



**I, Kitea Tipuna, Tumu Whakarae Taupua Interim Chief Executive Officer, hereby
give notice that
an Extraordinary Finance, Audit & Risk Committee Meeting will be held on:**

Date: Tuesday, 19 January 2021
Time: 12.30pm
**Location: Council Chamber, Wairoa District Council,
Coronation Square, Wairoa**

AGENDA

Extraordinary Finance, Audit & Risk Committee Meeting

19 January 2021

The agenda and associated papers are also available on our website: www.wairoadc.govt.nz

For further information please contact us 06 838 7309 or by email info@wairoadc.govt.nz

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- 1 KARAKIA**
- 2 APOLOGIES FOR ABSENCE**
- 3 DECLARATIONS OF CONFLICT OF INTEREST**
- 4 PUBLIC PARTICIPATION**

A maximum of 30 minutes has been set aside for members of the public to speak on any item on the agenda. Up to 5 minutes per person is allowed. As per Standing Order 14.14 requests to speak must be made to the meeting secretary at least one clear day before the meeting; however this requirement may be waived by the Chairperson.

5 GENERAL ITEMS

5.1 6 YEARLY REVIEW OF RATES REMISSION AND POSTPONEMENT POLICIES

Author: David Doole, Senior Rates Officer

Authoriser: Gary Borg, Pouwhakarae – Pūtea / Tautāwhi Rangapū Group Manager
Finance and Corporate Support

Appendices:

1. Existing Rates Remission and Postponment Policies. [↓](#)
2. Remission Of Rates For Land Used For Papakāinga Housing [↓](#)
3. Draft Rates Remission, Rates Postponement Policies. Draft Policies on Rates Remission and Postponement on Maori Freehold Land [↓](#)
4. Mangatu Guidance Notes [↓](#)
5. Rating of Whenua Māori Amendment Bill Summary [↓](#)

1. PURPOSE

- 1.1 The purpose of this report is to review all rates remission policies, all postponement policies and all remission and postponement of rates on Māori freehold land.

RECOMMENDATION

The Senior Rates Officer RECOMMENDS that the Committee endorses a proposal to publicly consult on changes and additions to rates remission policies and policies on remission or postponement of rates on Māori freehold land.

EXECUTIVE SUMMARY2. BACKGROUND

- 2.1 The Local Government Act (LGA 2002) and the Local Government (Rating) Act 2002 (LGRA 2002) specify that if a Council wishes to introduce a remission and/ or postponement of rates policy, it must first introduce policies that provide for this, using the special consultative procedure. In limited circumstances a new remissions policy may be introduced without a special consultative procedure if the requirements of sections 79 and 82 of the Local Government Act (the Act) are met.
- 2.2 Section 108 of the LGA 2002 state that policies on remission and postponement of rates on Māori freehold land must be reviewed at least once every 6 years. Section 109 of the LGA 2002 state that rates remission policies must be reviewed at least once every 6 years. Section 110 of the LGA 2002 state that rates postponement policies must be reviewed at least once every 6 years.
- 2.3 All policies listed in 2.2 must be introduced using the special consultative procedure.
- 2.4 Council has no rates postponement policies. The last comprehensive review of all rates remission policies, postponement policies and policies on remission or postponement of rates on Māori freehold land occurred in June 2015.
- 2.5 Council is required to review rates remission policies, rates postponement policies and policies on remission and postponement of rates on Māori freehold land by 30 June 2021 to meet statutory obligations set out in sections 108, 109 and 110 of the LGA 2002.

3. CURRENT SITUATION

- 3.1 It is mandatory to review rate remission policies, rate postponement policies and policies for remission or postponement of rates on Māori freehold land once every 6 years. These policies need to be reviewed before 30 June 2021.
- 3.2 It is timely and appropriate to review rate remission policies, rate postponement policies and policies for remission or postponement of rates on Māori freehold land while undertaking and finalising a Rates Review.
- 3.3 It is timely to review rate remission policies, rate postponement policies and policies for remission or postponement of rates on Māori freehold land while consulting on the Long-term Plan.
- 3.4 Rate remission policies, rate postponement policies and policies for remission or postponement of rates on Māori freehold land need to remain relevant, be fit-for-purpose and durable. Consultation on these policies provides Council with an opportunity to seek public feedback on what factors they consider are relevant and fit-for-purpose with regards to rate postponement policies and policies for remission or postponement of rates on Māori freehold land.

4. OPTIONS

- 4.1 The options identified are:
 - a. No changes or additions to existing rate remission policies. No addition of rates postponement policies. No changes or additions of policies for remission or postponement of rates on Māori freehold land. Existing rates remission policies, postponement policies and policies for remission or postponement of rates on Māori freehold land are consulted on.
 - b. Changes and additions to existing rate remission policies, rates postponement policies and policies for remission or postponement of rates on Māori freehold are consulted on.
- 4.2 Now is an appropriate time to consult on this matter, consider changes and additions to rate remission policies postponement policies and changes & additions to policies for remission or postponement of rates on Māori freehold land.
- 4.3 Council needs to review rate remission policies, rate postponement policies and policies on remission or postponement of rates on Māori freehold land once every 6 years. Rate remission policies, rate postponement policies and remission or postponement of rates on Māori freehold land policies were last consulted on in June 2015.
- 4.4 The preferred option is to consult on changes to rate remission policies, rate postponement policies and policies on remission or postponement of rates on Māori freehold land rather than maintain the status quo.

5. CORPORATE CONSIDERATIONS

What is the change?

- 5.1 **Appendix 1** shows existing rates remission policies, rates postponement policies and policies for remission or postponement of rates on Māori freehold land.

Appendix 2 shows existing Māori freehold land rates remission policy: Remission of Rates For Land Used For Papakāinga Housing

Appendix 3 shows proposed changes and additions to existing rates remission policies, rates postponement policies and policies for remission or postponement of rates on Māori freehold land. This shows rates remission policies and policies on remission and postponement of rates on Māori freehold land suggested to be consulted on. Only postponement policies for Māori freehold have been suggested.

A summary of the proposed changes are as follows:

POLICY PART	EXISTING	ACTION	FOR CONSULTATION
Policy Objectives	Yes	Keep – No Change	Policy Objectives
Definitions	Yes	Keep – No Change	Yes
Remission of Rates on Land Owned or Used by Community or Charitable Organisations	Yes	Keep but alter minor changes	Yes
Remission of Penalties Added to Unpaid Rates	Yes	Replace with Remission of Penalties	Remission of Penalties
Remission of Uniform Annual General Charges and Targeted Rates in Certain Circumstances – Non Rural Land	Yes	Keep – No Change	Yes
Remission of Uniform Annual General Charges and Targeted Rates for Rural Land	Yes	Keep – No Change	Yes
Remission on Land Used for Outstanding Landscape, Cultural, Historical or Conservation Purposes	Yes	Keep – No Change	Yes
Policy for Remission and Postponement of Rates on Māori freehold land	Yes	Keep – No Change	Yes
Policy for Remission of Rates on Coastal Rural Land Used for Grazing Purposes	Yes	Keep – No Change	Yes
Remission of Rates on Land Only Partially in the Wairoa District	Yes	Keep – No Change	Yes
Postponement of Rates	Yes	Keep – No Change	Yes

on Landlocked General Title			
Remission of Excess Water Rates	Yes	Replace with Remission Water Meter Rates Attributable to Water Leaks	Remission Water Meter Rates Attributable to Water Leaks
Rates Arrears Payment Arrangements	No	New Policy	Yes
Abandoned Land and Rates Sales Rates Remissions	No	New Policy	Yes
Non-Contactable Owners Rates Postponement Policy – Māori freehold land	No	New Policy	Yes
Partial use of Māori freehold land	No	New Policy	Yes
Remission of Rates For Land Used for Papakāinga Housing	Yes	Keep – No Change	Yes

- (a) Amendments to existing rate remission policy “Remission of Rates on Land Owned or Used by Community or Charitable Organisations” requires minor amendments to reduce ambiguity.
- (b) Rates remission policy “Remission of Penalties added to Unpaid Rates” is to be replaced with an alternative policy “Remission of Penalties”. The Remission of Penalties policy more accurately reflects circumstances where a penalty remission request should be considered.
- (c) The introduction of a rates remission policy “Rate Arrears Payment Arrangements” aims to formalise agreements to repay rates arrears. This proposes to remit 10% of the total rates arrears debt up to \$500.00 (for rates arrears up to \$5,000.00) and \$1,000.00 (for rates arrears up to \$10,000.00) where repayment arrangements are entered. The new policy aims to encourage ratepayers to make lump sum payments and enter repayment arrangements to pay rates arrears. Often rates arrears historic penalties exceed the \$500.00 and \$10,000.00 threshold detailed in the policy. This policy is independent of the rates remission policy “Remission of Penalties and Additional Charges”.
- (d) A new rates remission policy "Abandoned Land and Rating Sales Rates Remissions" is proposed. Although rare, should there be an instance where property is sold through the Abandoned Land rating sale or Rating Sale process and proceeds to do not clear rate arrears Council will have an ability to remit the remaining rates arrears and facilitate a change in ownership.

- (e) Requests for remission of water rates due to leaks are infrequent. The current rates remission policy “Remission of Excess Water Rates” is difficult to implement and quantify. A new rates remission policy is proposed “Remission of Water Meter Rates Attributable to Water Leaks Policy”. The proposed new remission policy reduces ambiguity.
- (f) It is widely recognised that Māori freehold land faces greater barriers to use than General title land and that the use of this land is often hindered by rates arrears. Other barriers include fragmented ownership structure and land which is small in size. There is no postponement policy which specifically allows rates arrears to be ‘set aside’ while current rates are paid. The introduction of the “Non-Contactable Owners rates postponement policy” is a postponement of rates policy on Māori freehold land which allows rates arrears to be set aside and facilitate use of Māori freehold land. It is limited to the use of land for pastoral or grazing purposes and prohibits the harvesting of trees, mineral extraction or excavation. It recognises that there is often an inability to contact current owners and actual or potential preferred classes of alienees. This policy would formalise current rating practice by setting aside rates arrears and facilitate the use Māori freehold land.
- (g) Section 27(5)(c) of the LGRA 2002 allows a Māori freehold land rating unit to be divided into more than one part. A new policy “Partial Use of Māori freehold land” formalises Councils ability to implement the provision of this section. Māori freehold can be sometimes be marginal in quality and person may only want to use part of the rating unit. Currently there is no specific remission or postponement of rates on Māori freehold that recognises the ability to implement section 27(5)(c) of the LGRA 2002.

- 5.2 No rates postponement policies have been considered only postponement policies pertaining to Māori freehold land (and not General Land). Taking into consideration the COVID-19 pandemic public consultation may establish a desire that Council consider a rates remission or postponement policy for extreme financial hardship.
- 5.3 No policy on remission and postponement of rates on Māori freehold land has been drafted for low value Māori freehold land. Considering the combined effect of the Mangatu guidance notes (effective from 27 August 2019) and the next effective General Revaluation date of 1 August 2021 it may be practicable to consider drafting policy on remission and of rates on low value Māori freehold. The revised Mangatu guidance notes are contained in **Appendix 4**.

The revised Mangatu guidance notes require that, in combination with a discount to the rating value based the numbers of preferred class of alienees and sites of significance, a uniform lump sum deduction will apply to Māori freehold land rating units of \$7,000 (down to a minimum value of \$100). Should a policy not be introduced addressing this from 1 July 2022 a number of low value Māori freehold land rating units will still attract a Uniform Annual General Charge and a waste management rural targeted rate therefore making rates assessed on the rating unit greater than the discounted rating value.

- 5.4 The potential impact of Local Government (Rating of Whenua Māori) Amendment Bill have not been considered. Should this Bill be granted Royal Assent the new Act would have significant implications for Council and existing Māori freehold land rating units. It

may negate the need for a remission and postponement of rates on Māori freehold land to be drafted for low value Māori freehold land. A summary of the key changes of the Local Government (Rating of Whenua Māori) Amendment Bill are attached in **Appendix 5**.

Compliance with legislation and Council Policy

- 5.2 Section 108 of the LGA 2002 state that policies on remission and postponement of rates on Māori freehold land must be reviewed at least once every 6 years. Section 109 of the LGA 2002 state that rates remission policies must be reviewed at least once every 6 years. Section 110 of the LGA 2002 state that rates postponement policies must be reviewed at least once every 6 years.

What are the key benefits?

- 5.3.1 A modernisation of existing rates remission policies, rates postponement policies and policies on remission and postponement of rates on Māori freehold land.
- 5.3.2 Meeting the statutory requirements of sections 108, 109 and 110 of the LGRA 2002.

What is the cost?

- 5.4.1 Cost efficiencies can be achieved by combining consultation on remission policies, rates postponement policies and policies on remission and postponement of rates on Māori freehold land with consultation on the Long-term Plan.
- 5.4.2 Cost is justified by the obligation that Council is required to review remission policies, rates postponement policies and policies on remission and postponement of rates on Māori freehold land in the year ending 30 June 2021.

What is the saving?

- 5.5 Not applicable.

Who has been consulted?

- 5.6.1 No consultation has taken place to date. There is a requirement to use the special consultation procedure when undertaking a review of rates remission policies, rates postponement policies and remission and policies on the remission and postponement of rates on Māori freehold land at least once every 6 years.

Service delivery review

- 5.7 Not applicable.

Māori Standing Committee

- 5.8 The Māori Standing Committee has not been consulted, part of the review process will require input from the Māori Standing Committee, their input will be sought. A copy of this report will be provided to the Māori Standing Committee.

6 SIGNIFICANCE

- 6.1 Rating is of perpetual public interest.
- 6.2 There will be a low impact on service levels.

- 6.3 There will be no impact on strategic assets.
- 6.4 The review of review of rates remission policies, rates postponement policies and policies on the remission and postponement of rates on Māori freehold land are of interest to all ratepayers.
- 6.5 There is a requirement to use the special consultation procedure when undertaking a review of rates remission policies, rates postponement policies and policies on the remission and postponement of rates on Māori freehold land.
- 6.6 This matter has implications for the relationship of Māori to ancestral land, sites and other taonga.

7 RISK MANAGEMENT

- 7.1 In accordance with the Council's Risk Management Policy the inherent risks associated with this matter are:

Human	Financial	Regulatory
Low	Medium	Low
Operations	Employees	Image & Reputation
Low	Low	Medium

Who has been consulted?

The LGA 2002 and the LGRA 2002 specify that if a Council wishes to introduce a remission and/ or postponement of rates policy, it must first introduce policies that provide for this, using the special consultative procedure.

Confirmation of statutory compliance

In accordance with section 76 of the Local Government Act 2002, this report is approved as:

- containing sufficient information about the options and their benefits and costs, bearing in mind the significance of the decisions; and,
- is based on adequate knowledge about, and adequate consideration of, the views and preferences of affected and interested parties bearing in mind the significance of the decision.

Signatories

	
Author David Doole	Approved by Gary Borg

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 **dwelling 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 Part 1, 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 $[A - B] \times C$

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.

REMISSION OF RATES FOR LAND USED FOR PAKAKĀINGA HOUSING**Policy objectives**

- To provide rates relief to rural Māori Freehold land used for papakāinga housing.
- To provide an alternative to low income occupants living on Māori Freehold land used for papakāinga housing when they would not be eligible to receive a rates rebate because of the current eligibility criteria for rates rebates.
- To avoid the alienation of owners and occupants from rural Māori Freehold land used for papakāinga housing.
- To meet the requirements of schedule 11 of the Government Act 2002.
- To assist Māori to establish papakāinga housing on rural Māori Freehold Land.

Conditions and criteria

Council recognises that the imposition of multiple UAGCs or other non-service 'separately used and uninhabited' levied rates might act as a deterrent to Māori seeking to occupy Māori Freehold Land for housing purposes.

Council will consider applications for the remission of multiple UAGCs and other charges, with the exception of those that are set for the provision of utilities such as water, sewerage in respect of separately used or inhabited parts of a rating unit where these are covered by occupation licenses, or other informal arrangements subject to the conditions and criteria set out below:

- The land must be Māori Freehold Land (As defined in Te Ture Whenua Act 1993 Part VI Section), and
- The part of the land used for papakāinga must be the subject of an occupation license or other informal arrangement for the purposes of providing residential housing for the occupier on a rent free basis, and
- The area of land must be less than 3.2 hectares and located outside the Wairoa township and have no less than three dwellings on it, and
- The land must have a primary and actual use code of lifestyle or residential as defined by current rating valuation rules.
- Council reserves the right to cancel the agreement if the rates remain unpaid for a period of more than 3 months after the due date.
- Each occupants must have a level of income no greater than the level of NZ superannuation used for the calculation of rates rebates in accordance with the Rates Rebate Act 1973.

Remission of uniform annual general charges and targeted rates for waste management

- Applications must be received in writing from the owners or trustees of the land and signed by the owners or trustees.
- The application must contain the names of the occupants of each dwelling and a statutory declaration that each occupant of each dwelling has a level of income no greater than the level of NZ superannuation used for the calculation of rates rebates in accordance with the Rates Rebate Act 1973.
- All successful applications will be granted a remission of 50% of the uniform annual general charge and targeted rate for waste management on the third and subsequent dwellings on the land that are applicable based on the pre-mentioned income level of the occupants.

- For the avoidance of doubt 100% of the uniform annual general charge and waste management rural charge will apply two dwellings on the land.
- The remission of the UAGC and other charges will remain on the land so long as the arrangement is in force subject to the occupation complying with the conditions and criteria set out above.

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 102 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, license 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 Note 3.)

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 rule 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 24UAGCs.
- 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.

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.
- 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.

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 may be considered unequitable not to grant a remission of up to 50% of rates (excluding targeted rates for sewerage or water or other utilities).
- To promote the provision of non-commercial, community services which meet the needs of the residents of the District.

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.
- Applications for a remission must be made in writing and, if required be accompanied by financial and other supporting information (A statement of objectives or a charter, financial accounts, information on activities or programmes, details of members)
- The organisation is not operating for (pecuniary) profit.
- The primary purpose of the applicant is to address the needs of the community who engage in recreational, sporting, or community services as a secondary purpose.
- This policy does not apply to organisations or groups whose primary purpose is to address the need of adult members for entertainment or social interaction or engage in recreational, sporting or community services as a secondary purpose.

REMISSION OF PENALTIES**Objectives**

- To set parameters for the Council to remit penalties.
- To encourage ratepayers to pay arrears and keep payments of rates up-to-date.
- To consider penalty remission requests on late payment previous rates instalment amounts.

Conditions and criteria

Applications for the remission of up to 100% of an instalment penalty can be made by a ratepayer who demonstrates that they meet one or more of the following criteria:

- Compassionate reasons (including the illness or death of a spouse or partner).
- The rate assessment notice or rates invoice was sent to an incorrect address or it is proven that the ratepayer did not receive a rates assessment notice or rates invoice through no fault of their own.
- A penalty was incurred due to a Council error (including timing differences arising from payments by regular electronic bank transactions).
- Previous property owners did not pay rates in full before property sale was completed and a penalty has been incurred through no fault of the new owner.
- Payment was received on time but credited to a different rates assessment due to a ratepayer supplying incorrect reference details.
- A one-off ratepayer error (including timing differences arising from payments by regular electronic bank transactions).
- There is a proven history of the rates being paid on time from the previous 2 years and the payment which a penalty request relates to has been made within 3 days after the instalment due date.
- An application for a penalty remission does not need to be in writing unless the penalty is in excess of \$200.00, or the penalty refers to the previous rating year.
- Council staff may recommend a penalty remission. This recommendation must identify relevant conditions and criteria identified in this policy.

- Penalties will not be applied where a ratepayer has entered into a repayment agreement satisfactory to Council and makes the agreed regular rate payments (see Rate Arrears Payment Arrangements policy).
- Where a ratepayer has not paid an instalment by the required due date and subsequently pays the balance required to bring rates up-to-date to the next instalment period (the amount less the penalty), or the total annual rates levied for the year by the next instalment due date: The penalty incurred on that previous instalment will be remitted.
- For the avoidance of doubt remission of penalties incurred on previous instalments will be considered on a case-by-case basis where the payment of the rates assessment is made in full, or an arrangement to pay rate arrears has been agreed and adhered to.

RATE ARREARS PAYMENT ARRANGEMENTS

Objectives

- To facilitate repayments of rates and water rates debts.
- To encourage lump sum payments of rates and water rates debts to clear arrears in full.
- Recognise instances where an arrangement to repay rate arrears has been made, adhered to, but not concluded.

Remission Period

- One off

Remission Value

- Up to \$500.00 for arrears under \$5,000.00 (\$100.00 per \$1,000.00 arrears)
- Up to \$1,000.00 for arrears under \$10,000.00 (\$100.00 per \$1,000.00 arrears).
- A maximum of 10% of the total debt.
- Consideration will also be given to writing off any statute barred rates arrears which haven't been written off in the current financial year (A report for statute barred rate arrears has not yet been approved by Council).

Conditions and Criteria

- Ratepayers must commit to an arrangement with Council to repay rate arrears within an agreed timeframe, and
- Council may remit rates and water rates arrears of up to \$500 for arrears under \$5,000.00 or \$1000.00 \$1,000.00 for arrears under \$10,000.00 (this is reflective of a 10% penalty being imposed for an opening arrears balance and a 10% penalty on each rates instalment not being paid the required instalment due date).
- Rates arrears are rates in previous rating years, not arrears in the current rating year.
- Any statute barred rates arrears not already written off at the time an agreement is entered into will be excluded from the arrears total for the purposes of this policy.
- A penalty suppression on the rates assessment/ water rates debt will be added to prohibit ratepayers from incurring further arrears once an agreement has been made and adhered to.
- A default on the arrangement will result in the penalty suppression being lifted.
- Writing off \$500.00, \$1,000.00 or the amount of any statute barred rates arrears can occur at the beginning of the repayment arrangement, part way through and arrangement or at the conclusion of arrangement and is considered on a case-by-case basis.
- Requests for payment arrangements are to be made in writing by the ratepayer or their agent.
- Non ratepayer initiated repayment arrangements are to be documented.

- Consideration will be given to writing off arrears classified as statute barred rates arrears at the time an agreement is entered into and are considered on a case-by-case basis if they have not already been written off in the current rating year (the year that Council normally writes off statute barred rates arrears and which the provisions of section 65 Of the Local Government (Rating) Act 2002 apply).

ABANDONED LAND AND RATING SALES RATES REMISSIONS

Objectives

- To remit rates where the amount levied cannot be collected after proceeds have been received from an Abandoned Land rating sale or a Rating Sale.

Conditions and Criteria

- Proceeds for an Abandoned rating sale or Rating Sale do not clear the rates balance required to clear rates to the end of an instalment period prior to a vendor becoming the new ratepayer.
- Rates arrears cannot be collected through normal debt collection provisions and the property will change ownership by way of an Abandoned Land rating sale or a Rating Sale.
- The amount to be written off is the difference between the amount received from proceeds from an Abandoned rating sale or Rating Sale and the balance remaining to be cleared to the instalment period that the vendor is liable to bring rates up-to-date to that rates instalment period (and not the end of a financial year unless the end of the financial year is the current instalment period).

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.
- 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.

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.

REMISSION OF RATES ON COASTAL RURAL LAND USED FOR GRAZING OR FARMING PURPOSES

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.

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.

REMISSION OF WATER METER RATES ATTRIBUTABLE TO WATER LEAKS POLICY

Objectives

- To provide relief in situations where water usage is high due to a water leak or damage to the consumers internal water reticulation system which the consumer was unaware of.

Conditions and criteria

Council may remit water meter rates where all of the following conditions and criteria apply:

- A written request for a remission of excess water rates has been received has been received or a recommendation has been made by a Council Officer, and
- Council is satisfied a leak on the property has caused excessive consumption and is recorded on the water meter; and
- The water leak has been repaired as soon as practical, and within one calendar month of being identified (unless evidence is provided that the services of an appropriate repairer could not be obtained within this period); and
- Proof of the leak being repaired has been provided to Council promptly after the repair.

Additionally

- The amount of the remission will be the difference between the average consumption of the property prior to the leak, as deemed reasonable by Council, and the consumption over and above that average.
- Any Remission is limited to the period where the leak was identified and fixed.
- A Remission for any particular property will generally be granted on a one-off basis and only once in every rating year.
- Where a remission for a water leak has been granted to a property under this policy within the last year, the remission decision is to be made by the Chief Financial Officer.

POLICY FOR REMISSION AND POSTPONEMENT OF RATES ON MAORI 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:
- o 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,
- o 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.

NON-CONTACTABLE OWNERS RATES POSTPONEMENT POLICY – MAORI FREEHOLD LAND

Objectives

- This policy applies to 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.
- To allow for rates arrears on Māori Freehold Land to be set aside and facilitate a change in the address for the rates assessment notices and invoices to be sent to and paid.
- To facilitate the use of vacant Māori Freehold Land when there is no practical way of recovering past outstanding rates arrears.
- To facilitate the use of Māori Freehold Land, when there is no practical way of contacting current owners, actual or potential preferred classes of alienees therefore allowing person(s) to use Māori Freehold Land for pastoral or grazing purposes.

Conditions and criteria

- Rates on the land cannot be collected and the rates assessment would otherwise accumulate until the statutory write-off of statute barred rates arrears applies, and
- There is an undertaking to keep current and future rates up-to-date by the new addressee, and

- The land is vacant Pastoral or Lifestyle land located in the rural District Plan zoning area and to be used for grazing or farming purposes only, and
- No substantial development is to occur on the land, and
- No harvesting of trees, mineral extraction or excavation is to occur on the land, and
- The land is not eligible to be entered into the Whenua rahui register, and
- Multiple attempts have been made to locate, engage with current or preferred class of alienees and facilitate the payment of rates by these owners or trustees Māori Freehold Land. In the case of deceased estates all reasonable attempts have been made to contact actual or potential preferred classes of alienees, and
- There are rates arrears for at least 3 previous financial years.
- All applications are to be made in writing by the person(s) wishing to uptake this policy.
- For the avoidance of doubt any Māori Freehold Land that is considered to have sites of cultural or spiritual significance will not be eligible to be used by persons other than owners or trustees.
- If the conditions and criteria are rates arrears will be set aside until they become statute barred and no active debt recovery will take place.
- Should the policy criteria no longer be met rates arrears will no longer be set aside.
- This policy applies to rateable Māori freehold land and not non-rateable Māori freehold land.

PARTIAL USE OF MĀORI FREEHOLD LAND

Objective

- This policy applies to 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.
- To provide rates relief to ratepayers who wish to use a portion of Māori freehold rating unit.
- To recognise an ability of a person to use a portion of 'vacant' Māori freehold rating unit in as expressed in section 27(5) of the LGRA 2002.
- To facilitate the use of Māori freehold and minimise the alienation of Māori freehold.

Conditions and criteria

1. The portion of unused or unoccupied land is greater than 2 hectares of the rating unit.
2. The land is vacant Pastoral or Lifestyle land and located in the rural District Plan zoning area and to be used for grazing or farming purposes only.
3. No harvesting of trees, mineral extraction or excavation is to occur on the land.
4. Carbon farming and apiculture activities are considered land use under this policy.
5. Council's Valuation Service Provider will create a division of a rating unit on more than one area representing:
 - a. The area of the rating unit that is used by the applicant.
 - b. The area of the rating unit that is not used by the applicant.
5. Council will levy rates on each area based on the Capital Value of each land area.
6. The Uniform Annual General Charge will be apportioned between each vacant area. A full Uniform Annual General charge and waste management charges will remain on any divided area that has structures on it and will be levied on a SUIP basis.
7. The status of the land will be continually monitored.

8. This policy applies to rateable Māori freehold land and not non-rateable Māori freehold land.

REMISSION OF RATES FOR LAND USED FOR PAKAKĀINGA HOUSING

Policy objectives

- To provide rates relief to rural Māori Freehold land used for papakāinga housing.
- To provide an alternative to low income occupants living on Māori Freehold land used for papakāinga housing when they would not be eligible to receive a rates rebate because of the current eligibility criteria for rates rebates.
- To avoid the alienation of owners and occupants from rural Māori Freehold land used for papakāinga housing.
- To meet the requirements of schedule 11 of the Government Act 2002.
- To assist Māori to establish papakāinga housing on rural Māori Freehold Land.

Conditions and criteria

Council recognises that the imposition of multiple UAGCs or other non-service 'separately used and uninhabited' levied rates might act as a deterrent to Māori seeking to occupy Māori Freehold Land for housing purposes.

Council will consider applications for the remission of multiple UAGCs and other charges, with the exception of those that are set for the provision of utilities such as water, sewerage in respect of separately used or inhabited parts of a rating unit where these are covered by occupation licenses, or other informal arrangements subject to the conditions and criteria set out below:

- The land must be Māori Freehold Land (As defined in Te Ture Whenua Act 1993 Part VI Section), and
- The part of the land used for papakāinga must be the subject of an occupation license or other informal arrangement for the purposes of providing residential housing for the occupier on a rent free basis, and
- The area of land must be less than 3.2 hectares and located outside the Wairoa township and have no less than three dwellings on it, and
- The land must have a primary and actual use code of lifestyle or residential as defined by current rating valuation rules.
- Council reserves the right to cancel the agreement if the rates remain unpaid for a period of more than 3 months after the due date.
- Each occupant must have a level of income no greater than the level of NZ superannuation used for the calculation of rates rebates in accordance with the Rates Rebate Act 1973.

Remission of uniform annual general charges and targeted rates for waste management

- Applications must be received in writing from the owners or trustees of the land and signed by the owners or trustees.
- The application must contain the names of the occupants of each dwelling and a statutory declaration that each occupant of each dwelling has a level of income no greater than the level of NZ superannuation used for the calculation of rates rebates in accordance with the Rates Rebate Act 1973.

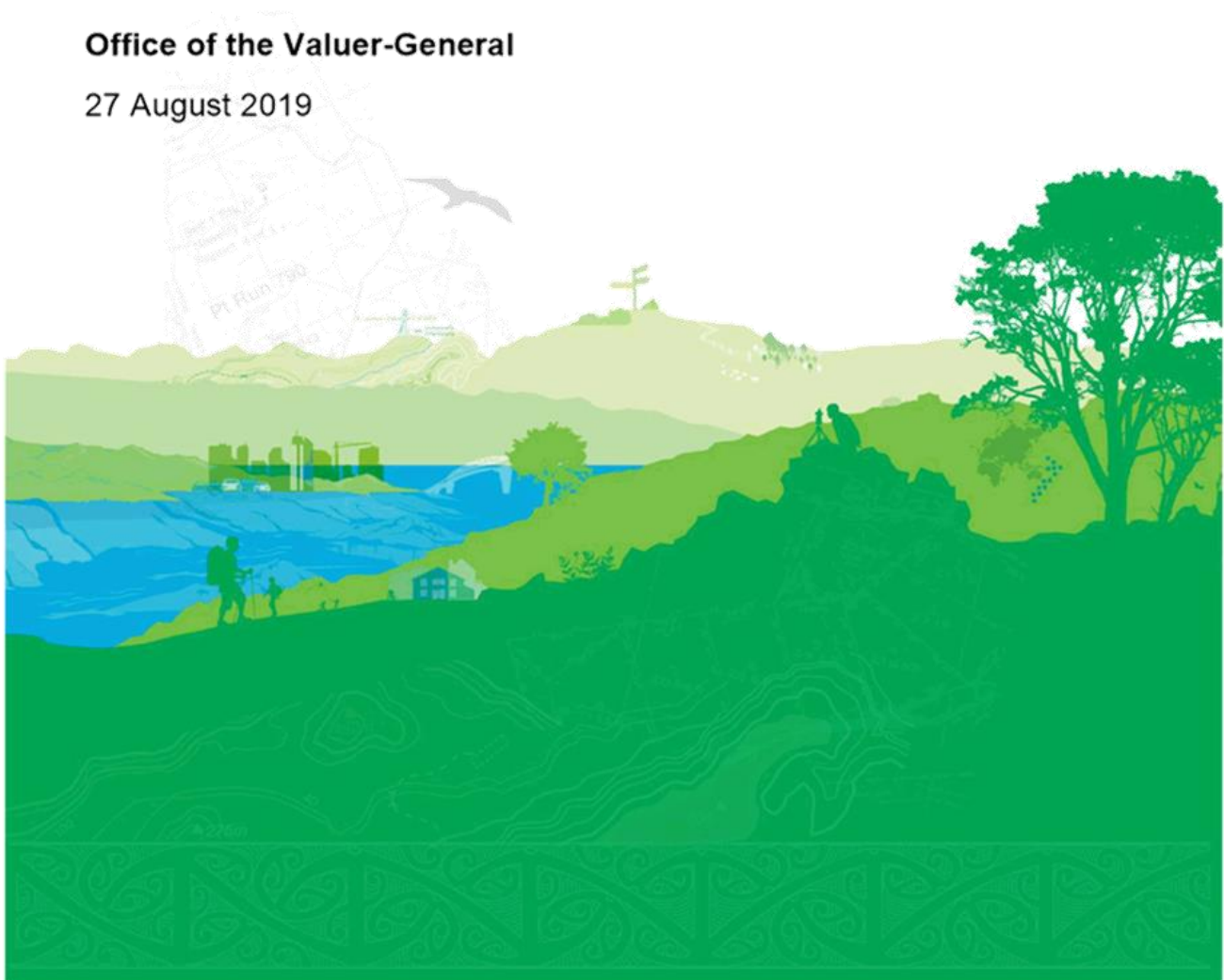
- All successful applications will be granted a remission of 50% of the uniform annual general charge and targeted rate for waste management on the third and subsequent dwellings on the land that are applicable based on the pre-mentioned income level of the occupants.
- For the avoidance of doubt 100% of the uniform annual general charge and waste management rural charge will apply two dwellings on the land.
- The remission of the UAGC and other charges will remain on the land so long as the arrangement is in force subject to the occupation complying with the conditions and criteria set out above.

Mangatu Guidance

Guidance on the Rating Valuation of Māori Freehold Land

Office of the Valuer-General

27 August 2019





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Introduction

The Valuer-General (VG) is responsible for setting standards, monitoring, and auditing the provision of rating valuations in New Zealand under the Rating Valuations Act 1998. This includes a statutory duty to set minimum standards for a nationally consistent, impartial, independent, and equitable rating valuation system.

From time to time the VG also issues guidelines to assist valuers in undertaking rating valuations. This includes guidelines relating to the rating valuation of Māori Freehold Land (MFL). Guidelines are best practice recommendations - they do not have the effect of law and there is no compulsion dictating their use. However, there is a general expectation they will be used for rating valuation purposes unless there is a documented reason not to.

Mangatu Case Context

Court of Appeal case *Valuer-General v Mangatu Inc*, 3 NZLR 1997.

Background to the case:

The appellants owned rural land which is MFL under the Te Ture Whenua Māori Act 1993 (the 1993 Act). The land is predominantly East Coast hill-country farmland within the catchment basis of the Waipaoa River, extending south to the Wharerata Ranges, north to Tolaga Bay and west to the Ureweras. In addition, there are 300 hectares known as the Awapuni blocks, on the site of a lagoon on the coastal fringe of Poverty Bay and on the south-western outskirts of Gisborne City. This Awapuni land is used for both agricultural and horticultural purposes.

The 1993 Act imposed a number of restrictions on the sale of MFL, and includes a mechanism for potentially lifting the restrictions and converting the land to general land. Pursuant to the Valuation of Land Act 1951 (VLA), the VG (part of the Government Valuation Department at that time) valued the land for rating purposes on the standard applicable to non-MFL available for sale on the open market, without making any deduction for the effect of the 1993 Act. In other words it was valued as if it was general title land.

The VLA defined "Capital Value" and "Unimproved Value" for rating purposes as the sum of the owner's estate or interest in the land. The Land Valuation Tribunal (LVT) at Gisborne disallowed the appellants' objections to the valuation, deciding that the constraints in the 1993 Act did not constitute a change in definition in the VLA and it could therefore be disregarded in settling the value of the land. It was of the view that where it was possible to sell land without restriction then existing constraints did not affect the value of the land, applying what it considered to be binding authority to that effect in *Thomas v Valuer-General* [1918] NZLR 164.

The appellants appealed against that decision. The essential question in the appeal was whether the 1993 Act diminished the normal valuation of the owner's estate or interest in the land under the VLA.

The Court of Appeal allowed the appeal and ruled that the restrictions on the ability to alienate MFL held under the 1993 Act should be reflected in rating valuations and sent the



objection back to the LVT for further consideration of the rating values in light of the judgment.

The subsequent LVT applied the Court of Appeal decision concerning the Mangatu blocks and took into account the statutory restrictions on the sale for MFL when determining its value.

The original objection had related to 290 properties and it was agreed to make an initial determination and application of the principles outlined in the Court of Appeal decision in relation to two representative properties.

One was Awapuni Moana, a place to which Māori had extensive links and which would in all likelihood never be sold because of its cultural and spiritual significance to the iwi. The other was Mangamaia, which had strong historical links for Te Aitanga-a-Māhaki and had historically been a land base for hundreds of people, and once had several marae on it. It had been leased to Pākehā for several decades and had been developed and returned in the 1940s.

The Tribunal found that it was required to make an assessment in a situation where an agreement to sell had been reached, that is, all substantial requirements for a quorum had been overcome and agreement had been reached either with a person within the preferred class of alienees (PCA), or Māori outside the preferred class, or non-Māori.

It found that the Court of Appeal decision required it to concentrate on the extra time and costs associated with the sales process for MFL when compared to other land (as opposed to any problems with obtaining a quorum to agree to a sale), including the need to notify the PCA and the need to obtain confirmation of the sale from the MLC.

The LVT found that MFL was being sold to some extent on the open market, despite the restrictions of the 1993 Act and on the evidence, the Tribunal concluded that, because of the extra time required and costs incurred around the offer back process for non-PCA sales, valuations of MFL should be discounted between 5 and 15%, depending on the particular circumstances of each block.

Subsequent LVT Decisions that apply the principles identified by the Court of Appeal

1. Farthing v Far North District Council [2003]

Adjustments: No change to original deductions

The objector is one of many owners of two pieces of land situated at Rangihimana Road just south Kaikohe. The land is zoned Rural 1 under the Far North District Plan (transitional) and General Rural under the Far North District Plan.

In its calculation of land value, Quotable Value has deducted from its initial assessment 15% because the land is Māori Land in multiple ownership.

The objector, representing all the owners, submitted that the land is of special significance to the owners. It has been in their possession for over a thousand years. It is their intention that it will remain so forever. In these circumstances to contemplate a "willing seller – willing buyer" is abhorrent. Such a concept strikes at the very heart of Māori tikanga or values. Further, the Treaty of Waitangi accorded the owners free and



undisputed enjoyment of their lands. The objectors consider that taxing the lands breaks that sacred covenant and undertaking.

Conclusion: [14] S 38 (2) Rating Valuations Act 1998 requires that an objector must prove that the valuation objected to is wrong. The objectors have not done this.

2. Te Whaiti Nui A Toi Trust v Whakatane District Council [2007]

Adjustments: Owners 9%; Site of Significance 5%; Other 25%

The property is owned by the Te Whaiti Nui A Toi Trust and is situated on State Highway 38, approximately 10 kilometres south of Murupara. The surrounding properties comprise mainly a mix of undeveloped land in native bush, National Park and exotic forestry.

Centred around the effect of a Gazette Notice amounting to an additional limitation of alienability, noting as it does that the land is set apart "as a Māori reservation for the purpose of a landing place and scenic reserve for the common use and benefit of the owners of Te Whaiti Nui A Toi and their descendants."

Conclusion: that it was not appropriate to apply a full deduction for Reserve in addition to the 5% deduction for sites of special significance. Reserves other than Māori land are often by their very nature set aside on account of particular historical interest.

3. Ongare Trust Māori Land Block v WBoP DC [2008]

Adjustments: Owners and Site of Significance 20%; 50% in respect of 5.2 hectares of land

The trustees of the Ongare Trust objected to the valuation in respect of a 40.4 hectare or 100 acre block of land at Ongare Point near Katikati. The land is an extremely attractive block close to the Bowentown entrance to Tauranga Harbour, and is a working orchard planted in kiwifruit and avocados.

This land has some 227 owners, all of whom are known directly or indirectly to one or more of the trustees. The trustees sought to establish that it would be beyond the resources of any of the current owners to purchase a Māori freehold title in the land for a sum in excess of \$1,000,000 as their resources were inadequate to do so.

The decision noted that it must be remembered that the task of the Tribunal is to value the land by reference to a sale to a hypothetical purchaser fully informed as to the history and nature of the land over which the Māori freehold estate exists and also fully informed as to the restrictions inherent in Māori freehold title including restrictions on alienation, the requirement for MLC consent, and the relative paucity of resources that may exist within the preferred class of alienees recognised by the 1993 Act. It is also worth recalling that the onus of proof in rating valuation objections lies on the objector, who must prove the case for revaluation on the balance of probabilities.

The history of the land was highly relevant. The occurrence of a battle in recent historical times is relatively unusual and highly significant. The land has enormous historical significance to the present owners, each and every one of whom is a direct lineal descendant of the original holder of the Crown grant. Looking at that issue in the context of this particular block of land, the Tribunal was satisfied that a special cultural and



historical significance attached most strongly to the 5.4 hectares of land running between the two identified pa sites along approximately half of the waterfrontage.

4. Taheke Paengaroa Trust v WBoP DC and Landmass Technology Limited [2008]

Adjustments: 15%

The land has a substantial historical value to the present owners, as there are battle sites, graveyards, caves, housing, skeletons and human remains. The land has areas of wāhi tapu and kaimoana sites as well as pa sites, battle sites, graveyards and burial grounds.

In 1989 Fletcher Challenge obtained the lease, and the Māori Trustee granted a forestry right for a term of 42 years in place of the lease, to provide for two rotations of Pinus Radiata forestry. The land was largely in Pinus Radiata forest, although significant areas remain in native vegetation generally too steep and inaccessible for commercial forestry purposes.

The owners' estate is one in MFL and the assets of the trust are such that the Trust cannot and will not for the foreseeable future be able to develop the land for pastoral farming because of the likely cost of physical development of around \$4,000.00 to \$4,500.00 per hectare. Additional Kyoto Protocol costs of \$13,000 per hectare would now apply to pastoral development. The native forest on the land is protected from development by the Western Bay of Plenty District Council District Scheme.

There are more than 2,000 owners recorded as having shares in the land, but of those contact details are held for only 875 owners. A number of the presently listed owners are likely deceased, and it would be a very substantial and expensive task for the ownership records of the block to be brought up to date.

The major issue affecting the valuation was whether the land should be valued in accordance with the market for forestry land, that being the only commercial use to which this land has ever been put, or whether the land should be valued for its potential to be converted to pasture and use as a dairy support grazing unit. In rating appeals of this nature, it is for the objector to establish on the balance of probabilities that the territorial authority's assessment is wrong.

It was considered that the market evidence established on the balance of probability that the price for forestry land in the mid-North Island suitable for pastoral conversion was from 2003 being driven by the higher prices paid by pastoral farmers wishing to convert forestry land to pastoral farming, to the general exclusion of purchasers wishing to buy and hold such land for purely forestry purposes.

Greater discount applied reflecting additional delays and costs associated with obtaining Māori Land Court consent before any development work, such as conversion from forest to pasture, could begin.

Recent Sales of Māori Freehold Land

It is apparent from our research with registered valuers who work with MFL that few recent sales have occurred. Those that have been analysed indicate a discount in the sale price as the result of the restrictions of the 1993 Act was between the current 5% - 15%. However, the properties that have sold do not have the extent of sites of significance, or areas of



special significance, such as the circumstances prevalent in the LVT decisions outlined earlier in this document.

Valuers commented that the market is now more mature around its understanding of MFL and the fact that the titles are for a freehold interest which in their view has given greater confidence to non-PCA purchasers. The MLC also remains vigilant to ensure that MFL sale prices are reasonably in line with general title market values.

There was a view that non-PCA purchasers generally have quite specific criteria (adjoining other freehold land, productive qualities, scenic views, proximity to coastal or other amenity factors) about the extent of benefits required from MFL to support buying this tenure over general title land.

Adjustment Analysis

This Guidance Note is limited in scope to the Court of Appeal direction on rating valuation treatment of MFL.

In *Mangatu Inc v Valuer-General v [1996] 2 NZLR 683* the High Court dealt with a suitable methodology for valuation:

"In practical terms this will very likely mean starting with a valuation as if the land could be bought on the open market and then allowing a deduction for the alienation restrictions. The deduction will vary in amount depending on the extent of restrictions, the likelihood of Māori Land Court approval for the sale, and the nature of the property."

The Mangatu decision requires the contemplation of a notional sale at general title market levels then make deductions for perceived time delays. This is because any non-Preferred class of alienee (PCA) has to offer the land back and deal with the MLC when they come to on-sell before a sale can be completed.

The final decision of the LVT that was applied following the Court of Appeal decision concerning the Mangatu blocks found that it was required to make an assessment in a situation where an agreement to sell had been reached, that is, all substantial requirements for a quorum etc had been overcome and agreement had been reached either with a person within the PCA, or Māori outside the preferred class, or non Māori.

The LVT further found that the Court of Appeal decision required it to concentrate on the extra costs associated with the sales process for MFL when compared to other land including the need to notify PCA and the need to obtain confirmation of the sale from the MLC.

Whilst MFL seldom actually sells, the Mangatu decision effectively requires the rating valuer to assume each separate MFL rating unit has already sold to a non-PCA and apply value deductions to recognise administrative issues and time delays that would occur if the non-PCA wanted to on sell the land again.

Māori Freehold Land Sales Process

Selling or gifting MFL to anyone outside the PCA or offer back sales from a non-PCA must be confirmed by the MLC and the MLC Rules 2011 set out how proceedings in the Court are dealt with, from making the initial application through to its conclusion.



Before transferring MFL to anyone outside the PCA, or for a non-PCA to on-sell MFL it must be shown that:

1. Sufficient notice has been given to anyone who is a member of the PCA.
2. Rule 11.5 of the Māori Land Court Rules deals with the procedure for notifying preferred classes of alienees as to right of first refusal:
 - (1) Where a right of first refusal must be given under section Te Ture Whenua Māori Act 1993 (the Act), an application for confirmation of alienation under rule 11.3 must be referred to a Judge for directions as to—
 - (a) a hearing date that will allow sufficient time for notice of the right of first refusal to be given to the preferred classes of alienees; and
 - (b) any other matter that is relevant, including directions as to notice.
 - (2) For determining whether any preferred alienees wish to exercise their right of first refusal, an applicant for confirmation of alienation under rule 11.3 must—
 - (a) give public notice that complies with rule 11.5(3); and
 - (b) following publication, without delay file a copy of the notice with the Registrar; and
 - (c) comply with any directions that the Court has made in relation to notice.
 - (3) The notice required under rule 11.5(2) must—
 - (a) be in form 27; and
 - (b) be published at least twice at intervals of not less than five working days in a newspaper approved by the Registrar and circulating in the district in which the land is situated; and
 - (c) stipulate a date for filing and serving a notice of intention to exercise the right of first refusal that is not less than 15 working days after the date of publication of the second notice (b) any other matter that is relevant, including directions as to notice.
 - (4) On receipt of the notice, the Registrar must—
 - (a) arrange for the alienation to be notified in the next available Pānui; and
 - (b) display a copy of the notice on a noticeboard in the public office of the Court for not less than three months, or until the application for confirmation is heard, if that occurs before three months.
 - (5) A preferred alienee who wishes to exercise a right of first refusal must file in the Court and serve on the applicant, within the time fixed by the notice given under this rule, a notice in writing stating—
 - (a) that he or she intends to exercise the right of first refusal; and
 - (b) his or her full name and contact address.
 - (6) The Registrar must give notice of the time, date, and place of the hearing of the application for confirmation to each person who files a notice of intention to exercise the right of first refusal.
3. Evidence that demonstrates that offers have been sought from members of the PCA which have been unsuccessful, any offers received have been declined (not reaching the required price) or no expressions of interest to negotiate a price have been received.
4. There is a conditional agreement to the sell the land from someone outside the PCA.
5. Rule 11.3(b)(iii) requires a special valuation of the land and any improvements on it or of the interest alienated (including, in the case of lease, the fair market rental), unless an application for an exemption from the requirement of a special valuation is made under rule 11.4, which states:



- (1) An application for an exemption from the requirement under section 158 of the Act of providing a special valuation must be—
- (a) in form 26; and
 - (b) accompanied by a current roll valuation in respect of the land or interest alienated or other evidence of the current value of the land or interest alienated that is acceptable to the Court.

6. Pay the prescribed application fee.

Discussions with Māori Freehold Land Owners, Valuers and Councils

Discussion with owners of MFL and valuers indicates that once there are more than 100 PCAs, the notification and approval for the process is similar for 100 PCAs as for 1000. Therefore, a common discount of 10% should apply for over 100 PCAs. The VG considers that this assessment is reasonable and on this basis the discount for multiple numbers of PCA should be altered to allow 10% on all properties with 100 PCAs and over. As a result the discount adjustment thresholds where the numbers of PCAs is less than 100 have been reconsidered with incremental steps of 2% from a starting point of 4% for less than 20, through 6% for less than 50 and 8% for less than 100 (see summary table on page nine).

There was also a view that there should be a standard administrative cost adjustment of between \$5,000 to \$10,000 for any parcel of MFL before consideration of additional discounts, due to the current allowances for number of PCA and sites of significance.

Variations in administration costs between different parcels of MFL are hard to quantify. In the interest of creating an easily applied factor for all MFL the VG supports a new, initial \$7,000 lump sum discount for all properties in addition to the existing percentage discounts. This lump sum is intended as a proxy for Māori Land Court charges, valuation and legal fees and is designed to allow for upfront administrative costs associated with any parcel of MFL. This amount will be reviewed biennially.

The application of additional percentage factors for the number of PCA and sites of significance will increase the quantum of adjustments for larger, more valuable land with more PCAs where the costs and time delays could be more significant.

A recent survey of Councils with significant MFL rating units indicated general support for any new adjustments to increase the range and effect of the guideline discounts.



Summary of Adjustments

Prior to application of any MFL adjustments, the first requirement is for the land to be assessed as general land based on market evidence and reflecting relevant planning provisions as well as physical and locational aspects, both positive and negative. Allowances need to be made in the general land valuation for factors such as the impact of district plan designations (specific use restrictions which prevent part or all of the land being used in accordance with general zoning provisions), access difficulties especially for landlocked situations, contour challenges and subdivision restrictions arising from the 1993 Act.

The general land value becomes the basis on which the MFL adjustments are applied:

- A uniform, lump sum deduction for all MFL rating units of \$7,000 to reflect a standard, base administrative cost incurred to comply with the MLC rules when fulfilling offer back obligations to the PCA
- Application of revised percentage discount adjustments as below - to take into account the number of people within the PCA and a further additional discount for sites of special significance; noting here that in many cases the existence of a site of special significance may have influenced the starting value as general land.

Initial discount for multiple numbers of PCA

Number of PCAs	Discount
Under 10	3.5%
Under 25	4.0%
Under 50	6.0%
Under 100	8.0%
100 and over	10.0%

Additional discount for special significance sites

Special significance of specific sites	Discount
Pā site	1.50%
Urupā	1.50%
Rūnanga sites	1.50%
Whawhai sites	1.50%
Indigenous Forest	1.50%
Kainga	.50%
Access trails	.50%
Garden sites	.50%
Kai Moana sites	.50%
Other Wāhi Tapu sites	.50%
Maximum	5.00%

Minimum Value Criteria

There will be some instances where application of the adjustment factors could result in a zero or negative value. This would run contrary to the view that all land has some value and for the purposes of this rating valuation guideline a minimum value criterion of \$100 per rating unit is reasonable. If the initial general title value of the rating unit is less than \$100 then this amount should be adopted.



Working example for MFL Adjustment

Area	3.1717 hectares
Number of Owners	71
Site of Significance	Yes
Unadjusted Capital Value (CV)	\$75,000
Unadjusted Land Value (LV)	\$75,000

Old MFL guidance Adjustment		
Unadjusted CV		\$75,000
Unadjusted LV		\$75,000
Owners Adjustment	6.0%	
Sites of Significance	1.5%	
Adjusted CV		\$69,000
Adjusted LV		\$69,000

New MFL guidance Adjustment		
Unadjusted CV		\$75,000
Unadjusted LV		\$75,000
Lump Sum Adjustment	\$7,000	
Sub Total		\$68,000
PCA Adjustment	8.0%	
Sites of Significance	1.5%	
Adjusted CV		\$61,500
Adjusted LV		\$61,500

The guidance calculation deducts the lump sum from the unadjusted or “starting” capital and land value with the percentage adjustments being calculated on this subtotal. Improvement values may reduce to zero in some circumstances and a floor has been introduced into the guidance. For example:

Unadjusted Capital Value	\$7,000
Unadjusted Land Value	\$1,000
Unadjusted Improvements	\$6,000
<i>Less MFL Adjustments</i>	<i>\$7,500</i>
Adjusted Capital Value	\$100
Adjusted Land Value	\$100
Adjusted Improvements	0

Legislative Guide

Local Government (Rating of Whenua Māori) Amendment Bill

The purpose of this document is to provide a guide to finding the key provisions of the Local Government (Rating of Whenua Māori) Amendment Bill (the Bill) as they relate to the Bill's policy objectives.

The proposed legislative changes to the rating of whenua Māori are designed to reduce rating barriers for Māori landowners¹ and encourage greater engagement, use and development of whenua Māori. The changes will also provide greater consistency, equity and clarity around the rating of Māori land for owners and local councils.

Law drafting conventions can make it difficult to find the key provisions relating to the proposed changes because the Bill must be ordered in the same order as the principal Act. It can also be hard to find amendments relating to one policy objective when they are spread throughout the Bill and to identify all amendments relating to one policy objective.

The table below provides a guide to where you can find the key and supporting provisions relating to the policy objectives of the proposed changes to the rating of whenua Māori:

Policy objective	Key provision	Supporting provisions
Insert a power to write off rates arrears	Clause 39, which inserts new sections 90A to 90D in the Rating Act. ²	Consequential amendments – clauses 5, 24 and 38.
Make unused land and land subject to Ngā Whenua Rāhui kawenata non-rateable	Clauses 50(1), 50(4) and 50(6) which amend Schedule 1 of the Rating Act	Clause 49, which inserts transitional provisions through new Schedule 1AA to the Rating Act.
Provide a statutory remission process for development	Clause 48 which inserts new section 114A into the Rating Act	Consequential amendment – clause 47.
Treat multiple units as one for rating purposes	Clause 11, which inserts new s20A	Clause 54, which enables the registrar of the Māori Land Court to advise councils on whether blocks came from the same original block; Consequential amendments -Clauses 10, 58 and 59.

¹ The proposed changes only affect landowners of Māori land blocks that are governed by Te Ture Whenua Māori Act 1993

² The Rating Act is the Local Government (Rating) Act 2002.

Policy objective	Key provision	Supporting provisions
Provide separate rate accounts for homes	Clause 46, which inserts new sections 98A to 98F	Clauses 56 and 57 which support the application of the Rates Rebate Act 1973 to these homes; Clauses 8, 9, 43 and 45 which clarify liability for rates in this case; Consequential amendments – Clauses 12, 13, 14, 15, 16, 18, 19, 20, 21, 22, 23, 25, 26, 27, 28, 29, 30, 31, 32, 34, 40, 42, and 44.
Remove 2 ha exemption restrictions and clarify marae, meeting place and meeting house exemptions	Clauses 50(2), 50(3), and 50(5).	
Protect 1967 lands from abandoned land sales	Clauses 36 and 37	Clauses 33 and 35, which make any occupier of abandoned land liable for rates
Clarify trustees' obligations in respect of rates	Clause 41	
Include purposes statements in relevant legislation	Clauses 4 and 52	
Other matters		
	Clause 17 repeals a redundant transition provision from the Rating Act	
	Clause 55 requires the Māori Land Court to notify local authorities of the creation of, amendment to, or cancellation of an occupation order under Te Ture Whenua Māori Act 1993	

Disclaimer:

This document has been prepared by the Department of Internal Affairs. While every effort has been made to ensure it is accurate, it is for users to make their own assessment of the Bill and its potential impacts. If in doubt, users should take their own legal advice on how the Bill is to be interpreted.

5.2 PROGRESS UPDATE ON DEVELOPMENT OF LONG TERM PLAN

Author: Kimberley Tuapawa, Pouwhakarae – Pārongo / Wheako Kiritaki Group Manager Information and Customer Experience

Authoriser: Kitea Tipuna, Tumu Whakarae Taupua Interim Chief Executive Officer

Appendices: Nil

1. PURPOSE

- 1.1 This report provides a progress update on the development of Council's Long Term Plan 2021–31 (LTP) and introduces the process for LTP pre-engagement with the community. No decisions are required by Committee at this stage.
- 1.2 Periodic updates on the LTP's progress are presented to the Finance, Audit and Risk Committee and to Council.

RECOMMENDATION

The Pouwhakarae – Pārongo / Wheako Kiritaki Group Manager Information and Customer Experience RECOMMENDS that the Committee receive the report.

2. BACKGROUND

- 2.1 Council is in the process of developing its Long Term Plan 2021–31. Managed by a small team, this two-year project comprises 45 separate projects, 100 key tasks and involves input from staff across the organisation. Council has a comprehensive project plan which is carefully managed to ensure that key deadlines are reached.
- 2.2 This progress update meets the purpose of local government as it supports the delivery of Council's LTP which will help meet the needs of the community by providing a reference for planning, funding decisions and service delivery.

3. LTP PRE-ENGAGEMENT

Council's LTP pre-engagement takes place from 18 - 29 January, 2020.

A fresh approach

We are launching a fresh approach to gathering information and would like our community to be part of it. We are inviting our people to give feedback on how and where Council should spend its money.

Engaging our people

We want the community to have meaningful input into our 10-year vision. We are inviting feedback at the pre-engagement stage of the Long-Term Plan, so we have a good sense of what our community wants. This information can then be fed into the Long-Term Plan consultation document. So, when we go out for full consultation in April, our document is based on grassroots community feedback.

What's it about?

Council's LTP pre-engagement period is in place for the next two weeks, 18 - 29 January, 2020. The focus of our 2021-2031 LTP pre-engagement is *Levels of Service*. We want to know what the community expects from Council. However, it is also important people know what it costs to deliver these levels of service and experience first-hand what it costs to run the district. To do this, we have developed some engaging resources. These include an interactive budgeting tool so people can look at where Council currently spends its money, and how, by changing where the dollars are spent, that can affect the services we deliver. It also includes two hardcopy resources which will be presented to the Committee on the day.

It's happening now

The caravan sessions for community engagement are as follows:

Date	Time	Location	Engagement
Monday, 18 January 2021	10am – 2pm	Raupunga Hauora Building, RAUPUNGA	Open session
Thursday, 21 January 2021	10am – 2pm	The Craft Stop, Main Road, TUAI	Open session
Friday, 22 January 2021	10am – 2pm	Osler's Bakery, WAIROA	Open session
Monday, 25 January 2021	10am – 2pm	Outside Nuhaka Shop, NUHAKA	Open session
Thursday, 28 January 2021	6pm-7pm	Memorial Hall, WAIROA	Community meeting
Friday, 29 January 2021	10am – 2pm	Mokotahi Hall, MAHIA	Open session

4. WHAT'S IN PROGRESS AND WHAT'S COMING UP?

- 4.1 Council's first LTP audit review took place in December. This involved the completion of a LTP self-assessment which required Council's explanations about its project plans, processes and systems for the development of its LTP and consultation document.
- 4.2 Council's draft forecasting assumptions, which underlie the financial estimates and forecasts have been completed. Following activity manager's review of their budgets, work on the financial model is taking place. A workshop to review this with Elected Members is scheduled for January. From this, the Financial Strategy will be updated, and presented to Council for adoption. Council is in the process of determining and prioritising the key projects for consultation.
- 4.3 The draft Infrastructure Strategy and asset management plans were presented to the Infrastructure Committee in December. These included the 3 Waters, Airport, Built Spaces, Open Spaces, Roding, and Waste Management Plans. These will be presented to Council for adoption in February.
- 4.4 Work continues on developing 'group' activity management plans for all 23 LTP activities. These plans will occupy Section 2 of the LTP: 'Our Activities'. Alongside this, a refinement to Council's standards of service and performance across activities is continuing.

- 4.5 Council has completed its rating review. Consultation on the statement of proposal took place during 4 November, 2020 – 4 December, 2020, with deliberations and hearings and decision-making during December 2020 and January 2021.
- 4.6 A review of Council's LTP policies continues. The Revenue and Financing Policy (RFP) will be consulted on in February, being updated following direction from rating review deliberations. Work on Maori Involvement in Decision-making Policy is in progress. No changes on the Liability Policy or Investment Policy are proposed at this time, but requirements may change after budgets have been reviewed and the impact on financial strategy assessed. There is currently no separate Development and Contributions Policy, however the RFP references this and it will be verified during the District Plan review. A review of the Remission and Postponement of Rates on Maori Freehold Land is also taking place. Council's Significance and Engagement Policy was updated and adopted in December.
- 4.7 We have a number of time-sensitive tasks, which include a number of the above items. The team are reworking timeframes to accommodate the level of work involved in completing tasks.

Further Information

Further information is available in Council's LTP 2018-28 and Annual Plan 2020/21, which can be found on Council's website: www.wairoadc.govt.nz and from Council's Main Office.

References (to or from other Committees)

Finance, Audit and Risk Committee. 10 November, 2020. Progress Update on Development of Long Term Plan 2021-2031.

Ordinary Council. 20 October, 2020. Progress Update on Development of Long Term Plan 2021-2031.



Ordinary Council. 28 July, 2020. Progress Update on Development of Long Term Plan 2021-2031.

Finance, Audit and Risk Committee. 3 March, 2020. Progress Update on Development of Long Term Plan 2021-2031.

Finance, Audit and Risk Committee. 2 July, 2019. Project Plan for Development of Long Term Plan 2021-2031.

Finance, Audit and Risk Committee. 17 September, 2019. Detailed Project Plan for the Development of the Long Term Plan 2021-2031.

Signatories

	
Author Kimberley Tuapawa	Approved by Kitea Tipuna

5.3 ADOPTION OF LONG TERM PLAN FORECASTING ASSUMPTIONS

Author: Kimberley Tuapawa, Pouwhakarae – Pārongo / Wheako Kiritaki Group Manager Information and Customer Experience

Authoriser: Kitea Tipuna, Tumu Whakarae Taupua Interim Chief Executive Officer

Appendices: 1. LTP Forecasting Assumptions [↓](#)

1. PURPOSE

- 1.1 This report presents the 2021-2031 Long-term Plan (LTP) forecasting assumptions for consideration by the Committee and recommendation to Council for adoption.

RECOMMENDATION

The Pouwhakarae – Pārongo / Wheako Kiritaki Group Manager Information and Customer Experience RECOMMENDS that Committee receives the 2021-2031 LTP forecasting assumptions attached as **Appendix 1** and recommends to Council that it be adopted.

2. BACKGROUND

- 2.1 Schedule 10 of the Local Government Act 2002 requires Council to include in its LTP the disclosure of significant forecasting assumptions and risks underlying the financial estimates. Where there is a high level of uncertainty, Council is required to state the reason(s) for that uncertainty and provide an estimate of the potential effects on the assumptions.
- 2.2 As part of its 2021-2031 LTP planning approach, Council intends to present and adopt key items as they become available to ensure a timely and more manageable adoption process. Certain items must be received before the consultation document is developed. These include the forecasting assumptions.
- 2.3 The development of these assumptions has involved undertaking a review of the 2018 assumptions and updating these to factor in key issues, such as the impacts of demographic change, climate change, 3-Waters reform, and COVID-19.

3. OPTIONS

- 3.1 The options identified are:
- Receive the LTP forecasting assumptions, attached as **Appendix 1** and recommend to Council that it be adopted.
 - Receive the LTP forecasting assumptions, attached as **Appendix 1** and recommend to Council that it be adopted with minor changes.
 - Status quo, do not adopt the LTP forecasting assumptions.
- 3.2 The preferred option is a) receive the LTP forecasting assumptions, attached as **Appendix 1** and recommend to Council that it be adopted., as this contributes to the following community outcomes:

Economic wellbeing	Social and Cultural Wellbeing	Environmental Wellbeing
1. Strong and prosperous economy.	2. Safe, supported and well-led community. 3. Valued and cherished culture.	4. Protected and healthy environment.

5. CORPORATE CONSIDERATIONS

What is the change?

- 5.1 Receiving (and subsequently adopting) the LTP forecasting assumptions.

Compliance with legislation and Council Policy

- 5.2 Schedule 10 of the Local Government Act 2002 requires Council to include in its LTP the disclosure of significant forecasting assumptions and risks underlying the financial estimates. Adoption of Council's assumptions supports Council's policies and plans, including the LTP.

What are the key benefits?

- 5.3 Council's assumptions are up-to-date, relevant and meaningful. Assumptions underlie, support and strengthen an effective long-term corporate planning framework and process.

What is the cost?

- 5.4 There is no cost associated with receiving (and subsequently adopting) these assumptions. The resourcing and administrative costs of reviewing and developing these are budgeted for as part of Council's operational expenditure.

What is the saving?

- 5.5 Nil

Service delivery review

- 5.6 Receiving and adopting the assumptions will not trigger an s17a review.

Maori Standing Committee

- 5.7 This matter has not been referred to the Maori Standing Committee because it relates to the planning framework of the whole of Council.

6. SIGNIFICANCE

- 6.1 While a review of these assumptions may not generate a high level of interest in the community, their significance to Council's long-term planning processes is high, especially as it relates to the delivery of the LTP.
- 6.2 No adjustments to service levels are currently proposed.

7. RISK MANAGEMENT

- 7.1 In accordance with the Council's Risk Management Policy the inherent risks associated with this matter are:

Human	Financial	Regulatory
Low	High	Low
Operations	Employees	Image & Reputation
Low	Low	Low

Who has been consulted?

The community will have an opportunity to have their say about the LTP's content during the formal LTP consultation period in April 2021.

Further Information

Finance, Audit and Risk Committee. 10 November, 2020. Progress Update on Development of Long Term Plan 2021-2031.

Ordinary Council. 20 October, 2020. Progress Update on Development of Long Term Plan 2021-2031.

Ordinary Council. 28 July, 2020. Progress Update on Development of Long Term Plan 2021-2031.

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Finance, Audit and Risk Committee. 17 September, 2019. Detailed Project Plan for the Development of the Long Term Plan 2021-2031.

References (to or from other Committees)



Information about Council's current forecasting assumptions is available in its LTP 2018-28, which can be found on Council's website: www.wairoadc.govt.nz and from Council's main office.

Confirmation of statutory compliance

In accordance with section 76 of the Local Government Act 2002, this report is approved as:

- containing sufficient information about the options and their benefits and costs, bearing in mind the significance of the decisions; and,
- is based on adequate knowledge about, and adequate consideration of, the views and preferences of affected and interested parties bearing in mind the significance of the decision.

Signatories

	
Author Kimberley Tuapawa	Approved by Kitea Tipuna

FORECASTING ASSUMPTIONS & RISKS

Council has made a number of assumptions which underlie the financial forecasts within this LTP. These have been informed by a consideration of social, economic, environmental and cultural issues on a national, regional and local level that impact on Council's planning, activities and operations. These assumptions do not include statements of fact that fall within the decision-making discretion of Council or unlikely events about which assumptions are made¹.

WATER REFORM

Assumptions	Council plans to deliver three waters services over the life of this LTP, however the Government's three waters reform creates a high degree of uncertainty on the future ownership and delivery of these services. The receipt of Government funding will enable improvements in water service delivery, support economic recovery from COVID-19 and progress reform in this area. Additional funding will be subject to Government decision-making and reliant on Council demonstrating progress against delivery plans and reform objectives. The Government will provide guidance on the approach to funding support.
Risk	High degree of uncertainty and potential for change in regards to financial and infrastructural planning in the three waters space.
Likelihood	High
Financial materiality	High
Reasons and effect of uncertainty	Uncertainty exists regarding the scale and impact of financial and legislative compliance resulting from the Government's 3-Waters reform and Hawkes Bay 3-Waters service delivery options. Considerable administration of 'shovel ready' and civil construction projects. Second order impacts create further uncertainty.
Changes since 2018-28 LTP	<ul style="list-style-type: none"> The Government's three waters reform programme and Hawkes Bay three waters service delivery options review. Associated regulatory and legislative change. Targeted infrastructure stimulus investment to enable improvements to water service delivery and ensure period of economic recovery following COVID-19.

INFLATION

Assumptions	<p>Council's financial information is based on costs and income adjusted for inflation. The BERL forecasts of price level changes have been used to calculate costs and income for years 2-10 of the LTP. These forecasts are based on a post-COVID-19 'mid-scenario' as the baseline, which is considered most applicable to our local area and economy². Where existing contracts contain cost fluctuation/inflation provisions these have been applied where relevant.</p> <p>Table 1: Local government cost index, BERL mid-scenario, % change on year earlier.</p>
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¹ Such matters are included in the activity management plans (Section 2: Our Activities) or asset management plans (Section 5: Our Infrastructure).

² This scenario is likely to be applicable to most councils and especially for those in areas without an overreliance on tourism and the retail trade.

	<div>BERL mid-scenario</div> <table><tr><th></th><th>OPEX</th><th>CAPEX</th><th>TOTAL</th></tr><tr><td>2019</td><td>3.0</td><td>2.9</td><td>3.0</td></tr><tr><td>2020</td><td>1.9</td><td>2.0</td><td>2.0</td></tr><tr><td>2021</td><td>-0.6</td><td>-0.9</td><td>-0.7</td></tr><tr><td>2022</td><td>3.6</td><td>4.0</td><td>3.7</td></tr><tr><td>2023</td><td>2.9</td><td>3.0</td><td>2.9</td></tr><tr><td>2024</td><td>2.5</td><td>2.6</td><td>2.5</td></tr><tr><td>2025</td><td>2.5</td><td>2.6</td><td>2.5</td></tr><tr><td>2026</td><td>2.5</td><td>2.7</td><td>2.6</td></tr><tr><td>2027</td><td>2.5</td><td>2.6</td><td>2.5</td></tr><tr><td>2028</td><td>2.6</td><td>2.8</td><td>2.6</td></tr><tr><td>2029</td><td>2.7</td><td>2.8</td><td>2.7</td></tr><tr><td>2030</td><td>2.7</td><td>2.9</td><td>2.7</td></tr><tr><td>2031</td><td>2.6</td><td>2.7</td><td>2.6</td></tr><tr><td>20 year average %pa</td><td>2.2</td><td>2.3</td><td>2.2</td></tr></table>					OPEX	CAPEX	TOTAL	2019	3.0	2.9	3.0	2020	1.9	2.0	2.0	2021	-0.6	-0.9	-0.7	2022	3.6	4.0	3.7	2023	2.9	3.0	2.9	2024	2.5	2.6	2.5	2025	2.5	2.6	2.5	2026	2.5	2.7	2.6	2027	2.5	2.6	2.5	2028	2.6	2.8	2.6	2029	2.7	2.8	2.7	2030	2.7	2.9	2.7	2031	2.6	2.7	2.6	20 year average %pa	2.2	2.3	2.2																															
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	Planning & Regulation	Roading	Transport	Community	Water & Environment																																																																																										
2019	3.2	2.3	2.8	2.0	3.8																																																																																										
2020	1.7	1.9	1.8	1.7	2.5																																																																																										
2021	0.5	0.8	0.7	-0.2	-3.8																																																																																										
2022	2.7	3.3	2.9	3.2	6.0																																																																																										
2023	2.5	3.1	2.6	2.7	3.5																																																																																										
2024	2.3	3.0	2.4	2.5	2.6																																																																																										
2025	2.2	2.9	2.4	2.4	2.7																																																																																										
2026	2.2	2.9	2.4	2.5	2.9																																																																																										
2027	2.2	2.9	2.4	2.4	2.8																																																																																										
2028	2.2	2.9	2.4	2.5	3.2																																																																																										
2029	2.2	2.9	2.4	2.6	3.3																																																																																										
2030	2.2	2.9	2.4	2.6	3.4																																																																																										
2031	2.2	2.9	2.4	2.4	3.1																																																																																										
20 year average %pa	2.0	2.5	2.2	2.1	2.5																																																																																										
Risk	Actual inflation will be significantly different from the assumed inflation.																																																																																														
Likelihood	Low in years 1-3. Medium in years 4-10.																																																																																														
Financial materiality	Low in years 1-3. Medium in years 4-10.																																																																																														
Reasons and effect of uncertainty	Uncertainty exists regarding the mid and long-term effects of COVID-19 on the district's economy and recovery, making planning more challenging. From experience, contract tender prices can vary materially from the Local Government Cost Index (LGCI) due to the remoteness of the district and the size of the contracts that the Council will seek to place. It is conceivable that demand pressures that are created from COVID-19 economic recovery stimulus packages may exacerbate this issue. Council will seek to mitigate this by partnering locally and through collaborative procurement practices within the Hawke's Bay region. Inflation is affected by external economic factors. Council's costs and income will increase by the rate of inflation unless efficient gains can be made.																																																																																														
Changes since 2018-28 LTP	<ul style="list-style-type: none">Economic challenges and recovery as a result of the COVID-19 pandemic.Government's three waters reform programme and Hawkes Bay water service delivery options review. Associated regulatory and legislative change.																																																																																														

CLIMATE CHANGE AND NATURAL DISASTER

Assumptions	The effects of climate change will impact directly and indirectly on our district and community, and affect Council's ability to deliver services in in both financial and physical terms. Council's planning includes scenarios which factor in the occurrence of more frequent and intense weather events. These reach levels of significance within the period covered by Council's infrastructure strategy. Council's response to climate change helps it identify key assets at risk, recognise impacts in asset and financial modelling and prioritise funding for resilience. It will support Council to identify critical components of its networks, and prioritises renewals so that the network can continue to operate.
Risk	More frequent and intense weather events that create increased risk or damage to Council's infrastructure and activities.
Likelihood	Medium-High
Financial materiality	High
Reasons and effect of uncertainty	<p>Although Council has faced natural disaster events in the past, and coped adequately, climate change predictions are that weather events will become more frequent and intense. These will have implications on Council's infrastructure and activities. There will be increased risk to coastal roads and infrastructure from coastal erosion and inundation, increased storminess and sea-level rise. Flooding and heat are predicted to impact the roading networks in our district. Drought will likely result in water shortages, increased demand for irrigation and increased risk of fires. Council expects this to impact on the provision of safe drinking water, the disposal of wastewater and stormwater.</p> <p>The potential effect of a natural disaster on Council's financial position is dependent on the scale, duration and location of the event. Central government assistance and insurance contracts would reduce some of Council's financial risk.</p>
Changes since 2018-28 LTP	<ul style="list-style-type: none"> • National climate emergency declaration by New Zealand Government in December 2020. • Regional climate emergency announced by Hawkes Bay Regional Council in June 2019. • Greater regional emphasis on response to climate change. HBRC has made climate change a focus in all its decision-making areas and relevant work programmes. • Recommendation from OAG for Councils to engage in comprehensive discussion of resilience and climate change issues with their communities.

FUNDING SOURCES

Assumptions	Council's sources of funds are as per the revenue and financing policy. Council will continue to receive external funding at current levels from government agencies such as SPARC, MSD and DIA. Council will continue to apply for government funding through various channels.
Risk	Some revenue sources may be not achievable. Government agencies may reduce or eliminate funding for various programmes.
Likelihood	Low
Financial materiality	Low
Reasons and effect of uncertainty	Council has undertaken a review of its revenue and funding policy and the rationales for its funding allocations. The funding assistance rate for the land transport system from Waka Kotahi (NZTA) is confirmed for 2021-2024. Fees and charges are based on levels regularly achieved, and adjusted for specific

	<p>initiatives or conditions. Council's rating system has been reviewed and consulted upon to deliver a system that is simpler, ensures appropriate distribution and is affordable for more ratepayers. Rates are consulted upon and controlled by prudent thresholds.</p> <p>Council has received significant additional funding from the Provincial Growth Fund to assist with various large-scale projects. Council will continue to apply for such funding. As part of the Government's three waters reform programme, Council has received significant funding to support investment in the district's three waters infrastructure. This may comprise additional tranches of funding and specific agreements to key reform milestones and Council has taken a conservative view with regards to the likelihood of such funding being available in the future.</p>
Changes since 2018-28 LTP	<ul style="list-style-type: none"> • Significant changes to Council's rating system and its revenue and financing policy. • Council has received significant funding from PGF to assist with various large-scale projects in the district. • Council has received significant funding to support investment in the district's three waters infrastructure.

BANK FUNDING

Assumptions	Council will continue to receive funding and financing from an approved banking institution.
Risk	The bank does not continue to provide finance to fund Council's activities.
Likelihood	Low
Financial materiality	Medium
Reasons and effect of uncertainty	Council believes that the likelihood of the withdrawal of bank funding is low, due to the good credit rating and relatively low risk it has as a public entity. As a member of the Local Government Funding Agency (LGFA), Council has an alternative source of debt funding. Council also has the ability to set rates at a level sufficient to cover its costs.
Changes since 2018-28 LTP	<ul style="list-style-type: none"> • Council became a member of the LGFA in 2018, shortly after the LTP 2018-28 was adopted.

RATING

Assumptions	The bases for calculating and allocating rates will be appropriate throughout the life of the LTP.
Risk	Groups of ratepayers are significantly affected by changes to the rating system, rating revaluations, or changes to Council's activities.
Likelihood	High
Financial materiality	Medium
Reasons and effect of uncertainty	Council's rating system has been reviewed and consulted upon to deliver a system that is simpler, ensures appropriate distribution and is affordable for more ratepayers. Differentials have been applied to mitigate effects. When Council reviewed its rating system and revenue and financing policy, it consulted with the community on the most appropriate rating methodology. It has also undertaken a review of its revenue and funding policy and the rationales for its funding allocations. Rates are consulted upon and controlled by prudent thresholds. Property values could change significantly and only in certain areas of the district.
Changes since 2018-28 LTP	<ul style="list-style-type: none"> • Review and change to rating system • Review and update of revenue and financing policy • Rating revaluations

USEFUL LIVES OF SIGNIFICANT ASSETS

Assumptions	Council has estimated the useful lives of its significant assets, as detailed in the Statement of Accounting policies.
Risk	Assets will not last as long as forecast and will need to be replaced before funds are available.
Likelihood	Medium
Financial materiality	Medium
Reasons and effect of uncertainty	Council has an asset management planning and upgrade programme in place. Asset capacity and condition is monitored, with replacement works being planned in accordance with standard asset management practice. Council has growing concerns about the impact climate change will have on the life-span of its infrastructural assets.
Changes since 2018-28 LTP	<ul style="list-style-type: none"> Three waters review and associated legislative and regulatory change. Greater national and regional emphasis on response to climate change and the impact it has on infrastructural assets.

CURRENCY MOVEMENTS & ASSET VALUES

Assumptions	Currency movements of exchange rates will not fluctuate significantly during the life of this LTP.
Risk	Council's costs are adversely affected by foreign exchange movements.
Likelihood	Medium
Financial materiality	Medium
Reasons and effect of uncertainty	Council does not have direct exposure to currency movement in respect of significant assets or liabilities and is not aware of any material dependencies on overseas inputs within its major contracts. However, the Wairoa economy is underpinned by a strong primary sector with a substantial export component. Parts of the community that depend on these markets to thrive may be adversely affected by exchange rate movements which could, in turn, affect the demand and perceived affordability of Council services.
Changes since 2018-28 LTP	<ul style="list-style-type: none"> N/A

CONSENT RENEWALS

Assumptions	Council basis its future projections on the expectation that consents will be renewed for its activities including wastewater, waste management, water supply and stormwater.
Risk	Approving bodies will fail to renew the consent renewals that Council requires to carry out its activities.
Likelihood	Medium
Financial materiality	High
Reasons and effect of uncertainty	Council has no reason to believe that any of the consents that it operates under will not be renewed, but are concerned at the implications of potential changes to consent conditions or compliance resulting from the three waters review. Any failure to renew the consents could significantly affect the ability of Council to provide an effective level of service. An update on the wastewater consent is specifically addressed in this LTP ³ .
Changes since 2018-28 LTP	<ul style="list-style-type: none"> Three waters review and associated legislative and regulatory change.

³ For more information, see Section 1: Our Long Term Plan.

NEW AND REPLACEMENT ASSETS, CAPITAL WORK

Assumptions	The construction of new assets increases Council's levels of service, unless otherwise stated. The replacement of existing assets does not mean an increase in levels of service or capacity, unless stated. Programmes are completed within time and budget.
Risk	The replacement of existing assets increases the levels of service due to technological changes or through the adoption of best practice. New assets do not meet the agreed levels of service or do not provide adequate capacity. Delays in the completion of major capital projects may delay completion of other projects.
Likelihood	Low-Medium
Financial materiality	Low-Medium
Reasons and effect of uncertainty	<p>In most cases, increased levels of service are linked with the construction of new assets. Council's asset managers have already adopted best practice techniques. For most new assets there are relatively long project planning and design phases. Where possible, new assets are designed and constructed with future levels of service and capacity in mind. An increase in private development at Mahia is likely to impact on the demand for future assets.</p> <p>Council regularly managed capital projects that are carried forward from previous periods. Projects with lower priority and that are less time sensitive may be delayed. Various disruptive technologies, including social media, software-as-a-service, artificial intelligence, e-commerce, drones and automation have implications for our operations. These can be harnessed to reduce costs and improve service delivery, however given the pace of change it is difficult to forecast exactly when and how technologies will progress, and to what end.</p>
Changes since 2018-28 LTP	<ul style="list-style-type: none"> Increased use of drones and other technologies to support Council's activities

CAPITAL WORKS COSTS

Assumptions	On average, the costs of major capital works will not vary significantly from costs estimated at the concept stage and adjusted for inflation.
Risk	Some project costs are greater than the estimates, resulting in increased debt levels.
Likelihood	Medium in years 1-3. High in years 4-10.
Financial materiality	High
Reasons and effect of uncertainty	<p>Council has a high level of confidence regarding the costs of capital project in the short term but less certainty in the longer term due to possible economic fluctuations, growth patterns, consent conditions etc. The potential effects of this uncertainty on the financial statements would be difficult to estimate, but may lead to a number of projects being deferred, cancelled or rescope.</p> <p>As an example, through 2019 to 2021 an upgrade to the Mahanga water supply infrastructure was paused and subject to 2 referendums as a result of cost escalations rendering the project unaffordable.</p>
Changes since 2018-28 LTP	<ul style="list-style-type: none"> Three waters review and associated legislative and regulatory change.

LAND TRANSPORT FUNDING

Assumptions	Ratepayer contributions provide 25% of the funding towards the land transport system, and the Government's subsidy is 75%.
Risk	A change to the Government's subsidy rate, and variation in criteria for inclusion in the subsidised works programme.
Likelihood	Low in years 1-3. Medium in years 4-10.
Financial materiality	Medium
Reasons and effect of uncertainty	The funding assistance rate from Waka Kotahi (NZTA) is confirmed for 2021-2024. However, NZTA funding priorities may change as a result of the Land Transport Management Act 2003.
Changes since 2018-28 LTP	<ul style="list-style-type: none"> The funding assistance rate from Waka Kotahi (NZTA) is confirmed for 2021-2024.

GENERAL POPULATION AND HOUSEHOLD CHANGE

Assumptions	The population of the district will increase moderately during the life of the LTP. The number of households will increase moderately. Growth in the district is expected to be in Mahia, with an increase in retirees to the area or those returning home.
Risk	Population change will be higher than protected, putting increased pressure on Council to provide additional infrastructure and services. Alternatively, the population could decline, increasing the residual burden on ratepayers.
Likelihood	Low
Financial materiality	Low-Medium
Reasons and effect of uncertainty	<p>Medium growth projections signal small population gains of up to 3% and high growth projections signal 8% during the life of the LTP. Wairoa is projected to account for 60% of total new (permanently occupied) household growth and Mahia approximately 15%⁴. Growth in Mahia will likely be due to an increase in retirees to the area or those returning home. Council will seek to understand the future impacts of development on its infrastructure. This will help it better model the potential financial impacts and prioritise funding accordingly.</p> <p>Population projects are based on demographic assumptions that do not change quickly and a continuation of the annual average level of population growth in the district. Existing infrastructure and levels of service are not likely to require increased investment in the population is static. A decline in population may not reduce the cost of delivering Council's levels of service, although if it results in extended asset lives, the annual depreciation expense would be lower.</p>
Changes since 2018-28 LTP	<ul style="list-style-type: none"> Small population increase. Increased development at Mahia.

⁴ Source: Wairoa District Council Long Term District Planning – Demographic and Economic Growth Projections 2021-2031.

AGEING POPULATION AND SINGLE PERSON HOUSEHOLD CHANGE

Assumptions	The population of the district aged 65 and over is expected to increase during the life of the LTP. The number of single-person households will also increase. Declines in the population aged 40-64 and two-parent families are expected ⁵ .
Risk	There will be a decline in the affordability/ability to pay, with more people on fixed incomes and potentially lower household incomes.
Likelihood	High
Financial materiality	Medium
Reasons and effect of uncertainty	Without intervention it is inevitable that increasing costs of Council's activities will become an increasing proportion of fixed household income. Council's review of its rating system and economic development initiatives seek to alleviate this. An ageing demographic may require an adaptation of public services and infrastructure to meet the needs of an older community.
Changes since 2018-28 LTP	<ul style="list-style-type: none"> • Increase in ageing population • Increase in single person households

COUNCIL POLICY

Assumptions	Apart from Council's revenue and financing policy, there will be no significant changes to Council policy in this LTP.
Risk	New legislation is enacted that requires a significant policy response from Council. Election of a new Council with different objectives to the current Council.
Likelihood	Medium
Financial materiality	Low
Reasons and effect of uncertainty	Changes to Council policy to deal with new requirements are part of normal business. Any significant change would be assessed in terms of the impact on Council's financial position. Council's significance and engagement policy, and its Maori decision-making policy remain largely unchanged. The Local Government Act 2002 ensures that changes in policy follow due process, including consultation with the public.
Changes since 2018-28 LTP	<ul style="list-style-type: none"> • Changes to Revenue and Financing policy

GOVERNANCE

Assumptions	The structure of Council's elected representation includes a general ward and Maori wards.
Risk	Applications will be made to Council for a representation review.
Likelihood	High
Financial materiality	Low
Reasons and effect of uncertainty	The Maori Ward will remain in place for the next election in 2022. Council is required to complete a review of its governance structure in 2024.
Changes since 2018-28 LTP	<ul style="list-style-type: none"> • Triennial elections in 2019.

⁵ Source: Wairoa District Council Long Term District Planning – Demographic and Economic Growth Projections 2021-2031.

CONTRACTS

Assumptions	No significant variations in terms of price from the re-tendering of operational and maintenance contracts and renewal of service level agreements, other than those variations in this LTP.
Risk	A significant variation in price from re-tendering contracts and renewal of service level agreements.
Likelihood	Medium for years 1-3. High for years 4-10.
Financial materiality	Medium-High.
Reasons and effect of uncertainty	Council has been able to manage contracts within a narrow range of cost variation. If contract prices were to increase significantly then it would review the amount of work programmed and undertaken. Adjustment for known and projected increases in contracts have been included. For more information, refer to assumption about Inflation.

EXTERNAL FACTORS

Assumptions	Apart from the Government's three waters reform, there will be no unexpected changes to legislation or other external factors that alter the nature of services provided by Council other than what is stated in this LTP.
Risk	There are unexpected changes that alter the services provided by Council.
Likelihood	Medium
Financial materiality	Low
Reasons and effect of uncertainty	Most changes to legislation are programmed and known about in advance. Only in extraordinary circumstances (such as public outcry over a particular incident) would unexpected changes to legislation be prompted. Central government is likely to share part of any cost associated with major legislative change.