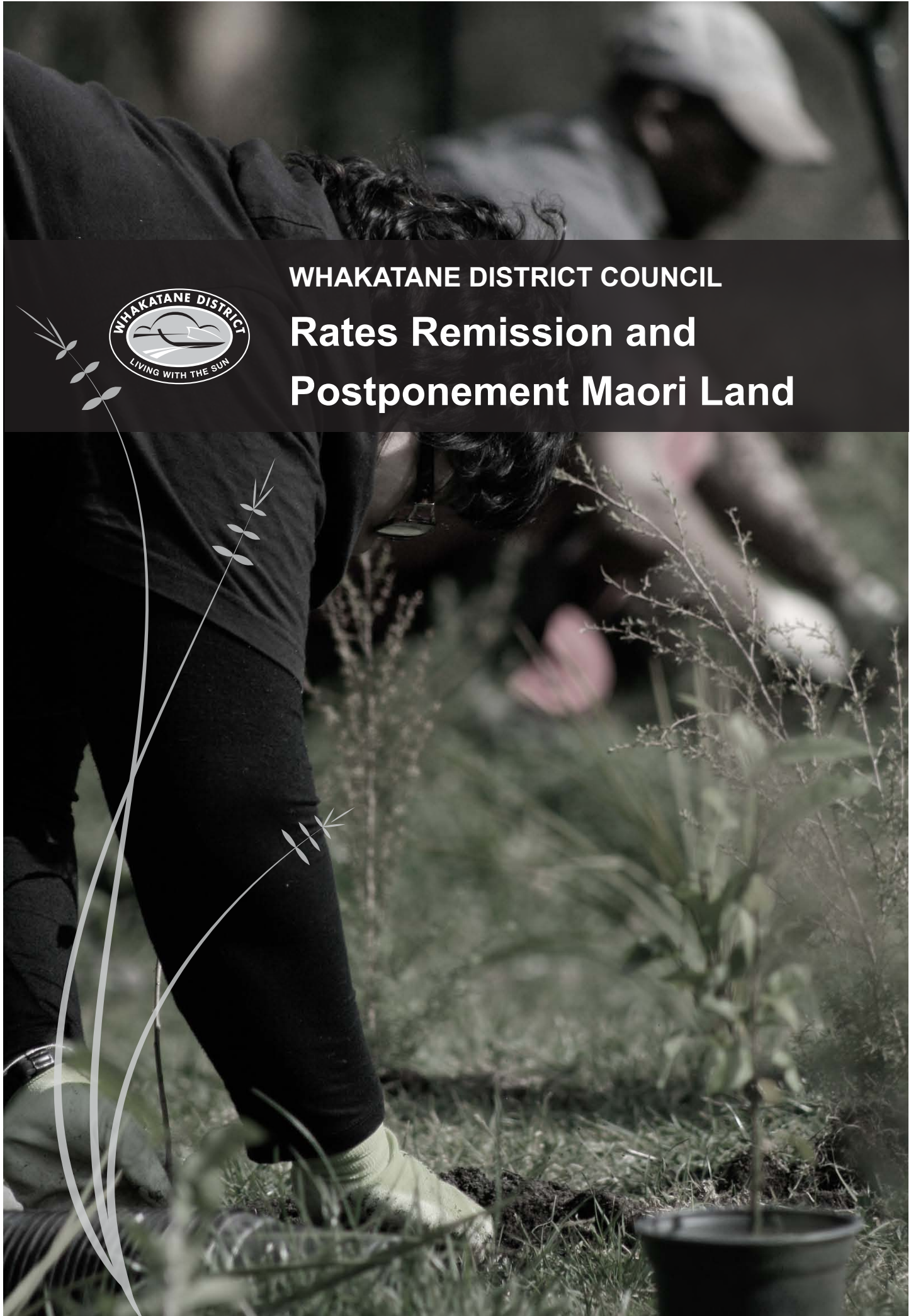




**WHAKATANE DISTRICT COUNCIL**

# **Rates Remission and Postponement Maori Land**







## POLICY ON THE REMISSION AND POSTPONEMENT OF RATES ON MĀORI FREEHOLD LAND

Adopted: 27 June 2012  
Commences: 1 July 2012  
Review: 1 July 2015

### INTRODUCTION

The aim of this policy is to recognise that Māori Freehold Land may have particular conditions, ownership structures or other circumstances, which make it appropriate to remit or postpone rates for defined periods. Remission of rates involves reducing the amount owing or waiving collection of rates altogether. Postponement of rates means that the payment of rates is not waived in the first instance, but delayed for a certain time, or until certain events occur.

The Local Government Act 2002 (LGA 2002) requires the Council to adopt policies for the remission and/or postponement of rates on Māori Freehold Land (section 102(4) (f)). In developing this policy, the Council must consider the matters set out in Schedule 11 of the LGA 2002. This includes the recognition that there are particular cultural, historical and legal factors that distinguish Māori Freehold Land from General Land. These factors include:

- The land is generally multiply owned; and/or
- There are legislative and cultural constraints on the ability to alienate Māori Freehold Land; and/or
- The land is undeveloped and/or unoccupied for cultural, spiritual or practical reasons; and/or
- Māori Freehold Land is not freely tradeable and is difficult to alienate (and in many cases, the owners do not want to alienate the land).

In compliance with the LGA 2002 and in recognition that the nature of Māori Freehold Land is different to General Land, the Council has formulated a Policy on the Remission and Postponement of Rates on Māori Freehold Land.

### Key definitions

**“Māori Freehold Land”** means land whose beneficial ownership has been determined by the Māori Land Court by freehold order (Section 5, Local Government (Rating) Act 2002).

**“Unoccupied”** means, in respect of a block of land or a portion<sup>1</sup> of a block of land, that there is no person, whether with a beneficial interest in the land or not, who, alone or with others:

- leases the land, and/or
- does any of the following things on the land, with the intention of making a profit or for any other benefit

<sup>1</sup>

See section 98 of the Local Government (Rating) Act 2002, which allows for the apportionment of rates.

- resides on the land
- de-pastures or maintains livestock on the land
- stores anything on the land.

“**Waahi Tapu**” means a place sacred to Māori in the traditional, spiritual, religious, ritual or mythological sense (Section 2 of the Historic Places Act 1993).

“**General Land**” means land that is not Māori Freehold Land as defined above.

### **Policy objectives**

To recognise that Māori Freehold Land may have particular conditions, ownership structures or other circumstances which make it appropriate to remit or postpone rates for defined periods of time.

To introduce a policy which promotes the collection of rates from owners of Māori Freehold Land in order to achieve a fair and equitable collection of rates from all sectors of the community?

### **What is available?**

This policy is in three parts. Each part deals with distinct situations.

**Part 1** deals with the remission of rates on Māori Freehold Land that is unoccupied and undeveloped.

**Part 2** deals with the postponement of rates on Māori Freehold Land to facilitate the development and use of that land for economic purposes: where the Council considers that the utilisation of that land would be uneconomic if full rates were payable immediately.

**Part 3** deals with the remission of uniform charges on Māori Freehold Land as encouragement for that land to be used for agricultural purposes in conjunction with other adjacent land.

## 1.0 PART 1

### 1.1. Background

- 1.1.1. The Whakatane District contains areas of Māori Freehold Land that is unoccupied. This land creates a significant rating burden on the Māori owners who may not have the means or in some cases, the desire to make economic use of the land.
- 1.1.2. The reason why Māori Freehold Land remains unoccupied is due to a number of factors which may include:
  - the nature of land ownership (for example, the land is owned by multiple owners, many of whom do not live near the land); and/or
  - the land has some special significance which makes it undesirable to develop or reside on; and/or
  - the land is isolated, difficult to access and marginal in quality.

### 1.2. Objective

- 1.2.1. Recognise situations where land has been set aside for cultural or natural heritage reason and no income is derived from the land.
- 1.2.2. To avoid further alienation of Māori Freehold Land as result of pressures that may be brought by the imposition of rates on unoccupied land.
- 1.2.3. To recognise matter relating to the physical inaccessibility of land.
- 1.2.4. To provide the ability to grant remission for portions of land that is not occupied.
- 1.2.5. To support the traditional relationship of kaitiakitanga (guardianship) to the land including the use of the land by the owners for traditional purposes.

### 1.3. Conditions and Criteria

The Council will consider remitting rates on Māori Freehold Land under Part 1 if the following criteria are met:

- 1.3.1. The land is Māori Freehold Land as defined by section 5 of the Local Government (Rating) Act 2002. This definition is set out above under the heading “Key definitions”
- 1.3.2. The land is unoccupied, as defined above under the heading “Key definitions”.
- 1.3.3. The land has been identified as requiring special treatment for rating purposes. This includes land which is:
  - (a) Unoccupied; AND
  - (b) it is uneconomic to use; OR
  - (c) no tangible benefit is derived from the use and occupation of the land; OR

- (d) the land is inaccessible; OR
- (e) the community benefits from –
  - The protection of outstanding natural features on the land; OR
  - The protection of significant indigenous vegetation and significant habitats of indigenous fauna on the land; OR
- (f) The land contains waahi tapu affecting the use of the land for other purposes.

1.3.4. Any application for a remission of rates is to be made in writing annually, except where a remission has been granted for a longer period OR when staff recognises that a property is unoccupied or uneconomic to use, staff may initiate the application for remission of rates so that arrears are not overstated in the Council's records.

1.3.5. Where applicable, staff has the discretion to negotiate remission of rates and penalties as a tool to clear arrears and current rates.

1.3.6. The Council may consider a portion of a block of Māori Freehold Land to be unoccupied.<sup>2</sup>

1.3.7. The Council reserves the right to seek such additional information from the applicant/s or from any other source as it may determine as necessary in considering that application.

#### **1.4. Rates to be remitted**

1.4.1. Rates remissions (for all or part) may be applied to all rates charged on Māori Freehold Land with the exception of any targeted rate for connection to water and wastewater services or where a refuse collection service is provided.

1.4.2. Any approved remission will generally be for a period of one year, but may be considered for up to three consecutive rating years. With the exception, that where the Council is considering a remission of rates for past rating years, the three year maximum period of remission may be exceeded at the Council's discretion.

#### **1.5. Delegation**

Applications for the remission of rates for Māori Freehold Land will be approved for remission in terms of the Council's delegations register.

<sup>2</sup> See section 98 of the Local Government (Rating) Act 2002, which allows for the apportionment of rates.



## **2.0 PART 2**

### **2.1. Background**

- 2.1.1. The Council recognises that significant rate arrears can act as a disincentive to any new or existing occupation of Māori Freehold Land.
- 2.1.2. Policies for the postponement of rates for Māori Freehold Land encourage the use of the land by occupiers who agree to pay the current and future rates for the period of time that they will use the land.
- 2.1.3. Postponement means that the rates remain as a debt against the property until they are written off after six years or the status of the land changes. Whilst the rates are postponed, the Council does not seek to collect them.
- 2.1.4. Part 2 is consistent with the objectives set out in Schedule 11 of the Local Government Act 2002, which include the need to facilitate the wish of the owners of Māori Freehold Land to develop the land for economic use
- 2.1.5. Part 2 provides for the remission of outstanding penalties and the postponement of rate arrears outstanding at the time that the agreement contemplated under this policy comes into force.
- 2.1.6. Part 2 provides that in the event that the current rates continue to be paid, the postponed rates will be remitted at the completion of the time period specified by the Council, which will not exceed six years after the date which they were charged to the land.

### **2.2. Objective**

- 2.2.1. To facilitate the development and use of Māori Freehold Land for economic use where the Council considers that the utilisation of that land would be uneconomic if full rates were payable.
- 2.2.2. To support any wish of the owners to develop the land for economic or other purposes by removing the rates burden while they plan for this development.

### **2.3. Conditions and Criteria**

The Council will consider agreeing to postpone the arrears of rates on Māori Freehold Land subject to the land being continuously used by a person or persons as defined by section 96 of the Local Government (Rating) Act 2002 and that person or persons agreeing to pay the current and future rates by the due date, while they are using the land, subject to the following criteria:

- 2.3.1. The land is Māori Freehold Land as defined by section 5 of the Local Government (Rating) Act 2002, set out above.
- 2.3.2. The application must be in writing signed by the owner/s, their agent, or the person or persons proposing to use the land.

- 2.3.3. The person or persons using the land must enter into an agreement in writing with the Council to keep the current and future rates up to date while they are using the land.
- 2.3.4. All previous instalments of the current years rates must be paid in full within one month of the agreement date or in part payments, by the 30th June of the applicable year OR at the discretion of the Council an agreement may be entered into with the owners or trustees of any Māori Freehold Land, which allows for the staged payment of rates over a 5-year period according to the following schedule:
- Year 1: Not less than 20% payable for that year
  - Year 2: Not less than 40% payable for that year
  - Year 3: Not less than 60% payable for that year
  - Year 4: Not less than 80% payable for that year
  - Year 5: 100% payable that year.
- 2.3.5. Any agreement negotiated under clause 4 must be supported by the following information:
- (a) A 5-year projected cash flow prepared by a suitably qualified person, which shows the increase in annual cash surplus over the 5-year period.
  - (b) An assessment by the Council that the projected cash flow is realistic and can be achieved.
  - (c) An annual report from the owners or trustees.
  - (d) Any other documents the Council considers necessary to make an assessment.
- 2.3.6. The Council will have the sole judgement on whether or not to grant the application and may seek such additional information as it may require before making the final decision.
- 2.3.7. Pursuant to section 88 of the Local Government (Rating) Act 2002, a postponement fee may be added to the postponed rates.

## **2.4. Termination and repayment of postponed rates**

- 2.4.1. Postponed rates will remain as a charge on the property for a period of six years from the date on which the rate was assessed, after which time they will be remitted.
- 2.4.2. If the current and future rates are not paid within one month of the due dates, the Council reserves the right to reapply the postponed rates to the land, subject to any agreement negotiated under clause 4 of Part 2 of this Policy.

## **2.5. Delegation**

Applications for the postponement of rates for Māori Freehold Land will be approved in terms of the Council's delegations register.



### **3.0 PART 3**

#### **3.1. Background**

There are situations where opportunities to utilise Māori Freehold Land for agricultural purposes in conjunction with adjacent General land or other adjoining Māori freehold land blocks used contiguously are lost due to the rating liability attached to the Māori Freehold Land.

#### **3.2. Objective**

The intent of this part of this policy is to remove that impediment so as to facilitate productive use of that Māori Freehold Land.

#### **3.3. Conditions and Criteria**

The Council will consider remitting all uniform charges on Māori Freehold Land under this Part if the following criteria are met:

- The land is Māori Freehold Land as defined by section 5 of the Local Government (Rating) Act 2002. This definition is set out above under the heading “Key definitions”
- There is agreement for the land to be used together with adjacent General land or Māori freehold land used contiguously for agricultural purposes
- Any application for a remission of uniform charges is to be made in writing annually, except where a remission has been granted for a longer period.

#### **3.4. Rates to be remitted**

Rates remissions may be applied to all uniform charges assessed on the Māori Freehold Land during the period that the Māori Freehold is utilised together with the adjacent General Land for agricultural purposes.

#### **3.5. Delegation**

Applications for the remission of uniform charges of rates on Māori Freehold Land will be approved in terms of the Council’s delegations register.