# Submission of the Society of Local Government Managers (SOLGM) on the Rates Rebate (Retirement Villages Residents) Amendment Bill

## Introduction

The New Zealand Society of Local Government Managers (SOLGM) thanks the Local Government and Environment Committee (the Committee) for the opportunity to submit on the Rates Rebate (Retirement Village Residents) Amendment Bill ('the Bill').

SOLGM is a professional society of over 580 local government Chief Executives, senior managers, and council staff with significant policy or operational responsibilities.[1] We are an apolitical organisation. Our contribution lies in our wealth of knowledge of the local government sector and of the technical, practical and managerial implications of legislation.

***SOLGM supports the intent of this Bill …***

SOLGM generally supports the intent of this Bill. However we have a number of concerns with the manner in which the Bill is drafted which, if enacted, would be administratively inefficient and therefore create significant additional work load to local authorities. We note, and concur with the comment Local Government NZ has made in its submission.

The Rates Rebate Act was enacted in 1973, and has had relatively few amendments since that time. Changes in land tenure arrangements have created perceptions of anomalies and inequities in the scheme. The issue that this Bill seeks to address is a case in point. While the first retirement villages began to operate in the 1950s, the number of these has expanded in the last 15-20 years.

1 Numbers as of 31 December 2016.

***… but notes the issue raised is one among several***

The restoration of the scheme to providing a meaningful level of support to qualifying ratepayers in 2006 has served to stoke perceptions that some aspects of the scheme are unfair. For example, local authorities commonly encounter ratepayer objection and resistance to the notion that people who occupy a property on a 'life interest' arrangement and who pay rates under this arrangement cannot qualify for the scheme as they are not owners. The Te Ture Whenua Maori Amendment Bill has also stoked concerns that owners of homes on multiple owned Maori freehold land miss out.

In a similar vein, the rebate applies only to charges made under the authority of the Local Government (Rating) Act 2002. The rebate cannot apply to Water and Wastewater charges by a Council Controlled Organisation (CCO). We'll return to this issue later.

Some of the provisions appear outdated. For example section 5(2) of the Act prohibits regional councils from processing applications for the scheme. The five regional councils that collect their own rates, must have any applications processed by their constituent territorials.

Although this Bill is welcome, it is one aspect of a Bill that may be outdated. We suspect that this will see further requests for extension of the scope of the scheme. There may be merit in enacting this Bill now, but commending a full review of the current Rates Rebate Act 1973 to Parliament's attention.

## Commentary

### Commencement

As currently drafted the Bill would take effect on the day after royal assent – that is to say that there are no transitional provisions.

Rates rebates are calculated on the rating unit for an entire year. There is no mechanism for apportioning over part of a year. The commencement date should be the start of the first full rating year after enactment. For example, it seems unlikely that this Bill would be enacted until August 2017, the commencement date would then be 1 July 2018 with the first rebates being paid for the 2018/9 rating year.

This would also enable sufficient time for an education programme to be developed to inform those retirement village residents that are currently ineligible for the rebate to be informed of the new process.

Furthermore, there are a number of local authorities who operate a rates remission policy for some retirement village residents. It is imperative that there be some lead in time so territorial local authorities have the ability to amend the current rates remission policy in respect of retirement village rates. Local authorities are required to consult their communities when amending a remission policy. As this process normally takes up to four months, we suggest that if the Bill does not receive Royal assent by 28 February, then the commencement date should be the second rating year after Royal assent.

***Recommendation***

1. ***That the Committee agree that the commencement date for the Bill be amended to the commencement of the first rating year after Royal assent provided that there is at least four months between royal assent and the start of the financial year to implement the changes.***

### Administrative concerns

SOLGM has significant concerns regarding the intention to change the principal Act by way of amendment to the definition of a ratepayer. This approach will result in two different interpretations of a ratepayer, one resulting from this amendment and another on section 10 of the Local Government (Rating) Act 2002.

The proposed approach will require substantial additional resources on an ongoing basis for territorial local authorities. If the amendment was to be enacted without change, then territorial authorities would need to undertake the following to manage the scheme on behalf of the Government:

- an apportionment of the values in the rate information database for all retirement villages. However the retirement village rates will not only be apportioned between each of the qualifying residents of the village, but other non-residential activities such as hospital or nursing care facilities. This will require each local authority to obtain separate divisions of each rating unit for the sole purposes of the Rates Rebate Act. Although section 27(5) of the Rating Act allows for apportionments on certain grounds, administration of the Rates Rebate Act is not currently one of these.
- each targeted rate will need to also be apportioned based on the matters and factors relating to each separate division. This can be particularly complex for water and wastewater rates where the basis of rating is often the number of connections or water closets or urinals and the associated rates may not be uniform. Therefore allocating rates to individual appointments will be complex.
- while the rates will still be paid by the retirement village operator, the local authorities will need to maintain a register of residents for processing of the rates rebate.
- as most local authority's invoice on an instalment basis and the rates rebate is available from one July each year, it is a requirement[2] for the rates rebate to credited against the remaining rates for that rating year. It is important that the rebate (credit) is allocated to the appropriate resident and not allocated across all residents as not all residents will qualify for the rebate.

These tasks are not insignificant and will result increased costs to the local authority and the local authority's valuation service provider will need to be engaged to undertake the apportionment. Local authorities would also need to dedicate more staff resource to administrative tasks such as allocating the rates and maintaining appropriate registers.

In addition there will be a transition period where people previously were not eligible for the rebate, but if enacted then there will be more residents qualifying. However as not all residents qualify for the rebate, there will be an additional number in the early years that will apply but will be deemed ineligible because of their income levels.

Therefore SOLGM cannot support the amendment in its current form.

We would suggest that the same objective can be achieved with an adaptation to an existing provision in the Act (one of SOLGM's eight principles for effective implementation is to 'use the existing technology' – in this case a legislative provision). Section seven of the Rates

[2] As required by section 8 Rates Rebates Act 1973

Rebate Act provides for rates rebates can be given to the owner of owner-occupier flat. These provisions could be applied the residents of retirement villages.

This would require a new section. This section should include the provision to permit the refund directly to the resident rather than the ratepayer, being the retirement village operator, once the rates have been paid or a portion of the rates have been paid at a level enabling the rebate to be processed. This would ensure that the qualifying resident would be receiving the appropriate rebate.

Currently retirement villages are required to account to the residents for outgoings and service charges, together with a breakdown of items for which charges are imposed. This notice could be used by the territorial local authority as evidence of the annual rates being charged to a resident. This would significantly reduce the workload for local authorities but there would be no additional workload for the retirement village operator as this is an existing requirement.

SOLGM would be more than happy to work with the Select Committee and its advisers to develop an appropriate new section to simplify the process for residents of retirement villages.

***Recommendation***

***2. That the Committee***
***(i) note the administrative and practical issues with the Bill as enacted***
***(ii) agree that the mechanism for administering be based on an adaptation to the existing section seven of the Rates Rebates Act***
***(iii) note that SOLGM offers to work with officials to develop an agreed wording.***

**Eligibility of Charges made by CCOs**

In the submission to the Local Government Act 2002 Amendment Bill we made the following comments in respect of the Rates Rebates Scheme:

*"One of the lessons from the Auckland reorganisation is that CCO charges are not legally regarded as rates and are therefore excluded from the coverage of the Rates Rebate Scheme. In other words, a metered water charge levied under the Rating Act and payable to a council is covered by the scheme, the same charge levied by a CCO is not.*

*The practical effect of this is to reduce entitlements of low income ratepayers under the scheme. We understand that Auckland Council now 'tops up' the entitlement that eligible ratepayers receive from its own revenues.*

*We suggest that this may be an issue that creates opposition to reorganisation proposals, in and of itself. We were therefore unsurprised that paragraph 39 of the associated Cabinet paper appeared to contemplate change to the scheme to ensure water and wastewater charges fall within the ambit of the scheme. We can find no such amendment in the legislation and suggest that one is needed."*

This matter was, correctly on our view, deemed as one for political decision and has sat outside the technical discussions that the sector has had with officials. We remind that Committee of this as an issue.

***Recommendation***

***3. That the Committee agree that water and wastewater annual charges levied by CCO should be included within the ambit of the Rates Rebate Scheme and amend the Bill accordingly.***