

# Policies on Rates Remission and Postponement

## Māori Freehold Land

### Introduction

Māori freehold land is defined in the Local Government (Rating) Act 2002 as land whose beneficial ownership has been determined by a freehold order issued by the Māori Land Court. Only land that is the subject of such an order may qualify for remission or postponement under this policy. Whether rates are remitted or postponed in any individual case will depend on the individual circumstances of each application.

This policy has been formulated for the purpose of:

- Ensuring the fair and equitable collection of rates from all sectors of the community by recognising that certain Māori owned lands have particular conditions, features, ownership structures or other circumstances that make it appropriate to provide relief from rates
- Meeting the requirements of Sections 102 and 108 and the matters in Schedule 11 of the Local Government Act 2002 to have a policy on the remission and postponement of rates on Māori freehold land.

### Objectives

The objectives of this policy are:

- To recognise situations where there is no occupier or person gaining an economic or financial benefit from the land
- To set aside land for conservation purposes because of its natural features
- To recognise and take account of the presence of waahi tapu (sacred areas) that may affect the use of the land for other purposes
- Where part only of a block is occupied, to grant remission for the portion of land not occupied.

### Conditions and criteria

1. Application for a remission or postponement under this policy must be made by the person(s) liable for rates for the land (e.g. owners or trustees), or a person appointed by the Māori Land Court, or other authorised agent of the owners of the land.
2. The application is to be made in writing before 30 days of the due date of payment. Applications made after this cut-off date will apply from the beginning of the following rating year. Hawke's Bay Regional Council (HBRC) will review the appropriateness of remissions on occasion.
3. The applicant must include the following information in their applications:
  - Details of the rating unit or units involved
  - Documentation that shows that the land qualifies as land whose beneficial ownership has been determined by a freehold order issued by the Māori Land Court
  - Details supporting the applicant's eligibility under clause 5 below.
4. Relief and the extent thereof, is at the sole discretion of Council and may be cancelled or reduced at any time.
5. HBRC may grant a remission on Māori freehold land of up to 100% of all rates for the year to which the application applies, based on the following criteria.

The land is in multiple ownership:

- Where the level of gross income derived from the land is not sufficient to cover the cost of rates levied on that land
- Where it is not possible to identify or locate the owners, or those liable to pay rates on the land
- The support for the use of the land by the owners for traditional purposes
- The support for the relationship of Māori and their culture and traditions with their ancestral lands
- Recognition of the presence of sacred areas (waahi tapu) that may affect the use of the land for other purposes

- Recognition of the importance of the land for community goals relating to:
  - the preservation of the natural character of the coastal environment
  - the protection of outstanding natural features
  - the protection of significant indigenous vegetation and significant habitats of indigenous fauna.
- 6. No application under this policy will be automatically backdated; however, having granted a remission on a property under the criteria laid down in clause 5 (above), Council may remit (write-off) outstanding arrears owing on that same property.

### **Delegated Authority**

Decisions on the remission and postponement of rates on Māori freehold land are delegated to the Group Manager Corporate Services or the Chief Executive.

### **Review of Policy**

This policy will be reviewed at least every 3 years to ensure that the conditions and criteria on which the policy is based continue to be relevant and appropriate.

## **Remission in Special Circumstances**

### **Introduction**

In order to allow rate relief where it is considered fair and reasonable to do so, Hawke's Bay Regional Council (HBRC) has resolved to adopt policies under Sections 102 (5) (a) and 109 of the Local Government Act 2002 specifying the circumstances under which rates will be considered for remission. There are various types of remission, and circumstances under which a remission will be considered. A remission will not be granted where an entity has qualified under the Local Government (Rating) Act 2002 (LGRA) for partial non rating under Part 2 of Schedule 1.

The conditions and criteria relating to remission in special circumstances are set out following.

## **1. Remission of Rates in Special Circumstances**

### **Policy objective**

To provide for the possibility of a rates remission in circumstances that have not been specifically addressed in other parts of HBRC's rating policy.

### **Conditions and criteria**

- 1.1 HBRC may remit all or part of the rates assessed in relation to a particular rating unit in special or unforeseen circumstances where it considers it just and equitable to do so.
- 1.2 The approval of the remission must not set a precedent that unfairly disadvantages other ratepayers.
- 1.3 A remission under this policy will apply for one year only. Applicants must reapply annually.
- 1.4 No application under this policy will be backdated. Rates arrears on the land as at 1 July 2004 will remain outstanding until such time as HBRC is no longer legally able to pursue the collection of rates.
- 1.5 All applications must be received in writing detailing the rating unit(s) involved and any other relevant information supporting the applicant's eligibility for the remission.
- 1.6 The application for a rates remission must be made before 7 days of the due date of payment.

### **Delegation**

Decisions relating to the remission of rates special circumstances are retained by HBRC.

### **Review of Policy**

This policy will be reviewed at least every 3 years, to ensure that the conditions and criteria on which the policy is based, continue to be relevant and appropriate.

## 2. Remission of Penalties on Rates

### Objective

To enable HBRC to act fairly and reasonably when a rates payment has not been received by the due date.

### Conditions and criteria

Upon receipt of an application from the ratepayer either in written or email format, or if identified by Council, a penalty may be remitted where at least one of the conditions listed below are met:

- 2.1 A full payment of outstanding rates due (excluding a penalty amount) has been made prior to the application being received by the Council, and if the ratepayer has previously paid all rates by the due date within the last three years.
- 2.2 Where a ratepayer has rate arrears, that on entering and adhering to a payment plan, the additional penalties will be remitted at an agreed time.
- 2.3 Where payment has been late due to an unforeseen disruption to the normal activities or business of the ratepayer, i.e. serious illness, case of death, injury, accident of family member, or family circumstances.
- 2.4 The late payment was caused by matters outside of the ratepayer's control.
- 2.5 It is demonstrated that the penalty has been levied because of an error by Council.
- 2.6 Where it is considered just and equitable to do so. Each application will be considered on its merits.

Matters that will be taken into consideration by Council under above include:

- 2.7 The ratepayer's payment history
- 2.8 The ratepayer entering into an agreement with Council for the payment of rates.
- 2.9 Matters controlled by the ratepayer may include: electronic payment errors, late posting of payment, failure to update mailing or direct debit arrangement.
- 2.10 Matters out of the control of the ratepayer may include: payments missing in transit, change of ownership, bank errors.

Where there is a deliberate non-payment, remission will not be granted. Council reserves the right to impose conditions on the remission of penalties.

### Delegation

Decisions relating to the remission of penalties on rates are delegated to the Group Manager Corporate Services or Chief Executive.

### Review of Policy

This policy will be reviewed at least every 3 years to ensure that the conditions and criteria on which the policy is based, continue to be relevant and appropriate.

## 3. Remission of Rates on Properties Affected by Natural Calamity

### Objective

To help ratepayers experiencing extreme financial hardship due to natural calamity which affects their ability to pay rates.

### Conditions and Criteria

- 3.1 Applicable where erosion, subsidence, submersion, or other natural calamity has affected the use or occupation of any rating unit. Does not apply to erosion, subsidence, submersion, etc that may have occurred without a recognised major event.
- 3.2 HBRC may, at its discretion, remit all or part of any rate assessed on any rating unit so affected by natural calamity.
- 3.3 HBRC will set the criteria for remission with each event. Criteria may change depending on the severity of the event and available funding at the time.
- 3.4 HBRC may require financial or other records to be provided as part of the remission approval process.
- 3.5 Remissions approved under this policy do not set a precedent and will be applied only for each specific event and only to properties affected by the event.

## Delegation

Decisions relating to the remission of rates on property affected by natural calamity are delegated to the Group Manager Corporate Services or the Chief Executive.

## Review of Policy

This policy will be reviewed at the least every 3 years, to ensure that the conditions and criteria under which the policy is based, continue to be relevant and appropriate.

## Remission for Uniform Annual General Charges (UAGC)

### Introduction

In order to allow rate relief where it is considered fair and reasonable to do so, Hawke's Bay Regional Council (HBRC) is required to adopt policies to specify the circumstances under which rates will be considered for remission. This policy is prepared under Sections 102 (5) (a) and 109 of the Local Government Act 2002.

### Policy Objectives

- To provide relief to ratepayers who occupy several near adjacent rating units, but which do not meet the criteria for continuity under section 20 of the Local Government Act (Rating) 2002.
- To provide relief for developers in the instances of sub-division development in urban areas.

### Remissions under the Local Government (Rating) Act 2002

Section 20 of the Local Government (Rating) Act 2002, stipulates that there shall be one property for the purposes of levying the UAGC, where two or more separately rateable properties are:

- Occupied by the same ratepayer (owner or person with right to occupy by virtue of lease for more than 12 months); and
- Used jointly as a single property (for the same purpose); and

- Contiguous but separated only by a road, railway-line, drain, water race, river or stream, they shall be deemed to be one property for the purposes of any Uniform Annual General Charges.

Where not already reflected on Council's rating information database, HBRC will allow, without further enquiry except for clarification, applications made by ratepayers in the form of a statutory declaration to the effect that two or more separately rated properties are occupied by the same ratepayer and used jointly for the same purpose, the Uniform Annual General Charge levied on the second and subsequent assessments will be cancelled.

### Conditions and Criteria to achieve Policy Objectives

1. Where farming or horticultural operations conducted on separate blocks of land are so far apart so as to indicate that there is no possible continuity between them, all charges may be levied on each; however, factors such as distance, stock rotation, stock driving, etc., property size and the number of properties affected, will be taken into account in determining whether remission should apply.

#### 1.1 Without dwellings

Where a single operation is operated over a number of separate rating units, or blocks of separate rating units within close proximity the 'flagship' (major rating) may be levied a full charge and the associated rating units may receive a 100% reduction.

#### 1.2 With dwellings

Where a single operation is operated over a number of separate rating units, or blocks of separate rating units within close proximity a charge may be levied against each rating unit with a habitable dwelling and the associated units may receive a 100% reduction.

Where a single operation is operated over a number of separate blocks of contiguous rating units that contain dwellings, one full charge may apply to each block of such rating units.

## 2. Miscellaneous

If a rating unit is of a size which would not enable a dwelling to be erected and where no dwelling exists, a 100% reduction in charge may apply.

Remission of the charge may apply to a subdivision for the period if the individual lots continue to be in the ownership of the developer.

3. The application is to be made in writing 30 days before the due date of payment.
4. All applications must be received in writing, detailing the rating unit/units involved and any other relevant information supporting the applicant's eligibility for the remission.

### Delegation

Decisions relating to the remission of Uniform Annual General Charges are delegated to the Group Manager Corporate Services and Financial Accountant.

### Review of Policy

This policy will be reviewed at least every 3 years to ensure the conditions and criteria on which the policy is based, continue to be relevant and appropriate.

## Postponement in Cases of Financial Hardship or Natural Disaster

### Introduction

This policy is prepared under Sections 102(5)(b) and 110 of the Local Government Act 2002.

### Objective

- To assist ratepayers experiencing short term extreme financial hardship that affects their ability to pay rates.
- To assist ratepayers whose property has been subject to a natural disaster to the extent that ratepayer is unable to pay rates.

### Conditions and Criteria

The financial hardship must be caused by circumstances beyond the ratepayer's control. The postponement of rates in cases of financial hardship is a last resort to assist residents who own the property to which the postponement application applies.

#### Criteria for the postponement of rates for ratepayers in cases of hardship are:

1. The applicant can illustrate a postponement of rates will help them overcome their short term extreme financial hardship
2. The applicant has no access to other funds to pay the rates due.

#### Criteria for the postponement of rates for ratepayers in cases of natural disaster are:

1. The applicant is unable to pay their rates bill because of a natural disaster or severe weather event that has severely impacted on their ability to pay rates but a postponement will help enable them to pay in the future.

### Other Conditions

Approval of rates postponement is for one year only. The applicant must reapply annually for the continuation of a rates postponement.

### Delegation

Decisions relating to the postponement of rates in cases of financial hardship are delegated to the Chief Executive.

Decisions related to the postponement of rates in cases of natural disaster are retained by Council.

### Review of Policy

This policy will be reviewed at least every 3 years, to ensure that the conditions and criteria on which the policy is based, continue to be relevant and appropriate.