

## 11. MAORI FREEHOLD LAND RATE ARREARS

<b>General Manager responsible:</b>	General Manager Corporate Services, DDI 941-8540
<b>Officer responsible:</b>	Corporate Services Manager
<b>Author:</b>	Fran Maguire, Team Leader Rates and Debt Management

### PURPOSE OF REPORT

1. The purpose of this report is to seek the Council's approval to write-off \$219,903.62 of rates on Maori freehold land and to develop a strategy to reduce the level of Maori freehold land rates debt in future years.

### EXECUTIVE SUMMARY

2. There are 41 Maori Freehold Land properties within the Banks Peninsula area with rate arrears outstanding for the period from 1 July 1999 to 30 June 2006. Although this land is liable for rates in the same manner as if it were general land, recovery of rates on the land is unlikely.
3. The Local Government (Rating) Act 2002 has special provisions relating to the recovery of rates on Maori Freehold Land. The Council may apply to the Maori Land Court for a charging order in respect of unpaid rates. However these charging orders are ineffective where there is no income derived from the land.
4. The Council portion of the Maori land rate arrears is \$190,214.64, with the balance of \$29,688.98 being Canterbury Regional Council rates. Traditionally these rates have been written-off when they reach seven years overdue, as the time limit for applying for a charging order is at six years overdue. As these rates have all been identified as uncollectible, all arrears of rates as at 1 July 2006 are recommended for write-off. This is in line with Audit recommendations that irrecoverable debt should be written off.
5. Further investigation needs to be undertaken to determine whether there is potential in the future to recover the rates on this land. This could be achieved by applying for charging orders or by consultation with the owners of the land and the Maori Land Court to develop plans to enable the land to generate an income. Significant research on each property is required to ascertain the complexity of the ownership structure, the potential of the property to generate income and the feasibility of appointing trustees or management structures.
6. This will involve input from Council staff, the Maori Land Court and the owners of the properties and would form the basis of a strategy to reduce the level of debt owed on Maori freehold land in the future.
7. Many of the properties may be eligible for a rates remission under the Council's Maori Land Rating policy, and staff are contacting the owners recommending that they apply for a remission if they meet the criteria. The same criteria that may apply for a remission has also been used in determining that these rates are irrecoverable ie most of the properties are in multiple ownership, the land is unimproved and unoccupied, and the owners do not have the means to make economic use of the land.

### FINANCIAL IMPLICATIONS

8. There is a provision on the balance sheet for the Maori Land debt that recognises this debt is irrecoverable. This provision will be used to offset the debt.

### Do the Recommendations of this Report Align with 2006-16 LTCCP budgets?

9. Covered by bad debt provision.

## **LEGAL CONSIDERATIONS**

10. The properties will be referred to the Legal Services Unit to determine whether the Council should apply to the Maori Land Court for a charging order. Should Legal Services recommend that charging orders are a viable option for the recovery of rates on any of the properties, the rate debt will be reinstated and an application made to the Maori Land Court.

### **Have you considered the legal implications of the issue under consideration?**

11. Refer to paragraph 6 above.

## **ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS**

12. This recommendation aligns with the Maori Land Remission Policy within the LTCCP. This is only relevant on Maori land where rates are payable and deemed collectable, but meet the provisions of the policy to be remitted.

### **Do the recommendations of this report support a level of service or project in the 2006-16 LTCCP?**

13. Not applicable.

## **ALIGNMENT WITH STRATEGIES**

14. Not applicable.

### **Do the recommendations of this report support a level of service or project in the 2006-16 LTCCP?**

15. Not applicable.

## **CONSULTATION FULFILMENT**

16. Not applicable.

## **STAFF RECOMMENDATION**

It is recommended:

- (a) That the Council approve the write-off of Maori Land rates for the 41 properties totalling \$219,903.62.
- (b) That officers report back to the Council on a strategy to reduce the level of Maori freehold land rates debt in June 2008.

## BACKGROUND (THE ISSUES)

17. Maori Freehold Land is defined under the Te Ture Whenua Maori Act 1993. This act is to facilitate and promote the retention, use, development and control of Maori land as taonga tuku iho by Maori owners, their whanau, their hapu, and their descendants.
18. The act defines Maori freehold land as *“Land, the beneficial ownership of which has been determined by the Maori Land Court by freehold order, to have the status of Maori freehold land”*. In contrast, land that is held by Maori in accordance with tikanga Maori is defined as Maori customary land and is non-rateable.
19. The Maori Land Court has the primary objective of promoting and assisting in the retention of Maori land in the hands of the owners, and the effective use, management and development of Maori land.
20. Maori freehold land differs from general land in that it must stay in Maori ownership unless a change of status is granted by the Maori Land Court. There are also special provisions in the Local Government (Rating) Act 2002 that specify what recovery action can be taken for unpaid rates on this land.
21. The bulk of the Maori freehold land contained within the city is in the Banks Peninsula Ward (there is only one Maori freehold land property within the old city boundaries).
22. In many cases, the rates on the land are paid in full by the owners. There are currently 41 properties where there are significant rate arrears owing. These properties are owned by multiple owners, and in some cases, the owner is listed as a deceased estate (pending a succession order from the Maori Land Court). The amount of the rates liability is increasing significantly each year, owing to penalty charges of 10% in the first year and 20% compounding annually each following year.
23. The Council could apply to the Maori land court for a charging order. Charging orders can be difficult to obtain where the land is in multiple ownership or is unoccupied and unimproved. In some cases, the ownership records include multiple owners that are unable to be traced, or deceased owners for which there are no succession applications.
24. A charging order can be enforced by the court by appointing a receiver or trustees under provisions of the Te Ture Whenua Maori Act 1993. However it must take into consideration whether the land is capable of producing an income that would enable payment of rates in the future; and, hear evidence and submissions put forward by owners.
25. The Council has a remission and postponement policy for rates on Maori freehold land that recognises the special nature of this land. This policy states:  
  
*“The city contains a number of Multiple Owned Maori Freehold Land properties which are unoccupied and unimproved. In some cases these are creating a significant rating burden on the Maori owners who often do not have the means nor, in some cases, the desire to make economic use of the land. Often this is because of the nature of the ownership or because the land has some special significance which would make it undesirable to develop or reside on, or is isolated and marginal in quality. In addition, it is recognised that significant rate arrears can act as a disincentive to any new occupation of the Multiple Owned Maori Freehold Land, where a new occupier could become responsible for the payment of any arrears of rates on the land.”*
26. The Council has recognised that the nature of this Maori land is different to General Land and has therefore formulated this policy to deal with some of the issues that this raises.
27. The Council has recognised that certain Maori-owned lands have particular conditions, ownership structures or other circumstances which make it appropriate to remit or postpone rates for defined periods of time.

28. The Council and the community benefit through the improved collection of rates that are collectable and the removal from the rating debt of that debt which is considered non collectable.
29. The Council is required to consider every application for remission and/or postponement of rates on Maori Owned Land pursuant to Section 114 of the Local Government (Rating) Act 2002 and will then consider the most appropriate tool if any, including either remission or postponement, to assist in making ownership and occupancy of the land feasible.
30. Staff are contacting the owners of the land and working with the Maori Land Court, with the aim of promoting the policy where appropriate.
31. Unpaid rates on Maori freehold land is an issue that many other Councils are currently dealing with and a number of submissions have been made to the Local Government Rating Commission regarding this.

#### **THE OBJECTIVES**

32. The objectives are:
  - To ensure that the Council's ledger correctly records the rate debt liability that is collectable; and
  - To develop a strategy that will increase the level of rates paid on Maori freehold land.