

Marine and Coastal Area (Takutai Moana) (Customary Marine Title) Amendment Bill (25 September 2024)

Climate Justice Taranaki submission to the Parliamentary Justice Committee
15 October 2024

1. Climate Justice Taranaki (CJT)¹ is a community group dedicated to environmental sustainability and social justice. This includes issues of inter-generational equity, notably in relation to climate change, which will increasingly impact present and future generations' inalienable rights to safe water, food, and shelter. Composed of a broad range of people with varied expertise and life experiences, CJT has engaged respectfully with government on numerous occasions.
2. CJT strongly opposes the Marine and Coastal Area Amendment Bill² and requests that the Select Committee recommends that it does not proceed any further.
3. Through the development process and content of the Bill, the Crown has breached the Treaty of Waitangi in several ways, as found by the Waitangi Tribunal Urgent Inquiry on the Marine and Coastal Area (Takutai Moana) Act Coalition Changes (September 2024)^{3, 4}.
4. The Tribunal found that the Crown has breached the principle of good governance by regularly dismissing official advice and rushing the process through. The Tribunal said, "*the approach to policy development was instead characterised by ideology and blind adherence to pre-existing political commitments at the expense of whānau, hapū, and iwi.*"
5. The Tribunal found that "*The Crown has breached the principle of tino rangatiratanga by exercising kāwanatanga over Māori rights and interests in te takutai moana without providing any evidence for one of its key justifications – namely, that the public's rights and interests require further protection beyond what is already provided by the Act. The Crown also failed to inform itself of Māori interests.*"
6. The retrospective nature of this Bill would impose further financial and emotional burden on claimants, as their cases would have to be reheard, and some customary marine title awards would be overturned⁵. If the Bill goes through as it is drafted, overturning crucial High Court findings and decisions⁶, the government will fail to protect Māori interests. Some 200 proceedings with multiple applicants could be jeopardised by this Bill.
7. Processing this Bill under urgency is extremely unreasonable, considering the ramifications and the amount of time and legal expertise required to respond professionally and be evidence-based. It would also severely restrict the opportunity for Māori participation and other well-meaning inputs.
8. The Bill is being put through the Justice Committee rather than the Māori Affairs Committee. This ignores the need to understand tikanga and Te Ao Māori concepts, as well as the expertise and skills required in considering the rights of iwi, hapū and whānau to bring forth sound recommendations.
9. Rather than stoking the fire of racism and social disharmony, the coalition government should condemn propaganda like the Hobson's Pledge⁷ and withdraw the Bill. The alternative is further division, polarisation and inability to progress anything for the common good. The unprecedented climate, ecological and geopolitical crises we face require us to work together with empathy and respect, as a mature and progressive nation.

¹ <https://climatejusticetaranaki.info/>

² <https://www.legislation.govt.nz/bill/government/2024/0083/latest/d3189788e2.html#LMS993612>

³ <https://www.waitangitribunal.govt.nz/en/news-2/all-articles/news/tribunal-releases-report-on-the-takutai-moana-act-2011>

⁴ https://forms.justice.govt.nz/search/Documents/WT/wt_DOC_219206368/Takutai%20Moana%20Urgency%20W.pdf

⁵ <https://tearawhiti.govt.nz/assets/MACA-docs/Section-58/2025-07-25-Takutai-Moana-panui.pdf>

⁶ <https://www.russellmcveagh.com/insights-news/important-high-court-decision-on-customary-marine-title/>

⁷ <https://www.teaonews.co.nz/2024/08/13/hobsons-pledge-168-maori-legal-experts-condemn-ad-set-record-straight/>