

QLDC Council
10 October 2019

Report for Agenda Item | Rīpoata moto e Rāraki take: 12

Department: Finance, Legal & Regulatory

Title | Taitara Re-setting of Rates for 2019/20

PURPOSE OF THE REPORT | TE TAKE MŌ TE PŪRONGO

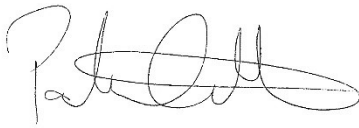
The purpose of this report is to approve notification for a 2019/20 Rates re-setting process in accordance with Section 119 of the Rating Act.

RECOMMENDATION | NGĀ TŪTOHUNGA

That Council:

1. **Note** the contents of this report;
2. **Authorise** officers to issue public notification of Council's intention to re-set the rates.

Prepared by:



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Financial Advisory Manager

3/10/2019

Reviewed and Authorised by:



Stewart Burns
General Manager, Finance, Legal
and Regulatory

3/10/2019

CONTEXT | HORPOAKI

- 1 As part of the 2018/19 Annual Audit the auditors identified a potential issue with the information contained in Council's 2019/20 Annual Plan.
- 2 The issue identified is that the 2019/20 Annual Plan does not contain all of the information required for a compliant funding impact statement (FIS) in accordance with clauses 20(3) and (4) of the Local Government Act. In particular, the FIS did not identify a detailed breakdown of all of the 2019/20 rates and charges. Rather, in an attempt to streamline communication with the community the Annual Plan only included a detailed breakdown of the changes from the 2018/19 rates.
- 3 The omission of the information does not impact the rates that were set through the Annual Plan. It is however an irregularity in the process for setting the rates which should be remedied.
- 4 Section 119 of the Rating Act provides a procedure to set rates again if the Council determines that it is desirable to set a rate again because of an irregularity in setting the rate, or a mistake in calculating the rate or there has been a relevant change in circumstances.
- 5 A precondition in section 119 is that setting rates again will not increase the amount of rates assessed to any rating unit. Given the rates for 2019/20 will not change if they are reset, this precondition will be satisfied.
- 6 In order to re-set the rates, the Council must give 14 days' public notice of its intention to set the rate again, and it must comply with its Standing Orders for the revocation and alteration of the earlier rates resolutions. There is no opportunity for the public to make submissions or comment on the public notice. The changes proposed are informative and do not affect the rates calculations or the rates that have been set.
- 7 Undertaking the rates resetting process will regularise the omissions in the FIS and ensure that the rates for 2019/20 are set in accordance with section 23 of the Rating Act. This procedure is explicitly provided to allow local authorities to regularise issues with current year's rates.

ANALYSIS AND ADVICE | TATĀRITANGA ME NGĀ TOHUTOHU

- 8 Because the rates relate to the 2019/20 year, the remedial options available to council include:
 - a. Rates resetting under the Section 119 of the Rating Act;
 - b. Rates replacement under sections 120 to 130 of the Rating Act;
 - c. Adopting the FIS again, with missing information included, and setting the rates again under section 13 of the Interpretation Act 1999 or
 - d. Legislative validation.

9 All options have been considered and the most appropriate in the present circumstances is to re-set the rates in accordance with section 119 of the Rating Act.

10 Option 1 Do nothing

Advantages:

11 No public notice or other processes required.

Disadvantages:

12 While the omission of information from the document does not affect the rates at present, if the rates were challenged by a third party, it could result in a Court finding that the Annual Plan is not compliant with the LGA requirements.

13 There is a risk that if Council needs to take recovery proceedings for unpaid rates that ratepayers defending such actions may then look to assess the validity of the rates as a possible defence to the proceedings – even if that is not a proper defence to recovery proceedings.

14 Option 2 Re-set the 2019/20 rates

Advantages:

15 Following the public notice and re-setting of the rates, we can be certain that Council is on firm ground should it need to take recovery proceedings to recover unpaid rates.

Disadvantages:

16 Requires an additional process to re-set the rates and update the annual plan which would not otherwise be required.

17 This report recommends Option 2 for addressing the matter because it regularises the 2019/20 rates and puts Council in the best position should it need to defend its rates in the future.

CONSULTATION PROCESS | HĀTEPE MATAPAKI:

> SIGNIFICANCE AND ENGAGEMENT | TE WHAKAMAHI I KĀ WHAKAARO HIRAKA

18 This matter is of low significance, as determined by reference to the [Council's Significance and Engagement Policy](#) because while important to the community that rates are set correctly, that process has already been carried out. This resolution will simply regularise a technical matter and provide more information to the community about what has already occurred. It is not proposed that the rates will change at all through this process.

19 The persons who are affected by or interested in this matter are the ratepayers of the Queenstown Lakes District. However, only in a technical sense. No consultation is proposed as rates will not be affected.

RISK AND MITIGATIONS | NGĀ RARU TŪPONO ME NGĀ WHAKAMAURUTANGA

- 20 This matter relates to the Financial risk category. It is associated with RISK00026 ineffective management of out rating and development contribution model within the QLDC Risk Register. This risk has been assessed as having a Moderate inherent risk rating.
- 21 The approval of the recommended option will support the Council by allowing us to avoid the risk. This shall be achieved by regularising the rates setting process.

FINANCIAL IMPLICATIONS | NGĀ RITENGA Ā-PŪTEA

- 22 No financial implications.

COUNCIL EFFECTS AND VIEWS | NGĀ WHAKAAWEAWE ME NGĀ TIROHANGA A TE KAUNIHERA

- 23 The following Council policies, strategies and bylaws were considered:
- Ten Year Plan
 - Annual Plan
- 24 The recommended option is consistent with the principles set out in the named policy/policies.

LEGAL CONSIDERATIONS AND STATUTORY RESPONSIBILITIES | KA TURE WHAIWHAKAARO, ME KĀ TAKOHAKA WAETURE

- 25 The process initiated by this resolution is necessary to ensure that our legal risk is minimised.

LOCAL GOVERNMENT ACT 2002 PURPOSE PROVISIONS | TE WHAKATURETURE 2002 O TE KĀWANATAKA Ā-KĀIKA

- 26 The recommended option:
- Will help meet the current and future needs of communities for good-quality local infrastructure, local public services, and performance of regulatory functions in a way that is most cost-effective for households and businesses by ensuring the 19/20 rates are robust is challenged;
 - Can be implemented through current funding under the Ten Year Plan and Annual Plan;
 - Is consistent with the Council's plans and policies; and
 - Would not alter significantly the intended level of service provision for any significant activity undertaken by or on behalf of the Council, or transfer the ownership or control of a strategic asset to or from the Council.