



Te Puni Kōkiri
REALISING MĀORI POTENTIAL

A guide to Te Ture Whenua Māori reforms



Summary

This guide explains the important parts to the reforms of Te Ture Whenua Māori and what these changes mean for Māori land owners.

Whakataukī

Ko au te whenua, ko te whenua ko au.
I am the land and the land is me.

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Message from the Minister

Tēnā tātou katoa. I am pleased to announce that the new Te Ture Whenua Māori Bill has now begun its passage through Parliament, is expected to be enacted by 30 April 2017 and to come into effect by 1 October 2018.

This is an exciting journey as we look to make it easier for Māori land owners to make decisions about how their land is governed and how it is used. I want constraints removed and decision making to be easier and more efficient.

The new law will give Māori land owners greater autonomy to make their own decisions and utilise their land as they choose.

I have heard the call from our people that any legislation must protect the status of whenua Māori as a taonga tuku iho with special significance to Māori, and promote the retention of land for the benefit of present and future generations of owners, their whānau and their hapū. This reform does that.

The reform of Te Ture Whenua Māori involves more than just the new legislation. There are four other important parts to the reform including:

- establishing a new Māori Land Service;
- refocusing the Māori Land Court;
- providing a new Whenua Māori Fund; and
- working on key Māori land issues that negatively impact on Māori land, such as landlocked Māori land; paper roads and matters related to the Public Works Act.

This guide explains these changes and what they mean for Māori land owners.

If you want to have your say on the Bill you can do this by making a submission.

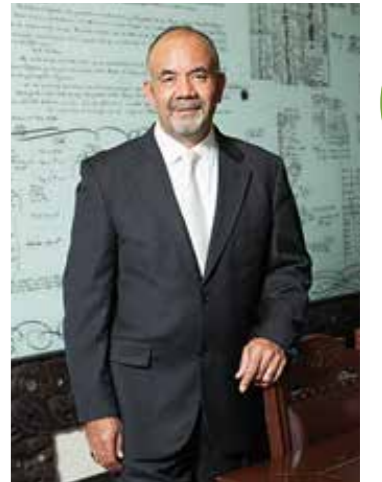
You can also get involved by attending consultation hui that will occur this year on the design of the new Māori Land Service.

If you want more detailed information about the Te Ture Whenua Māori reforms I encourage you to go to www.tpk.govt.nz. I look forward once again to your input.

Mā te wāhi ngaro tātou e manaaki,

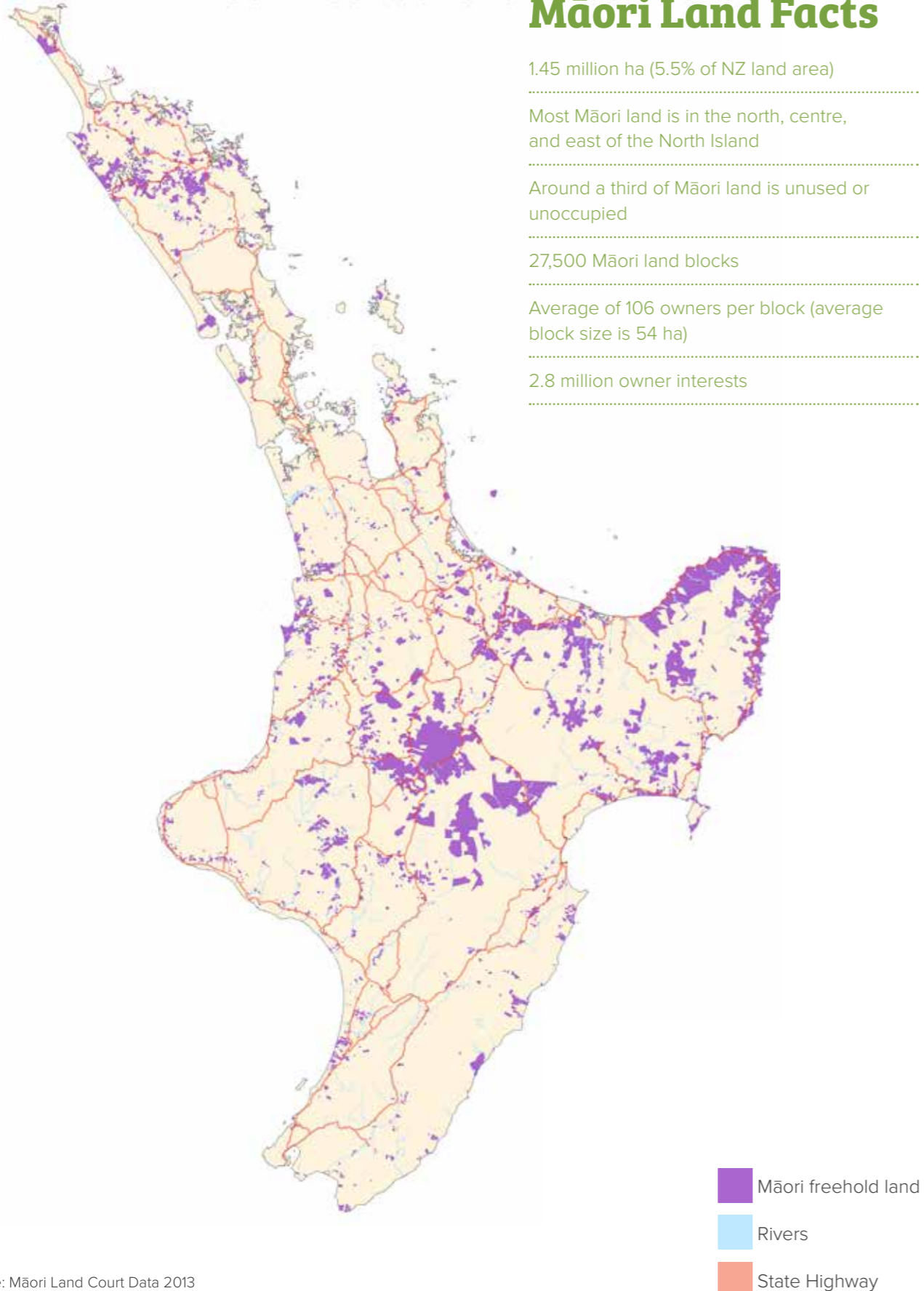
Nāku noa.

Te Ururoa Flavell
Te Minita Whanaketanga Māori



Māori Land Facts

- 1.45 million ha (5.5% of NZ land area)
- Most Māori land is in the north, centre, and east of the North Island
- Around a third of Māori land is unused or unoccupied
- 27,500 Māori land blocks
- Average of 106 owners per block (average block size is 54 ha)
- 2.8 million owner interests



Source: Māori Land Court Data 2013

- Māori freehold land
- Rivers
- State Highway



Source: Māori Land Court Data 2013

- Māori freehold land
- Rivers
- State Highway



The new Te Ture Whenua Māori Bill

The new bill recognises and provides for the mana and tino rangatiratanga Māori have always exercised and continue to exercise over their lands, resources, and taonga in accordance with tikanga. This is consistent with the guarantees to Māori in Te Tiriti o Waitangi.

Over the years, Māori land owners have said they want:

- A law change to give them greater autonomy to make decisions about their land
- Protections in place to ensure that the remaining Māori land stays in Māori hands
- Better support to enable them to develop their land.

These form the foundation of the new Bill – mana motuhake, taonga tuku iho and whakawhanake. The Bill is premised on six important principles. They are:

- Māori land endures as a taonga tuku iho by virtue of whakapapa
- Tikanga Māori is central to matters involving Māori land
- Te Tiriti o Waitangi is central to the application of laws affecting Māori land
- Māori land owners have the right to decide how their land is used
- Māori land owners have the right to take advantage of opportunities to develop their land for the benefit of present and future generations of owners, their whānau, and their hapū
- Disputes involving Māori land should be managed in a manner that maintains and enhances relationships between the owners, and members of whānau and hapū.



Changes at a glance

In the following table we have summarised the current provisions of Te Ture Whenua Māori Act 1993 and the key changes proposed in the new Bill related specifically to: retaining and protecting whenua; rates relief; decision making by participating owners; increased decision making ability; dispute resolution and expert support services.

Retaining whenua	
The Act Now	New Bill
<p>Māori freehold land can be sold if owners holding a 75 percent share agree; and the Māori Land Court confirms the sale, which it must do if it is satisfied:</p> <ul style="list-style-type: none"> • all documentation is in order • the sale is not in breach of trust • the value of buildings, fixtures etc. is properly reflected in the price • the price is adequate in the circumstances • the purchase money has been paid or secured, and • a right of first refusal was given to the preferred classes of alienees. 	<p>The Ture Whenua Māori Bill makes it harder to sell Māori land. The minimum requirement remains 75 percent of the shares, but owners can choose to increase that threshold up to 100 percent. This threshold would make sale, virtually impossible.</p> <p>In addition there is a new tender process required to give preferred recipients a genuine right of first refusal and preferred entities a right of second refusal. Any sale will also be conditional on the Māori Land Court confirming all legal requirements have been met.</p>
The Act Now	New Bill
<p>Māori customary land can be sold if it is converted to Māori freehold land.</p>	<p>Māori customary land cannot be sold even if it is converted to Māori freehold land.</p>
The Act Now	New Bill
<p>Whenua tāpui (Māori reservations) can't be given over or sold for a public work, but it is not necessarily protected from being taken under the Public Works Act.</p>	<p>The Bill clarifies that Whenua tāpui (Māori reserved land) cannot be compulsorily taken under any Act, including the Public Works Act.</p>



Protecting the whenua

The Act Now	New Bill
The Māori Land Court makes many decisions relating to Māori land such as forming trusts and creating partitions or easements. The court also decides significant legal issues and rules on disputes.	The Māori Land Court is responsible for deciding legal issues that affect Māori land. The court will continue to have a strong role in ensuring that Māori land is retained in Māori ownership. A new dispute resolution service will help owners to settle their disputes themselves, with continued access to the court, if they can't.

Rates relief

The Act Now	New Bill
Currently there is over \$66 million in unpaid rates arrears on Māori land. Up to a third of Māori land is unused or unoccupied, but is still charged rates.	The Bill includes a fairer valuation regime for lower rates on all Māori land. The new valuations will take into account the unique aspects of Māori land such as multiple ownership and the time and cost of changing Māori land status. The Bill will also allow local councils to non-rate and write-off rates arrears on unoccupied and unused Māori land.

The Act Now	New Bill
Marae land and urupā are not rated on the first two hectares of land. Ngā Whenua Rāhui (conservation land) is rated.	Councils must remove the two hectare limit on marae and urupā. Marae land and urupā will not be subject to rates. Councils will be required to not rate Ngā Whenua Rāhui (conservation land).

Participating owners

The Act Now	New Bill
Making decisions about Māori land can be challenging because of fragmented ownership and uncertainty about what constitutes 'a sufficient degree of support'.	The Bill distinguishes between decisions by a specified majority of those owners who participate in the decision-making process; and decisions that must be made by a specified majority of the owners as a whole. For instance, participating owners may decide to change the name of a parcel of Māori land: but a decision to convert separate ownership interests in Māori land to collective ownership must be made by owners holding at least 75 percent of the interests of all owners.

The Act Now	New Bill
Many owners may be disconnected from their land if they no longer live in their rohe. Of the 1.4 million hectares of Māori land that exists, around 36 percent of it is unused or unoccupied.	Owners can attend meetings in person, via a nominated representative, or via telephone or internet-based technology (e.g. Skype). Owners can cast their vote using postal or email voting forms; or by using an electronic voting system. This process will ensure that owners who live away from their rohe can participate in decisions about their land.

Dispute resolution

The Act Now	New Bill
Disputes are ruled on by the Māori Land Court.	A new dispute resolution process will assist people to resolve disagreements and conflicts themselves in accordance with the tikanga and kawa of their hapū or whānau.

Expert support services

The Act Now	New Bill
Information about Māori land is currently held across a number of government departments.	A new Māori Land Service will provide a one-stop shop where you can get information and expert advice about your land. Owners will be able to approach the Māori Land Service and talk to experts about the best options for their land.



Greater ability to make decisions

The Act Now

Most decisions about Māori land require the approval of the Māori Land Court.

New Bill

It will be easier for Māori land owners to make decisions about their land.

Rather than applying for an order from the Māori Land Court, land owners can make a range of decisions on their own such as:

- Establishing a governance body to manage Māori land on behalf of its owners;
- Appointing kaitiaki to administer the governance body;
- Forming a whānau trust to hold and manage interests in Māori land;
- Providing residential housing rights to the owners of the land and the beneficiaries of a whānau trust (on a rent free basis) and to other persons (with rent payable);
- Amalgamating two or more land parcels of Māori land into one new parcel; and
- Transferring individual interests in Māori land amongst whānau.

The Act Now

Governance of Māori land varies because the rules about governance lack clarity, consistency and accessibility. Many blocks of Māori land have no governance entity at all.

New Bill

Māori land owners can design their own rules for governing their whenua using a consistent and clear legal framework.

If a parcel of Māori land is not governed by an existing trust or incorporation, its owners can manage the land themselves or establish a rangatōpū, which may be a trust or an incorporation.

The governance agreement for how the body is to operate may be tailored to suit the circumstances of the owners (for instance, the owners may decide to increase the decision-making thresholds to prevent future disposals).



Māori Land Service

The Māori Land Service (MLS) is a new service to help land owners with: land registration and succession; governance and capacity building; alternative dispute resolution; and land utilisation.

The MLS will help land owners choose the right governance structure for their needs and will manage the decision making process on their behalf.

The MLS will register the decisions land owners make about governance and land utilisation, and maintain records of Māori land ownership and titles and registry information.

The MLS will bring together services currently available from a number of different agencies including Land Information New Zealand (LINZ), Te Puni Kōkiri and Māori Land Court registries.

It will help Māori land owners make decisions about the governance or utilisation of their land. It will then register those decisions without land owners needing to go to the Māori Land Court for a decision.

The Māori Land Service will operate across the country. In order to assist owners of Māori land, there will be regionally based offices and mobile services.

There will be hui regarding the design of the Māori Land Service throughout 2016.



Māori Land Court

The Māori Land Court will continue to be accessible to Māori land owners to ensure legal issues can be resolved and the law relating to whenua Māori is observed. The Court will still deal with matters when owners can't make a decision, when there is a challenge to a decision, and if there is an unresolved dispute.

It will still determine and change the status of Māori customary land and Māori freehold land; grant access to landlocked Māori freehold land, and make declaratory orders to correct inaccuracies in the Māori Land Register.

The Māori Land Court will no longer deal with applications where land owners have made decisions for themselves, e.g. what governance structure they choose and what land utilisation decisions they make.

The Māori Land Service will now record and register these decisions.

Whenua Māori Fund

The Whenua Māori Fund gives Māori land owners more say and control over what happens with their land.

It helps Māori land owners get more out of their land, if that is what they wish. The fund supports Māori land owners or trustees to get expert advice, to explore new ideas regarding different uses for their land, and new ways to boost land productivity.

For more information about the Whenua Māori Fund contact Te Puni Kōkiri:

Phone: 0800 200 410

Fax: 04 819 6299

Email: whenuamaorifund@tpk.govt.nz

Post: Te Puni Kōkiri, P O Box, Wellington 6140



Further Work on Māori Land Issues

As part of the reforms, options are being developed to address some common issues that have a negative impact on Māori land utilisation and development.

These include:

- applying rates to multiple housing on Māori land;
- rates on papakāinga housing associated with marae;
- providing access to landlocked Māori land via Crown land;
- the stopping of paper roads; and
- matters related to the Public Works Act 1981.

What Next

- For more information about the reforms and how to make a submission visit www.tpk.govt.nz
- Consultation hui will be held in 2016 for people wanting input to the design of the Māori Land Service.
- Work will continue on finding ways to remove barriers such as landlocked land, paper roads and the Public Works Act.
- For more information go to www.tpk.govt.nz or visit our Facebook page for updates - www.facebook.com/TeTureWhenuaMaori/



Timeline for Te Ture Whenua Māori reforms

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 was amended but a number of recommendations from the 1998 review were not progressed.

2011 ○ Te Puni Kōkiri released a report on Māori land tenure system recommending changes to the Act: *Ko Ngā Tūmanako o Ngā Tangata Whai Whenua Māori: Owner Aspirations Regarding the Utilisation of Māori Land*.

2012 ○ An independent panel of experts was established to review the Ture Whenua Māori Act.

2013 ○ The panel published a discussion document, held 20 consultation hui nationwide and submitted their findings to the Government.

The panel's report recommended the 1993 Act be repealed and replaced by a new Act that would give Māori land owners greater autonomy (mana motuhake) to make decisions about their land, support the development of their land while ensuring Māori land is retained for future generations. These principles form the basis of the current Ture Whenua Māori Bill.

Cabinet accepted the panel's recommendations.

2014 ○ Jan – July A Technical Panel was established to assist the drafting of a new Bill. The Associate Minister of Māori Affairs, Hon Chris Finlayson, discussed the review and the government's legislative intentions with Māori land owners.

Aug ● The Technical Panel (in conjunction with Iwi Leaders Group and Federation of Māori Authorities) held 20 hui nationwide with Māori land owners to seek their views.

Nov ● The new Minister for Māori Development, Hon Te Ururoa Flavell, took over the review of Te Ture Whenua Māori Act.

2015 ○ Feb A Te Ture Whenua Māori Ministerial Advisory Group was established to provide independent advice on the Bill. The members played a critical role in the development of the Bill and the broader Whenua Māori reform. The Advisory Group attended more than 60 hui collectively over the following year including chairing seven hui with representatives from Māori leadership groups and hui with Māori Land Court judges.

May ● An exposure draft of Te Ture Whenua Māori Bill (Draft 8) was released to the public.

June ● 23 consultation hui held nationwide on the exposure draft and the public were invited to make written submissions.

Aug ● 392 written submissions received on the exposure draft.

Nov ● Cabinet agreed to significant changes to the exposure draft as a result of feedback from the consultation hui and the submissions received - 109 changes are made.

Sept – Dec ● Hui continued with Māori leadership groups, trusts and incorporations to discuss changes to the bill and the scope of the reform.

Dec ● Cabinet agreed that Te Puni Kōkiri will lead the development of a new Māori Land Service. The Service will strengthen the support for Māori land owners, providing administrative, advisory and mediation services.

Nov – Dec ● The Waitangi Tribunal considered an urgent claim on the review process of Te Ture Whenua Māori and the draft bill (Draft 10).

2016 ○ Jan The next draft of Te Ture Whenua Māori Bill (Draft 12) was released publicly following changes approved by Cabinet. www.tpk.govt.nz

Feb ● Cabinet agreed to include additional matters in the Ture Whenua Māori Bill relating to the valuation and rating of Māori land.

The Waitangi Tribunal released a draft chapter from its final report on Ture Whenua that conveyed its concerns about consultation on the reforms.

22 hui held around the country to explain the key changes to the Bill from the exposure draft to the current draft as well as other aspects of the reform such as rating and valuation and the new Whenua Māori Fund.

First Whenua Māori Fund round opens. The fund provides \$12.8 million over four years to assist Māori land owners to explore ways to better utilise their land www.tpk.govt.nz/whenuamaori



Timeline continued...

