Regulatory Impact Statement: Enabling Better Utilisation of Māori Land

(Rating and Valuation)

Agency Disclosure Statement

This Regulatory Impact Statement (**RIS**) has been prepared by Te Puni Kōkiri. It accompanies the Cabinet paper titled, "Enabling Better Utilisation of Māori Land".

This RIS provides an analysis of options in relation to rating and valuation issues for Māori land. It proposes reforms to improve the legislative framework governing Māori land to be included in the Te Ture Whenua Māori Bill, which would amend the Te Ture Whenua Māori Act 1993.

The preferred options on *rating* are collectively expected to address significant rates administration issues for councils, and to remove a barrier for owners of Māori land in relation to identifying their ownership interests (including for succession purposes). The preferred option for *valuation* addresses an inequality issue which places a disproportionate rates burden on Māori land. Taken together, the recommended options are anticipated to provide greater opportunities for engagement with and utilisation of Māori land in the long term.

Māori land owners have consistently raised rating and valuation issues in relation to Māori land. There was focused engagement in 2008 and 2010 with councils and Māori landowners, and in 2015 with Māori leadership groups, councils and Māori land owners in Northland, the Bay of Plenty, and Waikato. The Minister for Māori Development presented proposals to the Local Government New Zealand Rural and Provincial Sector Group on 19 November 2015. Te Puni Kōkiri also presented proposals to a meeting of the Society of Local Government Managers on 20 November 2015. The proposals were well received at the 2015 meetings, though the recommended options now differ to some extent to those discussed. Councils with a high proportion of Māori land acknowledge the complexity of issues related to rating and valuing Māori land and identify the proposals as similar to policies which, in various forms, they already have in place or are considering.

Following EGI and Cabinet consideration of the options, the Cabinet paper and RIS were revised for resubmission to Cabinet. New options were developed in respect of the non-rateability of unused and unoccupied Māori land.

There are some constraints on the analysis in this paper:

- The options are premised on a high level analysis of the scale of the policy problems as data is not available to inform a detailed assessment and prediction of the impacts of some of the changes. In particular, there is limited nationally-available quantitative and qualitative data on rating and valuation of Māori freehold land and on the detailed financial implications of the policy proposals.

However, the policy proposals will have variable effect across the country. To a large extent this will be dependent on councils' uptake of the discretionary policies (i.e. to non-rate unoccupied and unused Māori land), their current rating policies and the quality and existing use of Māori freehold land.

- Options recently added to the RIS have not been the subject of extensive consultation, and the costs and detailed planning for those options is not set out.

- The cost estimates for the recommended options reflect a high level consideration of likely costs and are intended to be indicative only. Detailed and robust calculations of the impacts on councils was not possible. There is an absence of data from councils reflecting precisely the proportion of rates arrears on categories of Māori land and administration costs in respect of those arrears. Te Puni Kōkiri is doing further work with councils to substantiate the figures.

K McGuinness

Karen McGuinness, Acting Deputy Chief Executive, Policy Partnerships

Date 29/01/2016

SECTION ONE: OVERVIEW

Executive Summary

1. This RIS provides analysis of proposals and their alternatives in respect of **rating** Māori freehold land, and for the **valuation** of that land for rating purposes.

2. While the majority of owners of Māori land pay rates, there is a large unresolved rates arrears problem on Māori land arising from rates accrued on the minority of Māori land blocks. In 2014, rates arrears on Māori land were estimated at approximately $65 million.

3. Rating debt acts as a significant barrier and disincentive to effective engagement with and use of Māori land. Māori have signalled their reluctance to engage with land that has rates arrears given the prospect of being personally targeted for the payment of overdue rates. Rates issues were signalled by the 2007 Local Government Rates Inquiry as matters for urgent attention. No changes to the rating system in respect of Māori land have since been progressed.

4. The valuation methodology for rating purposes treats Māori land and general land equally. However, there is a legislated regime that acknowledges that Māori use land for cultural and identity reasons and imposes constraints. That means Māori land cannot be developed as easily as general land (e.g. it is multiply owned, is difficult to sell and is more difficult to secure a mortgage over). This affects the value that Māori can realise from land. Despite this, Māori land is valued the same way as general land for rating purposes.

5. The recommended options recognise that the current policy settings are not working and it is time for a new approach. The recommended options are to:

   Rating

   - discretion for councils to make wholly and partially unused and unoccupied Māori freehold land non-rateable to encourage better engagement with Māori freehold land, and to promote its use over time;
   - remove the 2 hectare limit that applies to marae and urupā so that there is flexibility as to what comes within these definitions;
   - make land subject to Ngā Whenua Rāhui conservation covenants non-rateable for equity reasons;
   - rates arrears on marae and urupā and land subject to Ngā Whenua Rāhui covenants be written off at the time when these lands become non-rateable;
   - discretion for councils to write off arrears of rates on unused and unoccupied Māori land once councils have evidence of a commitment to use land;

Valuation

- revise the approach to valuing Māori land by introducing a framework that will deliver fairer adjustments for rating valuation of Māori land, building on the factors identified by the Courts in the *Mangatu* case[1].

6. Taken together, the recommended options seek to arrive at a more equitable system for rating Māori land, including removing some of the impediments that stand in the way of Māori engaging with their land and actively using land.

7. A number of the preferred options may be viewed as promoting preferential treatment for owners of Māori land. Rather than promoting preferential treatment, the recommended options are pragmatic steps that recognise the significant constraints on Māori land. The recommended options focus on land productivity as a means of generating greater wealth for land owners, and in turn greater rates income for local authorities. The proposals recognise that Māori land is different to general title land (as recognised in statute) and sometimes requires a different statutory response.

Context for Rating and Valuation Options

8. Māori land is defined and governed by its own legislation: Te Ture Whenua Māori Act 1993. The preamble to that Act recognises that land is taonga tuku iho, or of special significance to Māori that should be retained and developed for the benefit of the owners, their whanau and hapū.

9. In September and December 2013 The Economic Growth and Infrastructure Committee agreed a proposal to improve the utilisation of Māori land through Te Ture Whenua Māori Bill (**the Bill**) [EGI Min (13) 21/8 and EGI Min (13) 29/6 refer].

10. The Bill aims to improve the utilisation of Māori land by empowering Māori land owners to make decisions themselves, supported by an enabling institutional environment, while maintaining protections for the retention of Māori land. It is anticipated that the Bill will be introduced in early 2016.

11. On 19 October 2015 the Cabinet Strategy Committee noted the further policy options being considered to help improve the utilisation of Māori land, including options relating to rating and valuation of Māori land. On 26 January 2016 Cabinet considered the policies and requested refinement of options related to the treatment of rating for unused and unoccupied Māori land.

12. Any policy changes on rating and valuation matters will form part of a wider package to improve the utilisation of Māori land including Te Ture Whenua Māori Bill; and the Whenua Māori Fund[2]. Work is also commencing on the detailed design phase of a new Māori Land Service. The Māori Land Service will be required to promote Māori land utilisation, including assisting owners of

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1 *Mangatu Incorporation and Ors v Valuer-General* [1997] 3 NZLR 641 CA.

2 The Whenua Māori Fund is $12.8 million over four years for research and interventions to support increased utilisation of Māori land.

unoccupied and unused Māori land. The objectives of that wider package, which include:

(a) promoting the retention of Māori land in the hands of owners, their whanau, and their hapū;

(b) protecting wāhi tapu; and

(c) facilitating the occupation, development and utilisation of that land.

13. Rating and valuation issues have been consistently raised in consultation related to previous reforms of local government, valuation and Māori land related legislation. Previous attempts to reform rating law as it relates to Māori land have been unsuccessful. Regulatory Impact Statements prepared on potential rating reforms include the Regulatory Impact Statement: Rating of Māori Land: Results from Consultation, dated 27 May 2010.

SECTION TWO: RATING OF MĀORI FREEHOLD LAND

Status Quo

14. In September and December 2013 The Economic Growth and Infrastructure Committee agreed a proposal to improve the utilisation of Māori land through Te Ture Whenua Māori Bill (**the Bill**) [EGI Min (13) 21/8 and EGI Min (13) 29/6 refer].

15. Māori land comprises 1.453 million hectares[3], which is approximately 5.5 percent of New Zealand's land mass. Most Māori land is situated in the north, centre and east of the North Island. There are 27,342 separate Māori freehold land titles with an average size of 53 hectares. The total number of ownership interests in all Māori land blocks is 2,879,054 with approximately 106 owners per title on average.

16. A number of research reports in recent years have suggested there is significant scope to increase utilisation and/or economic returns from Māori land. For example, a 2011 research report from the then Ministry of Agriculture and Forestry[4] estimated that 40 percent of Māori land is under-performing and a further 40 percent is under-utilised. Further research suggests that the contribution of Māori land to GDP could increase by an estimated 70 percent, from $2.7 billion per year to $4.6 billion per year.[5]

17. Successful Māori land businesses operate on the most versatile and productive land and are likely to succeed regardless of the legislative framework. More marginal or start-up businesses are likely to be impacted by the legislative framework, which makes it important to ensure that the framework is appropriate.

18. Research into the current legislative framework suggests that it does not adequately facilitate the utilisation of land.[6] Rating has been identified as a barrier to engagement with and the use of Māori land. The Local Government Rates Inquiry 2007 (**Inquiry**) identified that rates arrears deter the development of Māori land. It also found Māori freehold land is over-represented in the rates arrears and accumulated penalties for some councils.[7] Submissions relevant to the Inquiry indicated that contact with councils to discuss development proposals had resulted in rating notices being sent to those who contacted the council.[8]

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3 Māori Land Court (2014), Māori Land Update – Ngā Āhuatanga o Te Whenua, July 2014.

4 Ministry of Agriculture and Forestry (2011), *Māori Agribusiness in New Zealand: A Study of the Māori Freehold Land Resource.*

5 Business and Economic Research Limited, *The Potential Utilisation of Māori Land*, (2014) (unpublished, held by Te Puni Kōkiri).

6 Noted, for example, in Dewes, W,, Walzl, T., and Martin, D., *Owner Aspirations regarding the utilisation of Māori land,* (2011) Wellington, New Zealand.

7 Report of the Local Government Rates Inquiry (2007). That report found that Rates arrears form between 0.5% and 7% of the total annual rates bill for councils. While for many councils rates arrears on Māori land are not an issue, in some parts of the country they account for as much as 70% of a council's total rates arrears.

8 '*Issues Paper on the Impact of Rates on Māori Land*', prepared for the Local Government Rates Inquiry (2007), page 51.

19. Recent consultation in the context of Te Ture Whenua Māori law reform reinforced the significance of those issues. For example, at consultation hui April and July 2015, Māori leadership groups provided a strong indication that rating remains a barrier to land development, and if development is to occur, the disincentive of rates arrears needs to be addressed.[9] Submissions on an exposure draft of the Bill and an accompanying consultation document, *Te Ture Whenua Māori Reform*, also indicated that some owners were afraid that if they take part in decisions relating to their land they would be personally liable for rates.

20. While the majority of owners of Māori land pay rates, there is a large unresolved rates arrears problem on Māori land arising from rates accrued on a minority of Māori land blocks.

21. A 2014 survey of local authorities identified that the amount of rates arrears on Māori land has risen from $29.6 million in 2008 to more than $65 million in 2014. Councils reported remitting rates on 3,590 Māori land properties with an area of 236,628 hectares.[10] The 236,628 hectares amounts to approximately 15 percent of Māori land area. The information presented in Table 1 underscores the fact that Māori land rating issues are predominately an upper and central North Island issue, reflecting the location of Māori freehold land:

Table 1: Māori freehold land rates arrears (2014), by council

Council	Percentage of the total $65 million
Far North District Council	45%
Western Bay of Plenty District Council	7%
Auckland Council	7%
Gisborne District Council	6%
Opotiki District Council	4%
Whanganui District Council	3%
Other Councils (collectively)	28%

22. The rating system is governed by the Local Government Act 2002 (**LGA**) and the Local Government (Rating) Act 2002 (**LGRA**):

    (a) *liability*: Māori freehold land is liable for rates as if it were general land even though Māori Land title operates differently from general land (Māori customary land is not liable for rates);

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9 The hui were held by Te Puni Kōkiri and and the Ministerial Advisory Group on Te Ture Whenua Māori (**MAG**), with groups including the New Zealand Māori Council, the Federation of Māori Authorities, Māori Land Court judges, Te Tumu Paeroa, the Iwi Leaders Group, the Māori Women's Welfare League; Te Hunga Roia Māori o Aotearoa.

10 Halstead Consulting, *Rating of Māori Freehold Land*, 2014 (research held by Te Puni Kōkiri).

(b) *rateability*: the LGRA prescribes categories of non-rateable land;[11]

(c) *penalties:* Penalties can accrue at the rate of 10% every 6 months for unpaid rates;[12]

(d) *remission*[13] *and postponement:*[14] councils are required to have a remission and postponement policy for Māori land; and

(e) *enforcement*: Māori land cannot be sold to recover arrears although charging orders[15] can be obtained from the Māori Land Court.

Problem Definition

23. Issues in relation to rates arrears were signalled by the Inquiry, and the quantum of rates arrears has got significantly worse over the past decade. The current policy settings are not working to reduce total arrears and it is time for a new approach.

24. Rates arrears and penalties accumulated on unoccupied and unused Māori land (**whenua mahikore**) are particularly problematic. Where land is not producing any income, and is not being lived on, the owners have little ability or incentive to pay rates. Land may be whenua mahikore for a range of reasons, including that land is difficult to develop, is landlocked, is used for cultural purposes, or owners are disengaged. Given the nature of Māori freehold title, owners are unable to 'sell-up' if they don't like their situation.

25. Councils with significant areas of Māori freehold land often expend significant time and resources assessing, remitting and enforcing rates arrears with little financial benefit. It is estimated that 25% of Māori land is unused and unoccupied (approx. 363,000 hectares), and that 11% is held under Ngā Whenua Rāhui covenants (approx. 170,600 hectares). The majority of this land is in rural areas in the Far North, Central North Island and East Coast regions. The following diagram shows the breakdown of Māori land use in 2010: [16]

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11 LGRA Schedule 1, Part 1. Non-rateable land includes land that does not exceed 2 hectares and that is used as a Māori burial ground; Māori customary land; land that is set apart under s. 338 of TTWMA that is used for the purposes of a marae or meeting place and that does not exceed 2 hectares (cl. 12); a Māori reservation under s. 340 of TTWMA; Māori freehold land that does not exceed 2 hectares on which a Māori meeting house is erected; and Māori freehold land non-rateable by Order in Council under s. 116 of the LGRA.

12 See LGRA: sections 57 and 58.

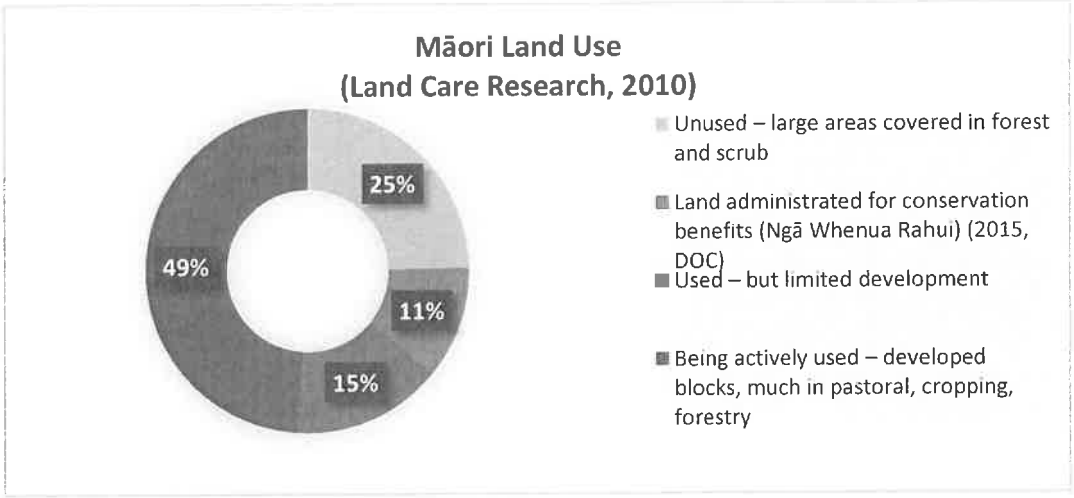
13 A remission occurs when rates on land that meets certain criteria are recorded as paid by the council.

14 A postponement occurs when rates are deferred until a later date.

15 A council can apply to the Māori Land Court for a charging order on the land to recover arrears.

16 Calculations from Land Care Research, 2010.

Figure One: Māori land use in 2010



26. The rating regime when applied to Māori land has a number of unique impacts including:
    (a) unproductive Māori land is disproportionately represented in rates arrears stigmatising owners of Māori land and communities, though the exact amounts are difficult to quantify;
    (b) continual rating demands generate stress and emotional burdens as some owners feel obligated to pay rates disproportionate to their interests in the land;
    (c) payment of rates is perceived as unfair as they are based on valuations not wholly reflective of land use, the nature of occupation or the restrictions on alienation of land;
    (d) attempts to develop the land may be discouraged;
    (e) some councils expend significant time and resources assessing, remitting and enforcing rates arrears with little financial benefit; and
    (f) councils with significant areas of Māori land perceive themselves as suffering from a reduced rating base which can be a source of division within communities.

27. The status quo is assessed as providing insufficient recognition of the significant constraints on Māori land. This impacts on the productivity of the land as a means of generating greater wealth for land owners, and in turn greater rates income for local authorities.

28. The status quo also raises equity issues in respect of rating for Māori land. Some Māori land is intended for cultural use and will not be used for productivity purposes. Marae and urupā fall into this category. Marae and urupā are currently unrateable, up to a size limit of 2 hectares. It is considered that current 2 hectare limit that applies is inequitable and does not take sufficient account of cultural uses of land, particularly compared to other categories of non-rateable land (such as churches, where no limit applies). Similarly, it is considered that there is

inconsistent treatment between Queen Elizabeth II Trust (**QEII Trust**) covenants and the Ngā Whenua Rāhui lands. Both provide covenants for certain conservation purposes, but only Ngā Whenua Rāhui are rated.

Objectives

29. The objectives for the policy options considered in this paper complement the objectives of the wider package to improve the utilisation of Māori land including Te Ture Whenua Māori Bill; the Māori Land Service; and the Whenua Māori Fund. Those objectives include:

    (a) promoting the retention of Māori land in the hands of owners, their whanau, and their hapū;

    (b) protecting wāhi tapu; and

    (c) facilitating the occupation, development and utilisation of that land.

30. The objectives against which the rating options are assessed are:

    (a) *Engagement:* to encourage active decision-making in respect of Māori land and re-engagement with councils by landowners;

    (b) *Utilisation:* to encourage the retention, use, and productivity of Māori land;

    (c) *Arrears:* to reduce rates arrears;

    (d) *Cost reduction:* to reduce compliance costs for councils;

    (e) *Take account of context:* to take account of the unique aspects of Māori land tenure, including multiple ownership of Māori land and that Māori land cannot generally be sold;

    (f) *Equity:* that the special circumstances of Māori land are addressed in a fair manner and in a comparable way to general land; and

    (g) *Certainty:* to provide greater certainty and consistency in relation to the application of rating regimes.

31. These objectives and principles are consistent with the Government's economic priorities, including building a core productive and competitive economy. The review of Te Ture Whenua Māori Act 1993, of which these reforms are an integral part, has been identified as relevant to Action 39 under the Natural Resources component of the Business Growth Agenda.

Options Overview: Rating of Māori Land

32. The rating options in relation to rateability addressed in this RIS are:

    <u>*Rating of unoccupied and unused Māori land*</u>

    - **Option A1**: status quo (continue to rate all Māori freehold land);
    - **Option A2**: non-rating of wholly and partially unused and unoccupied Māori land (whenua mahikore);

- **Option A3**: non-rating of wholly unused and unoccupied Māori land, only;
- **Option A4**: discretion for councils to make Māori freehold land non-rateable where it is wholly and/or partially unused and unoccupied, through rating policies (**recommended**); and

Rating of marae and urupā

- **Option B1**: status quo (continued application of 2 hectare non-rating limit); and
- **Option B2**: remove the 2 hectare limit for a rating exemption on marae and urupā (**recommended**).

Rating of Ngā Whenua Rāhui covenanted land

- **Option C1**: status quo (continued rating of Ngā Whenua Rāhui covenanted land); and
- **Option C2**: non-rating of Ngā Whenua Rāhui covenanted lands (**recommended**).

33. The options for writing-off rates arrears on non-rateable categories addressed in this RIS are:

Rates write-off

- **Option D1**: status quo (no rates write-off applies);
- **Option D2**: a clean-slate arrangement for all categories of land made non-rateable, so that rates arrears are recognised as unenforceable and written-off by statute;
- **Option D3**: unpaid rates on land made non-rateable can be written-off by councils at their discretion; and
- **Option D4:** rates arrears on marae and urupā and land subject to Ngā Whenua Rāhui covenants be written off at the time when these lands become non-rateable; and discretion for council to write off rates on unused and unoccupied Māori land once councils have evidence of a commitment to use land (**recommended**).

Regulatory Impacts Analysis: Rateability of Unused and Unoccupied Māori Land

34. Three options relating to the rating of unused and unoccupied Māori land have been considered by Te Puni Kōkiri, including:
    - **Option A1**: status quo (continue to rate all Māori land);
    - **Option A2**: non-rating of wholly and partially unused and unoccupied Māori land;
    - **Option A3**: non-rating of wholly unused and unoccupied Māori land, only; and

- **Option A4**: discretion for councils to make Māori freehold land non-rateable where it is wholly and/or partially unused and unoccupied, through rating policies (**recommended)**.

Option A1: Status quo (continue to rate all Māori land)

Description

35. Māori freehold land is subject to rates, and councils can adopt rating policies to remit rates on Māori freehold land.

Regulatory impact analysis

36. While the status quo would retain the equal treatment of land types as rateable in the first instance, the status quo provides discretion to councils as to how they rate Māori land, to fit local circumstances. The status quo would perpetuate the administrative burden councils currently face in respect of continued rates arrears (see Table 1). All councils incur costs in maintaining rates remissions policies in respect of Māori land, including for reviewing policies and handling remissions applications, and incur enforcement costs. Those councils with disproportionate amounts of Māori freehold land (e.g. Far North, Gisborne, Wairoa and Ōpōtiki district councils) are particularly affected.

37. Rates enforcement processes are more likely to occur if rates are not paid. While this is a fair response under the current system, it does not assist to create opportunities for Māori to engage with their land, to use or develop it.

38. Rating debt acts as a significant barrier and disincentive to the effective engagement of Māori with their land and to land use and productivity. There is a reluctance from Māori land owners to engage with the land where there is the prospect of being targeted for the payment of overdue rates. Accordingly, the status quo is assessed as not achieving the objectives of: engaging with owners of Māori land with their land; achieving better utilisation of Māori land; addressing rates arrears and associated costs for councils and land owners; or of providing certainty to owners of Māori land as remissions policies can vary over time.

39. Existing cash flow issues would remain unresolved for all councils: GST needs to be paid to Inland Revenue on any rates when they are levied. This GST can only be recovered after the rates have either been paid, remitted or written off.

Risks

40. Māori land owners facing significant rates arrears and the prospect of debt collection are unlikely to identify themselves on ownership lists and may not succeed to interests. This practice thwarts the potential for engagement with and use of land.

Overall assessment

41. The status quo retains barriers to engagement with, and use and development of Māori land. It also makes more difficult an increase in value of the Māori asset base and its contribution to GDP and employment. The status quo risks an ongoing and increasing rates arrears problem for councils, one that has increased from $29.6 million in 2008 to over $65 million in 2014 in relation to Māori land. Councils will face ongoing administration inefficiencies, costs and cash flow issues.

Option A2: Non-rating of wholly and partially unused and unoccupied Māori land (whenua mahikore)

Description of the option

42. Option A2 proposes a rating exemption to Māori land where it is:

    (a) wholly unoccupied and unused (whenua mahikore); and

    (b) where it is partially unoccupied and unused (partial areas of 1 hectare or more of contiguous land will qualify for a rating exemption).

43. Māori land will continue to be rateable if it is used for agricultural, forestry, residential, horticultural, commercial or industrial use. Occupation of the land for housing purposes will be rateable as would situations where the land is leased. Some limited uses of land are not anticipated to trigger rateability, e.g. visiting the land, use similar to a reserve or conservation estate and collection of kai, cultural or medicinal material.

44. "Wholly unused and unoccupied" Māori land is where the entire Māori land block is unused and unoccupied. "Partly unoccupied and unused" is portions of blocks are unused and unoccupied, and that part is a minimum of one hectare in size. For example, a Māori land block that is predominantly native bush but contains a house would only be rated on the portion of the block containing the house, provided the native bush area is one hectare or more.

45. The rationale for the one hectare limit is that smaller areas of unused land would be too difficult to administer.

Regulatory impacts analysis

46. Option A2 is the strongest option for creating opportunities for owners of Māori land to engage in decisions over their land and for promoting the utilisation and development of Māori land, consistent with the objectives of the Bill. Rates exemptions are expected to remove barriers for owners who are reluctant to engage with their land due to the presence of rates arrears. This would particularly affect land where owners being dispersed, unknown or disenfranchised. Option A2 will be supported by the Māori Land Service. That Service is expected to be positioned to assist Māori owners to engage with their land and create better opportunities for the land to be used and developed.

47. Māori land may be unused and unoccupied due to a wide range of factors including cultural, wāhi tapu, inaccessibility, uneconomic and environmental factors. Exempting wholly and partially unused Māori land would allow all of this context to be taken into account, block by block.

48. Option A2 is designed so that as new utilisation occurs the land that is used will become rateable, providing an incentive to gradually bring entire blocks into use. It is anticipated that utilisation is more likely to occur on Māori land where it can happen progressively.

49. This option provides certainty for all Māori land owners and councils as non-rateability will be mandatory. Option A2 could be perceived to unjustifiably treat Māori land differently to general land in similar situations. However, some councils already provide for rates relief for Māori freehold land through their remissions policies. Option A2 will simply result in a wider and standardised application of an already broadly adopted set of council rates and remission policies. Option A2 will create efficiency gains as fewer resources and less time is spent on assessing, remitting and enforcing rates on this category of Māori land.

Costs analysis

50. Information gaps associated with the rating of Māori land make detailed cost-benefit analysis difficult. However, given the lack of payments of rates on unused Māori land, Option A2 is also expected to encourage utilisation at a low cost to councils. This option is assessed as the strongest option for addressing the future accumulation of arrears on unused and unoccupied Māori land, and providing an increased rating base over time.

51. This is a long-game proposal. It is anticipated that initially there will be a small impact to councils' rates income, as most rates are currently either being remitted or enforced, or are not being paid on unused and unoccupied Māori land. The total estimated rates forgone under this proposal is approximately $990,000 per annum, or 3.79 percent of all rates paid on Māori land.

52. These reductions in rating will apply where owners of whenua mahikore are currently paying rates and this income is removed from councils by Option A2. For example: if an area of one hectare or more on a property is covered in bush and owners are currently paying rates on that area, it will become non-rateable; or if an existing incorporation or trust runs an agricultural business and currently pays full rates but part of the property is undeveloped for cultural or practical reasons, the undeveloped part of the property will become non-rateable and there will be a permanent loss of income to the council unless that part of the property is developed later.

53. Administration costs already arise in relation to identifying rateable land. Annual assessments of use and occupation are required, including the identification of the proportion of properties that are non-rateable. There will be added administration costs associated with this option, particularly for councils who do not already have partial rating policies in place. The total, national, estimated administration costs

to councils to establish new rating apportionments is $375,000. The total estimated ongoing cost to councils, nationally, is $10,000 per annum.

54. It is anticipated it will be relatively easy to monitor which properties or parts of properties should be rateable as use or occupation will generally be observable. Direct observation (or use of commonly used technologies such as aerial photographs) will be required where changes are not made from land development or construction involving a consents process.

55. It is expected that option A2 would incur more of a cost to councils in the first year this policy applies to accommodate the initial volume of rating valuations that would need to be updated. There will be a lesser cost on an ongoing basis to maintain accurate rates assessments. The need for accurate rates assessments is already a requirement of councils, and they already have systems in place for the assessment of regular valuation assessments across their districts, including processes for dealing with partial rating units. To put this in context, of the 12 councils with the largest areas of Māori land, only three councils do not have partial rating policies, so most councils are well-equipped with processes for processing partial blocks on an ongoing basis.

56. Providing for whenua mahikore to be exempt from incurring rates will mitigate cash flow issues for the majority of councils who pay GST on rates that have been invoiced but never received. The GST remains with the Inland Revenue Department until the rates are written off six years later. For councils with significant arrears on Māori land there are advantages in recovering GST sooner.

57. The financial implications to central government arising from this paper are limited to the GST received on Māori land that is currently paying rates which would become non-rateable. Te Puni Kōkiri anticipates this to be between $68,217 and $204,521 per annum. The focus on increasing opportunities for Māori land development will increase councils' rates income in the long term which will lead to increased GST received by central government.

Risks

58. Councils may face challenges associated with applying the whole and partial rating categorisation, and there may be objection and appeal processes associated with changes in status (including changes in boundaries to partially rated areas). It is expected that there will be some transitional issues, and councils are already well equipped to rate whole and partial rating units given the existing requirements to keep rates up to date.

Overall assessment

59. It is expected that over time land utilisation will increase. While there will be some limited costs to those councils in administering this option, particularly in the first year, the ongoing administrative costs are not high. Although costs are not high councils will not have the choice in adopting the policy. This option also provides administrative benefits in not having to remit rates and deal with rates arrears. It

is expected that over time the rating base for councils will increase as more land is developed.

60. This option is the strongest option for achieving engagement with and utilisation of Māori land because it allows for the progressive development of land and progressive payment of rates. The benefits for Māori in engaging with their lands will be significant and support the broader objectives of the Te Ture Whenua Māori reform package.

61. While there may be a perception that this option promotes preferential treatment of Māori land, this is not the case. This proposal recognises the significant constraints on Māori land development (for example, difficulties for succession and governance where land is multiply owned and cannot be sold) and the implications of land being held unused for certain cultural purposes (as taonga tuku iho). In particular, this option focuses on creating opportunities for land productivity as a means of generating greater wealth for land owners, and in turn, greater rates income for councils.

62. This option is the strongest one for reducing rating barriers emphasising the value of the Māori asset base and its contribution to GDP and employment. Costs will be imposed on councils without the choice of adopting the policy.

Option A3: Non-rating of wholly unused and unoccupied Māori land, only

Description

63. This option would make non-rateable whole blocks of whenua mahikore, but not partial blocks.

Regulatory impact analysis

64. Option A3 is designed to make Māori land non-rateable where it cannot generate a return and remove a key barrier to the utilisation of Māori land. Option A3 addresses the objectives and has similar impacts as Option A2 (see paragraphs 49 – 50 and 56 – 57, above). However, Option A3 is not expected to result in as much utilisation of Māori land as Option A2 because it does not provide for progressive rates remissions. Progressive rates remissions are expected to provide opportunities for the incremental development of land.

65. Option A3 carries a greater risk than Option A2 that land would not be used so rates remain unpayable. A small or other partial use will attract rates for the entire block, for example: developing a small area of land in the corner of a block will attract rates on the whole block.

66. Option A3 will be balanced by Te Puni Kōkiri officials signalling the importance of engagement with and utilisation of the land to the Māori Land Service, Te Tumu Paeroa and other officials, and taking an active approach to this issue through Te Puni Kōkiri's regional network.

67. Removing the partial rating exemption is assessed as insufficiently aligning with the suite of Te Ture Whenua Māori initiatives, and particularly the objectives for policy development in relation to the Bill. It does not sufficiently take account of the role of the Māori Land Service that will make some land facilitation services available.

68. Information gaps associated with the rating of Māori land make detailed cost-benefit analysis difficult. However, Option A3 is also expected to reduce compliance costs for councils by removing the need to assess, remit and enforce rates as rates remissions will be mandatory. For councils with significant arrears on Māori land this would reduce administration costs.

69. As noted for Option A2, where owners are currently paying rates on whenua mahikore land, the council will lose that rates income. It is estimated that the total estimated rates forgone under this proposal will be around 2.83 percent on all rates paid on Māori land, be approximately $740,000 per annum. Compared to Option A2, Option A3 will result in less costs for councils as there is no need to apportion and value partial blocks. The administration costs set out for Option A2 at paragraph 53, above, in relation to establishing new apportionments will not apply.

70. The GST advantages described at paragraph 56, above, would also apply to this option, but is likely to have a lesser impact than Option A2.

71. The costs associated with this option are considered minimal particularly compared to the status quo where it is expected that the lack of rates payments on whenua mahikore will continue. It is expected that Option A3 provides an advantage over the status quo given the expected benefits of increased utilisation of Māori land overtime, including a higher rates income for councils.

Risks

72. There is a risk of councils facing challenges associated with applying the rating categorisation for Māori land. This is not considered to be substantively different from any other rating assessment of councils, and is likely to be a transitional issue, and one that councils are equipped to manage.

73. The risk of applying this policy solely to whole properties is that it will create perverse incentives that limit future development including: encouraging partitioning of properties so that the unused portion is a separate rating unit (i.e. further fragmenting land interests); and discouraging start-up enterprises, given a requirement to pay rates for an entire property.

Overall assessment

74. Option A3 is expected to have similar impacts to Option A2, with a major limitation that without partial rating, less land is expected to be utilised over time. This may impact land development as well as any benefits that could be realised from receiving rates on partial blocks. While there may be fewer costs to councils due

to the fact that whole blocks only would need to be identified for non-rateability, this is offset by the overall impacts of this option: it is expected that Option A3 will produce a smaller rates income for councils over time, and less engagement with Māori land. It is expected that this option will not be the strongest one for reducing rating barriers and the consequential impacts on the value of the Māori asset base and its contribution to GDP and employment.

Option A4: Discretion for councils to make unused and unoccupied Māori land non-rateable (through policy) (Recommended)

Description

75. Option A4 modifies the status quo (Option A1). Under the status quo, councils can already adopt remissions policies for Māori land. Option A4 allows councils to adopt a policy that unused and unoccupied Māori freehold land is non-rateable, as an alternative to a remissions policy. If a policy was adopted by councils, owners of Māori land would not have to apply for non-rateable status, but that status would automatically apply to the category of Māori land.

76. Rates remissions provide for rates to be assessed but recorded as paid. A non-rateable status is where the property is not assessed for rates, and no rates become due.

77. Councils could adopt rating policies that provide that:

    (a) Māori land that is unoccupied and unused be non-rateable; and/or

    (b) Parts of rating units on Māori land that are unoccupied and unused (which are greater than 1 hectare of contiguous land) be non-rateable.

78. For each wholly and/or partially unused and unoccupied Māori freehold land, or both, councils could apply the non-rateable policy. Councils would either make all land in the designated category or categories non-rateable or not provide for non-rateability at all. There would be some discretion to assess which lands met the criteria for unused and unoccupied, but the policy could not be refined or the application of the policy be limited within their district or region.

79. Te Puni Kōkiri would work with the Department of Internal Affairs to provide guidance to councils on the interpretation of unused and unoccupied Māori land.

Regulatory impact analysis

80. This option provides firmer direction to councils with respect to non-rating of Māori land, and provides an alternative to applying remissions policies. Like the status quo, Option A4 retains the equal treatment of land types because they are rateable in the first instance, and provides discretion to councils as to how they rate Māori land.

81. Under the status quo, where council policies require applications for remissions there is a lack of uptake of applications for remissions of rates. Option A4

presents an opportunity for councils to reduce administration costs. The need to assess rates for unused and unoccupied Māori freehold land could be removed as whole or partial rating units would simply become non-rated. Councils will face administration costs associated with allocating partial units (see the discussion of this cost at Option A2 at paragraph 53 – 55). If this land is not rated, it is expected that future rates arrears will reduce. It is not possible to estimate how many councils would apply Option A4.

82. For owners of Māori land, there is potential for this option to improve the administrative burden on Māori communities as councils could not require land owners to apply for the non-rateable status. This will have the effect that owners of Māori land would benefit from some rates relief and the barrier to engaging with land will be somewhat reduced. Without a write-off of rates arrears, this option may not adequately incentivise engagement with land, depending on the extent of rates arrears faced by owners.

83. Option A4 has potential to reduce administration costs on councils and owners of Māori land. However, the ultimate outcomes are uncertain as the use of this approach by councils is discretionary (and could be applied and later modified or withdrawn). It is therefore difficult to assess whether this option will result in the objectives of: improving the engagement of owners of Māori land with their land; achieving better utilisation of Māori land; addressing rates arrears and associated costs for councils and land owners; or of providing certainty as to rateable status to owners of Māori land.

84. If adopted by councils, cash flow issues could be improved by not being required to pay GST to IRD on non-rateable land. However, where land in this category is currently paying rates and councils designate land as non-rateable, councils will lose some rating income in the short term. It is not possible to estimate how many councils would apply Option A4. National estimates of GST advantages if all councils applied the policy for both partial and wholly unused and unoccupied Māori land would be as set out for Option A2 at paragraphs 56 – 57, and for partial only as for Option A3 at paragraphs 70. It is estimated at a national level of rates foregone would be up to the costs discussed for Option A2 at paragraphs 51 – 52, and for Option A3 at paragraph 69.

Risks

85. The key risk to Option A4 is that councils will not apply the policy, and the existing barriers to engagement and use of Māori land by its owners will remain.

Overall assessment

86. Option A4 give councils firmer direction towards the policy objectives, but is assessed as providing suboptimal certainty as to outcomes for owners of unused and unoccupied Māori freehold land. This option provides opportunities for councils to work with owners of Māori land to increase use and development of Māori land.

Regulatory Impacts Analysis: Rating of Marae and Urupā

87. There are over 1,200 marae in New Zealand, predominantly situated in Te Tai Tokerau (Far North), Waikato and Te Moana a Toi (Bay of Plenty). Together these three regions include 50% of all of the marae in New Zealand.[17] Exact information about the marae sizes is unavailable. For a sense of proportion, it is noted that reserves can be imposed under Te Ture Whenua Māori Act 1993 for a range of purposes and can apply to marae and burial grounds. Of over 2,200 reserves, the large majority are under 2 hectares (73.17%).[18]

88. Te Puni Kōkiri considered two options in relation to rating of marae and urupā, including:

- Option B1: status quo (continued application of 2 hectare non-rating limit for marae and urupā); and
- Option B2: remove the 2 hectare limit for a rating exemption on marae and urupā (**recommended**).

Option B1: Status quo (continued application of 2 hectare non-rating limit for marae and urupā)

89. The Local Government (Rating) Act 2002 provides for the non-rating of a variety of defined land uses including, for example, land used solely or principally as a place of religious worship,[19] or land used by a council for civic amenities such as public halls, libraries, art galleries or land used for games and sports.[20] In contrast, rates exemptions are only available for land up to 2 hectares in size for Māori freehold land on which a meeting house is erected[21], land set apart by the Māori Land Court under Te Ture Whenua Māori Act 1993 for certain purposes, meeting houses, or marae and meeting places.[22]

90. The 2 hectare limit for marae and urupā results in:

a. many local authorities assessing and then remitting rates for such areas above 2 hectares; and

b. Māori land owners converting areas of land into Māori Reservations under Te Ture Whenua Māori Act 1993 to qualify for a rating exemption.

91. Equity issues arise in relation to the status quo. There is no clear policy rationale for the current 2 hectare size limit for the non-rateability of marae, meeting houses, meeting places, urupā or those reserved as such under TTWMA. It is assessed as inequitable that land uses, such as land used solely or principally as a place of religious worship should not have a size limit, but marae should

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17 Te Puni Kōkiri Database, September 2015.

18 Māori Land Court data, November 2015.

19 See: Local Government (Rating) Act 2002, schedule 1, clause 9(a).

20 See: Local Government (Rating) Act 2002, schedule 1, clause 4(a).

21 See: Local Government (Rating) Act 2002, schedule 1, clause 13.

22 See: Local Government (Rating) Act 2002, schedule 1, clause 12.

have a size limit where they share comparable cultural and spiritual values and significance. Marae have been long acknowledged as critical to expressing and promoting Māori culture, and as being of inherently of significant value.

92. While aligned with the approach for general land[23], the 2 hectare limit that applies to urupā is considered disproportionately out of step with acknowledgements in the TTWMA and the Bill of the cultural significance of Māori land, particularly sites of significance.

Option B2: Remove the 2 hectare limit for the rating exemption on marae and urupā (recommended)

Description

93. Option B2 would remove the 2 hectare limit for existing exemptions on urupā and marae.

Regulatory impact analysis

94. The proposal is assessed as addressing inequities associated with the status quo. There is no clear rationale for the 2 hectare limit, and therefore why larger marae should be treated differently from smaller marae. Removal of the 2 hectare limit would treat all marae equally and provide fairer recognition that the use of the land should determine rateability.

95. Option B2 would also achieve better alignment with the values associated with Māori land.

96. It is estimated that some marae may be over 2 hectares in size, and where lands in that category are currently paying rates there would be some impact on rates income for councils. It is expected that any marae of a significant size would be rural, given that in towns and cities there is typically insufficient land area for larger marae. The change is proposed so that there is not discrimination as to which areas are marae. It is expected that the definition of marae itself will assist in managing any size limits and any ambiguity about the scope of the land now rateable.

97. The definitions are intended to be based on the definition of marae already used in legislation, being:[24] "***marae*** includes the area of land on which all buildings such as the wharenui (meeting house), the wharekai (dining room), ablution blocks, and any other associated buildings are situated." Councils will level of flexibility as to how the rating policy is applied in their districts or regions. Where the Māori Land Court has allocated a reserve status the land area will already be defined.

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23 See: Local Government (Rating) Act 2002, schedule 1, clause 10.

24 See: the Wine Act 2003, the Biosecurity Act 1993, the Coroners Act 2006, the Agricultural Compounds and Veterinary Medicines Act 1997, the Dairy Industry Restructuring Act 2001, the Animal Products Act 1999 and the Food Act 2014.

98. Information about whether land over 2 hectares in size is paying rates is not available. However, it is considered that there are likely to be few general cemeteries or burial grounds that are over 2 hectares that the council does not already administer (and pay rates on), or that are in church grounds and automatically receive a rates exemption, irrespective of size. Any inequity issues in relation to burial areas are assessed as likely to be minimal.

99. Feedback from local government has indicated that burial grounds greater than 2 hectares are effectively non-rateable already either through some form of division of the rating unit to meet the 2 hectare limit, the council not charging rates, or the council remitting rates on the portion of the land above the 2 hectare limit.[25] This option is expected to lower compliance costs for councils as no remission process will be required. Administration costs associated with removing the 2 hectare limit for marae and urupā is assessed as negligible on the assumption that rates are not paid on most marae and urupā, irrespective of size.

100. Removal of the 2 hectare limit would increase certainty regarding the rating status of land over 2 hectares, provide a comprehensive but flexible recognition that the use of the land should determine eligibility and minimise compliance costs by aligning the law with current practice.

Regulatory Impacts Analysis and Risk assessment: Ngā Whenua Rāhui Covenanted Land

101. Te Puni Kōkiri considered two options in relation to the rating Ngā Whenua Rāhui covenanted land:

- Option C1: status quo (continued rating of Ngā Whenua Rāhui covenanted land); and
- Option C2: non-rating of Ngā Whenua Rāhui covenanted lands (**recommended**).

Option C1: Status Quo (continued rating of Ngā Whenua Rāhui covenanted land)

102. An inequity arises where general land reserved for conservation purposes in QEII Trusts enjoy a rating exemption[26] while Māori land owners are required to pay rates while their land is subject to a conservation covenant through the Ngā Whenua Rāhui programme.[27] Ngā Whenua Rāhui covenants relate to the preservation and protection of aspects of the environment, landscapes, habitats or historical values; or spiritual and cultural values which Māori associate with

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25 While this conclusion is based on information received prior to 2010, it is assessed as unlikely that there has been any material change in practice. For example, a change to the 2010 position was not identified in stakeholder hui in 2015.

26 See: Local Government (Rating) Act 2002, schedule 1, Part 1, clause 5(b).

27 Ngā Whenua Rāhui covenants are defined by section 77A of the Reserves Act 1977.

the land[28]. These covenants were designed as the sister programme to QEII covenants. Ngā Whenua Rāhui are comparable to QEII open space covenants which are directed at encouraging and promoting, for the benefit and enjoyment of the present and future generations of the people of New Zealand, the provision, protection, preservation, and enhancement of open space[29].

103. Both conservation programmes are achieving the same broad aims, but general title land is exempt from rates under the Local Government (Rating) Act 2002, while Māori land covenanted under the Ngā Whenua Rāhui programme is subject to rates. Māori landowners are disproportionately impacted.

104. The Ngā Whenua Rāhui covenanted land can be compared with QEII covenanted lands (as of May 2015):

	QE II Covenants	Ngā Whenua Rāhui Covenants
Status (in practice)	In perpetuity	Limited life – typically 20-25 years
Land Focus	General title	Māori title
Rates	Non-rated	Rated (may be remitted at discretion of local authority)
Land Area	181,346 hectares	170,678 hectares
Average Hectares	44 hectares	736 hectares

Option C2: non-rating of Ngā Whenua Rāhui covenanted land (recommended)

Description

105. Option C2 proposes that Ngā Whenua Rāhui covenanted land be exempt from rates for as long as there are Ngā Whenua Rāhui covenants over the land.

Regulatory impact analysis

106. Option C2 primarily addresses an equity issue that arises where Māori land subject to Ngā Whenua Rāhui covenants are disproportionately impacted compared to land subject to a QEII covenant.

107. While some councils rate QEII land, these rates are then remitted by the councils. This relates to a misinterpretation of the legislation. The Department of Internal Affairs have confirmed that in their view all QEII covenanted lands are exempt from rates. Ngā Whenua Rāhui land is rated, and some councils remit rates on this land.

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28 See: Reserves Act 1977, section 77A.

29 See: section 22of the Queen Elizabeth the Second National Trust Act 1977.

108. This option would contribute to the reduction in rates arrears, and a uniform approach would create certainty as to the application of the rating regimes. It is expected that non-rating of this land will have little effect on councils' rates. Some councils remit these rates and, where they are not remitted, it is unlikely that they are otherwise paid.

109. It will be easy for councils to identify when Ngā Whenua Rāhui covenants expire because the covenants are in place for a certain amount of time, and are registered. The expiry date for the covenant can easily be ascertained at the time the covenant is notified to the council and councils can record the expiry date. This will self-regulate as owners who qualify for an exemption will notify the council of eligibility for it. If land is in the whenua mahikore category upon expiry of the Ngā Whenua Rāhui covenant, Option A2 would mean that the land would become non-rateable. If the land is not, the land would be rated (and would presumably have capacity to pay rates if the land is used).

Risks

110. The risk associated with Option C2 is that areas of Māori land move to formalise Ngā Whenua Rāhui as a means to avoid paying rates, rather than making a more critical assessment of land use potential as a whole. This will generally be countered by making partially and wholly unused and unoccupied Māori land non-rateable. In addition, the Māori Land Service will be able to take a more active approach to working with Māori land owners to map out the development potential of land and land owners' aspirations to meet land potential.

111. There is also a risk that this option will create an inequity when compared to general land. An alternative approach could be that all landowners with conservation covenants meeting the definitions of sections 77 and 77A of the Reserve Act 1977 could potentially be non-rated, as opposed to the more restricted list of conservation lands that are currently provided for in Schedule 1, Local Government (Rating) Act 2002. That option is outside of the scope of changes that can be made via Te Ture Whenua Māori Bill as those matters also relate to general title land. Proposals along these lines would need to be advanced in future reviews of either the Local Government (Rating) Act 2002 or the Reserves Act 1977. The option of exempting Ngā Whenua Rāhui through the terms of the covenants themselves, to link into exemptions that could be applied to conservation land, was also not progressed. That option would relocate an existing administrative burden on councils and is more closely align with the current process of applying for remissions on Māori land; it is unlikely to achieve certainty about the rateability of Māori land.

Regulatory Impacts Analysis and Risk Assessment: Write-off options

112. The options for writing-off rates arrears on non-rateable categories addressed in this RIS are:

Rates write-off

- **Option D1:** status quo (no rates write-off applies);
- **Option D2**: a clean-slate arrangement for all categories of land made non-rateable, so that rates arrears are recognised as unenforceable and written-off by statute;
- **Option D3:** unpaid rates on land made non-rateable can be written-off by councils at their discretion; and
- **Option D4:** rates arrears on marae and urupā and land subject to Ngā Whenua Rāhui covenants be written off at the time when these lands become non-rateable; and on unused and unoccupied Māori land once councils have evidence of a commitment to use land (**recommended**).

Option D1: Status quo (no rates write-off applies)

Description

113. A key feature of the status quo is that it has an underlying obligation to pay accumulated rates arrears and penalties.

Regulatory impact analysis

114. The objectives of engagement and utilisation of Māori land are not achieved by applying no rates write-off. The key problem is that Option D1 does not remove the immediate hurdle for land owners of identifying themselves as owners and as successors to interests in land. Consultation with land owners has signalled a reluctance and fear of engagement with land due to the risk of being liable personally for rates arrears.

115. While Option D1 has a high level of certainty and applies the same approach to owners of general land and Māori land, the option does not acknowledge that the situation of rates arrears has arisen in part due to the unique nature of Māori land tenure. It also ignores the evidence that Māori land owners have specifically noted that their engagement is impaired due to the risk of rates arrears.

116. The costs to councils with this option is that they would not receive the benefits of GST rebates on the sum of rates arrears in the non-rateable categories of Māori land. The impacts would be higher for those councils with a disproportionately high area of Māori land, for example the Far North District

Council with 45% of total rates arrears on Māori freehold land (2014) (see *Table 1 on page 8*).

Risks

117. There is a risk that land owners will not engage with land for six years as rates become statute barred at that point. There is also a risk of continued disengagement if owners are not aware of that limitation period. The stigma of not having paid rates would still apply and may affect the nature of any engagement.

118. There is also the risk of a perverse outcome that categories of owners of non-rateable land will not pay, and anticipate the effect of the limitation period. A further perverse outcome arises from on the one hand a decision to make categories of non-rateability and on the other a decision to collect back rates on that same land.

Overall assessment

119. Option D1 is assessed as not providing an incentive for Māori land owners to engage with their land, and as limiting the momentum for land development to progress offered in the recommended options of A2, B2 and A3.

Option D2: Clean slate arrangement once land is non-rateable

Description

120. With option D2, where land is made non-rateable, legislation will provide for any rates arrears to be written-off by councils. This does not mean that rates arrears on *used* and *occupied* Māori land would be written-off.

121. As outlined above, the total rates arrears on Māori land were assessed as $65 million in 2014. They are likely to be higher by the time of the passage of the Bill (rates arrears rose from $29.6 million in 2008 to more than $65 million in 2014). It is expected that the total arrears arise from various categories of land, and not just from unused and unoccupied, marae and urupā or Ngā Whenua Rāhui covenanted land. On the basis of available information it is not possible to estimate the proportion of the total that would be written-off.

122. This provision will come into force in the first financial year (from 1 July) that is at least nine months after the commencement of the new Te Ture Whenua Māori Act, and on the same day all non-rateability provisions are proposed to come into effect.

Regulatory impact analysis

123. The write-off option is expected to encourage Māori land owners who wish to engage with and use their land to do so immediately after the policy is implemented. The clean-slate approach will address the key issue that rates arrears impact on Māori engagement with their land and with councils, impacting

the use and development of Māori land. This option aims to address stigma associated with rates arrears to provide a clean-slate, providing a fresh opportunity for Māori land owners to engage with their land.

124. This option will provide certainty for Māori land owners and councils. While it will provide a write-off only in respect of Māori land and could be seen as inequitable, this approach is justified given the strong alignment with the objectives of the Bill, to facilitate the occupation, development and utilisation of Māori land. It is considered critical to the overall approach. The facilitation services anticipated from the active Māori Land Service are also expected to enhance the opportunities for Māori to engage with their land.

125. The benefits to councils of this approach are that: the bulk of rates arrears on Māori land would be addressed; administration costs involved in attempting to recover rates would be reduced; and GST would be able to be recovered to improve council's cash flow.

126. The financial implications to central government arising from the write-off is expected to be minor; the key change is that the timing moves forward for write-offs that are likely to be required anyway.

127. It is expected that councils would be able to have identified the appropriate rateable units within nine months of the commencement of the new Te Ture Whenua Māori Act (as discussed for each option, above), and the rating write-off assessment could then be completed.

Overall assessment

128. Option D2 is important to achieving engagement with unused and unoccupied Māori land. By providing a clean slate for land owners, it is expected that owners of Māori land can engage immediately after the commencement of the Bill and do so without fear of rates historic or ongoing rates arrears. This is expected to provide momentum and the conditions for improved succession to interests in Māori land and to improve the engage with and use of Māori land. With the facilitation services anticipated from the active Māori Land Service, it is expected that the package will improve engagement opportunities for Māori as soon as possible as new non-rateable categories are applied.

129. While there are some costs associated with this option, it is considered to be the option most likely to promote the engagement and use of Māori land and with the best prospect for long-term net benefits for councils and communities.

Option D3: Unpaid rates on land made non-rateable can be written-off by councils at their discretion

Description

130. It is proposed that unpaid rates could be written-off by councils at their discretion. It is intended that councils would have discretion to determine if write-off would occur, and the timing of any write-off.

131. For each category of land that is non-rateable (e.g. marae and urupā over 2 hectares (Option B2), or wholly and/or partially unused and unoccupied Māori freehold land (Option A2 or A3), councils could apply a write-off. Councils would either write-off all rates arrears associated with options adopted, or not provide a write-off at all. They could not refine categories or limit the application of the policy within their district or region (e.g. only provide rates write-offs on marae over 10 hectares).

132. Option D3 provides legislative authority for councils to write-off rates; that decision is made by central government and recorded in legislation. Councils would be expressly permitted in legislation to invoke that right to a write-off through the adoption of a rates arrears policy. Remission policies are currently adopted by councils, and it is intended that the same approach would apply.

Regulatory impact analysis

133. Option D3 provides certainty as to the mechanism for write-offs, but does not provide certainty as to the ultimate outcomes as the write-offs are discretionary. It is therefore difficult to assess whether this option will result in the impacts, costs and risks associated with Option D1 (status quo) (see paragraphs 114 – 118), or whether barriers to engagement and use will be reduced in particular districts or regions. Use and engagement will be improved as for Option D2, but on an incremental basis, if write-off policies are adopted by councils.

134. Councils would have certainty as they would have responsibility for determining what policy would apply and when, and when the benefits of the proposal would be realised. Māori land owners would bear the burden of uncertainty until council decisions were made and may not benefit from a system designed to address rates arrears in the context of the unique nature of Māori land tenure, and broader issues of engagement of owners of Māori land with their land.

Risks

135. A key risk to Option D3 is that councils will not apply the policy, and the existing barriers to engagement and use of Māori land by its owners will remain. It is considered that the real benefits of the rates write-off is ion removing barriers to engagement with land at the same time new categories of non-rating is achieved. It would be for councils to decide when they wanted to implement the policy, and the impact of the write-off in their region. It is noted that this option raises a

question as to whether it is appropriate for ultimate decision-making about write-offs to sit at the local government level.

136. A discretionary approach may result in owners with Māori land in various council areas being uncertain as to which land will qualify for a write-off at various times. This is likely to undermine the objectives of the write-off.

Overall assessment

137. Option D3 is assessed as providing the potential to make progress towards the policy objectives, but is assessed as providing inadequate certainty for owners of Māori land. It is unlikely that a discretionary approach will result in sufficient uptake of a write-off by councils to provide the momentum for a change to the engagement with and use and development of Māori land.

Options D4: Some legislative write-offs, but for unused and unoccupied Māori land, write-off occurs once councils have evidence of commitment to use land

Description

138. Option D4 proposes that rates arrears on:

    (a) marae and urupā and land subject to Ngā Whenua Rāhui covenants, be written off at the time when these lands become non-rateable; and

    (b) used and unoccupied Māori land are written-off once councils have evidence of a commitment to use land.

139. Part (a) of Option D anticipates that legislation will clarify that that the categories of land are non-rateable.

140. Part (b) of Option D introduces a discretion for councils to write-off rates arrears, once they are satisfied that there is evidence of a commitment to use unused and unoccupied Māori freehold land. Māori land owners would have to provide some information to councils to show they intend to develop the land. Councils would have discretion to apply the non-rateable category to partial or whole blocks of Māori land, depending on the nature of the evidence of intended use.

Regulatory impact analysis

141. Part (a) of Option D4 will apply if Options B2 and C2 are adopted. It is unknown how much of these categories of land are not covered by remissions policies and features within the $65 million total (2014) rates arrears. Write-offs of rates arrears for marae and urupā over 2 hectares in size and Ngā Whenua Rāhui are assessed as unlikely to be significant. There are some marae over 2 hectares in size, and it has not been possible to estimate or assess the amount of rates arrears incurred by non-payment of rates on those marae. Similarly, while the area subject to Ngā Whenua Rāhui covenants is known (see paragraph 104),

the land area not paying rates (and not subject to a remissions policy) is unknown.

142. Part (b) of Option D4 provides a trigger for the write-off of rates arrears on unused and unoccupied Māori land. The key issue with this option is that it will require significantly more engagement by councils and other agencies to achieve the objective of increased engagement by Māori land owners. This is because rates arrears present an immediate barrier to land owners identifying themselves to councils. Owners of Māori land face the risk that they come forward with development plans in the context of uncertainty as to whether they will achieve rates relief, and become the target for overdue rates.

143. The process of applying providing a write-off on the basis of development plans provides flexibility for councils to use their discretion as to whether to grant rates write-offs. However, the level of flexibility may create too much uncertainty for councils as to when write-offs apply. There are likely to be added administrative costs to adopting policies in relation to the councils' approach.

144. There are likely to be administrative difficulties and costs in implementing this option. For example, councils will need to provide a process for the consideration of evidence, exercise a discretion as to whether the evidence was sufficient, provide for a review process, and administer write-offs on a case by case basis, for example.

145. This option is assessed as providing less certainty for owners of Māori land as there may be different treatment of different owners of Māori land within the same council area.

146. This option will place the costs of achieving rates write-offs on Māori land owners as they must apply for the write-off. The case by case nature of assessments of evidence of land use is unlikely to encourage widespread engagement with the process in Option D4 (b).

Risks

147. This option raises a question as to whether it is appropriate for ultimate decision-making about write-offs to sit at the local government level. The Department of Internal Affairs (**DIA**) has also raised that Option D4 is not clear enough to provide unambiguous guidance to local authorities about when, or if, rates are written off in a particular case. A statutory duty to write-off rates needs to be free of subjective judgement. DIA considers that if this option were enacted, it would create friction between local authorities and Māori land owners about what constituted "evidence of a commitment", especially if for unforeseen reasons, commitments did not translate into expected outcomes.

Overall assessment

148. Overall, it is assessed that this option gives councils flexibility to address the policy objectives. The most likely category of land that will benefit from rates write-offs is unused and unoccupied Māori land. That category is most likely to benefit from improved engagement, use and development. In that context, Option D4 is assessed as being more limited in addressing the barriers to engagement with land, particularly succession issues. For the same reason, there is less incentive for Māori to pursue rates write-offs. This option will result in higher compliance costs on Māori or councils and produce uncertainties in respect of the process and outcomes, both initially and ongoing.

Consultation on all Rating Options

149. Councils and owners of Māori land have been consulted with extensively over time on rating matters. Previous governments considered rating issues, and in 2008 and 2010, and noted the impacts of the rating regime on Māori land (CAB Mins (08) 10/3; (08) 22/1 and CAB Min (10) 20/12 refer). The problem addressed in this RIS is not new, and the problem definition has been largely drawn from previous work.

150. The Local Government Rates Inquiry 2007 (**Inquiry**) provided a significant indicator of problems arising in relation to rating Māori land.[30] Three years of analysis and consultation by Te Puni Kōkiri followed the Inquiry. In 2008, Te Puni Kōkiri surveyed local authorities to scope the extent of the problem of rating on Māori land. Consultation with Māori land owners in 2008 and 2010 signalled that rates were a barrier to the development of Māori land.

151. In 2010, Te Puni Kōkiri consulted on the options of a rating exemption for wholly or partially unused Māori land; the appropriateness of the 2 hectare limit for Māori burial grounds, marae, meeting houses and meeting places; the best policies and practices for remissions of rates on Māori land.

152. Te Puni Kōkiri attended two New Zealand Society of Local Government Managers (SOLGM) rating workshops in Auckland and Dunedin in October 2010 and three Local Government New Zealand (LGNZ) Zone One, Zone Two and Rural/Provincial Sector Meetings in November 2010 to seek the view of local government on rating and valuation of Māori land issues. Te Puni Kōkiri also sought the view of councils and Māori land owners through seeking feedback from all mayors and chief executives of councils and meeting with councils and owners of Māori land to discuss their views on certain non-rateability proposals. Te Puni Kōkiri convened meetings in Whangārei, Gisborne, Whanganui and Rotorua in February 2010. Te Maru Ata, LGNZ's Māori advisory committee was also consulted.

153. In 2010, in response to the survey of councils, a majority of 17 councils supported an exemption for Māori land that is wholly unused, 13 supported the status quo

30 Report of the Local Government Rates Inquiry (2007).

and 11 were neutral. A majority of councils also supported an exemption for partly unused Māori land. Fourteen councils supported it, 13 supported the status quo and 14 were neutral. Those councils not opposed to the wholly unused exemption had 84% of all Māori land in their districts while those opposed to the exemption only had 16%. Those councils not opposed to the partly unused exemption had 83% of all Māori land while those opposed were responsible for 17%. A majority of 12 councils supported removal of the limits, 10 favoured the status quo and 19 either did not answer the question or did not express a view on the matter. Those councils not opposed to the removal of the limits had 75% of all Māori land, while those opposed were responsible for 25%.

154. In 2015, Te Puni Kōkiri considered submissions on the exposure draft of the Bill and consultation document, and held subsequent hui to discuss the options with Māori leadership groups and land owners (it should be noted that the recommended options for non-rating of Māori land and rates write-offs now differs from to those discussed at meetings in 2015 (i.e. the recommended option now provides discretion to councils to non-rate unoccupied and unused Māori land as opposed to compulsory nationwide application):

    a. Written submissions generally signalled the need for reform on rating issues, with concern about rates being levied on under-utilised, isolated or under-performing land.[31] Council submitters noted that rating was a major issue for owners of Māori land in their region, and they identified issues associated with rates recovery, including the time and energy costs to the councils.

    b. Te Puni Kōkiri and the Ministerial Advisory Group held meetings in April, July, September, October and November 2015 with Māori leadership groups.[32] These meetings indicated general support for all unoccupied and unused Māori land becoming non-rateable, Ngā Whenua Rahui covenanted land becoming non-rateable and the removal of the two hectare size limits for marae and urupā non-rateability. It is also clear that the leadership groups consider the proposals should go further in some places, or could have a different starting point or emphasis. Key themes that arose included that a kaupapa-based approach to identifying which land is non-rateable would be an alternative approach, and that rating exemptions should apply to papakāinga.

155. Te Puni Kōkiri also convened meetings with councils and Māori land owners in locations where there are significant areas of Māori land, in Taumarunui, Rotorua and Whangārei:

    a. Māori landowners and councils officers expressed support for reform on changes to the status quo for rating matters. In total, approximately 55

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31 The issue of rating of Māori land was raised by twenty-five submitters (11 individuals, 5 trusts, 1 incorporation, 2 local Māori organisations, 1 national Māori organisation, 1 Iwi organisation, and 3 councils).

32 Including with the Federation of Māori Authorities, the Māori Women's Welfare League, Te Hunga Roia Māori o Aotearoa, the New Zealand Māori Council, Te Tumu Paeroa, and the Iwi Chairs Forum.

landowners[33] attended the hui. 24 technical experts from councils attended, and two Mayors.[34] At these meetings Māori land owners expressed broad support for all unoccupied and unused Māori land becoming non-rateable, Ngā Whenua Rahui covenanted land becoming non-rateable and the removal of the two hectare size limits for marae and urupā non-rateability. There were questions around some aspects of those options, including some of the detail, and suggestions that the options could go further or start with a kaupapa-based approach.

b. Council attendees did not raise significant issues in relation to all unoccupied and unused Māori land becoming non-rateable or the other proposals put forward. It was noted that many councils already have policies in place addressing some of the concerns (e.g. for unused and unoccupied land). Key comments included that councils want to retain a level of flexibility in customising rating policies to their circumstances.

156. In addition, the Minister for Māori Development presented the recommended options to the Local Government New Zealand Rural and Provincial Sector Group on 19 November 2015. Te Puni Kōkiri presented the recommended options to a meeting of the Society of Local Government Managers on 20 November 2015. The proposals were well received at both meetings. It should be noted that the recommended options now differ to some extent to those discussed (i.e. council discretion to non-rate unoccupied and unused Māori land). Councils with a high proportion of Māori land acknowledge the complexity of issues related rating and valuing Māori land and identify the proposals as similar to policies which, in various forms, they had already put in place or are considering.

157. Te Puni Kōkiri has met with Local Government New Zealand (**LGNZ**) officers to explain the recommended options and is not expecting an adverse reaction to them In addition, recent discussions with Local Government New Zealand indicate that the proposals in this paper are in line with policies currently employed by many councils with large amounts of Māori land.

158. No consultation has occurred in respect of Options A4, or Options D3 and D4.

Conclusion on consultation

159. There is broad support for an exemption for Māori land that is wholly or partially unused and unoccupied. Feedback from Māori in 2010 clearly supported an exemption for wholly and partially unused Māori land and the removal of the 2 hectare limit on exemptions for marae and urupā. Consultation in 2015 has signalled that Māori landowners and representatives continue to support the non-

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33 Comprising approximately 35 at the Taumarunui hui, and 10 each at the Whangarei and Rotorua hui.

34 Staff attended from the Ruapehu District Council, Western Bay of Plenty District Council, Taupō District Council, Waikato District Council, Whakatane District Council, Far North District Council, Auckland Council, Kaipara District Council and Whangarei District Council); the Mayors were from the Ruapehu District Council and the Far North District Council.

rateability of all unoccupied and unused Māori land. Feedback on the proposals from local government is more mixed. In 2010, there was majority support for partial rating of unused Māori land and for the removal of the 2 hectare limits, and a majority of councils supported the removal of the 2 hectare limits.

160. Te Puni Kōkiri recently met technical staff from councils responsible for rating over 60% of all Māori land, and those meetings signalled a level of comfort with all unoccupied and unused Māori land becoming non-rateable and the other proposals put forward. Council staff authorised to articulate policy positions on behalf councils were not necessarily in attendance at the meetings, but the recommended options were fully outlined and timeframes for their promulgation clearly signalled to councils. Given councils are well aware of the implications of the proposals given their participation in the 2010 survey, it is significant that no councils have subsequently contacted Te Puni Kōkiri with any concerns whatsoever. Māori leadership groups and owners have also recently signalled their support for the uniform application of unoccupied and unused Māori land becoming non-rateable and the other recommended rating options presented in this RIS.

Conclusions and Recommendations on Rating Proposals

161. The status quo is not working for councils, for Māori landowners or for communities. The impacts of all the status quo options, taken together, is that rates arrears on Māori freehold land have been growing since 2008, councils incur a range of administrative costs in maintaining policies to deal with these issues, and must charge and remit rates and address GST implications.

162. Rates arrears are a significant disincentive for Māori engaging with their land, for fear of rates arrears. The recommendations will provide additional measures for councils to address the issues.

163. There are also equity issues in relation to the limits on rateable sizes for marae and urupā, and for Ngā Whenua Rāhui covenanted land. Māori land productivity is a key issue that is currently being addressed by Te Ture Whenua Māori Bill. Landowners and Māori groups have signalled that changes on rating and valuation matters are integral to the overall Māori land reforms, to the point of indicating their inclusion will harness greater support for the Bill. Improved Māori land productivity is directly linked to GDP and employment. Improved use and productivity of Māori land has the potential to not only enrich landowners but also contribute to higher rates income for councils.

164. The recommended options are:

- **Option A4**: discretion for councils to make Māori freehold land non-rateable where it is wholly and/or partially unused and unoccupied, through rating policies;
- **Option B2**: remove the 2 hectare limit for marae and urupā;
- **Option C2**: non-rating of Ngā Whenua Rāhui lands; and

- **Option D4:** rates arrears on marae and urupā and land subject to Ngā Whenua Rāhui covenants be written off at the time when these lands become non-rateable; and on unused and unoccupied Māori land once councils have evidence of a commitment to use land.

165. Taken together, the recommended options give firmer direction to councils on rating of Māori land, and the ability to enhance the opportunities for land to be productive. It is difficult to estimate how much land will be utilised over time. It is expected that some land will not be used, for example, for cultural reasons. However, the recommended options are intended give council's options to remove the barriers that rates arrears present, particularly for landowners who want to engage with their land.

166. If all councils adopt exemptions for unused and unoccupied Maori land their overall administrative costs to establish new rating apportionments is estimated at $375,000. The total estimated ongoing costs to all councils is estimated at $10,000 per annum. With a full uptake by all council the total estimated rates foregone under this proposal is between $990,000 per annum, or 3.79% of all rates paid on Māori land. It is not possible to estimate what proportion of councils will adopt the proposals. It is assumed that there are negligible impacts for rating apportionments and rates forgone on marae and urupā over 2 hectares in size and Ngā Whenua Rāhui covenants. As explained above, it estimated that lands in those categories are likely have their rates remitted, or those rates are not paid.

167. An exemption from rates for marae and urupā over 2 hectares in size and Ngā Whenua Rāhui covenanted land will provide the certainty and consistency for their rating treatment and equity with other similar situations. Councils will have improved options for improving engagement and utilisation of Maori freehold land. There is inequity as compared to other categories of land that have incurred rates arrears but do not receive a rates write-off, and it provides advantages to those who benefitted from the exemption over other Māori owners that have paid rates on unused and unoccupied land. However, given the importance of providing the opportunity for Māori land owners to engage with Māori land, this option is considered to outweigh those impacts.

168. Overall, the package of reforms proposed in this paper, when implemented alongside the wider Te Ture Whenua package of reforms, is expected to provide better opportunities for engagement with and use and productivity of Māori freehold land. Testing of the recommended options over the next 5 years will occur (at which time a review is proposed, see below). Together, the options are anticipated to reduce rates arrears, provide for increased rating income for councils over time, and provide opportunity for increased GDP and employment associated with Māori land.

169. The financial implications to central government arising from this paper are limited to the GST received on Māori land that is currently paying rates which would become non-rateable. Te Puni Kōkiri anticipates this to be between $68,217 and $204,521 per annum. The focus on increasing opportunities for

Māori land development will increase councils' rates income in the long term which will lead to increased GST received by central government.

Implementation

170. The proposals in this paper are for inclusion in the Te Ture Whenua Māori Bill which is anticipated to be introduced to the House in early 2016. It is expected that:

    a. in the first financial year (1 July) that is at least nine months after the commencement of the new Te Ture Whenua Māori Act, the non-rateability provision will come into effect and all rates arrears on land that will become non-rateable will be written off; and

    b. where part of a property becomes non-rateable the valuation will be apportioned into separately rateable parts of a rating unit and those rates attributable to the non-rateable part when the provision comes into effect will be written off.

171. Councils will need time to complete the changes prior to the rates strike (1 July), so they can take effect for the rating year. A minimum of nine months' notice is considered adequate for this to occur. That date is proposed to minimise compliance costs by giving councils time to update their records for whenua mahikore.

172. Where wholly unused and unoccupied land will be non-rateable (Option A3 or Option A4), initial assessment of properties will be relatively straight forward as once those properties are identified, arrears can be written off. Where partial blocks of unused and unoccupied land is exempt from rates (Option A2 or Option A4 (recommended)), there will need to be rating apportionments created for those councils that do not currently exempt this land from rating to assess the arrears for write-off. Where there is a Ngā Whenua Rāhui covenant in place (Option C2 (recommended), the land area will already be defined on a plan approved under the Land Transfer Act and the boundaries for the rating exemption will be certain. This will enable all rates notices from the year to 30 June onward to display rating valuations for the portions of the land that are rateable and non-rateable. Once all areas subject to a rating exemption are identified, the associated write-offs can be calculated. The non-rateability and the associated write-off would have effect from 1 July.

173. Policies adopted for non-rateability and options involving a discretion for rates write-off by councils (Options A4, D3 and D4), are not bound to the 1 July timeframe.

174. The key risks associated with the rating exemptions to come into effect on 1 July is that if the timeframes do not allow councils (particularly those with more Māori land) to update their systems before the legislation applies, and if there are delays in creating rating apportionments (for the partially used exemption). Flow on risks would be delay associated with identifying the rates arrears that would be written off, and achieving that write-off.

175. Timing risks have been accommodated by not fixing a date on which the legislation will come into effect, but by ensuring there is at least nine months for councils to transition. For the purposes of the partially unused exemption, it is not anticipated that there will be delays in creating rating apportionments. Where a council already remits for part of a property the apportionment would have already been completed. As above, there will be certainty as to where rating apportionments for Ngā Whenua Rāhui should apply. The project scope is relatively small compared to another valuation apportionment project where a number of valuations had to be completed when the Valuer-General redefined the requirements for a rating unit. At that time, Quotable Value did over 95,000 separate valuations, having considered over 1.5 million properties, and it took approximately 9 months to complete. The proposed timeframe of nine months after the legislation comes into force is considered appropriate for this task in light of that precedent.

176. Prior to any legislation taking effect, Te Puni Kōkiri will work with SOLGM, LGNZ and the sector to develop freely available information resources about what the changes mean for both councils and owners of Māori land. Te Puni Kōkiri will also liaise with councils to determine how the legislation is being implemented.

177. All options in this paper would be supported in the context of a more proactive strategy to work with Māori land owners to improve the engagement with and productivity of Māori land as a whole. Principally this will involve:

a. the Māori Land Service working with land owners to form governance structures, improve governance capability, and aggregate their interests, in order that land owners can take active decisions about the development of their land;

b. the Ministry for Primary Industries and the Māori Land Service (once established) actively working to assist land owners to understand their land development potential and options and prepare and assist them for land development (e.g. land conversion – pasture to horticulture, improved productivity, or mixed uses (e.g. honey production, tourism ventures)); and

c. the Whenua Māori Fund having a particular focus on the utilisation of unoccupied and unused Māori land.

Monitoring, Evaluation and Review

178. It is intended that the Minister for Māori Development in consultation with the Minister of Local Government commence a review of the mechanisms for rating Māori land within three years of commencement of the new Te Ture Whenua Māori Act and report to Cabinet.

179. Three years allows sufficient time for the impacts of new policies become apparent.

180. Prior to commencing a review, responsible Ministers will be required to develop a Terms of Reference in consultation with local government and representatives of Māori and Māori groups.

SECTION THREE: VALUATION OF MĀORI FREEHOLD LAND

Status Quo

181. Key elements of the rating and valuation system are contained in the Local Government (Rating) Act 2002 (**LGRA**), the Rating Valuations Act 1998 (**RVA**) and the Land Valuation Proceedings Act 1948 (**LVPA**). Elements of that regime have been described at paragraph 22, above. Additional elements of the rating valuation system include that:

    a. the starting point for all valuations is the highest and best use land could be put to;

    b. the RVA empowers the Valuer-General to specify methodologies or relevant factors to be applied when undertaking a valuation of land for rating purposes, including specific rules[35]; and

    c. all appeals on valuation matters are referred to the Land Valuation Tribunal. Their decisions can be appealed to the High Court.

182. Valuation of Māori land is on the same basis as general land (i.e. highest and best use), but is subject to a specific Court of Appeal decision. The *Mangatu* decision[36] is the leading authority on the valuation of Māori freehold land and sets a precedent for those valuations. The *Mangatu* decision allowed for the effect of the Te Ture Whenua Māori Act 1993 to be included within valuations. This decision described the following factors to be considered by valuers: the nature and size of the property; the historical connection of the owners with the land; membership of the preferred class of alienees and the resources available to fund the purchase; the statutory role of the Māori land court in relation to the property; and the prospect of obtaining confirmation of an outside sale from the Māori Land Court.

183. Subsequently the Valuer-General, in consultation with Te Puni Kōkiri, the Māori Land Court, the Federation of Māori Authorities and the Mangatu Incorporation, issued a guidance note to valuers which outlines criteria for adjusting valuations of Māori land up to a maximum of 15%. That guidance note requires that each case should be considered on its merits and that the value of the land as freehold land is made before a deduction made on the basis of two factors (**Mangatu adjustments**):

    a. the number of owners: 3.5% to 10% adjustment; and

    b. sites of significance: up to a 5% adjustment.

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35 The Rating Valuation Rules 2008 have the status of deemed regulations – these Rules bind, and are interpreted by, the Court and the Land Valuation Tribunal.

36 *Mangatu Incorporation and Ors v Valuer-General* [1997] 3 NZLR 641 CA.

184. Rates assessments for all Māori freehold land are based on the valuation process described above, except where the council has a remissions policy that includes an alternate valuation methodology.

185. The Rating Valuations Rules 2008 require a valuation notice of Māori freehold land to display: the value prior to and after the Mangatu adjustment; and the percentage of adjustments on account of the number of owners and sites of significance.

Problem Definition

186. The rating regime, when applied to Māori freehold land, has a number of unique impacts, one of which is that the payment of rates is perceived as unfair. Rates are based on valuations may not be reflective of land use, the nature of occupation or the restrictions on alienation of land. In turn, this impacts on the opportunities for Māori land owners to engage with their land.

187. The valuation of Māori land does not fully reflect the restrictions on the use and alienability of Māori freehold land imposed by current and proposed Māori land law. Those restrictions create a legislative constraint around land use, constraints that affect the ability for the use of Māori land to be optimised.

188. Rates due are calculated on the basis of a valuation. However, the current approach to valuation is assessed as inadequately taking into account the cultural values associated with the land or the limitations on alienation expressed in TTWMA. This produces a disproportionate rating burden for Māori land owners.

189. It is considered that a number of factors are inadequately taken into account for rating purposes, including: the nature and size of the property; the historical connection of the owners with the land; membership of the preferred class of alienees and the resources available to fund the purchase; the statutory role of the Māori Land Court in relation to the property; and the prospect of obtaining confirmation of an outside sale from the Māori Land Court; additional time, cost and risk of sale associated with Māori freehold land; the number of owners; sites of significance; mortgage-ability of the land; and the nature of the title and market perception of the title.

Objectives

190. The objectives for the policy options considered in this paper are complimentary to the suite of initiatives[37] that have recently achieved Cabinet approval in relation to wider Māori land reform. These objectives include:

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37 The suite of initiatives include: empowering and streamlined legislation (Te Ture Whenua Māori Bill); a more focused Māori land Court; the establishment of an active Māori Land Service, with a Māori land facilitation service; and the creation of the Whenua Māori Fund.

a. promoting the retention of Māori land in the hands of owners, their whanau, and their hapū;

b. protecting wahi tapu; and

c. facilitating the occupation, development and utilisation of that land.

191. The objectives for the valuation options considered in this paper include:

a. *Te Ture Whenua Māori Bill alignment* – the option aligns with the objectives of the Bill (for example, land retention and acknowledging land as a taonga tuku iho);

b. *Fair reflection of Māori land tenure*– the mechanism and actual adjustments provide for rating valuations that take account of the full range of practical realities, limitations and benefits of Māori freehold land tenure on actual market value (including additional time, costs and risk of sale; numbers of owners; limits on mortgageability; and the market perception of and nature of Māori land title);

c. *Equity* – provide for an equitable rating valuation solution vis a vis general land holders;

d. *Opportunities for engagement, use and development* – provides better opportunities for Māori land owners to engage with their land, and to use and develop it;

e. *Certainty* – provide certainty as to the mechanism for calculating Māori freehold land, certainty as to the factors that valuations of Māori freehold land should take account of and the weighting that should be applied, and certainty as how they are to be applied;

f. *Simplicity* – rating valuations must be simple to understand and apply;

g. *Transparency* – rating valuations must be clear, identify relevant factors, and allow factors to be weighed appropriately, limiting the role of subjectivity;

h. *Auditability* – rating valuations need to be auditable across all decisions against a clear formula; and

i. *Costs are minimised* – implementation costs should be minimised, but be in proportion to reasonable costs associated with achieving the range of objectives.

Options Overview: Valuation

192. Te Puni Kōkiri has considered a range of options in developing the proposals for Cabinet consideration. The three options addressed in this RIS are:

- **Option V1**: status quo;
- **Option V2 (recommended)**: "**Whenua Māori Adjustments**" (revision of current rating valuation framework) – a mechanism for the valuation of Māori freehold land for rating purposes that uses Regulations to determine the amount of the adjustments and rules to determine the method of valuation; and

- **Option V3** – "Use based valuations" – a mechanism reflecting where the starting point for the valuation is actual use (as opposed to highest and best use) then the Whenua Māori Valuation Adjustment is applied to derive the rating valuation for Māori freehold land.

Regulatory Impacts Analysis: Valuation Options

Option V1: Status quo

Regulatory impact analysis

193. The status quo is assessed to provide an inadequate mechanism for the valuation of Māori land for rating purposes. Rating valuations are relatively certain, simple and auditable because the mechanism and factors to be considered are known. However, it is assessed that the restrictions on title imposed by the Bill are inadequately recognised in both the mechanism (highest and best use) and the permitted adjustments as set by the Valuer-General's guidelines.[38] It is considered that the percentage adjustments provided for in the Valuer-General's guidelines do not provide a sufficiently fair reflection of Māori land tenure. It only addresses two factors among many that affect the real market value of Māori freehold properties. It is therefore assessed that the mechanism must be producing adjustments that are smaller than what is considered a fair reflection of Māori land tenure.

194. Valuations are necessarily somewhat subjective. Transparency in the status quo is achieved by valuation notices setting out the value prior to and after the Mangatu adjustment and the percentage of adjustments on account number of owners and sites of significance. Audit of the status quo is simple because there is a clear mechanism that has been applied previously.

195. Option V1 is considered to put Māori freehold land owners in an inequitable position vis a vis general land holders. The key difference between Māori freehold land and general land is that owners of general land can more easily develop or sell property. There are many examples of general land being sold because of changing circumstances, or land use or changing value patterns (such as down-sizing due to retirement or subdividing to sell a lifestyle block). It is also easier for finance to be raised against general land to realise the highest and best use (and much more difficult for Māori land). The Mangatu adjustments only partially take into account features specific to Māori land.

196. The status quo produces a high rating burden that lacks proportion to the nature of Māori land title and the possible market value of that land. Accordingly, the impact is that there are less opportunities for Māori engagement with land and for land development over time. Some Māori freehold landholders have tested

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38 As mentioned at paragraph 183 of this RIS, these are:
   a. the number of owners: 3.5% to 10% adjustment; and
   b. sites of significance: up to a 5% adjustment.

the way valuation methodology is applied and tested the extent to which the status quo fairly reflects the features of Māori land tenure. In the result, the Court determined that some factors were not being given proper account in the final valuations[39] and improved the valuation. There are significant Court costs for Māori land owners to have particular factors recognised as fair in the Courts, and for councils as party to that litigation.

197. In relation to costs:

a) there would be no extra administrative costs associated with maintaining the status quo;

b) costs for the Valuer-General are minimal as the methodology is well established; and

c) in relation to the rating base, where Māori land owners do not consider rates are fair, they are less likely to pay them; where rates exceed income associated with the land, the rating income of councils is affected.

Risks

198. The key risk to the current approach is that Māori freehold landowners continue to receive valuations that are disproportionate to the market valuation of their land. This is because of the small quantum of adjustment and that not all relevant factors are accounted for in the Valuer-General's guidelines. Māori are likely to be bearing a disproportionate rating burden based on that valuation.

Option V2: "Whenua Māori Adjustments" (Revision of current rating valuation framework) (recommended)

Description

199. Option V2 is intended to refresh the *Mangatu* approach to valuations of Māori freehold land, and is intended to apply a new framework to rating valuations only. Option V2 is comprised of two elements.

200. The first element, of immediate effect, is a mechanism in the Rating Valuations Act 1998 to make adjustments for adjusting the values of Māori land for rating (**valuation adjustments**). The purpose of the framework should be to provide a simple and efficient mechanism to adjust market values to arrive at a reasonable proxy for the value of Māori land including the circumstance associated with multiple ownership and the time, cost and issues of sale, suitable for use in rating. The framework will also provide that all parcels of Māori land should have a minimum rateable value or maximum adjustment to be set in regulations (i.e. no zero rating valuations).

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39 See: *Taheke Paengaroa Trust v Western Bay of Plenty Council and Landmass Technology Limited* [2009] NZAR 175, para [46] in particular.

201. In the legislation would be:

a. The mechanism for the adjustments, involving:
   i. starting with the market value of the land as if it were general land; and
   ii. applying the new set of prescribed adjustments which would be percentages and/or flat dollar amounts.

b. A list of factors that may be taken into account for the valuation adjustment, including:
   i. the time and cost (including the opportunity cost of capital) that would be incurred through the entire process of a status change to general land;
   ii. the number of owners;
   iii. an allowance that captures the social, cultural and general heritage connection to the land including an allowance for issues associated with Māori Land Court processes;
   iv. sites of special significance; and
   v. any other relevant matters to be prescribed in regulations.

202. The second element of Option V2 is that it will provide for regulations and rules to be made after the legislative amendment above. The purpose of those regulations and rules is to develop the details of these valuation adjustments:

a. Regulations would set the formula for the valuation adjustments (e.g. the percentage for each factor).[40] The formula must yield a result that is credible for owners of Māori land given the factors to be taken into account will be described in legislation and the discretion of the Courts on valuation appeals will be more limited.

b. Rules would detail how rating valuations are to be made and recorded.[41] Special rules may be required land with sub-division potential as the calculation of general land values can involve a series of assumptions that are not true for Māori land. Special rules may be required for land where the highest and best use is subdivision, as the calculation of general land values can involve a series of assumptions that are not true for Māori land.

203. The above approach should ensure that all properties have a plausible minimum rating value and no rating unit has a higher value for rating than it would under the current system.

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40 Regulations would be made under a new empowering provision in the Rating Valuations Act 1998 made on the recommendation of the Minister for Land Information in consultation with the Minister for Māori Development.

41 The Rating Valuations Act 1998 already allows the Valuer-General to make rules. The Rating Valuation Rules 2008 specify the detail of how rating valuations must be made and recorded. The Rating Valuations Act 1998 would be amended to explicitly require the development of rules, and those Rules would be made by the Valuer-General in consultation with the Chief Executive of Te Puni Kōkiri.

Regulatory impacts analysis

204. Option V2 refreshes and builds on the factors identified in the *Mangatu* case and better aligns with the realities of Māori title. It is also more aligned with the Bill than the status quo and is more likely to achieve an approach to rating that more fairly reflects the nature of Māori land tenure. In particular, is assessed as likely to produce rates that bear a more reasonable proportion to the market value of land, and the likelihood of a property getting to market or being saleable.

205. This proposal is anticipated to create opportunities for the availability of income to encourage the engagement with, and the use and development of, Māori freehold land. The facilitation services anticipated from the active Māori Land Service are also expected to enhance the opportunities for Māori to engage with their land.

206. Option V2 will establish a simpler, clearer and more certain approach for valuers to apply. Legislation will set out the mechanism, and regulations and rules will provide the detail. Given the simplicity of a clear formula to be applied, it is likely to be easily audited.

207. Option V2 fairly reflects Māori land tenure and lists particular factors that can be accounted for. However, there may be a perceived equity issue because general land can also have some of the factors listed in the proposed adjustments as features of their land (for example, they may have number of owners, particular heritage or cultural values and features, or sites of significance). This is not an unusual approach, however. There are other examples of where constraints create a special approach to valuation. For example, the Rating Valuation Rules 2008[42] defines methodologies for valuing electricity line businesses and gas distribution networks (optimised deprival value) and other utilities (optimised depreciated replacement cost). The rating revaluation handbook[43] also provides guidance on matters relating to valuation affected by water permits.

208. The impacts of Option V2 on Māori freehold land owners are assessed to be positive as it is expected that the amount of rates incurred will more fairly reflect the nature of Māori land tenure, and produce lower rates than the status quo. All Māori freehold land would receive the adjustment to their rating valuation, being approximately 27,342 separate Māori freehold titles.[44] Additionally, it is assumed that some properties will have their values corrected either for numbers of owners or sites of significance. The impacts of this proposal on councils would be that the likely rating income of the council would be lessened, but this will differ from council to council and property to property.

209. Option V2 expects that there will be costs to councils in establishing new valuations for Māori freehold land. However, given the mechanism is clear and is based on the current approach with amendments only to the factors to be taken

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42 LINZS30300, 1 October 2010.

43 LINZG30700, 31 March 2011.

44 Māori Land Court (2014), Māori Land Update – Ngā Āhuatanga o Te Whenua, July 2014.

into account, there is likely to be some administrative costs associated with introducing the new approach.

210. Overall, this option balances the administrative establishment costs and the need for rates calculations that are more fairly linked to the nature of Māori land title. It is likely that if owners are more engaged in their land, there is a stronger likelihood that as land is productive rates payments will be more forthcoming.

211. The costs for implementation will not be able to be accurately defined until the mechanism for adjustments is determined through the Regulations. The intent is to create a mechanism that is relatively straight forward to implement. The start figure for the valuation would be from the existing valuation and adjustments and will incorporate factors within the current Mangatu adjustments. The adjustments to value are anticipated to be an arithmetic reassessment based on known factors. The costs of this change to councils are anticipated to be in the range of $10 – $20 per property.[45] The total cost is expected to be between $273,000 and $547,000 across all Māori freehold properties. It would be in the lower range if there is no requirement to find new information, and could exceed the range if extensive research is required. Higher costs would fall on those councils with higher proportions of Māori freehold land (see Table 1 at paragraph 21, above). Based on experience from the implementation of the Mangatu adjustments, it is assumed that a formula-based approach will be relatively easy for valuation service providers to quickly update.

212. It is considered necessary to address the status quo through a legislative option. The option of enhancing the status quo by further developing the Valuer-General's guidelines is not considered a viable option. It was considered that the legislative approach provides the certainty required as to which factors will be included, and it is more appropriate that Ministers make the decisions as to the mechanism because of their accountabilities. While it is appropriate for the Valuer-General to make rules, a change of this nature is more appropriate at the Ministerial level. The Valuer-General is a statutory officer whose role is to keep the system working effectively and efficiently, and in accordance with good valuation practice. A legislative approach allows the delivery of more meaningful value changes.

213. Use-based valuations would allow appeal of the initial in use value (e.g. the figure that creates the baseline for adjustments) as well as the proportion of adjustments applied.

Risks

214. Option V2 carries the risk that the valuation mechanism and factors, developed specifically for the purpose of rating valuations, could be used for other purposes such as negotiating rental agreements in relation to Māori land. This will be addressed by a specific legislative provision that the whenua Māori valuation

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45 Based on industry sources. The work would likely be done by the Evaluation Service Provider, and the costs are estimates of costs of using that service.

adjustments are only suitable for rating valuation purposes, will not be used for other statutory valuation purposes, and are not suitable for general valuation purposes.

215. This approach will not address all valuation issues. It does not address inequities that arise from starting from a valuation of the highest and best use where that value will likely never be achieved because of constraints of multiple ownership or the implications of Māori land tenure.

216. By placing a prescribed list of factors in legislation and detailing their application in Regulations, it may be more difficult to update the factors over time and for the Courts to take a flexible approach in applying their discretion in valuations. The extent to which these risks are real cannot be assessed at this time. The content for the regulations and rules will be addressed in the lead-up to the enactment of the Bill.

Option V3: Use based valuations

Description

217. Option V3 is a legislative option that would introduce a mechanism for rating valuations based on the actual use and extent of the use of the land.

218. Rating valuations are currently assessed on the basis of highest and best use rather than actual use. Māori land is often not used for its optimal use. Use based valuations would better reflect actual circumstances for Māori land, resulting in lower values for these properties. Application of this option would mean that a desirable Māori land small holding site in multiple ownership that is used for agricultural purposes on account of multiple ownership could be valued as agricultural land, ignoring the house site value from the overall property value.

219. A legislative mechanism for adjustments would involve:

    a. starting with a valuation based on the actual use value of the land as if it were general land; and

    b. applying the prescribed adjustments which would be percentages and/or flat dollar amounts.

220. As for Option V2, a list of factors would be taken into account for the valuation adjustment, including:

    a. the time and cost (including the opportunity cost of capital) that would be incurred through the entire process of a status change to general land;

    b. the number of owners;

    c. an allowance that captures the social, cultural and general heritage connection to the land including an allowance for issues associated with Māori Land Court processes;

    d. sites of special significance; and

e. any other relevant matters to be prescribed in regulations.

Regulatory impact analysis

221. Option V3 is assessed as most likely to improve the opportunities for Māori to engage with and develop their land. With a more proportionate rates assessment, a barrier to Māori land owners' engagement with their land is expected. To that extent, this option provides better opportunities for increased land production to occur over time. As the starting point in the mechanism relates to the actual use, councils' rating base would increase as land productivity improves. Option V3 would improve the alignment with the objectives in the Bill because the discount factors acknowledge the qualities of land as taonga tuku iho.

222. Option V3 is assessed as having a clear and certain mechanism that results in auditable valuations, despite being a more complex approach. Option V3 more fairly reflects the nature of Māori land tenure because owners of Māori land would not be rated on a potential use that cannot be realised or compensated for by way of sale. However, an issue for Option V3 is that it could create an equity issue by introducing a starting point for valuation that is also relevant to general land. More planning in respect of guidance for applying Option V3 would be required to achieve equity, simplicity and clarity.

223. The key issue for this option is that there are critical administrative costs associated with implementation that require further work to understand. Information gaps associated with the rating of Māori land make detailed cost-benefit analysis difficult. However, it is expected that there would likely be significant costs in producing new valuations of Māori freehold land based on a new methodology.

224. Option V3 would incur implementation costs for councils, and would likely incur more costs in the implementation phase, reducing as the methodology was applied over time.

225. In addition, there would likely be significant administrative costs involved in introducing a whole new valuation methodology. It would require all Māori freehold land to be reassessed as to whether the current use is the highest and best use, and for those that are not, re-valuation would be required.

226. Use-based valuations would allow appeal of the initial in use value (e.g. the figure that creates the baseline for adjustments) as well as the proportion of adjustments applied.

Risks

227. As for Option V2, Option V3 carries the risk that the valuation mechanism and factors, which have been developed specifically for the purpose of rating valuations, could be used inappropriately as a precedent for other purposes. This could be addressed by a specific legislative provision, as for Option V2.

228. The unique risk is that if a whole new mechanism for valuation is required, new systems will be required to cater for the new framework, impacting on the costs of valuation for councils.

Consultation on Valuation Options

229. In developing policy options, Te Puni Kōkiri has taken into account concerns about the current practice and the resulting level of rating valuations of Māori land raised in a number of fora:

    a. a Land Valuation Tribunal called for a review of the valuation guidelines;[46]

    b. the Māori Law Review editorialised on the *Taheke Paengaroa Trust* case, noting the Land Valuation Tribunal's comments that changes to the market affecting Māori land since 1997 mean a greater adjustment may be warranted than the 15% maximum figure applied under the Mangatu guidelines;

    c. a Land Valuation Tribunal has made decisions outside the Mangatu guidelines and listed factors for consideration additional to those in that Court of Appeal decision[47] and the Valuer-General's guidelines;

    d. the Local Government Rates Inquiry 2007 recommended that a new basis for valuing Māori land for rating purposes should be established to explicitly recognise the cultural context of Māori land, the objectives of Te Ture Whenua Māori Act 1993, and the inappropriateness of valuations being based on "market value"[48]; and

    e. Te Puni Kōkiri's consultation.

230. Te Puni Kōkiri received feedback on valuation issues through eleven regional workshops in 2008 and four regional workshops in 2010 with Māori land owners and councils. These workshops highlighted that valuation was an issue with Māori land owners. The predominant view expressed by Māori land owners was that the current valuation basis for Māori land does not adequately reflect cultural values associated with the land, or the limitations on alienation expressed in Te Ture Whenua Māori Act 1993.

231. In March 2012, Te Puni Kōkiri met with Māori land owners, the Rotorua District Council staff from Land Information New Zealand, the Valuer-General and Registered Valuers.[49] Feedback from that meeting was that lower value properties should have a higher adjustment, special rules may be required for land for which the highest and best use is subdivision, and in general, current

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46 *Taheke Paengaroa Trust v The Western Bay of Plenty District Council and Landmass Technology Ltd* [2009] NZAR 175.

47 *Ongare Trust Māori Land Block v Western Bay of Plenty District Council* [2008] NZLVT 10 (12 December 2008).

48 Funding Local Government, Report of the Local Government Rates Inquiry' (2007).

49 Representation from Registered Valuers included representatives of the major companies completing rating valuations, an Auckland Council valuer, private enterprise valuers, and the President of the Property Institute.

adjustments are too low and do not account for all the relevant factors in respect of valuing Māori freehold land.

232. Consultation on Te Ture Whenua Māori reform, including on the 27 May 2015 exposure draft of the Te Ture Whenua Bill and accompanying consultation document, has clearly signalled that reform of the current valuation arrangements are required[50]. Consultation with Māori leadership groups indicated strong support for change, and indicated general support for the recommended option (Option V2). There is also some support for the alternative option, use based valuation, among other in principle approaches suggested for consideration.

233. Te Puni Kōkiri's consultation with Māori land owners and council staff in October 2015 in Taumarunui, Rotorua and Whangarei, addressed above at paragraph 155, above, also focused on the recommended approach for valuation. There was high level support for change from Māori landowners given strong concern that valuations produce unfair outcomes when valuations are assessed against the value of neighbouring properties and cultural use is not adequately accounted for. The key concern from owners was that the rating valuation should not drive down the valuation of the land for other commercial purposes. The council representatives who attended, from councils responsible for over 60% of all Māori freehold land rates arrears, identified that there were not many issues for them associated with the preferred approach, and one council was already consulting on the option of use-based valuations.

234. In conclusion, it is considered that there is a strong level of support for the recommended option, and the option takes account feedback received on valuation matters since 2008.

Conclusions and recommendations

235. Option V2 ('Whenua Māori Adjustments') is assessed as the most appropriate option. In particular, it positions the government to addresses the critical issues of fairly reflecting Māori land tenure in rating appraisals and alignment with the objectives of the Bill. It is assessed that the status quo inadequately achieves these objectives and leaves open concern that Māori freehold land owners are insufficiently supported to have opportunities to engage with and use or develop their land.

236. Option V3 is assessed as likely having the best impact of the options on an improved rating base over time. However, the key issue for this option is that the administration costs of the proposal are likely to be significant (further planning could address this issue, and also contribute to a greater level of certainty, equity and simplicity in the future).

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50 Consultation was with Māori leadership groups in April, July, September, October and November 2015.

Implementation

237. There would need to be time for local authorities to implement the changes to the valuation of Māori freehold land proposed in Option V2. It is proposed that they come into force on 1 July that is at least nine months after the commencement of the new Te Ture Whenua Māori Act. The Minister for Land Information New Zealand will be responsible for the regulations and rules. Officials from Land Information New Zealand, in consultation with officials from Te Puni Kōkiri, will carry out the research and analysis to design the regulations and rules during 2016 so that the new framework (including the regulations and rules) can come into force on the 1 July that is at least nine months after commencement of the new Te Ture Whenua Māori Act.

238. Te Ture Whenua Māori Bill will provide for amendments to the Rating Valuations Act 1998 to state that that rating valuations using the whenua Māori Valuation adjustments are only suitable for rating valuation purposes, will not be used for other statutory valuation purposes, and are not suitable for other general valuation purposes.

239. As set out above, it is expected that there will be costs associated with implementing the recommended option in the order of $10 – $20 per property (see paragraph 211, above).

Monitoring, Evaluation and Review

240. Transitional provisions, including for a review, is not anticipated at this stage. Ongoing work in to develop the regulations and rules in 2016 is required for the recommended option (Option V2). It is more appropriate to consider the required monitoring, evaluation and review for the valuation mechanism in the work once the detailed proposals are considered.

Section Four: Consultation on the Cabinet paper and Regulatory Impact Statement

Consultation on the Cabinet paper

241. The following agencies have been consulted on the Cabinet paper: the Department of Internal Affairs (Local Government); Land Information New Zealand (Land Information); the Department of Conservation (Conservation); the Ministry of Business Innovation and Employment (Economic Development); the Ministry of Justice (Courts); the Ministry for Primary Industries (Primary Industries); the New Zealand Defence Force (Defence); the Ministry of Transport (Transport); and the Treasury (Regulatory Reform). The Department of the Prime Minister and Cabinet (**DPMC**) has been informed. All Government departments consulted with have either agreed to the paper being sent out for Ministerial consultation or have not raised significant concerns about the paper.

242. There were some late changes to the Cabinet paper following the EGI meeting on 2 December 2015 [EGI-15-SUB-0174 refers]. The paper was amended to reflect discussion at EGI and subsequent Ministerial discussions on the approach to rating Māori land. As a result, some additional options were added to the paper, and the Department of Internal Affairs, Land Information New Zealand and the Treasury were consulted on those added recommendations. DPMC were informed.

243. Key feedback from department has been incorporated into the Cabinet paper. This feedback, and the way in which it has been addressed, is outlined in the table below:

Table 2: Departmental comments on the Cabinet paper

Departmental comment	How the concern was addressed
Land Information New Zealand • Requested the paper be clearer about the scope of the Whenua Māori Adjustments (option A2 in this RIS)	• Adopted.
Department of Internal Affairs • Requested the paper be clearer about costs to councils associated with the preferred option. • Raised concerns that the rating review provisions would be in legislation and do not apply to the whole reform package. • Suggestion that timing for the implementation for the recommended rating option be done to coincide with revaluation cycles.	• Adopted. • Review mechanisms no longer specified in legislation. • Implementation period extended from six to nine months following

	commencement of the new Te Ture Whenua Māori Act.
• Concern about new options and recommendations added after EGI.	• Recommendations revised and Departmental comment included in the paper.
• Requested the paper be clear about whether councils must publicly consult on new rating policies.	• Proposal refined to utilise existing frameworks for council policy development which have consultation requirements.
• Requested the paper delegate to appropriate Ministers approval of the detail about how this proposal is given effect. • Requested the paper note that apart from those councils that are unitary authorities all land has two councils • Requested the paper identify appropriate criteria for councils to have regard to in exercising their discretion on these matters. • Requested that discretionary non-rating of unoccupied and unused Māori land option clarified to be an 'all or nothing' option for councils.	• This is likely to be addressed via drafting instructions. • Adopted. • Paper now signals criteria will be developed for councils. • Issue to be resolved through the development of criteria.
Treasury • More narrative about the policy drivers and how they are achieved required. • More information about consultation processes to provide clearer context. • Clearer estimates of cost implications to be added. • Concern about new options and recommendations added after EGI.	• Adopted. • Adopted. A summary of consultation has been added. • This was not addressed in the Cabinet paper, but is addressed in this RIS. • Recommendations revised and Departmental comment included in the paper.

Consultation on this Regulatory Impact Statement

244. The following departments have been consulted on the draft Regulatory Impact Statement submitted prior to EGI: the Department of Internal Affairs; Land Information New Zealand; and the Treasury. The Department of the Prime Minister and Cabinet has been informed of the contents of the RIS.

245. Alterations were made to the RIS following the EGI meeting on 2 December 2015 and Cabinet meeting of 26 January. The amended recommendations for the Cabinet paper were the subject of consultation with agencies, as above, and the risks and benefits of the options were canvassed. While consultation on the detail of the RIS in respect of Options A4, D3 and D4 did not occur, Departments have been informed and their comments on the recommendations taken into account in drafting the RIS.