

Whenua Māori and the Public Works Act – Package of proposals

Offer-back of former Māori land

Opportunity:

We have an opportunity to improve the offer-back regime to provide a better chance for whānau to reconnect with their whenua. This will improve their ability to realise their cultural and economic aspirations regarding their whenua and will align the regime more towards the principles of TTWMA.

Objective:

The key policy objectives are:

- Protect the interests of the former owners of Māori land.
- Promote participation of Māori throughout the offer-back process.
- Ensure that the process is clear and easy to understand.
- Minimise the time/cost on agencies.

Package of proposals

We have developed a package of eight policy proposals to create an enhanced process for the offer-back of surplus former Māori land. As a package, these proposals should strike a balance between the stated objectives. Note that these proposals are not mutually exclusive (i.e. they can be advanced alongside one another).

| Issue | Proposal | Advantages | Disadvantages |
|--|--|---|--|
| Main Policy Issues | | | |
| 1. Transfer of land Former Māori land acquired for one purpose can be used for another purpose with informer the former owners, considering their interests, or offering it back to them | a. Provide that interests of former owners are considered when transferring land for another purpose | ➤ Increase amount of land offered back | ➤ Small cost to agencies |
| 2. Use of the Māori Land Court There is a lack of specific direction and guidance on when to use the MLC | a. Enhance standards / guidelines on the appropriate use of MLC | ➤ Better use of MLC leading to potentially increased amount of land offered back | ➤ Small impact on resource of MLC |
| 3. Support for former owners The current financial capacity of former owners can limit their ability to have their land returned (e.g. Awapuni 1F3) | a. Enhance standards / guidelines on terms and price of offer-back | ➤ Fairer price and terms where land is offered back leading to potentially increased ability to purchase land back | ➤ Potentially lower sale price ➤ Potentially lengthen time of process |
| Other policy issues | | | |
| 4. Restrictions on using s41 Section 41 and section 134 of TTWMA are not available if the land was owned by less than five people or vested in a trust before its acquisition for public works | a. Remove restrictive criteria from using s41 | ➤ Section 41 available in more circumstances ➤ Increased use of MLC leading to potentially increased amount of land offered back to former owners | ➤ Nil |
| 5. Powers of the Māori Land Court S134 of TTWMA (invoked in conjunction with S41 of the PWA) does not sufficiently empower the MLC to resolve disputes on price and terms | a. Additional powers for MLC to rule on terms/conditions | ➤ Court able to impose fairer terms of sale (where disputed) ➤ Potentially easier for landowners to purchase land back | ➤ Potential increased time/cost of process |
| | b. Disputes on price determined by MLC | ➤ Increased ability to object to price ➤ Better consideration of Māori land matters on price leading potentially increased ability to purchase land back | ➤ Potentially less money received |
| 6. Exemptions to offer back requirements It is difficult for former landowners to know about, or challenge, a decision to exempt land from the offer back requirements | a. Requirement to publish exemption decisions | ➤ Increased transparency and ability to object to decision to exempt land from offer-back requirement | ➤ Small cost on agencies |
| 7. Status of returned land Former Māori land can be sold by agencies as general land without recourse to the Māori Land Court | a. Land returned as Māori land by default, but owners can choose to receive land as general land | ➤ Landowners have choice about status of land | ➤ Could bypass requirements of TTWMA |