

He Kura Tangihia, He Maimai Aroha



Matiu Dickson

E rere e te toroa taataki

Māori Legal Forum 2016



Proposed changes to Te Ture Whenua
Māori

Linda Te Aho

Overview

- The Bill
 - Purpose and Principles
 - Key changes
- Māori Land Service and Enablers

Context

- Reform initiated by both Crown and Māori
 - Taonga Tuku Iho: ensuring Māori land is retained for future generations
 - Mana Motuhake: more autonomy to make decisions; and
 - Whakawhanake: better support to develop land.

Key themes raised in hui and wānanga

- Bill
 - Purpose and key terms
 - Protection and retention
 - Trusts and Succession
- General: Timeframes and Waitangi Tribunal recommendations
- Other work: Māori Land Service/Whenua Enablers

Purpose and principles

- 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
- Owners have the right to decide how their land is used
- Owners have a right to take advantage of opportunities to develop their land if they wish to
- Disputes involving Māori land should be managed in a way that maintains relationships
- Māori version of the purposes and principles will trump the English version

Key changes

Taonga Tuku Iho

- Restrictions on sale retained - owners can strengthen threshold from 75% to 100% if they choose
- Owners have the option to convert the interests from individual ownership to collective ownership (stronger measure to prevent sale)
- Māori Land Court retains a discretion to consider status change applications
- Whenua tāpui (Māori reservations) cannot be taken under the Public Works Act
- Stronger accountability of governance bodies and kaitiaki
- Successions to descendants associated with the land in accordance with tikanga Māori

Key changes between current Act and new Bill

Mana Motuhake

- The changes will make it easier for Māori land owners to make decisions on their own, about their own land
- Many decisions made by owners will take effect without needing the Court's approval
 - Establishing a governance body
 - Appointing kaitiaki to administer the body
 - Forming whānau Trusts
 - Converting ownership
 - Amalgamating land
 - Providing residential rights to owners and beneficiaries

Key changes between current Act and new Bill

Mana Motuhake (continued)

- More options around types of Governance structures
- Existing trusts and Māori incorporations stay if you want
- Dispute resolution alternatives before needing to go to court
- Participating owners and ability to use other means to participate
- Māori Land Court remains - focused more on legal than management issues

Key changes between current Act and new Bill

Whakawhanake

- Owners will be able to design their own rules for the governance of their whenua
- Use Māori Land Service e.g. to talk to experts about land use
- New options to secure finance, such as creating a leasehold interest in the land block as security for a mortgage – which will not put the land at risk
- Fairer valuation – lower rates
- Possible rates relief for owners of unoccupied and unused land
- Rate free whenua rāhui and marae/urupā

Key changes between current Act and new Bill

We want it to be simple

- End to end service – Māori Land Service will help owners : form Governance, training; facilitation through to land use studies; and broker relationships with MPI and others if that is what owners want
- Easier to get information about your land – in person, on line, and indexed/digitised record
- Workable decision making process – greater certainty for owners that they can act on their decisions
- Convert land to collective ownership, new processes for succession and an easier process to form a whānau trust. Will reduce further fragmentation.

Māori Land Service / Enablers

- MLS
 - Consultation throughout 2016
- Enablers
 - Some matters addressed as far as possible
 - Still work in 2016 on landlocked land, paper roads, public works act

Whenua Māori Fund

- Support owners to prepare for new opportunities – those who want to improve returns for the benefit of their owners and whānau
- Aimed at **pre-commercial activities**
 - Education and training
 - Learning about better or new uses of land
 - Help owners to confirm what, if anything, they want to do with their land
 - Finding out what your land is suitable for
 - Addressing constraints on your land development
 - Business planning

Whenua Māori Fund (cont'd)

- Who can apply:
 - Any owners or Trustees of Māori land who want to explore whether and how to increase productivity
- Proposals to:
 - make the best use of land if this is the owners wish
 - help owners / trustees figure out the next step for development
 - including potential partners
 - remove barriers to land development
 - help owners towards taking advantage of other Government programmes or funds
- Information available on TPK website