



Te Ture Whenua Māori Reforms

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Te Tāhuhu: Te Tiriti o Waitangi

Ngā Pou: Taonga Tuku Iho
Mana Motuhake
Whakawhanake

TĀHUHU: Te Tiriti o Waitangi

“Ko tā tēnei Ture he whakaū i te noho pūmau o te whai tonu a te Māori i te **mana** me te **tinorangatiranga** i kawea inamata, ā, e kawea tonu nei mō ō rātou **whenua**, ā rātou **rawa** me ā rātou **taonga**, e ai ki te tikanga Māori, e ai anō ki ngā kupu taurangi i tukua ki te Māori i **Te Tiriti o Waitangi**, e tiakina ai te mana o te hunga whai pānga ki te whenua Māori, **kia noho pūmau ō rātou whenua ki a rātou, kia whakahaeretia, kia nohoia, kia whakatupuria ō rātou whenua hei taonga tuku iho**, e whai painga ai **ngā reanga o nāianei, me ērā e piki ake ana, tae atu ki ō rātou whānau me ō rātou hapū.**”

“The purpose of [this law] is to recognise and provide for the **mana** and **tinorangatiranga** that since time immemorial Māori have exercised and continue to exercise over their **lands, resources, and taonga** in accordance with tikanga Māori and, consistent with the guarantees given to Māori in **Te Tiriti o Waitangi**, to **protect** the right of owners of Māori land to **retain, control, occupy, and develop** their land as a **taonga tuku iho** for the benefit of present and **future generations** of owners, their **whānau**, and their **hapū**.

- Strengthened Te Tiriti o Waitangi clause.
- Māori version takes precedence in law.

POU: Taonga Tuku Iho

The reforms:

- Provide greater protection against land sales and alienation.
- Prohibit the sale or gifting of collectively-owned Māori freehold land.
- Reinforce association to the land through whakapapa.
- Enable individual shares to be moved to collective models.
- Enable rigorous accountability of governance entities.

POU: Mana Motuhake

The reforms:

- Enable more decision making by the owners, not requiring Court approvals.
- Encourage owner participation and decision-making.
- Enable owners to design their own governance structure.
- Create choice – trusts can stay as they are; or transition.
- Provide for parties to agree to their own outcomes in any disputes.

POU: Whakawhanake

The reforms:

- Create an enhanced new Māori land register for accurate & accessible records and for transacting successions and transfers of individual interests.
- Provide easier ways to set up whānau trusts to avoid fragmentation.
- Provide a fairer system of rating Māori land.
- Enable Māori land owners, trustees, and whānau to get support from experts from the new Māori Land Service.
- Continue the Māori Land Court, retaining the Court's expertise.
- Provide support and resource to landowners to develop their land if they wish to do so.

Removing long-standing barriers

- New framework for adjusting rating valuations.
- The ability for councils to develop policies for the non-rating (and write off of rates arrears) of unused and unoccupied land.
- Removal of the two hectare limit for marae and urupā non-rateability
- Ngā Whenua Rāhui covenanted land to be non-rateable
- Law amended to allow for greater owner participation in decisions about their land.
- Jurisdiction of the Māori Land Court extended to deal with matters involving Māori land.
- Māori Land Court Judge to chair Land Valuation Tribunal when dealing with matters relating to Māori land.



Recent Cabinet decisions

Purpose of changes

- The changes seek to:
 - clarify Māori land law;
 - put in place additional protection to safeguard the ownership of Māori land; and
 - deal with inequities which remain in current legislation.

Public Works Act 1981

- **Land acquiring agencies will have to consider the principles of Te Ture Whenua Māori Act** if they wish to acquire Māori land:
 - **Te Tiriti o Waitangi** is central to the application of laws affecting Māori land.
 - Māori land endures as a **taonga tuku iho** by virtue of whakapapa.
 - **Tikanga Māori** is central to matters involving Māori land.
 - Owners of Māori land have the **mana motuhake** to decide how their land is used.
 - Owners of Māori land have the right to take advantage of opportunities to **whakawhanake** their land for the benefit of present and future generations of owners, their whānau, and their hapū.

The criteria for acquiring Māori freehold land have been strengthened.

Public Works Act 1981

- **Offer back of surplus land**

- Changes to the offer back process in the Public Works Act will mean more former Māori land can be returned to Māori ownership if it becomes surplus.
- It will be easier for successors to be offered land back. Restrictions will be removed that limit when successors are entitled to offer backs.
- The Māori Land Court will be able to be involved in vesting land that is offered back.
- Where land was taken as Māori land, it will be returned as Māori freehold land.
- The Land Valuation Tribunal will be chaired by a Māori Land Court judge to deal with Māori land pricing issues.

Public Works Act 1981

- **Solatium payments** – where land is acquired under the Public Works Act a payment for inconvenience is made to owners of an affected dwelling. Currently there are no provisions that recognise multiple houses or dwellings on whenua Māori. These changes mean that full payment will be made to each separately owned dwelling on Māori freehold land.
- **Valuation of Māori land** – if Māori land is acquired under the Public Works Act it will no longer be valued lower than other land.

Ratings

- **Non-rating of some papakāinga housing** - the change will provide for two dwellings on a marae to not be rated. These changes will also allow councils to make additional housing associated with a marae non-rateable.
- **The rates rebate scheme** - the changes will allow separately owned housing on multiply owned Māori land to be eligible for rates rebates.
- **Rating Māori land (uniform rates)** - two or more land blocks will be able to be treated as a single block for rating. Currently Māori land cannot take advantage of single unit rating to the same extent as other land.
- **Non-rating of Māori land** - this will apply to land specifically reserved or covenanted for historical, cultural and scenic reasons.

Other decisions

- **The Family Protection Act 1955** - gives the Māori Land Court the power to hear and decide claims that ensure whānau members are fairly treated when a whānau member dies.
- **The Law Reform (Testamentary Promises) Act 1949** - gives the Māori Land Court the power to hear and decide claims against an estate with interests in Māori freehold land (e.g. the court can consider claims against an estate based on promises made by the deceased person, where the deceased owned whenua Māori).
- **Treatment of non-Māori shares in Māori land**
 - Existing property rights of non-Māori owners will be protected by enabling them to form a whānau trust so that the interests can be kept as a family asset.
 - If a whānau trust is not formed, interests in land can be transferred to their children, but not future generations. If the owner who had more than one child died without a will, a whānau trust would automatically be created.
 - This approach balances the need for the retention of land as a taonga tuku iho, and the prevention of further fragmentation.

Further work

- **Landlocked land** - in some parts of the country as much as 20% of Māori land is estimated to be land locked. Direct help and greater information for land owners is planned.
- **Paper roads** - a range of options will be developed for removing unformed (paper) roads that impede Māori land use.
- **Public Works Act** - work will progress on public works matters that affect both general land and Māori land including:
 - the broader application of standards and guidelines;
 - assistance to agencies on use of the Māori Land Court to assist offer back of Māori land;
 - a review of exemptions to offer back; and
 - provision of a notification requirement when use of land changes.
- **Disposal of Crown shares in Māori freehold land** - solutions are being developed for the Crown to no longer hold shares it has acquired in approximately 54 parcels of Māori freehold land.



Debunking myths

MYTH: The reforms erode our Te Tiriti o Waitangi rights

- A strengthened Te Tiriti o Waitangi provision that recognises and provides for the mana and tino rangatiratanga that Māori have exercised and continue to exercise over their lands, resources, and taonga.
- New principles include:
 - **Te Tiriti o Waitangi** is central to the application of laws affecting Māori land
 - Māori land endures as a **taonga tuku iho** by virtue of whakapapa
 - **Tikanga Māori** is central to matters involving Māori land
 - Owners of Māori land have the **mana motuhake** to decide how their land is used
 - Owners of Māori land have the right to take advantage of opportunities to **whakawhanake** their land for the benefit of present and future generations of owners, their whānau, and their hapū.
- Māori version takes precedence in law.

MYTH: The reforms are being rushed

- Since 2011 there have been more than 146 hui, with more than 3,000 Māori land owners, trustees, and whānau attending to discuss the reforms.
- Three draft bills have been released for consultation.
- 109 provisions amended and 28 removed as a direct result from feedback on the exposure draft of the Bill in 2015.
- The Bill was introduced on 14th April 2016.
- 152 written submissions, 47 oral submissions were made to the Māori Affairs Select Committee. All Select Committee recommendations were adopted at the Second Reading of the Bill.

MYTH: Māori land will be easier to sell

- One of the main principles or pou of the reforms is taonga tuku iho – land will be retained for the benefit of future generations.
- The Bill makes it harder to sell Māori whenua.
- At present, Māori freehold land can be sold with 75% support from all shareholders.
- This remains the minimum requirement, but owners can choose to increase the threshold up to 100%. This would make sale virtually impossible for multiply-owned Māori land.
- The Bill prevents the sale of Māori customary land, whenua tāpui or land converted to collective ownership.
- The Māori Land Court will be able to prevent people using partitions or status changes (e.g. changing the land from being Maori freehold land) to work around these protections.

MYTH: Land can be taken for unpaid rates

- The Bill maintains that Māori land cannot be taken for unpaid rates.
- It gives councils the ability to non-rate unused Māori land, and gives councils the ability to write off rates arrears on unused and unoccupied Māori land.
- This is for all Māori land – customary and freehold.

MYTH: Māori are being forced to utilise their land according to the Government's economic agenda

- Land owners have the **mana motuhake** to do what they want with their land.
- The Bill provides better support to owners who do want to use or develop their land. For example:
 - When owners establish a governance body they can decide how they want it to operate and what they want it to do.
 - Decision making will be simplified, faster and more efficient.
 - The Whenua Māori Fund will support landowners to achieve their aspirations for their land.
- Land owners decide what they want to do with their land.

MYTH: There will be huge costs and taxes for landowners

- There are no new taxes.
- There is tax relief for existing trusts and incorporations, if they choose to transition to the rangatōpū model.
- All governance bodies (new and existing) will qualify for the Māori authority tax regime.
- The Bill does not impose costs on land owners.
- Decisions on whether there will be fees associated with the services provided by the Māori Land Court or the new Māori Land Service have yet to be made.

MYTH: Māori land records will be handed over to LINZ

- This information will not reside with LINZ, it will be held by the Māori Land Service. The Māori Land Court will continue to hold its physical records.
- Final decisions on where the governance of the Māori Land Service will sit are yet to be made.
- There is ongoing engagement with Māori landowners on the design of the Māori Land Service.
- Current services will remain through to the start date of the Māori Land Service.

MYTH: The current legislation will allow people with no whakapapa connection to make decisions over the land

- The general principle is that only people with a tikanga-based association will be eligible to receive or inherit interests in Māori land.
- Whānau can agree to make provisions for whāngai, as they are now able to determine their own tikanga – this still requires land owners and trustees to make and agree to this provision.
- The Bill makes it harder to sell Māori land. At present, Māori freehold land can be sold with 75% support from all shareholders. This remains the minimum requirement, but owners can choose to increase the threshold up to 100%.

MYTH: It strips the mana of the Māori Land Court and transfers its powers to a government agency.

- The **mana** of the Māori Land Court as a court of law will be enhanced by having an Act of its own.
- Its jurisdiction will be **extended** to legal matters under a number of other Acts when Māori land is involved.
- The judges of the Māori Land Court will continue to be appointed on the advice of the Minister for Māori Development, after consultation with the Attorney-General.

MYTH: The Bill denies Māori the right to appeal the agency's (Māori Land Service) decisions.

- The Māori Land Service is a service provider, not a decision maker.
- If an error is made in the register it can be considered by the Chief Judge of the Māori Land Court. If it's incorrect it can be corrected.
- If a dispute arises over anything submitted to the MLS the MLS won't make a decision – it is referred to the dispute resolution service or to the Māori Land Court.

MYTH: Land succession process will have no court involvement

- One of the biggest challenges with Māori whenua is the high number of ownership interests. Whānau often don't put successions through.
- Landowners of non-Māori land don't have to go through a court and judge, so why should Māori land owners?
- This is a good example of how we are trying to remove the inequalities that exist for owners of Māori land under the current law.
- The checks and balances will still be in place, and the Māori Land Court will still be involved where required.

MYTH: Changes to RMA will badly affect Māori landowners

- The Resource Legislation Amendment Bill includes a number of proposals which aim to improve Māori participation within the resource management system. The key proposals include:
 - requiring councils to increase consultation with iwi overall and to do this earlier in plan making processes, and
 - inviting iwi to form a Mana Whakahono ā Rohe/Iwi Participation Arrangement with their respective Council(s).
- The Mana Whakahono ā Rohe/Iwi Participation Arrangement will enable iwi and councils to enter into agreements on how iwi can be involved in resource management processes so as to ensure their perspective is heard and understood.

A young child with light blue eyes is wearing a green hooded raincoat. The child is looking upwards and to the right. The background is a blurred forest with green foliage and tree trunks. The text 'Whenua Māori Fund' is overlaid on the left side of the image.

Whenua Māori Fund

Whenua Māori Fund

- Supports Māori landowners to utilise their land as they see fit.
- \$12.8 million over four years.
- The fund opened in 2016 and has invested \$4.4 million in 40 projects.
- Initiatives cover a wide range of activities like agriculture, apiculture, energy, forestry, horticulture, and tourism.
- Contact your regional Te Puni Kōkiri office to access and apply for the fund.

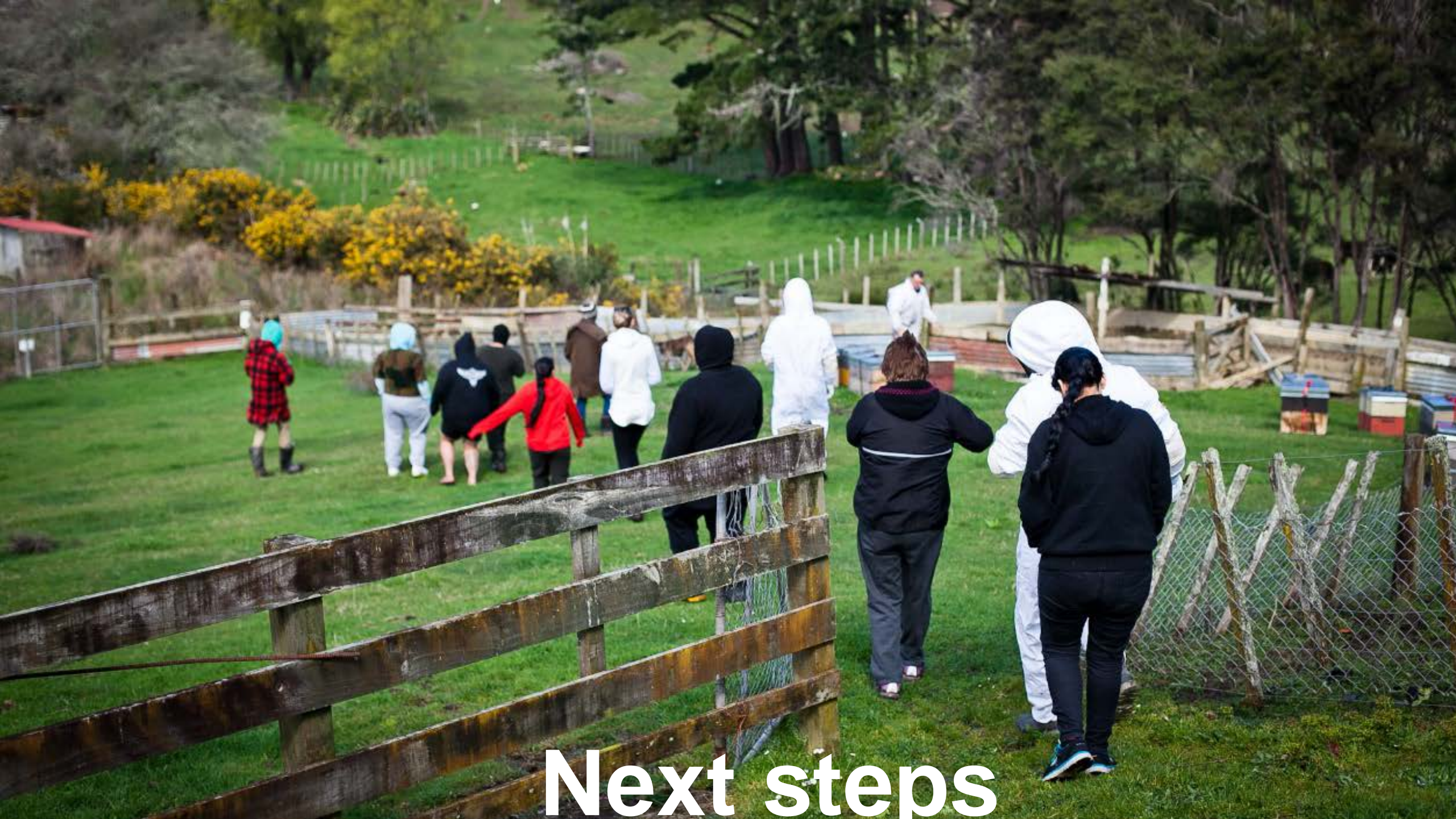
Rewarewa D Incorporation

- Rewarewa D Incorporation own the last bastion of Māori freehold whenua within the Whangārei urban district – 70 hectares.
- Being supported to investigate the feasibility and scope options to build a marae and papakāinga.
- Whenua Māori Fund supports Māori landowners to utilise their land as they see fit.

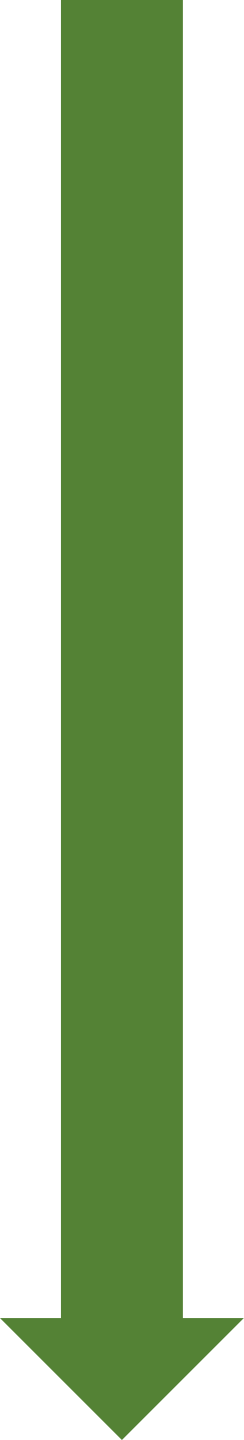


Māori Land Service

- More than 1,000 Māori land owners, including large incorporations and trusts, have taken part in consultation on the Māori Land Service.
- The Service will deliver four core services:
 - Māori Land Information and Registry Services - maintaining and updating register, ownership and governance information.
 - Advisory and Development Services - advice relating to productive utilisation of land.
 - Owner Decision Making Services - service to support owners in relation to their interests and effective governance and management arrangements for their land.
 - Dispute Resolution Services - service to resolve disputes relating to land based on tikanga Māori.
- More work is being undertaken on the detail of the design and delivery of the MLS.
- Announcements will be made shortly.

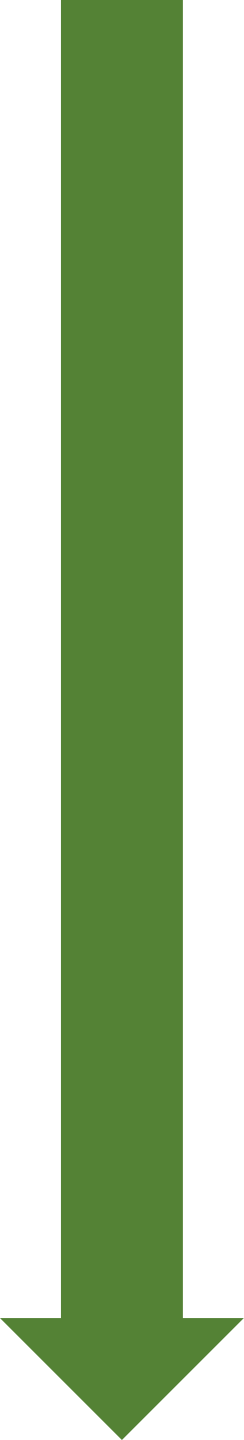


Next steps

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- Stakeholder engagement on the Māori Land Service will continue.
 - Groups interested in providing MLS services to Māori land owners will have opportunities to provide expressions of interest and detailed proposals to the MLS programme team.
 - Current services to Māori land owners will remain through to the start date of the Māori Land Service.
 - Work is continuing to remove long-standing barriers.
 - There will be ongoing work to develop Māori Land Court rules as well as regulations to give effect to the Bill. These will be in place prior to the Bill's commencement.



He hokinga whakamuri

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- 1993** Te Ture Whenua Māori Act enacted.
 - 1998** A review of Te Ture Whenua Māori Act 1993 commenced with 18 hui held nationwide.
 - 2002** The Act amended, a number of recommendations not progressed.
 - 2005** Hui Taumata established a Māori Land Tenure Review Group identify a need for reform.
 - 2011** Te Puni Kōkiri releases a report: Ko Ngā Tūmanako o Ngā Tangata Whai Whenua Māori: Owner aspirations regarding utilisation of Māori land. The report recommended a review of provisions that influence and impact on Māori land and Māori land tenure.
 - 2012** An Independent Panel of experts established to review Te Ture Whenua Māori Act.



2013 Te Ture Whenua Māori Review

The Review Panel publishes a discussion document and holds nearly 20 hui to discuss policy options.

The Panel's report recommended the 1993 Act be repealed and replaced by a new Act to give Māori land owners greater **mana motuhake** to make decisions about their whenua and support the **development** of their whenua while ensuring Māori land is retained as a **taonga tuku iho** for future generations.

These principles form the basis of Te Ture Whenua Māori Bill.



2014

Feb An Iwi Leaders Technical Advisor Group was established to assist the drafting of a new Bill.

Aug Te Puni Kōkiri (with Iwi Leaders Group and Federation of Māori Authorities) hold 20 hui nationwide with Māori land owners to seek their views.



2015

Feb A Ture Whenua Māori Ministerial Advisory Group established to provide independent advice on the Bill.

Three drafts of the Bill publically released for consultation.

73 hui held and 392 written submissions received on the exposure draft.

109 Bill provisions amended and 28 removed as a direct result of feedback.



2016

Hui continue with Māori leadership groups, trusts and incorporations.

Updated draft of Te Ture Whenua Māori Bill publicly released.

47 nationwide hui held on changes to the Bill and proposed Māori Land Service.

Cabinet approves work programme to address barriers to the use of whenua Māori, including rating, valuation, paper roads, landlocked land and the Public Works Act.



The Bill goes to the Māori Affairs Select Committee which receives and considers 152 submissions.

25 nationwide wānanga to discuss the Māori Land Service's structure and services.

2017

Further nationwide hui on the proposed Māori Land Service.



For more information about Te Ture Whenua Māori go to:
www.tpk.govt.nz

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Whenua Māori Fund go to:
Nearest Te Puni Kōkiri office or go to www.tpk.govt.nz