

Remission and Postponement of Rates on Māori Freehold Land Policy

Group responsible:	Finance
Date approved:	22 June 2022
Effective from:	1 July 2022
File no:	R/19/4/6301

Purpose

The Policy recognises that certain Māori-owned lands have particular features, ownership structures or other circumstances that make it appropriate to provide rates relief.

Southland District Council has developed the Remission and Postponement of Rates on Māori Freehold Land Policy (the Policy) to respond to those differences in ways that encourage the long term retention, use and enjoyment of Māori freehold land by its owners and ensure fair and equitable collection of rates from all sectors of the community.

The Policy provides the framework for granting remissions and postponements for the payment of rates and penalties on Māori freehold land. The policy is prepared in accordance with section 102(2)(e), section 102(3A) and section 108 of the Local Government Act (2002) and section 114 and 114A of the Local Government (Rating Act) 2002.

Definitions and Abbreviations

TERM	MEANING
LGA	Local Government Act (2002)
LGRA	Local Government (Rating) Act (2002)
Māori freehold land	Land whose beneficial ownership has been determined by the Māori Land Court by freehold order.
Postponement	Delay in the payment of rates
Remission	Reduction in the amount of rates to be paid
Service Rates	Sewerage and water rates, recycling and rubbish bin collection rates
TTWMA	Te Ture Whenua Maori Act 1993
Wāhi Tapu	Place sacred to Māori in the traditional, religious, ritual or mythological sense.

Policy Details

1. Background

Māori freehold land is defined in the LGRA as land whose beneficial ownership has been determined by a freehold order issued by the Maori Land Court.

Māori freehold land is recognised in the principles set out in the Preamble to the Te Ture Whenua Maori Act 1993 as a taonga tuku iho of special significance to Maori and, for that reason, to promote the retention of that land in the hands of its owners, their whanau, and their hapu, and to protect wahi tapu: and to facilitate the occupation, development, and utilisation of that land for the benefit of its owners, their whanau, and their hapu.

The Southland District Council carries out its rating and financial policy functions in accordance with the requirements of the LGRA and the LGA in a manner that supports these principles.

All Māori freehold land in the Southland District is liable for rates in the same manner as if it were general land (as per section 91 LGRA).

Only land that is the subject of a freehold order issued by the Maori Land Court may qualify for remission or postponement under this policy.

Council has identified a series of objectives for providing rate relief on Māori freehold land in section 2. These are consistent with Schedule 11 of the LGA as the matters which Council must take into account when considering rates relief on Māori freehold land.

Whether rates are remitted in any individual case will depend on the individual circumstances of each application.

When considering the objectives listed below Council must take into account:

- the desirability and importance of the objectives (2) to the District; and
- whether remitting the rates would assist attainment of those objectives.

Council also has a **Rates Remission and Postponement Policy** which applies to all general land rather than specifically to Māori freehold land. Nothing in this Policy prevents owners of Māori freehold land from applying for a rates remission under that Policy (e.g. a not-for-profit community organisation providing services from Māori freehold land might apply for a remission under that policy). However, two rates remissions will not be given in respect of the same rates.

2. Objectives

The objectives of rates remission and postponement on Māori freehold land by Council are:

- (a) supporting the use of the land by the owners for traditional purposes;
- (b) recognising and supporting the relationship of Māori and their culture and traditions with their ancestral lands;
- (c) avoiding further alienation of Māori freehold land;
- (d) facilitating any wish of the owners to develop the land for economic use;

- (e) recognising and taking account of the presence of Wāhi Tapu that may affect the use of the land for other purposes;
- (f) recognising and taking account the importance of the land in providing economic and infrastructure support for marae and associated papakainga housing (whether on the land or elsewhere);
- (g) recognising and taking account of 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 outstanding natural features,
 - iii. the protection of significant indigenous vegetation and significant habitats of indigenous fauna;
- (h) recognising the level of community services provided to the land and its occupiers;
- (i) recognising matters related to the physical accessibility of the land.

3 Conditions and Criteria for the Remission and Postponement of Rates on Māori Freehold Land

3.1 Remission

3.1.1 Remission of rates for Māori freehold land generally

This remission is intended for land that is not considered to be unused and non-rateable under clause 14A of Part 1 of Schedule 1 of the LGRA, but still meets the following conditions:

- Māori freehold land as set out in the definitions
- not occupied by a dwelling, out-building or commercial building; and
- not used for economic benefit; and
- will promote the Council's objectives for remission (2)

Council may grant a remission of up to 100% of all rates, except Service Rates on a land area that meets these conditions.

3.1.2 Remission of rates for Māori freehold land under development

This remission is intended to facilitate the occupation, development and utilisation of Māori freehold land for the benefit of its owners in line with the requirements with section 114A of the LGRA and in a way that helps promote the objectives in section 2 above.

Council may grant a remission of up to 100% of all rates, except Service Rates on a land area that:

- is Māori freehold land as set out in the definitions
- is under development in a way that will:
 - create new employment opportunities, or
 - create new homes, or
 - increase Council's rating base in the long term, or
 - provide support for marae in the district, or
 - facilitate the occupation, development, and utilisation of the land, and
 - comply with section 114A of the Local Government (Rating) Act 2002.

Any rates remission may be calculated based on the rates that would be applicable:

- a) for that portion of land in a rating unit that is under development; and
- b) for the duration of a development; and
- c) differently during different stages of a development; and
- d) subject to any conditions specified by Council, including conditions relating to—
 - (i) the commencement of the development; or
 - (ii) the completion of the development or any stage of the development.

In determining what proportion of the rates to remit during the development or any stage of the development, Council will also consider:

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

3.1.3 Remission of penalties

This remission is intended to recognise that there may be specific circumstances where there may be delays in payment of rates on Māori freehold land. This policy provides for a discretionary right to remit penalties on rates (in full or part) which meet the criteria set out in section 3 and where it is considered fair and reasonable to do so.

3.2 Postponement

Council does not postpone rates for Māori freehold land; however, it will remit up to 100% of rates (excluding Service Rates) on application, if the application meets the criteria set out in section 3.1.

3.3 Application and consideration process

In general, Council will provide remission under this Policy only where an application is made in writing. This allows Council to obtain the information it needs to make a decision. However, if Council already has sufficient information, it may grant remission without an application. Applications should:

- outline the reasons why relief is sought
- describe how the application meets any one or more of the objectives listed in section 2,
- a description of the size, position and current use of the land,
- an indication of the ownership and documentation that shows the land which is subject to the application for rates remission is Māori freehold land
- outline future plans for the land (if any)
- details any sources and level of income generated by the land (if any)
- include financial accounts if requested

In the case of **Māori freehold land under development**, in addition to the above, applications should also be supported by details of the development as outlined in 3.1.2 including:

- the objectives or benefits expected to be provided by the development,
- the portion of land of the rating unit under development,

- the intended commencement, duration and stages of development,
- when the development is expected to generate income if the development is for a commercial purpose
- when people are expected to be able to reside in the dwellings if the development involves the building of one or more dwellings.

The amount and timing of any remission provided under this policy is entirely at the discretion of Council.

Council's delegation manual details the specific responsibilities of Council and staff to make decisions in relation to rate remission and postponement on Māori freehold land. An application for remission of rates or reviews of decision regarding rate remissions are generally considered by the Chief Financial Officer with authority for penalty remissions delegated to other finance staff.

Any decisions made regarding rates remissions on Māori freehold land before 1 July 2017 remain recognised by Council.

Decisions regarding rates remission on Māori freehold land generally under 3.1.1 remain in perpetuity, unless the land becomes occupied or used for economic benefit. In this case, it is expected that the landowners would advise Council of the change in land use. If there is evidence of the use of the land for occupation or economic benefit, Council may request financial statements regarding the property in order to review a decision.

Decisions to grant rate remissions on Māori freehold land under development under section 3.1.2 will apply for the period indicated by Council when the application is approved. If the development is not completed within the expected timeframe, additional applications may also be made for the same development and will be assessed based on the amount of any previous remission provided, progress on the development against previous expectations and forward development plans. Council reserves the right to review the decision to remit rates on Māori freehold under development when the circumstances that led to the granting of remission have changed.

Associated Documents

- Local Government Act (2002),
- Local Government (Rating) Act (2002)
- Te Ture Whenua Maori Act 1993
- Remission and Postponement of Rates Policy (2021)
- Local Government (Rating of Whenua Māori) Amendment Act 2021