

To:

Committee Secretariat

Justice Committee

Parliament Buildings

Wellington

ju@parliament.govt.nz



Submission on the Summary Offences (Demonstrations Near Residential Premises) Amendment Bill

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FROM

Te Tira Whakamātaki

48 Church Street, Rangiora, North Canterbury 7400

Contact: Melanie Mark-Shadbolt – Tumu Whakarae, CE - mel@ttw.nz

Introduction

1. Te Tira Whakamātaki (TTW) is an independent Māori environmental not-for-profit dedicated to protecting Aotearoa New Zealand's environment through research, education, and community support. Our kaupapa is grounded in Te Tiriti o Waitangi and *mātauranga Māori*. We lead national networks on Māori biosecurity, emergency management, and research advocacy.
2. As an independent Māori organisation, TTW works to protect *te taiao* and to uphold the rights of whānau, hapū, and iwi as *kaitiaki* and *rangatira*. Our work includes supporting Māori communities to respond to pest incursions, environmental degradation, and the growing impacts of climate change.
3. We also support communities to exercise their rights to speak for and defend their lands, waters, and taonga. Protest and collective action are part of that protection.
4. Te Tira Whakamātaki opposes the **Summary Offences (Prohibition of Residential Protests) Amendment Bill 2025** in its entirety.
5. We consider this proposed law a dangerous and unnecessary overreach that risks criminalising legitimate protest and suppressing dissent. It threatens the fundamental democratic freedoms of expression, assembly, and association guaranteed under the New Zealand Bill of Rights Act 1990 (NZBORA) and international human rights law.
6. Our concerns are threefold:
 - The **definition of “residential premises”** is dangerously broad and vague.
 - The Bill **removes key safeguards** by omitting any requirement for police warnings before arrests.
 - The Bill is **redundant**. Existing laws already address the harms the Bill claims to target.

The Definition of “Residential Premises” Is Overly Broad

7. The Bill's definition of a 'residential premise' as:

“a building, or part of a building, that is a house, flat, townhouse, home unit, or similar dwelling erected, or currently used, mainly as a place of residence, and any land, improvements, or appurtenances belonging to the dwelling or usually enjoyed with it” (s5B).
8. Given this definition, the scope could reasonably extend to:
 - Official residences such as Government House or Premier House.
 - Embassy properties that include an ambassador's dwelling.

- Mixed-use buildings for example, a shop with an upstairs flat.
 - Home-based businesses or offices within residential dwellings.
9. This breadth means that many lawful and peaceful protests in many ordinary public spaces could inadvertently fall within the prohibition, particularly in towns and cities where residential and commercial uses are intermingled.
 10. From TTW's perspective, this is not an abstract legal concern. Our organisation frequently supports whānau and hapū who protest environmental harm. For example, opposing water pollution, unsustainable forestry, or hazardous waste near their homes and marae. Many of these sites are within or adjacent to residential areas. Under this Bill, such protests could be deemed criminal simply because a residence is nearby.
 11. As legal scholar **Kris Gledhill**¹ has noted, this would make it potentially illegal to protest:
 - outside a shop where the manager lives upstairs,
 - at a rural property where someone lives and manufactures military equipment, or
 - at a riverbank bordering a farm that pollutes the water, if the farmer resides there.
 12. The Bill's scope extends far beyond protecting privacy, it effectively outlaws protest in large swathes of public space, including areas where Māori may gather to oppose environmental or social injustice.

No Requirement for Police Warnings: Unchecked Powers

13. The Ministry of Justice's Regulatory Impact Statement (RIS) explicitly recommended that any new offence should apply only **after a police warning** had been given to protesters.
14. The Ministry's preferred option required a warning, ensuring that criminal liability would arise only when someone refused to stop after a fair notice. This was described as "a more proportionate limit on NZBORA rights" (RIS, p5).
15. However, the **Minister rejected this safeguard**, choosing instead to allow police to arrest anyone they "believe ought to know" their actions are disruptive **without any prior warning**.

¹ www.theconversation.com/why-a-proposed-law-to-criminalise-protests-near-homes-is-too-vague-to-do-much-good-263794

16. It grants police broad discretion to decide what is an ‘unreasonable disruption.’ While the RIS envisages guidance on this term, the absence of a warning requirement and the vague ‘ought to know’ standard materially expand policing powers.
17. The RIS warned this could lead to perceptions that the Government is “undermining fundamental rights” (RIS, p.3,4) and having a **“chilling effect on lawful protest”** (RIS, p.3,22).
18. For Māori, that chilling effect will not be hypothetical. Māori communities have historically been **over-policed** and disproportionately targeted during protests, from the invasion of Parihaka in 1881 to the Tūhoe raids in 2007. This Bill would expand that policing discretion even further, empowering officers to arrest Māori protestors without warning for activities the Crown itself has long failed to engage on in good faith.
19. This is an unacceptable expansion of police powers in a democracy grounded in Te Tiriti o Waitangi.

There Are Already Sufficient Legal Protections

20. New Zealand already has extensive laws that can be used to address genuinely harmful or harassing protest behaviour, including:
 - **Disorderly or offensive behaviour:** Summary Offences Act 1981, ss 3–4.
 - **Intimidation:** Summary Offences Act 1981, s 21.
 - **Obstruction of a public way:** Summary Offences Act 1981, s 22.
 - **Trespass:** Trespass Act 1980, s 11.
 - **Harassment:** Harassment Act 1997.
 - **Noise and nuisance bylaws** under local government authority.
21. The Regulatory Impact Statement confirms that these existing laws already empower police to respond to disorderly or threatening conduct, and that disruptive residential protests are a **“minor part of protesting in New Zealand”** (RIS, p.1,8).
22. Rather than introducing a new offence, the Government could issue clearer operational guidance to police or enhance training in balancing rights and responsibilities under NZBORA.
23. Instead, this Bill **creates a new criminal offence that is unnecessary, excessive, and poorly justified.**

Lack of Consultation and Evidence

24. The Ministry of Justice admitted that the policy was developed under **compressed timeframes** and that **no public consultation** occurred, not with Māori, legal experts, or civil society groups.
25. The Ministry's own quality assurance panel found that the analysis only **partially meets quality standards** and that the lack of consultation was a serious limitation, especially given that the proposal engages fundamental rights.
26. This means Parliament, and you as elected officials, are being asked to pass a criminal law **without proper evidence, consultation, or justification**.
27. For Māori, this failure continues a pattern of law and policy being developed *about us without us*. Had Māori been consulted, the Bill's chilling effect on Indigenous protest and community action would have been immediately recognised and addressed.

Te Tiriti o Waitangi

28. This Bill is inconsistent with the Crown's obligations under Te Tiriti o Waitangi.
29. Article 2 guarantees Māori the right to exercise *tinio rangatiratanga* - full authority, control, and self-determination over their own affairs, lands, and taonga. That authority inherently includes the ability to assemble, organise, and protest to protect those taonga and to hold the Crown to account when it fails to honour the Treaty partnership.
30. Throughout Aotearoa New Zealand's modern history, protest has been one of the only effective means by which Māori have compelled the Crown to act on Te Tiriti breaches. The Māori Land March (1975), the occupation of Bastion Point (1977–78), opposition to the Foreshore and Seabed legislation (2004), and the Ihumātao occupation (2019–20) were all lawful, peaceful movements that forced national conversations on equity, land, and rights.
31. Criminalising proximity-based protest, especially without warning, would erode this long-established constitutional practice of public accountability and the exercise of *tinio rangatiratanga*.
32. Article 3 obliges the Crown to ensure Māori enjoy the same rights and protections as other citizens. Yet history shows that policing and legal systems are not neutral. From the invasion of Parihaka in 1881 to the 2007 Tūhoe raids, Māori protestors have been disproportionately surveilled, arrested, and charged under 'public order' or 'national security' rationales later found to be excessive or unjustified. By giving police greater discretion to define what constitutes 'unreasonable disruption,' this Bill risks perpetuating that pattern of unequal enforcement.

33. Te Tiriti also requires the Crown to actively protect Māori rights and to engage Māori in the design of laws that affect us. The Ministry of Justice has acknowledged that no consultation with Māori occurred during policy development, a clear breach of the Crown's duty of active protection and partnership.
34. Had Māori been properly engaged, the Government would have recognised that this Bill risks criminalising forms of peaceful resistance that are core to Māori identity and democratic participation.
35. In summary, the Bill undermines both *tino rangatiratanga* and the principles of partnership, participation, and protection that define the Treaty relationship. It represents another instance of unilateral Crown law-making that diminishes Māori voices and weakens Aotearoa New Zealand's constitutional integrity.

Incompatibility with NZBORA and International Law

36. Section 5 of NZBORA permits rights to be limited only where restrictions are "reasonable and demonstrably justified in a free and democratic society." The Government's own analysis concedes that **the benefits of this Bill are "very low"** and that it may be **"perceived as undermining fundamental rights."** (RIS pp. 3–4) Such a negligible benefit cannot justify such a profound limit on expression and assembly.
37. Sections 14 and 16 of NZBORA (freedom of expression and peaceful assembly) are already fragile compared with constitutional protections elsewhere. Unlike the U.S. First Amendment or Canada's Charter of Rights and Freedoms, our Bill of Rights relies on political restraint rather than constitutional entrenchment. This Bill tests those limits and erodes the informal guardrails that keep our democracy open.
38. The Bill also conflicts with Articles 19 and 21 of the **International Covenant on Civil and Political Rights (ICCPR)**, which protect freedom of expression and assembly. The UN Human Rights Committee has repeatedly affirmed that states must tolerate even disruptive or unpopular protests, and that restrictions must be strictly necessary, proportionate, and non-discriminatory. A location-based offence of this breadth, without a warning requirement, cannot meet that standard.
39. For TTW and our communities, this means that even peaceful protest by *kaitiaki* outside a polluting factory or at a riverbank could be treated as a criminal offence if any residential property is nearby. This turns defending the environment into a punishable act, a deeply concerning precedent.
40. International jurisprudence is clear that peaceful protest is a public good essential to accountable governance. By criminalising presence rather than behaviour, this Bill treats protest as a threat to be contained rather than a democratic function to be protected.

Broader Implications: A Chilling Effect on Democracy

41. This Bill is part of a wider global pattern where governments seek to suppress dissent through overbroad public order laws. If enacted, it will:
- Discourage community organising, picketing, and environmental protests.
 - Empower police to arrest peaceful demonstrators without warning.
 - Silence those challenging government or corporate power.
 - At its core, this Bill is not about protecting people's quiet enjoyment of their homes.
42. For Māori, this will be most acutely felt by those who protest to protect *te taiao* or to assert *mana motuhake*. TTW's work depends on whānau and hapū being able to stand up for their environment, to object publicly when rivers are polluted, when forests are cleared, or when taonga species are put at risk.
43. At its core, this Bill is not about protecting people's quiet enjoyment of their homes. It is about **making it harder for ordinary people, especially Māori and environmentalists, to hold those in power to account.**

Comparative Risk Assessment: A Step Toward Authoritarian and Anti-Democratic Trends

44. The Summary Offences (Prohibition of Residential Protests) Amendment Bill 2025 reflects concerning patterns emerging in other democracies, particularly in the United States, where governments have increasingly criminalised dissent, expanded police discretion, and narrowed public protest spaces under the guise of public order or safety
45. Across the United States, dozens of "anti-protest" bills have been enacted or proposed since 2017, many of which:
- Widen the scope of trespass, disruption, or obstruction offences.
 - Increase penalties for protest-related offences.
 - Empower police to make pre-emptive arrests.
 - Specifically target environmental, Indigenous, or racial-justice movements.
46. These laws have been used to suppress Indigenous resistance to extractive industries, Black Lives Matter activism, and community protests against corporate or government power. They also reflect a broader political shift toward **centralised executive authority, corporate protectionism, and, in some cases, religiously framed nationalism.**

47. The same logic is visible here. Rather than addressing harmful conduct through proportionate, evidence-based enforcement, this Bill expands state power, chills public participation, and will disproportionately impact those already most vulnerable, including Māori, environmental defenders, and low-income communities.
48. Māori have repeatedly been subjected to state overreach under the banner of ‘public order,’ or ‘national security.’ From Parihaka (1881) to the Tūhoe raids (2007), Māori assertion of rights under Te Tiriti has been treated as a threat to state authority rather than a legitimate exercise of sovereignty.
49. This Bill risks reviving that pattern under a new legal guise. Because it empowers police to arrest without warning, and because “residential premises” can include a wide range of public or mixed spaces, Māori protestors, particularly those challenging Crown breaches of Te Tiriti, environmental degradation, or social inequities, are likely to be among the first targeted.
50. As we have seen in the past, such powers are rarely used against the powerful. They are used against those who occupy the margins, those who speak for the whenua, for the marginalised or who refuse to be silent (Springbok Tour).
51. The Bill shares several hallmarks of what political scientists identify as illiberal drift:
- Centralisation of executive and policing authority.
 - Criminalisation of dissent and reduction of civic space.
 - Delegitimisation of protest as a public good.
 - Widening inequality through the silencing of poorer and marginalised voices.
 - Potential ideological enforcement where ‘law and order’ rhetoric becomes a vehicle for cultural or religious conformity.
52. If unchecked, these trends risk transforming protest, a cornerstone of Aotearoa New Zealand’s democratic culture and Māori resistance, into a criminal act. This is not speculative; it is a trajectory already visible in other democracies sliding toward authoritarianism.

Recommendations

53. With all of the above in mind, Te Tira Whakamātaki urges the Committee to:
- **Reject the Bill in full.** It is unnecessary, disproportionate, and incompatible with fundamental rights and Te Tiriti o Waitangi.
 - **If the Committee proceeds regardless of evidence,** it must:
 - Reinstate the requirement for a **police warning** before any arrest.

- Narrow the definition of “residential premises” to exclude public and mixed-use spaces.
- Include a **sunset clause** and independent review mechanism.
- Ensure compliance with **NZBORA**, **Te Tiriti o Waitangi**, and the **ICCPR** through a full human rights impact assessment.
- Acknowledge it does so despite the evidence and its own advice.

Conclusion

- 54.** Protest is not a nuisance to be managed, it is the heartbeat of democracy and a living expression of *tinio rangatiratanga*.
- 55.** For our people, the right to protest is part of being *kaitiaki*, to stand for the health of the environment and the dignity of our communities. This Bill would criminalise that right under the guise of protecting privacy.
- 56.** **It has been developed without evidence, without consultation, and without honouring Te Tiriti o Waitangi.**
- 57.** For these reasons, Te Tira Whakamātaki strongly urges the Justice Select Committee to reject this Bill in its entirety.

Attachment 1: The Cumulative Impact of Current Government Policy and Law Changes on Māori and Te Taiao

Purpose

To demonstrate that this Bill is not an isolated proposal but part of a **cumulative policy shift** that erodes Māori rights, weakens environmental protections, and centralises decision-making power away from communities and Te Tiriti partnerships. When viewed together, these measures create a chilling environment for Māori exercising *tino rangatiratanga*, *kaitiakitanga*, and civic participation.

1. Overview: A Rapid Erosion of Māori Rights and Environmental Protections

Since late 2023, the current Government has advanced a series of legislative and policy changes that collectively:

- remove or dilute Te Tiriti o Waitangi obligations across sectors,
- fast-track development while reducing environmental oversight,
- weaken Māori representation and participation in governance, and
- expand police and executive powers under the banner of “efficiency” or “public order.”

These changes converge on a single outcome, **less space for Māori and community voices in decisions about our lands, waters, and future**. The *Summary Offences (Prohibition of Residential Protests) Amendment Bill 2025* sits squarely within this trajectory by constraining the very right to speak out against such changes.

2. Key Policy and Legislative Shifts (2023 – 2025)

Policy Area	Key Change or Proposal	Effect on Māori and Te Taiao
Resource and environmental law	Repeal of the <i>Natural and Built Environment Act 2023</i> and <i>Spatial Planning Act 2023</i> (Dec 2023); introduction of the <i>Fast-Track Approvals Bill 2024</i> , which allows Ministers to override normal consent and appeal processes.	Removes environmental safeguards and Māori participation mechanisms developed through years of Treaty-based reform. Prioritises short-term extraction and development over ecological and cultural wellbeing.
Te Tiriti o Waitangi references	Cabinet direction to review and, in some cases, remove Treaty clauses from new or existing legislation (e.g., education, health, conservation, and local-government statutes).	Undermines the constitutional recognition of Te Tiriti, signalling that partnership obligations are optional rather than.
Māori representation	<i>Local Government (Māori Wards and Constituencies) Repeal Bill 2024</i> ;	Weakens Māori democratic representation, marginalising iwi and

and Co-governance	suspension and review of co-governance arrangements in freshwater and conservation management.	hapū from environmental decision-making that directly affects their rohe/
Public Participation & Environmental Oversight	Consolidation of environmental approvals under Ministerial authority (Fast-Track Approvals Bill); reduced capacity of the Environmental Protection Authority and public consultation requirements.	Centralises power with Ministers and corporations; limits communities' and Māori experts' ability to object to environmentally damaging projects.
Justice & Policing	Expansion of police powers through the <i>Summary Offences (Prohibition of Residential Protests) Amendment Bill 2025</i> and other "law-and-order" measures.	Increases criminalisation of Māori and suppresses protest, continuing a long history of uneven policing.
Social & Economic Policy	Cuts to environmental, climate, and Māori-development programmes; deregulation to favour agribusiness and mining.	Exacerbates inequality, reduces support for Māori communities adapting to climate impacts, and accelerates environmental degradation.

3. The Pattern That Emerges

Together, these measures reveal a coherent pattern:

- **Centralisation of decision-making** in Ministers' hands, often bypassing local or Treaty-based structures.
- **Reduction of accountability mechanisms**, including consultation, judicial review, and public participation.
- **Marginalisation of Māori voices**, both politically (through representation) and practically (through weakened consultation duties).
- **Expansion of enforcement powers** to deter or punish public opposition.

The *Summary Offences (Prohibition of Residential Protests) Amendment Bill 2025* deepens this pattern by **removing the public's last defence, the right to dissent**. It criminalises the ability of Māori and community groups to protest these very changes.

4. Direct Impacts on Māori and Environmental Defenders

Environmental protection in Aotearoa has always relied on vigilant communities and *kaitiaki* prepared to speak out. If this Bill passes, **the act of defending rivers, forests, or species near residential areas could become a criminal offence**. At a time when biodiversity loss and climate impacts are accelerating, silencing those who protect *te taiao* is not only unjust but ecologically reckless. In particular it will:

- **Silence kaitiaki:** Under the Bill, whānau protesting polluted rivers, forestry burn-offs, or unsafe pesticide use near communities could be arrested if the site adjoins housing.
- **Deter community organising:** Hapū or iwi raising concerns about land sales, mining, or contaminated water supplies often gather near workplaces or homes of decision-makers; such gatherings could now be deemed unlawful.
- **Normalise over-policing:** Given the history of surveillance and force used against Māori movements, expanding police discretion without clear safeguards will inevitably reproduce racial bias and intimidation.
- **Weaken environmental governance:** At the very time Aotearoa needs robust, community-led responses to biodiversity loss and climate change, the Crown is silencing those most committed to protecting *te taiao*.

5. Ecological and Democratic Consequences

Environmental protection in Aotearoa has always relied on vigilant communities and *kaitiaki* willing to speak out. If this Bill passes, defending the environment itself becomes a legal risk. The cumulative effect of the current policy direction is to: accelerate biodiversity decline by prioritising exploitation over stewardship; marginalise Indigenous and traditional knowledge, and Treaty partnership in environmental policy; and undermine democratic legitimacy by treating public participation as obstruction.

6. Conclusion

Viewed collectively, the current wave of policy and legislative reform represents an **accumulation of structural harm**, including the:

- erosion of Māori rights guaranteed under Te Tiriti o Waitangi,
- weakening of environmental and biodiversity protections,
- concentration of power within the executive, and
- criminalisation of dissent.

The *Summary Offences (Prohibition of Residential Protests) Amendment Bill 2025* is one more step in this direction — **a mechanism to silence opposition and consolidate authority at the expense of Māori, te taiao, and democratic wellbeing.**

Te Tira Whakamātaki urges the Justice Select Committee to view this Bill not in isolation but **in the context of this wider erosion of rights and protections**, and to reject it in the interests of justice, partnership, and the future health of our environment.