

## THE MAORI AND HIS LAND

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*'Hei Whatu Ngaro Ngro he Tangata  
Ko te Kainga Tu tonu'*

'People disappear from sight  
But the land remains for ever' — *Maori Proverb*

The subject 'The Maori and his Land' has many points of discussion which to the Maori are all very important. It would take up too much time to discuss or list all of them, instead I will take points of interest from articles already written for guidance to Local Government in treating Maori Land, and from another article from the Maori Dominion Council written to assist the Government in forming the new 'Maori Bill'.

I quote: "We believe that the Treaty of Waitangi of 1840 between the Crown and the Maori people is the origin and basis of British sovereignty and constitutional government in New Zealand. We also believe that under the Treaty the Crown extends its protection over the Maori people and guarantees them their assets.

### Land

The rights and privileges granted to the Maori people in the Treaty apply in the fullest sense to land. The protection afforded by the Crown, the guarantees, are needed as much today as ever.

Maori land has several cultural connotations for us. It provides us with a sense of identity, belonging and continuity. It is proof of our continued existence not only as a people, but as the *tangatawhenua* of this country. It is proof of our tribal and kin group ties. Maori land represents *turangawaewae*. It is proof of our link with the ancestors of our past, and with the generations yet to come. It is an assurance that we shall forever exist as a people, for as long as the land shall last. But also land is a resource capable of providing even greater support for our people, to provide employment, to provide us with sites for our dwellings, and to provide an income to help support our people and to maintain our *marae* and tribal assets.

### Our Objective . . .

. . . is to keep Maori land in the undisturbed possession of its owners; and its occupation, use and administration by them or for their benefit. Laws and policies must emphasise and consolidate Maori land ownership and use by the *whanau* or kin group.

### Land Ownership

While the Maori population has grown steadily our land base has steadily diminished. Our land is so important that we cannot allow this continued erosion. The law must provide for the retention of Maori land to the fullest extent possible. If we are true Maori, we must insist that Maori land ownership be viewed entirely differently from ownership as it is understood in British law. Our land interests are an inheritance from the past entrusted to the future in which we

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have no more than certain rights to enjoy the fruits of the land in our own lifetimes, and a duty to convey those rights to succeeding generations.

We do not intend that the rights of Maori owners of general land should be in any way interfered with. But we emphasise the significance of our traditionally owned land and we seek to ensure that the law continues to provide for the retention, use and management of jointly owned Maori land.

The old laws requiring the conversion of "uneconomic interests" and the inhibitions on all of a family succeeding have been removed. In certain circumstances members of the *whanau* earlier excluded should now be permitted to be brought back into ownership lists.

#### Multiple Ownership

Tribal ownership was the norm in Maori custom. Membership of the group ensured the right to occupy and to use the land of the group, But only so long as members continued to occupy the land. Persons moving away surrendered their right to occupy and absentee ownership did not exist.

Determination of individual ownership rights to land and succession to those rights was a concept introduced by the pakeha and led to fragmentation and fractionalisation of land interests. It need not inhibit effective use of the land but requires that land management procedures be devised to accommodate our circumstances. The law should reflect our communal and tribal heritage by enabling Maori land to support group and tribal projects where that is practical. We realise that the European ideals of individual ownership and the rights of the individual are firmly held by some of our people and the law should protect these rights. But the law should also make possible, and in fact encourage, the retention and use of Maori land by the tribal group and for the benefit of the group. Management structures must permit maximum owner participation and control.

#### Land as a Tribal Resource

The potential for funding tribal development programmes is heavily dependent on the capacity of the tribal resource. Where Maori owners keep their interests together they gain economic strength and hence the ability to compete effectively in today's world.

We ask the Government to recognise the substantial loss of Maori land over the past 120 years and to support and encourage Maori authorities to buy land wherever possible to restore their land base. The law permits this at present but the government must demonstrate support by the provision of funds to aid purchase of general land.

The proposal that all future sales of Maori land be prohibited seemed outlandish at first. It is not outlandish to those attuned to Maori values who recognise we are but custodians of our tribal lands. They are not ours to sell and talk of sale should be firmly discouraged.

We are concerned that present law allows a simple majority of shares to decide to sell (provided a quorum of 75% of shares are represented at the meeting). This could allow as few as 38% of the shareholders to decide the sale and thus dispossess the remaining owners. This contrasts with general law where all joint owners must agree to sell and we ask that the law affecting Maori Land also require 100% agreement of shareholders before sale. We recognise that this could mean great difficulty in achieving the necessary agreement and would provide that the Maori Land court, having regard to the principal objective of retaining

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Maori land in the possession of its owners, upon being satisfied that very special circumstances exist, may approve the sale.

We believe these measures will reduce the frequency of sales of Maori land but are adamant that the rights of a part owner to sell must not over-ride the rights of other shareholders wishing to retain their land."

With the problems of fragmented and uneconomic interests these lands had to be made use of, for if they were not then rates and other costs would accrue as liabilities and would end up in the Courts.

With the introduction of Maori Incorporations and Part 468 Trusts these properties could now become part of one or the other above mentioned Maori Authorities. Speaking for the Incorporation, of which I am Chairman of its Management Committee, I can safely say that without the introduction of Maori Incorporations all that land known as Tawapata Incorporation with Portland Island would have been lost to the Maori people by now. Today we are approaching full development. With the clearing of 500 acres plus the development of Portland Island as a farming venture at the moment development would be complete.