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J.17

LOCAL GOVERNMENT (RATING OF WHENUA MĀORI) AMENDMENT BILL: THIRD READING

LEGISLATIVE STATEMENT

Presented to the House in accordance with Standing Order 272

The Local Government (Rating of Whenua Māori) Amendment Bill (the Bill) amends the Local Government (Rating) Act 2002 (the Rating Act). It also makes minor consequential amendments to the Local Government Act 2002, the Rates Rebate Act 1973, the Te Ture Whenua Māori Act 1993 and the Māori Land Court Fees Regulations 2013.

Much of the current rating legislation for Māori land is largely unchanged from the Māori Land Rating Act 1924. It is no longer consistent with present-day expectations about Māori–Crown relationships. The Local Government (Rating of Whenua Māori) Amendment Bill modernises aspects of this legislation in order to support owners of Māori freehold land to live on and develop their land.

Background

Māori freehold land is approximately 5 per cent (1.4 million hectares) of New Zealand's land area and is predominantly concentrated in the top half of Te Ika-a-Māui. The average Māori land block is 52 hectares in area with more than 100 owners. New Zealand's rating law has always had distinct provisions about rating Māori freehold land. Those provisions have focused on who the ratepayer is for the land and how rates on the land are collected. There have always been specific exemptions for Māori freehold land used for particular purposes.

Major provisions

Writing off arrears

The Bill provides local authorities with the power to write off rates arrears on any land where they cannot be recovered or, in the case of Māori land, a person has effectively inherited rates arrears from a deceased owner. Currently local authorities have no power to write off rates that are uncollectable. However, they may not commence legal proceedings to recover rates once six years has passed from when they were due. At that point local authorities write off rates as they are no longer legally enforceable. By that time, an original rates assessment will have grown with non-payment penalties from $1,000 to $3,452. This can result in exaggerated concerns about the level of non-payment of rates on Māori land.

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Unused land and land occupied by Ngā Whenua Rāhui kawenata to be made non-rateable

The Bill provides that Māori freehold land that is entirely unused or is subject to a Ngā Whenua Rāhui kawenata will become non-rateable. A Ngā Whenua Rāhui kawenata requires the owners of the land to keep the land in bush cover – it is effectively private conservation estate. These kawenata cover approximately 13 per cent of all Māori freehold land. Much of the remaining Māori freehold land that is unused is unsuitable for development or is inaccessible without legal or practical access. In many of these cases rates arrears build up as the owners derive no income or benefit from the land that would enable or justify the payment of rates.

A statutory remission process for Māori freehold land under development

This provision is intended to create a more helpful approach to the development of Māori land blocks. During the development process owners are incurring the costs of development. However, the benefits that come from the development are unlikely to commence until development is complete or well advanced. Managing cash flows through the development period is challenging for any land owner and may be more so for Māori landowners given the restrictions on mortgaging Māori freehold land to obtain development finance. This provision will require local authorities to consider a remission or postponement of rates in this situation.

Treating multiple land blocks as one for rating purposes

Clause 11 of the Bill proposes new section 20A in the Rating Act. The clause proposes that a person using two or more rating units of Māori freehold land may apply to have those units treated as one unit for the purpose of assessing rates. The local authority must treat the rating units as one unit for the purpose of assessing rates if the units are used jointly as a single unit by the applicant and they were previously part of the same block of Māori land. This provision is intended to support the development of small blocks of rural land, where fragmentation of titles makes it difficult for single blocks to be economically used. It will reduce the incidence of rates as treating the block as one will reduce the amount of uniform charges applied through council rating systems.

Separate rate accounts where multiple homes are present on a block

The nature of Māori land means that many blocks have more than one home built on them, sometimes in conjunction with other uses of the block also. This means that the block's owners have to put in place informal mechanisms to collect the rates from the various people using the block. If any person is unable to pay their share of the rates, this becomes a problem for all owners of the block. It also means that low income owners who occupy a home on the block are ineligible for the rates rebate scheme, as that is designed for single homes on an individual rating unit.

The Bill proposes that the owners can, if they chose, place individual homes on a block into a "separate rating area" with a separate rate account. This may make rates payments easier for the owners to manage. Consequential amendments to the Rates Rebate Act 1973 will also enable low income home owners in this situation to receive rates rebates.

Preventing sale of 1967 lands

The Māori Affairs Amendment Act 1967 changed the status of some Māori freehold land to general land (the 1967 lands). This change in status left the 1967 lands open to alienation by way of rating or abandoned land sales by local authorities. The Bill contains provisions to prohibit this from occurring where the land concerned remains beneficially owned by the persons, or by the descendants of the persons, who beneficially owned the land immediately before the land ceased to be Māori freehold land.