

## **Tax Working Group Public Submissions Information Release**

### **Release Document**

**February 2019**

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In preparing this Information Release, the Treasury has considered the public interest considerations in section 9(1) of the Official Information Act.

## **Submission to Tax Working Group Interim Report**

### **From Huia Private Reserve Ltd**

Huia Private Reserve Ltd (HPR) is a family owned company incorporated in 1939 for the purposes of holding in open space, land at Little Huia, Auckland that has a strong connection with the Turner family, as shown in the following extract from the constitution. Edward and Maude Turner first settled at Little Huia in the 1890s after emigrating from England in 1885.

#### **1. PURPOSE OF INCORPORATION**

1.1 The objects and purposes of the Company are:

- (i) To enable descendants of Edward and Maude Turner to share collectively in the ownership of 10.3539 hectares of land at Little Huia (being Lot 2 DP157892, Lots 1 & 2 DP152586 and Part Lot 2 DP29251); and
- (ii) To keep that land as one holding and preserve it as 'open space' for environmental and sentimental reasons.

#### **EXPLANATION:**

That land is part of a block purchased by Edward Turner in 1889. The principal landscape feature within it is Jacky's Peak which since 1889 has been owned successively by Edward Turner, Maude Turner, their sons Ebenezer and Arundel Turner and this Company. Jacky's Peak is covered in regenerating native bush and it is intended to keep it in that state. It is not the object of this Company to produce a financial return to its shareholders. The return to them is in the contribution the land makes to the quality of the environment and in the freedom that all descendants of Edward and Maude Turner have to enjoy the land for recreational purposes.

The constitution also requires that shareholders must be descendants of the Edward and Maude Turner and there are now 115 family shareholders. The land is predominantly covered in native bush with some small paddocks that are grazed by adjacent landowners. The paddocks are not an economic farming unit and generate net costs not net revenue.

The land is adjacent to and within the Auckland Waitakere Ranges Regional Park. Over the past 50 years, family members have gifted additional adjacent parcels to the regional park. Auckland Council, under the aegis of the Waitakere Ranges Heritage Area Act, has placed multiple zoning restrictions on the HPR property which essentially prohibits any alternative uses of the property which might generate revenue. Restrictions are so severe that even replacing a fence requires resource consent. The land is part of a heritage landscape protected by the Waitakere Ranges Heritage Area Act.

By retaining the land in private ownership, Auckland residents benefit from the rates that are paid, avoiding public costs of maintenance and realize ecological and visual benefits from the land being kept in native bush and open space at no cost to them. Should the land become publicly owned, significant capital improvements would be required before it could be open for public use. Council would have to assume maintenance and improvement costs with no revenues from the land to cover them.

HPR does not have any significant revenue source and currently its primary source of revenue is interest on bank deposits. The company does not pay dividends. What little revenue HPR has is used to cover Auckland Council rates, secretarial, legal and financial compliance expenses and a modest amount of maintenance on the land. The majority of maintenance work and upkeep of the bush such as pest and weed control is done voluntarily by family members. In fact, HPR has

such little cash resources that directors are presently considering making a share issue to raise funds from shareholders to cover the cost of removing some dangerous pine trees on the land.

Some of the proposals contained in the Tax Working Group's Interim Report 20 September 2018 would have such a serious impact on HPR that the company could no longer survive. This would be unacceptable from both a family and a public perspective given that the main purpose of HPR is to protect Jacky's Peak, a significant Auckland landmark at Huia on the Manukau Harbour, and its surrounding native bush and paddocks as open space.

The following are HPR's views on relevant clauses in the interim report.

### **Huia Private Reserve Ltd Comments on the TWG Interim Report**

HPR would argue that there be no tax on asset gains for companies and properties such as ours, that are proven and responsible long-term property reserve holders, whose stated objectives, confirmed by their track record, are to retain the reserve in its current state, care for it and to not produce a financial return for its shareholders. The purpose of HPR is to hold the land indefinitely for environmental and sentimental reasons, not for gain in monetary value, and indeed Council zoning restricts HPR from any such monetary gain.

Page 6 of the TWG Executive Summary includes the following statement:

"The Group is currently considering two main options: an extension of the existing tax net (through the taxation of gains on assets that are not already taxed); and the taxation of deemed returns from certain assets (known as the risk-free rate of return method of taxation). The Group is not recommending a wealth tax or a land tax."

Page 30 Para 2 states:

"The Group is considering two main options for extending the taxation of capital income. These are taxing realised gains not already taxed from specific assets and taxing certain assets on a deemed return basis (a risk-free rate of return method, as an example). After consideration, the Group is not recommending either a general wealth tax or a land tax for the reasons given at the end of this chapter."

Page 154 Para 94 states:

The Group proposes that gains on all land other than the family home be included in the tax base. This raises an issue as to the deductibility of expenses incurred in relation to such land where it is not used for revenue-producing purposes

HPR strongly opposes application of a wealth tax or land tax. HPR also strongly opposes any taxation on deemed returns of company assets (the risk-free rate of return method). In all these cases HPR would have no ability to pay such taxes and our company would not be able to continue. The land owned by HPR is not used for revenue-producing purposes, but purely is being kept indefinitely as a natural reserve, as it has been for almost 130 years.

If capital income is to be taxed, then the only workable option for HPR could be a tax on realised gains.

Page 156 Para 109 states:

As noted, a valuation day approach does mean there is a need to value all assets that are to be subject to the new rules as at a given day. This will impose a significant cost on many taxpayers for certain asset types. For listed shares and other market traded assets this should be relatively

straightforward in most cases, but it will impose compliance costs, and may be unreliable, for other assets

The introduction of asset taxation on a realisation basis would possibly still require HPR to value the land at the date of implementation of the new tax regime to fulfil any possible future tax obligations. This would be an additional cost to HPR for which we have no revenues. Being land held as a natural reserve, the HPR land would be difficult to value. The value of the land is presently recorded in the company's accounts at the rateable value. HPR would propose that the initial value be based on a low-cost option such as the Auckland Council rateable value or a value indexed to the rateable value.

Page 148 Para 63 states:

Alternatively, excessive deferral through trusts could be avoided if a family trust were deemed to sell its assets on a more periodic basis, e.g. every 20 years (possibly with some roll-over relief if appropriate). The Group understands Canada has a provision of this kind.

Whilst this paragraph refers to trusts, it raises the possibility that a time limit could be placed on deferral of tax on gains in asset value. HPR's constitution requires that it hold the land over a long and indefinite time with no intention of sale. As stated previously, HPR has no income from which to pay any form of asset tax within any time frame unless the land is actually sold, which would be contrary to HPR's constitution and the public good. HPR submits that should this mechanism be employed, there should be no deemed time limit on holding assets before incurring tax on the increasing value.

HPR believes other privately held land in the Waitakere Ranges Heritage Area (and which is similarly restricted from economic use) and conservation land across New Zealand could be similarly affected. Has the Tax Working Group analyzed the effect of these proposed additional taxes on conservation land held privately or by charitable trusts? HPR submits that for the net overall benefit for New Zealanders and our environment, the effect of any tax proposals on such properties and their benefit to New Zealand's environment overall, should be fully analyzed and no additional taxation should be applied to any of our properties.

**END of Submission**