

REMISSIONS AND POSTPONEMENT POLICIES

POLICY OBJECTIVES

The Local Government Act 2002 and the Local Government (Rating) Act 2002 provides Council with the ability to adopt a rates remission and a rates postponement policy. Any rates remission policy or postponement policy must initially be introduced in the Long Term Plan (LTP). Furthermore any amendments to a rates remission or rates postponement policy can only be made by an amendment to the LTP.

Section 102¹ of the Local Government Act 2002 requires a Council to adopt a rates remission and postponement policy on Māori freehold land and advises that a Council may also adopt other rates remission or rates postponement policies.

DEFINITIONS

For the purpose of interpreting these policies, the following definitions apply:

RATEPAYER

The ratepayer is either the owner of the rating unit or a lessee under a registered lease of not less than ten years, where the lease provides that the lessee is required to be entered into the Rating Information Database as the ratepayer.

The term 'ratepayer' also applies to persons referred to in Part 4 of the Local Government (Rating) Act 2002, more specifically section 92.

RATING UNIT

Has the same meaning as a rating unit for the purposes of the Rating Valuations Act 1998.

SEPARATELY USED OR INHABITED PART

Definition of a Separately Used or Inhabited part of a Rating Unit -

Any part of a rating unit used for a different purpose or inhabited by any person, other than the ratepayer or member of the ratepayer's household, having a right to use or inhabit that portion by virtue of a tenancy, lease, licence or other agreement.

Interpretation rules that form part of the definition of 'separately used or inhabited part':

- A. Each separate shop or business activity on a rating unit is a separate use, for which a separate UAGC is payable. (See Guidance Note1.)
- B. Each dwelling, flat, or additional rentable unit (attached or not attached) on a residential property which is let (or capable of being let) for a substantial part of the year to persons other than immediate family members is a separately inhabited part of a property, and separate UAGCs are payable. (See Guidance Note2.)
- C. Each residential rating unit which has, in addition to a family dwelling unit, one or more non-residential uses (i.e. home occupation units) will be charged an extra UAGC for each additional use. (See Guidance Note3.)

¹ Sections 108, 109 & 110 set out the required contents of the Rates Remissions and Postponement Policies outlined or required by s.102(2) (e) and s.102(3)(a) & (b).

- D. Each non-residential activity which has, in addition to its business or commercial function, co-sited residential units which are not a prerequisite part of the business or commercial function, will be liable for additional UAGCs for each residential unit. (See Guidance Note 4.)
- E. Individually tenanted flats, including retirement units, apartments and town houses (attached or not attached) or multiple dwellings on Māori freehold land are separately inhabited parts, and will each be liable for a separate UAGC. (See Guidance Note 5.)
- F. Each title on a multiple-managed forestry holding (that is, where the forest is broken into several individual small titles) is a separately used part except when one or more titles are adjacent and under the same ownership, in which case the rules of contiguity apply.
- G. Each block of land for which a separate title has been issued is liable to pay a UAGC, even if that land is vacant. NOTE: Two or more adjacent blocks of vacant land are not eligible for remission under “contiguity” (S.20 of LG(R)A 02) because they are not “used for the same purpose” (i.e. they are not used at all).
- H. Each dwelling, flat, or additional rentable unit (attached or not attached) on a pastoral, horticultural or forestry property which is let (or capable of being let) for a substantial part of the year to persons other than immediate family members is a separately inhabited part of a property, and separate UAGCs are payable. (See Guidance Note 6.)
- I. substantial part of the year is considered to be three months or more (this total period may be fragmented, and may occur at any part of the rating year).
- J. Each dwelling on a lifestyle block whether tenanted or not.

GUIDANCE NOTES

The following notes are not rules, but are intended to aid officers in the interpretation of the rules.

Commercial Properties

- A single building on one title with 24 separate ‘shops’ would pay 24 UAGCs.
- A motel with an attached dwelling would pay only one UAGC. This is because the attached dwelling is essential to the running of the motel. This is similar to a pastoral property with one dwelling (See rule D above)
- A motel with an attached restaurant which is available to the wider public has two separately used parts and would pay two UAGCs. Likewise, a motel with an attached conference facility

would pay an additional UAGC.

- A business which makes part of its income through leasing part of its space to semi-passive uses such as billboards, or money machines, is not regarded as having a separately used or inhabited part and would not be charged a separate UAGC.

Residential Properties

- The rule will apply to properties identified as “flats” on the valuation record (administered by Council’s Valuation Service Provider, Quotable Value Limited). Sleep-outs and granny flats will generally be identified as “sleep-out” on the valuation record and will not normally incur additional UAGCs.
- If a property is identified on the valuation record as having flats, but these in fact are used only for family members or for others for very short periods, the additional UAGCs may be remitted on Council receiving proof of their use, including a signed declaration from the property owner (see remission policy for dwellings used for family use). A property owner who actively advertises the flats for accommodation will not qualify for the remission.

Residential with Non-Residential Part

- A residence with a separately accessible “office” (which may be used for surveyor, architect, or medical services) will pay an additional UAGC for the office. This is because it is a separately used part which generates additional use of roads, services, planning resources and democratic processes.
- A residence with a “Home Occupation” (commonly called a “hobby business”) will not generally be charged a separate UAGC unless the intensity of operation is high. For example, a resident who occasionally manufactures boat trailers in his garage on the weekends would not incur an additional UAGC, but someone who works for most of the week panel beating or painting, particularly if the activity is accompanied by advertising, clearly has a separately used or inhabited part of the rating unit, and would incur an additional UAGC.
- A residential property, part of which is used continually for storage of large industrial machinery, has a separately used part, and would incur an additional UAGC.

Non-Residential Activity with Co-sited Dwelling

- A fish and chip shop, with a separately used flat above which can be accessed without passing through the shop, does have a separately used part, and would normally incur an additional UAGC

- charge.
- A dairy which has the operator's integral dwelling attached, would not incur an additional UAGC because the home is an integral part of the operation of the dairy similar to a pastoral property or motel.
 - Certain Government agencies, churches, marae, and the like are automatically rate exempt (except for service charges such as water and wastewater). They may be charged rates and additional UAGCs for each separately used or inhabited part of the rating unit, however, if these organisations undertake accommodation or business activities which are not related to their core function.

Individually Tenanted Flats

- Each flat, apartment, or retirement or disability home, and each property under a "licence to occupy", is a separately used or inhabited part of a rating unit. This is regardless of the number of people who may be living in the unit. Each will be required to pay an additional UAGC charge.

Pastoral Properties

- Each dwelling, tenanted or untenanted, is a separately used or inhabited part of a rating unit. Each additional dwelling will incur an additional UAGC charge.
- Shearer's quarters that are untenanted, and used as a shearers quarters, will not be treated as a separately used or inhabited part of a rating unit. Shearer's quarters which are tenanted will be a separately used or inhabited part of a rating unit and incur an additional UAGC charge.
- A pastoral property with one dwelling would pay only one UAGC. This is because the attached dwelling is essential to the running of the pastoral property.
- Untenanted farm dwellings and cottages in addition to the main 'farm house' will be charged additional UAGC's.

PART ONE: REMISSION OF RATES ON LAND OWNED OR USED BY COMMUNITY OR CHARITABLE ORGANISATIONS

Objectives

- To recognise circumstances where the requirements of Schedule 1, Parts 1 and 2 of the Local Government (Rating) Act 2002 are not met but it is considered unequitable not to grant a remission of up to 50% of rates (excluding targeted rates for sewerage or water or other utilities);
- To facilitate the ongoing provision of non-commercial, community services which meet the needs of the residents of the District; and,
- To make membership of the organisations more accessible to the general public, particularly disadvantaged groups. These include children, youth, young families, aged people, and economically disadvantaged people.

Conditions and criteria:

The Council may agree to remit rates of up to 50% on land owned or used by a community or charitable organisations subject to the following conditions:

- All applications must be made in writing and, if required, be accompanied by financial and other information;
- The organisation is not operating for private pecuniary profit; and,
- The organisations primary purpose is to address the needs of adult members who engage in recreational, sporting, or community services as a secondary purpose.

PART TWO: REMISSION OF PENALTIES ADDED TO UNPAID RATES OBJECTIVES

To encourage ratepayers to enter into formal agreements to repay rates arrears.

Conditions and criteria:

- The Council will remit a penalty when it is demonstrated that a penalty has been levied because of an error made by the Council;
- The Council may remit a penalty where it considers that it is fair and equitable to do so. Matters that will be taken into consideration include the following:
 - The ratepayer's payment history;
 - Full payment made of rates due (excluding a penalty amount);
 - The ratepayer entering into an agreement with Council for the payment of rates; and,
 - Under compassionate grounds where payment of rates has been late due to significant family disruption. Remission will be considered in the case of death, illness or accident of a family member, within 60 days of the due date.

PART THREE: REMISSION OF UNIFORM ANNUAL GENERAL CHARGES AND TARGETED RATES IN CERTAIN CIRCUMSTANCES – NON RURAL LAND

Objectives

Allow for the remission of rates in situations where uniform annual general charges and other selected targeted rates are assessed on additional rating units for contiguous or non-contiguous rating unit(s), where all requirements of s.20 of the Local Government (Rating) Act 2002 are not met.

Conditions and criteria:

- One rating unit is used as a private residence or a business and the additional rating unit is used solely as a garden or similar private part of the grounds in connection with the main rating unit;
- Where a private residence or business operates from more than one rating unit (location), and the additional unit is used as a single rating unit in conjunction with the main rating unit;

- A rating unit used for residential purposes, and includes a separately inhabited part, may be treated as one rating unit where the additional rating unit is used in conjunction with the main rating unit by a dependent member of the same family as that of the owner; and,
- This policy does not apply to untenanted flats, business premises or vacant buildings capable of use or inhabitation.

PART FOUR: REMISSION OF UNIFORM ANNUAL GENERAL CHARGES AND TARGETED RATES FOR RURAL LAND

Objectives

To provide for relief from uniform charges and selected targeted rates for rural land which is either contiguous or non-contiguous and farmed as a single entity.

Conditions and criteria:

- This policy applies to rural land;
- A remission of charges will apply to additional rating units owned or used by a ratepayer; and,
- In the case of general land in separate ownership there must be some significant development that combines the two properties into one and the owners of each rating unit must confirm in writing that all rating units are being used as one farming operation.

PART FIVE: REMISSION ON LAND FOR NATURAL, HISTORIC OR RATES REMISSION FOR LAND USED FOR OUTSTANDING LANDSCAPE, CULTURAL, HISTORICAL OR CONSERVATION PURPOSES

Objectives

To protect and promote significant natural areas, culturally significant sites, historic buildings, structures and places, and archaeological sites.

Conditions and criteria:

- Ratepayers who own rating units which include significant natural areas; culturally significant sites; historic buildings, structures and places; and archaeological sites qualify for remission of rates under this part of the policy.
- Applications must be made in writing. Applications should be supported by documentary evidence of the protected status of the rating unit.
- No person must be actually using the land or using the land (for private pecuniary profit).
- The Council will decide what amount of rates will be remitted on a case-by-case basis subject to a maximum amount of 50 percent of rates levied.

PART SIX: POLICY FOR REMISSION AND POSTPONEMENT OF RATES ON MĀORI FREEHOLD LAND

Māori freehold land rates remission - Objectives

- To promote the collection of rates from Māori freehold land to ensure fair and equitable collection of rates from all sectors of the community.
- To recognise the unique characteristics of Māori freehold land ownership structures.
- To meet the requirements of Schedule 11 of the Local Government Act 2002.

Criteria – rates remission of Māori freehold land:

- Land must be Māori Freehold land (as defined in the Te Ture Whenua Māori Act 1993 Part 6, Section 129 of the Local Government (Rating) Act 2002 Part1, Sub-paragraph 1, Section 5.

- No person shall be using the land at any time the rating unit is on the register. Persons actually using the land are liable for the rates on that land.
- For the purposes of this Part, a person actually using land means a person who, alone or with others,—
 - (a) Leases the land; or
 - (b) Does 1 or more of the following things on the land for profit or other benefit:
 - (i) Resides on the land;
 - (ii) De-pastures or maintains livestock on the land;
 - (iii) Stores anything on the land; or
 - (iv) Uses the land in any other way.
- Exceptions for use of land;
 - Where abandoned property or dwelling/s are situated upon the land;
 - Where an occupation order may have been granted but has not been put into effect; and,
 - Where only a portion of the land is usable, rates may be apportioned appropriately.
- The Council may give a remission of up to 100% of any and all types of rates, except targeted rates set for water supply or wastewater disposal, based on the following criteria:
 - The land is unoccupied and no income is derived from the use or occupation of that land;
 - The land is inaccessible, marginal in quality and/or unusable;
 - Only a portion of the land is used or usable;
 - The property carries a best potential use value that is significantly in excess of the economic value arising from its actual use;
 - The property is not used for residential purposes, and its value is significantly less than the value assessed by Valuation New Zealand; and,
 - Other provisions and matters relating to the objectives of the policy as well as those found in Schedule 11 of the Local Government Act 2002.

Māori freehold land – Whenua Rahui Register – Objectives

- To recognise and take account of the presence of wāhi tapu that may affect the use of the land for other purposes;
- To recognise and support use of land by owners for traditional purposes as well as the relationship of Māori and their culture and traditions with their ancestral lands;
- To recognise and set aside land that is better set aside for non-use for the protection of its natural features, preservation of the natural character of the coastal environment and/or protection of significant indigenous vegetation and significant habitats of indigenous fauna;
- To recognise and take account of the importance of the land in providing economic and infrastructure support for Marae and associated papakainga housing;
- To recognise matters related to the physical accessibility and/or marginal quality of the land;

- To recognise situations where there is no person or group gaining an economic or financial benefit from the land or where part only of a block is used, to grant remission for the portion of land not in use;
- To recognise situations where fragmented ownership and/or insufficient management structures make it difficult to effectively administrate the affairs relating to the land;
- To facilitate development or use of the land where Council considers rates based on the rateable value make the use of the land uneconomic; and,
- To recognise the level of community services provided to the land and its occupiers.

Whenua Rahui Register – Criteria

- It must be Māori Freehold land (As defined in the Te Ture Whenua Māori Act 1993 Part 6, Section 129 or the Local Government (Rating) Act 2002 Part 1, Sub-paragraph 1, Section 5);
- No person shall be using the land at any time the rating unit is on the Whenua Rahui register. Persons actually using the land are liable for the rates on that land;
- The Council may grant a postponement of up to 100% of any and all types of rates, except targeted rates set for water supply or wastewater disposal, based on the following criteria;
- Land is better set aside for the promotion and protection of indigenous ecosystems or biodiversity management on Māori land;
- Land is used in a way that facilitates Iwi and hapū initiatives for the retention, preservation and promotion of traditional Māori knowledge, and its use in biodiversity management;
- A Whenua Rahui application should be made prior to commencement of the rating year. Applications made after the commencement of the rating year may be accepted at the discretion of the Council;
- Owners or trustees making the application should include the following information in their applications:
 - Details of the rating unit or units involved;
 - The objectives that will be achieved by providing a remission;
 - Documentation that shows the subject land of the application is Māori freehold land; and,
 - Where land is in multiple-ownership or persons making application are not owners of the land, proof authorising individuals to act for owners is to be included with the application. Reasons for non-presentation are to be fully explained.
- The burden of proof of eligibility and ongoing compliance with the policy criteria and conditions rests entirely with the owner/s of the property;
- All entries on the Register will be reviewed every five years and eligible rating units will need to be re-registered every five years;
- Registration automatically authorises the Council to undertake periodic inspections of the land to confirm ongoing compliance with the criteria and the conditions of this policy;
- The Council reserves the right to seek further information to confirm compliance as and when necessary;
- In the event of any portion of the land being sold within the three year period the Council reserves the right to recover the rates remitted for the entire period;
- Relief, and the extent thereof, is at the sole discretion of the Council and may be reviewed, cancelled or reduced at any time; and,

- All applications are to be processed with 30 working days of receipt of the completed application form.

Notification of Decision –Maori Freehold Land – Whenua Rahui Register

The applicant/s shall be notified in writing within 5 working days of the decision.

Appeal Process – Māori Freehold Land – Whenua Rahui Register

All applicants shall have a right to appeal the decision. It should be noted however, that the burden of proof rests with the applicant.

Unused Māori Freehold Land – Economic Development

- Given that the Council will be maintaining a register of vacant and unused land, the opportunity exists to link developers and/or entrepreneurs with land owners, and thereby explore economic development partnerships;
- Any owners of property on the register wishing to have their land considered for such opportunities may elect to have the registration noted for consideration on an as when basis;
- Applicants must have authority from land owners and/or land management administrators to apply for registration for economic development opportunities;
- All non-voted land shall remain confidential;
- In order to encourage the development of the land, the rating unit may be apportioned into useable and non-useable portions and the remission applied based on the percentage of non- useable land;
- If a portion of the land is being used, those using the land will likely be held liable for the rates on the land, but rates may be apportioned according to the area of land utilised;
- If development of the land were to commence while the unit remained on the register, the Council may still apply a remission, for a maximum period of 5 years; and,
- The length and degree of the remission will be proportionate to the nature, characteristics and level of development as well as the objectives and considerations of the policy. The remission may be reviewed and amended periodically as development continues, at the Council's discretion.

Identification of Unused Māori Freehold Land – Economic Development

- Properties for inclusion can be identified by either the owner/s or the Wairoa District Council:
 - Council Identification - Properties are generally identified for inclusion on the register when rate arrears are incurred and efforts to recover have proved ineffective. Such properties are inspected and if the criteria are met, approaches are made to land owners to make application; and,
 - Owner Identification - If owners consider their land conforms with the criteria an approach may be made to the council.

Unused Māori Freehold Land – Economic Development - Application Process

Applications, whether initiated by the Council or the owner, will be made on the approved form. On receipt of the completed form a full investigation to validate the information presented is to be completed by council staff. The completed form and the resultant report shall form the basis on which compliance with the criteria shall be judged.

PART SEVEN: POLICY FOR REMISSION OF RATES ON COASTAL RURAL LAND USED FOR GRAZING OR FARMING PURPOSES

Introduction

Coastal land used as farms can qualify for a reduction in rates levied in certain circumstances

Objectives

- To recognise the special circumstances pertaining to the value of coastal rural land used for pastoral purposes.
- To recognise circumstances applying to situations where multiple rural properties are used as one rural property.

Conditions and criteria:

- Applications for remission will be considered in relation to additional rating units and not standalone rating units;
- Owners or trustees making application should include the following information in their applications:
 - A signed statement by the applicant that the land is, and will be, used for grazing purposes only; and,
- The land and capital values will be considered for special values that may be less than that assessed by the Council Valuation Service Provider.

PART EIGHT: REMISSION OF RATES ON LAND ONLY PARTIALLY IN THE WAIROA DISTRICT

Objectives

- To consider rates remission for land that lies in more than one local authority geographical district; and,
- To provide a fair means of assessing uniform annual general on rates levied on rating units that cross the Wairoa District territorial authority geographic boundary.

Conditions and criteria:

- Rating units must cross territorial authorities.
- Verification of uniform annual charges assessed in the boarding and select targeted rates levied in is required when assessing a rates remission.
- Remissions will be assessed by the following calculation.
- The rates remission will be calculated as follows:

$$(A/B) \times C$$

Where:

A = Total uniform annual general charges of the rating unit.

B = Total Separately used or inhabitable parts of the rating unit.

C = Percentage of land in the Wairoa District.

PART NINE: POSTPONEMENT OF RATES ON LANDLOCKED GENERAL TITLE LAND

Objectives

To enable the Council to treat landlocked General Land Title a similar manner as landlocked Māori freehold land.

Conditions and criteria:

- The land must be landlocked. Landlocked land is defined in s.327 of the Property Law Act 2007 and the applicant must include a statutory declaration that the land is not being used by any person;
- Evidence may be requested that the ratepayer has taken steps to obtain access to the landlocked land;
- 100% of all rates may be postponed for a maximum period of five years and the ratepayer must agree that postponed rates will be payable if the land ceases to be landlocked during the period of postponement;
- If a second or subsequent application is approved, rates that have been postponed for a period of five years will be remitted;
- The repayment of any reinstated postponed rates will not be extinguished should there be a change in ownership of the land; and,
- Any rates postponed and not remitted under this policy will be immediately repayable if the land ceases to be landlocked during the period of postponement.

PART TEN: REMISSION OF EXCESS WATER RATES

Objectives

This policy is designed to assist ratepayers who have excessive metered water rates due to a fault or leak in the water reticulation system servicing their rating unit or due to any errors or omissions on the part of the Council.

Conditions and criteria:

This policy applies only to targeted rates for water supply where:

- There has been a misreading of a water meter or a faulty meter;
- There has been an error in data processing;
- There has been a leak in the water reticulation system;
- In the case of a leak a remission for leakage may be made where a ratepayer produces evidence of a timely repair of a leak;
- A "timely repair" means a repair completed within 30 days of the date of the invoice to which the application refers; and,
- This remission will be calculated in accordance with the following formula:

50 percent of [A - B] x C

Where:

A = Current consumption as recorded by the water meter.

B = The estimated normal consumption for the period (this is the average of water used during the same period based on the previous two years).

C = The targeted water supply rate applicable to the invoice.

- In the case of an error in data processing or a misreading the error or reading will be corrected and any excess water rates charged will be refunded.