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Committee Secretariat
Māori Affairs Committee
Parliament Buildings
Wellington

ma@parliament.govt.nz

Submission on the Local Government Rating of Whenua Māori Amendment Bill

Thank you for the opportunity to make a submission on the Local Government (Rating of Whenua Māori) Amendment Bill

The Public Health Association of New Zealand (PHA) fully supports the intent of this proposed legislation to support the development of, and provision of housing on, Māori land, and to modernise the current outdated legislation. Currently the rating system creates a cycle where a lack of development inhibits the ability of owners to pay rates, and accumulated rates arrears inhibit owners from engaging with local authorities to promote the development of their land.

The current rating law for Māori land is largely unchanged from the Maori Land Rating Act 1924. It is no longer consistent with present-day expectations about Māori–Crown relationships

We applaud the Government's introduction of this legislation in so far as that it seeks to advance the Māori aspirations noted above. We also recognise that legislative support to realise the full potential Māori land will also contribute to the Governments goals to build a productive, sustainable and inclusive economy.

Who are we?

The PHA is a national association with members from the public, private and voluntary sectors. Our organisation's vision is 'Good health for all - health equity in Aotearoa'/'Hauora mō te katoa – oranga mō te Ao', and our purpose is to advocate for the health of all New Zealanders.

To achieve this, we provide a forum for information and debate about public health action in Aotearoa New Zealand. Public health action aims to improve, promote and protect the health of the whole population through the organised efforts of society.

Te Tiriti o Waitangi

We recognise Te Tiriti o Waitangi as Aotearoa New Zealand's founding document, defining respectful relationships between tangata whenua and tangata Tiriti, and are actively committed to supporting Te Tiriti in all policy and legislation.

Te Tiriti o Waitangi establishes a partnership that recognises Māori as the indigenous people of Aotearoa and guarantees their sovereignty.

Ko Te Tuatahi: Kāwanatanga

Article 1 of Te Tiriti allowed the British to govern their people. In a health context this involves sharing power as well as ensuring Māori representation and decision making capacity throughout the health sector.

Actioning Article 1 of Te Tiriti with a Māori public health lens; (Bergan G, Came H, Coupe N, Doole C, Fay J, McCreanor T, Simpson T, 2017) (1)

Decision making

- Advocate and ensure Tiriti partner input within strategic decisions
- Tautoko (support) Māori public health leadership
- Tautoko Māori public health leadership programmes, post-graduate, graduate and training opportunties
- Establish steering, advisory and reference groups where Māori input is not tokenistic
- Re-orientate consultation processes to ensure Māori voices are heard
- Re-orientate strategies and plans to prioritise Māori aspirations
- Work with, value and enable kaumātua and kuia engagement and participation at all levels

Māori representation and kaitiakitanga

- Ensure Māori are involved in all decision making
- Ensure recruitment processes reflect and value cultural competencies
- Encourage the active retention of Māori staff
- Open professional developement opportunities to Māori partners
- Working with existing governance teams to promote understanding, value the necessity of such appointments and resource appropriately
- Committ resources to prepare Māori for leadership roles

Ko te Tuarua: Tino Rangatiratanga

Article 2 of Te Tiriti affirmed Māori sovereignty enshrined by He Wakaputanga (The Declaration of Independance). It requires that Māori are able to exercise Tino Rangatiratanga (sovereignty) in being able to define and control individual and collective destiny.

Actioning Article 2 of Te Tiriti with a Māori public health lens; (ibid)

Māori health providers

- Reallocate resources with Māori health providers
- Advocate for investment in Māori health providers so that the resourcing is sufficient to reduce health inequities
- Promote, champion and refer to Māori providers
- Work in partnership with Māori providers.

Māori health promotion

- Prioritise investment in Māori health promotion
- Engage in and tautoko Māori-led health promotion endeavours
- Actively manāaki Māori colleagues, particularly in institutional settings

Anti racisim praxis

- Engage in collective planned action to end racisim
- Identify, name and challenge institutional racisim
- Attend, and mobilise others to attend anti-racisim training
- Nuture skills or reflective practice
- Support Māori health promotion leadership

Ko te Tuatoru: Ōritetanga

Article 3 of Te Tiriti guaranteed Māori the same rights and privileges as British subjects. It embraces ethical decision making that reduces health inequities and addresses the wider determinants of health

Actioning Article 3 of Te Tiriti with a Māori public health lens; (ibid)

Normalising ethical practice

- Normalise ethical practice
- Engage in ethical discussions about the investment of health promotion resources

Equity-centric evaluation

- Ensure evaluaiton uses ethnic specific tools
- Re-orient practice to centre Māori health outcomes
- Review outcomes of health plans for equity and tailor interventions for Māori
- Indentify gaps between rhetoric of equity and the reality
- Continually improve the robustness of evaluation of health promotion to build a supportive and infomative body of evidence

Determinants of health

- Tailor initiatives to address the causes of health inequities
- Invest in areas outside the scope of health through inter-sectoral partnerships to improve housing, education, employment, income and neighbourhoods
- Work with communties on community priorities
- Advocate for equitable distribuiton of power and resources

Ko Te Tuawha: Wairuatanga

Recognised the right of religious freedom, which involves normalising wairuatanga, te reo me ōna tikanga (Māori language and protocols).

Actioning Article 4 of Te Tiriti with a Māori public health lens; (ibid)

Normalising wairuatanga

- Engage respectfully and proactively with spiritual beliefs and values in one's practice
- Develop familiarity with Māori spiritual principles and practices and their importance in te Ao Māori
- Incorporate a spiritual dimension in planning and everyday practice
- Avoid lip service or superfical ritual observances
- Reflect one's own values and beliefs and understand the impact of these on oneself and others

Te Reo me ōna tikanga

- Become aware of application of tapu and noa to health promotion
- Respect tikanga and elders to promote understanding, co-operation and effective action
- Understand and reflect on oneself as culture bearer and the impact one has on others
- Provide space, time and resources for tikanga
- Value difference and take your lead from Māori

We also actively promote full implementation of related international agreements to which New Zealand is a signatory, including the UN Convention on the Rights of the Child (UNCROC), the UN Declaration of the Rights of Indigenous People (UNDRIP), the Convention on the Rights of Persons with Disabilities, the UN Framework Convention on Climate Change and the Paris Climate Agreement.

We promote implementation of the 1948 Universal Declaration of Human Rights and the 1967 International Covenant on Economic, Social and Cultural Rights both of which recognise adequate housing as part of the right to an adequate standard of living.

We also advocate action on the United Nations Sustainable Development Goals (SDGs), in particular Goal 11: Sustainable cities and communities, which has as its first key target: 'to ensure access for all to adequate, safe and affordable housing.' (1)

Māori right to adequate housing

We note that in 1936 71% of Māori lived in dwellings that whānau owned, by 1991 the ownership rate had fallen to 56%, by 2013 it was at 43%, and today it is likely to be below 40%. This is compared to the national average of 70% for Pākehā (Stats NZ 2016). If home ownership continues to decline at the rate it has been falling since 1991 Māori will almost be entirely renters by 2061(7).

To uphold Te Tiriti o Waitangi articles within housing policy we recommend addressing the underlying structural factors that entrench Māori into being renters for life and worse, homeless at higher rates than non-Māori. We strongly support any policy and legislation that would facilitate affordable home ownership pathways for both rural and urban Māori(7)

There has been a failure in NZ to recognise the right to adequate housing. One of the results of this failure has been that the quality of NZ's housing (particularly private but also state or social housing) has been allowed to deteriorate. It is the most disadvantaged families who are forced to live in the worst quality housing, enduring damp, mouldy, unhealthy homes.

In 2014 it was estimated that 70% of children living in poverty were living in rental housing (3). Living in these poor housing conditions has serious detrimental impacts on the inhabitants' health but children are particularly badly affected. 'Children living in rental accommodation are more likely to be hospitalised, especially for diseases linked to housing, more likely to be re-hospitalised, and more likely to die young' (4). The Ministry of Health (MOH) has labelled some diseases 'Housing-Sensitive Hospitalisations', for which approximately 6,000 children are admitted each year. These children are 3.6 times more likely to be re-hospitalised and 10 times more likely to die in the following 10 years' (5), (6).

Māori and Pacific are even more disadvantaged by this situation as they have much higher rates of rental housing occupancy and lower rates of homeownership than non-Māori, non-Pacific and these trends are continuing (6). Consequently Māori and Pacific children are disproportionately affected by poor housing quality-related illnesses (6).

We support the exemption of marae and papakāinga sites from general rates

According to the Regulatory Impact Assessment Whenua Māori Rating (7) with regard to exempting houses on marae sites;

> *During consultation on the previous TTWM Amendment Bill, many stakeholders argued that papakāinga and kaumātua housing should be non-rateable because having people living on the marae supports the effective functioning of the marae…There is currently an exemption for marae in the Rating Act. However, there is no exemption for houses on marae sites. This means that the current exemptions are not supporting marae in the way Māori landowners expect. This issue was significant to the Iwi Chairs Forum. The Forum wrote to the previous Prime Minister in early 2017 proposing that a minimum of six houses should be no rateable where the occupants played key roles to supporting the operation of a marae. Page 27 of 56 These included roles such as: kaikōrero/speakers, kaikaranga/callers, ringawera/cooks, and kaitiaki/caretakers.*

We strongly urge the government not to disregard important consultation feedback we have highlighted above with stakeholders.

We also strongly support that general rates should be charged for economic activities only, and exclude residential purposes to encourage increased papakāinga development to support equitable, affordable and healthy Māori home ownership.

By eliminating residential housing rates on papakāinga/marae developments the government will give effect to Article 3; Oritetanga of Te Tiriti o Waitangi. This can be achieved by acknowledging the inequity that stems from historical grievances, and by removing another barrier such as rates on Māori land to enable the aspiration of Māori home ownership equally with Pākehā in Aotearoa.

We strongly recommend that papakāinga should be considered exempt from general rates, but do however support rating charged for targeted rates (for water supply, sewerage disposal, or refuse collection) only.

Specific comments on the proposed amendments within the Bill

Although in principle we support this legislation we advocate for the following amendments to be both considered and adopted before royal ascension. We acknowledge the support of our colleague Jade Kake from whose submission we have borrowed.

Amendments to Part 1 (preliminary and key provisions)

Clause 11

We agree with the intent of this clause.

We consider that the following changes would strengthen this clause (omissions in strikethrough text, and additions in red):

11 New section 20A inserted (Rating units of Māori freehold land used as a single unit)
After section 20, insert:

20A Rating units of Māori freehold land used as a single unit
(1) A person or entity actually using 2 or more rating units of Māori freehold land may apply to the local authority for 2 or more of the rating units to be treated as 1 unit for the purposes of a rates assessment.
(2) The local authority must treat the rating units as 1 unit for assessing a rate if–
(a) the units are used jointly as a single unit by the person or entity; and
(b) the local authority is satisfied the units were previously part of, or are likely to have been part of, the same block of Māori freehold land.
(3) A local authority ~~may~~ must make an application to the Registrar of the Māori Land Court for a determination as to whether the rating units were previously part of the same block of Māori freehold land.
(4) In this section, block has the meaning set out in section 4 of Te Ture Whenua Maori Act 1993.

Amendments to Part 3 (assessment, payment, and recovery of rates and remission and postponement)

Clauses 33, 34, 35, 36, 37

We strongly support clauses 33-37 as we believe they will significantly assist owners of land that was previously Māori land, but was converted to general land under Part 1 of the Maori Affairs Amendment Act 1967, and who are currently unfairly disadvantaged by discriminatory historic legislation, by prohibiting sale or lease through abandoned land debt recovery processes.

We consider that the following changes would strengthen this clause (omissions in strikethrough text, and additions in red):

37 Section 78 amended (Court may order sale or lease of abandoned land)
In section 78, after "complied with", insert "and the land is not land described in section 62A(1). The local authority must be able to demonstrate that the land is not land described in section 62A(1), and that this information has been verified by the Registrar of the Māori Land Court".

Clause 39

We strongly support this clause as it will significantly assist Māori landowners to develop and occupy their whenua by allowing historic rate arrears to be written off.

Amendments to Part 4 (rating of Māori freehold land)

Clause 46

We agree with the intent of this clause.

We consider that the following minor changes would strengthen this clause (omissions in strikethrough text, and additions in red):

46 New sections 98A to 98F and cross-heading inserted

After section 98, insert:

Separate rating areas on Māori freehold land

98A How rating unit on Māori freehold land divided into separate rating areas

(1) A local authority may divide a separate rating area from a rating unit on Māori freehold land on the request of a person in accordance with this section.

(2) A local authority must determine a part of a rating unit to be a separate rating area if the identified part of the rating unit–

(a) comprises a dwelling; and

(b) is used separately from the other land in the rating unit.

(c) Is subject to a License to Occupy or lease

(3) If the rating unit is managed by a trustee, the request for a separate rating area–

(a) must be made by the trustee with the consent of the person actually using the identified part of the rating unit; and

(b) must include the full name and postal address of the person actually using the identified part of the rating unit and evidence that they consent to the request.

(4) If the rating unit is not managed by a trustee, the request for a separate rating area may be made by the person actually using the identified part of the rating unit.

(5) Requests for separate rating areas may be made at any time during the financial year.

98B Apportionment of rates for separate rating areas

The local authority must apportion the rates assessed for the underlying rating unit between each separate rating area and any residual rating area in the unit as follows:

(a) the apportionment of any rate must be assessed in accordance with the same values and factors that were used to assess the total rates for the underlying rating unit under section 43; and

(b) any general rate must be apportioned between separate rating areas and any residual rating area by apportioning the rateable valuation of the underlying rating unit between each separate rating area and any residual rating area, but always using the same category of rateable land under section 14 that applies to the underlying rating unit; and

(c) any uniform annual general charge set under section 15(1)(a) for the underlying rating unit must be apportioned equally between each separate rating area and any residual rating area in the underlying rating unit; and

(d) any uniform annual general charge set under section 15(1)(b) for the underlying rating unit must be applied to each separate rating area and any residual rating area in the underlying rating unit; and

(e) any targeted rate must be apportioned between each separate rating area and any residual rating area in the underlying rating unit by apportioning the factors under section 18 that apply to the underlying rating unit between each separate rating area and any residual rating area, but always using the same category of rateable land under section 17 that applies to the underlying rating unit; and

(f) to avoid doubt, the sum of the apportionments of all rates for the separate rating areas and any residual rating area must be equal or less than the sum of all rates that would apply to the underlying rating unit without apportionment.

Clause 48

We agree with the general intent of this clause.

We believe apportioning should be used to consider the development area separately to the balance of the block (which may be be unused and otherwise considered exempt) and other separated rating areas (such as those defined for residential purposes).

We consider that the following changes would strengthen this clause (omissions in strikethrough text, and additions in red):

48 New section 114A inserted (Remission of rates on Māori freehold land under development)

After section 114, insert:

114A Remission of rates for Māori freehold land under development

(4) The local authority may remit all or part of the rates–

(a) for the duration of a development; and

(b) differently during different stages of a development; and

(c) subject to any conditions specified by the local authority, including conditions relating to–

(i) the completion of the development; or

(ii) the completion of any stage of the development.

(d) differently across apportioned parts of the rating unit where the balance of the block outside of the development area would otherwise be considered exempt or rated separately.

(e) differently across apportioned parts of the rating unit where other apportioned areas (such as separated rating areas for residential purposes) outside of the development area would otherwise be considered exempt or rated separately.

Clause 50

We consider that the following changes would strengthen this clause (omissions in strikethrough text, and additions in red):

(3) In Schedule 1, replace clauses 12 and 13 with:

12 Land that is used for the purposes of a marae, excluding any land used—
(a) primarily for commercial or agricultural activity~~; or~~
~~(b) as residential accommodation.~~

13 Land that is set apart under section 338 of Te Ture Whenua Maori Act 1993 or any corresponding former provision of that Act and used for the purposes of a meeting place, excluding any land used—
(a) primarily for commercial or agricultural activity; or
~~(b) as residential accommodation.~~

13A Māori freehold land on which a meeting house is erected, excluding any land used—
(a) primarily for commercial or agricultural activity; or
~~(b) as residential accommodation.~~

13B Land that is a Māori reservation held for the common use and benefit of the people of New Zealand under section 340 of Te Ture Whenua Maori Act.

(6) In Schedule 1, after note 4, insert:

4A For the purposes of clause 14A, a rating unit is *unused* if—
(a) there is no person actually using any part of the rating unit; or
(b) the entire or an apportioned part of the rating unit is used in a similar manner to a reserve or conservation area and no part of the entire or apportioned part of the rating unit is—
(i)leased by any person; or
~~(ii)used as residential accommodation; or~~
(iii) used for any activity (whether commercial or agricultural) other than for residential accommodation, personal visits to the land or personal collections of kai or cultural or medicinal material from the land.

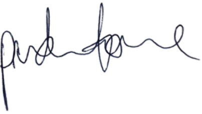
Should the exemption of land used for residential purposes from rating not prove practical, we strongly recommend that all rates collected on whenua Māori utilised for residential purposes (including separate rating areas for residential purposes) be targeted and reinvested to support further papakāinga development within the local government area.

This could be achieved through a general exemption for whenua Māori that has been apportioned for papakāinga or residential purposes, but with the addition of a new targeted rates category that is calculated in a manner similar to general rates, but is specifically tagged for supporting papakāinga development.

Conclusion

We are pleased to support this Bill, which we see as an important step, along with the other pieces of legislation and policies the Government has introduced, in achieving Māori land development aspirations, that may also go some way to uphold more New Zealanders' rights to healthy housing by providing solutions to New Zealand's housing crisis.

Ngā mihi nui,



Prudence Stone
Chief Executive Officer

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