

# Departmental Disclosure Statement

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Local Government (Rating of Whenua Māori) Amendment Bill
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The departmental disclosure statement for a government Bill seeks to bring together in one place a range of information to support and enhance the Parliamentary and public scrutiny of that Bill.

It identifies:

- the general policy intent of the Bill and other background policy material;
- some of the key quality assurance products and processes used to develop and test the content of the Bill;
- the presence of certain significant powers or features in the Bill that might be of particular Parliamentary or public interest and warrant an explanation.

This disclosure statement was prepared by the Department of Internal Affairs.

The Department of Internal Affairs certifies that, to the best of its knowledge and understanding, the information provided is complete and accurate at the date of finalisation below.

12 February 2020.

## Contents

Contents.....	2
Part One: General Policy Statement.....	3
Part Two: Background Material and Policy Information .....	4
Part Three: Testing of Legislative Content.....	6
Part Four: Significant Legislative Features .....	8

## Part One: General Policy Statement

The Local Government (Rating of Whenua Māori) Amendment Bill (the **Bill**) is intended to—

- support the development of, and provision of housing on, Māori land; and
- modernise rating legislation affecting Māori land.

Current rating legislation have long been recognised as an impediment to owners engaging with a developing Maori land. In particular, the accumulation of rates creates a cycle where lack of development inhibits the ability of owners to pay rates, and existing rates arrears inhibit owners from engaging with local authorities to promote development of their land. Current rating legislation also prevent owners of homes on Māori land accessing rates rebates where there is more than one home on the property, or where there are multiple land uses on the property.

Much of the current rating legislation for Māori land is largely unchanged from the Māori Land Rating Act 1924. It is no longer consistent with present day expectations about Māori Crown relationships.

This Bill provides:

- local authorities with the power write off rate arrears on any land where they cannot be recovered, or in the case of Māori land, a person has effectively inherited rate arrears from a deceased owner;
- for Māori land rating units that are entirely unused and Māori land protected by a Ngā Whenua Rāhui kawenata to be non-rateable;
- provide a statutory remission process to promote rates remissions for land under development;
- that the ratepayer for multiple Māori land rating units may apply to have them treated as one for the purposes of calculating rates, if they are used as one economic unit, which will reduce uniform charges and lower the overall rates charged; and
- for multiple homes on a Māori land rating unit to have separate rate accounts if the owner requests, which will enable to owners to access rates rebates.

This Bill modernises rating legislation by:

- removing arbitrary two hectare land area restrictions from rates exemptions for marae and urupā;
- providing protection to Māori land made general land by amendments to the Māori Affairs Act in 1967 from the abandoned land and rating sale provisions of the Rating Act;
- clarifying the current exemption for marae, meeting places and meeting houses;
- clarifying the obligations on trustees not liable to pay rates for lack of income derived from land held in trust; and
- including purpose statements in the provisions of the Rating Act and the Local Government Act 2002 (LGA02) relating to Māori land rating requiring the principles set out in the Preamble to the Te Ture Whenua Māori Act 1993 to be appropriately considered in local authority rating decisions.

## Part Two: Background Material and Policy Information

### Published reviews or evaluations

<b>2.1. Are there any publicly available inquiry, review or evaluation reports that have informed, or are relevant to, the policy to be given effect by this Bill?</b>	YES
<i>"Funding Local Government: Report of the Local Government Rates Inquiry", Local Government Rates Inquiry Panel, August 2007, accessible at <a href="https://ndhadeliver.natlib.govt.nz/ArcAggregator/arcView/frameView/IE12126512/http://www.dia.govt.nz/Agency-Independent-Inquiry-into-Local-Government-Rates-Index">https://ndhadeliver.natlib.govt.nz/ArcAggregator/arcView/frameView/IE12126512/http://www.dia.govt.nz/Agency-Independent-Inquiry-into-Local-Government-Rates-Index</a></i>	

### Relevant international treaties

<b>2.2. Does this Bill seek to give effect to New Zealand action in relation to an international treaty?</b>	NO
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### Regulatory impact analysis

<b>2.3. Were any regulatory impact statements provided to inform the policy decisions that led to this Bill?</b>	YES
<i>"Whānau development through whenua – rating matters", Department of Internal Affairs, 1 October 2019 – <a href="https://www.dia.govt.nz/diawebsite.nsf/wpg_URL/Resource-material-Regulatory-Impact-Statements-Index?OpenDocument#five">https://www.dia.govt.nz/diawebsite.nsf/wpg_URL/Resource-material-Regulatory-Impact-Statements-Index?OpenDocument#five</a></i>  <i><a href="http://www.treasury.govt.nz/publications/guidance/regulatory/disclosurestatements/10.htm">http://www.treasury.govt.nz/publications/guidance/regulatory/disclosurestatements/10.htm</a></i>	

<b>2.3.1. If so, did the RIA Team in the Treasury provide an independent opinion on the quality of any of these regulatory impact statements?</b>	NO
<i>No independent opinion was given because the RIS did not meet the threshold for RIA Team assessment.</i>	

<b>2.3.2. Are there aspects of the policy to be given effect by this Bill that were not addressed by, or that now vary materially from, the policy options analysed in these regulatory impact statements?</b>	NO
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### Extent of impact analysis available

<b>2.4. Has further impact analysis become available for any aspects of the policy to be given effect by this Bill?</b>	NO
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<b>2.5. For the policy to be given effect by this Bill, is there analysis available on:</b>	
<b>(a) the size of the potential costs and benefits?</b>	NO
<b>(b) the potential for any group of persons to suffer a substantial unavoidable loss of income or wealth?</b>	NO

<b>2.6. For the policy to be given effect by this Bill, are the potential costs or benefits likely to be impacted by:</b>	
<b>(a) the level of effective compliance or non-compliance with applicable obligations or standards?</b>	NO
<b>(b) the nature and level of regulator effort put into encouraging or securing compliance?</b>	NO

## Part Three: Testing of Legislative Content

### Consistency with New Zealand's international obligations

**3.1. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with New Zealand's international obligations?**

*The Bill deals only with domestic matters.*

### Consistency with the government's Treaty of Waitangi obligations

**3.2. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with the principles of the Treaty of Waitangi?**

*The policy has been reviewed against findings from the Treaty of Waitangi Tribunal on local authority rates and Māori land.*

### Consistency with the New Zealand Bill of Rights Act 1990

**3.3. Has advice been provided to the Attorney-General on whether any provisions of this Bill appear to limit any of the rights and freedoms affirmed in the New Zealand Bill of Rights Act 1990?**

YES

*The advice provided to the Attorney-General by the Ministry of Justice, or a section 7 report by the Attorney-General, is generally expected to be available on the Ministry of Justice website upon introduction of a Bill and such advice, or reports, will be accessible on the Ministry website at <http://www.justice.govt.nz/policy/constitutional-law-and-human-rights/human-rights/bill-of-rights>.*

### Offences, penalties and court jurisdictions

**3.4. Does this Bill create, amend, or remove:**

**(a) offences or penalties (including infringement offences or penalties and civil pecuniary penalty regimes)?**

NO

**(b) the jurisdiction of a court or tribunal (including rights to judicial review or rights of appeal)?**

YES

*Clauses 35 to 37 make minor amendments to the jurisdiction of the District Court and the High Court in relation to enforcement action for former Māori land declared general land under the authority of the Māori Affairs Amendment Act 1967.*

*Clause 55 provides the Registrar of the Māori Land Court with jurisdiction to determine whether two or more rating units once formed part of the same block of Māori freehold land.*

**3.4.1. Was the Ministry of Justice consulted about these provisions?**

YES

*The Ministry of Justice was consulted in both the policy formulation and the legislative design stage of the proposals. Its feedback is reflected in the final design.*

### Privacy issues

**3.5. Does this Bill create, amend or remove any provisions relating to the collection, storage, access to, correction of, use or disclosure of personal information?**

NO

## External consultation

<b>3.6. Has there been any external consultation on the policy to be given effect by this Bill, or on a draft of this Bill?</b>	<b>YES</b>
<i>The Department ran a forum for rating officers from local authorities with significant Māori land to understand their perspectives on the issues, and consulted both Local Government New Zealand and the Society of Local Government Managers on the draft Cabinet paper for the Bill. The Department took into account feedback from Māori both to the Shand Inquiry in 2007 and to the previous Government's Te Ture Whenua Māori Bill which addressed many issues relating to rating Māori land.</i>	

## Other testing of proposals

<b>3.7. Have the policy details to be given effect by this Bill been otherwise tested or assessed in any way to ensure the Bill's provisions are workable and complete?</b>	<b>NO</b>
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## Part Four: Significant Legislative Features

### Compulsory acquisition of private property

4.1. Does this Bill contain any provisions that could result in the compulsory acquisition of private property?	NO
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### Charges in the nature of a tax

4.2. Does this Bill create or amend a power to impose a fee, levy or charge in the nature of a tax?	YES
<i>Rates are a tax. The whole Bill deals with taxing Māori land.</i>	

### Retrospective effect

4.3. Does this Bill affect rights, freedoms, or impose obligations, retrospectively?	NO
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### Strict liability or reversal of the usual burden of proof for offences

4.4. Does this Bill:	
(a) create or amend a strict or absolute liability offence?	NO
(b) reverse or modify the usual burden of proof for an offence or a civil pecuniary penalty proceeding?	NO

### Civil or criminal immunity

4.5. Does this Bill create or amend a civil or criminal immunity for any person?	NO
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### Significant decision-making powers

4.6. Does this Bill create or amend a decision-making power to make a determination about a person's rights, obligations, or interests protected or recognised by law, and that could have a significant impact on those rights, obligations, or interests?	NO
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### Powers to make delegated legislation

4.7. Does this Bill create or amend a power to make delegated legislation that could amend an Act, define the meaning of a term in an Act, or grant an exemption from an Act or delegated legislation?	NO
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4.8. Does this Bill create or amend any other powers to make delegated legislation?	NO
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### Any other unusual provisions or features

4.9. Does this Bill contain any provisions (other than those noted above) that are unusual or call for special comment?	NO
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