

**Mayor and Councillors**  
COUNCIL

27 NOVEMBER 2014

Meeting Status: **Public**

Purpose of Report: For Decision

## **EXEMPTION TO THE DEFINITION OF COUNCIL CONTROLLED ORGANISATION**

### **PURPOSE OF REPORT**

1. This report seeks Council's approval to grant exemption to the Wellington Rural Fire Authority from the definition of 'council-controlled organisation' under section 7(4) of the Local Government Act 2002.

### **SIGNIFICANCE OF DECISION**

2. This report does not trigger the Council's significance policy.

### **BACKGROUND**

3. The Wellington Rural Fire Authority (WRFA) is set up as a Body Corporate and as such is a standalone legal entity, without formal shareholders or members. The Wellington Rural Fire District is managed by the Wellington Rural Fire Authority (the Authority), as gazetted on 13 June 2013 (No. 74, p.1980).
4. The WRFA governance is via a Committee of seven members. The Committee is established to administer the Wellington Rural Fire District. In addition to the provisions contained within the Forest and Rural Fires Regulations the detailed rules by which the business of the Committee is conducted are provided for in the constitution and the Committee rules documents. These are agreed to by five member councils (Kapiti Coast District Council, Porirua City Council, Wellington City Council, Hutt City Council and Upper Hutt City Council), the Department Of Conservation, the New Zealand Fire Service, the New Zealand Forest Owners and an Independent Member.
5. The Territorial Authorities can only appoint three members onto the Committee, and as such do not have voting control on the Committee. While Councils are not shareholders of this entity (there are no actual shareholders provided for under the Forest and Rural Fires Act), the five Councils do provide most of the funding and so at an AGM each have a vote. Therefore under s6(1)(a)(i) of the Local Government Act 2002 (LGA), the Authority could be defined as a Council Controlled Organisation (CCO).
6. The Forest and Rural Fires Regulations 2005 provides a detailed framework for how a Rural Fire Committees must function under the Forest and Rural Fires Act 1977. This includes provisions around making appointments, the governance committee role and function, disclosure of interests, provisions for sub committees, financial provisions and reporting, confidentiality of information, etc.

7. Creating a council-controlled organisation would create additional layers of planning, reporting and accountability including formal statements of intent and more detailed six monthly and annual reporting against financial and non-financial targets. All of the members agreed that the scale and type of operations of the Wellington Rural Fire Authority does not warrant these additional planning and reporting requirements and that the reporting and accountability methods in the Forest and Rural Fires Regulations 2005 and the rules are considered adequate.
8. It is prudent for the Wellington Rural Fire Authority to obtain a CCO reporting exemption. This exception can be obtained either using (1) a Ministerial recommendation and Order in Council under s7(1)&(2) of the LGA (a permanent exemption where an organisation is monitored and reports under an alternate enactment), or (2) based on the relatively small size of the Authority, a 3 year renewable exemption by each Territorial Authority under s7(3) of the LGA.

## CONSIDERATIONS

### Issues

9. In order for this exemption to extend to the rules under the Local Government Act 2002, Council must resolve to grant the Wellington Rural Fire Authority an exemption from the definition of council-controlled organisation under section 7(3-7) of the Act, which provides for such an exemption after taking into consideration:
  - The nature and scope of the activities provided by the organisation; and
  - The costs and benefits to the local authority, the council-controlled organisation and the community.
10. Under Part 5 of the Local Government Act 2002 and the Public Audit Act 2001 compliance costs and other requirements are prohibitive for a small entity such as the Wellington Rural Fire Authority. The effect on the community of the Wellington Rural Fire Authority being exempt from the council-controlled organisation requirements would be minimal.
11. This Council has granted the same CCO exemption to Te Newhanga Kapiti Community Centre as has been granted by successive councils at the beginning of each triennium since 2003. The exemption must be reviewed every three years and can be revoked at any time. It is recommended the exemption is reviewed at the start of each new triennium in conjunction with the review of the exemption granted to Te Newhanga Kapiti Community Centre.

### Financial Considerations

12. An exemption would limit the Wellington Rural Fire Authority's exposure to additional costs such as audit fees.

### Legal Considerations

13. Exemptions to the definition of council-controlled organisations are permitted under Section 7(4) of the Local Government Act 2002.

## Delegation

14. The Council has the authority to make this decision.

## Other Considerations

15. There are no consultation, policy, or publicity considerations.

## RECOMMENDATIONS

16. That Council grants exemption to the Wellington Rural Fire Authority from the definition of *council-controlled organisation* under section 7(4) of the Local Government Act 2002.

**Report prepared by:**

**Approved for submission by:**

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