

Remission and Postponement of Rates on Māori Freehold land

1. Introduction

Section 102(2)(e) of the *Local Government Act 2002* requires the Council to have a policy for the remission and postponement of rates on Māori Freehold Land.

Section 102(3A) inserted by the *Local Government (Rating of Whenua Māori) Amendment Act 2021* requires that the Policy for remission and postponement of rates on Māori Freehold Land must support the principles set out in the Preamble to *Te Ture Whenua Māori Act 1993*.

Māori Freehold land is defined in *Te Ture Whenua Māori Act 1993*, Section 129(2)(b) – “Land, the beneficial ownership of which has been determined by the Māori Land Court by freehold order shall have the status of Māori freehold land.”

The Waimakariri District has around 120 parcels of Māori Freehold land, predominantly around Tuahiwi Māori Reserve 873 with parcels also in Oxford, Glentui, Coopers Creek and near the Ashley/Rakahuri River/Saltwater Creek area.

Te Rūnanga o Te Ngāi Tū Ahuriri is the tangata whenua of the area of the Waimakariri District. As tangata whenua, Te Rūnanga o Te Ngāi Tū Ahuriri holds tino rangatiratanga, past present and future. This rangatiratanga is immutable and has been acknowledged by Te Tiriti o Waitangi and the *Ngāi Tahu Claims Settlement Act 1998*.

Te Rūnanga o Te Ngāi Tū Ahuriri and the Waimakariri District Council (WDC) enjoy an active Tiriti Partnership underwritten by the Principles of Te Tiriti o Waitangi.

Te Rūnanga o Te Ngāi Tū Ahuriri are Rangatira of all Māori Freehold land in the WDC area and the WDC recognises that it must allow for the exercise of rangatiratanga by Te Ngāi Tū Ahuriri.

In so doing the WDC is bound to act in accordance with the above referenced legislation and those of the *Local Government (Rating) Act 2002*.

The Council has a Memorandum of Understanding signed in 2003 and renewed in 2013 with Te Rūnanga o Te Ngāi Tū Ahuriri. The purpose of the MOU is to develop a relationship of mutual benefit between the Waimakariri District Council and Te Rūnanga o Te Ngāi Tū Ahuriri based on the core values of the parties.

Giving practical effect to this, includes, pursuant to Clause 30, Schedule 7 of the *Local Government Act 2002*, establishing the Mahi Tahī Joint Development Committee as an expression of partnership with Te Rūnanga o Te Ngāi Tū Ahuriri to further develop the working together relationship between the Council and Te Rūnanga o Te Ngāi Tū Ahuriri.

Through this Standing Committee (and any successor Committee with equivalent terms of reference), the WDC will seek the views of Te Rūnanga o Te Ngāi Tū Ahuriri in making recommendations to the Council and Te Rūnanga o Te Ngāi Tū Ahuriri for decisions relating to the rating of Māori Freehold Land Policy, consistent with joint working and consensus decision-making.

Since first adoption in 2003, this Policy has provided for the remission of rates on Māori Freehold Land that was in multiple ownership, unused, and not suitable for practical or

productive use. A more recent update also provided for remission of rates where land was formally set aside for preservation or conservation purposes.

The enactment of the *Local Government (Rating of Whenua Maori) Amendment Act* brought into law provisions that are reflected in this updated Council policy:

- An unused rating unit of Māori Freehold Land became non-rateable;
- Land that is subject to a Ngā Whenua Rāhui Kawenata under Section 77A of the *Reserves Act 1977* or Section 27A of the *Conservation Act 1987* became non-rateable
- The Chief Executive of a local authority is required to write off any outstanding rates that, in the Chief Executive's opinion, cannot reasonably be recovered
- The Chief Executive may write-off rates of deceased owners of Māori Freehold Land
- A rating unit on Māori Freehold Land may be divided into separate rating areas
- Council must consider written applications for remission of rates on Māori Freehold land under development.

The *Te Ture Whenua Māori Act 1993* restricts the alienation of Māori Freehold Land and requires the Māori Land Court's approval to any proposal to change the status to General land.

2. Policy context

The collection and recovery provisions of the *Local Government (Rating) Act 2002* do not apply to Māori Freehold land.

Continuing to set and assess rates on Māori Freehold land that is in multiple ownership without a lease or formal administration structure results in substantial arrears with little prospect of payment. The arrears penalty of 10% applied 6 monthly on the account balance creates levels of rates owing on these properties that causes a deterrent to future use.

The enactment of the *Local Government (Rating of Whenua Maori) Amendment Act*, partially addressed this issue by making unused Māori Freehold Land non-rateable. There may, however be occasions where the Council considers it is fair to apply rates relief to land that has some current use or occupation, and this Policy would enable such a remission.

The Council also considers the protection of the character and natural features of land is important, and rates remission is a useful tool in encouraging conservation.

Land that is subject to a Ngā Whenua Rāhui Kawenata is non-rateable. There is likely to be land in the District that is set aside for conservation purposes that has no formal covenant in place.

The Council's other rating policies apply to Māori Freehold Land to the same extent that they apply to all other land in the District.

3. Policy objective

3.1. Support the principles set out in the Preamble to *Te Ture Whenua Māori Act 1993*:

"Whereas the Treaty of Waitangi established the special relationship between the Māori people and the Crown: And whereas it is desirable that the spirit of the exchange of kawanatanga for the protection of rangatiratanga embodied in the Treaty of Waitangi be reaffirmed: And whereas it is desirable to recognise that land is a taonga tuku iho of special significance to Māori people 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 wāhi tapu: and to facilitate the occupation, development, and utilization of that land for the benefit of its owners, their whanau, and their hapu: And whereas it is desirable to maintain a court and to establish mechanisms to assist the Māori people to achieve the implementation of these principles."

The Council supports the above principles by developing this rates remission policy to enable the owners of Māori Freehold land to make choices regarding the future purpose of their land in a way that is not impeded by the accumulation of rates arrears while there is no practical use of the land.

In supporting the principles set out in the Preamble to the *Te Ture Whenua Māori Act 1993*, the Waimakariri District Council will apply Cabinet Circular (19)5 that sets out guidelines agreed by Cabinet for policymakers to consider the Treaty of Waitangi in policy development and implementation. See the link below:

<https://dpmc.govt.nz/sites/default/files/2019-10/CO%2019%20%285%29%20Treaty%20of%20Waitangi%20Guidance%20for%20Agencies.pdf>

Within the requirements placed upon it by local government and related rating legislation, the Council will also seek to enable Te Rūnanga o Te Ngāi Tū Ahuriri to make decisions under this policy to the maximum possible extent. It will work with Te Rūnanga o Te Ngāi Tū Ahuriri through the Mahi Tahī Joint Development Committee to develop conventions to this effect within three months of this policy becoming operative.

3.2. Meet the objectives of the Revenue and Financing Policy for fairness, consistency and equity by recognizing that the collection of rates on Māori Freehold Land can be complicated by the following unique features:

- statutory restrictions on alienation
- ownership structures can restrict the use and potential for use of the land by individual owners and others
- owners may have only a spiritual and cultural involvement with the land rather than any physical attachment to it
- the presence of wāhi tapu (sacred place) may affect the use of the land for productive purposes
- the numbers of owners and small size of many individual shares makes collection of rates from individuals uneconomic
- once land is occupied, there may be a development period before the land becomes productive and income earning
- ownership results from ancestral inheritance or transfer rather than purchase
- support of conservation initiatives that preserve the character of Māori Freehold Land
- setting aside land that is better set aside for non-use because of its natural features (whenua rahui) to recognise and take into account the importance of the land for community goals relating to the preservation of the natural character of the coastal environment and the protection of outstanding natural features.

4. Policy Statement

4.1. The Council may on its own motion or on the application of any owner or group of owners remit up to 100% of the rates on any rating unit containing Māori Freehold Land or Separate Rating Area created under Section 98A of the *Local Government (Rating) Act 2002* where:

- a) the land is in multiple ownership and there is no formal occupation or lease agreement; and
- b) any use of the land is minor, informal and unauthorized; and
- c) the rates are not being paid; and
- d) the size, location, lack of fencing or other features preclude the productive or practical use of the land.

4.2. Applications for remission shall be supported by:

- a) a schedule of owners
- b) certificate of title (where applicable)
- c) confirmation of land status
- d) plan of property and aerial photograph (if available)
- e) details of any use or occupation and reasons why relief is sought.

- 4.3. Applicants for a rates remission under this Policy may seek the assistance of Te Rūnanga o Te Ngāi Tū Ahuriri prior to making an application.
- 4.4. Rates remissions shall continue until the use of the land changes so that the provisions of clause 4. 1 of this policy no longer apply.
- 4.5. Work completed by an adjoining property owner to keep the property in a tidy or manageable condition is not considered to be occupation in terms of this policy unless the land is fenced off for the exclusive use and benefit of that person.
- 4.6. The taking of plant material for traditional or medicinal purposes is not considered to be occupation in terms of this policy.

Conservation

- 4.7. Where land has been formally set aside for preservation or conservation purposes and there is not a Ngā Whenua Rāhui kawenata under section 77A of the *Reserves Act 1977* or section 27A of the *Conservation Act 1987*, a rates remission of up to 100% may be granted. The amount of the remission will depend on:
 - a) The proportion of the property that is being used for conservation purposes; and
 - b) the desirability of preserving particular natural, historic or cultural features within the district; and
 - c) whether, and to what extent, the preservation of particular natural or historic or cultural features might be prejudicially affected if rates remission is not granted in respect of the land on which they are situated; and
 - d) whether and to what extent preservation of particular natural or historic or cultural features are likely to be encouraged by the granting of a rates remission.

Land under development

- 4.8. Section 114A of the *Local Government (Rating) Act* requires the Council to consider any application by a ratepayer for a remission of rates on Māori freehold land if the ratepayer has applied in writing for a remission on the land; and the ratepayer or another person is developing, or intends to develop, the land.
- 4.9. Details of all rates remissions granted under this policy will be reported to the Mahi Tahī Committee.
- 4.10. Any rating unit that receives a rates remission under this policy shall be recorded in a Register. Land shall be inspected at least annually to ensure that the land continues to qualify for a rates remission. The amount and timing of any rates relief provided under this policy is entirely at the discretion of the Council.
- 4.11. The Council will not postpone the requirement to pay rates on Māori Freehold land, other than in terms of any policy adopted under Section 102(3)(b) of the *Local Government Act 2002*.
- 4.12. The Council may remit rates arrears including penalty charges on any rating unit containing Māori Freehold Land in any circumstances where it believes it would be fair and equitable to do so.

5. Links to legislation, other policies and community outcomes

- Local Government Act 2002
- Local Government (Rating) Act 2002
- Local Government (Rating of Whenua Māori) Amendment Act 2021
- Te Ture Whenua Māori Act 1993
- Waimakariri District Council Rating Policies

Community outcomes

Effect is given to the principles of the Treaty of Waitangi:

- The Council in partnership with Te Rūnanga o Te Ngāi Tū Ahuriri, continue to build our relationship through mutual understanding and shared responsibilities
- Māori cultural identity, values and aspirations are reflected in built and natural environments.

Indigenous flora and fauna and their habitats, especially Significant Natural Areas are protected and enhanced:

- Conservation, restoration and development of significant areas of indigenous vegetation and/or habitats is actively promoted.

6. Adopted by and date

Adopted by Council on 28 June 2022 through the 2022-2023 Annual Plan.

The following Delegations apply:

Manager, Finance & Business Support – to approve inclusion in the Māori Freehold Land Remission Register of any property that meets all of the requirements of Clause 1 of this Policy.

Mahi Tahi Committee – to oversee, review and monitor implementation of this policy, advising the Council on applications for rates remission on land that is under development, and to hear and make a final decision on any appeal that is referred to it on an application for remission that has been declined.

Audit & Risk Committee – to consider and make a final decision on an application for rates remission on Māori Freehold land under development under Section 114A of the *Local Government (Rating) Act 2002*.

7. Review

Next review at 2023-24 Annual Plan.

8. Policy owned by

Customer Services Manager

9. Approval

Adopted by Waimakariri District Council on 28 June 2022