Coversheet: Whānau development through whenua – rating matters

Advising agencies	Department of Internal Affairs, Te Puni Kōkiri
Decision sought	Approval to prepare a Bill to address matters relating to rating Māori land
Proposing Ministers	Minister of Local Government, Minita Whanaketanga Māori

Summary: Problem and Proposed Approach

Problem Definition: What problem or opportunity does this proposal seek to address? Why is Government intervention required?

Current rating legislation is dated and does not support Māori land development as well as it could. The proposals seek to facilitate the development of Māori land and to modernise rating legislation. Facilitating the development of Māori land will contribute to the Government's goals to build a productive, sustainable and inclusive economy.

Proposed Approach: How will Government intervention work to bring about the desired change? How is this the best option?

The proposals will help owners of Māori land engage with their land and realise development potential that is currently not being realised. The proposals work in conjunction with other proposals to update the Te Ture Whenua Māori Act 1993 and to support owners of Māori land to develop it.

Section B: Summary Impacts: Benefits and costs

Who are the main expected beneficiaries and what is the nature of the expected benefit?

The main beneficiaries will be present and future owners of Māori land. Encouraging the development of Māori land also strengthens local authority rating bases and communities in rural and provincial locations. In the long term, local authorities should benefit from simpler administration of rates on Māori land.

Where do the costs fall?

The costs are not great, but in the short term they fall on local authorities. There is also a small fiscal impact for central government through making the rates rebate scheme more accessible to homes on Māori land.

What are the likely risks and unintended impacts, how significant are they and how will they be minimised or mitigated?

The risks of unintended impacts are low. The main mechanism to minimise and mitigate them is through education of both local authorities and owners of Māori land.

Identify any significant incompatibility with the Government's 'Expectations for the design of regulatory systems.'

The proposals are compatible with the Government's 'Expectations for the design of regulatory systems.'

Section C: Evidence certainty and quality assurance

Agency rating of evidence certainty?

The evidence base for what land is Māori land is good, but evidence for what the land is used for is variable and scattered. Evidence about how local authorities rate this land and the amount of rates paid or unpaid is limited as there is no centralised system for collecting this data.

Quality Assurance Review Agency

Department of Internal Affairs

Quality Assurance Assessment

Meets.

Reviewer Comments and Recommendations

The RIA acknowledges time constraints around effective consultation, which meant that previous engagement with Māori landowners needed to be relied on. The RIA notes that limited recent consultation with local authorities on proposals has led to some assumptions around the cost assessments of some options. However, there is general support from local government sector representatives for the proposals. The proposed monitoring and evaluation of implementation of the proposals is very light touch, and the Panel recommends that the Department looks for opportunities to work with Te Puni Kōkiri (possibly as part of the Whenua Māori Programme) to understand the effectiveness of the changes once implemented.

Contents

Glossary

Term	Meaning
The Department	The Department of Internal Affairs
LGA02	Local Government Act 2002
Rating Act	Local Government (Rating) Act 2002
Rating unit	Property unit that gets charged rates (Defined by section 5A, 5B and 5C Rating Valuations Act 1998)
Ngā whenua rāhui kawenata	Conservation covenants made under section 77A Reserves Act or 29A Conservation Act
Landlocked land	Land with no legal road access
TTWM Act	Te Ture Whenua Māori Act 1993
Māori land	Land subject to TTWM Act, which includes Māori freehold land and Māori customary land
Shand Inquiry	Independent Inquiry into Local Government Rates 2007
TTWM Amendment Bill	Previous Government's amendment Bill to Te Ture Whenua Māori Act 1993
Rates Rebate Scheme	The Rates Rebate Scheme provides a rebate of rates to eligible ratepayers to assist low-income households. It is administered by local authorities, who are then refunded by central government.
Amendment Act	Māori Affairs Amendment Act 1967

Impact Statement: Whānau development through whenua – rating matters

Section 1: General information

Purpose

1. *The Department of Internal Affairs* is solely responsible for the analysis and advice set out in this Regulatory Impact Assessment, except as otherwise explicitly indicated. This analysis and advice has been produced for the purpose of informing final policy decisions to be taken by Cabinet.

Key Limitations or Constraints on Analysis

2. The rating outcomes for Māori land result from a complex interaction of five pieces of legislation. Three – the LGA02, the Rating Act and the Rates Rebate Act 1973 - are administered by the Department, one – the Rating Valuations Act 1998 – is administered by Land Information New Zealand, and one – TTWM Act– is administered by Te Puni Kōkiri.

3. The scope of this work is limited to legislation administered by the Department. Therefore, it does not address perceived issues with the operation of the rating valuation system. Nor does it deal with features of the rating system that are applicable to all land but may impact particularly on Māori land. The Productivity Commission is conducting an inquiry into local government funding and financing, with its final report due for release on 30 November 2019. Further work may follow from that report on issues of that nature.

4. A ministerial decision was also made to limit the scope of this work to matters that could be considered in time for legislation to be passed in this term of government. Given the complexity of matters relating to Māori land rating, a more comprehensive review would have required a much longer timeframe to carry out.

5. While the availability of data on Māori land has improved, there are still significant limitations on data availability. Local authority rates records are decentralised among the relevant local authorities, rather than forming one national database, and different local authorities adopt different practices in respect of the data that is available for searching on their websites. Much of this data is published in a way to allow information about individual sites to be readily identified, but not in a manner that supports mass analysis. Data on current land use is particularly difficult to locate. This means that while, for analytical purposes, the Department has been able to produce illustrative examples of many of the problems known to exist with rating Māori land, determining the magnitude of particular problems can be difficult.

6. Available timeframes also limited consultation. However:

- the Shand Inquiry[1] conducted 11 hui in locations ranging from Whangarei to Invercargill and received 56 submissions on rating and valuation of Māori land between February and May 2007;
- Te Puni Kōkiri conducted 11 regional workshops with Māori landowners on rating and valuation issues in locations ranging from Whangarei to Christchurch between April and May 2008; and
- submissions and prior consultation on the previous Government's TTWM Amendment Bill also resulted in submissions about Māori land rating.

7. The Department considers this material is still valid and relevant, as the institutional and regulatory settings applying to Māori land have not appreciably changed since 2007. The Department has drawn on this material in considering its advice.

8. The Department ran one workshop with local authority rating officers (focussing on those with significant Māori land in their districts) to get practical advice from those administering the current legislation on a day to day basis. Participants came from 13 territorial authorities, which between them included almost every district where Māori land is a significant proportion of land in the district. All the proposals considered in this Regulatory Impact Assessment were discussed with the participants. There was widespread support among participants for the proposals.

9. The Department has provided a draft copy of these proposals to Local Government New Zealand and the Society of Local Government Managers. Both bodies have indicated support for the proposals.

Responsible Manager (Signature and Date):

Andrew Henderson

Acting General Manager

Policy Group

Department of Internal Affairs

[1] "Funding Local Government", Report of the Local Government Rates Inquiry, August 2007.

Section 2: Problem definition and objectives

2.1 What is the context within which action is proposed?

10. Rates are the primary source of taxation income for local authorities. Māori land, subject to some limited exemptions, is subject to rates. Where Māori land is developed and in use, usually rates are paid. However, where the land is unused, rates are much less likely to be paid, resulting in large rates arrears building up on some properties.

11. Māori land is governed by the TTWM Act. The TTWM Act places significant statutory restrictions on the ability of the owners of Māori land to deal with their land. They may not sell the land or interests in the land without the confirmation of the Māori Land Court (the Court). The TTWM Act requires the Court to give primacy to the retention of Māori land in the hands of the owners. It is very difficult for the Court to approve a sale of any interest in the land outside the preferred classes of alienee. Preferred alienees are descendants of previous owners and other members of the hapū associated with the land. The restrictions on alienation also make it difficult to mortgage Māori land to provide development capital.

12. Māori land is approximately five per cent (about 1.4 million hectares) of the New Zealand land area and is predominately concentrated in the mid to upper North Island. Māori land is commonly held by multiple owners (some have more than 1,000 owners). There are about 2.7 million interests in 27,212 Māori land blocks. The average Māori land block is 52 hectares in area with 100 owners. Multiple ownership creates additional costs and challenges in achieving consensus for action.

13. Māori land tends to be more isolated, in smaller holdings and, less ‘useable’ than general land: for example, 80 per cent of Māori land is classified as being of lower quality and only 17 per cent of Māori land is considered suitable for arable use. Up to 20 per cent of land is considered landlocked, and about 16,000 (60 per cent) Māori land titles are smaller than five hectares, with approximately 11,000 (40 per cent) being smaller than one hectare. Around a third of the total indigenous vegetation on private land is on Māori land, with approximately 25 per cent of Māori land having indigenous forest cover.

14. Notwithstanding, there are significant pockets of Māori land in urban communities such as Tauranga, Rotorua and Taupō and in secondary urban communities such as Kawhia and Paihia.

15. Ngā Whenua Rāhui kawenata (made under section 77A Reserves Act 1977 and section 29A Conservation Act 1987) apply long term conservation protection to Māori land and are reviewed at least every 25 years. The purpose of the kawenata is to support the protection of indigenous biodiversity on Māori owned land.

16. Currently there are just over 200 kawenata applying to 175,000 hectares of land. This amounts to about 13 per cent of all Māori land. The average size of a Ngā Whenua Rāhui kawenata is approximately 845 hectares. In many cases the kawenata only covers a portion of the land block.

17. It has been identified, through detailed whenua block by block analysis, that there is an opportunity to improve the performance of Māori land resulting in estimated benefits of $1.407 billion (present value (PV) $387 million) - $2.064 billion (PV $650 million) over 40 years, increasing the livelihoods and wellbeing derived from this land.[2]

18. The law relating to rating Māori land has always been controversial with Māori.[3] Part 4 of the Rating Act has separate provisions for Māori land rating. The current rating law has its origins in the Māori Land Rating Act 1924.[4] The most significant change since that time was in 1988, when the sale of Māori land for unpaid rates was prohibited.

19. Local authorities are required to have a policy on the remission and postponement of rates on Māori land.[5] The policy must be reviewed at least every six years, using a public consultation process the local authority considers appropriate. However, the policy is not required to provide for either remission or postponement of rates on Māori land. In determining its policy, the local authority is required to consider a range of matters specified in Schedule 11 of the LGA02. [6]

20. There is no expectation that local authorities will adopt the same or similar rates remission and postponement policies for Māori land. The essence of these policy tools is that they permit individual local authorities to develop different policies that they consider are appropriate to the circumstances in their respective districts. This results in variable rating outcomes for owners of Māori land according to the district within which their land is situated.

21. Land owners are typically unwilling or unable to pay rates on land from which they derive no economic benefit. Rates arrears may accumulate on this land. However, the fear that a council will then seek payment of arrears is a significant inhibitor to owners identifying themselves as landowners to local authorities.

22. Almost every local authority has some Māori land, but its uneven geographic distribution means that the issue of collecting rates on this land is more important for some local authorities than others. **Table 1** shows the proportion of Māori land by district for the 10 councils with the greatest proportion of Māori land in their district.

Table 1: Districts with a high proportion of Māori land

Territorial Authority	Proportion of the District in Māori Land (%)
Taupō	32.3
Gisborne	26.4

[2] "Paper Two: Support for Māori freehold landowners: Whenua Māori Programme Business case and access to contingency funding", considered by Māori Crown Relations: Te Arawhiti Committee on 11 December 2018, MCR-18-SUB-0018.

[3] Bennion T, "Māori and rating law", Waitangi Tribunal, July 1997.

[4] This Act was originally titled the Native Land Rating Act 1924 but has been retitled in accordance with the Māori Purposes Act 1947.

[5] S102(2)(e), Local Government Act 2002.

[6] S108, Local Government Act 2002.

Territorial Authority	Proportion of the District in Māori Land (%)
Rotorua	18.9
Whakatāne	16.0
Far North	14.3
Ruapehu	13.8
Waitomo	12.6
Tauranga	11.8
Chatham Islands	10.4
Ōpōtiki	10.0

Source: Walzl, T., "The rating of Māori Land: preliminary Māori land analysis", 2007, unpublished.

23. Analysis of valuation data suggests approximately 9,800 Māori land rating units covering 251,000 hectares of land and with a land value of over $1.1 billion dollars have little or no improvements. Some of this land may be in pasture or production forestry. However, much of it, because of access and development difficulties will not be productively used.

24. Without changes in the legislative settings it is unlikely the situation will change. While rates are not the only impediment to the development of Māori land, improving rating outcomes for owners of Māori land is one pre-requisite for improving the outcomes currently being achieved.

25. Other impediments to land development are being addressed through other aspects of the Whenua Māori Programme. These include the provision of a Māori Land Service and the proposed streamlining of Māori Land Court processes to be included in a new TTWM Bill to be introduced to Parliament shortly.

2.2 Objectives of the work programme

26. The programme has three objectives:

- to support the development of Māori land;
- to support the development of housing on Māori land; and
- to modernise the rating legislation.

2.3 What regulatory system, or systems, are already in place?

27. The regulatory system derives from the interaction of three pieces of legislation, described in **Table 2**:

Table 2: Key features of the existing regulatory system

Act	Objectives
LGA02	The LGA02 sets the broad parameters of the local authority financial management system. Through local authority long-term plans, local authorities determine their overall funding and rating

Act	Objectives
	systems with regard to statutory criteria set out in section 101(3) of the LGA02. Local authority rate remission and postponement policies are also set under the authority of the LGA02.
Rating Valuations Act 1998	This Act provides for rating valuations to be used as the basis of setting and assessing rates. The Valuer-General is required to set minimum quality standards and specifications necessary for the maintenance and upkeep of district valuation rolls in the interests of ensuring a nationally consistent, impartial, independent, and equitable rating valuation system.[7]
Rating Act	This Act deals with the machinery for setting and assessing rates. Its purpose is to promote the purpose of local government set out in the LGA02 by— (a) providing local authorities with flexible powers to set, assess, and collect rates to fund local government activities; (b) ensuring that rates are set in accordance with decisions that are made in a transparent and consultative manner; and (c) providing for processes and information to enable ratepayers to identify and understand their liability for rates.

28. The objectives of this regulatory system in relation to Māori land are unclear. Many of the current arrangements for rating Māori land date back to the 1920's or earlier. Whatever the objectives of those arrangements were at that time, New Zealand has changed substantially since then.

29. A key part of this work is to consider the purpose of the TTWM Act and align rating legislation to support that purpose. The purpose of the TTWM Act includes "to recognise that land is a taonga tuku iho of special significance to Māori people and, for that reason, to promote the retention of that land in the hands of its owners, their whānau, and their hapū, and to protect wāhi tapu: and to facilitate the occupation, development, and utilisation of that land for the benefit of its owners, their whānau, and their hapū."[8]

30. A regulatory solution is necessary to any problems in this area because it involves the use of taxing powers, which are reserved to Parliament. It also involves the fulfilment of Crown Treaty obligations, so requires the Crown to act in some manner.

31. In terms of the overall objectives of the programme, especially in relation to land development, a number of agencies have roles. Resolving issues in the rating system may be seen as a necessary, but not sufficient, condition to enable development and housing on Māori land. Development is also constrained by the operation of the resource management system under the Resource Management Act 1991; the operation of the collective decision-making rules for Māori land under the TTWM Act;

[7] S4(1)(b), Rating Valuations Act 1998.

[8] Preamble to Te Ture Whenua Māori Act 1993.

and constraints on the availability of development finance which are also a consequence of the TTWM Act.

32. The Shand Inquiry attempted an evaluation of the fitness for purpose of the current system of rating Māori land.[9] The Panel concluded that a "different approach" was needed to Māori land rating; that "the current system of valuing Māori land for rating purposes is inappropriate and wrong"; and that "the issue of rating Māori land is integral to the use and development of Māori land, and the resolution of rating issues will make a positive contribution to the broader objectives of Māori land development."

33. From a more historic perspective, many claims before the Waitangi Tribunal have referred to the pressure to pay rates as a contributing factor to the alienation of Māori land. In its Hauraki report[10], the Waitangi Tribunal stated:

    "The debate over rates before this tribunal does not focus particularly on whether Māori land should be rated at all, but rather what categories of Māori land should be exempt from rating. Historically, many Maori leaders have recognised that Māori land should be rated if it is revenue producing and receiving services."

34. It went on to say, "If we accept that rating applies to Māori land, the question really becomes how should rating be applied equitably. We acknowledge that the Crown has wrestled with this question since the mid-nineteenth century, and has approached the rating of Māori land with great caution. … If Māori were to be made liable for rates, then the Crown should have been equally careful to ensure that adequate assistance was offered to Māori landowners to develop their land and avoid the problems of fragmented title. The Crown should have also taken into account the considerable, often uncompensated, contribution of land for public works and national and local infrastructure made by Māori, both willingly and compulsorily.

    Had this acknowledgement been made, along with active assistance provided for the development of Māori land, then we can see no problem in treaty terms with the concept of rating of Māori land. The Crown hopes the recent legislation may begin to provide a more equitable basis for the rating of Māori land; we consider that the Crown must monitor the legislation to ensure that this is so. The legislation could also provide some opportunity for the relief of outstanding rates for the current generation."

2.4 High-level problem definition and objectives

35. At a high level the current system has the following problems. It fails to adequately recognise the unique legal arrangements relating to Māori land and the unique geographical constraints that apply to much Māori land. As a consequence, it raises unrealistic expectations from some local authorities about their ability to tax that land. This creates pressure on owners of Māori land to pay rates they consider they should not reasonably be expected to pay. The unique legal arrangements for Māori land also deny some owners of homes on Māori land access to the rates rebates that are

[9] Local Government Rates Inquiry Panel, "Funding Local Government", Chapter 13, August 2007.

[10] Waitangi Tribunal, "The Hauraki report" (WAI 686), Vol 3, Chapter 21, 2006.

available to owners of homes on general land. The collective effect of these arrangements is to inhibit the ability of owners of Māori land to occupy, develop and use their land.

2.5 High-level options analysis

36. Theoretically, one option would be for the Crown to pay rates on Māori land. This option has not been pursued because, as the Waitangi Tribunal has acknowledged, where Māori land is being productively used and receiving the benefit of local authority services, there is a reasonable case that the owners should contribute to the cost of those services.

37. The Crown paying rates also weakens the democratic accountability of local authorities to owners of Māori land. The nexus of taxation and representation is a fundamental element of our democracy. The Crown paying rates would break that nexus for the owners of Māori land.

38. The alternative approach, which this programme explores, is to modify the rating regime to bring it more in line with today's expectations of Māori Crown relations. The discussion that follows explores specific options to address aspects of current rating practice in detail.

Section 3: Supporting the development of Māori land

3.1: Problem definition and objectives

3.1a What is the policy problem or opportunity?

39. The Shand Inquiry identified rates arrears as a significant disincentive to Māori landowners engaging with and developing their land. Owners are reluctant to come forward and identify themselves to local authorities for fear of being targeted for the outstanding rates arrears. The presence of large rates arrears on Māori land also occasionally attracts negative media attention, which can inhibit constructive relationships between local authorities, iwi, and Māori landowners.

40. The Rating Act does not provide any power for local authorities to write off rates that are considered uncollectable. In addition, sections 44 to 46 of the LGA02 set out a procedure whereby each elected member of a local authority can be held personally liable for any loss incurred by the local authority if the "local authority has intentionally or negligently failed to enforce the collection of money it is lawfully entitled to receive". The Department has no knowledge of this procedure ever having been invoked. However, in combination with a lack of statutory authority to write off rates, this provides a powerful disincentive to local authorities taking a pragmatic approach to this issue.

41. This means local authorities tend to allow uncollected rates to accumulate, with penalties accruing, until they are statute barred from commencing collection action. Rates are not statute barred from collection until six years after the last payment date for the various rates instalments for the year. By the time a rate is statute barred, for every $1,000 originally assessed, with accumulated penalties the outstanding debt will have grown to $3,452.

42. Local authorities can remit rates, which has the same practical effect as writing the rates off. However, rates can only be remitted in accordance with a policy adopted by the local authority after public consultation. Rates remission policies vary considerably between local authorities, resulting in varied outcomes for owners of Māori land depending on which local authority district their land lies in.

43. Remitting rates implies the local authority condones their non-payment and remitted rates must be shown in the rates records as paid by the local authority. Furthermore, there is little public understanding of the issues relating to Māori land and the reasons why non-payment arises, so there can be a lack of public support for rate remissions on Māori land. These factors mean local authorities can be reluctant to use remission policies to address this issue.

44. **Table 3** compares the level of accumulated rates arrears compared to the annual rates income for a selection of councils. The accumulated arrears are the arrears for the 2018 and previous financial years that have not been written off as statute barred or remitted. Some councils with significant Māori land have very high levels of arrears. Others have much lower levels, which are in line with local authority norms. Local authority officials consistently advise that rates are much more likely to be in arrears on unused land.

Table 3: Analysis of rates arrears – selected local authorities

Territorial Authority	Accumulated rates arrears (all land)	Annual rates	% of annual rates
	At 30 June 2018 $000	For 2018 financial year $000	
Significant areas of Māori land			
Far North	39,766	79,465	50%
Gisborne	8,111	57,198	14%
Hastings	558	73,358	1%
Ōpōtiki	4,176	10,576	39%
Rotorua	5,168	85,982	6%
Taupō	2,559	62,505	4%
Wairoa	3,792	12,163	31%
Waitomo	3,784	18,973	20%
Small areas of Māori land			
Ashburton	1,061	33,473	3%
Horowhenua	2,965	36,381	8%
Marlborough	891	61,609	1%
Matamata-Piako	866	34,099	3%
Whangarei	6,754	92,016	7%

Source: DIA analysis of 2017/18 local authority annual reports

45. Apart from rate arrears, in rural areas fragmentation of Māori land into small titles means there are many land blocks that may not form an economic unit for agricultural purposes. For general land, small blocks can be purchased and aggregated into larger blocks through market mechanisms. The constraints on alienating Māori land under the TTWM Act prevent this from happening for Māori land.

46. A further consequence is that these blocks may be exposed to comparatively high rates, as local authorities make extensive use of uniform charges (fixed charges per rating unit) as part of their rating systems.[11] Ten small land blocks will attract 10 sets of uniform charges, while one land block of the same total size and value will only attract one set of uniform charges. This undermines the viability of developing and using this land.

[11] Local authorities may apply uniform charges for any service they deliver. For example, a property on the west coast of the Far North District Council at Pawarenga is assessed a uniform annual general charge, and uniform charges for roading and ward services by the Far North District Council. It is then assessed uniform charges for 'council services', pest management, flood infrastructure, civil defence and hazard management, emergency services, sporting facilities, and transport by the Northland Regional Council.

Table 4: Illustrative Uniform Charges for rural properties

Locality	Total uniform charges on a rating unit
Far North District	$1,069.48
Waikato District	$518.08
Wairoa District	$802.18
Whakatāne District	$992.45
Whanganui District	$1,064.64

Source: Local authority rate resolutions, June 2019.

47. The legal constraints on alienation of Māori land make it difficult to obtain mortgage finance for its development. Where land has previously been unused, owners do not derive any benefit from the development until at least the first stage of development has been completed. At that point occupation of, or production from, the land commences. The same is true for general land being developed for the first time, but access to capital is more constrained for owners of Māori land than for owners of general land. This makes payment of rates during development more challenging for owners of Māori land.

48. As noted in paragraph 14 there is an opportunity to improve the performance of Māori land resulting in estimated benefits of $1.407 billion (present value (PV) $387 million) - $2.064 billion (PV $650 million) over 40 years. To support the realisation of those gains, the Government has committed funds to establish a Māori land advisory service to assist landowners with development aspirations. It is also proposing changes to the TTWM Act to make that Act's operation easier and less costly for owners of Māori land.

3.1b Are there any constraints on the scope for decision making?

49. This work is targeted at Māori land. Issues about liability for uniform charges arise to a lesser degree for general land, but a general review of section 20 of the Rating Act, which addresses this issue currently, is out of scope of this work.

3.1c What do stakeholders think?

Māori landowners

50. There has been a variety of consultation and engagement with Māori about rating issues during and since the Shand Inquiry.

51. Landowners have noted how rates arrears can be a barrier to identifying with their land. During the 2008 Hui, landowners noted that some future generations do not want to inherit some land because they do not want to be left with the rates arrears. Other landowners noted a fear of being identified as rates defaulters because of the presence of arrears on the land.

52. During the same 2008 rounds of Hui, landowners thought arrears should be able to be written off. They suggested a more proactive approach was needed from local authorities to provide information to landowners on arrears. Landowners also felt the

scale of the problem of arrears on Māori land was unfairly stigmatised and not as big of an issue as some local authorities made it out to be.

53. There has been support for a rating exemption for unused Māori land. The definition of what should be included in unused land did vary between discussions. Some felt that it should be extended to unoccupied land. At one hui, some were concerned an exemption may encourage people not to develop their land or at least remove their motivation to. This same hui thought that policy should be developed for the utilisation of Māori land, as this was the main problem. A 2015 Wellington hui thought there was a need to make the land economic, saying that it's not just about rates.

54. There was also broad support across Māori for Ngā Whenua Rāhui kawenata becoming non-rateable. Many stakeholders felt that they were providing a public/common good by holding land in conservation covenants. The environmental benefit from these could be felt beyond property boundaries across the region.

55. In relation to uniform charges, Māori landowners have noted the difficulty in meeting the ownership test in section 20 of the Rating Act. At a 2008 Hui in Christchurch, it was said that unless ownership is identical between land titles next to each other, titles were considered separate rating units and uniform charges were applied to all.

56. This issue was raised again in 2016. Submissions made during the Select Committee stage of the previous TTWM Amendment Bill again raised the issue of Māori land titles contiguous to one another, often with a similar ownership and utilised as a single unit, that were rated separately.

Local authorities

57. During meetings in 2010 with local authorities, the Far North District Council noted that rates arrears on Māori land make up a significant proportion of their total rates arrears. General land owners had become concerned that the Council is acting unfairly and letting these landowners get away with not paying their rates. Any proposal that exacerbates this perception would be undesirable from Far North District Council's point of view.

58. The Far North District Council has identified the issue of uniform charges on small blocks as an inhibitor to the development of Māori land in its district. It drew attention to this in its submission on the previous TTWM Amendment Bill. In their case, this problem is overcome by rate remissions.

59. In the Department's discussions with rating officers during 2019, the Department found a variety of practices occurring. In some cases, Council's had an annual budget for rate remissions on Māori land, and once the budget was met, further remissions would not be considered until the next financial year. The circumstances in which remissions would be granted varied between councils and some of the administrative practices also varied. This variation is to be expected as local authorities reach different conclusions about when or how rates should be remitted.

60. The proposals in this section were discussed with rating officers who were supportive of them. They did not consider the proposals would be costly to administer. They saw benefits in reducing the use of remission processes as they take up administrative time, which could be more productively used in working with other landowners to get rates paid.

3.2: Options identification

3.2a What options are available to address the problem?

61. Options to make it easier to develop land include:

- making unused Māori land non-rateable;
- providing local authorities with a power to write-off rates;
- providing a statutory rate remission process for land under development;
- allow multiple Māori land blocks to be treated as one for the purpose of assessing rates.

Key features of these options are shown in **Table 5**:

Table 5: Options to make land development easier

Option	Key features
Making unused land non-rateable	Unused land can arise in a number of situations both urban and rural. There may be different impediments to its use, including the lack of legal or physical access, or issues about governance, owners' aspirations, and access to development capital. The proposal is that Māori land that is wholly unused is made non-rateable, irrespective of access. In addition, land that is subject to a Ngā Whenua Rāhui kawenata would be made non-rateable. Non-rateable land pays rates for water supply, wastewater and refuse collection. Therefore, unused Māori land in urban situations would still be liable for those rates if the local authority charged them.
Write off power	While the predominant cases where rates might be written off relate to Māori land, the proposal is that rates may be written off where they are considered uncollectable for any land. There is no need to constrain this power to Māori land only. A particular case for Māori land is where someone succeeds to an interest in Māori land that has outstanding rates. The proposal is that in that case rates may be written off.
Statutory rate remission power for development	A specific power to remit rates for Māori land under development would be built into the Rating Act, along with the considerations to be taken into account when considering a remission application. The decision whether to remit rates, and if so how much rates are remitted and for how long, would remain with the local authority.
Allow multiple Māori land blocks to be treated as one for the purpose of assessing rates	Because of the fragmented nature of Māori land there is potential to develop blocks if the owners can agree to use multiple blocks as one unit. The rates on these blocks can be high because of the use of uniform charges (fixed rates charges assessed on each rating unit). This proposal would treat multiple blocks used as one economic entity as one block for the purpose of assessing rates, provided they came from the same parent Māori land block.

62. The regulatory options described in the table are complementary rather than mutually exclusive. Some could be applied in conjunction with the promotion of best practice.

3.2b What criteria, in addition to the monetary costs and benefits, have been used to assess the likely impacts of the options under consideration?

63. The options have been assessed against three criteria other than monetary costs and benefits:

    - effectiveness in assisting with promoting land development;
    - administrative practicality; and
    - complementary benefits.

64. The criteria stand independent of each other, although in some circumstances administrative practicality might be traded off against effectiveness in promoting land development. For example, the Department considered making partially unused Māori land non-rateable. One reason that choice was not recommended was the administrative cost involved in making judgements about which parts of a rating unit were or were not used, and what part of a rating unit's value would be attributed to the unused land within the rating unit.

3.2c What other options have been ruled out of scope, or not considered, and why?

65. The status quo was not considered as a viable option because it would not achieve the objective of reducing rates arrears as a barrier to landowners engaging with their land.

66. A non-statutory option of providing best practice guidance to local authorities was considered but not pursued. Local authorities have no particular incentive to follow central government guidance in rating practice and have no accountability to central government. The Department is confident that the take up of such guidance would be far from universal. This would leave owners of Māori land in some districts no better off than they are now.

3.3: Impact Analysis

67. Options one and two address the problem of arrears inhibiting owners from engaging with and developing their land. Option one eliminates the problem for unused land by making it non-rateable; option two provides the local authority with another tool to deal with the problem for all Māori land, at the local authority's discretion. Option three addresses the issue of financing development during the development phase. Option four addresses a different problem about the effect of local authority rating practices on the economics of developing small land blocks.

68. Overall, options one and two have universal effects, while options three and four target particular aspects of the problem.

Marginal impact: How does each of the options identified at section 3.1a compare with the counterfactual, under each of the criteria set out in section 3.2a?

	No action	Option One: Make unused land non-rateable	Option Two: Enable rates to be written off	Option Three: Statutory remissions for development	Option Four: Allow multiple land blocks to be treated as one
Effectiveness in assisting with promoting land development	**0**	**++** This option ensures that owners can engage with Māori land without any concern that they may be pursued for rates arrears. It does not in itself facilitate development, but it removes a key impediment to development.	**++** This option provides local authorities with much needed flexibility in situations where rates arrears continue to arise, even if option one is not implemented. Its success is dependent on the willingness of local authorities to use it. In practice, that willingness is likely to vary between local authorities.	**+** This option addresses the development situation itself. Its success is contingent on the willingness of local authorities to grant remissions using these powers. It may be particularly helpful in those local authorities with modest amounts of Māori land, where development of a council policy is less likely because of the infrequency with which development applications might arise.	**+** This option may help development in rural areas, possibly by allowing existing farming operations to extend on to small blocks of land at lower cost. It may also help hapū develop a number of small blocks collectively. Its success is contingent on owners of Māori land being able to agree to act collectively and obtain the development capital to bring currently underutilised land into production.

	No action	Option One: Make unused land non-rateable	Option Two: Enable rates to be written off	Option Three: Statutory remissions for development	Option Four: Allow multiple land blocks to be treated as one
Administrative practicality	**0**	+ This would be simple to administer in many cases. Land that has no improvements recorded in the rating records is likely to be unused, and this can be confirmed by inspecting aerial photography, which councils routinely hold.	++ This option would be simpler to administer than the current approach of rates remissions. It will result in fewer transactions being posted through council rating systems and will not require periodic public consultation on policies.	+ This option saves the council from having to develop its own remissions policy in relation to development of Māori land. It avoids Māori land owners having to review their local authority's remission policy to see what opportunities, if any, it provides for remissions on development.	- This option does involve additional administrative cost for the local authority in satisfying itself that the blocks concerned meet the statutory qualifications to be treated as one. The local authority would need to periodically review any blocks that are being assessed as one to see that the qualification for this treatment continues to be met.
Complementary benefits		++ Much unused land is not suitable for development and does not offer the owners any potential for it to be used economically. This includes landlocked land and land best left in its natural state, including land subject to Ngā Whenua Rāhui kawenata. In addition to removing impediments to owners engaging with their land to assist development, this option will make land non-	+ This option avoids the situation that occurs with rate remissions, where local authorities impliedly condone non-payment of rates.	+ This option offers greater consistency for owners of Māori land. Their ability to apply for a remission is ensured by statute. However, its success is determined by the willingness of local authorities to grant remissions, which remains at their discretion.	**0**

	No action	Option One: Make unused land non-rateable	Option Two: Enable rates to be written off	Option Three: Statutory remissions for development	Option Four: Allow multiple land blocks to be treated as one
		rateable that cannot benefit from the provision of council services.			
Overall assessment	**0**	**++** This option would contribute significantly to remove impediments to owners of Māori land engaging with their land, which is a pre-requisite for development to occur. It would also address concerns of owners of Māori land that they may be charged rates for land they cannot use, and which derives no benefit from local authority services.	**++** This option provides local authorities with greater flexibility to deal with situations of rates arrears.	**+** This option can facilitate development of Māori land, but is dependent on local authorities buying in to its intent.	**+** This option may help development in rural areas but is dependent on owners of Māori land being able to agree to act collectively, and obtain the development capital to bring currently underutilised land into production.

Key:

++ much better than doing nothing/the status quo

+ better than doing nothing/the status quo

0 about the same as doing nothing/the status quo

- worse than doing nothing/the status quo

- - much worse than doing nothing/the status quo

3.4: Conclusions

3.4a What option, or combination of options, is likely to best address the problem, meet the policy objectives and deliver the highest net benefits?

69. Implementing all four options is most likely to deliver the highest net benefits. Individually all have merit, but each option addresses different aspects of the underlying problem, so that they complement rather than duplicate each other. Implementing option one (making unused land non-rateable), would reduce, but not eliminate the rates arrears problem option two also addresses. All options address issues raised by Māori through previous consultation and are consistent with the views expressed by rating officials. However, the views of local authorities at a political level are unknown.

70. While it is difficult to produce quantified evidence, the Department's case study research, its use of previous submissions, and its informal consultation suggest that the evidence is sound.

Summary table of costs and benefits of the preferred approach

Affected parties *(identify)*	**Comment**: *nature of cost or benefit (eg ongoing, one-off), evidence and assumption (eg compliance rates), risks*	**Impact** *$m present value for monetised impacts; high, medium or low for non-monetised impacts*	**Evidence certainty** *(High, medium or low)*
Additional costs of proposed approach, compared to taking no action			
Regulated parties (Māori land ratepayers)	None	None	High
Regulated parties (other ratepayers)	Theoretically, may result in a small loss of income for local authorities which would have to be made up by other ratepayers. In practice, it is unlikely that much rates are being paid on this land.	Low	Medium
Regulators	None	None	High
Local government	Some one-off costs to determine which properties are non-rateable and to establish internal procedures to determine and record rates write-off decisions. Some costs from periodic review of non-rateable status of some land.	Low	High
Other parties	-	-	-
Total Monetised Cost		-	-

Non-monetised costs		Low	High

Expected benefits of proposed approach, compared to taking no action			
Regulated parties (Māori land ratepayers)	Barriers to engaging with land reduced. Pressure to pay rates on land that generates no income reduced.	Medium	High
Regulated parties (other ratepayers)	To the extent that Māori land is brought into use, spreads the rating liability more broadly.	Low	Low
Regulators			
Local government	Provides cash flow benefits from the recovery of GST on rates when arrears are written-off. Future payment of rates may be encouraged with write-off.	Low	High
Other parties			
Total Monetised Benefit			
Non-monetised benefits		Medium	High

3.4b What other impacts is this approach likely to have?

71. Encouraging the development of Māori land, especially in rural and provincial New Zealand, will boost regional and rural economies and communities through providing additional employment. The degree to which this is achieved is dependent on the success of the broader Whenua Māori Programme.

72. In some communities, rates arrears are a source of tension between Māori and non-Māori residents. Implementing these measures could reduce that tension as the amount of rates in arrears should reduce, which would be beneficial to community cohesiveness.

73. Reducing rate arrears should also enable improved communication between local authorities and owners of Māori land. It should also provide better opportunities for owners of Māori land to reconnect with their whenua.

3.4c Is the preferred option compatible with the Government's 'Expectations for the design of regulatory systems'?

74. The preferred option is compatible with the Government's 'Expectations for the design of regulatory systems.'

Section 4: Supporting the development of housing on Māori land

4.1: Problem definition and objectives

4.1a What is the policy problem or opportunity?

75. There are a number of rating issues that provide barriers to owners building and occupying homes on Māori land. These include:
    - pre-existing arrears;
    - the impact of valuation practices;
    - local authority rating practices; and
    - administrative issues.

76. During consultation on the previous TTWM Amendment Bill, many stakeholders argued that papakāinga and kaumātua housing associated with a marae should be non-rateable because having people living on the marae supports the effective functioning of the marae.

77. Many of these issues will be dealt with through other work. Pre-existing arrears are dealt with by the proposals under this section of the RIA. .

78. The Minister of Local Government and Minister for Land Information have agreed to address valuation practices in a future workstream.

79. The Productivity Commission is currently undertaking an inquiry into local government funding and finance. Part of this inquiry involves an assessment of local authority rating practices. As a result, any issues relating to rating practices will be dealt with as part of the Government's response to the Productivity Commission's final report, due 30 November 2019.

80. There are two remaining issues to be addressed in this section of the RIA. These are:
    - **Issue One:** Administrative issues relating to Māori housing.
    - **Issue Two:** Exempting houses on marae sites.

Issue One: Administrative issues relating to Māori housing

81. Some forms of communal housing common to Māori, such as papakāinga housing, commonly have multiple homes on a single land title. The current rules around the definition of a rating unit focus on the individual title as the rating unit. Where multiple homes exist on one title, legally local authorities should keep them in one rate account. Prior to the Rating Act, the law allowed rating units to be "apportioned" between different occupants. The ability to apportion was removed as a consequence of the shift from primary rates liability lying with the occupant of the property to the owner of the property. With owners primarily liable, apportionment made no sense for general land.

82. Strict application of the law means that owners have to make an arrangement among themselves to collect rates from the various home occupants on the property, pay them over to the local authority, and manage any issues that arise where some owners do not contribute their share. In extreme cases, this may be impractical. For example,

in the Department's research we found one rating unit that had 187 dwellings. Examples with five or more homes on a rating unit are not difficult to find.

83. This makes the administration of multiple homes on Māori land challenging for both local authorities and landowners. If just one homeowner has difficulty paying their rates, the rate account for all homes fall into arrears, and what is really a problem for one homeowner becomes a problem for all homeowners. The local authority has no legal ability to isolate the problem to the particular homeowner, so its relationship with all affected homeowners suffers. This creates a barrier to the development of Māori housing.

84. The only current exception to this is where an occupation order is made under section 328 of the TTWM Act. An occupation order provides the owner in whose favour the order is made "exclusive use and occupation of the whole or any part of that land as a site for a house". The Rating Valuation Rules 2008 require that a site that is the subject of an occupation order is to be classified as a separate rating unit.

85. Occupation orders are not a conclusive solution to the administrative problems of rating multiple homes on Māori land. Applicants incur costs in making an application for an occupation order and it may not be successful. The Māori Land Court may only make an order if it is satisfied "that there is a sufficient degree of support for the application among the owners".

This issue also means these homes cannot access the Rates Rebate Scheme

86. The Rates Rebate Scheme is a central government funded subsidy to support low-income ratepayers. Applicants apply to their local authority, who then grant the rebate and are subsequently refunded by central government.

87. The Rates Rebate Act 1973 (the Rebate Act) requires the applicant to be the ratepayer of a residential property. Each condition – "ratepayer" and "residential property" – must be fulfilled. Furthermore, the rates payable for a residential property for the year must be known to calculate the amount of rebate an applicant is eligible for.

88. These conditions cannot currently be met with multiple houses on one rating unit. Because there are multiple homes on one rating unit, no specific ratepayer or residential property can be identified individually. This also means the rating liability for a particular residential property on the land title cannot be calculated.

Issue Two: Exempting houses on marae sites

89. During consultation on the previous TTWM Amendment Bill, many stakeholders argued that papakāinga and kaumātua housing should be non-rateable because having people living on the marae supports the effective functioning of the marae. One Hui in 2015 found that this sort of occupation was customary, not residential.

90. There is currently an exemption for marae in the Rating Act. However, there is no exemption for houses on marae sites. This means that the current exemptions are not supporting marae in the way Māori landowners expect.

91. This issue was significant to the Iwi Chairs Forum. The Forum wrote to the previous Prime Minister in early 2017 proposing that a minimum of six houses should be non-rateable where the occupants played key roles to supporting the operation of a marae.

These included roles such as: kaikōrero/speakers, kaikaranga/callers, ringawera/cooks, and kaitiaki/caretakers.

92. Evidence about rates and Māori housing is difficult to collate because of the dispersed nature of the records. The Department's research showed that there are many situations where multiple homes exist on one Māori land rating unit, most frequently in rural areas. Equally, in many urban areas Māori land has been subdivided into conventional house lots upon which one house has been built.

4.1b Are there any constraints on the scope for decision making?

93. As mentioned in the introduction to this section, other issues known to be affecting Māori housing are out of scope because they will be addressed through other work.

4.1c What do stakeholders think?

Issue One: Administrative issues relating to Māori housing

Māori landowners

94. The difficulty of accessing the Rates Rebate Scheme was noted by a few stakeholders in previous consultation. It was noted that creating separate rating units to access the scheme could have the unintended consequence of increasing the rates due to increased uniform charges. A 2007 submission to the Shand Inquiry noted the burden that uniform charges could be to papakāinga. One Hui in 2008 thought some landowners may be reluctant to specify rating units for a rebate as this could open them up to bear the burden of the rates obligation on the entire land block.

95. It was often noted during prior consultation that those shareholders that could be located by local authorities faced an unfair rating burden. These owners sometimes felt obligated to pay more than their share if other shareholders are not contributing. There was a general sense of not being sure who is accountable for rates under a multiple ownership structure.

Local authorities

96. Discussions with local authority rating officials in 2019 showed that some councils continue to apportion land to address this issue, even if this practice is not strictly compliant with current law. This practice assists both the council and the landowners to manage the rates liabilities better, to the satisfaction of both parties.

Issue Two: Exempting houses on marae sites

Māori landowners

97. As noted earlier, many stakeholders feel papakāinga and kaumātua housing should be non-rateable because having people living on the marae is a core aspect of the marae.

98. Some thought an exemption should apply to all papakāinga housing, while others thought papakāinga should be non-rateable only if they are on the same block as a marae. One hui in 2015 raised that there could be a discount for rating papakāinga. Either way, it was agreed that a specific policy for papakāinga housing should be developed, with the 2015 Whangarei Hui noting councils have poor policies for papkāinga housing.

Local authorities

99. Local authorities have not commented on exempting houses on marae sites during consultation.

4.2: Options identification

4.2a What options are available to address the problem?

Issue One: Administrative issues relating to Māori housing

100. Various non-regulatory options were not considered. These are discussed below in section 4.2c with other options that were ruled out of scope.

101. The best regulatory option to address both the problems of administration and access to the Rates Rebate Scheme is to create a separate rate account for homes on Māori land. This requires that part of a Māori land rating unit used for a house be apportioned from the rest of the rating unit.

102. This option would require a local authority to create a rates apportionment for a home if a homeowner requests it. If the rating unit has trustees or is administered by an incorporation, the consent of the trustees or incorporation board must be obtained.

103. This apportionment would alter the underlying liability for rates on the block. This would mean that if rates were unpaid:

- the local authority could not seek unpaid rates for the apportionment from the other landowners (as opposed to the homeowner);
- the homeowner would still be liable for any rates on the balance of the block if they were a landowner; and
- local authorities could not transfer money from one apportionment to another without the agreement of the person who had made the payment.

104. This option would also amend the Rebate Act so that an apportionment of this nature is treated as a separate rating unit and can access the Rates Rebate Scheme.

105. Apportionments of this nature would be for rating purposes only. They would have no effect on the rights of owners under the TTWM Act, and would not need the approval of, or be registered with, the Māori Land Court.

Issue Two: Exempting houses on marae sites

- **Option One:** Status quo – do not exempt marae housing.
- **Option Two:** Allow up to six houses to be non-rateable as part of a marae.

Option One: Status quo – do not exempt marae housing

106. This option would continue to leave homes associated with a marae as rateable. This includes papakāinga or kaumātua homes.

Option Two: Allow up to six houses to be non-rateable as part of a marae

107. This option would allow marae trustees to nominate up to six houses on the same land title as the marae to be non-rateable because they support the marae.

108. While both options address housing issues, the first addresses all houses and the second is more related to supporting marae-based communities. They therefore address different problems.

4.2b What criteria, in addition to the monetary costs and benefits, have been used to assess the likely impacts of the options under consideration?

The following criteria were considered for options to address issue one and issue two.

Issue One: Administrative issues relating to Māori housing

- Clarity of rating liability.
- Accessibility to the Rates Rebate Scheme.
- Simplicity of administration.

Issue Two: Exempting houses on marae sites

- How well Māori landowner expectations would be met.
- Effectiveness of exemption.
- Consistency between residential homes on a marae site and other residential homes.

4.2c What other options have been ruled out of scope, or not considered, and why?

Issue One: Administrative issues relating to Māori housing

Non-regulatory options

109. Non-regulatory options were not considered because they would not affect the underlying legislative constraint creating this issue.

Status quo

110. The status quo was not considered as a viable option because relying on occupation orders in their current form was not seen as a conclusive solution to making rating liability clearer and enabling access to the Rates Rebate Scheme. It is also clear from local authority practice that apportionment produces a better outcome for both local authorities and owners.

Creating separate rating units for each house on Māori land

111. This option was not advanced as it would require amendments to the Rating Valuations Act 1998 and the Rating Valuations Rules made under the authority of that Act. It could also change how the land concerned is valued, which may increase rates for the owners of the land.

Issue Two: Exempting houses on marae sites

112. Further options that provided varying numbers of houses on a marae site were not considered because the number is arbitrary. The proposed option included six houses because this was the upper end of what was suggested by Māori landowners during previous consultation. Any number is arbitrary, so providing a range makes little sense.

113. Allowing marae trustees to nominate homes as part of the marae that are not on the same title as the marae was also ruled out as a viable option. While it would be possible for marae trustees to nominate particular homes (up to a specified number) that are used in relation to the marae, if these homes are not located on the same title as a marae it is less clear whether they are for the marae or are more general residential homes.

4.3: Impact Analysis

Marginal impact: How does each of the options identified at section 4.2a compare with the counterfactual, under each of the criteria set out in section 4.2b?

	No action	Option: Permit part of a Māori land rating unit used for a house to be apportioned.
Clarity of rating liability	**0**	**+** Local authorities would be able to define individual homes on a title and create an apportionment for each where occupation orders are not granted. This would clearly show who is liable in the first instance for the rates on the home.
Accessibility to the Rates Rebate Scheme	**0**	**++** Apportioning rating units will mean the residential property and the ratepayer will be clearly defined in cases where occupation orders are not granted. Eligible ratepayers will be able to access the Rates Rebate Scheme.
Simplicity of administration	**0**	**-** Local authorities will need to undertake some administrative work to define the home to be apportioned. They will need to liaise with trustees for the property where a governance structure is in place.
Overall assessment	**0**	++

Issue Two: Exempting houses on marae sites		
	Option One: Status Quo	**Option Two: Allow up to six houses on marae site to be exempt**
Meeting Māori landowner expectations	**0**	**++** Māori landowners have expressed strong support for an exemption for homes used to support a marae.
Effectiveness	**0**	**-** Few marae have homes on the same title as the marae, meaning the exemption would not be effective. It would create a different treatment between very similar marae, where houses are on titles immediately adjoining or near a marae
Consistency with other residential homes	**0**	**- -** Rating obligations of those homes on marae site would be different to other residential homes and may create an impression these homes are getting beneficial treatment.
Overall assessment	**0**	**-**

Key:

++ much better than doing nothing/the status quo

+ better than doing nothing/the status quo

0 about the same as doing nothing/the status quo

- worse than doing nothing/the status quo

- - much worse than doing nothing/the status quo

4.4: Conclusions

4.4a What option, or combination of options, is likely to best address the problem, meet the policy objectives and deliver the highest net benefits?

Issue One: Administrative issues relating to Māori housing

114. Permitting part of a Māori land rating unit used for a house to be apportioned in combination with one another is the preferred approach. This selection contributes the most to establishing a clear rating liability and enabling access to the Rates Rebate Scheme for homes on Māori land. It is likely to create better outcomes both for the home owners and the local authorities.

Issue Two: Exempting houses on marae sites

115. *Option One: Status Quo - do not exempt marae housing* is the preferred option. While this option would not meet stakeholder expectations, enabling houses on a marae site to be exempt would not be an effective exemption as many marae do not have houses

on the same title. Furthermore, this option maintains consistent rating treatment between residential homes on marae sites and other residential homes more generally.

116. We also note that the proposals for apportionment and improved access to rates rebates enabled through options to address issue one should assist in this area. This is especially true with kaumātua housing where the occupants may be relying solely on National Superannuation for their income. Implementation of option one should lower the cost of rates for this group of people.

Summary table of costs and benefits of the preferred approach

Affected parties *(identify)*	**Comment***: nature of cost or benefit (eg ongoing, one-off), evidence and assumption (eg compliance rates), risks*	**Impact** *$m present value, for monetised impacts; high, medium or low for non-monetised impacts*	**Evidence certainty** *(High, medium or low)*
Additional costs of proposed approach, compared to taking no action			
Ratepayers on Māori land	None	None	High
Other ratepayers	None	None	High
Wider government	Increased applications to the Rates Rebate Scheme. There would be a small administrative cost to local authorities to establish an apportionment.	Low Low	Medium Medium
Total Monetised Cost			
Non-monetised costs		Low	Medium

Expected benefits of proposed approach, compared to taking no action			
Ratepayers on Māori land	Access to the Rates Rebate Scheme for low income homeowners improves the welfare of those ratepayers. Clearly defined rating liability so informal arrangements do not need to be made, improves relationships between homeowners on Māori land.	Medium Medium	Medium Medium
Other ratepayers	To the extent the preferred option improves payments of rates, there would be a small benefit to other ratepayers as local authority costs would be more widely spread.	Low	Medium

Wider government	Local authorities benefit from improved rates payments.	Low	Medium
Other parties			
Total Monetised Benefit			
Non-monetised benefits		Low	Medium

4.4b What other impacts is this approach likely to have?

The Rates Rebate Scheme

117. There is no comprehensive dataset on the amount of housing on Māori land. This means the Department cannot be certain about the number of additional claims on the rates rebate scheme.

The risk of local authorities overcharging uniform charges

118. There is a risk with apportioning rating units that local authorities may overcharge uniform charges on these rating units. Uniform charges are a fixed charge that local authorities may charge in two ways, either:

- a uniform charge per rating unit; or
- a uniform charge per separately used or inhabited part of a rating unit (a SUIP).

119. The amendments to the Rating Act would make it clear that uniform charges per rating unit were to be split between the various apportionments, rather than having full uniform charges on each apportionment. However, whatever legislative direction is given, rating officers may become confused and apply charges incorrectly.

120. This risk will be managed in the amendments to the Rating Act. Local authorities will be required to clearly identify apportioned rating units in their rating information databases. The Department would also provide local authorities with practical guidance on how to manage this risk.

4.4c Is the preferred option compatible with the Government's 'Expectations for the design of regulatory systems'?

121. The preferred options are compatible with the Government's 'Expectations for the design of regulatory systems.'

Section 5: Modernising the rating legislation: Rates exemptions

5.1: Problem definition and objectives

5.1a What is the policy problem or opportunity?

Background

122. Schedule 1 of the LGA02 specifies categories of non-rateable land. Non-rateable land is not liable for general rates but can still be charged targeted rates for water supply, sewage disposal, or refuse collection. **Table 6** shows the three exemptions in Schedule 1 that are problematic.

Table 6: Current exemptions for marae in Schedule 1 of the Rating Act

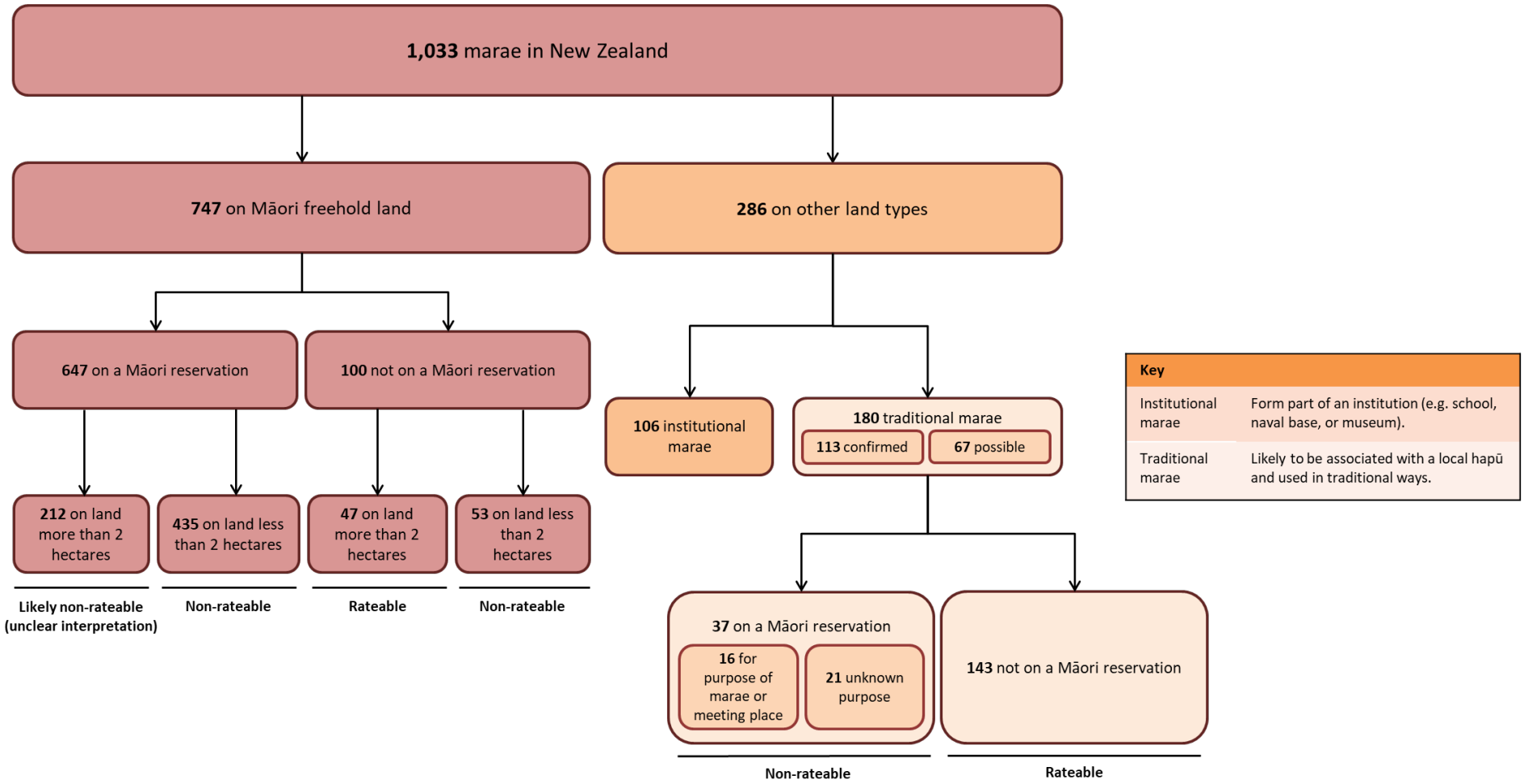
Clause	Exemption
Clause 10	Land that does not exceed 2 hectares and that is used as— (a) a cemetery, crematorium, or burial ground, within the meaning of section 2(1) of the Burial and Cremation Act 1964 (except a burial ground or crematorium that is owned and conducted for private pecuniary profit): (b) a Māori burial ground.
Clause 12(a)	Land that does not exceed 2 hectares and is set apart as a Māori reservation under section 338 of the TTWM Act and used for the purposes of a marae or meeting place.
Clause 13	A Māori meeting house on Māori freehold land that does not exceed 2 hectares.

123. Te Puni Kōkiri provided the Department with a comprehensive dataset of marae.[12] This dataset helped the Department to understand the scale and impact of the issues described below. The Department used this dataset to investigate local authority rating practices for marae through their online Rating Information Databases. The Department also held a meeting with rating officials to discuss their rating practices on Māori land. This research suggests most marae and burial grounds (including rateable marae and urupā) are not charged rates, irrespective of the land area or nature of the property title.

124. A breakdown of the marae contained in the dataset according to their land title and size is shown in **Figure**.

[12] The dataset used in this dataset came from Te Kāhui Mangai and has used information from Land Information New Zealand data sources.

Figure 1: Breakdown of marae



The problem

125. Analysis of these exemptions points to three issues to be addressed:

- **Issue One:** Marae and cemeteries are only non-rateable if they are on land less than two-hectares.
- **Issue Two:** The "marae" exemptions use three similar, but undefined terms.
- **Issue Three:** The exemptions only apply to marae on Māori freehold land or Māori reservations.

Issue One: Marae and cemeteries are only non-rateable in the legislation if they are on land less than two-hectares

126. This two-hectare limit is not imposed on similar types of non-rateable land in the Rating Act. For example, land used solely or principally as a place of worship has no upper size limit, nor does land used by a local authority for civic amenities.

127. The two-hectare limit began in the Māori Land Rating Act 1924[13]. There is no discussion of this limit in the Hansard when the Bill progressed through the House and the Department is not aware of any reason why this limit should apply.

128. There is no evidence this size limit is strictly enforced by local authorities. However, its existence means there is the potential for marae and private burial grounds, including urupā to be treated differently because of the size of their land title, with no apparent rationale. The two-hectare limit on the cemetery exemption could also apply to some cemeteries maintained by private institutions, such as churches.

Issue Two: The "marae" exemptions use three similar, but undefined terms

129. The current exemptions use the terms marae, meeting place, and Māori meeting house. Having three similar terms makes it hard to interpret what land uses are non-rateable. None of these terms are defined in the Rating Act, making it unclear what the differences between them are. Furthermore, the Department cannot identify any reason why they would be used separately.

130. **Māori meeting house** began as a term in the Māori Land Rating Act 1924 and has been carried through subsequent rating legislation since. **Marae** and **meeting place** came into rating legislation in the Rating Powers Act 1988. It is not obvious that careful consideration was made when all three terms were combined into the same Act. The Department suspects the reference to a **Māori meeting house** in clause 13 was retained because the consequences of removing it were uncertain.

131. In practice, it would appear local authorities interpret all three of these terms as meaning a marae. Therefore, no marae appear to be excluded from the exemptions because of this issue.

132. However, these undefined terms can lead to unintended land uses becoming non-rateable. The Department are aware of residential homes becoming non-rateable

[13] This Act was originally titled the Native Land Rating Act 1924 but has been retitled in accordance with the Māori Purposes Act 1947.

through these exemptions. Rating officials notified us of examples where a residential home had been set aside as a Māori reservation for the purposes of a 'meeting place'.

133. This legislative inconsistency means the Rating Act does not clearly show what land uses are intended to be non-rateable.

Issue Three: The exemptions only apply to Māori freehold land or Māori reservations

134. The Department's analysis indicates there may be up to 164 marae currently considered rateable under the Rating Act because they are not on Māori freehold land or a Māori reservation.[14] The Department is not aware of any reason why these marae should have a different rating treatment to those on Māori freehold land or with Māori reservation status. Furthermore, other exemptions in the Rating Act do not apply based on land title. For example, public halls, libraries, art galleries, and museums used by a local authority are all exempt for their community benefit, regardless of what land title they are on.

135. These marae do currently have the option of establishing a Māori reservation to become non-rateable, however this incurs some cost.

136. This means some marae could potentially be charged rates by their local authority because of the land title they are on, as opposed to the land use. This is inconsistent with the way other non-rateable land uses are exempt under Schedule 1 of the Rating Act.

137. There is no evidence these rateable marae are currently charged rates. However, they do not have certainty this will continue into the future and may incur the costs of establishing a Māori reservation to create this certainty.

5.1b Are there any constraints on the scope for decision making?

138. No constraints on the scope for decision making were identified.

5.1c What do stakeholders think?

Māori landowners

139. Māori landowners expressed broad support for the removal of the two-hectare limit on marae during Hui in 2010. Some landowners were concerned that if the two-hectare limit was removed, more emphasis would be placed on the definition of a marae. They were concerned that this may be left to local authorities to determine.

140. The 2010 and 2015 Hui with Māori leadership groups and Māori landowners, and the 2016 Departmental Report for the previous TTWM Amendment Bill indicated general support for the removal of the two-hectare limit from Māori burial grounds and urupā. The 2015 Hui made the point that if councils do not have to pay rates on their cemeteries, Māori should not have to pay rates on their burial grounds and urupā.

[14] Other types of land title marae are on include general land, general land owned by Māori, Crown land, and Crown land reserved for Māori.

Local authorities

141. In 2010 meetings, local authorities raised mixed views on whether they support the removal of the two-hectare limit. Where there is concern, it is because more pressure would be placed on what land uses count as being included as a marae. For example, whether parking or housing for the marae should be non-rateable. This creates more potential for disputes with ratepayers.

142. During the Department's discussions with rating officials in 2019, local authorities raised the issue of residential homes becoming non-rateable under an exemption intended for marae.

143. No stakeholders raised the scope of the exemption (Issue Three).

5.2: Options identification

5.2a What options are available to address the problem?

Issue One: Marae and cemeteries are only non-rateable in the legislation if they are on land less than two-hectares

144. The only viable option available, aside from the status quo, is to remove the two-hectare limit. This option would remove the size limit from both exemptions and align marae and cemeteries with similar types of non-rateable land in the Rating Act.

Issue Two: The exemptions use three similar, but undefined terms

145. The only viable identified option is to remove the term Māori meeting house and to clarify the exemption for meeting place. Māori meeting house appears to be an outdated term that began in the Māori Land Rating Act 1924 and was carried through subsequent legislation since. Discussions with rating officials and Te Puni Kōkiri suggest that all Māori meeting houses are considered to be marae, which further points to this term being vague and unnecessary.

146. This option would note that buildings and land used predominately for residential purposes are not included within the definition of 'meeting place' in the Rating Act. This would clarify that residential homes would not become non-rateable solely because they were reserved as a meeting place under section 338 of the TTWM Act.

Issue Three: The exemptions only apply to Māori freehold land or Māori reservations

147. Two options were identified to address this issue:

- **Option One:** Exempt marae on Māori reservations only.
- **Option Two:** Exempt all marae.

Option One: Exempt marae on Māori reservations only

148. The main benefit of this option is that the process through the Māori Land Court to establish a reservation for the purposes of a marae under section 338 of the TTWM Act would serve as the test for whether land is being used for a marae. There would be no requirement for local authorities to interpret what land uses constitute a marae.

149. However, marae would have to go through the process of establishing a reservation to become non-rateable. This places limitations on the administration of the land and creates ongoing compliance requirements.

150. Te Puni Kōkiri's dataset indicates approximately 265 marae would be considered rateable under this option. This is opposed to approximately 164 that are considered rateable under the status quo.

Option Two: Exempt all marae

151. This option would be consistent with other exemptions in the Rating Act, which focus on the land use irrespective of land title. There would also be no need for marae to endure the administrative costs of establishing a reservation in order to become non-rateable.

152. This option places the most burden on local authorities' interpretation of what is a marae, and therefore what land uses should be non-rateable.

5.2b What criteria, in addition to the monetary costs and benefits, have been used to assess the likely impacts of the options under consideration?

153. Research into local authority rating practices on marae suggests most marae (including rateable marae) are not charged rates by their local authority. Therefore, the financial impacts of any change to the exemptions for both marae and local authorities is likely to be inconsequential.

154. The criteria used for each set of options for each issue are set out below.

Issue One: Marae and cemeteries are only non-rateable in the legislation if they are on land less than two-hectares

- Consistency with other exemptions in the Rating Act.

Issue Two: The exemptions use three similar, but undefined terms

- How simple the exemption is to interpret.
- Effectiveness of exemption.

Issue Three: The exemptions only apply to Māori freehold land or Māori reservations

- Consistency with other exemptions in the Rating Act.
- Effectiveness of exemption.
- Administrative requirements for marae.
- How simple the exemption is to administer for local authorities.

5.2c What other options have been ruled out of scope, or not considered, and why?

155. No options were considered out of scope.

5.3: Impact Analysis

Marginal impact: How does each of the options identified at section 5.2a compare with the counterfactual, under each of the criteria set out in section 5.2b?

Issue One: *Marae and cemeteries are only non-rateable in the legislation if they are on land less than two-hectares*		
	Status Quo	**Remove the two-hectare limit**
Consistency with other exemptions	**0**	**++** Marae and cemeteries would be aligned with similar types of non-rateable land that do not have a size limit.
Overall assessment	**0**	++

Issue Two: *The exemptions use three similar, but undefined terms*		
	Status Quo	**Remove Māori meeting house and clarify meeting place**
Simple to interpret	**0**	**++** Māori meeting house is removed making it clearer what land use is intended to be non-rateable.
Effectiveness of exemption	**0**	**++** Residential uses are excluded from 'meeting place'.
Overall assessment	**0**	**++**

Issue Three: *The exemptions only apply to Māori freehold land or Māori reservations*			
	Status Quo	**Option One: Marae on Māori reservations non-rateable**	**Option Two: Extend exemption to include all marae**
Consistency with other exemptions	**0**	0 Marae are still differentiated based on their	**++** All marae exempt regardless of land title, as with other

		land title, unlike other exemptions.	exemptions.
Effectiveness of exemption	**0**	**-** More marae rateable than status quo with same mechanism to become non-rateable.	**++** All marae exempt.
Administrative requirements for marae	**0**	**-** All marae required to establish a reservation through the Māori Land Court.	**++** No administrative requirements placed on marae to become non-rateable.
Simple to administer for local authorities	**0**	**+** Māori Land Court process to set aside land as a reservation for the purposes of marae serves as the test for whether a marae exists.	**-** Local authorities must interpret what qualifies as land used for a marae.
Overall assessment	**0**	**0**	**+**

Key:

++ much better than doing nothing/the status quo

+ better than doing nothing/the status quo

0 about the same as doing nothing/the status quo

- worse than doing nothing/the status quo

- - much worse than doing nothing/the status quo

5.4: Conclusions

5.4a What option, or combination of options, is likely to best address the problem, meet the policy objectives and deliver the highest net benefits?

Issue One: Marae and cemeteries are only non-rateable in the legislation if they are on land less than two-hectares

156. Removing the two-hectare limit is the best option as there is no rationale for its use. Removing it would align marae and cemeteries with similar types of non-rateable land in the Rating Act.

Issue Two: The "marae" exemptions use three similar, but undefined terms

157. Removing Māori meeting house and clarifying what land uses constitute a meeting place is the best option. This option would make the exemptions in the Rating Act simpler to interpret and more effectively communicate what land uses are intended to be non-rateable.

Issue Three: The exemptions only apply to Māori freehold land or Māori reservations

158. *Option Two: Exempting all marae* is the best option. This option would exempt all marae based on the benefit of that land use regardless of what land title it is on and require less administration from marae to become non-rateable. This option is more difficult for local authorities to administer, as they must interpret what land uses count as a marae and should be non-rateable.

Summary

159. This package of proposed approaches would lead to all marae being treated as non-rateable, as they no longer need to be on land less than two hectares (Issue One) or be on Māori freehold land or have established a Māori reservation (Issue Three). It would also clarify the exemptions so that residential homes do not become non-rateable under exemptions intended for marae (Issue Two).

Summary table of costs and benefits of the preferred approach

160. These three options complete a package of proposals for marae. Costs and benefits for the whole package are set out below.

Affected parties *(identify)*	**Comment**: *nature of cost or benefit (eg ongoing, one-off), evidence and assumption (eg compliance rates), risks*	**Impact** *$m present value, for monetised impacts; high, medium or low for non-monetised impacts*	**Evidence certainty** *(High, medium or low)*
Additional costs of proposed approach, compared to taking no action			
Regulated parties (ratepayers)	None		
Regulators			

Wider government (local government)	Administrative costs to interpret marae land use.	Low	High
Other parties			
Total Monetised Cost			
Non-monetised costs		Low	High

Expected benefits of proposed approach, compared to taking no action			
Regulated parties (ratepayers)	No longer required to incur costs to establish Māori reservation to become non-rateable. Ongoing non-rateability for all marae.	Low Low	High High
Regulators			
Wider government (local government)	'Meeting place' residential properties are now clearly rateable.	Low	High
Other parties			
Total Monetised Benefit			
Non-monetised benefits		Low	High

5.4b What other impacts is this approach likely to have?

161. The package of proposed approaches means more emphasis will be placed on the definition of a marae and what constitutes as land used for the purposes of marae. A definition will be inserted into the Rating Act to manage this risk. This will specify the land use that is intended to be non-rateable as part of the exemption.

5.4c Is the preferred option compatible with the Government's 'Expectations for the design of regulatory systems'?

162. The preferred option is compatible with the Government's 'Expectation for the design of regulatory systems.'

Section 6: Modernising the rating legislation: Protecting Māori land made general from sale

6.1: Problem definition and objectives

6.1a What is the policy problem or opportunity?

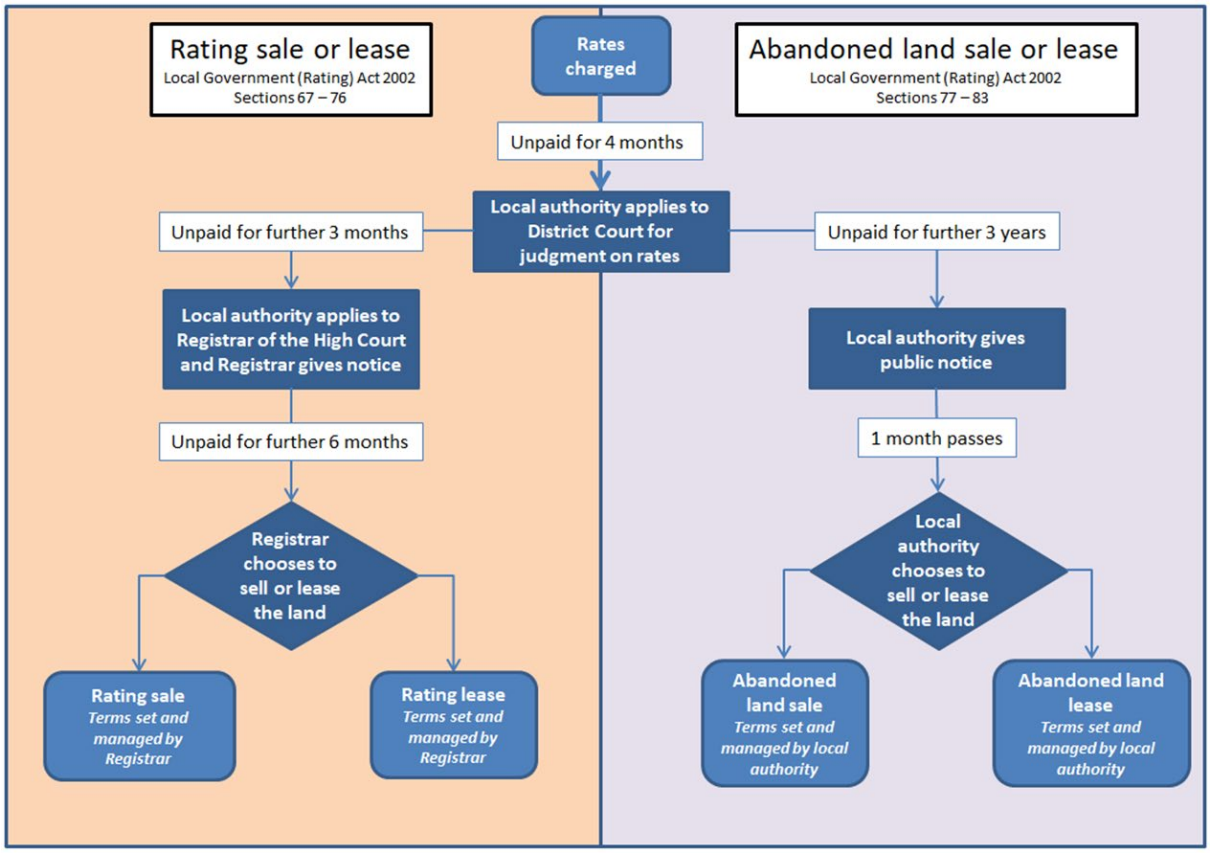
163. The Māori Affairs Amendment Act 1967 (the Amendment Act) changed the status of Māori land with four owners or less to general land (affected land). This was done without owner consent or knowledge. The intent of this legislation was to bring the land into productive development.

164. The Amendment Act was repealed in 1973, but affected land retained general land status. If it were not for this forced change, it is likely affected land would still have Māori land status today. This land may still be owned by Māori, or contain Māori interests yet to be succeeded to, with the same cultural associations to the land as if it were still Māori land.

165. The amount of land affected by the Amendment Act is difficult to accurately identify because of incomplete records. However, a 2009 Cabinet paper estimated it at 105,000 hectares.

166. The Rating Act allows local authorities to carry out "rating sale or lease" or "abandoned land sale or lease" proceedings on general land to recover unpaid rates. The process for carrying out these proceedings is outlined in **Figure 2**

Figure 2: Process for sale or lease proceedings



Source: Figure created from process outlined in the Rating Act.

167. The Rating Act prevents local authorities from carrying out these proceedings on Māori land. However, because the status of affected land is now general land, it is not afforded the same protections as Māori land and can be alienated for unpaid rates arrears.

Abandoned land sales are occurring now

168. Local authorities can carry out abandoned land sales when rates have not been paid to a local authority for three or more years after a District Court judgment for those rates, and the ratepayer:

- is unknown; or
- cannot be found after due inquiry; or
- is deceased and has no personal representative; or
- has given notice to the local authority that they intend to abandon or have abandoned the land.

169. In August 2018, the Minister of Local Government wrote to local authorities to find out what use they were making of the abandoned land proceedings in the Rating Act. One district council identified nine properties where they have begun this process. Of those, four were identified as being affected land under the Amendment Act.

170. The Department does not have any further information on the amount of affected land that could still be liable for sale. Furthermore, the Department are not aware of any way this information could be obtained without significant resource and expense that are beyond the scope of this project.

6.1b Are there any constraints on the scope for decision making?

171. This issue is limited to preventing further alienation of affected land. Any affected land that has previously been alienated is out of scope. Identifying all land titles that are affected land and were previously alienated through these provisions in the Rating Act would be a significant undertaking. Any options for this land would also be limited. Given any sales were legal under the current legislation, it is unlikely the Crown would be able to take much action to retrospectively address this issue without infringing on the property rights of current owners.

6.1c What do stakeholders think?

Māori landowners

172. Extensive consultation has been undertaken with Māori landowners throughout New Zealand on a variety of rating issues over the last 12 years. The effects of the Amendment Act were raised as a significant issue for landowners. In 2008 and 2010 Hui, landowners particularly noted their lack of consent or knowledge of the change in status, but that the land is still considered to be Māori land. Examples were provided to the 2007 Shand Inquiry of the actions taken to prevent this land being sold for rates arrears, such as young descendants taking out large mortgages, or wider whānau gathering significant sums of money to pay the arrears.

Local authorities

173. Consultation has also been undertaken with local authorities on a variety of rating issues for Māori land. There has been little comment made by local authorities on the issues created by the Amendment Act.

174. No further consultation is planned on this issue. There have been no legislative changes to the rating legislation for Māori land since the prior consultation mentioned above. Therefore, it is assumed any further consultation would provide the same discussions.

6.2: Options identification

6.2a What options are available to address the problem?

175. Options were developed to prevent further alienation of affected land, while providing an appropriate mechanism for local authorities to collect rates on this land.

176. Non-regulatory options were not considered because a legislative change is required to ensure affected land cannot be alienated through sale or lease proceedings.

177. If affected land meets the criteria for an abandoned land sale or lease, the criteria for a rating sale or lease will also be met (refer to **Figure 2** in section 6.1a). Therefore, any options to prevent the alienation of affected land will need to include both abandoned land and rating sale and lease proceedings.

178. Two options were developed to address this issue:

- **Option One:** Prevent sale and lease proceedings on affected land.
- **Option Two:** Prevent sale proceedings on affected land but allow leases.

Option One: Prevent sale and lease proceedings on affected land

179. This option would amend the Rating Act to prevent abandoned land and rating sale or lease proceedings from being carried out on affected land. This would fully protect affected land from alienation through these mechanisms.

180. Local authorities would become aware of whether land is affected land when looking at the land title as part of any proceedings against the land. A test would establish whether Māori interests have remained in the land and it should therefore not be liable for sale or lease proceedings. Local authorities would not be able to initiate sale or lease proceedings if:

- there have been no ownership changes since the status change of the land; or
- the land has been transferred to a descendant of the owner of the land when the status change occurred.

181. Local authorities would be required to prove to the relevant court that land does not meet these conditions before carrying out any sale or lease proceedings.

Option Two: Prevent sale proceedings on affected land but allow leases

182. Only abandoned land or rating **sales** would be prohibited on affected land. Abandoned land or rating **leases** would remain available for local authorities to collect rates arrears. Local authorities would need to undergo the same process as for option one before any sale proceedings, but not when leasing the land.

183. This option protects land from alienation through sale but would prevent owners from engaging with their land over the term of any lease.

184. Rating leases have a maximum term of 14 years, whereas abandoned land leases do not have a specified restriction in the Rating Act. These maximum terms would be amended so that leases do not effectively alienate the land and prevent owners from reconnecting with the land at some point in the future.

185. This option would also require an amendment to the Rating Act to make clear that landowners are not required to compensate lessees for any improvement they make to the land during the term of a lease. This would reduce uncertainty and potential financial burdens for owners reconnecting with the land.

Further options are required to address issues that arise from options one and two

186. Preventing sale or lease proceedings leaves local authorities with no way to collect rates on affected land, nor does it provide any mechanism to reconnect owners with the land. Two options were developed to address this secondary issue:

- **Option A:** Allow local authorities to treat affected land as Māori land.
- **Option B:** Enable local authorities to apply to the Māori Land Court to change affected land back to Māori land.

Option A: Allow local authorities to treat affected land as Māori land

187. This option would amend the Rating Act to empower local authorities to treat affected land as Māori land. The main benefit of this option is that local authorities could make use of Part 4 of the Rating Act, which allows them to collect rates off any person who is using Māori land.

188. There is evidence affected land blocks are being used by non-owners. Two of four land blocks identified as affected land with abandoned land proceedings begun against them look to be used from online aerial photographs. This may be the result of farmers on adjoining blocks using the land as it appears to be abandoned.

Option B: Enable local authorities to apply to the Māori Land Court to change affected land back to Māori land

189. This option would allow local authorities to apply to the Māori Land Court to have the status of affected land changed back to Māori land. This would provide them with the same mechanism to collect rates as option A, should the application to the Māori Land Court be successful.

190. During the application process, the Māori Land Court would attempt to find owners and notify them of potential status changes. If owners could be located, this would make them aware of this land and encourage them to reconnect with it. However, if owners could not be located, this may result in land status changes without owner knowledge or consent.

191. Local authorities would be required to initiate the application process, as it is likely the land is abandoned and cannot be located by the local authority.

These options can be combined

192. There are five possible combinations of these options:

- **Option One** only: Prevent sales and leases;

- **Option Two** only: Prevent sales but allow leases;
- **Option One** and **Option A**: Prevent sales and leases, and allow local authorities to treat affected land as though it were Māori land;
- **Option One** and **Option B**: Prevent sales and leases, and enable local authorities to apply to the Māori Land Court to change the status of affected land; and
- **Option Two** and **Option A**: Prevent sales but allow leases and allow local authorities to treat affected land as though it were Māori land.

193. **Option Two** (prevent sales but allow leases) and **Option B** (applying to the Māori Land Court to change land status) cannot be combined. Lease proceedings are prohibited on Māori land under the Rating Act. Identifying Māori land that was previously affected land would be too complicated and costly to administer for the benefit it provides.

6.2b What criteria, in addition to the monetary costs and benefits, have been used to assess the likely impacts of the options under consideration?

194. The following criteria were developed to assess these options:
    - whether it prevents the alienation of affected land;
    - how effectively and appropriately local authorities can collect rates on affected land;
    - if owners are encouraged to reconnect with their land; and
    - how simple the option is to administer.

6.2c What other options have been ruled out of scope, or not considered, and why?

195. Options for landowners to apply to the Māori Land Court to change the status of land back to Māori land were not considered. The reason affected land is being sold is because the land is abandoned, and the local authority cannot locate the current owner. Therefore, it is assumed that in this case owners would not be able to initiate this process.

6.3: Impact Analysis

Marginal impact: How does each of the options identified at section 6.2a compare with the counterfactual, under each of the criteria set out in section 6.2b?

	No action	**Option One only** *Prevent sales and leases*	**Option Two only** *Prevent sales, allow leases*	**Option One and Option A** *Prevent sales and leases and allow local authorities to treat affected land as Māori land*	**Option One and Option B** *Prevent sales and leases and enable local authorities to apply to the Māori Land Court to change land status*	**Option Two and Option A** *Prevent sales, but allow leases and allow local authorities to treat affected land as Māori land*
Prevents alienation	**0**	**++** Fully prevents alienation of land.	**+** Prevents alienation by sale. Owners are still prevented from re-engaging with their land while it is being leased.	**++** Fully prevents alienation of land.	**++** Fully prevents alienation of land.	**+** Prevents alienation by sale. Owners are still prevented from re-engaging with their land while it is being leased.
Local authority rates collection	**0**	**- -** No way to collect rates.	**-** Rates collected through leases.	**-** Rates collected when a non-owner is using the land.	**-** Rates collected when a non-owner is using the land if a Māori Land Court application is successful	**-** Rates collected through leases or when a non-owner is using the land.
Reconnects owners with land	**0**	**0** Does not encourage or prevent reconnection	**-** Owners temporarily prevented from reconnecting by leases.	**0** Does not encourage or prevent reconnection.	**+** Māori Land Court may locate and reconnect owners. Could enable affected land status changes without owner	**-** Owners may be temporarily prevented from reconnecting by leases.

					knowledge or consent if owners cannot be located.	
Simple to administer	**0**	**0** Minor extra administration to comply with title and ownership test check.	**-** Local authorities required to administer leases.	**0** Minor extra administration to comply with title and ownership test check.	**-** Requires local authorities to manage Māori Land Court application, which can be lengthy.	**-** Local authorities may be required to administer leases.
Overall assessment	**0**	**+**	**+**	**++**	**+**	**+**

Key:

++ much better than doing nothing/the status quo

+ better than doing nothing/the status quo

0 about the same as doing nothing/the status quo

- worse than doing nothing/the status quo

- - much worse than doing nothing/the status quo

6.4: Conclusions

6.4a What option, or combination of options, is likely to best address the problem, meet the policy objectives and deliver the highest net benefits?

196. **Option One** and **Option A** is the best combination of options. This approach most fully protects affected land from alienation and gives local authorities an appropriate way to collect rates with the lowest associated administrative cost.

197. The usefulness of this approach depends on whether land is being used by a non-owner. We are confident this will provide some benefit to local authorities (as opposed to having no option to collect rates), but there is no evidence to assess the scale of this benefit.

Summary table of costs and benefits of the preferred approach

Affected parties *(identify)*	**Comment**: *nature of cost or benefit (eg ongoing, one-off), evidence and assumption (eg compliance rates), risks*	**Impact** *$m present value, for monetised impacts; high, medium or low for non-monetised impacts*	**Evidence certainty** *(High, medium or low)*
Additional costs of proposed approach, compared to taking no action			
Regulated parties (landowners)	None		
Regulators	None		
Wider government (local authorities)	One-off costs to check if sale or lease proceedings can occur. Ongoing loss of potential rating income from sale or lease of land.	Low Low	High High
Other parties	None		
Total Monetised Cost			
Non-monetised costs		Low	High

Expected benefits of proposed approach, compared to taking no action			
Regulated parties (landowners)	Land no longer alienated through sale or lease mechanisms.	High	High
Regulators	None		
Wider government (local authorities)	Ongoing collection of rates from non-owner using the land.	Low	Medium

Other parties	None		
Total Monetised Benefit			
Non-monetised benefits		Medium	Medium

6.4b What other impacts is this approach likely to have?

198. There may be a perception the proposed approach weakens the powers of local government to compel owners of affected land to pay rates. However, this option treats affected land as though it were Māori land. Furthermore, this land would still be Māori land were it not for status changes without owner knowledge or consent under the Amendment Act. There is no evidence the problem of affected land sales affects large amounts of land. Therefore, there is likely to be minimal financial impact for local authorities, but a significant positive impact for local iwi, hapū, and landowners associated with the land.

6.4c Is the preferred option compatible with the Government's 'Expectations for the design of regulatory systems'?

199. The preferred option is compatible with the Government's 'Expectations for the design of regulatory systems.'

Section 7: Summary of the work programme

A summary of proposed approaches for this RIA is shown in **Table 7.**

Table 7: Proposed approaches in this RIA

Section	Proposed approaches
Support the development of Māori land	
Write-off provisions	Provide a write-off power for local authorities that applies to all land. The write-off power can be exercised: • where local authorities deem the rates arrears to be uncollectable; and • when rates arrears are inherited.
Rateability of unused land	Make Māori land rating units that are wholly unused non-rateable. Make land subject to Ngā Whenua Rāhui kawenata non-rateable.
Rate remissions	Create a statutory rate remission process for Māori land being developed.
Developing small land blocks	Waive the ownership and contiguous parts of the test in section 20 test of the Rating Act to allow multiple Māori land rating units from the same parent block to be treated as one if used for the same purpose.
Support the development of housing on Māori land	
Rates on Māori housing	Allow rates apportionments for individual homes on Māori land. Use the apportioned rates as a basis for rates rebates entitlements.
Modernising the rating legislation	
Rates exemptions for marae and urupa	Remove the two-hectare limit on marae and cemetery exemptions, remove the term Māori meeting house and clarify the term meeting place, and extend the exemption to make all marae non-rateable.
Selling land previously made general land	Prevent rating sale or lease proceedings on affected land and enable local authorities to treat affected land as though it were Māori land.

7.1 Impact analysis

200. In this section the collective effect of the proposals as a package against the programme objectives is considered.

201. Taken as a whole, the proposals should make it easier for owners of Māori land to engage with their land without the threat (real or perceived) of being first asked to pay rates arrears. If local authorities take a positive approach to the use of rates remissions during the development phase of bringing a property into use, there could be significant benefit both to the owners of the land and the communities in which the land is located.

202. The proposals do not address other impediments to land development. Some are addressed through other aspects of the Whenua Māori Programme, such as the provision of the Māori Land Service and the proposed streamlining of Māori Land Court processes to be included in a new TTWM Amendment Bill to be introduced to Parliament shortly.

203. Others, in particular the effect of local authority rating practices and the effect of the current valuation system on rates assessed on Māori land, are intended to be addressed through future work programmes.

204. In relation to housing, the proposals intended to assist land development also may assist owners of Māori land in developing housing. The Department is aware that some local authorities are successfully operating informal rates apportionment schemes for housing, so is confident that formalising this approach will produce better outcomes both for owners and local authorities. As with development generally, the effects of local authority rating practices and the valuation system remain to be addressed.

205. The effects of the proposals to modernise the rating system are harder to assess. Proposals around marae and urupā exemptions predominantly bring the law into line with current local authority practice. The proposals in relation to abandoned land sales are likely to prevent some further alienation of land from Māori ownership.

206. In addition to practical value, the symbolic value of these proposals to Māori Crown relationships and Māori local authority relationships is likely to be positive.

7.2 Conclusions

207. The proposals in this package would represent an important step forward in addressing issues relating to Māori land that have been raised both by the Shand Inquiry and the Waitangi Tribunal. In the long run, they should produce net benefits both to Māori land owners and to local authorities. The benefits to local authorities arise from the fact that where Māori land is developed, rates are usually paid. Bringing more land into development will widen local authority rating bases and provide employment opportunities in those districts where development takes place.

Section 8: Implementation and operation

8.1 How will the new arrangements work in practice?

208. The preferred option would be given effect by legislation amending the Rating Act, with consequential amendments to the LGA02 and the Rates Rebate Act 1973. Day-to-day administration of these Acts is the responsibility of local government. The Department is responsible for oversight of the system.

209. The proposed legislative measures will in some cases need a transition period so that commencement occurs at the start of a local authority financial year. The Department has proposed transition provisions such that local authorities and owners of Māori land get a minimum of four months to prepare for those measures needing transition.

210. The Department will work with local authority national agencies – Local Government New Zealand (LGNZ) and the Society of Local Government Managers (SOLGM) – to ensure local authorities are prepared for the changes. The Department will work with Te Puni Kōkiri to assist owners of Māori land to understand and take advantage of the changes.

8.2 What are the implementation risks?

211. There is a risk that provisions about apportioning rating units for housing will be misapplied, with apportionments confused with separate rating units. The Department will address this risk by:

    - legislative design – requiring apportionments to be clearly identified in council rating information databases;
    - education – through good practice guidance issued by SOLGM; and
    - collaboration with the Valuer-General – if a local authority is incorrectly applying this law, the apportionments would appear in the District Valuation Roll, which is subject to audit by the Valuer-General every three years.

212. Existing statutory provisions mitigate some risks of incorrect application of the law by local authorities. Ratepayers may object under sections 29 and 39 of the Rating Act to incorrect rating information and records in respect of their rating unit. For matters that are dealt with administratively, ratepayers may also complain to the Ombudsmen under the Ombudsmen Act 1975.

213. There is a risk that both owners of Māori land and local authorities may be slow to implement the proposals once enacted. This will be mitigated with transitional provisions that provide a lead in time to allow a communication and education programme to be implemented.

Section 9: Monitoring, evaluation and review

9.1 How will the impact of the new arrangements be monitored?

214. The proposals in this paper form part of a wider package of measures – the whenua Māori programme – to help owners of Māori land develop and use their land. Monitoring will occur within that wider package. Aspects of the package can be monitored informally through the Department's ongoing dialogue with both individual local authorities and national representative organisations like SOLGM and LGNZ. Formal data collection is not necessary or planned to evaluate the arrangements. However, the Department will do some one-off analysis of local authority annual reports to get an indication of the amount of rates being written off and the impact on rate arrears. This will not be onerous or time consuming.

9.2 When and how will the new arrangement be reviewed?

215. The Department has an ongoing dialogue with both individual local authorities and their national representative bodies. Any practical issues that arise will be drawn to the Department's attention through that feedback mechanism. The Department is also developing closer relationships with bodies representing Māori interests as issues of local authority interaction with Māori are coming to the fore in a number of ways. This will provide owners of Māori land and their representatives to raise concerns about the effectiveness of these proposals