

Submission on the Emergency Management Bill 2023

**Submission to the Governance and Administration
Committee**

10 November 2023

Mana Mokopuna - Children and Young People's Commission

Mana Mokopuna - Children and Young People's Commission (Mana Mokopuna) is an Independent Crown Entity, established under the Children and Young People's Commission Act 2022. Mana Mokopuna is governed by a Board and led by the Chief Children's Commissioner. We advocate for the full participation, rights, interests, and well-being of all children and young people (mokopuna) under 18 years of age, and young people under 25 years old who are, or have been, in State care or custody in Aotearoa New Zealand. We view mokopuna within the context of their families, whānau, hapū, iwi and communities.

We are committed to:

- giving effect to our obligations under Te Tiriti o Waitangi (Te Tiriti) and the Treaty of Waitangi (Treaty), recognising and respecting Māori participation, leadership and te ao Māori approaches in the performance of our functions;
- advancing and monitoring the application of the United Nations Convention on the Rights of the Child (the Children's Convention), especially by Government.

The work of Mana Mokopuna is underpinned by:

- the Children's Convention;
- the child or young person within (without limitation) the context of their family, whānau, hapū, iwi, and communities;
- the diversity of children and young people in all its forms;
- the need for high aspirations for the well-being of all children and young people, including responsive systems and structures that support them;
- the need to give priority to the children and young people who are disadvantaged, and the issues affecting them;
- the need to hear from, and be informed by, children and young people;
- other international instruments relevant to, and that affect, children and young people.

Note about the use of the word 'mokopuna'

At Mana Mokopuna we have adopted the term 'mokopuna' to describe all children and young people we advocate for. 'Mokopuna' brings together 'moko' (imprint or tattoo) and 'puna' (spring of water). Mokopuna describes that we are descendants, and or grandchildren, and how we need to think across generations for a better present and future. We acknowledge the special status held by mokopuna in their families, whānau, hapū and iwi and reflect that in all we do. Referring to children and young people we advocate for as mokopuna draws them closer to us and reminds us that who they are, and where they come from, matters for their identity, belonging and well-being at every stage of their lives.



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Introduction

1. Mana Mokopuna | Children and Young People's Commission welcomes the opportunity to submit on the Emergency Management Bill 2023 (the Bill). Children and young people aged under 18 make up 22 percent, or 1.2 million of the New Zealand population, and have diverse experiences, circumstances and perspectives on emergency management.
2. In the context of emergencies, mokopuna have particular needs that are sometimes, but not consistently, reflected in local emergency plans. Considerations include play spaces in emergency evacuation centres, or having child safety protocols to reduce the risk of child abuse in lock-down or evacuation situations. However, these can be forgotten if there is not an explicit requirement to elevate the best interests of children (Article 3 of the Children's Convention) in a plan, policy, or legislation, or where there is insufficient attention given to the requirements for people who are in roles that bring them in contact with mokopuna.
3. We recommend an explicit effort to consider the best interests of mokopuna, including the perspectives of mokopuna, when designing an effective emergency response system. This can be achieved, for example, by embedding a children's rights impact assessment as a requirement within Aotearoa New Zealand's emergency management legislation and policy framework.¹

Recommendations

To uphold the rights of mokopuna, and ensure their interests, well-being and participation are considered as an integral part of emergency management, Mana Mokopuna recommends that:

4. The Bill is amended (eg clauses 62 and 76) to specify children and young people as an important cohort to notify and consult, so they can be proactively engaged in national/ regional emergency management planning.
5. That the Select Committee instruct officials to undertake a child rights impact assessment (CRIA) before the completion of this legislation, and future legislation.
6. That a CRIA is undertaken prior to drafting related policies, given the nature and severe effects of natural disasters and other emergencies on the wellbeing of mokopuna.
7. That Tiriti provisions of clause 4 be strengthened to stipulate the number of mana whenua on committees, and the ways that Māori take a central role in leadership of emergency management.

¹ <https://www.msd.govt.nz/about-msd-and-our-work/publications-resources/resources/child-impact-assessment.html#:~:text=The%20CIA%20Tool%20enables%20agencies,ands%20positive%2C%20negative%20or%20neutral>

Listening to mokopuna improves decision-making

8. The management of emergency situations has a direct impact on mokopuna, affecting their survival and development. Listening to children and understanding their views is an essential part of ensuring full information on which to plan and make emergency management decisions. A fundamental child rights principle (Article 6 of the Children's Convention) is that every mokopuna has the right to survive and develop to the "maximum extent". This is also a substantive right under Article 6, meaning that every child should experience this right, in their every day lives. Understanding how mokopuna experience emergency situations is critical to planning and managing those situations for mokopuna. Listening to mokopuna is central to understanding their experiences and what is required and would work well for them in an emergency situation.
9. Article 12 of the Children's Convention provides for the child's right to be meaningfully heard and taken seriously in all matters that pertain to them. We recommend that clauses are included in the Bill to specify children and young people as an important cohort to notify and consult, so they can be proactively engaged in national/regional emergency management planning. This is consistent with and will help Aotearoa New Zealand meet its international obligations under the Children's Convention.
10. In addition to the direct impact on them, during times of crisis, mokopuna are acutely aware of the impact of natural disasters and similar events on their whānau and the broader communities which they are part of. Children are often aware that these events affect their families' financial and emotional stability, or disrupt their schooling.² Evidence of this is recorded in stories mokopuna wrote in the aftermath of the Christchurch earthquake in 2011 and in recent COVID-19 surveys.³ Some of these direct views of mokopuna have been shared in this report.
11. While there is limited local research relating to emergency management that includes the perspectives of mokopuna, there is a body of international evidence that draws from the voices of mokopuna to mitigate the effects of natural disasters and other emergencies.⁴ These lessons can be applied to the local context, given that mokopuna expressed similar concerns during the COVID-19 pandemic and following Cyclone Gabrielle (such as eco-anxiety, rain-specific anxiety, other signs of distress, and isolation)⁵. We acknowledge that for some mokopuna and their whānau, these impacts are still ongoing.
12. A recent Inquiry report from the New Zealand Productivity Commission referenced overseas developments, such as the establishment of the first Future Generations Commissioner in Wales, and recommended that systems and processes in Aotearoa New Zealand be developed with future generations in mind. Given the increasing impact of

² Save the Children. (2015). *What children tell us they want in times of emergency and crisis. What do Children Want in Times of Emergency and Crisis? (savethechildren.org)*

³ "Covid-19 Insights Series - Wellbeing Impacts of the COVID-19 Pandemic." 2023. Te Hiringa Mahara—Mental Health and Wellbeing Commission. Accessed October 26, 2023. <https://www.mhwc.govt.nz/news-and-resources/covid-19-insights-series-wellbeing-impacts-of-the-covid-19-pandemic/>.

⁴ Save the Children. (2015). *What children tell us they want in times of emergency and crisis. What do Children Want in Times of Emergency and Crisis? (savethechildren.org)*

⁵ Education Gazette editors. 2023. *Mental health advice and support after cyclone*. Education Gazette. March 8, 2023. <https://gazette.education.govt.nz/articles/mental-health-advice-and-support-after-cyclone/>.

- climate change, emergency management legislation should embed approaches that think intergenerationally and in terms of the mokopuna of future generations, and their needs.⁶
13. History has also shown that mokopuna can be among the most vulnerable groups in a public health crisis. For example, the Polio epidemics of the early to mid-1900s severely affected children and adolescents in Aotearoa prior to the development of a vaccine.⁷ The "Spanish" influenza also impacted the young and healthy the most, particularly those aged in their 20s and 30s. These situations illustrate the importance of integrating mokopuna perspectives into the development of public health responses⁸ and other forms of emergency planning. Here in Aotearoa New Zealand, we have also seen the leadership that mokopuna themselves have taken during times of emergency, such as leading community responses following the Canterbury earthquakes, and the leadership exercised by mokopuna Māori and Pacific youth during the early parts of the COVID-19 pandemic, including to keep their elders safe and well, families and whānau resourced, and supporting other mokopuna to remain engaged in learning. Mokopuna are also at the forefront of advocating for action to address our climate emergency, and are contributing to actions at the local and regional level on climate change mitigation and adaptation.
14. Extreme weather events and other emergencies can be life-threatening for mokopuna and at the very least, impede their healthy development. The ongoing effects of climate change and climate change induced changes in atmospheric and ecological conditions, and in our weather patterns signal that there will likely be more periods of extreme weather, requiring nuanced and adaptive solutions. It is mokopuna who are not only experiencing these impacts now, but who stand to experience them long into the future. This is why it is essential that the views of mokopuna be carefully considered and factored into emergency planning and management, on an ongoing basis. This will also support the government's commitment to the progressive realisation of the Children's Convention.

“Through floods of tears and our aching hearts we can get through this because we are Christchurch a community that cares about their people.”

(Rhiannon, 11, Kaiapoi Borough School)⁹

Amendment considerations for the proposed Bill

15. That changes proposed by the Bill provide an opportunity to engage with persons who are particularly affected by this legislation. Mana Mokopuna recommends that mokopuna, are considered as persons particularly affected by this legislation.
16. Clause 62 of the Bill sets out the "procedure for amending or replacing the national disaster resilience strategy." However, no cohorts are listed under (2)(a)(ii) and (2)(c) of the

⁶ New Zealand Productivity Commission . 2023. Review of A Fair Chance for All Breaking the Cycle of Persistent Disadvantage. <https://www.productivity.govt.nz/inquiries/a-fair-chance-for-all/>.

⁷ McLean, Janet. 2021. Review of *The Legal Framework for Emergencies in Aotearoa New Zealand*. Law Commission. Accessed October 26, 2023. <https://www.lawcom.govt.nz/sites/default/files/projectAvailableFormats/NZLC-SP23%20-The%20Legal%20Framework%20for%20Emergencies%20in%20Aotearoa%20New%20Zealand.pdf>.

⁸ Ibid.

⁹ Kaiapoi Borough School. 2011. "'Darkest Days'-Rhiannon, 11, Kaiapoi Borough School." Accessed October 25, 2023. <https://whenmyhomeshook.co.nz/2011/03/darkest-days-rhiannon-11-kaiapoi-borough-school/index.html#comments>.

Bill which make reference to notifying persons and groups that may have an interest in the proposal.

17. Clause 76(1)(a)(i)-(ii) provides for "representatives of communities" and "representatives of iwi and Māori" to be engaged in developing local emergency management committee plans. This clause should have added specificity, to ensure there is appropriate representation from groups who may otherwise be overlooked and not have their particular rights and needs factored into emergency management and planning. Groups such as children and young people under 18, disabled mokopuna and tangata whaikaha, and others with additional needs that must be considered in the formation of management responses and plans. For example, there are opportunities for NEMA to engage mokopuna whaikaha in the development of readiness resources which are currently not yet available.¹⁰
18. Mokopuna were not referenced in the 2018 Technical Advisory Group (TAG) report, which presented recommendations to the Prime Minister and Cabinet on how to deliver better emergency responses and outcomes.¹¹ This advice was central to the development of the Bill. The absence of mokopuna consideration and reference in that report indicates that mokopuna were unlikely to have been sufficiently considered in the drafting of the Bill. We are concerned by the gap in coverage, and attention to mokopuna, that this has resulted in, and recommend that the Committee seeks to address this, by implementing the recommendations put forward in this submission.
19. The lack of reference to specific cohorts of mokopuna is also problematic. Since the Bill was drafted to clarify the roles and responsibilities of agencies and groups that are involved in emergency management and planning, the legislation should make explicit the duty to engage mokopuna as a cohort in decision-making. This is consistent with, and can contribute to upholding mokopuna rights under Article 12 and Te Tiriti o Waitangi.
20. We acknowledge that it is likely efforts would be made to engage with a range of cohorts when amending the national strategy. However, by ensuring explicit consultation obligations are written in to the legislation, mokopuna will have a stronger platform to exercise their civic and participatory rights. In turn, Aotearoa New Zealand's emergency management should be more effective for mokopuna, their whānau, hapū, iwi and hapori.
21. This is where children's rights analysis, or child-centred risk assessments, can be useful for understanding the long-term consequences of 'hazards' and other emergencies on mokopuna wellbeing, as has already been performed in other countries across the Pacific region. Mokopuna are a population group comprising sub-groups with varying needs, circumstances, and accessibility factors. Any assessments made should factor in that mokopuna are situated within the context of their families, whānau, hapū, iwi, and communities. Mana Mokopuna is available to provide specialist advice in relation to a children's rights analysis and implementation of a child rights impact assessment.

¹⁰ "Disabled People and People with Special Requirements." n.d. [Www.civildefence.govt.nz](https://www.civildefence.govt.nz/cdem-sector/consistent-messages/readiness/disabled-people-and-people-with-special-requirements). Accessed November 10, 2023.

¹¹ New Zealand Government. 2018. Review of *Delivering Better Responses to Natural Disasters and Other Emergencies: Government Response to the Technical Advisory Group's Recommendations*. [Https://www.dpmc.govt.nz/sites/default/files/2018-08/natural-disasters-emergenciesgovernment-response-tag-report.pdf](https://www.dpmc.govt.nz/sites/default/files/2018-08/natural-disasters-emergenciesgovernment-response-tag-report.pdf).

References to Te Tiriti Provisions

22. In the past, Aotearoa New Zealand's disaster risk reduction initiatives have used a top-down, expert-driven strategy. Additionally, these practices are largely the same for communities across New Zealand to plan for and respond to emergencies. As a result, there has been insufficient consideration given to the perspectives of hapori Māori and mokopuna in conventional disaster risk reduction planning.¹² This is despite the significant leadership of iwi, hapū and hapori Māori around Aotearoa New Zealand in responding to emergencies to keep tangata whenua and tauwi safe and well, including as shown during the COVID-19 pandemic and recent climate change induced disasters such as Cyclone Gabrielle. An approach to emergency management that does not ensure a central leadership role by Māori also fails to acknowledge the realities of the inequitable experiences of emergencies, such as natural disasters, on whānau, hapū and iwi Māori, including impacts on whakapapa and wāhi tapu.
23. There is also a shortage of preparation resources created exclusively by and for Māori with the requirements of hapori Māori at the forefront. Education resources are essential to give effect to te Tiriti to enable Māori to support whānau, hapū and iwi, including mokopuna, during an emergency.¹³ Such resources should be available in te reo Māori. The Bill can mitigate this issue by giving effect to Article 1 of Te Tiriti o Waitangi, through a stronger Te Tiriti clause that ensures kawanatanga by Māori of their hapori.
24. The parts of the Emergency Management Bill that "recognise and respect the Crown's responsibility to give effect to the principles of Te Tiriti o Waitangi/the Treaty of Waitangi" are included in clause 4 of the Bill. These include:
 - a) The establishment of a national advisory group for Māori emergency preparedness;
 - b) Mana whenua representation on local emergency response committees; and
 - c) The capacity for Māori organisations to receive reimbursement for welfare costs paid in connection with an emergency.¹⁴
25. It is proposed that the responsible Minister establish a National Māori Emergency Management Advisory Group in accordance with the Bill. The group's task is to provide advice to the Director of Emergency Management regarding mātauranga Māori and interests in emergency management. The National Emergency Management Agency (NEMA) can benefit Māori – including mokopuna Māori – in the emergency management system by providing advice on policy creation, creating guidelines, and other matters.¹⁵
26. The Minister is not, however, required by the Bill to communicate with iwi or hapū before making appointments to that advisory group. Instead, before making selections, the Minister must engage with Ministers who have portfolio responsibilities related to Māori

¹² Kaiser, L., & Boersen, K. (2020). Kura e Tai Āniwhaniwha (schools and tsunami): bi-cultural and student centred tsunami education in Aotearoa New Zealand. *Australian Journal of Emergency Management*, 58–65.
<https://knowledge.aidsr.org.au/resources/ajem-april-2020-kura-e-tai-%C4%81niwhaniwha-schools-and-tsunami-bi-cultural-and-student-centred-tsunami-education-in-aotearoa-new-zealand/>

¹³ Ibid.

¹⁴ Ahirao, A. (2023). *Your Resources: Select Committee to consider Te Tiriti o Waitangi in the Emergency Management Bill*. Select Committee to consider Te Tiriti o Waitangi in the Emergency Management Bill... (raineycollins.co.nz)

¹⁵ Ibid.

- development and Māori-Crown relations. There is also no necessity for the advisory group to have a minimum percentage/number of Māori members. This is misaligned with Te Tiriti and the provisions of kāwanatanga (governance) under Article 1 and tino rangatiratanga (self-determination) under Article 2, given the nature of the group and the importance of sufficient representation (such as mokopuna Māori) in governance matters.¹⁶ We suggest that the clause specifies that the Minister consult Māori on appointments and/or the criteria for making them.
27. During COVID-19, the Waitangi Tribunal held that the Crown had a duty to provide information to Māori authorities so that they might exercise their tino rangatiratanga in treating and safeguarding their people. This has since been reinforced by a High Court ruling.¹⁷ This is a crucial component of active protection and preparation for Māori, including mokopuna Māori, during a pandemic.¹⁸
28. The emergency response roles and strategies need to ensure there is effective authority to enable mokopuna Māori and their whānau, hapū and iwi to exercise their tino rangatiratanga through kāwanatanga. This includes during times of crisis and within an emergency response strategy. Therefore strategies and plans should include the voices of mana whenua as well as mokopuna in the planning and decision-making.

“It changed my life for ever and ever.”

(Jacob, 9, Addington School)¹⁹

Conclusion

29. Mana Mokopuna recommends that mokopuna be actively engaged in developing the proposed legislative changes to Aotearoa New Zealand’s emergency management legislative and policy framework. It is an important step in upholding and advancing children’s rights under the Children’s Convention and Te Tiriti o Waitangi, their voices, and meeting our broader international obligations. The recommendations outlined in relation to specific sections of the proposed Bill would provide more mokopuna with a meaningful say in local decisions that will impact their lives and their futures, recognising their status as citizens today as well as of the future. Mana Mokopuna requests the opportunity to provide an oral submission in support of what is outlined in this document.

¹⁶ Ibid.

¹⁷ the High Court ruling in *Te Pou Matakana Limited v Attorney-General (No 1)* [2021] NZHC 2942 and *Te Pou Matakana Limited v Attorney-General (No 2)* [2021] NZHC 3319. Note the Privacy Commissioner who acted as an intervener in the proceedings. See [Office of the Privacy Commissioner | Case note \[2022\] NZPrivCmr 1: Te Pou Matakana Limited v Attorney-General judicial review: Privacy Commissioner's intervention \(No 1\) \[2021\] NZHC 2942 and \(No 2\) \[2021\] NZHC 3319](#)

¹⁸ McLean, Janet. 2021. Review of *The Legal Framework for Emergencies in Aotearoa New Zealand*. Law Commission. Accessed October 26, 2023. <https://www.lawcom.govt.nz/sites/default/files/projectAvailableFormats/NZLC-SP23%20-The%20Legal%20Framework%20for%20Emergencies%20in%20Aotearoa%20New%20Zealand.pdf>.

¹⁹ Addington School. 2011. “‘My Story’-Jacob, 9, Addington School.” Accessed October 25, 2023. <https://whenmyhomeshook.co.nz/2011/04/my-story-jacob-9-addington-school/index.html#comments>.