Policy on Remission and Postponement of Rates on Māori Freehold Land

Material in shaded boxes provides background information but is not part of the Policy.

Acknowledgements and Council's Relationship with Ngā Rūnanga

Council acknowledges Te Ngāi Tū Ahuriri Rūnanga, Te Hapū o Ngāti Wheke (Rapaki), Te Rūnanga o Koukourārata, Wairewa Rūnanga, Te Taumutū Rūnanga and Ōnuku Rūnanga (together "Ngā Rūnanga") as tangata whenua of the area within the Christchurch takiwā (the territory of the Christchurch City Council).

As tangata whenua, Ngā Rūnanga hold 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.

Relationship Agreement between Christchurch City Council and Ngā Rūnanga (1 Sep 2016)

Council has a Relationship Agreement with Ngā Rūnanga. The purpose of the agreement is recorded as follows:

"This Agreement records and embeds a new era of partnership between [Council and Ngā Rūnanga] that is based on mutual respect, the utmost standards of good faith and confidence that working jointly together will produce meaningful outcomes for current and future generations of all citizens, living within a vibrant and sustainable takiwā. - Mō tātou, ā, mō kā uri ā muri ake nei"

Recognising this Relationship Agreement, the process for making decisions under this policy will be determined by Te Hononga Council – Papatipu Rūnanga Committee (Te Hononga), or an equivalent Committee mechanism, or in the absence of such a process, by Council staff in accordance with Council's delegations register.

The Ngāi Tahu Claims Settlement Act 1998 applies to the area within the Christchurch takiwā.

Introduction

"Māori freehold land" is defined in the Local Government (Rating) Act 2002 as *land whose beneficial ownership has been determined by the Māori Land Court by freehold order*.

Maori freehold land in the Christchurch City Council takiwā (district)

As at 1 July 2021 there were 159 rating units of Māori freehold land in the Christchurch City Council takiwā (district). Most are located in Rapaki, Gebbies Valley and Motukarara, and in Banks Peninsula at Koukourarata (Port Levy), Wairewa (Little River), Wainui, and Onuku. The total capital value of this land was around $37 million.

The Council recognises that the ownership and use of Māori freehold land is different to general land. This Policy enables Council to respond to those differences in ways that are fair to owners and that encourage the long term retention, use and enjoyment of Māori freehold land by its owners.

The Council acknowledges the following features of Māori freehold land:

- Māori freehold land represents a very small proportion of land previously owned by Māori, the remainder of which has been alienated from Māori ownership and use.
- Much of the Māori freehold land in the Christchurch City Council takiwā is either unoccupied or unimproved or only partially used
- Much of the land is isolated and marginal in quality
- Māori freehold land usually has multiple owners making it challenging for individuals with a stake to get the necessary agreement from the owners to use or develop the land
- Multiple ownership presents challenges in terms of administering the land including the payment of rates. This can result in significant rates arrears which may need to be paid before the land is used or developed
- Some land has special significance which would make it undesirable to develop or reside on.

Definitions

Terms used in this Policy have the meaning given to them by the Local Government (Rating) Act 2002 and Te Ture Whenua Maori Act 1993.

Land to which this policy applies

This policy applies to Māori freehold land.

This policy may also apply to the following types of land as if it were Māori freehold land:

- Māori customary land

Māori customary land

Council understands there is no land within the Christchurch City Council takiwā that is classified as Māori customary land.

- a Māori reservation set apart under section 338 of the Te Ture Whenua Maori Act 1993 or the corresponding provisions of any former enactment
- land described in section 62A(1)(a) and (b) of the Local Government (Rating) Act 2002 ("1967 land")

"1967 land"

This term refers to general land that ceased to be Māori land under Part 1 of the Maori Affairs Amendment Act 1967, where the land is beneficially owned by the persons, or by the descendants of the persons, who beneficially owned the land immediately before the land ceased to be Māori land.

The 1967 amendment to the Māori Affairs Act required the Registrar of the Māori Land Court to reclassify some Māori freehold land as general land. This was sometimes done without the knowledge or agreement of the owners.

The Local Government (Rating) Act 2002 limits the actions that a local authority can take to recover unpaid rates in respect of 1967 land. In particular, it cannot carry out an abandoned land or rating sale (refer to s77(3A) and s67(3)(b)).

- land returned to iwi or hapū ownership through treaty settlement or a right of first refusal scheme

Rateability of Māori freehold land

The following land is fully non-rateable under Part 1 of Schedule 1 of the Local Government (Rating) Act 2002 *(this is not a complete list of non-rateable land – refer to that Act for further details in some cases)*:

- An unused rating unit of Māori freehold land (clause 14A)
- Land that is subject to a Ngā Whenua Rāhui kawenata (clause 1A)
- Land used solely or principally as a place of religious worship (clause 9)
- Land used as a Māori burial ground (clause 10)
- Māori customary land (clause 11)
- Land that is used for the purposes of a marae (some exceptions apply) (clause 12)
- Land set apart as a Māori reservation (some exceptions apply) (clauses 13 and 13B)
- Māori freehold land on which a meeting house is erected (some exceptions apply) (clause 13A)

Non-rateable land may still have targeted rates set on it for sewerage and water supply, but will not have other rates applied.

Remission or postponement of rates is available only to the extent that rates are actually set on the land. Non-rateable Māori freehold land will not need to apply for a rates relief under this Policy, except to the extent that the land has rates set for sewer and water supply – those rates may be remitted under this Policy.

Valuation of Māori freehold land

Christchurch City Council sets rates primarily in proportion to the capital value of rating units. The capital value of a rating unit is determined by the Council's Valuation Service Provider – currently Quotable Value (QV).

For Māori freehold land rating units, QV first values the property as if it were general land, and then applies adjustments, which reduce the capital value, to reflect:

(i) adjustments under *Valuer-General v Mangatu Inc* [1997] 3 NZLR 641, which recognise among other things the very significant constraints on the sale of Māori freehold land

(ii) an adjustment factor applied for multiple owners, expressed as a percentage, and

(iii) an adjustment factor applied for sites of significance, expressed as a percentage.

To the extent that the capital value is adjusted downwards, Council rates set on the land will be correspondingly lower.

Who is liable for rates on Māori freehold land?

Normally the owner or registered lessee of a rating unit is liable for rates on land.

However, under section 96 of the Local Government (Rating) Act 2002, where a rating unit of Māori freehold land is in multiple ownership that is not vested in a trustee, a person actually using that land is liable for the rates on the land, regardless of whether the person using the land is one of the owners.

Section 62A of the same Act sets out a broadly similar provision for "1967 land".

Rates relief: remission and postponement

Rates relief under this Policy can take two forms: rates remission and rates postponement.

Council also has a Rates Remission Policy which applies generally to all 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 Rates Remission Policy. For example, a not-for-profit community-based organisation providing services from Māori freehold land might apply for a remission under the Rates Remission Policy. However, two rates remissions will not be given in respect of the same rates.

Council also has a Rates Postponement Policy which applies generally to all land. Owners of Māori freehold land may apply for rates postponement under that policy. If Council considers such a postponement is appropriate, Council may require the applicant to enter into an agreement with Council in relation to the postponed rates. This recognises that the Council would not ultimately be able to sell the land to recover any rates that remain unpaid following the end of the postponement.

Rates remission is generally preferred to rates postponement

Historically, the relief granted under previous versions of this Policy has tended to take the form of rates remissions rather than rates postponement. Council expects that is likely to continue. However, particular circumstances may well arise in future where Council considers postponement is more appropriate than a remission under this Policy.

Policy objectives

This Policy seeks to achieve the following objectives:

1. To recognise the rangatiratanga of Ngā Rūnanga over the land within the Christchurch takiwā.
2. To recognise that land is a taonga tuku iho of special significance to Māori and, for that reason, to promote the retention of Māori freehold land in the hands of its owners, their whanau, and their hapū, and to protect wāhi tapu.
3. To facilitate the occupation, development, and utilisation of Māori freehold land for the benefit of its owners, their whanau, and their hapū.
4. To ensure that owners of Māori freehold land contribute to Council's overall rates revenue requirement to the extent consistent with the first two objectives, and to the extent equitable with the contributions made by other land owners.

Conditions and criteria for postponement or remission of rates

Criteria

Rates relief under this Policy is granted entirely at the discretion of Council. The criteria for granting either a rates remission or rates postponement include some or all of the following:

1. the land is not in use

Council considers land would be in use if it is leased. Other circumstances that would be regarded as use include (but are not limited to) where a person or persons

(i) resides on the land,

(ii) depastures or maintains livestock on the land, or

(iii) stores anything on the land (compare the definition of "person actually using land" in section 5 of the Local Government (Rating) Act 2002)

Council considers that, while commercial grazing is a use, merely allowing animals to keep down the grass is not, in itself, a use. Council will consider other factors such as the whether the size and quality of the land would support commercial grazing.

Significant improvements on the land may indicate that a use is being made of the land.

Where land is difficult to access (e.g. it is landlocked or does not have legal access to a public road), that may indicate that no significant use is being made of the land.

Where the use is insignificant, Council may, at its sole discretion, provide rates relief.

Land is not regarded as used (for this purpose) merely because personal visits are made to the land or personal collections of kai or cultural or medicinal material are made from the land

Where use is being made of a portion the land, Council may, at its sole discretion, provide rates relief that recognises that the remaining portion is unused.

2. the land is being used for traditional purposes
3. where the land is used in providing economic and infrastructure support for marae and associated papakāinga housing (whether on the land or elsewhere).
4. the use of the land for other purposes is affected by the presence of wāhi tapu
5. the land has a high conservation value which the Council or community wish to preserve
6. the land is in multiple ownership or fragmented ownership, and no management or operating structure is in place to administer matters
7. there is a history of rate arrears and/or a difficulty in establishing who is/should be responsible for the payment of rates
8. where the rates relief is needed to avoid further alienation of Māori freehold land
9. where a rates remission is sought under section 114A of the Local Government (Rating) Act 2002 for Māori freehold land under development.

The key parts of s114A provide as follows:

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.

Conditions

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

Council will provide an application form for rates relief under this Policy, and will publish it on Council's website.

In the event that applications for rates relief are made by only one or a minority of owners, Council may require evidence of agreement or support from a greater proportion of owners.

Council may, at its discretion, review whether a property continues to qualify for rates relief under this Policy. In doing so, Council may seek further information from any party that has a relationship with that land. Council may also request a written application from the ratepayer (or owners, or trustee).

Council may seek undertakings from the ratepayer, owners, users or managers of the land to provide information about the ongoing use or circumstances of the land.

Council may, at its discretion, end the rates relief if it considers the land no longer qualifies for the relief, or if the ratepayer has not provided sufficient information to enable a review of rates relief for the property.

Conditions relating to applications under s114A (Māori freehold land under development)

Following an application for rates remission under s114A, Council may request additional documentation where necessary to determine the start and finish dates of a proposed development or the staging of a development.

Developments that are staged can apply for remission for each separate stage of the development.

Rates will be remitted until such time as the development is complete, or the development is generating income, or persons are residing in houses built upon the land. Council retains flexibility to apply the remission for a longer period of time where desirable.

Amount and timing of rates relief

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

Other forms of rates relief for Māori freehold land

Rating units of Māori freehold land used as a single unit: Under s20A of the Local Government (Rating) Act 2002, a person actually using 2 or more rating units of Māori freehold land may apply for the rating units to be treated as 1 unit for the purposes of a rates assessment. This could reduce the number of fixed rates that are applied to the properties. Applications should be made by email to ratesinfo@ccc.govt.nz mentioning s20A of the Local Government (Rating) Act 2002. Council must treat the rating units as 1 unit for assessing a rate if:

(a) the units are used jointly as a single unit by the person; and

(b) Council is satisfied the units are derived from the same original block of Māori freehold land.

Separate rating area: Council may, on request, divide a "separate rating area" from a rating unit on Māori freehold land if one part of the land comprises a dwelling that is used separately from the other land in the rating unit. This could help the occupant of that dwelling claim a rates rebate for low income earners in relation to their own rates assessment (for more information, see https://ccc.govt.nz/services/rates-and-valuations/reductions/apply-for-a-rates-rebate-low-income-earners). This is governed by section 98A of the Local Government (Rating) Act 2002. Applications to divide a separate rating area should be made by email to ratesinfo@ccc.govt.nz mentioning 98A of the Local Government (Rating) Act 2002.

Adoption date

This policy was adopted on 21 June 2022 and in accordance with section 108(4A) of the Local Government Act 2002 must be reviewed at least once every six years following this date.