

Kāinga Ora—Homes and Communities Factsheet

Supporting Māori aspirations in urban development

Kāinga Ora—Homes and Communities will create opportunities for Māori to partner and participate in urban development. One of its key functions will be to understand, support and enable Māori aspirations in urban development.

The Government recognises that iwi and Māori owners of land, and post-settlement governance entities with rights over land, will want to participate in urban development projects in different ways.

How will Māori interests be addressed in the two Bills

Kāinga Ora-Homes and Communities will be progressed through two separate pieces of legislation. The Kāinga Ora-Homes and Communities Bill, introduced on 29 May 2019, will establish the new entity. A second Bill later this year will give Kāinga Ora-Homes and Communities its enabling development powers.

Kāinga Ora-Homes and Communities Bill

The Kāinga Ora-Homes and Communities Bill recognises and respects the Crown's responsibility to consider and provide for Māori interests. It builds protections for Māori interests into Kāinga Ora-Homes and Communities' functions and operating principles.

There will also be a collective duty on Kāinga Ora-Homes and Communities' Board, when undertaking its urban development functions, to have the capability and capacity to uphold the Treaty of Waitangi and its principles, understand and apply Te Ture Whenua Māori Act 1993, and be able to engage with Māori and understand Māori perspectives.

Second Bill

The second Bill will make it clear in legislation that Kāinga Ora-Homes and Communities cannot override the Te Ture Whenua Māori Act 1993, and cannot compulsorily acquire certain categories of Maori land, including land returned under Treaty settlements.

In some urban development areas, Kāinga Ora-Homes and Communities will take over aspects of local government's planning and consenting role. The second Bill will protect Māori interests in natural resources regimes, and ensure the provisions that apply to local government are continued.

What this means for the transition period

Until the second Bill is passed, Kāinga Ora-Homes and Communities will operate within the same legislative framework as Housing New Zealand does now. This restricts the compulsory acquisition of certain categories of certain categories of Māori land, including Māori customary land and Māori reservations.

Engaging with Māori will be critical to Kāinga Ora-Homes and Communities' success

The Government recognises that some iwi and owners of Māori land will want to participate in urban development projects and continue their on-going connection with the land. Kāinga Ora-Homes and Communities will engage early and meaningfully with Maori. It will offer Māori opportunities to participate in urban development.

Kāinga Ora-Homes and Communities will protect Māori rights and interests

Kāinga Ora-Homes and Communities will identify and protect Māori interests in land and recognise and provide for the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, wāhi tapu and other taonga.

Kāinga Ora-Homes and Communities' processes will be compatible with the Māori land tenure system and will not override Te Ture Whenua Māori Act 1993. Kāinga Ora-Homes and Communities will not be able to ask the Crown to compulsorily acquire Māori land, land returned under Treaty settlements and land significant to Māori. This acknowledges the special character and historical context of this land. The land owners must agree before it can pass out of Māori ownership.

Māori land that is protected from compulsory acquisition includes:

- Māori freehold land under Te Ture Whenua Māori Act 1993
- former Māori freehold land that is owned by a Māori, or by a group in which Māori are the majority, if the land ceased to be Māori freehold land under the Māori Affairs Amendment Act 1967 or a status order under Te Ture Whenua Māori Act
- land held by a post-settlement governance entity (PSGE) on behalf of a claimant group as part of a Treaty settlement, including land that was acquired under a right of first or second refusal agreed in a Treaty settlement
- land held by an entity on behalf of mana whenua iwi or hapū pursuant to an agreement with a Crown agency or local authority.

Māori customary land and Māori reservations cannot be taken, including under the Public Works Act 1981, and urban development will not change that

If publicly owned land was Māori land at the time it was acquired, Kāinga Ora-Homes and Communities will engage with hāpu and whānau associated with that land to understand their aspirations for how it is developed or treated.

If it is intended that this land is to pass out of public ownership as part of the urban development project, the former owners of the land (or the owner's descendants) will be offered back the land. This offer back will be carried out before any development on that land commences.

Before any decisions are made for the disposal or development of Crown-owned land that may be needed to settle future Treaty settlements, the Minister for Treaty of Waitangi Negotiations will be consulted.

Rights of first refusal (RFR) holders will be able to participate in projects

RFRs will continue to apply in development areas. Where Kāinga Ora-Homes and Communities holds or controls land subject to an RFR, Kāinga Ora-Homes and Communities will engage with the RFR holder to see if there is an opportunity that suits both parties. This will include offering RFR holders the first opportunity to be the developer of that land on terms that Kāinga Ora-Homes and Communities sets for the development. If no agreement is reached, the RFR will be honoured.

In Auckland, the settlement environment is different. The Department of Building and Housing Protocol, now administered by the Ministry of Housing and Urban Development provides the Ngā Mana Whenua o Tāmaki Makaurau with development rights. This will not change with the creation of the Kāinga Ora-Homes and Communities.

Kāinga Ora-Homes and Communities will be able to build on that experience with the assistance of central government. The Crown will continue to work under the Protocol.

For more information and updates on Kāinga Ora

- Visit: Ministry of Housing and Urban Development website – www.hud.govt.nz
- Email: info@hud.govt.nz