



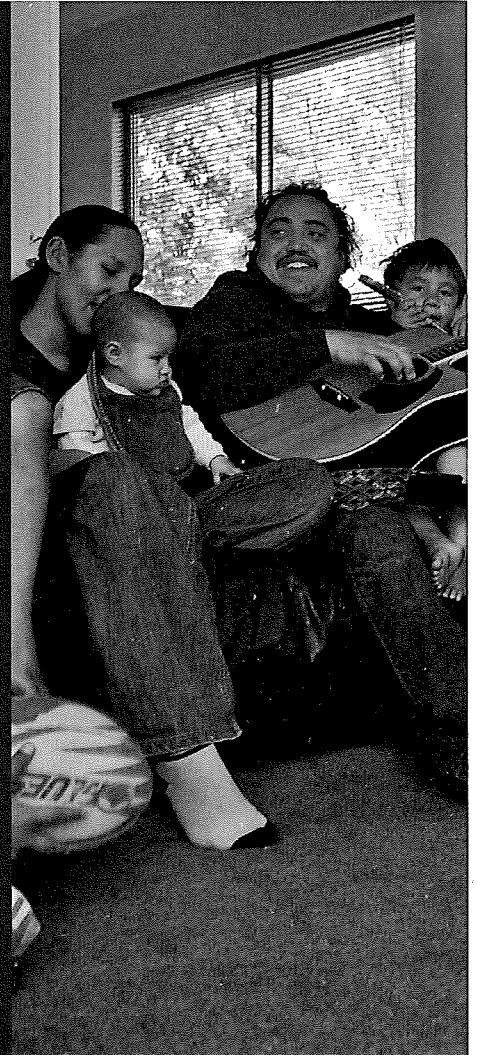
CONTI
Tumuaki

CAG, 2011

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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Contents

Ngā Ihiranga

Foreword	6
Ngā Kupu Whakataki	7
Auditor-General's overview	9
Te Tirohanga Whānui a te Tumuaki o te Mana Arotake	13
Our recommendations	16
Ko ā Mātau Tūtohu	17
Part 1 – Introduction	19
<i>Wāhanga Tuatahi – Te Whakatuwheratanga</i>	19
Why we carried out our audit	19
The audited entities and the activities we audited	19
The scope of our audit	21
How we carried out our audit	21
Scenarios used in this report	22
Part 2 – Māori housing needs and history, and current government programmes	23
<i>Wāhanga Tuarua – Ko ngā hiahia, ko ngā tāhuhu kōrero me ngā kaupapa kāwanatanga onāianeī mō te whare Māori</i>	23
Māori housing needs	23
The significance of Māori land	23
Types of Māori land	24
The potential for Māori land to provide for affordable housing	25
The barriers to building housing on Māori land	25
The history of government interventions and their results	27
The objectives of government agencies	32
Part 3 – Land and population issues in specific regions	35
<i>Wāhanga Tuatoru – Ko ngā take e pā ana ki te whenua me te nuinga tāngata o ētahi rohe tūturu</i>	35
Te Tai Tokerau	35
Tāmaki Makaurau	39
Tauranga Moana – Mataatua	43
Ōtautahi and Waimakariri	47
Part 4 – Getting information and advice from government agencies	51
<i>Wāhanga Tuawhā – Te kōhi kōrero me ngā tohutohu mai i ngā tari kāwanatanga</i>	51
How Māori currently experience information and advice services	51
The processes that owners of Māori land experience when they seek information, advice, and guidance	54
Good practice in providing advice and guidance	58
The effect of information and advice on those who want to use Māori land for housing	60
Critical success factors for effective advice and guidance	62

Part 5 – Gaining consent to build	63
<i>Wāhanga Tuarima – Te tono mō te mana whakaae kia hangaia he whare</i>	63
How local authorities plan for housing on Māori land and the regulatory costs to Māori land owners	64
How rates and development contributions are charged	70
How Māori landowners have been involved in district planning	72
The advice and support owners of Māori land can access from local authorities to help them build on Māori land	74
Our conclusion on how local authorities respond to housing proposals on multiply-owned Māori land	74
The effect of local authority regulation on those who want to use Māori land for housing	75
Critical success factors for effective local authority regulation	76
Part 6 – Financial support to help Māori landowners build housing	77
<i>Wāhanga Tūaono – Te pūtea tautoko kia kaha ai ngā kaipupuri whenua Māori ki te hanga whare</i>	77
Kāinga Whenua loans – financial support for households	78
The Māori Demonstration Partnership programme – support for Māori trusts	85
The effectiveness of Special Housing Action Zones	99
Critical success factors for effective funding programmes	100
Appendix – Summary of legislation about Māori land	103
<i>Tāpiritanga – He whakarāpopototanga o ngā ture e pā ana ki te whenua Māori</i>	103
Figures	
<i>Whakaāhua</i>	
1 – Performance objectives of agencies that have funding programmes for housing on Māori land	20
2 – Some of the values associated with living on Māori land	24
3 – Barriers to building housing on Māori land	26
4 – Past and present programmes for building housing on Māori land	28
5 – Māori land in Te Tai Tokerau	35
6 – Māori land in each local authority area of Te Tai Tokerau	36
7 – Māori population and growth trends for each local authority area of Te Tai Tokerau (using 2006 Census data)	36
8 – Te Tai Tokerau iwi and their population resident in Te Tai Tokerau (using 2006 Census data)	37
9 – Incomes of Māori households in Te Tai Tokerau (using 2006 Census data)	37
10 – Māori land in Tāmaki Makaurau	39
11 – Māori land in each local authority area of Tāmaki Makaurau	40
12 – Māori population trends in each local authority area of Tāmaki Makaurau (using 2006 Census data)	40
13 – Tāmaki Makaurau iwi and their population resident in Tāmaki Makaurau (using 2006 Census data)	41
14 – Incomes of Māori households in Tāmaki Makaurau (using 2006 Census data)	41
15 – Māori land in Tauranga Moana – Mataatua	43
16 – Māori land in each local authority area of Tauranga Moana – Mataatua	44
17 – Māori population trends in each local authority area of Tauranga Moana – Mataatua (using 2006 Census data)	44
18 – Tauranga Moana – Mataatua region iwi and their population resident in Tauranga Moana – Mataatua (using 2006 Census data)	45
19 – Incomes of Māori households in Tauranga Moana – Mataatua (using 2006 Census data)	46

20 – Māori land in Ōtautahi and Waimakariri	47
21 – Māori population trends in each local authority area of Ōtautahi and Waimakariri (using 2006 Census data)	48
22 – Canterbury iwi and their population resident in Te Waipounamu (using 2006 Census data)	49
23 – Incomes of Māori households in Ōtautahi and Waimakariri (using 2006 Census data)	49
24 – Government agencies that owners of Māori land interact with when they decide to build on Māori land	53
25 – Examples of good practice in providing information and advice	59
26 – Effect of current information and advice on three types of Māori groups seeking to build housing on their land	60
27 – Approaches taken by local authorities to regulating housing development on Māori land	64
28 – Advantages and disadvantages of different approaches to planning for housing on Māori land	67
29 – More flexible approaches taken by some local authorities	69
30 – Examples of good practice in local authority support for housing on Māori land	73
31 – Examples of good practice in supporting Māori through the planning stage of their housing development	74
32 – The effect of local authority regulation on Māori housing proposals	75
33 – Proportion of Māori households likely to be eligible for a Kāinga Whenua loan, in theoretical and estimated affordable terms	80
34 – Number and percentage of Māori land blocks with a trust over them, and the total area vested in those trusts, by Māori Land Court region.	82
35 – Example of good practice in supporting owners of Māori land when they start home ownership	83
36 – Housing New Zealand Corporation's process for Māori Demonstration Partnership fund applications	89
37 – Māori trusts' assessments of the Māori Demonstration Partnership fund	92
38 – The four Māori Demonstration Partnership fund projects approved in 2010/11	94
39 – Income and expenses for a trust providing 10 rental houses on Māori land in today's dollars	96
40 – Assistance currently available for long-term development costs	97
41 – The effect of funding programmes on those who want to use Māori land for housing	100

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.

Ahakoia 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, ahakoia 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 ripoata 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.

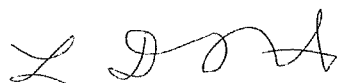
The current financial products available for building houses on Māori land are extensions of earlier programmes that were designed for different population groups and needs. Kāinga Whenua loans are an extension of the Welcome Home Loan scheme, and Māori Demonstration Partnerships are an extension of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

A handwritten signature in black ink, appearing to read 'Lyn Provost', with a stylized, cursive script.

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 Tairāwhiti 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	<p>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.</p> <p>This Act remained the governing legislation for Māori land for 40 years</p>
Māori Affairs Amendment Act 1967	<p>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.</p> <p>The Act increased the powers of the Māori Trustee to compulsorily acquire and sell so-called “uneconomic interests” in Māori land.</p>

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	<p>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.</p> <p>When dealing with planning matters under its jurisdiction, the Māori Land Court was required to have regard for the requirements of district schemes.</p> <p>The Act did not provide for Māori interests to be taken into account in developing district schemes.</p>

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.