

COUNCIL 15. 12. 2011

5. ADDITIONAL EARTHQUAKE RELATED RATES RELIEF FOR OWNERS OF PROPERTIES AT RISK OF ROCK-FALL

General Manager responsible:	General Manager Corporate Services, DDI 941-8528
Officer responsible:	Corporate Finance Manager
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PURPOSE OF REPORT

1. As part of the 2011/12 Annual Report the Council adopted a range of rates remissions to provide some financial relief for the owners of property damaged by the series of Canterbury earthquakes. The purpose of this report is to recommend to the Council the extension of that rates remission policy to provide relief for those residential ratepayers required to vacate their property due to s.124 notices being issued as a result of the risk of rock-fall or cliff collapse, unsafe access, or retaining wall issues. In this report these four risks together are referred to as "rockfall".

EXECUTIVE SUMMARY

2. Civil Defence red placards issued to properties at risk of rock-fall in the Port Hills, Lyttelton, and Sumner/Redcliffs/Mount Pleasant area expired on 12 July 2011. Following inspection by geotechnical contractors 525 properties have been issued with notices prohibiting entry under section 124(1)(b) of the Building Act 2004 (s.124 notice) because of the significant risk of rock-fall that remains. These notices have not been issued because of structural issues with the residences, but for geotechnical reasons. As further geotechnical testing is carried out more s.124 notices may be issued.
3. Where property owners are unwilling to observe the s.124 notice Council will initiate enforcement action by serving the property owners with a notice to fix under s.164 of the Building Act 2004 (effectively an immediate order to vacate the property). If necessary, this notice will then be enforced by way of an injunction application to the District Court.
4. The earthquake related rates remission adopted by the Council for 2011/12 provides 40 per cent rates remission for residential and non-rateable properties that are unable to be occupied. Under this policy properties at risk of rock-fall that have been issued with a s.124 notice are eligible for a 40 per cent rates remission.
5. While the Council is not responsible for creating the rock-fall risk, because of its role in issuing the s.124 notices, its intent to enforce those notices, and its ongoing work in rock-fall mitigation it is appropriate to consider the full remission of rates on affected properties.
6. The 525 affected properties are eligible for a 40 per cent rates remission under the existing Rates Remission Policy. The estimated 2011/12 cost of \$0.299 million was included in the Annual Plan budget as part of the number of properties expected to receive remission because they were unable to be occupied. Increasing the remission to 100 per cent would increase this cost by a further (approximately) \$0.449 million.
7. There is a risk to the Council that other ratepayers who are unable to occupy their properties will consider that the proposed 100 per cent remission for properties at risk of rock-fall should be extended to cover all properties that are unable to be occupied. While this perception is understandable, Council's use of s.124 notices for properties at risk of rock-fall but not, generally, for properties with structural damage, plus Council's ongoing work in rock-fall mitigation clearly distinguishes the two categories of ratepayers.

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FINANCIAL IMPLICATIONS

8. The 2011/12 Annual Plan budget includes \$1.687 million for earthquake related rates remissions plus \$1.700 million for rates revenue expected to be lost on demolished buildings (the Council has requested an Order in Council that would permit it to reduce the rates on a demolished building with effect from the date of demolition and to begin rating a new building from the date of completion). From a financial management perspective staff have considered these budgets to be effectively interchangeable because as an unsafe building is demolished it will transition from qualifying for rates remission to qualifying for land value based rates. The date of transition will determine the eventual split between rates remissions and reduced rates revenue. The total 2011/12 budget for both these items \$3.387 million.
9. Over the financial year to 30 November 2011 the \$3.387 million budget for rates remissions and lost rates revenue on demolished buildings has been overspent by \$1.498 million. This is partly due to an under estimation of the number of residential properties that would qualify for remission (3575 budgeted and 4411 actual). However, \$1 million of the variance relates to anticipated increases in rates revenue on new builds and subdivisions within the year which cannot be collected unless the Government passes the requested Order in Council. Current forecasts are that this overspend will increase slightly to \$1.6 million by the end of the financial year, although this is dependent on Government passing the requested Order.
10. The 525 affected Port Hills properties are currently eligible for a 40 per cent rates remission. As noted above the Annual Plan budget did not include a specific allowance for these properties. Increasing the remission to 100 per cent would increase the full year cost of \$0.299 million to approximately \$0.748 million, an increase of \$0.449 million.
11. The budgeted cost of the existing remissions policy formed part of the estimated \$73.8 million in operating deficits Council resolved to fund by way of an additional special earthquake charge of 1.76 per cent for five years. If agreed by Council, the recommendation in this report would be unbudgeted and would therefore increase the Council's operating deficits. Recommendations on how to fund the additional deficit for 2011/12 and 2012/13 & beyond will be made to Council during the Annual Plan 2012/13 deliberations.

Do the Recommendations of this Report Align with 2009-19 LTCCP budgets?

12. No.

LEGAL CONSIDERATIONS

13. Section 102(4)(b) of the Local Government Act 2002 enables a Rates Remission Policy to be amended at any time using the special consultative procedure. The Canterbury Earthquake (Local Government Act 2002) Order 2010 exempts the Council from this provision in certain circumstances.
14. One of the purposes of the Canterbury Earthquake Recovery Act 2011 is to provide appropriate measures to ensure that the Council responds to, and that Christchurch and its community recover from, the impact of the Canterbury Earthquakes.
15. The Canterbury Earthquake Recovery Act 2011 repeals the Canterbury Earthquake Response and Recovery Act 2010. However section 88 of the new Act states that every Order in Council made under the 2010 Act, and still in force, is to be treated as having been made under the new Act. This includes the Canterbury Earthquake (LGA 2002) Order 2010.
16. Should the Council resolve to amend its Rates Remissions Policy as recommended in this report that decision would fall within the purposes of the Canterbury Earthquake Recovery Act 2011. The Council is therefore entitled to rely on the exemption from compliance with section 102(4)(b) of the Local Government Act 2002 provided for in the Canterbury Earthquake (LGA 2002) Order 2010.

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ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

17. Not applicable.

Do the recommendations of this report support a level of service or project in the 2009-19 LTCCP?

18. No.

ALIGNMENT WITH STRATEGIES

19. Not applicable.

CONSULTATION FULFILMENT

20. Council staff have discussed this issue and the staff recommendation with Environment Canterbury staff. Environment Canterbury staff have indicated that Commissioners are likely to consider whether to offer an equivalent remission at their meeting on 15 December 2011.

STAFF RECOMMENDATION

It is recommended that the Council resolve to amend its Rates Remission Policy to enable the provision of rates relief to the owners of earthquake-damaged properties as follows:

100 per cent rates remission for residential and non-rateable properties that are considered by the Council to be at risk of rock-fall, cliff collapse, unsafe access or retaining wall issues, and where the occupant has been instructed by the Council to vacate the property and issued with a notice under section 124(1)(b) of the Building Act 2004. Qualifying properties would be eligible for the remission from the date on which the section 124(1)(b) notice was issued or the date the property is vacated, which ever is the earlier, until the earlier of 30 June 2012 or the date on which the notice is withdrawn.