

NGĀ TOKI WHAKARURURANGA

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SAY NO TO THE GENE TECHNOLOGY BILL THAT IS BEING RUSHED THROUGH PARLIAMENT TO REVERSE GE FREE AOTEAROA & IGNORE TE TIRITI O WAITANGI

A Gene Technology Bill that overturns GE Free Aotearoa was introduced to Parliament on 10 December, shortly before Christmas, and was sent to the Health Select Committee (unclear why them). Submissions close on 17 February 2025. The government intends it to become operational this year.

This is another Coalition Agreement commitment being rushed into law.

Officials were told to develop a new law based on the Coalition Agreements, and in particular the three priorities in the National Party's election manifesto to:

- End the effective ban on Genetic Engineering (GE) and Genetic Modification (GM);
- Create a dedicated regulator to ensure safe and ethical use of biotechnology; and
- Streamline approvals for trials of use of non-GE/GM biotechnology.

A long Regulatory Impact Statement by officials at MBIE admits it didn't consider options:

*"the Bill **does not likely meet the level necessary for high quality regulatory analysis.** ...*

*The key limitation was information on the sector, and **main constraints a defined, narrow scope, and a compressed timeline** to undertake analysis, which also resulted in narrow, targeted consultation. ...*

*This scope limitation ... means **we have not considered all potential options** that may have effectively addressed key issues underlying the changes sought by Government, including amending the existing HSNO Act to enable these activities" or "adequately considered wider impacts and consequences on the [HSNO] regime." (pp.9-10)*

Coalition Government Ministers dictated the priorities for the Bill.

Officials only assessed options for allowing GE with reference to coalition government objectives, to:

- **Enable** greater use of **gene technology**
- Restrictions on GE should be **proportionate to the risks**
- The legislation should be flexible to **allow for future technologies**
- It should be **in step with major trading partners** and improving access to new technologies.
- The regime should "**appropriately consider Māori rights** and interests under the Treaty of Waitangi" – note the words "appropriately" and "consider" .

Ministers instructed officials on how Te Tiriti o Waitangi should (or should not) be addressed.

"Given time and scope constraints, officials did not analyse a wide range of options on how to best protect Māori rights and interests." (p.7)

Officials showed they know that GE strikes the heart of tikanga and whakapapa.

*“Many Māori cultural practices are inextricably linked to the New Zealand environment and its flora and fauna. Traditional Māori concepts of kinship (whanaungatanga) that underpin these practices extend into the natural world, to both specific species (often referred to as taonga species) and places. **These whanaungatanga relationships also create an obligation of kaitiakitanga, often translated as guardianship or stewardship. Whakapapa (genealogy) plays a critical role in obligations of kaitiakitanga, and therefore there is the potential for these relationships to be disrupted by the use and impact of gene technologies.** This relationship with taonga species has been acknowledged by the Crown across multiple Treaty settlements.” (pp. 33-34)*

And they know Māori have duties and the Crown has obligations affirmed in Te Tiriti.

“The proposals also have impacts for Māori, as use of gene technology engages Māori rights and interests under te Tiriti o Waitangi / the Treaty of Waitangi. These include rights to exercise kaitiakitanga (often translated as guardianship) for specific species and places, and for equitable access and outcomes in areas such as health and economic development.” (p.7)

Officials acknowledged that many Māori will oppose the Bill as a breach of Te Tiriti.

*“Engagement with Māori representatives has indicated that there may not be widespread agreement to a regulatory approach that removes oversight of modifications made to species of importance to Māori, including native flora, fauna, and taonga species as **this may not uphold te Tiriti o Waitangi/ the Treaty of Waitangi obligations.**”[168]*

That didn't stop them.

More Tiriti breaches are being committed so corporates can make more profits from GE.

By less regulation and easier compliance, the Bill aims to benefit “regulated parties” in the biotech sector to do more research, start-ups and commercialisation.

Allowing GE is also meant to have other flow-on benefits, but officials admit that may not happen.

The RIS claims there will be social, environmental, and economic benefits for New Zealand and consumers from increased use of GMOs in medicines, climate change mitigation, and making plants and animals more disease resistant. But officials concede they “**are unable to comprehensively quantify these expected benefits as technology development is uncertain ...**” and that “**a risk to achieving these benefits is that there may not be social license for some of the potential uses.** For example, research indicates that generally New Zealanders are more supportive of the use of gene technologies in healthcare and conservation than in food production and farming”. (p.7)

Why didn't the Crown ask if people, especially Māori, want to allow GMOs?

The Coalition Agreement said it is going to happen, whatever people think! Officials admit the timelines set by the government meant:

*“**MBIE did not publicly consult on the proposed regulatory changes or engage broadly with Māori.** There is some limited evidence that public opinion in respect of gene technology is becoming more favourable overtime, particularly concerning medical uses and techniques that do not involve trans-gene modifications. However, in the absence of readily available*

evidence and public consultation, it is not possible to draw a broad conclusion that the public supports a more enabling approach to regulating gene technology.” (p.8)

Even some primary sector stakeholders and the aquaculture and seafood industries said they might be interested in using GMO in the future, but are concerned they do not yet have the social licence to do so.

What say did Māori have on the Bill?

Again, MBIE admits that: **“No formal consultation or full engagement with Māori was undertaken to shape, test, inform, and refine proposals”** (p.10). Instead, there was a “targeted engagement” to implement the pre-determined Coalition policy. Officials admit that:

“More fulsome consultation may have:

- *enhanced policy development by identifying opportunities and concerns, and introducing additional perspectives and information at key points of the process, and enabled refinement and iteration of proposals, and*
- *enabled increased or more comprehensive understanding and analysis of the diverse Māori interests, opportunities, and concerns on gene technology.*(p.10)

Who was part of the “targeted engagement” with Māori?

The officials had several advisory groups (pp.123-127). A Technical Advisory Group, mainly of academics, included Associate Professor Maui Hudson, University of Waikato | Te Whare Wānanga o Waikato and Ariana Estoras (Director Māori Strategy, Research and Partnerships, AgResearch). There was a larger Industry Focus Group from the biotech, agriculture and other industry sectors.

A Māori Focus Group apparently met twice. It exists until 31 December 2025. Members are

- Melanie Mark-Shadbolt, Te Tira Whakamātaki
- Stephanie Dijkstra, Ngāi Tahu HSNO Kōmiti Chair
- Alana Alexander, University of Otago | Ōtākou Whakaihū Waka
- Dr Maia Brewerton, Health New Zealand and Malaghan Institute of Medical Research
- Hema Wihongi, Taumata Whakapūmau
- Te Horipo Karaitiana CEO, Te Awanui Huka Pak and Federation of Māori Authorities
- Professor Amanda Black, Lincoln University | Te Whare Wānaka o Aoraki
- Chairperson: Dr Willy-John Martin, Director Māori Research, Science and Innovation, MBIE.

There was also one Māori researchers’ hui, along with one-off engagements with a long list of mainly corporate and research “stakeholders”.

MBIE explained the Māori Focus Group’s role was just to give advice. No rangatiratanga there.

The Māori Focus Group supported MBIE to identify and understand Māori rights and interests for inclusion in the policy advice to Government. The group:

- *discussed and provided a range of advice, a Te ao Māori lens on areas such as taonga species of flora, fauna and animal species, commercial interests, and whānau.*
- *provides advice and guidance to MBIE on the matters a new gene technology regulator might consider in order to safeguard and enable the interests of Māori.*
- *advises on the process by which a new gene technology regulator might use to involve Māori in decisions that impact on their interests.*

That does NOT mean the Māori Focus Group agreed with the Bill.

MBIE summarised a range of views from those Māori they did engage with:

“• Māori should have oversight of genetic modifications made to species of importance to them (including native flora, fauna, and taonga species).

• There is interest in the opportunities gene technologies may provide in healthcare, conservation and economic development, and it was considered very important that, if restrictions on gene technologies are reduced, Māori can access and benefit from gene technologies and GMOs.

• There need to be robust processes for decisions to release GMOs into the environment and post-release monitoring to ensure there are not flow-on effects to non-modified species.

• A key interest raised in stakeholder consultation was around benefit sharing, which is not directly addressed by the proposals as it is typically considered in subsequent processes such as plant variety rights and patenting.” (p.8)

But some Māori did see opportunities, including commercial

The RIS cites healthcare and conservation (treatment for pathogens like Myrtle Rust) as examples of potential benefits. A more surprising and controversial suggestion is the use of *gene editing to increase the speed of Manuka breeding programmes to increase the unique manuka factor (UMF) of plants.* (p.36)

In the end, officials made no pretence of trying to honour Te Tiriti in the Bill.

The officials weren't allowed to, and didn't, look to write the Crown's Tiriti obligations into the Bill. Their starting point was a weak committee process set up under the Plant Variety Rights Act to advise on applications to exploit plant varieties.

*“The proposals alter the status quo by placing a duty on decision makers to manage adverse effects to Māori kaitiaki relationships with specific species, instead of requiring them to take into account Te Tiriti principles more generally. **Given time and scope constraints, officials did not analyse a wide range of options on how to best protect Māori rights and interests.** Nonetheless, officials consider that the Plant Variety Rights Act 2022 (PVR Act) provides an effective and transparent mechanism to take into account Māori interests in environmental risk management.”(p.7)*

Claimants (Ngā Toki Whakarururanga) challenged that model in the TPPA claim (Wai 2522) as breaching Te Tiriti and denying rangatiratanga and kaitiakitanga over tāonga species.

Ministers walked back even that weak proposal:

*“The PVR Act provides for a Māori Plant Varieties Committee that has defined decision making powers. **However, ministers' preferred approach is that the Māori Advisory Committee under the proposed regime will not have a decision-making role.** MBIE considers that this approach is unlikely to meet Māori aspirations for partnership in decision making in this area.” (p.7)*

TPK objected to this approach and was ignored.

TPK objected that the Māori Advisory Committee limits the scope for Māori to uphold kaitiaki relationships and to directly benefit from these reforms. TPK wanted, at minimum, the Māori

Committee and the regulator to agree on how to address any detrimental impacts to the kaitiaki relationship and whether these can be mitigated. MBIE said this concern was overstated because a “well-performing regulator will seek agreed solutions as a matter of course”. (p.38) Yeah, right.

29 January 2025

Make a submission against the Bill here:

https://www.parliament.nz/en/pb/sc/make-a-submission/document/54SCHEA_SCF_22059628-B0CC-4931-5E07-08DD18A12BFB/gene-technology-bill

Submissions close on 17 February 2025.