

6. RURAL RATES

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PURPOSE OF REPORT

1. The purpose of this report is to address the current "moratorium" on those properties which were scheduled to be reclassified from rural to residential (for rating purposes).

EXECUTIVE SUMMARY

2. The resolution passed by the Council on 30 June 2004 suppressing the application of residential rates to some rural properties lapses as at 30 June 2005. These 147 rating units will be rated as residential from that date. The report seeks to inform the Council of that and to outline possible alternatives and the impacts.
3. The recommendation is that the moratorium on change lapses as was the intention under the original resolution.
4. The options and impacts for rating rural rating units will best be addressed as part of the 2006/07 LTCCP in the normal policy setting processes.

FINANCIAL AND LEGAL CONSIDERATIONS

5. The Legal Services Manager has advised that the resolution to impose a moratorium is a direct contradiction of the LTCCP and as such cannot be continued unless there is a formal amendment to the LTCCP.
6. An alternative discussed later in this report is to remit the rates difference which will be assessed on these rating units. The difference is \$65,000 pa. The remission would be allowed under Remission 6 (copy attached). The difference remitted will be recovered from all (other) ratepayers paying general rates as an increase in rates.
7. The test for the Council (and this is not delegated to staff) is "just and equitable". My advice is that the test is higher than the facts in this case support. The Council's intentions under the LTCCP are clear, these rating units are residential and should be rated as such.
8. Any specific rating unit may challenge the determination on the basis of facts, the use of the rating unit, ie that it is not in fact predominantly residential as contended. In the absence of that test the LTCCP rate differential terms should apply.
9. If the Council suppresses the implementation of the differential terms for one class of ratepayer it opens the way for all ratepayers to seek a similar suppression. For example, the business ratepayers may also ask for rate treatment as "residential and others" on the grounds that they do not want to pay higher rates.

STAFF RECOMMENDATIONS

It is recommended that the Council accept that the moratorium will lapse on 30 June 2005 and that in accord with the policy, those 147 properties (and any others that are identified as part of our normal administration) will be reclassified residential for rating purposes from 1 July 2005.

BACKGROUND ON RURAL RATES REPORT

10. At the meeting on 11 November 2004, the Council determined to defer addressing the issue of the current "moratorium" (for those ratepayers scheduled to be reclassified from rural to residential) until after the rates seminar.
11. The rates seminar held on 7 December 2004 clearly showed:
 - (i) That although there had been some layout changes to the Rural Rate differential definition, from that shown in the 2003 Annual Plan, the policy **was unchanged** (copy attached).
 - (ii) That the basis upon which staff were applying the policy was consistent, and as with the policy itself, had been so for many years.
 - (iii) The key issues in determining whether a property was rural or residential was the "used principally for agricultural or residential purposes test".
12. While some Councillors expressed dissatisfaction with the result, it is nevertheless the correct application of the existing policy that the Council approved and adopted with the 2004/05 LTCCP.
13. Should the Council wish to change the policy then officers can commence work on this. However, I must point out, the Rates Policy would need to be considered in total, not just the Rural differential. This would not be a simple exercise and we do not have sufficient time to undertake such a major task for the 2005/06 rating year. In fact any change to the rating policy would result in an amended LTCCP.
14. Officers will start work early next year on reviewing the Rates Policy (as part of reviewing the Revenue and Financing Policy) targeting the 2006/16 LTCCP. We will also undertake preliminary thinking/work on the impact of a possible amalgamation with Banks Peninsula (BP). Because of its largely rural nature and currently multiple rating types, it is possible that our current rural differential will change.
15. As part of the process of review, we will be targeting workshops/seminars with Councillors to canvas the possible options that come out of the exercise.
16. Turning to the way forward, we have a resolution from the 30 June 2004 meeting, effectively providing a moratorium on 147 properties from being reclassified from rural to residential in line with the current policy. This resolution expires on 30 June 2005.

OPTIONS

17.
 - (i) Accept that the moratorium will lapse on 30 June and that in accord with the policy, those 147 properties (and any others that are identified as part of our normal administration) will be reclassified residential for rating purposes from 1 July 2005.
 - (ii) Extend the moratorium until the next review of the Revenue and Financing Policy (targeting the 2006/16 LTCCP). Please note that legal advice is that such an extension would be null and void (ie ultra vires) - which does bring into question the original resolution as it is a direct contradiction of the rates policy in the LTCCP.
 - (iii) Option (i) above, but that the Council exercise its ability to make a remission of the increase as a result of the change. The Council would need to be satisfied that this was an equitable outcome. See Remission 6 (attached).

PREFERRED OPTION

18. Option one is recommended - that the moratorium lapse.
19. The issues will be considered as part of the next LTCCP development. This is the proper forum for this debate as there will be several intermingled issues to consider, not the least of which is why these or any other rating units deserve special treatment when the basis of rating is even treatment for all under published policies.
20. If there are any ratepayers who challenge the application of the differential policy on the basis of facts of property use, there are objection processes under section 29 and section 39 of the Local Government (Rating) Act 2002 to follow.
21. The cost of not following the LTCCP policies is:
 - Weakening the credibility of the rating policies in the public opinion;
 - The rates avoided by these properties, \$65,000 pa will be assessed on all general rate paying rating units;
 - The action may be open to legal challenge as the LTCCP would not be followed.
22. The intended process under the rating legislation is that the policies are established under the LTCCP and are followed by staff under delegated authority. If a ratepayer challenges the impacts then the options open to them are:
 - Seek to have the policies changed in the LTCCP - the Council considered this and confirmed the policies
 - Object to the application of the policies under section 29 and section 39 of the Local Government (Rating) Act 2002. Many ratepayers have objected and one has appealed the objection. The outcome of this one objection is pending this report.
23. The resolution passed 30 June 2004 is outside this process and should lapse.
24. If the remission option was considered then:
 - A remission under Remission 6 on the grounds that it is "just and equitable" means the Council is saying to the public that its rating policies or the administration of them are not 'just and equitable'. This raises the question of how far does the lack of justice and equity go in the rating system.
 - The Council has rated over 600 properties as residential in similar circumstances in the past. Special treatment for a few should then be considered to apply to the existing ratepayers if equitable treatment was considered as part of a continuing moratorium. (Note the recommendation does not support this.)
 - The personal circumstances of these ratepayers do not warrant avoidance of the change in rates. There has been no evidence supplied by the submitters that the rates are unaffordable, nor are wrongly calculated. The only basis of challenge was that they do not want to pay the increase in general rates on the basis of perceived lack of or distance from services. Some challenging ratepayers had rating units in excess of \$500,000 Capital Value and therefore would have difficulty establishing lack of ability to pay.