

Rates Remission on Māori Freehold Land Policy

Introduction:

The Remission of Rates on Maori freehold land policy explains the criteria and conditions used to determine whether rates should be waived on this land. The Opotiki District has a significant amount of Maori Freehold land.

1. BACKGROUND

Section 108 of the Local Government Act 2002 calls on Councils to adopt a policy on remission and postponement of rates on Maori freehold land.

2. DEFINITIONS

Maori freehold land is defined by the Local Government (Rating) Act 2002 as being "Land whose beneficial ownership has been determined by the Maori Land Court by freehold order." The same Act states (Clause 91):

"Except where this part otherwise provides, Maori freehold land is liable for rates in the same manner as it if were general land".

The term "unoccupied" means that the land is not occupied. Occupation is where person/persons do one or more of the following for his or her profit or benefit:

1. Resides upon the land.
2. Depastures or maintains any livestock whatsoever on the land.
3. Cultivates the land and plants crops there on.
4. Stores anything upon the land.
5. Uses the land or any improvements thereon in any way.

3. PRINCIPLES

The principles used to establish this policy are:

- (a) That, as defined in Section 91 of the Local Government (Rating) Act 2002, Maori freehold land is liable for rates in the same manner as if it were general land.

- (b) That, Council is required to have a policy on rates relief on Maori freehold land.
- (c) That Council and the community benefit through the efficient collection of rates that are properly payable and the removal of rating debt that is considered non-collectible.
- (d) That applications for relief meet the criteria set by Council.
- (e) That the policy does not provide for the permanent remission or postponement of rates on the property concerned.

4. OBJECTIVES

- (a) Supporting the use of the land by the owners for traditional purposes.
- (b) Recognising and supporting the relationship of Maori and their culture and traditions with their ancestral land.
- (c) Avoiding further alienation of Maori 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 waahi 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 the community goals relating to:
 - (i) Presentation of the natural characteristics of the coastal environment;
 - (ii) Protection of outstanding natural features; and
 - (iii) 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.

The following section sets out a discussion of each of the objectives the Act requires the Council to take into account.

4.1 Objective (a) - Supporting the use of the land by the owners for traditional purposes

Discussion:

In consideration of this objective it is important to remove discussion of Marae, Urupa and other Customary Land as these titles are exempt from Rates (Schedule 1 Local Government [Rating] Act 2002. Also waahi tapu land is discussed under Objective (e).

It is considered that papakainga housing within the District does warrant specific recognition for rating purposes under the principles adopted by Council. However consideration could be made under other remission policies for the amalgamation of papakainga and associated land blocks for the purposes of calculation of uniform general charge rates.

With these exceptions it is considered that only minimal land would be used for traditional purposes such as the gathering of medicines. The scope of such land would be so small as to not warrant a remission policy.

Conclusion

It is considered that this objective is not being hampered by the non-existence of a policy, nor would a policy facilitate attainment of the objective.

4.2 Objective (b) - Recognising and supporting the relationship of Maori and their culture and traditions with their ancestral land

Discussion

The two significant ways that the objective could be hindered by the rating system are:

1. Waahi tapu – covered in objective (e)
2. Charging rates at such a high value to forbid utilisation of the land – covered under objective (d)

Conclusion

It is considered that this objective is not being hampered by the non-existence of a policy nor would a policy facilitate attainment of the objective.

4.3 Objective (c) - Avoiding further alienation of Maori freehold land

Discussion

Council confirms its objective to avoid further alienation of Maori freehold Land. It is considered that the Te Ture Whenua Act provides such protection for the future.

Conclusion

It is considered that this objective is not being hampered by the non-existence of a policy, nor would a policy facilitate attainment of the objective.

4.4 Objective (d) - Facilitating any wish of the owners to develop the land for economic use.

Discussion

Council has traditionally operated rates remission policies for Maori freehold land in recognition that the value of the land would lead to a rate charge which would render the land uneconomic if full rates were payable. In recent years Council has adopted two such policies, one from Section 25 of the previous Rating Act and, more recently, a Pilot Rates Relief Policy.

Both the previous policies recognise that in general, land in coastal areas or urban areas used essentially for rural purposes cannot generate a sufficient return. These policies do not challenge the valuation placed on the land but rather provide a mechanism that allows for the payment of some rates in circumstances where full rates are not realistic, often based on the return or use and income derived from the land. The policies recognise that the tenure of Maori freehold land makes sale and raising debt against the land very difficult. Setting a value on a basis of willing seller/willing buyer can therefore produce anomalies.

Conclusion

Attainment of this objective will be prejudicially affected if there is no policy that allows remission, with significant blocks of Maori freehold land being rendered unproductive.

A properly considered policy would build on the work of previous policies and facilitate the increased development of Maori freehold land. This policy calls

for Council to prepare a "Maori Land Economic Adjustment Remission List". That Council consider remission for property that meets the following criteria: *The property carries a best potential use value that is significantly in excess of the economic value arising from its actual use.*

The remission for land recorded in the Maori Land Economic Adjustment Remissions List will be the difference between the rates as assessed and the rates that would be assessed based on the actual use of the land.

No remission will be granted on targeted rates for water supply, sewerage or refuse collection.

4.5 Objective (e) - *Recognising and taking account of the presence of waahi tapu that may affect the use of the land for other purposes.*

Discussion

Waahi Tapu land is of special significance for Iwi and Hapu of the district. Generally the land is considered inappropriate for any occupation which therefore renders it impossible to generate income to pay the rates. Waahi Tapu land should be recognised as special land within the District.

The lack of rates remission on this land will place a continuing burden on those charged and continue to create ill-will between the owners and Council as rate arrears mount. A rates remission policy would recognise the special significance of the land in a tangible manner.

Conclusion

This policy requires Council to prepare a "Maori Land General Remission List" to address land which is waahi tapu.

4.6 Objective (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)*

Discussion

Historically there have been blocks of land used for servicing marae. This land has been used for the raising of animals or non-commercial food to supply activities on the marae when required at tangi, weddings etc. It is considered that in present times these activities are of a very small scale and are difficult to identify.

Conclusion

It is considered that this objective is not being hampered by the non-existence of a policy nor would a policy facilitate attainment of the objective.

4.7 Objective (g) - *Recognising and taking account of the importance of the land for the community goals relating to:*

- (i) *Preservation of the natural characteristics of the coastal environment.*
- (ii) *Protection of outstanding natural features.*
- (iii) *Protection of significant indigenous vegetation and significant habitats of indigenous fauna.*

Discussion

It is recognised that some Maori freehold land is unspecified and not generating an income. The owners consider that they are the caretakers of a significant piece of land for future generations and for the wider community.

The lack of rates remission on this land will place continuing burden on those charged and continue to create ill will between the owners and Council as rate arrears mount. A rates remission policy would recognise the special significance of the land in a tangible manner.

Conclusion

This policy requires Council to prepare a "Maori Land General Remission List" to address land which contributes to community goals:

1. Preservation of the natural characteristics of the coastal environment
2. Protection of outstanding natural features
3. Protection of significant indigenous vegetation and significant habitats of indigenous fauna.

4.8 Objective (h) - *Recognising the level of community services provided to the land and its occupiers.*

Discussion

Council recognises that the delivery of services is not equal throughout the district but notes that the valuation basis used recognises the level of Council services provided. In addition, targeted rates are used to identify significant services delivered to sections of the district.

Conclusion

It is considered that this objective is not being hampered by the non-existence of a policy, nor would a policy facilitate attainment of the objective.

4.9 Objective (i) - Recognising matters related to the physical accessibility of the land.

Discussion

A portion of Maori freehold land in the Opotiki District is "land-locked". This means past actions have removed or not allowed any legal access to some blocks of Maori Land.

The fact that this land does not have any access does restrict its use and therefore earning capacity. Additionally some Maori freehold land is in effect swamp land, or so rugged that use of the land is impossible. In theory these aspects of the land should be recognised by the valuation.

The lack of rates remission on this land will place continuing burden on those charged and continue to create ill will between the owners and Council as rate arrears amount. A rates remission policy would recognise the special significance of the land in a tangible manner.

Conclusion

This policy requires Council to prepare a "Maori Land General Remission List" to address land which is inaccessible.

5. SUMMARY

Council considers this policy for remission of rates on Maori Freehold Land will achieve the aim:

To ensure the fair and equitable collection of rates from all sectors of the community recognising that certain Maori freehold land have particular

conditions, features, ownership structures or other circumstances which make it appropriate to provide relief from rates.

6. CONDITIONS OF CRITERIA

Council will maintain a register titled the "Maori Land Rates Relief Register ('the Register') for the purpose of recording properties on which it is has agreed to remit rates pursuant to this policy.

The Register will comprise two category lists, these being:

1. The "Maori Land General Remissions List"
2. The "Maori Land Economic Adjustment Remissions List"

7. MAORI LAND GENERAL REMISSIONS LIST

Council will consider remission for property that comes within the following criteria:

The land is unoccupied and:

- (a) The land is set aside as Waahi Tapu; or
- (b) The land is set aside for the preservation of natural characteristics of the coastal environment; or
 - to protect the outstanding natural features; or
 - to protect significant indigenous vegetation and significant habitats or indigenous fauna ; or
- (c) The land is inaccessible

The remission for land recorded in the Maori Land Remissions List will be up to 100% of any rates except targeted rates made for water supply, sewerage disposal or waste management.

8 MAORI ECONOMIC ADJUSTMENT REMISSIONS LIST

Council will consider remission for property that comes within the following criteria:

- (a) The property carries a best potential use value that is significantly in excess of the economic value arising from its actual use.

The remission for land recorded in the Maori Land Economic Adjustment Remissions List will be the difference between the rates as assessed and the rates that would be assessed based on the actual use of the land.

No remission will be granted on targeted rates for water supply, sewage disposal, or refuse collection.

Application for land to be added to the Maori Land Economic Adjustment Remission List should be made on the prescribed form by 1 April prior to the rating year. Applications made after that date may be accepted at the discretion of Council.

Owners or trustees making application should include the following information in their applications:

- (a) Details of the property.
- (b) The objectives that will be achieved by providing a remission.
- (c) Documentation that proves the land which is the subject of the application is Maori Freehold land.

Council may, at its own discretion, add properties to the lists.

Relief and the extent thereof, is at the sole discretion of Council and may be cancelled and reduced at any time.

Council will review the Register annually and may:

- (a) add properties that comply
- (b) remove properties where the circumstances have changed and which no longer comply.