

11.02.21

Talofa lava, Tena koutou

As a Samoan New Zealander privileged to grow up here as Tangata Tiriti I write in support of this bill.

In 2019 I submitted on the Social Security (Winter Energy Payment) Amendment Bill and raised my disappointment that there was a window of five days (which fell over a weekend) for submissions. I am still of the view that it is not in the interests of good law making, and good public participation to have such limited windows for consideration of any bill. However, as I will explain this bill is an example where it is appropriate to move at this pace. There is also a step I encourage that should be considered to strengthen the Committee process and balance the challenges around pace, adequate public engagement and scrutiny.

Last year while completely essential, we saw The Covid-19 Public Health Response Act 2020 (“Public Health Response Act”) passed in two days. Appropriate public pressure resulted in the Select Committee considering submissions, and reporting on the Act after it had passed. Dr Dean Knight’s comments on what took place could and should be considered in this process.

*“...The initiative was a welcome innovation to partly ameliorate the lack of pre-enactment public submission. However, the select committee’s report was perhaps disappointingly general in its examination, when many concerns related to detailed aspects Page 6 of 6 of the legislation’s wording. Also, some other pandemic legislation was only subject to very short select committee scrutiny and selected public comment.”<sup>1</sup>*

While this example cannot be substituted for our current one, there is a similar need that this legislation is passed at pace. Local government bodies should be able to make the decisions to establish Māori wards without ‘the tyranny of the majority’ overruling Te Tiriti o Waitangi (through the petition and subsequent referendum process). The 2019 Waitangi Tribunal Hauora Report importantly broadens and clarifies the principles of Te Tiriti o Waitangi.<sup>2</sup> While from a Haoura context, these broader principles should be carried on our collective behalf by all of the Crown and

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<sup>1</sup> [https://law.unimelb.edu.au/\\_data/assets/pdf\\_file/0008/3476537/MF20-Web2-NZ-Knight-FINAL.pdf](https://law.unimelb.edu.au/_data/assets/pdf_file/0008/3476537/MF20-Web2-NZ-Knight-FINAL.pdf)

<sup>2</sup> <https://waitangitribunal.govt.nz/news/report-on-stage-one-of-health-services-and-outcomes-released/>

Parliament. Enacting this legislation despite the extremely short process enables **tino rangatiratanga** which the penultimate text of Te Tiriti empowers for tangata whenua; it will enhance ways for local government to have increased **partnership** with tangata whenua; it amounts to **actively protecting** Māori interests and taonga; it enhances **equity** through guaranteed diversity in representation; and it empowers whānau participating in elections meaningful **options**, including to be, or not be an elector in a Māori ward - as just a few examples of the benefit.

For legislation which is not in line with Te Tiriti o Waitangi, which harms and hinders whānau, hapū and iwi to practise what Te Tiriti affirms, Parliament has a responsibility to move extremely swiftly and remove racist barriers. Considering again the situation with the 'Winter Energy Payment' Bill, which needed to be enacted to address a mistake in the previous legislation, I see an important option for you as a Committee to be able to continue your work, take the opportunity to listen deeply to our communities (including an expanded submission process) and deliver a comprehensive report after the Bill has passed (to learn from what Dr Knight describes as included above) and further amendments to be enacted later.

I will also be writing to the Standing Orders Committee at their next review about this opportunity to raise whether it is clear that Committees can, could or, should continue their work including hearing from the public meaningfully on bills after they have been passed under urgency.

Thank you for your collective work.

Ia manuia,

A handwritten signature in black ink, consisting of a large, stylized 'J' followed by 'T' and 'i'.

Josiah Tualamali'i  
Ōtautahi Resident