

Land re-zonings and Council Rates – Information for property owners in the proposed Orchard Hills land re-zoning area

If you are a property owner in the proposed Orchard Hills re-zoning area, this information is provided in relation to how land re-zonings may impact your council rates.

Please note that the information is general in nature and may not take into account your specific circumstances. As a property owner you have rights and liabilities in relation to council rates under the Local Government Act 1993, the Local Government (General) Regulation 2021 and the Valuation of Land Act 1916. This information seeks to summarise how the land re-zoning process affects your rights and liabilities under this legislation but may not cover all of your rights and responsibilities. You should rely on your own independent legal or financial advice to ascertain what is best in your circumstances now and into the future.

Brief summary:

- 1) Land re-zonings may increase your land valuation which will increase how much you pay for your council rates.
- 2) Speculative purchases of land prior to the re-zoning may increase your land valuation and council rates before the land has been re-zoned.
- 3) Once land has been re-zoned, the land may be revalued and your rates may increase. If your rates increase due to a valuation increase after re-zoning you are allowed under the legislation to postpone part of your rates increase, and pay back a postponed amount to council, if and/or when you sell the property.
- 4) If you are unable to pay your rates on time, Council can assist you by allowing payment arrangements and extensions to suit your individual circumstances.

Land re-zonings and Council Rates

Land re-zonings that change the allowable use of the land to a use of a higher value will likely increase the value of your property above what it is currently worth (in some cases this may be very significant increases of many \$millions). Property owners are advised that such increases to a property's value will however come with some extra liabilities, particularly in relation to increases in council rates, and some increases may come before the land has been re-zoned or before the property owner has received the benefit of the valuation increase by selling or developing the property.

Below is information about how council rates are calculated, what may happen to your council rates prior to the land being re-zoned, and what may happen to your council rates if the land is re-zoned.

How are council rates calculated?

In NSW the amount you pay for rates is determined by three main factors:

- 1) Unimproved land valuation for the property
- 2) Rating category for the property
- 3) Rate that applies for the rating category/sub-category.

Rates are calculated by multiplying the land valuation by the rate for the rating category.

Land is generally valued by the NSW Valuer General every three years and those land valuations are used for the assessment of your council rates for the next three years. Council is currently using land valuations carried out in July 2019. Land will next be valued as at July 2022 and these new valuations (which are received around December) will be used for the assessment of rates from 1 July 2023 onwards.

There are 4 main rating categories: Business, Residential, Farmland and Mining. There are also sub-categories within these categories with two Business sub-categories and two residential sub-categories used by Penrith City Council.

The rating category or sub-category is important as councils charge different rates for each different category and sub-category. For Penrith City Council the rates charged from lowest to highest categories/sub-categories are:

- Farmland (lowest rate);
- Residential Rural Area and Residential Rural 2 to 40 Hectares with dwelling;
- Residential General;
- Business General;
- Business Penrith CBD; and
- Business St Marys Town Centre (highest rate).

Most properties in Orchard Hills are currently categorised as Residential Rural Area. In 2022-23 the Residential Rural Area rate is currently around 14% lower than the general Residential rate, and Council plans to discount the rate further over the next two financial years (23-24 and 24-25) with an eventual discount of around 30%. Your property may also be categorised as Farmland or Business depending on how the property is dominantly used.

Your rating category, land valuation and rate for your category are shown on your council rates notice and will look something like this: *Residential - Rural Area Rate \$1,000,000 @ 0.00301519.*

You have rights under the legislation to query your rating category with Council and your land valuation with the NSW Valuer General. These rights also allow you to appeal any decision of

either the Council or the Valuer General under specific circumstances in the Land and Environment Court.

For a rating category review you can request a review by Council at any time. If your property is reviewed by Council and changed to a rating category that has a lower rate, Council will adjust your rates accordingly and credit your rates account or issue you a refund. If you disagree with Council's determination after the review, you may appeal to the Land and Environment Court under Section 526(1) of the NSW Local Government Act 1993 within 30 days of the declaration.

If you ask the Valuer General to review your land value and the land valuation is reduced Council will adjust your rates accordingly and credit your rates account or issue you a refund. There are time frames that restrict how long you have to question your land valuation after you receive your valuation notice (usually issued in January every three years for rates purposes). Further information in relation to land valuations is provided on the Valuer General's website: www.valuergeneral.nsw.gov.au

What will happen to my council rates before the land is re-zoned?

In 2022-23 Council is still using the 2019 land valuation and rates in Orchard Hills *decreased* by around 2.5% from the amount payable in 2021-22 due to the four year gradual reduction to rural rates. Land will next be valued as at 1 July 2022 and these new land valuations will be used for rating purposes for up to three years starting from 1 July 2023.

It is likely that the proposed land re-zonings in Orchard Hills have driven up sales prices of land through speculative purchases and this may lead to large increases in your land valuation with the next general land valuation. If this is the case this may mean that your land rates may increase significantly from 1 July 2023, but by how much is not ascertainable as most land in the Penrith City Council Local Government Area (LGA) has increased significantly since the last general revaluation in 2019.

Please note that a certain % increase in your land valuation does not equate to the same % increase in your rates, so if your property value increases by 100% your rates will not necessarily increase by 100%. Rates increases after general revaluations are determined by how much a property's value has increased percentage wise compared to the average increase of all other properties in the LGA. For example if the average increase for all properties is 50% and your property has increased by 60%, your rates increase will be about 10% being the amount above the average increase (60% minus 50% = 10%).

As we will not receive the new land valuations until December 2022 and then it will take some time to analyse the data, we are unable to predict or provide any estimates of how much rates will increase for properties in the proposed re-zoning area, however property owners in the proposed re-zoning area should prepare themselves for significant increases in their rates from 1 July 2023.

What will happen to my council rates when then land is re-zoned?

Once land is re-zoned there are some additional legislative processes that are initiated by the re-zoning that which may change or alter your rights and liabilities in relation to council rates under the Local Government Act 1993, the Local Government Regulation Act 2021 and the Valuation of Land Act 1916.

Firstly, the land may be revalued by the Valuer General under 60(1)(a) of the NSW Valuation of Land Act 1916 where the new valuation will take into account the new land zoning of the property. Although this new valuation may take a little while to come through to Council after the re-zoning, once Council receives the new land valuation we will then use that new valuation for the assessment of rates going forward. Property owners should prepare themselves for rates increases soon after the land has been re-zoned if the re-zoning will increase the property's value. If the property valuation does not change after the re-zoning there will be no immediate change to your rates. If the property valuation reduces due to the re-zoning (which does happen in some cases) Council will adjust your rates accordingly and refund any amount overpaid if applicable.

Secondly, the increase in land valuation due to a re-zoning which will increase how much council rates you may need to pay will however the re-zoning will initiate a right for you under the legislation to **postpone the rates increase** under certain circumstances, thereby allowing you to not have to pay such a significant amount straight away. How postponement of rates works is explained below but it is important to point out that postponing rates just defers part of your rates liability to a later date (you have to eventually pay back the postponed amount when you sell or develop the property) and interest charges are payable. If you stay in the property for longer than five years however Council waives some of the postponed rates and interest charges after five years.

Postponement of rates explained

Important note: *The information below was current at the time of publication however the NSW Government has legislated some changes to the postponement of rates provisions which may change your eligibility to be able to apply for postponement, and also may mean that postponed rates and interest may not have to be waived by Council after five years. These changes do not come into effect until the changes are officially proclaimed by the Minister. If the change is proclaimed before your land is re-zoned, these allowances for a postponement of rates may no longer apply in your circumstances.*

If you own land which has been re-zoned, you may be able to postpone part of your rates if your land is:

- Residential and contains a single occupied dwelling which is zoned for residential or commercial use or subdivision.

- Rural land and zoned for a use other than rural land or if subdivision is permitted which will allow a lot of less than 40 hectares. Rural land is “a parcel of rateable land which is valued as one assessment and exceeds 8,000 square metres in area and which is wholly or mainly used for the time being by the occupier for carrying on one or more of the businesses or industries of grazing, animal feedlots, dairying, pig-farming, poultry farming, viticulture, orcharding, bee-keeping, horticulture, vegetable growing, the growing of crops of any kind or forestry”.

Please note that a postponement of rates is **not available to dual occupancies or business/commercial properties** unless the property meets the eligibility criteria for the rural land above (ie the property is dominantly used for farming purposes as well).

Postponing your rates will result in you paying less up-front until you sell or develop the land with part of your rates bill deferred for payment at a later date. At that time, you must pay the postponed amount plus postponed interest charges.

To assess how much you will need to pay and how much will be postponed, the land is given two values to be used for the assessment of rates determined by the Valuer General:

1. **Value to determine how much rates are to be paid:** Land value if property was only used as a single dwelling or for rural use:
2. **Value to determine how much rates are to be postponed:** Full land value under new zoning, less the value 1 amount:

Generally the annual amount you need to pay each year (the amount not postponed) is around the same amount you were paying before the re-zoning, with the postponed balance deferred to a later time.

The postponement provision is usually used for owners who continue to use and occupy their land after the land has been re-zoned but can't afford to pay the rates increase which come about due to valuation increases. By postponing your rates, you can pay the postponed portion when you sell or develop the land.

One benefit of postponing your rates if you plan on holding the land long term is that if the land is held for longer than 5 years, some of the postponed rates will be written off. At any time, you are only liable to pay a maximum of 5 years postponed rates and interest.

After 5 years (ie in year 6 of the postponement), unless the land has been vacated or developed, Council writes off the 1st year of postponed rates and interest before adding on the new postponed amount for that year. In year 7 Council will then write off the amount postponed in the second year of the postponement before adding on the new postponed amount for that year, and so on. You are only ever liable to pay a maximum of 5 years of postponed rates when the land is developed or sold. If you postpone your rates for 10 years

and then sell the property Council by that time would have written off the rates and interest postponed in the first five years but you would have to pay the postponed amount from the last five years.

See the table below showing how much postponed rates would be payable after 10 years if an amount of \$5,000 rates plus \$200 interest was postponed (these amounts do not include the non-postponed amounts payable annually over that time):

	Rates Postponed	Postponed Interest Charges	Postponed Rates and Interest waived by Council	
Year 1	\$5,000	\$200	0	
Year 2	\$5,000	\$200	0	
Year 3	\$5,000	\$200	0	
Year 4	\$5,000	\$200	0	
Year 5	\$5,000	\$200	0	
Year 6	\$5,000	\$200	-\$5,200	(Year 1 waived)
Year 7	\$5,000	\$200	-\$5,200	(Year 2 waived)
Year 8	\$5,000	\$200	-\$5,200	(Year 3 waived)
Year 9	\$5,000	\$200	-\$5,200	(Year 4 waived)
Year 10	\$5,000	\$200	-\$5,200	(Year 5 waived)
	\$50,000	\$2,000	-\$26,000	\$26,000
TOTALS	Total Rates Postponed over 10 years	Total Postponed Interest Charges over 10 years	Less Postponed Rates and Interest waived by Council starting after 5 years	Amount payable after 10 years

In this example although \$50,000 rates and \$2,000 interest charges were postponed, Council would have waived \$26,000 in years 5 to 10 so you would only have to pay a postponed amount of \$26,000 if the property was sold in year 10.

If you plan on holding the land for less than 5 years it may be beneficial for you to not postpone your rates but seek alternative finance options to pay the full rates at much lower mortgage interest rates (potentially 2% to 5%). Postponement interest charges are 6% per annum but this changes each year. Some people may have trouble obtaining finance due to their circumstances so may elect to postpone part of the rates even if they plan on selling the land within a couple of years and paying the deferred rates when they sell the property.

Council is unable to give you advice as to what is best for you. Please seek your own independent advice to see if this suits your circumstances before making any decision about whether or not you postpone your rates increases, or what you do in relation to your property ownership going forward.



Council can always assist any ratepayers who may have difficulty paying their rates by allowing payment arrangements and extensions to suit their individual circumstances. If you need assistance now or in the future when your rates may increase, please email rateshelp@penrith.city or call us on 02 4732 7777.

If you have any queries in relation to this information, please email Council's Rates Coordinator Matthew Saunders: matthew.saunders@penrith.city or contact him directly on 02 4732 7756.