

Rates review process

The purpose of the paper is to assist the Council in deciding which type of review it wishes to undertake.

Types of rating review

There are generally two types of rating reviews:

- A first principles review; and
- An amendment review.

A. First principles review

A first principles review happens when the evidence or perception is that the current rating allocation model is not appropriate.

A first principles review may arise because there:

1. has not been a full review of rates and /or Revenue & financing policy for a considerable length of time;
2. is significant change in rating valuations;
3. is change in focus, direction or objectives of Council;
4. is community dissatisfaction with existing rates or rating methods;
5. is a significant change in levels of service for a number of activities or a change to the regulations or required standard;
6. is poor understanding of how rates are allocated;
7. is a shift in land use;
8. is loss or gain of a major industry;
9. is population change;
10. is financial necessity; or
11. a natural disaster.

Of the 11 items listed above, the first 6 are applicable to the Council, therefore a first principles approach should be used in the rates review.

A first principles review goes back to basics and considers all the required background information as if there were no previous funding decisions or existing funding related policies.

A rates or funding review needs to following the steps below, otherwise there is a risk that the Council's final decision could be over turned. It is accepted that this process can take between 12 and 18 months.

1. Complete the Funding Needs Analysis (FNA) Section 101(3) Local Government Act 2002 (LGA)

This is one of the most important parts of any funding review. This is often referred to as an allocation between public and private good. That is, does the expenditure benefit all the community or are there parts of the community or individuals that benefit? However, as noted below there are a number of other considerations that must take place. If this work is not robust then it will be the

first area that could be the subject of a legal challenge. This is also a two-step process which must be completed separately.

Undertaking the FNA (Step 1) is a requirement of section 101(3)(a) (LGA)¹. The full FNA must consider all council activities and the eleven funding sources listed in section 103(2)².

The LGA does say that any outcome arising from a section 101(3)(a) analysis can be modified by a council using subsection (b) but, and this is the critical point, if the subsection (a) analysis is not sound, then any subsequent council decision will also be unsound.

While the focus is normally on rates it is important to consider the other funding sources including Fees & charges, the use of debt and reserves, contributions and grants & subsidies.

One of the decisions that Council needs to consider is whether the current allocation contained in Council's Revenue & financing policy appropriate for the current Council and the community?

2. Model the rates impact on the FNA

Rates information is complex. Summarising, averaging and trending are ways of grouping data to see overall patterns and assess against desired outcomes. An effective rates review will need to have the macro data compiled as well as providing access to individual data.

Data often focuses on the average or medium change. But this may result in the impact of ratepayers at the extremes being overlooked.

3. Consider the overall impacts of step 1 and update the FNA

To undertake this step the Council should have a preferred option. The FNA (Step 2) is also a requirement of section 101(3)(b) (LGA).

This is an opportunity for the council to step back from the individual funding activities to consider the overall allocation of liability including impacts of rates, debt and fees & charges in the community. Ultimately, this is a political judgement. Step 2 involves looking carefully at the funding choices developed in Step 1 and being clear about the reasons for modifying them.

A council must not only complete the two-stage process but also be able to show that they have done so AND that both steps have been fully documented.

4. Model and confirm the preferred rates allocation option

The final model must be able to demonstrate the impacts on all ratepayers, and it may be worth noting that minor changes may not have a small effect. The impact on some ratepayers and, perhaps, every ratepayer, may be quite large. Many ratepayers that are involved or consulted with may only be concerned about how they are affected.

¹ See appendix 1 for details.

² See Appendix 2 for details

5. Draft Revenue & financing policy and supporting rating policies

In addition to the Draft Revenue & financing policy, Council may need to modify its rates remission or postponement policies. It is also possible that other policies including liability management, investment and development contributions or financial contributions may need to be updated.

6. Draft the proposal and supporting information for consultation

Consultation on the RFP and supporting policies³ will be required.

There are two consultation options:

1. consult on the issues and do the technical implementation later;
2. consult on the issues and also on the RFP and Rates Remission Policies.

The big advantage of the first option is that it is completed before the LTP 'right debate' is being discussed with the community. It may be useful to have draft technical documents as supporting material but they aren't specifically being consulted upon. It's better, if there's time, to have the technical documents prepared and legally reviewed after the decisions have been made following consultation.

The biggest disadvantage of Option 1 above is that people who oppose the proposal may use consultation on the RFP changes to rehash the issues.

For a section 82 consultation the legislation lists essential information which must be included in the proposal. This essential information is:

- analysis of the options;
- copies of any policies that will need to be changed.

The proposal is a primary communication document that helps the reader understand the proposal, the options council has considered, how the reader may be affected and why council prefers the proposed option. To be effective, the proposal it must be concise and to the point (while meeting the legal requirements). But it will be useful to have additional information available for those that want to dig more deeply into the matter.

7. Carry out community consultation

This is a formal step required to set a lawful rate, whether through a section 82 (LGA) consultation or section 83 (LGA) SCP.

The key things for compliance are that the proposal must contain:

- the proposal; and
- the reasons for the proposal.

³ Excluding liability management and investment policies

In an effective rating review the proposal should be a clear statement about which rates are changing. This statement should describe how rates are allocated currently and how it is proposed to allocate them in future.

The proposal should also include a summary of the other options considered and give reasons why the council considers those options aren't the best way forward for the community. These reasons may link back to the reasons given for the review at the start of the process. The status quo should be one of the options discussed, along with reasons why staying with it isn't appropriate.

8. Hear submissions

9. Update and amend policies after considering submissions

10. Adopt new policies

11. Set the rates

2. Amendment reviews

An amendment review happens when a council wants to make one or more changes within the existing framework.

Typically, these reviews will happen to:

- introduce a new rate;
- modify a rate;
- remove a rate;
- change differentials.

These reviews may change the FNA, the RFP and/or the Remission and Postponement Policies in a small way.

An amendment review is administratively easier to do and only involves specific changes. But, depending on the change many of the steps above need to be replicated to a lesser scale depending on the changes made.

While an amendment may be an option, there is a significant risk that while attempting to resolve one issue, other issues may be created as an unintended consequence as a rating review is only redistribution of the total rate requirement. A rate review will always result will in some ratepayers paying more with others paying less.

B. Considerations

Rating reviews and the linkage to the Long-term plan

The LTP must include the approved RFP and a FIS (which amongst other things describes the rates for the first year). It is essential that both of these are in place for a council to set lawful rates.

A rating review that has a high level of community engagement may be complex and is likely to be controversial. It will take the community’s attention away from the ‘right debate’ which is a key part of the LTP process.

The issues in a LTP ‘right debate’ will cover a wider range, for example getting good outcomes with infrastructure investment and delivering the services the community wants and needs while still being affordable, sustainable and cost effective.

For that reason alone, it is better to consult on a rating review outside the LTP consultation period.

Other things to consider when including rating matters in an LTP consultation are:

- rating reviews do not require use of the special consultative procedure (SCP), unless doing so is determined by the Significance and Engagement Policy;
- rating reviews do not need to be audited; and
- it may be that the issues raised in a rating review would be better handled in a proposal than in the LTP Consultation Document.

It is possible to consult on a rating review using section 82 or 83 (LGA) at the same time as LTP consultation is happening. But this will take focus away from the LTP ‘right debate’ and may undermine the community’s ability to engage, with multiple consultations.

C. Suggested process and high-level timetable

As discussed above, it is important to note that if a rates or funding review is consulted on as part of the Long-Term Plan process, then this can “high jack” the LTP process. As this review process takes between 12 to 18 months, the most appropriate time to commence the process is now, with the aim to consult any changes as part of the 2020/21 Annual Plan.

There are two options of how this can be achieved. Council could defer the start of the process until after the 2019 election, however this is likely to result either in uncompleted process to consult as part of the 2020/21 Annual Plan or being the review before the election and complete the process after the election in time to consult in conjunction with the 2020/21 Annual plan.

As the recommend option is to commence the process now with the aim to consult any changes as part of the 2020/21 Annual Plan, set out below the details of the required steps that can be completed prior to the election and those steps that are required to be completed post-election.

Steps required	Details	Date
Before election		
Session one	<ol style="list-style-type: none"> 1. Set out the process required and how the Council will consider section 101 (3) (a) 2. Agree the template that will be used to assess benefits for each activity 3. Use an activity that has most of five criteria of 101 (3) (a) that need to be considered 4. Agree the order that activities will be considered 	02/05/19 Extra workshop
Session two	Consider selected activities	16/05/19

Steps required	Details	Date
		Extra workshop
Session three	Consider selected activities	05/06/19
Session four	Consider selected activities	20/06/19
Session five	Consider selected activities	If Required
Session	Summarise the results of the allocation	01/08/19
After the election		
Briefing with new Council	Brief on allocations made to date Confirm or modify the allocation	TBC
Session	Consider the tools (e.g. Types of rates, debt and fees) that reflect the benefits in step one	TBC
Model the tools	Impacts of rates on ratepayers	TBC
Session	Consider the results of the models	TBC
Re model tools	Impacts of rates on ratepayers	TBC
Session	Confirm tools to be used	TBC
Develop consultation process	Report to Council	TBC
Draft Revenue & financing policy and supporting rating policies	Report to Council	TBC
Draft the proposal and supporting information for consultation	Report to Council	TBC

Appendix 1

Extract of section 101(3)(a)

(3) The funding needs of the local authority must be met from those sources that the local authority determines to be appropriate, following consideration of,—

(a) in relation to each activity to be funded,—

- (i) the community outcomes to which the activity primarily contributes; and
- (ii) the distribution of benefits between the community as a whole, any identifiable part of the community, and individuals; and
- (iii) the period in or over which those benefits are expected to occur; and
- (iv) the extent to which the actions or inaction of particular individuals or a group contribute to the need to undertake the activity; and
- (v) the costs and benefits, including consequences for transparency and accountability, of funding the activity distinctly from other activities; and

Or

- *your community outcomes and how funding might promote or work against the achievement of these outcomes*
- *the distribution of benefits between the community, identifiable parts of the community and individuals (sometimes referred to as the public/private good split or the user pays principle). For example, activities that predominantly benefit the community as a whole are generally candidates for funding sourced from the community as a whole (such as a general rate)*
- *the period over which benefits are expected to accrue – this is sometimes referred to as the intergenerational equity principle. Local authorities provide assets with long service lives, this principle requires local authorities to consider whether they should be funding future consumption from the future community.*
- *the extent to which the action or inaction of some contributes to the need to fund the activity – often referred to as the exacerbator pays principle*
- *the costs and benefits from funding an activity separately, including those for transparency and accountability. Although the legislation does not specifically set out any particular issues or considerations here it would generally be prudent to consider matters such as the financial scale of the activity, administrative cost, legal requirements and promotion of value.*

Appendix 2

The sources funding a council must consider;

(a) general rates, including—

(i) choice of valuation system; and

(ii) differential rating; and

(iii) uniform annual general charges:

(b) targeted rates:

(ba) lump sum contributions:

(c) fees and charges:

(d) interest and dividends from investments:

(e) borrowing:

(f) proceeds from asset sales:

(g) development contributions:

(h) financial contributions under the Resource Management Act 1991:

(i) grants and subsidies:

(j) any other source.