



Teana Tuiono

Green Party List MP

Hon Stuart Nash
Minister for Economic and Regional Development
Parliament Buildings

14 November 2022

Tēnā koe e te Minita,

RE: national space policy review

The Green Party has been concerned for some time that Aotearoa New Zealand's regime for the regulation of space activities is not fit for purpose. As a matter of principle we believe that the militarisation of space is not in Aotearoa New Zealand's national interest, and consider legislative amendments are required to bolster the framework for regulation of space activities and ensure enduring public confidence in launches from our shores. Your review of Aotearoa New Zealand's national space policy provides an opportunity.

Aotearoa New Zealand's space industry has grown rapidly. In recent times operators launching rockets from Aotearoa New Zealand soil have sent numerous payloads into space for actors with apparent connections to military activities, such as the U.S. Army's Space and Missile Defense Command. As this practise has come to public attention, concern that payloads with potential military end-use could be launched (aired by a range of stakeholders, including the Government's own PACDAC) have not been adequately addressed. Continued assertions from Government and operators that such launches do not contravene the national interest does not provide the public much reassurance, when the actors involved are connected to foreign military and intelligence outfits and no national interest analyses have been undertaken.

Social license must exist for activities occurring in Aotearoa. A lack of trust between those concerned with ongoing launches and operators seeking to justify their activities pervades public discourse, and we consider it the job of the regulator to resolve this situation. To that extent, we consider that specifically clarifying in legislation that space activities must exclusively serve peaceful ends, and providing for a transparent regulatory framework that ensures this, will help give assurance to New Zealanders who are concerned about the





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militarisation of space. It will also give assurance to Aotearoa New Zealand operators seeking maximum regulatory certainty.¹

We also consider that tangata whenua rights under Te Tiriti o Waitangi are not being adequately recognised through current processes for approval and operation of space-related activities. This can be seen, to provide one example, in the level of distrust and mutual frustration between iwi and hāpu and operators at Mahia.

Te Tiriti o Waitangi guaranteed the ongoing exercise of tino rangatiratanga of tangata whenua and hapū over their whenua, awa, moana, kāinga and all of their taonga (both tangible and intangible). We consider that the Act must be amended to reaffirm tangata whenua rights and require any space operators to respect those rights, including by appropriately and directly engaging with tangata whenua. We would hope that such changes would, with support of the Crown, lead to improved relations between space operators and tangata whenua.

We propose the following changes to Outer Space and High-altitude Activities Act 2017, and other government practises, with the hope that they will ensure New Zealanders can be confident in the regulatory framework for space-related activities:

Peaceful purposes

1. The European Space Agency has a peaceful purpose requirement built into its organisational purpose, as set out in the Convention for the Establishment of a European Space Agency. During debate on the Outer Space and High-altitude Activities Bill, there was cross-party support for the position that payloads from Aotearoa New Zealand would be used for peaceful purposes, not military purposes.
2. During the sixty-fifth session of the UN Committee on the Peaceful Uses of Outer Space, at its 787th meeting, New Zealand made a contribution reiterating New Zealand's commitment to the peaceful, safe and sustainable use of space, and that it is critical to the interest of all nations that all countries use space for peaceful purposes for the benefit of all.

¹ We note that while the Green Party opposes the militarisation of space firmly from a values-based perspective, unequivocally upholding the principles of peace in space also has the potential to support social license for business operations. In its submission to the Foreign Affairs, Defence and Trade Committee in 2016 regarding the Outer Space and High-altitude Activities Bill, *Venture Southland* outlined how maintaining a policy of only supporting civilian activities, and welcoming public transparency at their Awarua Satellite Ground Station, lowered security risks and increased public trust in their operations.





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3. We recommend section 3(a) of the Act be amended to read:
facilitate the development of a regulate New Zealand's space industry and to provide for its safe and secure operation, and ensure its activities are for exclusively peaceful purposes and conducted in alignment with New Zealand's values.
4. This amendment will ensure the Act is consistent with the tenets of the Artemis Accords and the elements of Space Resource Utilisation agreed to by Cabinet².

National interest

5. We recommend the Government develop more specific national interest criteria, to provide clarity on when a National Interest Analysis should and should not be undertaken – as per the recommendations in the National Interest Assessment section of the Statutory Review of the Outer Space and High-altitude Activities Act 2017. We are concerned that no National Interest Analyses have yet been undertaken.
6. We recommend New Zealand have a specific, publicly notified policy regarding how payloads that could contribute to conventional or nuclear weapons programmes are to be treated in relation to the national interest. This would build on direction of the current Cabinet-agreed 'approach to payload permitting'.
7. We recommend section 17 of the Act be amended
 - to codify in primary legislation the Cabinet-agreed 'approach to payload permitting', and define in law as not in the national interest:
 - *payloads that contribute to nuclear weapons programmes or capabilities*
 - *payloads with the intended end use of harming, interfering with, or destroying other spacecraft, or space systems on Earth*
 - *payloads with the intended end use of supporting or enabling specific defence, security or intelligence operations that are contrary to government policy*
 - *payloads where the intended end use is likely to cause serious or irreversible harm to the environment*
 - to further define in law as not in the national interest:

² CAB-21-MIN-0145





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- Payloads containing military hardware [defined as: military hardware means weapons, equipment, machinery, or any other thing intended for use for military purposes by any armed force, paramilitary force, police force, or militia, at any time – as distinct from military purposes that are not based on the use of weaponry or surveillance equipment for the purpose of warfare]
- Payloads that may engage the interests of foreign military or intelligence actors, such as those containing hardware or software for the purpose of foreign surveillance or military intelligence
- Payloads where intended end-use is likely to engage/serve the interests of foreign military or intelligence actors to the potential detriment of the New Zealand national interest.

Tangata Whenua

8. We recommend tangata whenua have substantial and direct input into the national space policy review process. Tangata whenua are significantly affected by the activities of space operators and have clear interests in the outcome of the review.
9. We recommend that the Act be amended to explicitly affirm tangata whenua rights.
 - This should include a legislative requirement for space operators to engage directly with local hapū, in an appropriate way consistent with tikanga Māori.
 - Consideration by officials of legislative mechanisms for affirming tangata whenua rights should include engagement on whether to create a provision enabling arrangements/agreements between hapū and space operators (for example to cover all launches within their rohe for any period of time). Alignment with such Te Tiriti-based arrangements (and their existence or absence in the first instance) could form part of any national interest analysis undertaken by the Government regarding future rocket launches.

Environmental impact assessments

10. We recommend that the Government commission more formal, quantitative ecological assessments of the cumulative impacts of launches on the environment and native species. Such assessments should make use of data from the numerous launches that have occurred in Aotearoa New Zealand in recent years.

The logo for the Green Party, featuring the word 'Green' in a bold, green, sans-serif font with a stylized leaf icon above the letter 'G'.



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11. We note that as the duration of launch licenses and launch facility licenses are up to 5 years, and that the last environmental assessment was conducted 5 years ago, it is appropriate that a cumulative assessment be conducted.

Regulatory framework transparency

12. We recommend the Government improve transparency of regulatory decisions to ensure consistency with the UN General Assembly resolution on *Transparency and confidence-building measures in outer space activities*³, to ensure the public are informed regarding the contents of payloads launched and reduce the need for private space operators to defend their activities in public.

- More substantial information regarding the contents and end-uses of payloads should be released in payload permitting decision summaries, which currently are no more than a page or two.
- Releases should include confirmation of whether the contents of a payload meet the criteria for national interest analysis, and where a national interest analysis is undertaken the specific criteria engaged should be publicly notified.

13. We recommend that the Government consider ways it can ensure the public are notified of the activities and uses of payloads on an ongoing basis, and whether consideration of specific regulation for end-use changes is necessary.

- It is possible with current technology for satellites to be comprised of software and hardware that is completely re-programmable, allowing their purpose to be changed mid-mission.
- Transparency and reporting requirements would provide greater reassurance to the public that re-programmable payloads launched for actors who conduct a range of activities internationally could not result in end-use for anything other than that which was declared to the Government.
- Consideration of regulation could include ramifications on licenses if the purpose and function of payloads change to anything inconsistent with the national interest.

14. We recommend further empowering enforcement officers as per part 3 of the Act to ensure there is clear compliance with regulations and our recommended changes.

³ A/RES/70/53





Teanau Tuiono

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Ministerial Advisory Group on Space

- 15.** We recommend that the Minister appoints a Ministerial Advisory Group with a focus on space, with its peaceful use and our international commitments.
- 16.** We recommend that the advice provided by the space advisory group includes:
 - The compliance of space activities with cabinet guidelines.
 - The compliance of space activities with Te Tiriti o Waitangi and the United Nations Declaration on the Rights of Indigenous Peoples.
 - Improvements to regulations based on the constant advancement of space technologies, and our international commitments.
- 17.** We recommend that the space advisory group includes tangata whenua representation as well as representation from mana whenua directly affected by space activities.

We would be happy to meet to discuss these proposals further. We look forward to response with regard to their consideration as part of your national space policy review.

Ngā mihi

A handwritten signature in black ink, appearing to read 'Teanau Tuiono'.

Teanau Tuiono

Green Party of Aotearoa Spokesperson for Security & Intelligence

The logo for the Green Party, featuring the word 'Green' in a bold, green, sans-serif font with a stylized leaf graphic above the letter 'G'.