

17 February 2025

Health Select Committee
Parliament Buildings
Wellington

he@parliament.govt.nz

Tēnā koe

PREAMBLE:

He Whakaputanga o te Rangatiratanga o Niu Tirenī and Te Tiriti o Waitangi were some of the enabling frameworks, outside of Te Ao Māori, that our tupuna envisioned would support the development of our nationhood as Aotearoa New Zealand.

This submission is an ongoing part of that continuum to realise and reassert the aspirations of our tupuna to facilitate intergenerational equity whilst recognising and upholding Te Mana me te Mauri o te Taiao and Te Tiriti o Waitangi.

Submission to the Health Select Committee on the Gene Technology Bill

1. This response is made on behalf of Te Kahu o Taonui (Te Tai Tokerau Iwi Chairs Forum).
2. Te Kahu o Taonui was established in 2006/07 and is now a collective of Authorities in Te Tai Tokerau namely Ngāti Kuri Trust Board, Te Rūnanga Nui o Te Aupōuri, Te Rūnanga o Te Rarawa, Te Rūnanga o Ngāi Takoto, Te Iwi o Ngāti Kahu Trust, Kahukuraariki Trust / Ngātikahu ki Whangaroa, Te Rūnanga o Whaingaroa, Te Rūnanga-Ā-Iwi-Ō Ngāpuhi, Te Rūnanga o Ngāti Hine, Ngātiwai Trust Board, Te Iwi o Te Roroa and Te Rūnanga o Ngāti Whātua.
3. The aim of Te Kahu o Taonui is to advance the collective aspirations of Te Tai Tokerau iwi and hapū. *"Me mahi tahi tātou mā te iwi te take"*.

Gene Technology Bill

POSITION:

4. Te Kahu o Taonui's position is premised on the fundamental philosophy that the sustainability and mauri of Te Taiao is the priority first and foremost, followed by our iwi /hapū tino rangatiratanga, Te Tiriti o Waitangi and Treaty Settlements (both existing and potential). Economic development, or the espoused lost economic opportunity cost, should not override our sustainability imperatives, which for us are captured by the hierarchical obligations identified within Te Mana o Te Wai, whereby:
 - The health and wellbeing of ecosystems is the priority first and foremost

- Secondly, there are the health needs of our people; and
 - Thirdly, the ability of communities to provide for their social, economic and cultural wellbeing, both now and into the future.
5. This Bill is part of the coalition Governments proposal to drive an economic development agenda and is happening at pace. The speed of this wider agenda and the lack of effective engagement and consultation with our iwi members is impacting on our social prosperity and economic development directives.
 6. This pace, alongside utilising the Select Committee as a defacto consultation and engagement platform rather than engaging with your Te Tiriti partner directly sets a precedent that further enhances our position.
 7. Therefore, Te Kahu o Taonui is opposed to the Gene Technology Bill.

STATEMENT OF KEY MATTERS OF CONCERN:

Te Tiriti o Waitangi / Treaty of Waitangi

8. The Crown has an obligation to make decisions in a way that is consistent with Aotearoa's founding document, Te Tiriti o Waitangi.
9. The principles of partnership, participation and protection provide foundational pre-requisites in lieu of the Articles of Te Tiriti o Waitangi.
10. Te Kahu o Taonui is of the opinion that the lack or inability to consult and engage does not reflect the commitment of a Treaty partner acting in good faith.
11. Similarly, the consideration of a Māori Advisory Committee does not meet that partnership threshold, nor does it entertain any effective partnership decision-making powers that gives effect to our rights to make binding decisions regarding resources and taonga over which we hold rangatiratanga.
12. The opportunity and ability to assess the assertion that gene technologies will improve Māori health outcomes is difficult for us to consider and/or counter due to the disestablishment of Te Aka Whai Ora / the Māori Health Authority.
13. The WAI 262 (Flora, Fauna and Intellectual Property Rights) Claim was in relation to the Crown denying Māori the full exercise of our tino rangatiratanga which entitles control and decision-making authority relating to the conservation, use, and development of those resources which includes, among other things:
 - A right to participate in, benefit from, and make decisions about existing and future technological advances relating to the breeding and genetic manipulation of indigenous flora and fauna
 - A right to protect, enhance, and transmit cultural, medicinal, and spiritual knowledge and concepts relating to indigenous flora and fauna; and
 - A right to environmental well-being dependent on the nurturing and wise use of indigenous flora and fauna.

Relief Sought

14. That as a Treaty partner acting in good faith, and in supporting the development of robust legislative reform, that the Crown pause this Bill and actively engage and consult with its Treaty partners.

Te Tiriti o Waitangi settlements¹

15. Within Te Tai Tokerau seven of our iwi members have negotiated Treaty Settlements with the Crown whereby a range of formal and informal arrangements have been negotiated in response to the Crown's Treaty breaches.
16. In response to the proposed Bill, no consultation and/or engagement has occurred with our Post Settlement Governance Entities (PSGEs).
17. This modus operandi to develop draft legislation at pace at the risk of not engaging with PSGEs has also occurred within previous Bills. Te Kahu o Taonui, once again, considers this another fundamental breach to our Te Tiriti partnership relationship.

Relief Sought

18. Te Kahu o Taonui will be adversely affected by a range of regulatory changes to gene technology and genetically modified organisms (GMOs), and we are seeking that the Crown pause this Bill and directly engage with our PSGEs in order to support robust analyses to make informed decisions.

GENERAL COMMENTS

Lack of Māori Decision-making Power

19. As outlined above, the Government has WAI 262 obligations to ensure that the relationships between Māori and our taonga are acknowledged and protected in laws, policies and practices. The Māori Advisory Committee should therefore have the ability to veto applications of which they determine the risk cannot be appropriately managed or mitigated. This should be supported with representation from impacted kaitiaki, hapū and iwi in decision-making.

Absence of a Precautionary Approach

20. There is no provision requiring a precautionary approach to be taken and this is a concerning change in approach from what is currently required under the Hazardous Substances and New Organisms Act (HSNO) 1996. A precautionary approach, or using the precautionary principle, is important in the context of Genetic Engineering (GE) in order to exercise caution in managing adverse effects where there is scientific and technical uncertainty about those effects.
21. Removing the precautionary approach will undermine international obligations, for example:

¹ See [Quarterly-report-to-31-Mar-2024.pdf \(tearawhiti.govt.nz\)](#)

- the Convention on Biological Diversity (Nagoya Protocol)
- the Cartagena Protocol on Biosafety; and
- the United Nations Declarations on the Rights of Indigenous Peoples.

Inability to Consider Ethics

22. The legislation is not aligned with Ministry for the Environment (MfE) advice to include ethics provisions to ensure a more robust regulator.
23. While any approved GE application will need to meet ethical requirements within existing legislation, there are unique ethical considerations specific to GE that are not covered by current legislation in Aotearoa.

Lack of Economic Assessment

24. No economic assessment of the potential impacts of the regulatory change has been conducted by the Government. It is therefore difficult to understand the implications, including risks related to Aotearoa's export trade and production as well as to the Māori Economy.
25. The only economic analysis conducted by the New Zealand Institute of Economic Research (NZIER) found that Aotearoa's primary sector exports could reduce by \$10 billion to \$20 billion annually were GMOs to be released into the environment.

Protection for being GE Free

26. There will be no liability for contamination caused to GE Free producers. This means that Māori farms and famers will face increased compliance and certification costs to ensure their crops and animal products remain GE free.
27. Any regime should protect the ability for farmers to choose to remain GE free and ensure full liability on those that intentionally or accidentally contaminate non-GE producers and the environment.

Removal of Local Governments Rights

28. We do not support the amendment to prohibit territorial authorities from differentiating between GMOs and non-GMOs in their functions. This amendment would effectively prevent the Far North District Council (FNDC) and Northland Regional Council (NRC) from regulating the release and use of GMOs within our iwi and hapū rohe.
29. Currently, FNDC regulates GMOs in alignment with community perspectives and the Northland Regional Policy Statement (RPS) to:
"Adopt a precautionary approach towards the effects of climate change and introducing genetically modified organisms to the environment where they are scientifically uncertain, unknown, or little understood, but potentially significantly adverse."
30. The GMO provisions in both FNDCs Operative District Plan and Proposed District Plan reflect this policy and became operative in 2018. At that time, there was strong support for GMO regulation, particularly from tāngata whenua and other community groups. Recent submissions on the GMO provisions in the Proposed District Plan have identified that there has been little change in the balance of tāngata whenua and community views on the regulation of GMOs.

CONCLUSION:

31. Currently, the use of gene technologies is regulated by HSNO which allows genetic research in laboratories and requires that field trials and applications of gene technology products outside the laboratory require additional approvals.
32. Any proposal to develop a Bill to establish a new regulatory regime must be done with or alongside your Te Tiriti partner, not to us. In that way we can clearly articulate and prescribe what a precautionary approach, with ethics, looks like in a way that takes into account Te Mana me te Mauri o te Taiao, Te Tiriti o Waitangi and broader societal values.
33. Please note that Te Kahu o Taonui seeks to make an oral submission and wishes to be heard on the Gene Technology Bill.
34. Please also note that this request does not usurp the mana and/or autonomy of our individual iwi and hapū to engage directly with the Crown and Select Committee in order to clearly articulate their tino rangatiratanga rights, interests and responsibilities as guaranteed by Te Tiriti o Waitangi.

Signed:

Dated: 17 February 2025



Aperahama Edwards
Co-Chairperson
Te Kahu o Taonui

Address for Service:

Kiri Sloane-Hobson
Amorangi / Operations Manager
Te Rōpū Ringa Raupā
Te Kahu o Taonui
kiri@tkot.org.nz

Telephone:

021 420 257