

Council Policy – Rates remission on Māori freehold land

1 Relevant legislation

Local Government (Rating) Act 2002, Sections 90A, 90B, and Part 4
Local Government Act 2002, sections 102, 108 and Schedule 11

2 Interpretation

The Act means the Local Government (Rating) Act 2002.

Māori Freehold Land means:

- a) Land whose beneficial ownership has been determined by the Māori Land Court by freehold order (as defined in Local Government (Rating) Act 2002); or
- b) At Council's discretion, former Māori freehold land whose status was changed to General Land under the Māori Affairs Amendment Act 1967.

Any land, regardless of its status, returned to a Māori trust, iwi, hapū or other entity, by the Crown or Local Government body, as redress or compensation for a historic wrongdoing or breach of the Treaty of Waitangi.

3 General approach

This policy aims to:

- a) Contribute to the fair and equitable collection of rates from all sectors of the community, whilst recognising that certain Māori lands have particular conditions, features, ownership structures or other circumstances that make it appropriate to provide relief from rates;
- b) Identify Māori freehold land that qualifies for longer term remission due to limited productive use or the presence of special features;
- c) Implement rates remissions on Māori freehold land and write-off of rate arrears and penalties, subject to the conditions and criteria set out in this policy; and
- d) Facilitate the administration of rates in a manner that supports the principles set out in the Preamble to Te Ture Whenua Māori Act 1993.

4 Objectives

- a) To recognise situations where there is no trust, person or owner gaining an economic or financial benefit from the land;

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- b) To recognise and take into account the importance of the land for community goals relating to:
 - i. The preservation of the natural character of the coastal environment;
 - ii. The protection of natural features;
 - iii. The protection of significant indigenous vegetation and significant habitats of indigenous fauna;
- c) To recognise land is a taonga tuku iho (treasure passed down) of special significance to Māori;
- d) To recognise and take account of the presence of waahi tapu that may affect the use of the land for other purposes;
- e) To recognise matters related to the physical accessibility of the land;
- f) To avoid further alienation of Māori freehold land;
- g) To recognise and support the relationship with Māori and their culture and traditions with their ancestral land;
- h) Where part only of a Māori Freehold Land block is occupied, to grant remission for the portion of the land not occupied;
- i) To facilitate and encourage economic development on Māori freehold land in order to increase the productive capacity of underutilised land, thereby generating economic or financial benefit for landowners.

5 Postponement of rates

Council's policy does not provide for the postponement of rates on Māori freehold land, as security cannot be taken against Māori freehold land for postponed rates. Council will remit rates where it considers rates relief is appropriate, as set out in Sections Six to Nine of this policy.

6 Remissions for limited productive use

Council will consider placing Māori freehold land on the Annual Remissions List where it meets the following conditions and criteria:

Idle and unoccupied lots

Council will place unoccupied land on the Annual Remissions List where it considers that the land:

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- a) Is idle and is not being used for any productive purpose, or may be too small to be productive;
- b) Does not generate any economic or financial benefit for any person; and
- c) Has no immediate possibility of development.

If Council is satisfied that Māori Freehold Land, as defined in the Act, is unused, the land shall be considered non-rateable:

- For the purposes of determining whether land is unused, Council shall apply the definition set out in clause 4A of the notes section of Schedule 1 Part 1 of the Act.
- Land which is non-rateable is still rateable for the purpose of rates associated with water supply, sewage disposal, or refuse collection.

Unique features

Council will place wholly or partially unoccupied Māori freehold land on the Annual Remissions List where it considers that the land:

- a) Contains indigenous forest of high ecological value;
- b) Provides traditional and important food source for tangata whenua;
- c) Provides a traditional and important source for cultural, medicinal, and spiritual needs of tangata whenua;
- d) Has demonstrable strong spiritual and symbolic significance to iwi/hapū/whānau, above and beyond that of other Māori land;
- e) Includes important tribal landmarks significant to tangata whenua; and/or
- f) Is an important water catchment system to tangata whenua for sustaining physical and spiritual values.

Council will also have regard to whether the land:

- a) Has road access and/or access to other services;
- b) Is contiguous with forest reserves;
- c) Is complementary to Marae Reserve Areas (as determined by the Māori Land Court);
- d) Is high land or dispersed blocks of bush land;
- e) Offers protection of low land development and investment in roads;

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- f) Complements water catchment areas; and/or
- g) Enhances wildlife areas.

7 Remissions for economic development

Council will consider remission of rates on Māori freehold land under development on a case-by-case basis. In considering any application for remission under Section Seven, Council will need to be satisfied that:

- a) The projected cash flow shows an increase in the annual cash surplus over the period;
- b) The projected cash flow is realistic and can be achieved;
- c) The economic development proposal is likely to generate sufficient cash surplus so as to cover full rates following the period of remission;
- d) The proposal is viable under the District Plan and any other bylaws or regulations that may apply to the proposal; and
- e) There are no outstanding rates arrears due on the land (Note: Council may waive this requirement at its sole discretion).

In considering the proportion of rates to be remitted at any stage during the development, Council will consider:

- a) The expected duration of the development or any stage of the development; and
- b) If the land is being developed for a commercial purpose, when the ratepayer or ratepayers are likely to generate income from the development; and
- c) If the development involves the building of 1 or more dwellings, when the ratepayer or any other persons are likely to be able to reside in the dwellings.

Where rates have been remitted for economic development, Council will require an Annual Report to be provided by the applicant by no later than 1 June in each year, in order for the remissions to continue in the following rating year. The Annual Report must include to Council's satisfaction:

- a) Annual accounts, prepared by a suitably qualified person;
- b) Projected cash flow for the remaining rating years for which the remission applies; and
- c) A brief description on progress and milestones achieved in implementing the economic development proposal for which remission has been granted.

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Māori Freehold Land, that in the view of Council, which has a best potential use that is unlikely to be achieved under Māori ownership, will be rated to exclude any potential for subdivision or development that the land may have that is unlikely to be achieved in Māori ownership.

8 Apportionments for multiple dwellings

Separate Rating Areas

Requests for apportionments for multiple dwellings on Māori Freehold Land, as defined in Local Government (Rating) Act 2002, will be considered, and processed as a request for a separate rating unit under the same Act.

Apportionment

Council will consider creating apportionments on land where there is more than one dwelling.

This means the rates payable will be divided pro rata, based on the area occupied by each dwelling on the land.

Where part of the land is unused, a separate apportionment shall be created for this residue amount. The residue shall be placed on the Annual Remission List until such a time as the land becomes used.

9 Arrears and penalties

At Council's sole discretion, it may write off arrears and penalties for land that has limited productive use, having regard to:

- a) Any targeted rates applicable to the land; and
- b) Whether the rates are likely to accumulate to the point where they are not recoverable in a court of law after a period of six years in accordance with the Limitation Act 2010.

Residues created through apportionments may have the portion of arrears and penalties that relate to the residue written off at Council's sole discretion, having regard to (a) and (b) above.

Where Māori freehold land is not otherwise eligible for a remission under any other section of this policy or the Act, Council will negotiate with the landowner to write off all arrears and penalties if current rates are met over a period of 5 years.

Remission under the Act

Notwithstanding anything else relating to arrears and penalties, Council will write-off rates arrears if the Chief Executive Officer is satisfied that the rates cannot reasonably be recovered.

Council may write-off all or part of the rates arrears on Māori Freehold Land, as defined in the Act, if the rates:

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- a) Are payable by a person beneficially entitled to a deceased owner's beneficial interest in the land; and
- b) Were payable by the deceased owner at the death of the owner.

Remissions under the Act as set out below do not need to be applied for, however, Council must notify a ratepayer of any write-off applied for.

If a ratepayer would like to be considered for remission under the Act or this policy, they may apply as set out below.

10 Applications for remission

Applications should be made no later than 1 June prior to the rating year. Applications made after the commencement of the rating year may be accepted at the discretion of Council.

All applications made for remission under Section Six to Nine of this policy must be in writing and must include to Council's satisfaction:

- a) Confirmation that the land is Māori Freehold Land, as defined in this policy;
- b) Identification of each title for which the application for remission applies. This is expected to include photographs, valuation data and any relevant legal documentation associated with the land's title or status. Council reserves the right to require a site inspection by Council officers for any new applications for remission.
- c) Confirmation that the applicant:
 - Is the identified owner for entering on rating records pursuant to Section 92 Local Government (Rating) Act 2002; and
 - Has agreement from the landowners or Trust for the application to be made.

Remission applications made for economic development (Section Seven) must also include to Council's satisfaction:

- a) A description of the economic development proposal that the landowner(s) intend to undertake;
- b) Demonstration that the proposal is viable under the District Plan and any other bylaws or regulations that may apply to the proposal;
- c) Annual accounts and cash flow statements for the previous 3 years prepared by suitably qualified persons; and
- d) A projected cash flow prepared by a suitably qualified person, covering the period of remission the application seeks (to a maximum of 5 years).

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11 Policy Procedures

Council staff will support Māori freehold landowners in preparing applications for remission. Applications for remission that contain all relevant information as set out in this policy will be processed within 20 working days of receipt.

Unsuccessful applicants will be advised of the reason(s) why the application was declined and will be given the opportunity to resubmit the application.

Annual Remission Lists shall be submitted to Council for information at the end of each rating year.

Any Māori freehold land that is granted a remission under Section Six, due to containing indigenous forest of high ecological value, will be entered on to Council's Bush Lots Register.

The Bush Lots Register shall be checked every four years to verify the use of land on the register has remained the same. Where the land has been developed, Council will establish status of the land in question, and determine any rates that will apply as a result.

Decisions under this policy will be delegated to officers in accordance with Council's delegations register.

Associated policies

Rates postponement for financial hardship
Rates postponement for over 65s

Group	Financial Services	Contact (3rd Tier Manager)	Team Leader Financial Services
Supersedes	Confirmed with adoption of the LTP – 2015-25		
Creation Date		Resolution Reference	
Last Review Date	June 2012	Resolution Reference	
Review Cycle	LGA s109 requirement to review at least once every 6 years	Date	7 June 2022
Authorised by	Council	Date	7 June 2016