

10 February 2025

Environment Select Committee
Parliament Buildings
Wellington

en.legislation@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 Environment Select Committee on the Resource Management
(Consenting and Other System Changes) Amendment 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"*.

Resource Management (Consenting and Other System Changes) Amendment 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 and Treaty Settlements (both existing and potential). Sustainable development should not override these imperatives but rather support our people and communities social, cultural and economic wellbeing, now and in the future.
5. This Amendment Bill is part of the coalition Governments proposal to reform the RMA et al, and is happening at pace. The speed of these reforms and the lack of effective engagement

and consultation will result in the development of sub-standard legislation and policy directives.

6. This pace, alongside utilising the Select Committee as a defacto consultation and engagement platform sets a precedent that further enhances and exacerbates sub-standard decision-making.
7. There is little to no regard for the timely input and participation of your Treaty partner, which has been limited to official's internal desktop analyses.
8. This submission covers our overarching comments on key issues, however for the technical issues around topic-based submissions on the Bill, please refer to the National Iwi Chairs submission.

STATEMENT OF KEY MATTERS OF CONCERN:

Te Tiriti o Waitangi / Treaty of Waitangi

9. 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.
10. The principles of partnership, participation and protection provide foundational pre-requisites in lieu of the Articles of Te Tiriti o Waitangi.
11. 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.

Relief Sought

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

Te Tiriti o Waitangi settlements¹

13. 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.
14. In response to the government's proposed Amendments, no consultation and/or engagement has occurred with our Treaty Settlement Entities.
15. 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 / Treaty partnership relationship.

Relief Sought

16. Te Kahu o Taonui will be adversely affected by a range of system changes, 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.

¹ See [Quarterly-report-to-31-Mar-2024.pdf \(tearawhiti.govt.nz\)](https://www.tearawhiti.govt.nz/quarterly-report-to-31-Mar-2024.pdf)

GENERAL COMMENTS

17. Our concerns with the RMA reform have been the frequent small amendments that have been made and whilst they are theoretically intended to streamline and simplify the process, they have instead contributed to confusing legislation that is difficult to assess in its entirety.
18. Limited, if any, consultation and engagement has been identified via the Ministry for the Environment's (MfE) commentary in the Supplementary Analysis Report (SAR)² whereby limited data and evidence has been used to support the proposed amendments.

Therefore, Te Kahu o Taonui's position is that it:

- Opposes Ministerial intervention in plan making.
 - Opposes s.70 as an amendment to discharge rules.
 - Opposes the new Ministerial intervention powers that Ministers appoint half the members to Streamlined Planning Process panel whereby no elected members are to be part of panels.
 - Opposes s.100 requiring that councils must not hold a hearing on a consent application unless further information is needed.
19. More fundamentally, Te Kahu o Taonui has major concerns relating to the inconsistency in how Māori are identified in the various sections, as well as concerns relating to changes that would impose different rights of participation on settled iwi and Māori and those with formal agreements in place, compared to Māori without those instruments.
 20. These changes are not consistent with obligations under Te Tiriti o Waitangi as they narrow participation rights by unfairly excluding unsettled iwi and all other Māori without formal agreements in place. The changes will hinder the ability of all persons exercising functions and powers under the RMA to recognise and provide for the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga, which is a matter of national importance under s.6 of the RMA.

This is a particular issue in the following clauses:

- Clause 29 (1 year consenting timeframe) where a *"Treaty settlement entity, iwi authority, or a recognised customary rights group"* have the ability to request an extension of up to 1 year.
- Clause 34 (replacement s100, consent authority must not hold a hearing). *"If a Treaty settlement recognises the right of an iwi or other Māori group to participate in a hearing if one is held, the consent authority must consult the iwi or group before making a determination that it has sufficient information to decide the application."*
- Clause 42 (35 year default duration for renewable energy and long-lived infrastructure consents) where a shorter duration can be requested by groups *"who may be or is required to be involved in processes under this Act that relate to"*

² See Ministry for the Environment, Supplementary Analysis Report: Resource Management Amendment Bill 2, pp 15. <https://environment.govt.nz/assets/SAR-RM-Amendment-Bill-2-analysis-to-support-introduction.pdf>

planning documents or resource consents by virtue of any Treaty settlement, the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019, or the Marine and Coastal Area (Takutai Moana) Act 2011”.

- Clause 47 (new process for review of coastal permits for ports, new section 165ZZG) where there is a list of Māori groups to be included in limited notification.
- Clause 64 (emergency response regulations), before recommending emergency response regulations, the Minister must “*consult any affected councils and relevant Māori entities, and invite them to provide written comments about the proposed regulations*”.

CONCLUSION:

21. The development of this Bill (and subsequent Amendment Bills) has been significantly impacted on by the limitations and constraints of its analyses. The consistent themes within the Regulatory Impact Statements clearly outlines the governments non-commitment to its Treaty partnership relationship.
22. From Te Kahu o Taonui’s perspective the lack of engagement and consultation, and on-going, systemic issues amounts to fundamental breaches in the Te Tiriti partnership which is distressing, debilitating, untenable and lacks integrity.
23. Added to the above, utilising the Select Committee as a default mechanism to engage and consult directly with the Treaty partner, and Treaty Settlement partners, further exacerbates our aggrieved position.
24. Please note that Te Kahu o Taonui seeks to make an oral submission and wishes to be heard on the Resource Management (Consenting and Other System Changes) Amendment Bill.
25. 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: 10 February 2025



Aperahama Edwards
Co-Chairperson
Te Kahu o Taonui

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TE KAHU O TAONUI

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