

## Central Hawke's Bay District Council – Report

TO: Council

FROM: Corporate Services Manager

DATE: 25 June 2009

FILE REF: FIN1-1000

SUBJECT: **RATES PENALTIES**

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### 1.0 SUMMARY

If a local authority wishes to impose penalty charges or additional charges on rates that are not paid by the due date, the penalties must be authorised by resolution by the local authority. This report presents the penalties on unpaid rates for the 2009/2010 year for Council's review and adoption.

### 2.0 RECOMMENDATION

#### *THAT*

Council adopt the following penalty charges on unpaid rates:

1. Pursuant to Section 58(1)(a) of the Local Government (Rating) Act 2002, an additional charge of 10% will be added to all rates remaining unpaid for each instalment after the last day of payment, shown below:

Instalment number	Due Date	Last day of payment without additional charge	Additional charges added
1	1 July 2009	19 August 2009	20 August 2009
2	7 October 2009	18 November 2009	19 November 2009
3	6 January 2010	17 February 2010	18 February 2010
4	7 April 2010	19 May 2010	20 May 2010

2. Pursuant to Section 58(1)(b) of the Local Government (Rating) Act 2002, a further additional charge of 10% will be added on 1 July 2009 to the amount of rates levied in previous financial years and remaining unpaid as at 30 June 2009.

#### *REASON*

In order to apply a disincentive for late payment of rates instalments which represent Council's main revenue source and to satisfy the requirements of Section 58(1) of the Local Government (Rating) Act 2002.

### 3.0 BACKGROUND

Under the Local Government (Rating) Act 2002, there are three types of rates penalties that may be added to unpaid rates:

1. A penalty on rates assessed within the year and unpaid after the due date (i.e. those rates instalments not paid by the quarterly due dates).
2. A penalty on rates assessed in the previous year that remain unpaid.

3. A penalty on rates assessed in the previous year that remain unpaid after six months.

Traditionally this Council has only applied penalties to the rates unpaid on each quarterly instalment and on those rates unpaid from previous years. We have not levied additional penalties on those rates unpaid in previous years again after six months. It is not proposed that this Council begins doing so.

The resolution adopting the penalties must be made no later than the date when the rates are set for the financial year; and state how the penalty is calculated and the date that the penalty is to be added to the amount of the unpaid rates.

Any penalty may not be more than 10% of the amount of the unpaid rates on the date when the penalty is added nor can penalties be added to postponed rates until they become payable.

The Council collects rates within each year in four quarterly instalments. The total amount of unpaid rates on each instalment are approximately \$16,000 per quarter, with several thousand more added throughout the year. In the 2007/2008 year, total rates penalties were \$118,000. The total amount of rates outstanding from previous years currently amounts to approximately \$318,720 (2.13%) (equivalent period 2008 - \$236,262).

Penalties are applied as additional charges on rates, and are recovered through the rating system. Where rates become outstanding, that is, remaining unpaid for four months from the due date, the Council may take Court action to collect outstanding rates.

Council normally enters into arrangements with rate debtors and providing such arrangements are satisfactorily maintained, no legal action is initiated. In those cases where legal action reaches the point of rating sale it is referred to Council for authorisation.

## 4.0 OPTIONS

### Option 1

#### ***Apply the full level of penalty charges.***

That Council adopts the following penalty charges on unpaid rates:

1. Pursuant to Section 58(1)(a) of the Local Government (Rating) Act 2002, an additional charge of 10% will be added to all rates remaining unpaid for each instalment after the last day of payment, shown below:

Instalment number	Due Date	Last day of payment without additional charge	Additional charges added
1	1 July 2009	19 August 2009	20 August 2009
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4	7 April 2010	19 May 2010	20 May 2010

2. Pursuant to Section 58(1)(b) of the Local Government (Rating) Act 2002, a further additional charge of 10% will be added on 1 July 2009 to the amount of rates levied in previous financial years and remaining unpaid as at 30 June 2009.

This is the recommended option.

## Option 2

### ***Do not apply penalties to unpaid rates.***

The application of penalties to unpaid rates is voluntary. The rating legislation does not compel local authorities to have a rates penalty scheme in place.

The penalty charges applied to unpaid rates are considered as income and budgeted for each year. If penalty charges were to be ceased, additional income would have to be obtained from rates income or user charges. In addition, the imposition of penalties provides a disincentive for ratepayers to be tardy with their payment. The quarterly rates instalments provide Council with a steady regular revenue stream and the lack of a disincentive for late payment may threaten this important income source. This option is not recommended for this reason.

In addition, it should be remembered that Council also provides an incentive scheme for the early payment of rates by way of the discount policy for ratepayers to pay their rates in full before the last day of payment of the first instalment. The discount policy was adopted as part of the 2009 – 2019 LTCCP.

## Option 3

### ***Apply a lower percentage of penalty charges***

According to the Local Government (Rating) Act 2002, any level of penalty may be applied up to a maximum of 10%. However, 10% seems to be the standard level of penalty on unpaid rates applied by other local authorities around New Zealand. Tararua, Hastings, Napier, Wairoa and the Hawkes Bay Regional Councils all apply a 10% penalty on unpaid rates.

Any reduction will result in the corresponding reduction in Council's income. This option is not recommended for this reason.

## 5.0 STATUTORY IMPLICATIONS

Rates penalties must not be adopted later than the rates themselves are adopted. In addition, the penalty to be applied to rates remaining unpaid from previous years under section 58(1)(b) may only be added on 1 July or five working days after the resolution is made, whichever is the later.

## 6.0 CONSULTATION

No consultation is required.

## 7.0 FINANCIAL

Penalties are regarded as income for Council.

## 8.0 STRATEGIC LINKS

Details of the rate penalties can be found in the Funding Impact Statement contained in the 2009/2019 Long Term Council Community Plan.

Kevin Brown  
**Corporate Services Manager**