



POLICY ON THE REMISSION AND POSTPONEMENT OF RATES ON MĀORI FREEHOLD LAND		ACTIVITY GROUP:	CE DEPARTMENT
Policy Type:	Council		
Approved by:	Council		
Department:	Corporate Services		
Date Approved:	23 June 2022	Next Review Date:	23 June 2028
Relevant Legislation:	Local Government Act 2002 Local Government (Rating) Act 2002 Local Government (Rating of Whenua Māori) Amendment Act 2021 Te Ture Whenua Māori Act 1993		
Clutha District Council Documents referenced:	Policy on Rates Postponement		

PURPOSE

This policy allows for rates remissions on Māori freehold land.

This policy promotes the retention of Māori freehold land in the hands of its owners, their whānau and their hapū.

This policy aims to reduce the barriers for owners of Māori freehold land who want to occupy, develop and utilise their whenua for the benefit of its owners, their whānau and their hapū.

SCOPE

This policy applies to all rateable Māori freehold land in the Clutha District.

DEFINITIONS

Council	Clutha District Council the organisation (not its elected members).
Māori freehold land	Land whose beneficial ownership has been determined by the Māori Land Court by freehold order (as per s5 Local Government (Rating) Act 2002)
Rates postponement	Rates for which the requirement to pay is delayed.
Remitted rates	Rates for which the requirement to pay is cancelled.

POLICY

1. Remission of rates

- 1.1. This policy provides for the remission of rates on Māori freehold land that meet the conditions and criteria set out in **section 3**.
- 1.2. Council encourages and will support applications for remission of rates on Māori freehold land where the landowner(s) or another person is developing the land or intends to develop the land in accordance with the conditions and criteria set out in **section 3**.

2. Objectives for the remission of rates

- 2.1. To provide rates remissions on Māori freehold land to assist landowners to achieve the implementation of the following objectives:
 - (a) To promote the retention of Māori freehold land in the hands of its owners, their whānau, and their hapū, and to protect wāhi tapu.
 - (b) To facilitate the occupation, development, and utilisation of Māori freehold land for the benefit of its owners, their whānau, and their hapū.

3. Conditions and criteria for the remission of rates

- 3.1. Applications for the remission of rates on Māori freehold land must be made in writing to the Council and should include:
 - a) The amount of rates requested to be written off.
 - b) The reason for the request.
 - c) Council's valuation reference for the parcel(s) of land.
 - d) A description of the land and its current use.
 - e) An indication of the ownership and documentation that shows the land is Māori freehold land (if Council does not already possess this information).
 - f) Future plans for the land (if any).
 - g) Sources of and level of income generated by the land (if any).
 - h) How the application meets one or both of the objectives listed in **section 2**.
- 3.2. Council may grant a remission of up to 100% of all rates (including penalties for unpaid rates) except for targeted rates for water supply, sewage disposal or refuse collection.
- 3.3. Council will consider how the application aligns with the objectives listed in **section 2** of this policy and the matters set out in Schedule 11 of the Local Government Act 2002 (**see notes**) when making decisions on the remission of rates on Māori freehold land.
- 3.4. Council will consider the matters listed in section 114A of the Local Government (Rating) Act 2002 (**see notes**) when considering applications for rates remissions on Māori freehold land that is under development or is intended to be developed.
- 3.5. Council will remit rates (and penalties if applicable) for the year applied for and for up to 5 years in the case of development of land. If a remission of rates application is applied for annually for the same parcel of land, only additional information Council does not have from

previous applications will need to be provided, however, application is still required to be made in writing annually, except in the case of development applications where a longer remission term (of up to 5 years) has been requested by the applicant and granted by the Council.

4. Postponement of rates

- 4.1. This policy does not provide for the postponement of rates specifically for Māori freehold land.
- 4.2. Council has a policy on the postponement of rates (Policy on Rates Postponement) applicable to all land in the Clutha District for when landowners are experiencing significant financial hardship.
- 4.3. The Policy on the Postponement of Rates can be used for Māori freehold land when owners are experiencing significant financial hardship, however, to better align this policy with the preamble to the Te Ture Whenua Māori Act 1993 landowners are encouraged to apply for a remission of rates rather than a postponement of rates so:
 - Rate debt burden is avoided for Māori freehold landowners.
 - Future development and utilisation of Māori freehold land is not discouraged in any way by historical rates arrears.
 - Māori freehold land remains in the hands of its owners.

5. Version control

Version History			
Date:	Action:	Name:	Version:
2018	Policy on Remission and Postponement of Rates for Māori Freehold Land created as part of 2018/28 LTP.	-	1
17 March 2022	Draft Policy on Remission and Postponement of Rates for Māori Freehold Land (incorporating updates from the Local Government (Rating of Whenua Māori) Amendment Act 2021).	Melissa Needham	2a
23 June 2022	Policy on Remission and Postponement of Rates for Māori Freehold Land 2022 adopted (incorporating updates from the Local Government (Rating of Whenua Māori) Amendment Act 2021).	Council	2

NOTES NOT FORMING PART OF THE POLICY

Local Government Act 2002**Schedule 1 – Part 1 – Land Fully Non-Rateable**

- Land that is subject to a Ngā Whenua Rāhui kawenata.
- Land that is used as a Māori burial ground.
- Māori customary land.
- Land that is used for the purposes of a marae, excluding any land used—
 - a. primarily for commercial or agricultural activity; or
 - b. as residential accommodation.
- Land that is set apart under section 338 of Te Ture Whenua Māori Act 1993 or any corresponding former provision of that Act and used for the purposes of a meeting place, excluding any land used (refer to a. and b. above).
- Māori freehold land on which a meeting house is erected, excluding any land used (refer to a. and b. above).
- Land that is a Māori reservation held for the common use and benefit of the people of New Zealand under section 340 of Te Ture Whenua Māori Act 1993.
- Māori freehold land that is, for the time being, non-rateable by virtue of an Order in Council made under section 116 of this Act, to the extent specified in the order.
- An unused rating unit of Māori freehold land.

Local Government Act 2002**Schedule 11**

1. The matters that the local authority must consider under section 108(4) are—
 - (a) the desirability and importance within the district of each of the objectives in clause 2; and
 - (b) whether, and to what extent, the attainment of any of those objectives could be prejudicially affected if there is no remission of rates or postponement of the requirement to pay rates on Māori freehold land; and
 - (c) whether, and to what extent, the attainment of those objectives is likely to be facilitated by the remission of rates or postponement of the requirement to pay rates on Māori freehold land; and
 - (d) the extent to which different criteria and conditions for rates relief may contribute to different objectives.
2. The objectives referred to in clause 1 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 of 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.

Local Government (Rating) Act 2002**Power of chief executive to write off rates**

- Section 90A – Chief executive may write off rates that cannot be recovered.
- Section 90B – Chief executive may write off rates of deceased owners of Māori freehold land.
- 90C – Chief executive may delegate power to write off rates.
- 90D – Amount of rates written off to be included in notes to financial statements.

Local Government (Rating) Act 2002**Section 114A – Remission of rates for Māori freehold land under development**

1. The purpose of this section is to facilitate the occupation, development, and utilisation of Māori freehold land for the benefit of its owners.
2. A local authority must consider an application by a ratepayer for a remission of rates on Māori freehold land if—

- (a) the ratepayer has applied in writing for a remission on the land; and
 - (b) the ratepayer or another person is developing, or intends to develop, the land.
3. The local authority may, for the purpose of this section, remit all or part of the rates (including penalties for unpaid rates) on Māori freehold land if the local authority is satisfied that the development is likely to have any or all of the following benefits:
- (a) benefits to the district by creating new employment opportunities;
 - (b) benefits to the district by creating new homes;
 - (c) benefits to the council by increasing the council's rating base in the long term;
 - (d) benefits to Māori in the district by providing support for marae in the district;
 - (e) benefits to the owners by facilitating the occupation, development, and utilisation of the land.
4. The local authority may remit all or part of the rates—
- (a) for the duration of a development; and
 - (b) differently during different stages of a development; and
 - (c) subject to any conditions specified by the local authority, including conditions relating to—
 - (i.) the commencement of the development; or
 - (ii.) the completion of the development or any stage of the development.
5. In determining what proportion of the rates to remit during the development or any stage of the development, the local authority must take into account—
- (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.
6. Sections 85(2) and 86 apply to a remission made under subsection (3).
7. This section does not limit the application of section 85 or 114 to Māori freehold land.

Local Government (Rating) Act 2002

Section 98A – How rating unit on Māori freehold land divided into separate rating areas

1. A local authority may divide a separate rating area from a rating unit on Māori freehold land on the request of a person in accordance with this section.
2. A local authority must determine a part of a rating unit to be a separate rating area if the identified part of the rating unit—
 - (a) comprises a dwelling; and
 - (b) is used separately from the other land in the rating unit.
3. If the rating unit is managed by a trustee, the request for a separate rating area—
 - (a) must be made by the trustee with the consent of the person actually using the identified part of the rating unit; and
 - (b) must include the full name and postal address of the person actually using the identified part of the rating unit and evidence that they consent to the request.
4. If the rating unit is not managed by a trustee, the request for a separate rating area may be made by the person actually using the identified part of the rating unit.
5. On receiving a request under subsection (4), a local authority must notify the ratepayer or ratepayers for the rating unit of the request.
6. Requests for separate rating areas may be made at any time during the financial year.
7. The division of a separate rating area from a rating unit under this section does not create any right of occupancy or interest in the land.