

13 June 2025

Transport and Infrastructure Select Committee  
Parliament Buildings  
Wellington

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Tēnā koe

**PREAMBLE:**

He Whakaputanga o te Rangatiratanga o Nu 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 Transport and Infrastructure Select Committee**

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 mō te iwi te take".

**Public Works (Critical Infrastructure) Amendment Bill**

**BACKGROUND:**

1. The Preamble to Te Ture Whenua Māori Act (TTWMA) 1993 clearly identifies that land is a taonga tuku iho of special significance to Māori and further acknowledged by Te Puni Kōkiri that:

*Whenua Māori is intrinsically connected to whakapapa, collective ownership, and intergenerational stewardship, reflecting a Te Ao Māori approach to land that differs significantly from Western property systems. This holistic relationship with whenua supports social, cultural and economic wellbeing, strengthening community resilience and enabling intergenerational wealth transfer. Whenua Māori plays a key role in the transmission of knowledge, preservation of cultural identity, protection of taonga species and areas of high biodiversity, and the intergenerational expression of self-determination.<sup>1</sup>*

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<sup>1</sup> TPK (2025). Engagement and potential changes to Te Ture whenua Māori Act 1993 (the Māori Land Act 1993). Discussion Document for public consultation: pp6.

2. Te Tiriti o Waitangi was the mechanism that provided a limited kawanatanga, but guaranteed the tino rangatiratanga of our hapū in order to maintain the full exclusive and undisturbed possession of our taonga (land, estates, forest, fisheries and other propoerties) which we may collectively or individually posses so long as it is our wish and desire to retain possession.
3. The Treaty of Waitangi was the mechanism that impacted whānau and hapū rights via the historic treatment of Māori and their whenua as part of the colonisation and assimilation process of the nineteenth and twentieth centuries. The Public Works Acts alongside the Native Land Acts supported the systematic alienation of whenua Māori and policies and procedures that discouraged or actively prevented whenua from being developed. This legacy of marginalisation coupled with the contemporary challenges and constraints further exacerbates the ongoing barriers to promoting the retention, occupation, development and utilisation of whenua Māori.
4. Waitangi Tribunal Reports<sup>2</sup> and Treaty Settlements within Te Tai Tokerau have clearly articulated that the alienation of whenua Māori has historically impacted on the social, cultural, environmental and economic wellbeing of Māori.
5. The above reports have also maintained that the development of Aotearoa / New Zealand's infrastructure and development of a nation has clearly leveraged off Māori "assets" that were "acquired" either legally or illegally, directly or indirectly with limited (if any) compensation. Within Treaty Settlements this lack of full compensation, irrespective of the loss and prejudice suffered, is deemed to be a contribution to the development of New Zealand.<sup>3</sup>
6. Whilst Treaty Settlements are deemed to be full and final in the settlement of historical grievances, currently there are a range of legislation, policies, practices and mindsets that still support the alienation of whenua Māori. To varying degrees the Public Works (Critical Infrastructure) Amendment Bill (the Bill) is still facilitating this outcome.
7. The Bill is part of a wider suite of legislative review and change to address an infrastructure deficit across Aotearoa / New Zealand. This Going for Growth approach sits alongside the Fast-track Approvals Act and other reforms currently being considered via the National Direction Packages as part of the RMA Reform.

The speed and pace of change has highlighted a number of concerns for Te Kahu o Taonui specifically around:

- Giving effect to Te Tiriti o Waitangi and the Principles of the Treaty of Waitangi; and
- Decision-making.

<sup>2</sup> Rangahaua Whanui National Theme and District Reports

<sup>3</sup> See Ngāti Kuri and The Crown Deed of Settlement of Historical Claims (07 February 2014): pp58

<sup>3</sup> Te Aupouri and The Crown Deed of Settlement of Historical Claims (28 January 2012): pp45

<sup>3</sup> Te Rarawa and The Crown Deed of Settlement of Historical Claims (28 October 2012): pp92

<sup>3</sup> Te Roroa and Her Majesty the Queen in right of New Zealand. Deed of Settlement of the Historical Claims of Te Roroa (17 December 2005): pp9

<sup>3</sup> Te Uri o Hau and Her Majesty the Queen in right of New Zealand. Deed of Settlement to settle Te Uri o Hau Historical Claims (13 December 2000): pp16-17.

## 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 / New Zealand's founding document, Te Tiriti o Waitangi. However, this has deliberately not occurred within this current Governments tenure, preferring to abdicate its wider obligations by merely focussing on Treaty Settlement Arrangements. Treaty Settlements are historical and contemporary responses to the Crown breaching the guarantees set out in the Treaty of Waitangi and redress mechanisms have been insufficient in compensating for Māori losses. Treaty Settlements and their respective Crown apologies clearly articulate the plethora of land alienation processes, including the multiple Public Works Acts (PWA) since 1882, that have been utilised as a key mechanism in establishing public infrastructure and services. This Bill is an iteration of the PWA 1882, whereby:

*"Whenever it may be necessary to take any land for any Government work which may be held or occupied by Native owners, under any tenure or for any estate or interest whatsoever, the Governor may order that such work shall be constructed on or through any such land ...."*<sup>4</sup>

This Amendment Bill caveats Māori Land as being protected, unless it is required for critical infrastructure projects.

*"Protected Māori land will be excluded from the accelerated process. However, owners of protected Māori land that is acquired for critical infrastructure projects through the standard PWA process will be eligible for the incentive and recognition payments."*<sup>5</sup>

Within Te Tai Tokerau those critical infrastructure projects are identified as the:

- Alternative to the Brynderwyn Hills
- Marsden Point Rail Link; and
- State Highway 1 Whangārei to Port Marsden Highway.

In relation to the Marsden Point Rail Link and the Port Marsden Highway to Whangārei emerging preferred corridor, both will currently impact on protected Māori land.

9. While Te Kahu o Taonui supports appropriate development, this must only be allowed within sustainable environmental limits to protect the health, wellbeing, and economic opportunities of both current and future generations.
10. This Bill and its alignment with the Fast-track Approvals Act (FTAA) 2024 prioritises development above all else. This is a fundamentally unsound approach. It is wholly inconsistent with our iwi and hapū rights and obligations as kaitiaki.
11. Our environment is already degraded from decades of inappropriate development and unsustainable practices and is also facing major risks from climate change and the cumulative effects of existing land and resource use. We need to restore and protect what we have left, instead of finding ways to further degrade our natural resource ecosystems.

<sup>4</sup> Public Works Act 1882: s.24

<sup>5</sup> Public Works (Critical Infrastructure) Amendment Bill: Explanatory Note

#### *Amendment sought*

12. Te Kahu o Taonui is fundamentally opposed to the further alienation of Māori land. However, and as a last resort, should protected Māori land be acquired for critical infrastructure then the following amendments are sought:

- That the protected Māori land be used as collateral to co-invest in the infrastructure pipeline
- And / or leasing arrangements be considered to enable whānau, hapū and iwi to maintain their whakapapa and “ownership” connection whilst enabling intergenerational wealth transfer.

Māori understand the process of negotiating the return of their assets used for ‘critical infrastructure’ only for that quantum to be offset against proposed Treaty Settlement processes. Co-investment and/or leasing arrangements will enable whānau, hapū and iwi to enjoy their property rights and provide opportunities for wealth creation.

#### **Decision-making**

13. Te Kahu o Taonui does not have faith in the proposed natural justice process and opposes the decision-making powers that the Bill gives to the Minister or local authority. Similarly, the Bills direct relationship with the FTAA reinforces our position whereby local communities and other affected groups are excluded from participating in the FTAA decision-making process.
14. Among those who are excluded from the ability to provide direct comment to decision-makers are hapū who are not a Treaty settlement entity in their own right, do not have a Mana Whakahono ā Rohe or a Joint Management Agreement (JMA) relevant to FTAA projects. Of the 200+ hapū within Te Tai Tokerau only 2 have a Mana Whakahono ā Rohe and none have a JMA.
15. While our iwi may choose to include comments from their hapū to an Expert Panel, this undermines hapū rangatiranga and puts a heavy burden and responsibility on our iwi. Additionally, it is not the role of iwi authorities to facilitate hapū engagement on FTAA processes. This should rightly be the role of the project applicant in the pre-application stage, and the agency responsible in the referral application and Expert Panel stages.

#### *Amendment sought*

16. Te Kahu o Taonui seeks to maintain the Environment Court processes thereby mitigating the decision-making process from either real or perceived political capture and misuse.

#### **CONCLUSION:**

17. The Bill is BAU and apart from some minor amendments it is not too dissimilar to its 1882 predecessor.
18. From Te Kahu o Taonui’s perspective we consider that the government is maintaining a strategic direction that on the one hand is seeking to protect Māori land, however on the other they are still willing to alienate Maori land in order to provide regional and national benefit. Our nations infrastructure and services has been built on the acquisition and alienation of whenua Māori and yet this government is still wanting us to contribute once again with what little our whānau, hapū and iwi have left. This is fundamentally wrong and is perpetuating alienation rather than support the options to stimulate rangatiratanga.



**TE KAHU O TAONUUI**

*Me mahi tahi tātou mā te iwi te take*

19. Te Kahu o Taonui is clear that this government is not acting honourably and in good faith which amounts to a fundamental breach to our Te Tiriti partnership which is distressing, debilitating, untenable and lacks integrity.

Please note that this submission does not usurp the mana of our Authorities and their respective whānau and hapū to engage directly with the Select Committee as is their democratic right.

Please also note that Te Kahu o Taonui seeks to make an oral submission and wishes to be heard on the Public Works (Critical Infrastructure) Amendment Bill.

Signed:

Dated: 13 June 2025

Katie Murray  
Co-Chairperson  
Te Kahu o Taonui

Aperahama Edwards  
Co-Chairperson  
Te Kahu o Taonui

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