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Tumuak

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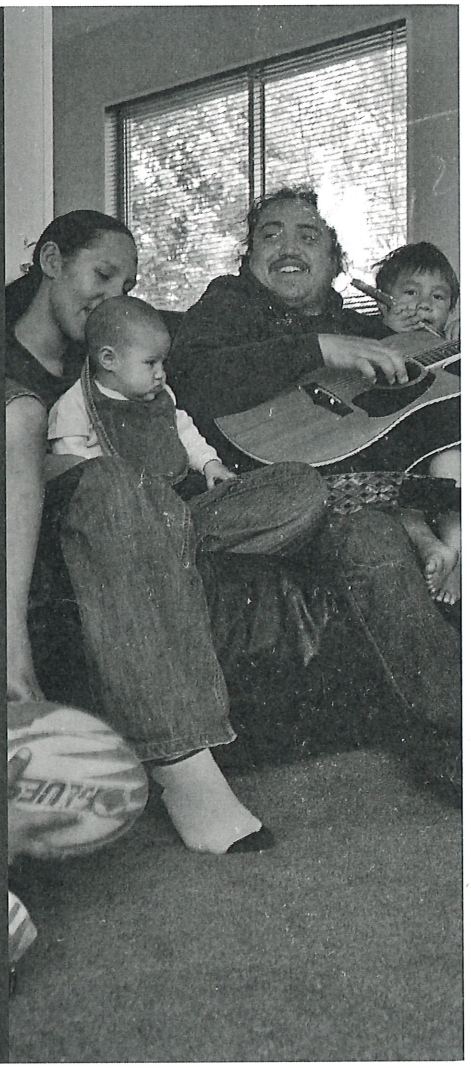
Performance audit report

Government planning and support for housing on Māori land

Ngā whakatakotoranga kaupapa me te tautoko a te Kāwanatanga ki te hanga whare i runga i te whenua Māori



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Government planning and support for housing on Māori land

Ngā whakatakotoranga kaupapa me te tautoko a te Kāwanatanga ki te hanga whare i runga i te whenua Māori

This is the report of a performance audit we carried out under section 16 of the Public Audit Act 2001

August 2011

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Foreword

Toitū te whenua, whatungarongaro te tangata. Man shall disappear, but land will always remain.

It's not just about houses, it's about our survival ...

Despite Māori identifying the barriers to housing on Māori land, we are faced with the same barriers 30 years later – in particular, capacity, planning, and finance.

It is from this perspective that the Māori Advisory Group commend the work of the Office of the Auditor-General. This is a significant report because it is the first review of how well government agencies as a group support Māori to build on their multiply-owned land. The findings of this report will help to illuminate not only the issues and barriers that exist for many Māori when working with government agencies but also highlight practices that work to enable whānau, hapū, and iwi to foster and grow innovative developments. We acknowledge that, despite the myriad of issues and barriers facing Māori communities, many have identified a range of solutions. These include mutually beneficial high-trust relationships, targeted support, and resourcing that will enable whānau, hapū, and iwi to build quality houses on Māori land.

This report also poses a challenge for government agencies to seriously address the issues identified – in particular, variable service delivery and organisational responses experienced by Māori who wish to build houses on their own land. To address the housing needs of Māori, and to unlock the resource potential that exists within whānau, hapū, and iwi, requires tailored support and focus by the relevant public entities. They must consider how to foster the development of Māori capacity to contribute to the decision-making processes of local and central authorities.

"He whare tū ki te paenga, he kai nā te ahi, ā, te whare maihi i tū ki roto i te pā tūwatawata, he tohu nō te rangatira" aptly describes this. "A house that stands alone and derelict is good for the fire; an ornate, protected, and well-supported house is the sign of a rangatira."

We wish to thank all whānau, hapū, iwi, and agencies who have contributed to this report.

Tiwana Tibble
Rahera Ohia
Paul White
David Perenara-O'Connell

Ngā Kupu Whakataki

Toitū te whenua, whatungarongaro te tangata.

Ehara te take nei mō ngā whare noa iho, engari mō tō mātau oranga motuhake.

Ahakoa kua roa kē te Māori e kōrero ana mō ngā taumahatanga e pā ana ki te hanga whare ki runga i te whenua Māori, kei te tāmia tonu tātau i aua taumahatanga ēnei toru tekau tau ki muri – e hakune nei, ko te āheitanga, ko te whakatakotoranga kaupapa, ko te pūtea hoki.

Nā tēnei āhuatanga hoki ka tino mihi te Rōpū Tohutohu Māori ki ngā mahi a Te Mana Arotake. He ripoata tino whakahirahira tēnei nō te mea koinei te tirohanga hou tuatahi kia āta titiro kua pēhea te tautoko a ngā tari kāwanatanga ki te iwi Māori mō te hanga whare ki runga i te whenua he maha ngā kaipupuri pānga o roto. Ko ngā hua o te ripoata nei hei whakaatu i ngā taumahatanga me ngā take tautohe i te wā e mahi ngātahi ana te Māori me ngā tari kāwanatanga. I tua atu i tēnā, ka whakaarahia ngā āhuatanga katoa hei whakapakari i ngā whānau, i ngā hapū, i ngā iwi, i a rātau e ngaki ana, e whakatū ana he kaupapa hou. Kei te mōhio anō tātau, ahakoa ngā taumahatanga me ngā take tautohe, he nui anō ngā painga kua puta mai. Ko ētahi o ēnei ko te taumata teitei mō ngā tūhonotanga, ko ngā waihanga tuku pūtea kia tau tōtika tonu ki te kaupapa, ko te whakawātea he rawa kia kaha ai ngā whānau, ngā hapū, me ngā iwi hoki ki te hanga i ngā whare tino pai ki runga i te whenua Māori.

He wero anō tēnei ripoata ki ngā tari kāwanatanga kia āta titiro ki ngā take i whakaaturia - e hakune nei, ko te rerekētanga o te tuku ratonga ki ngā kaitono, tae noa hoki ki ngā whakautu o ngā tari whakahaere ki ngā Māori e tono ana ki te hanga whare i runga ake i ō rātau nei whenua. Arā, ki te āta tirohia te hiahia ā-whare o te Māori, me te whakatūwhera atu i ngā māiatanga kei roto i te whānau, kei roto i te hapū, kei roto hoki i te iwi, me tino hāngai te titiro me te tautoko a ngā tari kāwanatanga. Me āta titiro hoki rātau he pēhea ka taea e rātau te whakapakari ngā māiatanga a te Māori ki te hoatu whakaaro, ki te whai wāhi hoki ki ngā mahi whakatau kaupapa e whakahaerehia ana e ngā tari kāwanatanga ā-rohe, ā-motu.

E tino hāngai ana ki tēnei kaupapa te pēpeha nei: "He whare tū ki te paenga, he kai nā te ahi, ā, te whare maihi i tū ki roto i te pā tūwatawata, he tohu nō te rangatira."

Kei te tino mihi ake mātau ki ngā whānau, ki ngā hapū, ki ngā iwi, me ngā tari kāwanatanga i takoha mai ki te rīpoata nei.

Tiwana Tibble
Rahera Ohia
Paul White
David Perenara-O'Connell

Auditor-General's overview

Multiply-owned Māori land accounts for between 4% and 6% of land in New Zealand. Not all of this land is in remote rural locations – it includes quite a lot of very desirable land close to major centres.

In selecting this topic for a performance audit, I was aware of the desire for better housing, the consequences of poor housing, and the cultural significance of land. Throughout the audit, people we met reinforced to us the primary importance of land to cultural and social identity and its status as a taonga tuku iho to be safeguarded for future generations. In their words:

> *... it feels awesome to be on my land. The land of my ancestors. I know I can contribute something back to the marae and my children have a home to come back to ...*
>
> *Prosperity for Māori is defined as a place of warmth and belonging, where a man can raise his children as free and proud indigenous people in a healthy environment. For the land and culture is not ours to sell, pollute, or desecrate. It is our children's inheritance and our future generations'...*
>
> *We want a place to live, we have land, and we want to be connected to the marae.*

I thank all the people who so generously welcomed my auditors and shared with them their experiences in dealing with the various government agencies and the barriers they saw in the system.

As could be expected, owners of Māori land want to use their land to build high-quality, healthy houses and strengthen their communities. Yet, despite such aspirations, most Māori who wish to build on Māori land do not fulfil that goal. This is disappointing for Māori and for government agencies.

My staff examined the effectiveness of government support for Māori seeking to build housing on their land. We examined the work of a broad range of public entities, including how they work to provide Māori with effective information and advice and how easy it is for Māori to secure the approvals and funding they need.

This report lists the various initiatives to support Māori housing during the last 80 years. We audited the three current initiatives: Kāinga Whenua loans, the Māori Demonstration Partnership fund, and Special Housing Action Zones.

We found that, despite good intentions, the process to build a house on Māori land is fraught. Lessons have not been learned from past attempts, so the initiatives are not effectively targeted and the processes are not streamlined.

Overall:

- Although some individuals in agencies provide high-quality advice to guide people through the maze of agencies and processes, agency staff generally lack the knowledge and depth of understanding to do this well.
- There are complicated and disconnected processes for getting the necessary approvals and funding for putting housing on Māori land. Central and local government do not always work together in a co-ordinated way.
- Getting consent to build on Māori land can require approval from multiple shareholders who can be hard to locate.
- Without adequate financial support, the upfront costs required by local authority consent processes can pose a significant challenge for Māori landowners.
- Banks are reluctant to accept Māori land as security for a loan, state lending programmes could be better targeted to the financial circumstances of Māori households and organisations, and houses built on Māori land tend to lose rather than gain value because there is a limited market for them.

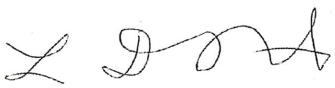
The current financial products available for building houses on Māori land are extensions of earlier programmes that were designed for different population groups and needs. Kāinga Whenua loans are an extension of the Welcome Home Loan scheme, and Māori Demonstration Partnerships are an extension of the Housing Innovation Fund.

The Kāinga Whenua loan programme is an encouraging development, despite having only one loan made to date. However, as the programme is currently designed, most people who can afford the loan cannot get it and most people who can get the loan cannot afford it. Likewise, the Māori Demonstration Partnership fund could help more Māori into affordable housing on their land but needs some improvements to meet its full potential.

Programmes and initiatives for housing on Māori land are under review, and are being transferred to the Department of Building and Housing. I encourage the Department of Building and Housing and others involved in supporting housing on Māori land to carefully consider the recommendations in this report.

I thank the various agencies in the state sector and local government for their time. I would particularly like to acknowledge the wisdom and depth of experience provided by my advisory group: Tiwana Tibble, Rahera Ohia, Paul White, and David Perenara-O'Connell.

My staff will now return to the places where we audited to share our findings, and I look forward to seeing the good practice and improvements recommended to owners of Māori land and the agencies being used to build more houses.



Lyn Provost
Controller and Auditor-General

15 August 2011

Appendix
Summary of legislation about Māori land
Tāpiritanga – He whakarāpopototanga o ngā ture e pā ana ki te whenua Māori

This Appendix summarises how some legislation has affected Māori land and its use.

Early legislation focused on encouraging European settlement and individualising Māori land titles, replacing customary communal ownership. The trend towards individual ownership created problems for retaining Māori land. By 1891, Māori had virtually no land in the South Island and less than 40% of the North Island. Much of the land still held by Māori was poor quality and hard to develop.

Native Lands Act 1862	The Act created the Native Land Court (renamed the Māori Land Court in 1947) to identify ownership interests in Māori land and to create individual titles in place of customary communal ownership. This change made sales of Māori land easier and saw the beginning of fragmented ownership interests in Māori land. The Act also allowed for up to 5% of Crown-granted Māori land to be taken for public works without compensation.
Native Lands Act 1865	This Act replaced the 1862 Act and reflected a stronger push toward individualising Māori land title and fragmented ownership. For example, certificates of title could be issued to no more than 10 owners. The Act also expanded the ability to take 5% of Crown-granted Māori land for public works without compensation to include all Māori-owned land.
Native Land Act 1873	Under this Act, title could no longer be held by iwi or hapū. All individuals with an ownership interest had to be named in the title. Individual Māori received blocks of land that were partitioned and repartitioned into uneconomic parcels of land. Fragmentation and loss of land continued.
Native Townships Act 1895	This Act was passed to promote settlement and open up the interior of the North Island. It allowed the Government to establish townships without first acquiring land from Māori. The Crown could compulsorily acquire land Māori would not sell.
Māori Lands Administration Act 1900	This Act provided for the formation of Māori Block Committees to investigate the ownership of customary land. Māori Land Councils were established to decide what amount of land was enough to support every individual owner (papakāinga). These inalienable reserves were set aside for individuals to encourage productive use of the land. Māori lost control of non-papakāinga land because it had to be vested in the Māori Land Councils responsible for administering land for settlement purposes.

Māori Land Settlement Act 1905	This Act modified the Māori Lands Administration Act 1900. It renamed Māori Land Councils to Māori Land Boards. Board members were nominated rather than elected. Māori "surplus" land was to be vested in the boards, which were required to set apart inalienable reserves and then lease the land for settlement. This was compulsory in the Tokerau and Tairawhiti Māori Land Districts. Other areas used a voluntary system for placing land in the the boards' administration. Private leases were allowed with the consent of the boards.
Native Land Settlement Act 1907	This Act required Māori Land Boards to sell 50% of surplus lands vested in them and lease 50%.
Native Land Act 1909	This Act consolidated 69 existing Acts and introduced private dealing in Māori land with provisions for decisions on sales and leases to be made by majority shares.
Native Land Amendment and Native Land Claims Adjustment Act 1927	This Act repealed the right to take up to 5% of Māori land for public works without compensation.
Native Land Amendment and Native Land Claims Adjustment Act 1929	This Act provided for large-scale development of Māori land. It set up the Native Land Development scheme.

By the 1950s, some legislation included provisions to protect Māori land. However, some legislative changes and future amendments led to further loss of Māori land, especially in the drive to force '"productive"' use of Māori land.

Māori Affairs Act 1953	Anyone who could show the Māori Land Court that a good piece of Māori land was not being used could apply to have it vested in trustees. Māori whose shares in land were of low value were forced to sell them to the Māori Trustee. This Act remained the governing legislation for Māori land for 40 years
Māori Affairs Amendment Act 1967	This allowed for Māori freehold land with fewer than five owners to have its status changed to general land. This enabled the land to be sold or mortgaged. The Act increased the powers of the Māori Trustee to compulsorily acquire and sell so-called "uneconomic interests" in Māori land.

Various Public Works Acts and planning legislation contributed to further losses of Māori land.

Public Works Acts	Public Works Acts generally set out provisions and conditions for taking land for public works. Both the Crown and local authorities had powers to take land for public works, in some cases without having to provide compensation to Māori landowners. Definitions of public works expanded over time, leading to further loss of Māori land. Often, there was little consideration for traditional uses of the land and how public works might affect those uses. Under the Public Works Act 1928, Māori customary land was excluded from exemptions on compulsory takings and from other requirements such as the requirement to notify owners.
Town and Country Planning Act 1953	This Act consolidated previous town planning legislation and created planning provisions that covered all land, not just urban areas. District schemes under this Act began to control the use of Māori land. Processes such as designated use, zoning, subdivision requirements, and public reserve contributions affected how Māori land was used and retained. When dealing with planning matters under its jurisdiction, the Māori Land Court was required to have regard for the requirements of district schemes. The Act did not provide for Māori interests to be taken into account in developing district schemes.

More recent legislation provides for some recognition of Māori interests in Māori land and for protection of these interests. However, some planning processes remain as barriers to Māori using the land.

Town and Country Planning Act 1977	This Act introduced the first recognition of Māori interests within planning legislation. It provided for social and cultural issues to be balanced with physical land use planning matters. While giving some recognition to Māori values, planning legislation did not always address alienation issues. Processes such as zoning still restricted Māori land use.
Resource Management Act 1991	This Act provided stronger recognition for issues of importance to Māori. Under this Act, authorities preparing district plans are required to have regard to any relevant planning document recognised by an iwi authority.
Te Ture Whenua Māori Act 1993	This Act is the guiding legislation for the Māori Land Court. It recognises that land is a taonga tuku iho of special significance to Māori people and aims to promote retaining Māori land and its use for the benefit of its owners, their whānau, and their hapū. The Act provides for Māori land to be managed by various trustees.
Local Government Act 2002	This Act is the guiding legislation for local authorities. It sets out the purpose of local government and includes special provisions for involving Māori in decision-making processes (section 81). Section 102 of the Act requires local authorities to have a policy on remission and postponement of rates on Māori freehold land.[13] Section 108 sets out the requirements for that policy.

13 Although local authorities are required to have a policy, that policy can be to not allow the remission of any rates.