

15 October 2024

Committee Secretariat  
Justice Committee  
Parliament Buildings  
Wellington

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## Marine and Coastal Area (Takutai Moana) (Customary Marine Title) Amendment Bill

Tēnā koutou,

This submission outlines the position of Te Ātiawa ki te Upoko o te Ika a Māui Pōtiki Trust on the Marine and Coastal Area (Takutai Moana)(Customary Marine Title) Amendment Bill (the Bill).

Te Ātiawa ki te Upoko o te Ika a Māui Pōtiki Trust is opposed to the Bill.

We wish to be heard in support of our submission.

Te Ātiawa ki te Upoko o Te Ika a Māui Pōtiki Trust was established as a Mandated Iwi Organisation (MIO) for Te Āti Awa in Te Whanganui a Tara – Wellington in 2006 to represent Te Āti Awa interests in relation to our coastal takiwā extending from Pipinui Point on the southern west coast of Te Upoko o Te Ika around the west and south coast around through Te Whanganui a Tara- Wellington Harbour and around Turakirae to Mukamukaiti (Windy Point) in Palliser Bay.

Our Trust lodged a claim (CIV-2017-485-260) on behalf of Te Āti Awa (Te Whanganui a Tara) for an order recognising customary marine title and for an order recognising protected customary rights.

Te Ātiawa ki te Upoko o te Ika a Māui Pōtiki Trust is as an applicant and we will be directly affected by any change to the current Marine and Coastal Area (Takutai Moana) Act.

The changes proposed by the amendment bill will negate previous mahi and investment made by both the Trust and the Crown and may require a procedural restart that will incur considerable loss of time, resources and expense for all, irrespective of the pathway (the High Court or the Crown Engagement) we as applicants choose to be working through.

The Trust therefore makes this submission to express its strong opposition to the Marine and Coastal Area (Takutai Moana) (Customary Marine Title) Amendment Bill.

This bill is a clear breach of Māori tino rangatiratanga as guaranteed under te Tiriti o Waitangi, and the full exclusive and undisturbed possession of Māori lands, estates, forests, fisheries and other properties as guaranteed under the Te Tiriti of Waitangi.

This legislation represents the largest seizure of Māori rights since the Foreshore and Seabed Act in 2004. It represents a blatant attack on the customary rights of Māori and seeks to undermine Māori customary rights.

The bar will be raised so high that it will be impossible for iwi ,hapū and whanau to claim their right to protect our moana.

The changes to the test for CMT are deliberately designed to make it impossible for applicants to meet. Further, the retroactive effect of the amendments to applications currently under consideration by the courts is a deliberate and unnecessary attack against those whānau who in good faith choose to engage in the court system.

The protection of te Takutai Moana is an intrinsic part of what it means to be Māori. It allows us as Māori to fulfil our responsibility as kaitiaki for Tangaroa by making wise and sustainable use of the resources Tangaroa provides to us.

As has been documented and acknowledged in the NZ Legislation Disclosures – Departmental Disclosure Statement #83 the information provided at the time to Cabinet in order for it to make its decision was flawed.

- No regulatory impact statement was provided
- No detailed analysis of compliance with international obligations had been undertaken. Which shows potential inconsistency with the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). This references to Article 26 of the UNDRIP which affirms that indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired. Along with the potential inconsistency with Article 27 of the International Covenant on Civil and Political Rights, which protects cultural rights of minorities.

This shows a lack of evidence-based decision making by the Government.

***The Bill breaches all three Articles of Te Tiriti o Waitangi.***

It does not represent the good faith and integrity expected of the Kāwanatanga under **Article One**. It effectively reduces and confiscates Māori rights to the takutai moana that are guaranteed under **Article Two**; and, as the latest in a string of legislative changes targeted at Māori, it breaches **Article Three's** obligation to treat Māori equitably.


There is no other ethnic group in Aotearoa that has been the subject of such a sustained legislative attack by this Government.

Tangata whenua have always had undisturbed ownership and rights over whenua, resources, and taonga. The burden should rest on the Crown to prove their rights.

Those tamariki and mokopuna who stood with their mātua and kaumātua during the foreshore and seabed hīkoi 20 years ago will not accept anything less than justice.

I urge you to consider this submission and to not progress with this proposed Marine and Coastal Area (Takutai Moana) (Customary Marine Title) Amendment Bill.

Nāku noa, nā



Anaru Adams – Chair  
Te Ātiawa ki te Upoko  
o te Ika a Māui Potiki Trust

**ALSO IN SUPPORT OF THIS SUBMISSION**

(signed on behalf of)  
Palmerston North Māori  
Reserves Trust



Liz Mellish - Chairperson

(signed on behalf of)  
Wellington Tenth's Trust



Anaru Smiler - Chairman