside a municipal area, was not valued and therefore not rated.

The High Court decision concluded that "Crown Lands" in section 11 of the Valuation of Land Act means "Crown land" within the meaning of the *Crown Lands Act 1976* and so includes the seabed and so much of the sea as lies above it.

The High Court decision now requires the Valuer-General to value all Crown land within a municipal area, including seabeds, that is not exempted under section 87(1)(b) of the Local Government Act. Councils then have the power to levy rates and charges on the Crown land that is valued.

Seabeds are owned by the Crown and therefore the Crown, as the owner, is liable for any rates or charges levied by a council. This would create a significant Budget impost to the Government and be incompatible with the revenue neutrality principle agreed through the State and local government financial reforms.

The High Court decision clarified that the Valuer-General has a duty to value Crown land within a municipal area. Councils can only rate land that is valued.

Section 16 of the Local Government Act provides that a municipal area is an area specified in Column 1 of Schedule 3 of the Act, and includes any accretion from the sea adjoining it, and any part of the sea shore to the low water mark adjoining it.

There are some parcels of currently valued and rated land where either a portion of the development extends outside the municipal boundary, although a logical extension of the parcel of land, or they adjoin the municipal boundary.

Examples of this includes Crown leases at McVilly Drive, Hobart, the freehold title land held by the Ports Authority (Mona Brooke Street Ferry Terminal), the Royal Yacht Club of Tasmania Marina, Cornelian Bay Boatsheds, part of Wrest Point Hotel, and innumerable jetties throughout Tasmania.

The impact of the High Court decision means that the portion of land or occupatio that falls outside the municipal boundary cannot be valued or rated and, without an amendment to the Act, will mean a loss of revenue for affected councils. The loss of revenue has not been quantified by local government.

In addition, State Government land tax may be slightly reduced by the removal of freehold land outside municipal areas. The assessed land value of land as per the *Land Tax Act 2000* that is used to calculate the land tax payable is determined under the Valuation of Land Act, and is restricted to each valuation district. A valuation district is defined as a municipal area of a council.

If the amendments are not made, there will be a another inequitable situation where owners of land within municipal boundaries are required to pay rates and owners of land outside of municipal areas are not required to pay rates even though they use the services and infrastructure of councils which are being funded by other rate payers.

Madam Speaker, I commend the Bill to the House.