September 2009

Rates Remission Policy for Māori Freehold Land

A. General

This Policy is written under Sections 102(4)(f) and 102(5)(a) of the Local Government Act (LGA) 2002 and addresses the rating of Māori freehold land. The Policy provides for the fair and equitable collection of rates from Māori freehold land, recognising that certain Māori-owned freehold lands have particular conditions, features, ownership structures, or other circumstances determining the land as having limited rateability under legislation. This Policy also acknowledges the desirability of avoiding further alienation of Māori freehold land.

Māori freehold land is defined by Section 5 of the Local Government (Rating) Act 2002 as "land whose beneficial ownership has been determined by the Māori Land Court by freeholder order". Only land that is the subject of such an order may qualify for remission under this Policy.

B. The objectives

The objectives of this Policy are to fulfil the Council's legal obligations under Sections 102(4)(f) and 108 of the Local Government Act 2002 and to provide rates relief for Māori freehold land in multiple ownership, to recognise, support and take account of:

a. Facilitating any wish of the owners to develop the land for economic use;

b. The presence of waahi tapu that may affect the use of the land for other purposes;

c. The importance of associated housing in providing kaumatua support and enhancement for marae;

d. 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; and
   iii. The protection of significant indigenous vegetation and significant habitats of indigenous fauna.

e. Matters related to the legal, physical and practical accessibility of the land; and

f. Land that is in, and will continue to be in, a natural and undeveloped state.

C. Legal basis

a. Under the Local Government Act 2002 and the Local Government (Rating) Act (LGRA) 2002 and as provided by Sections 102(4)(f), 108 and the matters in Schedule 11 of the Local Government Act (LGA) 2002 and Section 114 of the Local Government (Rating) Act 2002, this Policy sets out:

   - The objectives to be achieved by the remissions of rates on Māori freehold land;
   - The conditions and criteria to be met in order for rates to be remitted; and

- The process of application and consideration of rates remission under this Policy.

D. Conditions and criteria

In order for a property, or part of a property to qualify for a rates remission under this Policy it must meet all of the required criteria and at least one of the optional criteria:

a. Required Criteria (all)

A property must be:

i. Māori freehold land as defined in the LGRA 2002;

ii. In multiple ownership defined as two or more owners;

iii. Unoccupied. Occupation for this policy is where a person/persons does/do one or more of the following for their significant profit or benefit:

- leases the land to another party;
- permanently resides upon the land;
- depastures or maintains livestock on the land; or
- undertakes significant commercial operations.

Under this Policy land must not be occupied as defined above unless the land and its housing are used to contribute to the kaumatua support and enhancement of the marae under optional criteria 4.2.3 below.

b. Optional Criteria (at least one)

A property must be/have:

i. Development of the land for economic use. If any land is to be developed for economic use, particularly if it will provide employment for local Māori, a rates remission will be considered. This remission will decrease in proportion to the property's increased economic use through development. Plans of the development and financial projections will be required to support application under this criterion;

ii. The presence of waahi tapu that may affect the use of the land for other purposes. A rates remission will be considered on a property or part of a property where the use of that property is affected by the presence of waahi tapu.

In order to enhance transparency regarding Māori freehold land rates remissions, a public register of remissions will be established. This register will outline the property, its owners, the reason for the remission, the date remission is first granted and the history of rates remitted. While the register will not give the precise location on the property of the waahi tapu, its presence in general will be disclosed. Landowners applying for a rate remission under this criterion will need to decide if they wish to publicly disclose the presence of waahi tapu on their properties prior to applying;

iii. Where houses are in the vicinity of the marae, representations for rates remissions will be considered, taking into account the contribution to the kaumatua support and enhancement of the marae;

iv. Used for preservation/protection of character or coastline, outstanding natural features, significant indigenous vegetation and habitats of indigenous fauna. Applications under this criterion need to be supported by an existing Department of Conservation or Regional Council Management Plan, eg. in the DOC Coastal Management Plan for the area;

v. Accessibility Issues

If it is difficult to legally, physically or practically access a property, a rates

remission will be considered. Examples of accessibility issues are:

- the property is landlocked by properties owned by other people/ entities
- access is legally available by paper road or easement but the road does not exist
- a road ends or passes a property but a river, ravine, cliff or other impediment prevents practical access

vi. In a natural and undeveloped state, and will continue to remain in such state. If the property is in, and will remain in, a natural and undeveloped state, and there is no significant financial income, a rates remission will be considered.

E. Process of application and consideration for rates remission under this Policy

a. Applications

On application to Council, consideration will be given for the remission of rates on Māori freehold land under this Policy.

The application for rates remission under this Policy shall include:

- details of appropriate contacts
- details of property and occupancy
- the condition/s, as listed in Section 4 of this Policy, under which the application is made
- any relevant information to support the application, such as historical, ancestral, cultural, archaeological, geographical or topographical information
- details of the financial status of the land supported by full financial statements
- a copy of any agreements or licences to operate on the land
- details of any Māori land rate remission granted by any Local Territorial Authority
- a declaration stating that the information supplied is true and correct and that any changes in circumstances during that period of rate remission will be notified to the Council

b. Consideration of Applications By the Chief Executive Officer

All applications for rates remission under this Policy shall be considered and decided upon by the Chief Executive Officer (CEO), or to whoever the CEO delegates this responsibility

Any decision as to whether any land or part thereof meets, or continues to meet, the qualifying criteria shall be made by the CEO.

c. Six-year duration

Any remission of rates granted under this policy will generally apply for a six-year period.

In order to align with the Council's Long-Term Council Community Plan cycle all remissions will be reviewed in January 2012 and six-yearly after that review.

If the use of a property changes within the period the owners will notify the Council immediately and the remission status of the property will be reviewed.

Any changes of rates remission status will be effective from the date the property use changed.

d. Right of appeal to full council

If an applicant considers the decision of the CEO is not correct s/he may appeal to the full Council.

e. Public register

In order to facilitate transparency in relation to Māori Freehold Land Rates Remissions a public register will be held for all remissions granted. This register will detail for remissions made:

- property identification and location
- applicant/owner
- detailed reason why the remission was granted
- when the remission was first approved
- history of remissions for each year since approval

F. Chief Executive Officer can consider properties without application by owners

a. CEO-Generated Applications

If a property could qualify for a rates remission but the owners have not applied for the remission the CEO can consider the granting of a remission of rates under the criteria outlined in Section 4 of this Policy.

An example of the situation where this CEO-generated application could apply is where the presence of an unregistered urupa is publicly known but an application has not been made as owners are geographically dispersed.

G. Rate and penalty arrears write off

a. Intention to write-off rate arrears and penalties

For a number of landlocked properties considerable rate arrears have accrued over the past decade due to an inability of the property to sustain the rates assessed. Council intends to write off these arrears, on a case-by-case basis, once the CEO has approved a Māori land rate remission for individual properties.

b. CEO can recommend arrears write-off to Council

When considering a Māori land rate remission the CEO is to assess any rates and penalty arrears on the property. If these arrears have resulted from the inability of the property to sustain the rates the CEO is to recommend to Council that the arrears be written off.

H. Right to change

a. Council reserves the right to change criteria The Council reserves the right to add, delete, or alter, in any way, the above conditions and criteria from time to time.

When making such changes Council will follow its consultation policy and ensure affected parties are engaged in the change process.

I. Definition of Separately Used or Inhabited Dwelling Part of a Rating Unit

a. Under Schedule 10 Part 1 section 10 1 d (iii) (B) of the Local Government Act we are now required to state our definition of a Separately Used or Inhabited Dwelling Part of a Rating Unit:

"A separately used or inhabited dwelling part of a rating unit is only recognised as such if there is an individual property title for that part of the rating unit."

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