

Report No:	RCN11-06-09
File No:	
Date:	12 June 2012
Decision Required	

REPORT SUMMARY

Report to: Tasman District Council
Meeting Date: 21 June 2012
Report Author: Murray Staite, Corporate Services Manager
Subject: Rate Validation Report

EXECUTIVE SUMMARY

Council's rate setting process from 2002 until 2009 was recently reviewed by Simpson and Grierson. Their review indicated irregularities in relation to the years 2003 until 2008 and their advice was that these errors should be corrected via appropriate validating legislation.

Simpson and Grierson have prepared for Council's consideration a Local Bill called the Tasman District Council (Validation and Recovery of Certain Rates) Bill.

RECOMMENDATION

It is recommended that Council authorise staff in conjunction with Simpson and Grierson to take the necessary steps to introduce the Tasman District Council (Validation and Recovery of Certain Rates) Bill to Parliament.

DRAFT RESOLUTION

THAT the Tasman District Council:

- (a) receives the Rate Setting Validation Report RCN12-06-09 and**
- (b) having reviewed the Local Bill, instructs the Chief Executive and the Corporate Services Manager in conjunction with Simpson and Grierson, to undertake the necessary steps, including any further amendments as may be required, to introduce the Tasman District Council (Validation and Recovery of Certain Rates) Bill to Parliament.**

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1. Purpose

- 1.1 To consider the Tasman District Council (Validation and Recovery of Certain Rates) Bill.

2. Background

2.1 At its meeting of 24 February 2010 the Corporate Services Committee of the Tasman District Council considered a staff report which included legal advice from Simpson and Grierson, in relation to Council's rate setting procedures from 2002 until 2009. Their advice raised concern over several matters in relation to how Council's rates had been set over the years 2003 until 2008 including the rate setting process for the 2006/2007 Tata Beach Stormwater rate.

2.2 The Committee subsequently passed the following resolution:

THAT the Corporate Services Committee:

- a) ***authorises the Corporate Services Manager to instruct Simpson Grierson to seek appropriate legislation to validate Tasman District Council's rate setting resolutions from 2003 until 2008, for consideration and approval by Council prior to proceeding with the validation action;***
- b) ***asks the Chief Executive and Corporate Services Manager to report back to Council with regular updates on the validation process;***
- c) ***confirms this resolution in open meeting.***

2.3 At its meeting of 30 June 2011, Council received a subsequent staff report detailing the draft Bill prepared by Simpson and Grierson.

2.4 The Committee subsequently passed the following resolution:

THAT the Tasman District Council:

- a) receives the Rate Setting Validation Report RCN11-06-23; and**
- b) having received the draft legislation instructs Simpson Grierson to proceed to commence the process to validate Council rates from 2003 until 2008 via an Act of Parliament and that this legislation be sought as soon as possible, and**
- c) authorises Simpson Grierson, the Chief Executive and Corporate Services Manager to act on behalf of Council in regard to this matter,**
- d) authorises the Chief Executive and Corporate Services Manager to make any further amendments to the draft legislation as necessary;**
- e) confirms this resolution in open meeting.**

CARRIED

3. Present Situation/Matters to be Considered

- 3.1 In accordance with the resolution noted above, Simpson Grierson have now completed the Local Bill titled Tasman District Council (Validation and Recovery of Certain Rates) Bill (the Bill).
- 3.2 The Bill is attached as Appendix A.
- 3.3 The Bill is considerably different than the draft Bill which was prepared for the June 2011 Council meeting. For this reason alone, Simpson and Grierson advise Council to review the content of the Local Bill and if satisfied pass a final resolution before the parliamentary process commences

4. Options

4.1 Option 1

Reject the staff recommendation and provide suggested changes to staff to consider further with the preparers of the Bill, Simpson and Grierson.

This option allows Council to suggest changes to the Bill but will obviously involve additional cost in considering the suggested changes and will inevitably delay the process further.

4.2 **Option 2**

Authorise staff in conjunction with Simpson and Grierson to proceed with the Bill.

This option ensures that Council's rate setting matters from 2003 to 2008, including Tata Beach, are corrected and that Council's rates are confirmed.

This option ensures that should any future challenge occur in regard to these rates, the challenge would not be successful.

5. Timeline/Next Steps

- 5.1 In introducing a Local Bill to Parliament, Council is required to follow the process prescribed in Appendix C of the Parliamentary Standing Orders.
- 5.2 This process requires Council to publish notice of the Bill once in two consecutive calendar weeks in a daily newspaper circulating in the region. In this case the only daily newspaper that meets this criteria is the Nelson Evening Mail.
- 5.3 Notification of the Bill is required to be made to the ratepayer who first made the complaint in regard to the stormwater rate along with various government officials.
- 5.4 Copies of the Bill must also be available at Council offices for no less than 15 working days.
- 5.5 Once the required public notification process has been completed the way will be clear for the Bill to be introduced to Parliament.
- 5.6 It is anticipated that the public notification process will occur during the month of July 2012.

6. Significance

- 6.1 After consideration of Council's Significance Policy this matter is not considered significant given that this matter does not purport to change any of Council's rates, but merely to ensure that Council's previous intentions are in fact validated.

7. Recommendation

- 7.1 It is recommended that Council authorise staff in conjunction with Simpson and Grierson to take the necessary steps to introduce the Tasman District Council (Validation and Recovery of Certain Rates) Bill to Parliament.

8. Draft Resolution

THAT the Tasman District Council:

- (a) receives the Rate Setting Validation Report RCN12-06-09 and**
- (b) having reviewed the Local Bill, instructs the Chief Executive and the Corporate Services Manager in conjunction with Simpson and Grierson, to undertake the necessary steps, including any further amendments as may be required, to introduce the Tasman District Council (Validation and Recovery of Certain Rates) Bill to Parliament.**

Appendices:

1. Tasman District Council (Validation and Recovery of Certain Rates) Bill