

7/03/2007

The Local Government  
Rates Inquiry

Pakirehua mo nga Reiti Kaunihera a Rohe

**Hei Whakapuaki i te Korero**  
**Background Paper for consultation on the impact of rates on Maori Land**

March 2007

Inquiry panel established by the Minister for Local Government  
David Shand (Chair).Christine Cheyne.Graeme Horsley

### **Greeting from the Inquiry Chair**

E nga Iwi o te motu, tena koutou. Tena koutou i nga mate tuatini kua mahue ake ra ki tua o te arai. Tena hoki tatou nga kano hi ora.

We, the members of the Local Government Rates Inquiry are pleased to be able to enter into direct discussion with the owners of Maori land and with their representatives. We look forward to meeting, exploring the issues and finding ways to make improvements.

Kia ora

David Shand

### **Introduction**

The Minister for Local Government has set up an independent inquiry into the funding of local government. The Local Government Rates Inquiry is being carried out by a panel of three: David Shand (Chair), Christine Cheyne and Graeme Horsley.

The objective of the Inquiry is:

*To consider issues relating to current local government rating, and to other revenue raising mechanisms, and to provide recommendations to the Government for enhancing rating and other funding mechanisms for local authorities.*

The Inquiry panel will thoroughly consider the issues. It will review existing information, undertake additional investigations, obtain informed advice and consult widely through submissions and meetings. In February the Inquiry panel released a paper providing background on all the issues that it will address. This paper is available through the Inquiry website [www.ratesinquiry.govt.nz](http://www.ratesinquiry.govt.nz) and may also be obtained by contacting the Rates Inquiry Office :

P O Box 10-916

The Terrace

Wellington

or by email to [info@ratesinquiry.govt.nz](mailto:info@ratesinquiry.govt.nz)

or by phoning the Rates Inquiry Office on 0800 728 373.

Copies of the February background paper will be available at the consultation meetings on Maori land.

A summary will be made of oral submissions made at the consultation meetings and written submissions are invited. Details of the submission process and consultation process are provided at the end of this paper

### **Rates apply to all land and fund the services provided by local authorities**

“In New Zealand, rates provide the major source of revenue for funding local government expenditure. Rates are basically a tax on real estate property”.<sup>1</sup>

With a few exceptions all land is subject to rates and owners of Maori freehold land, along with most other property owners in New Zealand, can expect to pay rates.

The basis for setting rates under the Local Government (Rating) Act 2002 (“the Act”) is set out in the February background paper.

### **Special attention on Maori land**

Our terms of reference require us to examine the impact of rates on land covered by the Te Ture Whenua Maori Act 1993. While the majority of that land is Maori freehold land and will no doubt also be the subject of most of the discussion there are important

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<sup>1</sup> “Background information for interested parties.” The Local Government Rates Inquiry, February 2007.

7/03/2007

categories of Maori customary land, marae and urupa reservations and General land owned by Maori that are also affected by targeted and general rates.

In addition, the Local Government Act 2002 has a number of specific references to Maori communities, their involvement in decision making and, relevant to our inquiry, requires local authorities to adopt a policy on remission and postponement of rates on Maori freehold land.

The imposition of rates on Maori freehold land has been a constant cause of debate for a very long time. It is fair to say that both the local authorities and the owners of Maori freehold land acknowledge the need to address the issues that keep coming back for reconsideration.

For many local authorities Maori freehold land is a problem category that dominates the accounts in arrears. For many owners of Maori freehold land rates are an impossible burden that cannot be carried or do not represent the value of the services provided. Recent spikes in land values are adding more tension to this area. This is especially the case in coastal or lakeside areas where there is a lot of Maori freehold land and value is driven by the demand for water view residential property,

We hope that submissions on the matter will help clarify the issues and identify solutions.

### **Maori freehold land characteristics**

According to Te Ture Whenua Maori Act 1993 Maori land is a prized inheritance of special significance to Maori people. That Act goes on to set out a comprehensive set of provisions for how Maori land is dealt with.

Among the owners of Maori freehold land, there is a generally recognised and strong desire to retain land. At the same time there is an equally strong desire to be able to occupy, use and develop land for the benefit of its current and future owners.

Historic legislative framework dynamics of population growth and economic changes over the years has produced a number of characteristics in relation to Maori land that may well be relevant to the present inquiry. For example:

- Maori freehold land is an area of 1.5million hectares (6% of New Zealand's land mass);
- the land is made up of 26,480 titles;
- the average size of titles is 59 hectares;
- the average number of owners per block is 73;
- an estimated 57% (15,278) of the titles are unsurveyed;
- only 29% (7,634) of the titles are under a management structure;
- up to 33% is land locked;
- an estimated 80% of Maori freehold land is in non-arable class of land use; and
- up to 33% of the owners recorded on titles are deceased and their interests have not been succeeded to.

**Rate arrears is a problem**

Although it appears that many owners of Maori freehold land pay their rates, in some areas Maori freehold land is disproportionately represented among those properties that have rate arrears. This has reached as much as 70% of the total rates arrears in districts which have a high Maori population and/or a large area of Maori freehold land. It is also common for the rates arrears on Maori freehold land to be largely comprised of penalties incurred as the result of non payment.

We have not been able to find reliable information on the actual situation in relation to arrears and Maori freehold land or the causes for the suggested amounts that are in arrears. However, the characteristics noted above may shed some light on the issue and help identify some solutions. A number of questions may be posed i.e.:

- is it possible that the very high proportion of out-of-date ownership records undermines the motivation of any group of owners to carry the rates burden without sufficient financial compensation?
- how do outdated ownership records relate to the imposition of rates upon occupiers?
- how relevant is the high number of titles that have no management structures to the ease or difficulty of setting arrangements for payment of rates?
- how much does the high proportion of lands without access affect rate collection?
- is the underlying economic output of the land a factor in rate payments?
- is there a view that the burden of rates outweighs the value of services provided by the local authority and does this provide a disincentive against staying current with payments?
- do rates represent a barrier to developing land e.g. owners do not want to raise a profile in case rate arrears on the land that had previously been a dormant matter becomes a live issue?

We do not yet have a view on any of these questions nor do we think that the list covers all the questions that can be asked. We look forward to receiving views and material that can assist us delve deeper and find workable answers.

### **Local authority policies and practice**

The Act anticipates that rate arrears might be an issue by specifically requiring local authorities to adopt a policy on postponement and remission of rates on Maori freehold land. The Local Government Act 2002 sets out a number of factors that must be taken into account when that policy is set. Those factors include a number of objectives including:

- supporting the use of the land by owners for traditional purposes;
- recognising and supporting the relationship of Maori with their ancestral lands;
- avoiding further alienation of the land;
- facilitating the development of the land for economic use;
- recognising and taking account of the presence of waahi tapu that may affect use;
- recognising the levels of community services provided by the land and its occupiers;
- recognising matters relating to the physical accessibility of land (i.e. 'land-locked' blocks).

Furthermore, the policy adopted must reflect the consideration of the impact on those objectives if rates are not remitted or postponed.

To ensure that rating policies are comprehensive and well understood, there is a requirement for consultation to be undertaken by local authorities during the development of rating policy.

It is already clear that there is a wide variation between the nature and extent of rates remission policies. Although we have already learned of some local authorities that

7/03/2007

proactively promote remissions as a way to encourage land development it has been brought to our attention that perhaps as few as 1% of those who come to local authorities seeking payment postponement or remission arrangements are Maori. There seems to be a general mistrust among Maori towards territorial local authorities perhaps based on occasions in living memory when local authorities took Maori freehold land for unpaid rates. There are also recent examples of enforcement through sale being sought despite the clear barriers set up in both the Local Government (Rating) Act 2002 and Te Ture Whenua Maori Act 1993.

Methods of addressing rates issues for Maori land include the specific provisions of the Local Government (Rating) Act (sections 116 & 117) that provide for the Governor General, on the recommendation of the Maori Land Court (and with the consent of the local authority), to order rate exemptions to be made under certain conditions, including the agreement of the local authority concerned. We are aware that some 1500 hectares in the Ruapehu District were gazetted in 1995 under the forerunner to this provision.

We would be most interested to receive information on the experience of people who are able to give us their views on these questions.

### **Rating valuations: do they accurately reflect the value of Maori freehold land?**

The correct value to apply to land that is not freely tradable is another issue that has a long history. Various commentators over the years have suggested that the assumption of willing buyer and willing seller in a free market exchange is not the proper basis for the valuation of Maori land for rating purposes.<sup>2</sup>

Ten years ago, and only four years after Te Ture Whenua Maori Act 1993 had been in force, the courts held that the restrictions on sale of Maori freehold should be taken into account when valuing Maori freehold land for the purposes of rating.<sup>3</sup> This was not an

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<sup>2</sup> E.g. Pita Rikys “*Valuation of Maori land for rating purposes: Time for a change?*” 1992 NZLJ 26

<sup>3</sup> Valuer-General v Mangatu Incorporation [1997] 3 NZLR 641

assumed general discount but a recognition that the clear philosophy of retention and use by the ownership group impacted on the tradability of Maori freehold.

These findings suggest that we should explore whether the basis for valuation of Maori land for rating purposes can be improved.

We would be most interested to hear views on where, how and to what extent the restrictions on sale are taken into account in the setting of rates and in the application of legislation that governs rating.

**Recovery of rates arrears: does it include sale of the land?**

The general rule and clear intention of the Local Government (Rating) Act 2002 and Te Ture Whenua Maori Act 1993 are that Maori freehold land cannot be sold to recover unpaid rates. Instead the legislation has identified a process, administered by the Maori Land Court that involves the issuing of a charging order for rates in arrears. If the rates remain unpaid an enforcement order may be granted under which a receiver or trustee will be appointed to ensure the rates are paid.

There are also some anomalies. For example, the barriers to sale of Maori freehold land do not apply to land that has had its status changed to general land without any input by its owners who still regard their holdings as Maori freehold land. Another exception to the protection from sale occurs when the land is transferred to the Official Assignee after owner(s) are bankrupted following which it can be sold subject to the same restrictions on potential buyers as applied to the former owners.

Sale of land for rates has been the cause of a great deal of the debate in this area. It appears that Parliament when passing the Te Ture Whenua Maori Act 1993 intended those sales to stop but clearly they have not.

We, the members of the Local Government Rates Inquiry, would be pleased to hear views on the breadth of the restrictions on sale and whether they are effective.

### **Local Government Rates Inquiry: Specific Questions**

The Inquiry has, as one of its specific terms of reference, an assessment of the impact on land covered by the Te Ture Whenua Maori Act 1993. Questions for which the Inquiry is seeking answers in relation to Maori freehold land include:

- What are the major issues involving the rating of land covered by the Te Ture Whenua Maori Act 1993 and how can these best be managed?
  - How does the situation of Maori freehold land equate to other land in the district?
  - What is the extent of the difference if any?
  - Are there any identifiable causes of any differences that occur?
- Is the existing basis of the valuation of Maori freehold land appropriate? If not, what alternative approaches could be considered?
  - What, if any discount is applied to the valuation under the current system?
  - How is the discount recognised?
  - How would alternatives be applied?
- Do policies aimed at improving the affordability of rates fully recognise affordability issues facing Maori freehold land owners?
  - Are the current provisions for postponement or remission adequate?
- Are there grounds for providing rates exemptions for categories of Maori freehold land other than those in Schedule 1 of the Local Government (Rating) Act 2002?

### **Consultation meetings**

Eleven meetings are planned for the Inquiry Panel to consult on the impact of rates on Maori land.

These are:

Thursday 8 March in Napier  
Monday 12 March in Nelson  
Thursday 22 March in Christchurch  
Thursday 12 April in Wanganui  
Monday 16 April in Rotorua  
Tuesday 17 April in Gisborne  
Wednesday 18 April in Auckland  
Thursday 19 April in Whangarei  
Monday 7 May in Wellington  
Monday 14 May in Invercargill  
Thursday 17 May in Hamilton

All meetings will start at 5.30 pm. Details of the location of the meetings will be available from the local office of Te Puni Kokiri and will also be posted on the Rates Inquiry website: [www.ratesinquiry.govt.nz](http://www.ratesinquiry.govt.nz) .

### **Written submissions**

Submissions close on Monday 30 April 2007, provision will be made for receipt of late submissions from those attending meetings in the latter part of April and early May.

Submissions should be sent by mail to:

Rates Inquiry  
P O Box 10-916  
The Terrace  
WELLINGTON 6143

Or, by email to [submissions@ratesinquiry.govt.nz](mailto:submissions@ratesinquiry.govt.nz)

Six (6) hard copies are required for all submissions over 10 pages in length. One (1)

electronic copy on CD or DVD in Microsoft Word or PDF file is also required for submissions over 10 pages in length.

All submissions will be placed on the Inquiry website: [www.ratesinquiry.govt.nz](http://www.ratesinquiry.govt.nz)

Respondents should note that written submissions or comments provided to the Rates Inquiry will be subject to the Official Information Act (OIA) 1982. The OIA requires the information to be made available unless there is good reason, pursuant to the Act, to withhold the information, and that good reason outweighs the public interest in making the information available.

If you want information that you provide to be treated as confidential, please clearly identify the material and explain to us why you believe the information should be withheld under the provisions of the OIA

Submissions to the Inquiry should be in the format set out below.

### **Format and Content of Submissions**

Please clearly indicate that you are making a submission to the Inquiry into Local Government Rates and include the following information in your submissions:

#### **1. Organisation or individual details**

Please state whether you are responding as an individual or representing the views of an organisation.

#### **2. Submissions on behalf of organisations**

Include organisation contact name and phone number.