18 June 2018

Committee Secretariat
Maori Affairs Committee
Parliament Buildings
Wellington
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Submission: Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Bill (No 2)

This submission is made on behalf of the Council of Outdoor Recreation Associations of New Zealand. CORANZ is an advocate for the common interests of the "million or more" New Zealanders who regularly use New Zealand’s great outdoors.

CORANZ opposes this Bill and asks that it be withdrawn. We request the right to speak to our submission. Please contact our secretary, regarding a time.

Our concerns:

1. Ngati Porou Hapu failed to get their claims in on time

The primary purpose of the NPHNo2 Bill is to extend application rights under the Marine and Coastal Area 2011 Act (the MACA Act) for a further two years for the Ngati Porou Hapu. This Act expired for all new MACA claims on 3 April 2017 - over a year ago now - after allowing six years for tribal groups to make claims under the MACA Act.
CORANZ is concerned that allowing for time extensions is not permitted under the MACA Act. In fact, over 580 claims by other tribal groups were made within the time limit, showing that other tribal groups had no trouble in meeting this close-off date.

It appears that the Ngati Porou Hapu were not capable of getting their application in on time. The fault therefore lies with the leaders of the Ngati Porou Hapu, and it is unacceptable that an Act of Parliament is now being used to give the Ngati Porou Hapu a two-year extension advantage. There is no justification for this.

Accordingly, CORANZ strongly opposes Part 4 of the Bill, which identifies special conditions including the two-year extension for Ngati Porou Hapu to apply for a Customary Marine Title.

We also oppose Part 3 of the Bill, which outlines the changes that would apply once a Customary Marine Title has been agreed, on the basis that the Ngati Porou Hapu is out of time.

CORANZ believes there is no reason why the Ngati Porou Hapu should gain the right to a two-year extension. However, it appears that the Hapu did a deal with Chris Finlayson, the former National Party Minister for Treaty Negotiations, who primarily drafted the NPHNo2 Bill before the National Party lost the 2017 General Election.

It is of great concern to CORANZ that instead of taking the time to verify that the rights being claimed by the Ngati Porou Hapu under the Bill are legitimate, the Labour led Coalition’s new Treaty Negotiations Minister Andrew Little simply rubber stamped National’s Bill and pushed it through to the Maori Affairs Select Committee. This highlights that the former Minister still appears to have control over these proceedings.

CORANZ believes this Bill is illegitimate. If the new Minister had properly scrutinised the Bill and the claims that have been made within it, he should have rejected the Bill himself.

2. Ngati Porou Hapu’s claims have never been verified

It is disturbing that the rights to the coast being claimed by the Ngati Porou Hapu under the NPH No2 Bill have never been verified. Their claims were first made under the Foreshore and Seabed Act 2004, and while the Hapu successfully negotiated a deal with then Minister of Treaty Negotiations Michael Cullen, they never had their evidence of “exclusive use and occupation since 1840” tested in the High Court, which was essential for the granting of rights under that law.
In 2013, the then Minister of Treaty Negotiations Chris Finlayson appointed former High Court Judge, Dame Justice Judith Potter, as an Independent Assessor of evidence in a factual enquiry (not a negotiation) into whether the Ngati Porou Hapu met the tests for customary marine title in any parts of the East Coast common marine and coastal area under the MACA Act.

The results of the inquiry were never published by the Minister. But on the 9th of July 2013, CORANZ provided a comprehensive submission, outlining how the East Coast coastline in the Ngati Porou rohe was used as the main transport route for goods and people from the 1800s right up until the 1930s, when State Highway 35 was built further inland.

In other words, the detailed analysis undertaken by CORANZ shows that the Ngati Porou Hapus had comprehensively failed to meet the "exclusive occupation and use since 1840" test for rights to the coastline, and should therefore not be awarded the rights specified in the Bill.

I have attached that 2013 CORANZ report as part of our evidence.

Accordingly, CORANZ opposes Part 1 of the Bill, which seeks to give effect to the deed of agreement between Ngati Porou and the Crown, which we deem to be illegitimate on the basis that they did not meet the requirements of either the 2004 Foreshore and Seabed Act or the 2011 MACA Act.

We also oppose Part 2 of the Bill which outlines a range of unique privileges that the Ngati Porou Hapu would gain across their whole claimed area - covering resource consents, conservation activities, customary fishing, and the introduction of wahi tapu - on the same basis, that they do not meet the tests for such rights in law under either the 2004 Foreshore and Seabed Act or the 2011 MACA Act.

To reiterate, both of these Acts required that a tribal group must meet the "exclusive use and occupation since 1840" test to qualify for any rights at all – and the Ngati Porou Hapus comprehensively fails to do so. Ngati Porou hapus also fail the requirement that they make their claim before 3 April 2017.

We therefore urge the Committee to recommend that the Bill be withdrawn as the granting of rights, without evidence proving them, is unlawful.

Dr Hugh Barr, Secretary, Council for Outdoor Recreation Associations of New Zealand CORANZ
As a trapper and climber, I have tramped and climbed most of the East Coast foreshore from Lottin Point to Gisborne. I have never seen signs saying “Keep out” or been told that I was not allowed to proceed. This confirms that there is no area where any hapu has “exclusive occupation and use”.

Attachment:

Submission to the Inquiry into Ngati Porou Application for Customary Marine Title - including Road Maps - 12 July 2013


Membership: CORANZ promotes the common interests of outdoor recreationalists, such as the value of public access, the importance of publicly owned recreational lands and waters and public access to them, and the rights for recreational users on public conservation lands and waters, CORANZ is the national alliance of the following national and regional outdoor recreational bodies:

- **New Zealand Federation of Freshwater Anglers (NZFFA)**
- **Legasea – a recreational sea fishers’ trust.** – has a mutually supportive relationship with CORANZ, to make the New Zealand inshore fishery more sustainable, rather than unsustainable, as is the case with many of our fisheries at present.
- **Public Access New Zealand (PANZ)** – national body promoting public recreational access
- **New Zealand Salmon Anglers Assn**
- **Marlborough Recreational Fishers Assn**
- **New Zealand Bowhunters Society- bowhunters shoot deer and other game animals**
- **NZ Jetboat Association Inc.**
- **Wellington Branch, NZ Deerstalkers Assn**
- **Shooting Hunters Outdoor Trust (SHOT)**
- **High Country Pleasure Riders Assn (Horse-riders)**

CORANZ advocates for the common interests of the million or more New Zealanders who fish, shoot, tramp, ski, canoe, climb walk, mountain-bike, botanise, photograph, and relax, in New Zealand’s great outdoors. The combined membership of our present member bodies is some 11,000 members. CORANZ also advocates for the broader NZ outdoor public, the more than a million New Zealanders who recreate outdoors, primarily along New Zealand’s foreshore and seabed.
Map of the area of New Zealand’s territorial sea at risk under this legislation