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Committee Policy, Finance and Strategy
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Local Government (Rating) Act 2002 - Delegations

1. Purpose

To seek delegated authority from the Council to enable officers to effectively administer the Local Government (Rating) Act 2002.

2. Background

From 1 July 2003 the Local Government (Rating) Act 2002 (“the Act”) will take full effect. At that time all rates will be assessed and administered under this Act and the powers of the Rating Powers Act 1988 will cease.

Councillors are aware that the new legislation has resulted in a number of changes to the way in which Greater Wellington sets and collects its rates. While the Council will continue an agency arrangement with the region’s territorial authorities for the collection of rates, a more hands-on approach is required in a number of areas where previously there was no involvement from the Regional Council. In some cases this will require retrospective approval of actions taken by our agents. As a result of the changes there is a need to establish a set of delegations to enable the efficient administration of the process.

Section 132 of the Act sets out the Council’s authority for giving delegations. It states:

“(1) A local authority may delegate the exercise of functions, powers, or duties conferred by this Act on the local authority to –

(a) its principal administrative officer; or

(b) any other specified officer of the local authority.

(2) A local authority must not delegate –

(a) the power to delegate; or

(b) a function, power, or duty conferred by subpart 2 of Part 1 or subpart 1 of Part 5.”

Subpart 2 of Part 1 of the Act covers rating mechanisms and the setting of rates and subpart 1 of Part 5 covers the setting of replacement rates where the original rate was irregular or miscalculated. It's important to note that the power of sub-delegation is explicitly excluded.

Under Section 27 of the Act a local authority must keep and maintain a rating information database. Subsection (7) states:

“This section does not prevent a regional council from –

- (a) keeping a rating information database in separate parts for the constituent districts of the region; and*
- (b) delegating the function of maintaining those parts to the territorial authorities concerned.”*

With effect from 1 July 2003, eight out of nine territorial authorities in the region will undertake the maintenance of the Council's rating information database as part of the collection agreement. Although the Council approved the collection agreement, a formal delegation will ensure full compliance with the Act.

The ten rating units in that part of Tararua District within the Wellington Region are not covered by an agency arrangement with a territorial authority. As a result Greater Wellington will manage all aspects of the rating process and specific delegations are sought to enable this to be carried out in an efficient manner.

3. Delegations

Greater Wellington has only two current delegations relating to rates. These delegations deal with the remission of additional charges on special pest management rating districts and the remission of additional charges on special Wairarapa districts rates, (scheme rates). Under the new collection arrangements and delegations proposed in this report these current delegations are no longer required and should be repealed.

The following delegations are now considered appropriate for the period post 30 June 2003.

- (1) To the Chief Financial Officer and to the Council Secretary (acting separately)
 - (a) The power to remit penalty amounts up to \$5000 in accordance with the Council's adopted "Remission of penalties" policy.
 - (b) The power to remit rates up to \$5000 in accordance with the Council's adopted "Remission of rates causing unforeseen financial hardship" policy.

- (c) The power to postpone rates in accordance with the Council’s adopted “Rates postponement policy”.
 - (d) The power to remit or postpone rates on Maori freehold land up to \$5000 in accordance with the Council’s adopted “Remission and postponement of rates on Maori freehold land” policy.
 - (e) The power to adjust rates assessed for the current and/or prior years where there has been a change in value or area resulting from an objection or a change in differential category applying to the rating unit.
 - (f) The power to correct an error in the rating information database or rates record even though an objection has not been made.
 - (g) The power to correct or decline to correct entries in the rating information database or rates record.
 - (h) The power to remove ratepayers names from the rating information database subsequent to change of ownership or assignment of a registered lease.
 - (i) Where the officer determines it to be uneconomic to collect rates of less than \$100, the power to write off the rates and notify the ratepayer accordingly.
 - (j) The power to recover additional rates in accordance with the formula in the Act where a ratepayer has failed to give proper notice of a change in matters that may affect liability or a change of ownership or lease resulting in the full amount of rates not being collected.
 - (k) Where the officer considers it appropriate, the power to commence proceedings in a court of competent jurisdiction to collect unpaid rates. Proceedings may include suing the ratepayer or the winding up of a company but excludes the commencement of a rating sale or lease. If a rating sale or lease is deemed necessary, specific prior approval will be sought from Council.
 - (l) The power to refund overpaid rates up to \$200,000.
 - (m) The power to make financial adjustments to rates assessed where new charges need to be added or existing charges need to be deleted in specific circumstances.
- (2) To the Chief Executive Officer
- (a) The power to remit penalties of any amount in accordance with the Council’s adopted “Remission of penalties” policy.

- (b) The power to remit rates of any amount in accordance with the Council’s adopted “Remission of rates causing unforeseen financial hardship” policy.
 - (c) The power to remit or postpone rates on Maori freehold land of any amount in accordance with the Council’s adopted “Remission and postponement of rates on Maori freehold land” policy.
 - (d) Where the officer determines it to be uneconomic to collect rates of less than \$1000, the power to write off the rates and notify the ratepayer accordingly.
 - (e) The power to refund overpaid rates up to \$500,000.
 - (f) All powers delegated to the Chief Financial Officer and the Council Secretary.
- (3) To Kapiti Coast District Council, Porirua City Council, Wellington City Council, Hutt City Council, Upper Hutt City Council, South Wairarapa District Council, Carterton District Council, Masterton District Council
- (a) The power to maintain that part of Greater Wellington’s rating information database that falls within their district.

Conditions on delegations to officers

It is recommended that delegations to officers be restricted as follows:

- Officers may not undertake any action under their delegated authority in any situation where they have an interest in the rating unit through association with the ratepayer by way of family, friend or legal appointment or other association such as membership of a club, society or organisation.

4. Communication

The appropriate delegations will be communicated to rating staff within territorial authorities. No further communication is necessary.

5. Recommendations

That the Committee recommends to Council that it:

- (1) ***Repeals*** all existing delegations relating to the remission of additional charges on special pest management rating districts and the remission of additional charges on special Wairarapa districts rates.
- (2) ***Delegates*** under section 132 of the Local Government (Rating) Act 2002 the functions, powers and duties specified below:

To the Chief Financial Officer and to the Council Secretary (acting separately)

- (a) The power to remit penalty amounts up to \$5000 in accordance with the Council's adopted "Remission of penalties" policy.*
- (b) The power to remit rates up to \$5000 in accordance with the Council's adopted "Remission of rates causing unforeseen financial hardship" policy.*
- (c) The power to postpone rates in accordance with the Council's adopted "Rates postponement policy".*
- (d) The power to remit or postpone rates on Maori freehold land up to \$5000 in accordance with the Council's adopted "Remission and postponement of rates on Maori freehold land" policy.*
- (e) The power to adjust rates assessed for the current and/or prior years where there has been a change in value or area resulting from an objection or a change in differential category applying to the rating unit..*
- (f) The power to correct an error in the rating information database or rates record even though an objection has not been made.*
- (g) The power to correct or decline to correct entries in the rating information database or rates record.*
- (h) The power to remove ratepayers names from the rating information database subsequent to change of ownership or assignment of a registered lease.*
- (i) Where the officer determines it to be uneconomic to collect rates of less than \$100, the power to write off the rates and notify the ratepayer accordingly.*
- (j) The power to recover additional rates in accordance with the formula in the Act where a ratepayer has failed to give proper notice of a change in matters that may affect liability or a change of ownership or lease resulting in the full amount of rates not being collected.*
- (k) Where the officer considers it appropriate, the power to commence proceedings in a court of competent jurisdiction to collect unpaid rates. Proceedings may include suing the ratepayer or the winding up of a company but excludes the commencement of a rating sale or lease. If a rating sale or lease is deemed necessary, specific prior approval will be sought from Council.*
- (l) The power to refund overpaid rates up to \$200,000.*

- (m) *The power to make financial adjustments to rates assessed where new charges need to be added or existing charges need to be deleted in specific circumstances.*

To the Chief Executive Officer

- (a) *The power to remit penalties of any amount in accordance with the Council's adopted "Remission of penalties" policy.*
- (b) *The power to remit rates of any amount in accordance with the Council's adopted "Remission of rates causing unforeseen financial hardship" policy.*
- (c) *The power to remit or postpone rates on Maori freehold land of any amount in accordance with the Council's adopted "Remission and postponement of rates on Maori freehold land" policy.*
- (d) *Where the officer determines it to be uneconomic to collect rates of less than \$1000, the power to write off the rates and notify the ratepayer accordingly.*
- (e) *The power to refund overpaid rates up to \$500,000.*
- (f) *All powers delegated to the Chief Financial Officer and the Council Secretary.*

To Kapiti Coast District Council, Porirua City Council, Wellington City Council, Hutt City Council, Upper Hutt City Council, South Wairarapa District Council, Carterton District Council, Masterton District Council

- (a) *The power to maintain that part of Greater Wellington's rating information database that falls within their district.*
- (3) ***Restricts the delegations to officers as follows:***
- (a) *Officers may not undertake any action under their delegated authority for rate accounts where they have an interest in the rating unit through association with the ratepayer by way of family, friend or legal appointment or other association such as membership of a club, society or organisation.*
- (4) ***Notes that in the exercise of these delegations Council Officers may need to approve actions retrospectively.***

Report prepared by:

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