

Tax Working Group Public Submissions Information Release

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**SUBMISSION TO
THE TAX WORKING GROUP – TE AWHEAWHE TAKE**

This submission is filed for Waikato-Tainui by:

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WAIKATO-TAINUI SUBMISSION TO THE TAX WORKING GROUP

1. Te Whakakitenga o Waikato Incorporated (**Te Whakakitenga**) makes this submission to the Tax Working Group – Te Awheawhe Taake (**TWG**) on behalf of the Waikato-Tainui iwi and its various entities that represent and work for our iwi.
2. Te Whakakitenga welcomes the TWG’s invitation to make this submission and strongly supports the TWG’s focus on hearing and listening to Maaori voices, and on understanding and taking into account Te Ao Maaori as part of the review.
3. This submission for Waikato-Tainui comprises the following parts:
 - (a) **Part 1** provides a summary of the key submission points from Waikato-Tainui.
 - (b) **Part 2** explains who we are and our perspective on the New Zealand tax system and the TWG review.
 - (c) **Part 3** discusses key aspects of the current tax system affecting Waikato-Tainui entities, with a particular focus on the tax framework for charities that enables Waikato-Tainui entities to work for the benefit of our iwi.
 - (d) **Part 4** sets out Waikato-Tainui’s perspective on asset/wealth taxes, including any capital gains tax (**CGT**) or land tax, with a particular focus on the exclusion of Waikato-Tainui whenua and other taonga, and all raupatu and other Tiriti settlement assets, from any such taxes.
 - (e) **Part 5** discusses Waikato-Tainui’s perspective on environmental taxes.
 - (f) **Part 6** addresses key aspects of the tax system and the review from the perspective of our iwi members and whaanau.
4. Where appropriate, the submission cross-references relevant aspects of the TWG’s Terms of Reference, the Future of Tax: Submissions Background Paper (**Background Paper**) and the TWG’s letter inviting Waikato-Tainui to make this submission.
5. Waikato-Tainui would also welcome the opportunity to speak to this submission, and to clarify any aspect of the submission for the TWG.

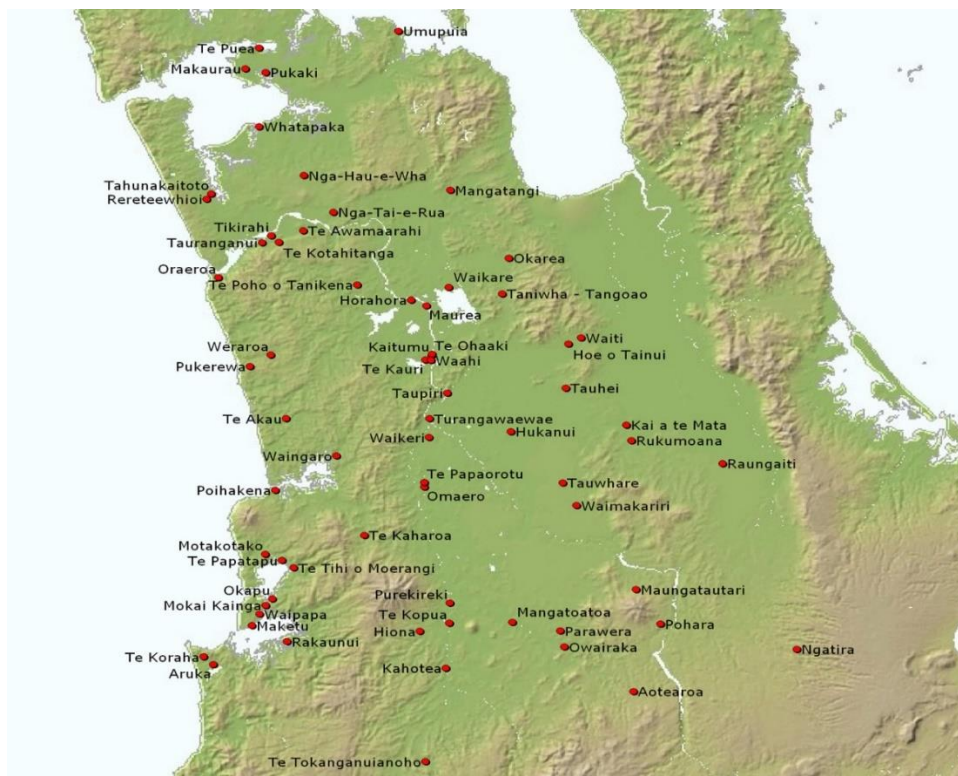
Part 1: Summary of Waikato-Tainui's key submission points

1. Key aspects of the current tax system impacting on Waikato-Tainui:
 - (a) The current tax framework for charities is appropriate and enables Waikato-Tainui entities to work for the benefit of our iwi. Tax charity income tax exemptions, *including the current business income exemption*, must be maintained.
 - (b) The Maaori Authority income tax regime is also an important regime for Maaori entities, but aspects of the regime need to be reviewed. In particular, the current eligibility criteria for entities to access the regime are too restrictive.
2. Waikato-Tainui's position on asset/wealth taxes, including CGT and land tax:
 - (a) Any new asset/wealth taxes, including any CGT or land tax, must *exclude Waikato-Tainui whenua and other taonga, and all raupatu and other Tiriti settlement (including right of first refusal (RFR)) assets*, regardless of how Waikato-Tainui chooses to hold and manage such assets and put them to use for the benefit of our iwi.
 - (b) For Waikato-Tainui, this may be achieved by way of an appropriate charity exemption, but an exemption for the whenua and other taonga of an iwi and Tiriti settlement assets would be preferable, to address the position of all iwi.
3. Waikato-Tainui's perspective on environmental taxes:
 - (a) Water assets within our rohe, including the Waikato and Waipaa Rivers, are taonga. Waikato-Tainui consumption/use of such assets must not be taxed and Waikato-Tainui rangatiratanga must be respected.
 - (b) However, Waikato-Tainui would support the use of effective tax measures to *disincentivise* water pollution and the hypothecation of relevant tax revenue for environmental purposes.
 - (c) Waikato-Tainui would also support the use of effective tax measures to *incentivise* positive environmental actions and outcomes, such as credits or offsets for riparian planting, forestry, and the like.
4. Key aspects of the tax system and the review for iwi members and whaanau:
 - (a) Getting the tax base mix right is critical, with iwi members' earnings largely limited to taxable income, not untaxed gains, and payment of GST a disproportionate burden.
 - (b) More needs to be done in relation to housing affordability, which is a critical issue for our people. Community housing entity tax changes and tax incentives for developers who commit to delivering *affordable housing* (not just social/community housing) should be considered by the TWG.
 - (c) The health and well-being of our iwi is vital, but Waikato-Tainui does not see merit in exempting fruit/vegetables from GST. Effective tax measures to *disincentivise* unhealthy living, e.g. sugar consumption, would be preferable, with hypothecation of relevant tax revenue for health or recreational purposes.

Part 2: Who we are and our perspective on the tax system and the TWG review

Waikato-Tainui and the Waikato rohe

1. Waikato-Tainui are the tangata whenua of the Waikato rohe.
2. Our iwi comprises more than 73,000 registered members who affiliate to Waikato-Tainui, connected to 33 Waikato hapuu and represented by 68 marae, as shown in the map below.
3. The rohe (tribal region) of Waikato-Tainui is bounded by Auckland in the north and Te Rohe Potae (King Country) in the south, and extends from the west coast to the mountain ranges of Hapuakohe and Kaimai in the east.
4. Significant landmarks within the rohe of Waikato include the Waikato and Waipaa Rivers, the sacred mountains of Taupiri, Karioi, Pirongia and Maungatautari, and the west coast of Whaiaingaroa (Raglan), Manukau, Aotea and Kawhia moana.
5. The recent history of our iwi has been shaped by the raupatu (confiscations) that occurred in the 1860s and other Tiriti breaches by the Crown.
6. Through Tiriti settlements and related processes, and the work of Te Whakakitenga and other Waikato-Tainui entities, our iwi has been progressively working to redress the economic, political, social and cultural deprivations suffered by our people as a result of raupatu and other Tiriti breaches and has re-built an asset base.
7. However, there is ongoing mahi to be done, for present and future generations, and Waikato-Tainui members remain overrepresented in the lower quartile for various socio-economic and health measures.

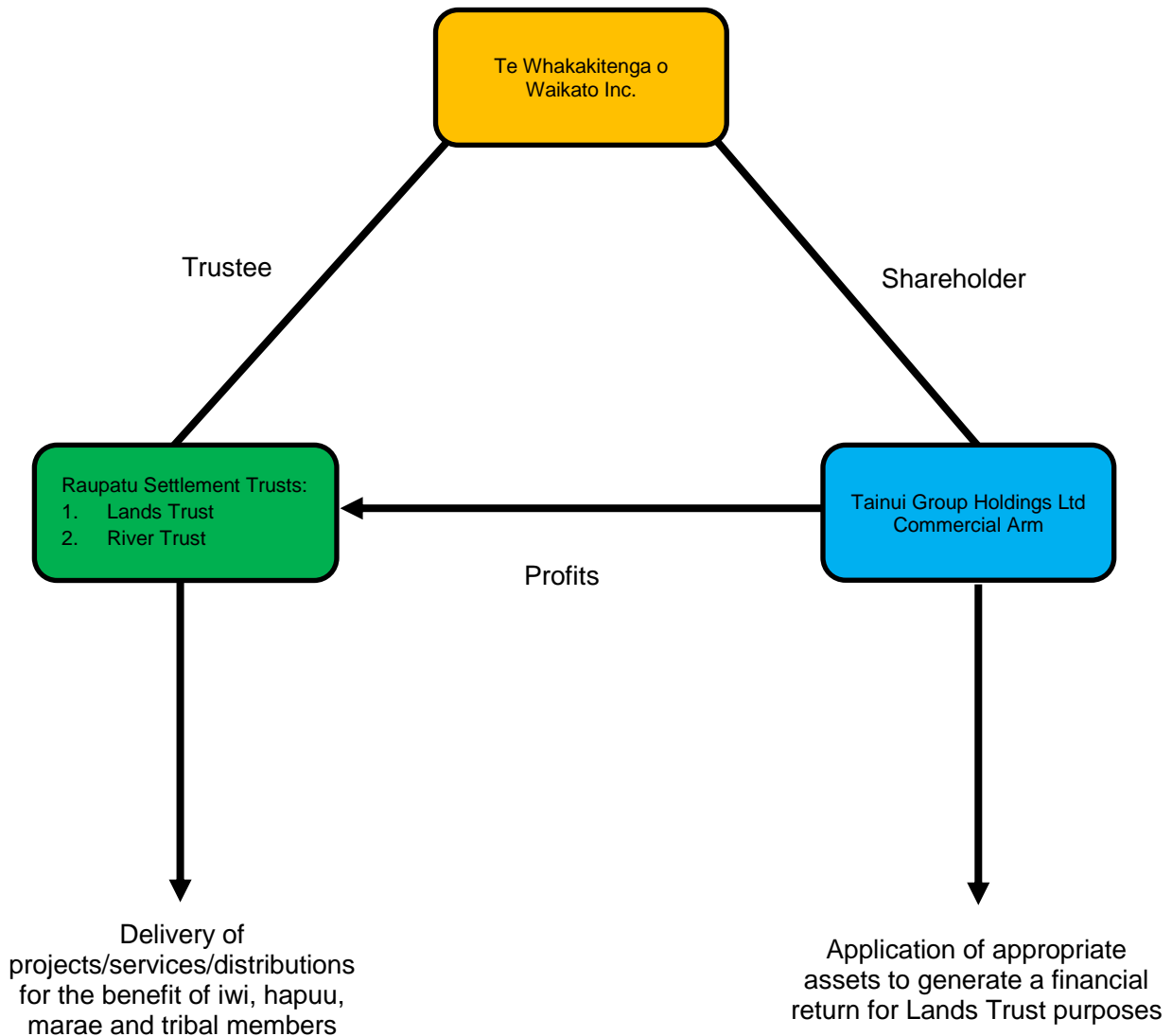


The entities that represent and work for Waikato-Tainui

8. The Waikato-Tainui entities that represent and work for our iwi hold and exercise kaitiakitanga (stewardship) of our whenua and other taonga and assets that provide the foundations for the economic, political, social and cultural well-being of the iwi.
9. Many of these assets have been returned to Waikato-Tainui through Tiriti settlements and related processes (eg, RFR processes), in recognition of raupatu and other Tiriti breaches and the associated economic, political, social and cultural deprivations suffered by our people.
10. The principal entities that represent and work for our iwi, and hold and exercise stewardship of our assets, which are shown in the diagram below, are as follows:
 - (a) Te Whakakitenga is the umbrella entity for the iwi. Its objectives include protecting, advancing, developing and unifying the interests of our iwi, and it is the sole trustee of Waikato-Tainui's two raupatu settlement trusts.
 - (b) The two raupatu settlement trusts established as post-settlement governance entities for Waikato-Tainui are:
 - (i) Waikato Raupatu Lands Trust (**Lands Trust**), established for the purpose of the Waikato-Tainui Raupatu Claims Settlement Act 1995; and
 - (ii) Waikato Raupatu River Trust (**River Trust**), established for the purpose of the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010.

These entities hold land (in the case of the Lands Trust), rights in respect of the Waikato River (in the case of the River Trust), and settlement monies received from the Crown, on trust, to redress the economic and wider deprivations suffered by our people as a result of raupatu and other Tiriti breaches.
 - (c) Tainui Group Holdings Limited (**TGH**) is owned by Te Whakakitenga and oversees Waikato-Tainui's commercial arm. Waikato-Tainui's commercial arm seeks to generate a financial return from appropriate assets in order to further the purposes of the Lands Trust for the benefit of the iwi.
11. Additional entities work underneath or alongside these principal entities to deliver or undertake particular activities or projects for the benefit of the iwi.
12. Our overall structure is shown in the following diagram.

WAIKATO-TAINUI



Our perspective on the New Zealand tax system and the TWG review

13. Key aspects of Waikato-Tainui's perspective on the New Zealand tax system and the TWG review of the tax system are as follows:
- (a) Current tax settings appropriately reflect that we are still in a phase of redressing the economic, political, social and cultural deprivations suffered by our people, and by other iwi and hapuu, as a result of raupatu and other Tiriti breaches, and this will continue to be the case for the foreseeable future.
 - (b) The settlements of Waikato-Tainui's Tiriti claims have recognised that the raupatu - including the confiscation of land in our rohe and the related invasion, hostilities, war, loss of life, destruction of taonga and property, and consequent suffering, distress and deprivation of our iwi - was a

violation and grave injustice against our people, our rohe and our ancestral river, and against our rights under Te Tiriti, and had a crippling effect on the welfare, economy and potential development of our iwi.

The settlements also recognise that our Tiriti rights - including our rangatiratanga and mana whakaere over our rohe and taonga - are not diminished or in any way affected. They are ongoing.

The settlements began a process of healing and a new age of cooperation with the Crown, but that process of healing, and the process of regenerating and advancing the welfare, economy and development of our iwi, is ongoing.

- (c) Any changes to the tax system must not erode the value of Tiriti settlements, nor risk creating new breaches of Te Tiriti o Waitangi, in particular in relation to our rangatiratanga over our whenua and other taonga, including rivers, mountains and harbours, within the Waikato rohe, into the future. Our mana whakahaere and stewardship of such assets for the long-term benefit of our whaanau, hapuu and iwi must not be adversely affected.
 - (d) Consistent with our tikanga for our iwi, and for our entities' operations, the design of the New Zealand tax system:
 - (i) must not be driven purely by economic or financial considerations. In particular, social, cultural and environmental considerations must be taken into account;
 - (ii) must not unduly burden, or create inappropriate incentives or disincentives, for individual iwi members and whaanau trying to get ahead, who are presently disadvantaged by the structure of the tax system; and
 - (iii) must work for both current and future generations, and this means looking many generations into the future, i.e. over at least the next 500 to 600 years, not just at the next few years or decades.
14. Further in contemplating the future of tax in Aotearoa, we want to see a system that recognises Te Ao Maaori, especially as it relates to the potential taxation of our assets and how we use those assets for the benefit of our whaanau, hapuu and iwi. As kaitiaki, or stewards, of our expansive rohe and its taonga and assets our mahi is to preserve, protect and enhance our rich natural environments for future generations. Our stewardship obligation goes to the very core of our world view and our connection with the whenua and our taonga, including our rivers. Sound stewardship of our hard-won commercial assets is also fundamental to our role on behalf of our people. Princess Te Puea said it best when she charged us "kia tupu, kia hua, kia puaawai" – to grow, to prosper, and sustain.
15. A strong, sustainable economic foundation gives us the capacity to manaaki, or care for and respect, our whaanau, hapuu, iwi and community. We do this in many ways, including through educational and vocational opportunities for our people through grants, scholarships and our own institutions and businesses. We are also involved in or considering various other projects that directly benefit our people, including housing projects and healthcare initiatives. As is the case with this submission, our current economic situation allows us to be informed and take action in keys areas that affect our people. A favourable tax framework is vital to the

sustainability and success of our various initiatives. Success in these areas leads to favourable outcomes for both our iwi and the communities in which they live.

16. Mahitahi and kotahitanga, collaboration and unity, are also relevant to this kaupapa. These values capture our commitment to work together with others to achieve common goals. In that spirit, our submission is centred on our desire to see a tax system that supports all Maaori in growing and sustaining tribal assets consistent with the time-honoured vision inherited from Kiingi Tawhiao, “maaku anoo e hanga I tooku nei whare...” - to build our own house in order to face the challenges of the future.
17. These aspects of Waikato-Tainui’s perspective have influenced the specific submissions set out in Parts 3 to 6 of our submission.

Part 3: Key aspects of the current tax system impacting on Waikato-Tainui, with a particular focus on the tax framework for charities

18. Waikato-Tainui is concerned that the TWG review may be used by some parties to attack certain aspects of the current tax system that enable Waikato-Tainui entities, and entities for other iwi, to work for the benefit of iwi.
19. In particular, this includes:
- (a) the current tax framework for charities, referred to at p41 of the Background Paper; and
 - (b) the Maaori authority tax regime, referred to at p12 of the Background Paper.

The current tax framework for charities

20. Waikato-Tainui submits that the current tax framework for charities, and in particular the non-business and business income tax exemptions for tax charities, is working as it should to help redress the position of our iwi, and has been the subject of uninformed and undue criticism from some quarters.
21. In particular, Waikato-Tainui submits that:
- (a) The availability of charitable and tax-exempt status for many Maaori entities, including Waikato-Tainui entities, that work for the benefit of iwi and hapuu, appropriately reflects that we are still in a phase of redressing the economic, political, social and cultural deprivations suffered by our people, and by other iwi and hapuu, as a result of raupatu and other Tiriti breaches. This will continue to be the case for the foreseeable future.
 - (b) Tax-exempt status for Waikato-Tainui entities, albeit with reference to the English law construct of “charitable status”, is also consistent with Waikato-Tainui’s rangatiratanga, mana whakahaere and perpetual stewardship over our whenua and other assets, for the benefit of our iwi. In this sense, Waikato-Tainui entities are more akin to the Crown and public authorities that are tax-exempt, than ordinary charities.
 - (c) The income tax exemption for tax charities’ business income, to the extent such income is attributable to charitable purposes in New Zealand, is appropriate and should be maintained. This includes the continued application of the exemption to so-called “unrelated” business income. Criticism of this exemption from some quarters does not give sufficient weight to the benefits of the current exemption. These benefits include:
 - (i) enabling charities to accelerate business growth, whether related or unrelated to the relevant charitable purposes, in order to maximise and sustain revenue to further those charitable purposes;
 - (ii) offsetting constraints that apply to businesses dedicated to charitable purposes in relation to accessing capital; and
 - (iii) keeping charities’ and charitable groups’ arrangements simple, rather than encouraging restructuring and inefficiency by having different treatments for different income streams.

In the case of Waikato-Tainui entities that utilise the exemption, including TGH, which runs Waikato-Tainui's commercial arm with the sole objective of furthering the Land Trust's purposes, the exemption enables such entities to maximise and sustain their contribution towards redressing the consequences of raupatu and other Tiriti breaches for our iwi, as noted above.

- (d) Current specific legislative clarifications in relation to the scope of the "charitable purposes" concept (e.g. modification of the "public benefit" requirement for charities with beneficiaries identified by blood tie, and recognition of marae as charitable) are appropriate and should be maintained.
 - (e) If the impending review of the Charities Act 2005 raises any proposals regarding the scope of the "charitable purposes" concept or any other matter that may impact on the tax framework for charities, it must take into account the TWG's review and recommendations and there needs to be full consultation with Waikato-Tainui and other iwi in relation to any such proposals.
22. Waikato-Tainui also considers that the current tax framework for charities could be enhanced. This could include the following, related matters:
- (a) Revisiting streaming and refundability of imputation credits, with a view to imputation credits attached to company dividends derived by charities becoming refundable. This has previously been dismissed on fiscal cost grounds, but changes to the tax base mix would allow this to be revisited.
 - (b) Ensuring there is flexibility for tax-exempt charities to innovate and pursue new forms of "social enterprise" in a tax-efficient manner, in particular where such enterprise would benefit from equity investment from non-exempt partners or investors. While there are existing structuring options, a specific structure to facilitate social enterprise may be warranted.

The Maaori Authority tax regime

23. Waikato-Tainui understands that the reference to the Maaori authority tax regime in the Background Paper specifically relates to the "Maaori authority" rules under the Income Tax Act 2007, not to any wider conception of "Maaori authorities", and comments accordingly.
24. Waikato-Tainui supports the continuation of the current Maaori Authority income tax regime, as it is an important regime for Maaori entities and key features of the regime such as the 17.5% tax rate and Maaori authority distribution rules (including the refundability of Maaori authority credits) work well and are appropriate in this context.
25. However, Waikato-Tainui submits that the current eligibility criteria for entities to access the regime (section HF 2 of the Income Tax Act 2007) are too restrictive, in particular in relation to wholly-owned or wholly-controlled subsidiaries of eligible entities.
26. Waikato-Tainui, and no doubt other iwi, would welcome the opportunity to provide input into reviewing and refining the regime to address these concerns.

Part 4: Waikato-Tainui's perspective on asset/wealth taxes, including any CGT or land tax

27. The TWG has specifically sought Maaori feedback and submissions on:
- (a) the possible impacts of a CGT on Maaori assets, and an appropriate framework to use when exploring the impacts of a CGT on Maaori, at p48 of the Background Paper; and
 - (b) what the appropriate treatment of Maaori land might be for land tax purposes when the land is a taonga asset, at p48 of the Background Paper.
28. Waikato-Tainui's position on any new asset/wealth taxes, including CGT and land tax, is clear and unequivocal:
- (a) Any new asset/wealth taxes, including any CGT or land tax, must exclude:
 - (i) all Waikato-Tainui whenua and other taonga; and
 - (ii) all raupatu and other Tiriti settlement assets (including post-settlement right of first refusal assets acquired from the Crown), whether or not they fall within or are connected with our rohe.
 - (b) This applies regardless of how Waikato-Tainui chooses to hold and manage such assets and put them to use for the benefit of our iwi. For example, from a Te Ao Maaori perspective, whenua is taonga *of itself* and its value to Maaori is not determined by the commercial use (if any) to which that whenua is put, or may be put.
 - (c) We note that the TWG discusses taonga assets without attempting any definition of that concept. We would like the TWG to understand that a very wide view is required from a Te Ao Maaori perspective.
29. From Waikato-Tainui's perspective the imposition of asset/wealth taxes, including any CGT or land tax, in respect of the Waikato-Tainui's tribal asset base as described above would:
- (a) cut across Waikato-Tainui's rangatiratanga, mana whakahaere and stewardship over our assets, for the benefit of our iwi;
 - (b) erode the value of Waikato-Tainui's Tiriti settlements with the Crown, and/or risk creating new breaches of our rights under Te Tiriti, in particular in relation to our rangatiratanga over our whenua and other taonga. As noted above, the manner in which we hold our whenua and other taonga, while fitting within the English law construct of charity, can also be compared with the manner in which the Crown and tax-exempt public authorities hold core Crown assets such as the conservation estate;
 - (c) increase the cost of holding whenua in trust for future generations of our people;
 - (d) fail to reflect that we are still in the phase of redressing the economic, political, social and cultural deprivations suffered by our people as a result of raupatu and other Tiriti breaches by the Crown, and will be for the foreseeable future; and

- (e) fail to recognise the economic contribution made to New Zealand via the use and exploitation of raupatu assets by non-iwi, during the significant time period from raupatu being imposed until the return of those assets to iwi.
- 30. If any new asset/wealth tax, including any CGT or land tax, were to be recommended by the TWG, further consultation would be required with Waikato-Tainui and other iwi to ensure that the exclusion of Maaori land and other assets is appropriately designed.
- 31. In principle, however, from Waikato-Tainui's perspective an appropriate exclusion may be achieved by way of either:
 - (a) a charity exemption, along the lines of the current income tax regime for charities (but this would not necessarily address the position of all iwi); or
 - (b) an exemption for the whenua and other taonga of an iwi, and any other Tiriti settlement assets (which would address the position of all iwi).

Part 5: Waikato-Tainui's perspective on environmental taxes

32. The Background Paper acknowledges the impact of climate change and the importance of New Zealand's indigenous flora and fauna and ecosystems, at pp14 to 15, and the value of protecting New Zealand's natural capital base, at pp41 to 42, and touches on use of the tax system to achieve positive environmental outcomes, at pp49 to 50.
33. The focus on using the tax system to achieve positive environmental, and ecological, outcomes is aligned with our tikanga.
34. In relation to the matters covered in these parts of the Background Paper, Waikato-Tainui submits as follows:
 - (a) Any TWG consideration of royalties on the extraction of natural resources or any other resource-related tax, such as a resource rent tax (as referred to at p41 of the Background Paper) must acknowledge and take into account our rights under Te Tiriti.
 - (b) In relation to water resources:
 - (i) All water resources within our rohe, including the Waikato and Waipaa Rivers, are taonga. Waikato-Tainui use of such assets must not be taxed, and Waikato-Tainui rangatiratanga and mana whakahaere must be respected.
 - (ii) The Waikato River is a single indivisible being and a tupuna (ancestor) of Waikato-Tainui. It has mana (prestige) and in turn represents the mana and mauri (life force) of our iwi. For Waikato-Tainui, our relationship with, and respect for, the Waikato river lies at the heart of our spiritual and physical wellbeing, and the identity and culture of the iwi.
 - (iii) Respect for te mana o te awa (the spiritual authority, protective power and prestige of the Waikato River), covering both the river and its ecosystems, is at the heart of the relationship between our iwi and the river. Waikato-Tainui asserts mana whakahaere in respect of the river, and has responsibilities to protect the mana and mauri of the river, according to our tikanga. We have a duty as katiaki of our rohe to protect and restore the health and strength of the Waikato River for current and future generations.
 - (iv) Accordingly, kaitiaki of our water resources is critical to our iwi and Waikato-Tainui would support the use of effective tax measures to *disincentivise* water pollution, including by agriculture, and the hypothecation of relevant tax revenue for environmental or water management purposes.
 - (c) It is noted that while there is currently no federal water pollution tax in Australia, various Australian states impose fees or levies for pollution of water. The amount of fee or levy payable is generally dependent on the type of effluent (or other contaminant) and the measured or estimated quantity of effluent (or another contaminant). These regimes may provide a basis for a water pollution tax regime that may be adopted in New Zealand.

- (d) While supporting in principle some form of taxation on water pollution, Waikato-Tainui submits that any such regime should be coupled with effective measures to *incentivise* positive environmental actions and outcomes, such as credits or offsets against the water pollution tax for riparian planting, forestry and the like, undertaken by the polluter or a related entity of the polluter.

- (e) In addition, Waikato-Tainui submits that the model for hypothecation of a water pollution related tax should recognise Waikato-Tainui's rangatiratanga, mana whakaere and role as kaitiaki of our rohe and the Waikato river. Such taxes collected within our rohe should be dedicated to our rohe and the river, and Waikato-Tainui should have a central role in governing the application of such funds for environmental and water management purposes.

Part 6: Key aspects of the tax system and the review impacting on iwi members and whaanau

35. Waikato-Tainui has sought to identify and focus on the most important aspects, not every aspect, of the tax system and the review impacting on our iwi members and whaanau.
36. Waikato-Tainui considers that this includes:
- (a) getting the tax base mix right, as referred to at pp5 and 23 to 25 of the Background Paper;
 - (b) looking at all tax options for addressing or mitigating the issue of housing affordability, referred to at pp7 and 46 to 47 of the Background Paper;
 - (c) considering tax measures to incentivise healthy living, or to disincentivise unhealthy living; and
 - (d) considering tax measures to encourage and boost savings, referred to at pp5 to 6, 26 and 49 to 50 of the Background Paper.

Getting the tax base mix right

37. Getting the tax base mix right is critical for our iwi and whaanau, particularly to address the stark income and standard of living inequalities existing and being perpetuated in New Zealand despite Article 3 of Te Tiriti.
38. Iwi member earnings are largely limited to taxable employment or self-employment income, not untaxed gains, and GST is a disproportionate burden for our people.
39. From a Te Ao Maaori perspective, the current tax base does not adequately recognise that Maaori living arrangements often include intergenerational living, extended whaanau living and funding arrangements, and the associated combining of incomes, often now effected to afford childcare and housing.
40. Waikato-Tainui notes the exclusion of any increase to any income tax rate or the rate of GST from the review under the Terms of Reference, and considers it important that the income tax and GST burden on iwi members and whaanau is not increased, and ideally should be decreased.
41. Waikato-Tainui also notes the exclusion of “*the adequacy of the personal tax system and its interaction with the transfer system*” (including Working for Families) from the review under the Terms of Reference, but in any event submits that:
- (a) the income threshold at which the top personal tax rate kicks in should be lifted, so that those who earn what are now relatively low incomes (especially relative to house prices) are not subject to the top rate; and
 - (b) income-splitting or similar measures should be considered for intergenerational households/extended whaanau, **not just couples or nuclear families**, to lower the income tax burden for households/whaanau operating as an interdependent unit.
42. Changes to the tax base mix would allow such measures to be implemented.

Looking at all tax options impacting on housing affordability

43. Waikato-Tainui considers that more needs to be done, urgently, in relation to housing affordability.
44. This is a critical issue for our iwi members and whaanau, on account of rising house prices, and rents, relative to incomes, both within and outside our rohe. This is a headline issue in Hamilton, not just in the cities referred to at p47 of the Background Paper, and elsewhere in our rohe.
45. The Background Paper also appropriately acknowledges at p11 that this is a critical issue for Maaori in general, not just our iwi.
46. In addition to other tax measures that may impact on housing affordability by affecting housing *demand*, Waikato-Tainui submits that the TWG should consider recommending:
 - (a) changes to the “Community Housing Entity” tax exemption, and in particular a relaxation of the restrictive beneficiary/client requirements under that exemption, to provide greater scope for the tax-exempt delivery of *affordable* housing (adopting realistic measures for this purpose), not just lower end social or community housing; and
 - (b) introducing effective tax incentives for *private developers* who commit to delivering *affordable* housing, not just social or community housing, as part of market housing developments. It is increasingly well understood that high or increasing urban land values, coupled with high development and construction costs, make it extremely difficult for private developers economically to deliver affordable housing as part of a market housing project. Waikato-Tainui has first-hand experience of this in negotiations with developers in connection with potential tribal housing projects. Consideration should be given to a tax related incentive in this area, e.g. a level of tax relief on the taxable margin on market housing units where the same development includes a sufficient percentage of affordable housing units, with affordability realistically measured by reference to mean household incomes or other metrics appropriate to the relevant geographical area.
47. These are tax measures that should be considered because they may positively impact on housing affordability by affecting housing *supply*, rather than demand.

Encouraging healthy living

48. The health and well-being of our iwi is vital, and Waikato-Tainui sees merit in considering tax measures to incentivise healthy living and/or to disincentivise unhealthy living.
49. Waikato-Tainui does not, however, see any merit in zero-rating (or exempting) GST on fruit/vegetables or other healthy foods. Waikato-Tainui recognises the advantages of New Zealand’s simple and broad-based GST regime and notes inefficiencies in overseas value-added tax regimes that incorporate provisions of this nature. It also questions whether any, let alone all, of the benefit of a zero-rating or exemption regime for particular food products would necessarily be passed on by retailers to consumers via a proportionate retail price reduction.

50. Waikato-Tainui sees greater merit in:
- (a) effective tax measures to *disincentivise* unhealthy living, such as sugar consumption, as referred to at p26 of the Background Paper; and
 - (b) hypothecating the relevant tax revenue for public health (including recreational) purposes, as referred to at p45 of the Background Paper (and noting that in this context, there would be no issue of this limiting more spending in other areas, given the high priority of public health spending).
51. Waikato-Tainui submits that in order to be effective a sugar-related tax would need to be imposed at a sufficiently high rate to affect the spending decisions of iwi and other members of the public. Experience in New Zealand and overseas with excise duty and similar taxes on tobacco products tends to indicate that such measures can induce behavioural change if they impact materially on cost.
52. The United Kingdom's recently introduced sugary drink levy (in force under the Soft Drinks Industry Levy Regulations 2018) may provide a workable framework for a sugary drink-related tax in New Zealand. The United Kingdom levy is imposed at two per litre rates based on the percentage sugar content of the beverage. It is collected by Her Majesty's Revenue and Customs and the revenue raised is to be used by the Department of Education to fund primary school sports activities. There are exemptions for pure fruit juices and those with a high milk content. Similarly to the regime for excise duty on alcohol in New Zealand, the levy is payable by the person who packages the relevant beverage at the earlier of the point of the beverage being available for sale and it being dispatched from the packaging facility (with a deferral if the beverage is stored in a licenced warehouse pending further distribution).
53. Given the similarity of the United Kingdom regime to the existing excise regime in New Zealand, if a comparable imposition were to be adopted here, as an administrative matter it would seem to fall within the province of the New Zealand Customs Service rather than Inland Revenue.

Encouraging savings

54. The taxation of savings and in particular retirement savings, noted at pp5, 6 and 26 of the Background Paper, is also an issue for iwi members and whaanau, and Waikato-Tainui would support effective tax measures to increase members' savings, e.g. tax-exempt employee/employer contributions to KiwiSaver.
55. However, Waikato-Tainui considers that non-tax measures are likely to be more important for our iwi members and whaanau, e.g. increased employer KiwiSaver contributions, addressing the issue of default/conservative KiwiSaver schemes, more flexible access to "locked in" savings (e.g. for first home and education purposes), and access to savings before age 65. It is noted that the minimum age of 65 for most withdrawals from KiwiSaver does not recognise the lower life expectancies of Maaori and other ethnicities relative to average life expectancies in New Zealand.

DATED

30 April 2018

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