

INTERNAL AFFAIRS



Te Tari Taiwhenua

Kaipara District Council (Validation of Rates and Other Matters) Bill

Supplementary advice to the Local Government and Environment Committee: 2012/13 Kaipara rates

17 September 2013

Confidential until the Bill is reported back to Parliament

Request for Information

At its meeting on 26 August 2013, in relation to the Kaipara District Council (Validation of Rates and Other Matters) Bill, the Local Government and Environment Committee (the Committee) sought advice on "Why the 2012/13 rates were included in the bill, including whether it is for the avoidance of doubt, if the 2012/13 rates are valid, and if the 2012/13 rates include the \$62 million figure relating to the Mangawhai Waste Water Scheme?"

The Committee authorised the Department to consult the Commissioners and Chief Executive of Kaipara District Council in order to answer this question.

Response

At the Department's request, the Chief Executive of Kaipara District Council has provided the following response:

'The question reads as follows:

"...why the 2012/13 rates were included in the bill, including whether it is for the avoidance of doubt, if the 2012/13 rates are valid, and if the 2012/13 rates include the \$62 million figure relating to the Mangawhai Waste Water Scheme?"

'The Council see it as desirable that the issues relating to the 2012/13 financial year (which are detailed in paragraphs 62 – 66 of the Preamble) be addressed through the Bill so that they are resolved in a definitive way and to ensure that there is absolute clarity as to the status of the 2012 Long Term Plan and 2012/13 rates.

'The rates set for the 2012/13 financial year, reflect the proposals that were consulted on with the community as part of the draft 2012 Long Term Plan. As part of this Plan the Council has put in place a funding regime which does see the debt associated with building the Mangawhai Community Wastewater scheme (which did have a final cost of \$62 million) being repaid over time. The principles that have been applied are:

- That existing properties which are connected (or capable of connecting) to the scheme pay their share of the cost of building the \$35.6 million scheme that was agreed with them as part of the special consultative procedure undertaken in 2006;
- That development contributions (after June 2013) and the district wide general ratepayers will repay the balance.

'The end result is that the existing scheme users are only paying (other than the share that they pay via their general rate) for what they had agreed.'

Departmental comment

The Department supports the intent of using the opportunity of this Bill to remove any doubt concerning the validity of Kaipara District Council's rates in 2012/13. Three elements appear to have contributed to questions concerning that validity:

- a concern that the 2012/22 long-term plan, on which the rates are based, may be invalid because it was not adopted before the statutory deadline of 1 July 2012;
- a concern that the 2012/22 long-term plan, on which the rates are based, may be invalid because of defects in the written notices acknowledging submissions made on the draft of the long-term plan; and
- the repetition in the 2012/13 rates assessments of omissions from the information required to be provided in rates assessments (similar omissions had occurred since at least 2006/7).

The Department does not consider that the adoption of the 2012/22 long-term plan after the statutory deadline has consequences for the validity of that plan or of anything done under its authority after its adoption. If councils that had, for any reason, failed to meet the statutory deadline were then precluded from adopting a valid plan at a later date, this would effectively cripple such councils and prevent them from acting. The Department is considering whether to recommend that the wording of Bill be amended to remove any suggestion that validation of this aspect is necessary.

The other two matters are less certain. However we consider that the defects in the consultative process relating to the draft long-term plan and in the 2012/13 rates assessments are unlikely to lead the Courts to rule that the plan or the rates are not valid. We consider that it is prudent to seek validation of those matters to remove any doubt.