

Public Works (Prohibition of Compulsory Acquisition of Māori Land) Amendment Bill

Member's Bill

Explanatory note

General policy statement

The purpose of this Bill is to amend the Public Works Act 1981 to protect Māori freehold and Māori customary land from being acquired by a Minister or local authority for public works. This would mean that no Māori land can be taken without consent.

The Ministry for Culture and Heritage estimated, in the year 2000, that only four per cent of the North Island was held by Māori. The impact of this land loss cannot be overstated. Māori freehold and customary land is some of the only land left in Aotearoa that has been passed continuously through a long line of whakapapa. We cannot allow that line to be broken by the Crown.

The Public Works Act was one of the key mechanisms which facilitated alienation of Māori land. While the total number of hectares acquired will never be known, Waitangi Tribunal reports state that Māori were discriminated against as a result of the legislation, were not communicated or consulted with, and the public works used as justification were often not in the interests of Māori.

Overall, then, the Waitangi Tribunal has emphasised that the powers of compulsory acquisition in the Public Works Act “cut across the Treaty guarantee of rangatira-tanga” (Marr 1997, citing *Te Maunga Report*). In the *Manakau Report*, the Waitangi Tribunal also found that the Crown must actively protect Māori interests. That is what this Bill seeks to do, by protecting the small amount of Māori land left in Aotearoa from compulsory acquisition and thus giving primacy to Article Two of Te Tiriti o Waitangi.

For many Māori, the land wars, raupatu, and taking of land is not a memory but felt presently. The ability of the Minister and local authorities to acquire land compulsorily under the Public Works Act is seen as a standing remnant of that history. The Pub-

lic Works Act is still used as a an instrument of division and a threat when Māori land is being used for public works.

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 is the commencement clause. It provides for the Bill to come into force on the day after the date on which it receives the Royal assent.

Clause 3 is the principal Act clause.

Clause 4 amends section 16.

Clause 5 amends section 17.

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The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the Public Works (Prohibition of Compulsory Acquisition of Māori Land) Amendment Act **2015**.
- 2 Commencement** 5
This Act comes into force on the day after the date on which it receives the Royal assent.
- 3 Principal Act**
This Act amends the Public Works Act 1981 (the **principal Act**).
- 4 Section 16 amended (Empowering acquisition of land)** 10
After section 16(2), insert:
(3) Subsections (1) and (2) do not apply to Māori land as defined in section 2 of Te Ture Whenua Māori Act 1993, except by agreement.

5 Section 17 amended (Acquisition by agreement)

Repeal section 17(4) and (5).