Occupation Orders and Separate Rating Areas
Application of the Local Government (Rating of Whenua Māori) Amendment Act 2021

Introduction
1. DIA has received some queries that indicate rating officers are a little confused about how the new provisions relating to separate rating areas introduced by the Local Government (Rating of Whenua Māori) Amendment Act 2021 (the Amendment Act) impact the rating treatment of land subject to an occupation order under Te Ture Whenua Māori Act 1993 (TTWMA). This note provides clarification for rating officers.

Disclaimer
2. This guidance is provided for information only. It does not constitute legal advice and cannot be relied on as such. After reading this document, if you consider you need further guidance, you should seek formal legal advice.

What is an occupation order?
3. An occupation order is made under s328 of TTWM. An occupation order grants a named person “exclusive use and occupation of the whole or any part of that land as a site for a house (including a house that has already been built and is located on that land when the order is made).”

4. Whether an occupation order exists in respect of a particular site is shown on Māori land online. If you perform a block search for a particular title:
   - the result first shows a map of the block;
   - then who administers the land;
   - then the names of the owners that are recorded; and
   - finally, “Memorial Schedules on the title”, which will record any occupation orders that have been made.

5. Occupation orders can be time consuming and costly to obtain, so many houses exist on Māori land without occupation orders.
What effect does an occupation order have on rates?

6. Under rule 2.4.1.3(c) of the Rating Valuation Rules 2008, Māori freehold land that is subject to an occupation order constitutes a rating unit. This means it has the same requirements as any other rating unit – it needs a separate entry on the district valuation roll, its valuation can be objected to through to the Land Valuation Tribunal and its rates are assessed in the same way as any other rating unit.

7. Note that the Amendment Act has inserted a new requirement (s330B) into TTWM requiring the Māori Land Court to notify the relevant local authority of any new occupation order made, or any amendment to or cancellation of an occupation order to help you administer these provisions.

How do the new separate rating area provisions affect land subject to occupation orders?

8. In short, they don’t affect them.

9. The provisions on separate rating areas starts with new s98A – “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.”

10. If you have a block of Māori land with multiple houses on it, and for example, one of those houses has an occupation order, that house should already be in its own separate rating unit to meet the valuation rules. Therefore, it could not be divided into a separate rating area, because it should already be divided into its own rating unit.

Separate rating areas are for houses without occupation orders

11. As noted above, there are many cases where homes on Māori land do not have an occupation order. Separate rating areas are for homes in that situation.

What does this mean for the rating officer?

12. First, make sure your RID is very clear about whether a home is a rating unit or separate rating area. It appears from the enquiries we have received that some councils are using the same tools for occupation orders as they would use where part of a property is rateable, and part is non-rateable. We would advise against this practice. Occupation orders do not come and go lightly and it would be wise to treat them in all ways as a rating unit, rather than part of a rating unit.

13. Second, if you are in doubt as to whether a particular home is subject to an occupation order, check the title in Māori land online. If necessary, consult with the Māori Land Court to get your treatment correct.

1 https://www.linz.govt.nz/regulatory/30300