

Submission to the Justice Committee on the Trespass (Specified Retail Premises and Other Matters) Amendment Bill 2026

Introducing Mana Mokopuna – Children's Commissioner

Mana Mokopuna – Children's Commissioner (Mana Mokopuna) is the independent Crown entity with the statutory responsibility to advocate for the rights, interests, participation and wellbeing of mokopuna¹ (all children and young people) under 18 years old in Aotearoa New Zealand, and young people under 25 years of age if they are, or have been, in care or custody. The Children's Commissioner is Dr Claire Achmad.

We independently advocate for and with mokopuna within the context of their families, whānau, hapū, iwi and communities, based on evidence, data and research, including the perspectives of mokopuna.

Our work is grounded in the United Nations Convention on the Rights of the Child (the Children's Convention), Te Tiriti o Waitangi and other international human rights instruments. We are a National Preventative Mechanism under the Optional Protocol to the Convention Against Torture, meaning we monitor places where mokopuna are deprived of their liberty, including in the care and protection, youth justice, youth mental health and intellectual disability facilities.

We have a statutory mandate to promote the Children's Convention and monitor the Government's implementation of its duties under the Convention, and to work in ways that uphold the rights of mokopuna Māori including under Te Tiriti o Waitangi. We place a focus on advocating for and with mokopuna who are experiencing disadvantage, and we recognise and celebrate the diversity of mokopuna in all its forms.

Our moemoeā (vision) is *Kia kuru pounamu te rongo – All mokopuna live their best lives*, which we see as a collective vision and challenge for Aotearoa New Zealand.

When it comes to the rights of mokopuna, our advocacy for their rights is a focus across our four strategic advocacy areas:

- A strong start in life (first 2000 days)
- Growing up safe and well (free of all forms of child maltreatment in all circumstances; thriving mental health and wellbeing)
- Thriving families and whānau (living free of poverty, with resources needed to support mokopuna to thrive), and
- Participating in what matters to me (mokopuna have told us, for example, about the importance of participating in their education, culture and identity, sport and recreation, and caring for the natural environment).

¹ At Mana Mokopuna we have adopted the term 'mokopuna' to describe all children and young people in Aotearoa New Zealand. 'Mokopuna' brings together 'moko' (imprint or tattoo) and 'puna' (spring of water). Mokopuna describes that we are descendants, and our 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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Summary of position

1. Mana Mokopuna opposes the Trespass Amendment Bill 2026 (the Bill) because it is misaligned with Aotearoa New Zealand’s children’s rights duties and obligations, and it will not be an effective response to retail offending.
2. As the Bill’s Regulatory Impact Statement (RIS) acknowledges, the Bill poses particular risks to mokopuna rights, including in relation to *“social participation and access to essential public and private services for a significant period of childhood.”*² It is also inconsistent with the special protections New Zealand has agreed to provide for mokopuna in the criminal justice system as a State Party to the UN Convention on the Rights of the Child (the Children’s Convention).³
3. Mana Mokopuna is seriously concerned about the disproportionate impacts of the Bill on mokopuna Māori, mokopuna whaikaha including those who are neurodiverse and those who have experienced traumatic brain injuries, and mokopuna who have a care and protection experience with Oranga Tamariki given they are overrepresented in the youth justice system.⁴
4. Evidence from both New Zealand and internationally shows that criminalising children fails to deter future harmful behaviour.⁵ Effective interventions that address the underlying drivers that can sometimes lead to youth offending – for example, exposure to family violence, child maltreatment, and the long-term effects of poverty – and which promote healthy behaviour change and discourage re-offending are significantly more effective than criminal justice responses such as those outlined within the Bill.⁶
5. Mana Mokopuna acknowledges those in our communities who are impacted by retail offending by mokopuna, including the mokopuna who work in the retail sector and experience this offending first hand. We advocate for all spaces and places in our communities to be safe for mokopuna and all people to be. We also acknowledge the mokopuna within families who rely on retail businesses for their livelihood, who may have their incomes and/or physical safety affected by retail offending by mokopuna, and who are dealing with ongoing trauma as a result. We want our communities to be safe places, where no child or young person turns to crime. We acknowledge that when mokopuna do offend, they need to be both held accountable for the harm caused and supported to stop offending and move onto a positive pathway. This is consistent with their rights under the Children’s Convention. Mana Mokopuna strongly recommends the implementation of evidence-based responses to youth offending that prioritise prevention through early intervention and intensive, wrap-around supports that address the underlying drivers of youth offending.

² Ministry of Justice (2026) “Regulatory Impact Statement: Amending trespass law as a critical vehicle for addressing retail crime”. Refer here: [Regulatory-Impact-Statement-Amending-trespass-law-as-a-critical-vehicle-to-address-retail-crime-lodged-version.pdf](#).

³ Children’s Convention, Article 40.

⁴ Reil, J., Lambie, I., Becroft, A., & Allen, R. (2022). How we fail children who offend and what to do about it: ‘A breakdown across the whole system.’ Research and recommendations. Auckland, NZ: The Michael and Suzanne Borrin Foundation, the New Zealand Law Foundation & the University of Auckland. Refer here: [ACARA Annual Report 2015-16](#).

⁵ Reil, J., Lambie, I., Becroft, A., & Allen, R. (2022). How we fail children who offend and what to do about it; Australian Human Rights Commission (2024). [Help way earlier! How Australia can transform child justice to improve safety and wellbeing](#).

⁶ Lambie, I. (2018). It’s never too early, never too late: A discussion paper on preventing youth offending in New Zealand. Office of the Prime Minister’s Chief Science Advisor; Lambie, I. (2020). What were they thinking? A discussion paper on brain and behaviour in relation to the justice system in New Zealand. Office of the Prime Minister’s Chief Science Advisor.



Recommendations

6. Mana Mokopuna recommends the Bill does not proceed due to its risks to mokopuna rights, and because it will not achieve its stated aim of reducing retail crime⁷ by mokopuna.
7. Mana Mokopuna recommends greater focus and investment into preventing youth offending by addressing the underlying drivers of offending including child poverty, child maltreatment, unmet care and protection needs, and unmet mental health and addition needs.
8. Mana Mokopuna recommends a paradigm shift away from approaches to youth justice that focus on punishment and exclusion, or that are offence-based. Evidence shows these approaches do not work to prevent offending or reoffending by mokopuna.^{8,9} Instead, we recommend a focus on addressing systemic inequities and prioritising multi-layered prevention and early intervention. These approaches and responses, which have proven to be effective,^{10,11} work best when they are therapeutic, trauma-informed and promote healthy behaviour change, are culturally responsive, and community and iwi-led.
9. If the Bill does proceed, Mana Mokopuna urges the Justice Committee to ensure it is amended to exclude mokopuna aged under 18 years. Oranga Tamariki also recommended this:

“Children and young people should be excluded from the proposed amendments to the Trespass Act and instead be dealt with under the Oranga Tamariki Act 1989 (The Act). The Act provides a framework specifically designed to respond to child and youth offending, while also addressing developmental needs, prioritising wellbeing and supporting rehabilitation.”¹²

The Bill and how it will impact mokopuna

10. The Bill is described in the RIS as “a critical vehicle for addressing retail crime”¹³ by better enabling retailers to “serve trespass notices in a way that promotes deterrence through a higher likelihood of enforcement action.”¹⁴ The Bill proposes to expand the trespass framework by:
 - a. increasing the maximum period a trespass warning can apply from 2 years to 3 years
 - b. widening the circumstances in which a person could be considered to know that they had been trespassed from a location occupied by a specified retailer, and increasing the likelihood of successful prosecution where a trespass notice is breached

⁷ Ministry of Justice (2026) “Regulatory Impact Statement: Amending trespass law as a critical vehicle for addressing retail crime”, pp 1-2.

⁸ Abuse in Care Royal Commission of Inquiry (2024) “Cauldron of Violence Hokio Beach School and Kohitere Boys’ Training Centre.” Refer here: [012-Casestudyhokioandkohitere](#).

⁹ Oranga Tamariki Evidence Centre (2019) “Reoffending following high-end Youth Court orders.” Refer here: [Reoffending-following-high-end-Youth-Court-orders.pdf](#).

¹⁰ Social Wellbeing Agency (2023) “Wellbeing of children and young people who offend”, pp 8-9. Refer here: [Wellbeing-of-children-and-young-people-who-offend.pdf](#).

¹¹ Aroturuki Tamariki Independent Children’s Monitor (2025) “Outcomes for tamariki and rangatahi Māori and their whānau in the oranga tamariki system”, pp 121-129. Refer here: [Outcomes for tamariki and rangatahi Māori and their whānau in the oranga tamariki system](#).

¹² Ministry of Justice (2026) “Regulatory Impact Statement: Amending trespass law as a critical vehicle for addressing retail crime”, p 4.

¹³ Ministry of Justice (2026) “Regulatory Impact Statement: Amending trespass law as a critical vehicle for addressing retail crime”, p 1.

¹⁴ Ministry of Justice (2026) “Regulatory Impact Statement: Amending trespass law as a critical vehicle for addressing retail crime”, p 2.



- c. enabling multi-location trespass notices by removing the requirement for the retailer to have reasonable cause to suspect the person is likely to trespass on each of the named locations
- d. creating provisions for situations where an occupier of any premises did not, or could not, clearly inform the person of the period or location to which a trespass warning applied, and
- e. increasing the maximum monetary penalties for refusing to leave when directed to do so, breaching a trespass warning, and refusing to give a name and address when requested by an occupier.

11. Mana Mokopuna has in the past provided the Justice Committee with detailed children’s rights-based information and evidence about effective responses youth offending.^{15, 16, 17, 18, 19, 20, 21} This submission will therefore provide a brief overview of the key issues in relation to this Bill from a children’s rights perspective – please refer to our past submissions (footnoted) for more detailed information.

To be effective, solutions must address underlying drivers of the issue and uphold New Zealand’s children’s rights duties and obligations

12. There is overwhelming evidence that youth offending arises from underlying inter-related societal factors, systemic failings, and other challenges.²² For example, data shows that the vast majority of mokopuna who offend have been involved in the State care and protection system.^{23,24} While such experiences are not determinative of going on to be in contact with the justice system, evidence does show that certain kinds of experiences are often underlying factors. Mokopuna who offend have often experienced trauma, family violence, neglect, poverty, mental health challenges, addiction, and disability including neurodiversity and traumatic brain injuries. Within this context, reducing youth offending requires approaches that uphold children’s rights, disrupt cycles of harm through holistic and early prevention and intervention efforts, accountability and rehabilitation.

¹⁵ Mana Mokopuna (2025) “Submission on the Oranga Tamariki (Responding to Serious Youth Offending) Amendment Bill”. Refer here: [Submission on the Oranga Tamariki \(Responding to Serious Youth Offending\) Amendment Bill | Mana Mokopuna](#).

¹⁶ Mana Mokopuna (2026) “Submission on the Crimes Amendment Bill”. Refer here: [Submission on the Crimes Amendment Bill | Mana Mokopuna](#).

¹⁷ Mana Mokopuna (2025) “Submission on the Antisocial Road Use Legislation Bill”. Refer here: [Submission on the Antisocial Road Use Legislation Bill | Mana Mokopuna](#).

¹⁸ Mana Mokopuna (2024) “Submission on the Sentencing (Reform) Amendment Bill”. Refer here: [Submission to the Justice Committee: Sentencing \(Reform\) Amendment Bill | Mana Mokopuna](#).

¹⁹ Mana Mokopuna (2024) “Submission on the Sentencing (Reinstating Three Strikes) Amendment Bill”. Refer here: [Submission to the Justice Committee: Sentencing \(Reinstating Three Strikes\) Amendment Bill | Mana Mokopuna](#).

²⁰ Mana Mokopuna (2023) “Submission on the Ram Raid Offending and Related Measures Amendment Bill”. Refer here: [Ram Raid Offending and Related Measures Amendment Bill | Mana Mokopuna](#).

²¹ Mana Mokopuna (2023) “Submission on the petition of Josiah Tualamali’i: Inquire into solutions for youth justice”. Refer here: [Petition of Josiah Tualamali’i: Inquire into solutions for youth justice | Mana Mokopuna](#).

²² Reil, J., Lambie, I., Becroft, A., & Allen, R. (2022). How we fail children who offend and what to do about it: ‘A breakdown across the whole system.’

²³ Ministry of Justice (2026) “Youth Justice Indicators Summary Report”. Refer here: [Youth-Justice-Indicators-Summary-Report February-2026 v1.0.pdf](#).

²⁴ Abuse in Care Royal Commission of Inquiry (2022) “Care to custody incarceration rates”. Refer here: [Care to Custody: Incarceration Rates Research Report | Abuse in Care - Royal Commission of Inquiry](#).



13. Reforms should focus on bringing the existing youth justice legislative framework²⁵ and its operational implementation in line with a children's rights approach to prevent and respond to youth offending, rather than the Bill's proposals to increase trespass penalties in a legislative regime that is not grounded in children's rights.
14. Mana Mokopuna emphasises that offending, or suspected offending, by mokopuna does not in any way reduce children's rights. Mokopuna remain entitled to their full range of rights, and the government as a duty bearer under the Children's Convention remains obligated to uphold children's rights in all circumstances including in response to youth offending. Accountability for offending and a children's rights approach can co-exist, and Aotearoa New Zealand's duties and obligations under the Children's Convention and Te Tiriti o Waitangi provide a framework for this, which New Zealand's laws in relation to offending should reflect.

This Bill raises a range of risks to the rights of mokopuna, including for mokopuna Māori

15. All mokopuna in Aotearoa New Zealand have the right to experience all of their rights, in all circumstances, at all times. These rights are primarily protected under New Zealand's duties and obligations under the Children's Convention, Te Tiriti o Waitangi, the UN Convention on the Rights of Persons with Disabilities, the United Nations Declaration on the Rights of Indigenous Peoples, and a range of provisions in New Zealand domestic law, including the Oranga Tamariki Act 1989.
16. We draw the Justice Committee's attention to the Government's obligations as duty-bearer under the Children's Convention, and its responsibilities to protect and uphold the rights, interests, wellbeing, and participation of mokopuna, including those who may have offended, when considering this Bill. Article 40 of the Children's Convention has a specific focus on youth justice. It provides:

"States Parties recognize the right of every child alleged as, accused of, or recognised as having infringed the penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of others and which takes into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society."

17. Mana Mokopuna is concerned the Bill will limit the ability of mokopuna to rehabilitate and participate positively as members of our communities, in line with their rights under Article 40, when they are excluded from potentially multiple essential retailers such as supermarkets for lengthy periods of up to three years. We note that mokopuna have the right to access food,²⁶ and that the RIS has acknowledged trespass notices can *"create logistical and financial*

²⁵ Oranga Tamariki Act 1989, Part 4.

²⁶ Children's Convention, Article 24(2)(c).



*pressures when children are unable to access commercial services independently or as part of family routines*²⁷ which could risk their right to an adequate standard of living more broadly.²⁸

18. In its 2023 concluding observations to New Zealand, the United Nations Committee on the Rights of the Child identified youth justice as a priority area and issued urgent recommendations in respect of the New Zealand youth justice system, including to address the overrepresentation of mokopuna Māori.²⁹ Mana Mokopuna is very concerned the Bill will disproportionately impact mokopuna Māori, who are currently overrepresented in the youth justice system and in rates of mokopuna who are proceeded against for trespass – mokopuna Māori make up 60% of young people proceeded against for trespass.³⁰ Therefore, if this Bill is to proceed, its impacts on the human rights of mokopuna Māori will very likely be disproportionate.
19. Mana Mokopuna is further concerned that, should the Bill proceed with no special protections for or exclusions of mokopuna, it will have disproportionate impacts upon other groups of mokopuna already overrepresented in the youth justice system, including Pacific mokopuna, mokopuna whaikaha including those with neurodiversity and traumatic brain injuries, and care-experienced mokopuna.
20. Mana Mokopuna strongly agrees with comments from Oranga Tamariki in the RIS³¹ that mokopuna should be excluded from the Bill and that the Oranga Tamariki Act 1989 already provides a legislative framework for addressing the issues the Bill seeks to address, in line with the rights of mokopuna to special protections within the criminal justice system.

Conclusion

21. The Bill will not be effective as a vehicle to address retail offending by mokopuna, and in the process raises specific risks to their rights, including to rehabilitate and participate positively as members of our community after contact with the justice system. Rehabilitation and participation is an integral part of effectively addressing youth offending and reducing recidivism, and yet this Bill sends a message that is counter to this approach.
22. Criminal justice responses to youth offending which focus on punishment, such as those under the Bill, will not be effective because the underlying drivers of such offending remain unaddressed. Mana Mokopuna urges the Justice Committee to ensure its report takes account of this reality.
23. In the development of the Bill, Oranga Tamariki recommended mokopuna are excluded from the proposed amendments and Mana Mokopuna strongly supports this. We strongly recommend alternative responses to youth offending that are evidenced-based, including increased investment into early intervention supports and services to prevent offending from occurring in the first place.

²⁷ Ministry of Justice (2026) "Regulatory Impact Statement: Amending trespass law as a critical vehicle for addressing retail crime", p 6.

²⁸ Children's Convention, Article 24.

²⁹ CRC/C/NZL/CO/6, para 42(d).

³⁰ Ministry of Justice (2026) "Regulatory Impact Statement: Amending trespass law as a critical vehicle for addressing retail crime", p 6.

³¹ Ministry of Justice (2026) "Regulatory Impact Statement: Amending trespass law as a critical vehicle for addressing retail crime", p 4.

