

# Memo



To: Finance and Performance Committee members  
From: Deborah Acott, Head of Rates, Valuations and Data Management  
cc: Matthew Walker, Acting Group Chief Financial Officer  
Date: 6 March 2018  
Subject: Final Report on Non-Rateable Property Rating Treatment

## Purpose

To inform the Finance and Performance Committee of the results of the programme of work to review the rating treatment of properties currently non-rateable across Auckland.

## Executive Summary

The programme of work to review more than 10,400 non-rateable properties has been completed. The Local Government (Rating) Act 2002 (LGRA) defines a range of property uses as non-rateable including reserves, churches and educational institutions. However, any portion of these properties used for other purposes can be liable for rates.

The review has confirmed 9,974 properties as correctly non-rateable and 516 have been confirmed as partly or fully rateable.

The table below shows the work which has been undertaken, by legacy council, along with the nett difference in rates after adjustments are made. The total nett change in rates amounts to an increase of \$1,543,398.41.

Legacy	Properties Reviewed	Confirmed Non-Rateable	Confirmed Rateable	Nett \$ rates change
ACC	2,666	2,438	228	718,641.22
FDC	619	593	26	11,700.31
MCC	2,496	2,406	90	203,403.79
NSCC	1,663	1,606	57	452,428.42
PDC	529	507	22	34,008.77
RDC	1,393	1,368	25	14,407.83
WCC	1,124	1,056	68	108,808.07
<b>Total</b>	<b>10,490</b>	<b>9,974</b>	<b>516</b>	<b>1,543,398.41</b>

## Reasons for incorrect rating

Non-rateable land is land that has a legal exemption either wholly or partly from paying rates under the LGRA.

Most cases of non-rateability are for land used for parks and reserves, conservation, council facilities, health, cemeteries and crematoria, education, religious institutions, Maori land, transport and by institutions providing free maintenance or relief of persons in need.

The review identified a total of 516 properties that were incorrectly rated. The main reasons for this were –

- Undetected sales of non-rateable properties to new owners whose activities should be fully rateable. (New rating software includes reporting to identify sales of non-rateable properties so their eligibility for non-rateability can be reviewed before the start of each rating year.)
- Changes in leases where a non-rateable organisation has moved out and land use by the new tenants should be fully rateable. There is an ongoing issue with property owners who do not notify us when lessees change.  
There is a related issue where advice may not be received until some years after the start of a lease by a non-rateable entity. In these situations, the LGRA requires us to backdate any refund of rates for up to five years even though there has been no way for the council to know the status of the new lessee. Backdated refunds totalling \$89,205 have been made for non-rateable properties.
- Lack of a clear definition of “religious worship”.
- Differences in interpretation of the non-rateable provisions of the LGRA by legacy councils.

### **Parks and reserves**

- A total of 6,914 Auckland Council properties constitute the bulk of the region’s non-rateable properties. The majority of them are parks and reserves.
- The LGRA allows for non-rateability where land is covered by the Reserves Act or used by a local authority as a public garden, reserve or playground, or for games and sports.
- Our legal advice is that non-commercial activities by not-for-profit community and sporting organisations will not affect non-rateability as long as the facilities and/or membership are open to general public. One exception is that where clubrooms have liquor licences, then the licensed areas will be business rated.
- Some inconsistency has been identified in how these properties are rated. A full review of their rating will be undertaken along with our Financial Policy team and the nature of the issues and the impacts of any potential changes will be reported in 2018/2019. This work falls outside the initial scope of the non-rateable review.

### **Religious Use**

- A total of 977 properties were identified as part or fully non-rateable for religious use. The LGRA allows non-rateability for land used solely or principally as a place of religious worship or religious education and for theological colleges. Schools and childcare on these properties may be non-rateable under other provisions of the Act.
- The wording in the LGRA reflects a simpler time when the activities of more traditional churches could easily be identified as worship or non-worship.
- Given the lack of guidance in both the Act and local case law, our legal team requested independent legal advice to ensure that we are not seen to be discriminating against particular religions and to avoid anomalies in the way our policies are applied across a wide range of religious groups and activities.
- The opinion confirmed an interpretation of “religious worship” which limited it to those areas used principally or solely for the performance of the sacred rites of the denomination.
- Working with this definition, our valuers have determined that the rating of 402 properties needed to be revised. The nett increase in rates from these changes is estimated at \$1,042,971.58.
- As part of the review process, the owners of properties used for religious purposes have been given an undertaking that they will be advised of any proposed changes to their rating. They will have the opportunity to object under section 29 of the LGRA before changes are confirmed. Outcomes from this process may affect the nett rates change for these properties. We will inform councillors and local board members before the letters are issued along with some FAQs to cover any queries that may be received.

- The Church of Jesus Christ of Latter-day Saints may lodge an objection based on the effects of the review on its properties outside the former MCC area. Their properties in the former MCC area are fully non-rateable on the basis of a High Court consent order in 2010. This order does not apply to other churches in the former MCC area or to any churches outside of it.

### **Education**

- The provisions for non-rateability of educational properties are some of the most clearly outlined in the LGRA. There are statutory guidelines and Ministry of Education databases to identify qualifying institutions and properties. Providers who operate for profit will be excluded from non-rateability.
- Out of 1,087 education properties, 31 had been made incorrectly non-rateable
- Instances of incorrect rating came about from:
  - The termination of leases by educational groups who were replaced by new tenants whose activities should be fully rateable.
  - A small number of properties where private providers operating for profit had been made non-rateable in error.

### **Conclusion**

The body of work being undertaken to review the treatment of Auckland Council's non-rateable properties has been completed. If there are any queries on the subject, please contact me via email on [deborah.acott@aucklandcouncil.govt.nz](mailto:deborah.acott@aucklandcouncil.govt.nz) or mobile phone on 021-636-046.