6 August2026

Excella Investments Ltd
Vunatoutou Beach

Nanuya Balavu Island

Naviti Tikina

Ba Province

The Chairperson
Parliamentary Standing Committee
Justice, Law and Human Rights
Parliament of Fiji
SUVA

email: alumita.cabealawa@legislature.gov.fj

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Submission: Commercial Use of Marine Areas (CUMA) Bill 2025

Dear **Hon. Ratu Rakuita Vakalalabure**

Excella Investments Ltd submits this response on behalf of its operations following consultations on the Commercial Use of Marine Areas Bill 2025 (CUMA).

Tourism is deeply connected to Fiji's marine environment, with operators and customary owners working together for decades through access arrangements, conservation partnerships and shared economic activity.

Excella Investments Ltd acknowledges the legitimate customary connections of iTaukei communities to their qoliqoli areas and supports reforms that deliver fair and equitable benefit-sharing. However, proprietary ownership transfer of marine areas introduces significant legal, economic and operational uncertainty, with direct implications for investment confidence, financing and long-term viability. Marine areas are also national assets connected to navigation, ports, fisheries, environmental regulation, disaster response, infrastructure, public revenue and national development.

This submission adopts a summarised version of the concerns and recommendations comprehensively outlined in the Fiji Hotel and Tourism Association's submission. It proposes practical alternatives that recognise customary interests and deliver fair economic benefits while safeguarding existing rights, public access, investor confidence, national infrastructure and coherent management of Fiji's marine resources.

For these reasons, Excella Investments Ltd considers that the Bill should not proceed in its present form. It requires substantial amendment, wider consultation, independent economic and fiscal assessment, verified mapping, clear implementation arrangements, transitional protections and enforceable legal and procedural safeguards.

Recommendations

We recommend that the Government and the Sub-Committee note and act on the following recommendations:

1. Reset the consultation process

Undertake transparent, timely and structured consultation with tourism and marine operators, customary owners throughout Fiji, the wider iTaukei community, financial institutions, affected communities, public agencies and other stakeholders before the Bill proceeds.

2. Reconsider the proprietary ownership-transfer model

Determine whether the Bill's objectives can be achieved through statutory recognition, benefit-sharing, consultation and co-management while preserving State ownership and coherent national regulation of marine areas. The framework must recognise that marine access supports the wider national economy and should not concentrate compensation and administrative burdens principally on tourism and marine operators.

3. Clarify the Bill's scope and legal effect

Clearly define the rights transferred by a vesting order, the rights and responsibilities retained by the State, the public rights that continue, and the persons, organisations, activities and supporting services captured by the Bill. The legislation must also explain how vested ownership interacts with navigation, existing leases and licences, infrastructure, minerals, environmental regulation and future development approvals.

4. Complete independent economic and fiscal assessments

Assess the likely effects of the Bill on investment, financing, property values, operating costs, employment, consumer prices, State revenue, public infrastructure and Fiji's competitiveness before enactment. Require a project-specific assessment before vesting any area where significant existing or proposed activity may be affected. Establish a coordinated process that avoids repeated negotiations and administrative duplication, prevents multiple or overlapping charges for the same journey, activity or commercial use, and accounts for existing State investment, infrastructure and incentives when benefits and compensation are determined.

5. Establish a clear and nationally consistent compensation framework

Define 'fair and equitable' compensation through a nationally prescribed and transparent methodology. Clarify the role of the iTaukei Fisheries Commission, distinguish compensation from rent, exclusivity payments, service charges, conservation contributions and other community benefits, require disclosure of existing payments, provide written reasons and independent review, and ensure that compensation remains proportionate and commercially sustainable.

6. Prohibit double compensation and recognise existing arrangements

Credit prior rents, premiums, access payments, licence fees, conservation contributions, goodwill payments and community benefits against any new liability. Existing compensation and community arrangements should not be reopened unless all affected parties agree in writing or an independent court or tribunal determines, under clear statutory and constitutional criteria, that alteration is necessary, lawful and fair.

7. Automatically preserve existing legal interests

Protect existing leases, licences, concessions, approvals, easements, mortgages, compensation agreements, subleases, concession rights and State-approved projects. These interests must continue according to their existing terms and must not be compulsorily renegotiated or altered solely because a marine area is vested. Alteration should occur only with the affected holder's prior written consent or an independent legal determination. Financiers, mortgagees, sublessees and other affected parties must receive prior notice and an opportunity to participate. Just and equitable compensation must be available where an existing right is compulsorily diminished, and access to the courts must remain available.

8. Strengthen governance, procedural fairness and judicial oversight

Require clear statutory criteria, independent legal, technical, environmental, valuation and economic advice, conflict-of-interest safeguards, public notice, access to maps and evidence, meaningful objection rights and written reasons for all decisions. Decisions should be published. The Tribunal must be independent, appropriately qualified, have effective powers and operate within prescribed timeframes. The Bill must be reconciled with the Constitution and related legislation, judicial review must remain available, and effective remedies must be provided for unlawful or procedurally unfair decisions.

9. Verify customary ownership and boundaries before vesting

Require independent mapping and surveying, publication of maps, coordinates and supporting evidence, notice to all affected customary groups, interest holders, financiers and public authorities, a formal objection and hearing process, written reasons and final resolution of overlapping claims before any vesting order is made. Maintain a publicly accessible register of verified customary owners, boundaries, vested areas and conditions. No operator or other interest holder should be required to negotiate, make payments or alter existing arrangements while customary ownership or boundaries remain disputed.

10. Protect public access, maritime operations and essential State functions

Preserve lawful passage, navigation, transit, anchoring, mooring, recreational and subsistence use, and ordinary access to marine areas. Clearly address declared ports, shipping routes, navigation channels, cruise vessels, tenders, cargo vessels, ferries, marinas and visiting yachts.

Ordinary transit and essential maritime operations should not require separate negotiations or attract overlapping fees across multiple vested areas. Vesting must not disrupt ports, shipping, inter-island transport, emergency access, public infrastructure, utilities, disaster response, environmental regulation, customs, border security, marine safety or national security. The Bill must operate consistently with Fiji's international maritime obligations and applicable domestic legislation.

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12. Protect and encourage conservation partnerships

Exclude genuine non-commercial conservation, restoration, research and environmental-stewardship activities from inappropriate fees and compensation obligations. Recognise and preserve existing marine protected areas, locally managed marine areas, conservation agreements and community partnerships. Provide clear and streamlined approval processes where regulatory consent is required, ensure that environmental or cultural restrictions are proportionate, transparent and consistently applied, and support co-management arrangements that encourage continued investment in marine conservation.

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14. Promote active iTaukei economic participation

Complement compensation and benefit-sharing with enterprise development, access to finance, technical and management training, joint ventures, equity participation, procurement opportunities and support for iTaukei-owned tourism, conservation, transport and marine-service businesses.

The objective should be long-term economic capability, enterprise ownership and intergenerational wealth, supported by transparent arrangements for receiving, managing, distributing and investing benefits in locally identified community-development priorities.

Taken together, these measures would provide a more balanced framework for recognising customary interests and delivering fair economic benefits without undermining existing rights, public access, investor confidence, national infrastructure or the coordinated management of Fiji's marine resources.

I thank the Parliamentary Standing Committee for giving us the opportunity to contribute to this important Bill.

Yours sincerely,

Recoverable Signature

X W Eichholz

Werner Eichholz

Signed by: 5PUF EXCELLA INVESTMENTS PTE LIMITED

Dr Werner Eichholz

Director

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Submission: Commercial Use of Marine Areas (CUMA) Bill 2025

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Navini Island Resort Pte Ltd submits this response on behalf of its operations following consultations on the Commercial Use of Marine Areas Bill 2025 (CUMA).

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Navini Island Resort Pte Ltd acknowledges the legitimate customary connections of iTaukei communities to their qoliqoli areas and supports reforms that deliver fair and equitable benefit-sharing. However, proprietary ownership transfer of marine areas introduces significant legal, economic and operational uncertainty, with direct implications for investment confidence, financing and long-term viability. Marine areas are also national assets connected to navigation, ports, fisheries, environmental regulation, disaster response, infrastructure, public revenue and national development.

This submission adopts a summarised version of the concerns and recommendations comprehensively outlined in the Fiji Hotel and Tourism Association's submission. It proposes practical alternatives that recognise customary interests and deliver fair economic benefits while safeguarding existing rights, public access, investor confidence, national infrastructure and coherent management of Fiji's marine resources.

For these reasons, Navini Island Resort Pte Ltd considers that the Bill should not proceed in its present form. It requires substantial amendment, wider consultation, independent economic and fiscal assessment, verified mapping, clear implementation arrangements, transitional protections and enforceable legal and procedural safeguards.

Recommendations

We recommend that the Government and the Sub-Committee note and act on the following recommendations:

1. **Reset the consultation process**

   Undertake transparent, timely and structured consultation with tourism and marine operators, customary owners throughout Fiji, the wider iTaukei community, financial institutions, affected communities, public agencies and other stakeholders before the Bill proceeds.

2. **Reconsider the proprietary ownership-transfer model**

   Determine whether the Bill's objectives can be achieved through statutory recognition, benefit-sharing, consultation and co-management while preserving State ownership and coherent national regulation of marine areas. The framework must recognise that marine access supports the wider national economy and should not concentrate compensation and administrative burdens principally on tourism and marine operators.

3. **Clarify the Bill's scope and legal effect**

   Clearly define the rights transferred by a vesting order, the rights and responsibilities retained by the State, the public rights that continue, and the persons, organisations, activities and supporting services captured by the Bill. The legislation must also explain how vested ownership interacts with navigation, existing leases and licences, infrastructure, minerals, environmental regulation and future development approvals.

4. **Complete independent economic and fiscal assessments**

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7. **Automatically preserve existing legal interests**

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I thank the Parliamentary Standing Committee for giving us the opportunity to contribute to this important Bill.

Yours sincerely,

Simone Daulaca

Simone Daulaca
Managing Director

5th August 5, 2026

Blue Lagoon Beach Resort
Nacula Island, Yasawa
Fiji

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I thank the Parliamentary Standing Committee for giving us the opportunity to contribute to this important Bill.

Yours sincerely,

Chris Hogan

Resort General manager

GM@bluelagoonresortfiji.com

7088401

5th August 5, 2026

Paradise Cove Resort
Naukacuvu, Yasawa islands
Fiji

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Yours sincerely,

Joe Quinn

Director and Shareholder

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Outlook

CUMA Bill

From Brian McDonald | Matanivusi Resort Fiji <brian@surfingfiji.com>
Date Thu 8/6/2026 7:12 PM
To Alumita Cabealawa <alumita.cabealawa@legislature.gov.fj>
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6 August 2026

Matanivusi Beach Eco Resort

Vunaniu

Serua, Fiji

The Chairperson
Parliamentary Standing Committee
Justice, Law and Human Rights
Parliament of Fiji
SUVA

Submission: Commercial Use of Marine Areas (CUMA) Bill 2025
Dear Hon. Ratu Rakuita Vakalalabure

Matanivusi Beach Eco Resort submits this response on behalf of its operations following consultations on the Commercial Use of Marine Areas Bill 2025 (“CUMA”).

As a small, reef- and surf-break-dependent eco-resort, our business is built on decades of cooperative access arrangements and conservation partnerships with the customary owners of the waters in which we operate. Tourism in Fiji more broadly is deeply connected to the marine environment through exactly this kind of relationship.

Matanivusi Beach Eco Resort acknowledges the legitimate customary connections of iTaukei communities to their qoliqoli areas and supports reforms that deliver fair and equitable benefit-sharing. However, the proprietary ownership-transfer model in the Bill introduces legal, economic and operational uncertainty for a business of our scale. The Bill in its current form also does not, on our reading, add any new protection for the ecological condition of these waters: its stated objectives (clause 3) are limited to the fairness of the reversion process itself, and clause 6(3) confirms that no environmental impact assessment is required beyond what already applies under separate legislation.

This submission adopts a summarised version of the concerns and recommendations comprehensively outlined in the Fiji Hotel and Tourism Association’s submission. We highlight below the points of most direct relevance to a small, single-site operator dependent on a specific reef and surf break, together with the clauses of the Bill that give rise to them.

Recommendations
We recommend that the Government and the Committee note and act on the following:
1. Settle the Bill’s scope before it proceeds
Clause 2 defines “commercial tourism activity” only as “a prescribed commercial activity in the tourism industry,” leaving the actual scope to future regulation with no minimum threshold to exclude small or single-site operators. This should be settled and published before the Bill

is passed, so small operators are not drawn into the same negotiation regime as major resorts by default.

2. Publish the compensation and fund-distribution regulations first

Clause 9 leaves compensation methodology to regulations under clause 33(2)(d) that do not yet exist, and clause 27 permits TLTB to retain up to 25% of rents and premiums for administration before any balance is distributed "in the manner prescribed." Operators and customary owners alike are being asked to accept a fund-collection and distribution mechanism whose terms, accountability safeguards and end use are undefined. These regulations should be published and consulted on before enactment.

3. Prohibit double compensation and preserve existing arrangements

Clause 21(3) makes every vesting order a condition of every lease or licence, whether issued before or after commencement, and clause 13(1) guarantees customary access "regardless of any existing or future lease or licence," undermining the exclusivity a commercial lease is meant to provide. Clause 12 allows exemption of fair existing arrangements from renegotiation, but only at the Vesting Authority's discretion. Existing leases, licences and compensation arrangements should be automatically preserved unless the affected party consents in writing or an independent tribunal determines otherwise.

4. Preserve access to the courts

Clause 16(3) makes Marine Area Appeals Tribunal decisions "final" and immune from challenge "in a court of law," despite the Tribunal determining compensation and lease terms with direct financial consequences. This sits uneasily with the Bill's own objective in clause 3(b) of adherence to "the rule of law and the principles of natural justice." A limited right of judicial review should be preserved.

5. Verify customary ownership and boundaries before any vesting

Independent mapping, publication of boundaries and evidence, notice to all affected parties, and a formal objection process should be completed and any disputes resolved before a vesting order is made — not after operators have already begun renegotiating terms or paying compensation.

6. Attach binding conservation obligations to vesting orders

As an eco-resort whose business depends on reef health, we ask that any vesting order carry enforceable management and monitoring obligations, and that existing marine protected areas, locally managed marine areas and conservation partnerships be formally recognised and protected rather than left exposed to renegotiation under the Bill.

7. Consider a co-management alternative to full proprietary transfer

We support the Fiji Hotel and Tourism Association's recommendation that Government assess a statutory benefit-sharing and co-management model that preserves State ownership and coherent national regulation of marine areas — including navigation, ports, environmental regulation and disaster response — while formally recognising and fairly compensating customary interests.

For these reasons, Matanivusi Beach Eco Resort considers that the Bill should not proceed in its present form. It requires substantial amendment, published implementing regulations, wider consultation, and the safeguards outlined above and in the Fiji Hotel and Tourism Association's fuller submission before enactment.

I thank the Parliamentary Standing Committee for the opportunity to contribute to this important Bill.

Yours sincerely,

BMcDonald

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August 5th, 2026

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Justice, Law and Human Rights
Parliament of Fiji
SUVA

Email: alumita.cabealawa@legislature.gov.fj

Submission: Commercial Use of Marine Areas (CUMA) Bill 2025

Dear Chair & Committee Members,

South Sea Cruises Pte Ltd t/a South Sea Cruises Group (SSCG) submits this response following consultations on the Commercial Use of Marine Areas Bill 2025 (CUMA). SSCG is very much at the heart of how tourism is deeply connected to Fiji's marine environment, with operators (like SSCG) and customary owners working together for decades through access arrangements, conservation initiatives and shared economic activity.

SSCG acknowledges the legitimate customary connections of iTaukei communities to their qoliqoli areas and supports reforms that deliver fair and equitable benefit-sharing. However, proprietary ownership transfer of marine areas introduces significant legal, economic and operational uncertainty, with direct implications for investment confidence, financing and long-term viability. Marine areas are also national assets connected to navigation, ports, fisheries, environmental regulation, disaster response, infrastructure, public revenue and national development.

This submission adopts a summarised version of the concerns and recommendations comprehensively outlined in the Fiji Hotel and Tourism Association's submission. It proposes practical alternatives that recognise customary interests and deliver fair economic benefits while safeguarding existing rights, public access, investor confidence, national infrastructure and coherent management of Fiji's marine resources.

For these reasons, SSCG considers that the Bill should not proceed in its present form. It requires substantial amendment, wider consultation, independent economic and fiscal assessment, verified mapping, clear implementation arrangements, transitional protections and enforceable legal and procedural safeguards.

Recommendations

We recommend that the Government and the Sub-Committee note and act on the following recommendations:

1. **Reset the consultation process**
   Undertake transparent, timely and structured consultation with tourism and marine operators, customary owners throughout Fiji, the wider iTaukei community, financial institutions, affected communities, public agencies and other stakeholders before the Bill proceeds.

South Sea Cruises Pte Limited, PO Box PD052, Nadi, Fiji T +679 999 5512 E info@ssc.com.fj W southseacruisesgroup.com

2. **Reconsider the proprietary ownership-transfer model**
   Determine whether the Bill's objectives can be achieved through statutory recognition, benefit-sharing, consultation and co-management while preserving State ownership and coherent national regulation of marine areas. The framework must recognise that marine access supports the wider national economy and should not concentrate compensation and administrative burdens principally on tourism and marine operators.

3. **Clarify the Bill's scope and legal effect**
   Clearly define the rights transferred by a vesting order, the rights and responsibilities retained by the State, the public rights that continue, and the persons, organisations, activities and supporting services captured by the Bill. The legislation must also explain how vested ownership interacts with navigation, existing leases and licences, infrastructure, minerals, environmental regulation and future development approvals.

4. **Complete independent economic and fiscal assessments**
   Assess the likely effects of the Bill on investment, financing, property values, operating costs, employment, consumer prices, State revenue, public infrastructure and Fiji's competitiveness before enactment. Require a project-specific assessment before vesting any area where significant existing or proposed activity may be affected. Establish a coordinated process that avoids repeated negotiations and administrative duplication, prevents multiple or overlapping charges for the same journey, activity or commercial use, and accounts for existing State investment, infrastructure and incentives when benefits and compensation are determined.

5. **Establish a clear and nationally consistent compensation framework**
   Define “fair and equitable” compensation through a nationally prescribed and transparent methodology. Clarify the role of the iTaukei Fisheries Commission, distinguish compensation from rent, exclusivity payments, service charges, conservation contributions and other community benefits, require disclosure of existing payments, provide written reasons and independent review, and ensure that compensation remains proportionate and commercially sustainable.

6. **Prohibit double compensation and recognise existing arrangements**
   Credit prior rents, premiums, access payments, licence fees, conservation contributions, goodwill payments and community benefits against any new liability. Existing compensation and community arrangements should not be reopened unless all affected parties agree in writing or an independent court or tribunal determines, under clear statutory and constitutional criteria, that alteration is necessary, lawful and fair.

7. **Automatically preserve existing legal interests**
   Protect existing leases, licences, concessions, approvals, easements, mortgages, compensation agreements, subleases, concession rights and State-approved projects. These interests must continue according to their existing terms and must not be compulsorily renegotiated or altered solely because a marine area is vested. Alteration should occur only with the affected holder's prior written consent or an independent legal determination. Financiers, mortgagees, sublessees and other affected parties must receive prior notice and an opportunity to participate. Just and equitable compensation must be available where an existing right is compulsorily diminished, and access to the courts must remain available.

8. **Strengthen governance, procedural fairness and judicial oversight**
   Require clear statutory criteria, independent legal, technical, environmental, valuation and economic advice, conflict-of-interest safeguards, public notice, access to maps and evidence, meaningful objection rights and written reasons for all decisions. Decisions should be published. The Tribunal must be independent, appropriately qualified, have effective powers and operate within prescribed timeframes. The Bill must be reconciled with the Constitution and related legislation, judicial review must remain available, and effective remedies must be provided for unlawful or procedurally unfair decisions.

9. **Verify customary ownership and boundaries before vesting**
   Require independent mapping and surveying, publication of maps, coordinates and supporting evidence, notice to all affected customary groups, interest holders, financiers and public authorities, a formal objection and hearing process, written reasons and final resolution of overlapping claims before any vesting order is made. Maintain a publicly accessible register of verified customary owners, boundaries, vested areas and conditions. No operator or other interest holder should be required to negotiate, make payments or alter existing arrangements while customary ownership or boundaries remain disputed.

10. **Protect public access, maritime operations and essential State functions**
   Preserve lawful passage, navigation, transit, anchoring, mooring, recreational and subsistence use, and ordinary access to marine areas. Clearly address declared ports, shipping routes, navigation channels, cruise vessels, tenders, cargo vessels, ferries, marinas and visiting yachts. Ordinary transit and essential maritime operations should not require separate negotiations or attract overlapping fees across multiple vested areas. Vesting must not disrupt ports, shipping, inter-island transport, emergency access, public infrastructure, utilities, disaster response, environmental regulation, customs, border security, marine safety or national security. The Bill must operate consistently with Fiji's international maritime obligations and applicable domestic legislation.

11. **Preserve State leases, minerals, revenue and infrastructure rights**
   Preserve existing State leases, licences, mortgages and related financial arrangements, and clarify whether the State, TLTB or another authority will administer those interests and collect future rents. Protect existing government revenue and identify how administrative and infrastructure costs will be funded. State ownership and regulation of minerals, and the operation, maintenance and future development of ports, channels, jetties, utilities, communications infrastructure, coastal works and other essential infrastructure must remain protected. State agencies must be able to perform public-safety, environmental, emergency and national-development functions without additional consent or compensation arising solely from vesting.

12. **Protect and encourage conservation partnerships**
   Exclude genuine non-commercial conservation, restoration, research and environmental-stewardship activities from inappropriate fees and compensation obligations. Recognise and preserve existing marine protected areas, locally managed marine areas, conservation agreements and community partnerships. Provide clear and streamlined approval processes where regulatory consent is required, ensure that environmental or cultural restrictions are proportionate, transparent and consistently applied, and support co-management arrangements that encourage continued investment in marine conservation.

13. **Develop a more balanced alternative framework**
    Develop a statutory benefit-sharing and co-management model that preserves State ownership and regulatory responsibility while formally recognising legitimate customary interests. Establish clear and consistent principles for calculating, collecting and distributing benefits; recognise existing fair community and conservation arrangements; and include transparent governance, reporting, auditing and dispute-resolution arrangements. Assess, where appropriate, a nationally administered funding mechanism that distributes obligations equitably and avoids fragmented negotiations and overlapping payments. Any funding mechanism must only be introduced after wide consultation and an independent economic and fiscal assessment.

14. **Promote active iTaukei economic participation**
    Complement compensation and benefit-sharing with enterprise development, access to finance, technical and management training, joint ventures, equity participation, procurement opportunities and support for iTaukei-owned tourism, conservation, transport and marine-service businesses. The objective should be long-term economic capability, enterprise ownership and intergenerational wealth, supported by transparent arrangements for receiving, managing, distributing and investing benefits in locally identified community-development priorities.

Taken together, these measures would provide a more balanced framework for recognising customary interests and delivering fair economic benefits without undermining existing rights, public access, investor confidence, national infrastructure or the coordinated management of Fiji's marine resources.

On behalf of SSCG, I thank the Parliamentary Standing Committee for giving us the opportunity to contribute to this important Bill.

Sincerely,

Brad Rutherford
Chief Executive Officer

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5 August 2026

[Taveuni Dive Resort
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The Chairperson
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Parliament of Fiji
<u>SUVA</u>

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<u>Submission: Commercial Use of Marine Areas (CUMA) Bill 2025</u>

Dear **Hon. Ratu Rakuita Vakalalabure**

Taveuni Dive Resort submits this response on behalf of its operations following consultations on the Commercial Use of Marine Areas Bill 2025 (CUMA).

Tourism is deeply connected to Fiji's marine environment, with operators and customary owners working together for decades through access arrangements, conservation partnerships and shared economic activity.

Taveuni Dive Resort acknowledges the legitimate customary connections of iTaukei communities to their qoliqoli areas and supports reforms that deliver fair and equitable benefit-sharing. However, proprietary ownership transfer of marine areas introduces significant legal, economic and operational uncertainty, with direct implications for investment confidence, financing and long-term viability. Marine areas are also national assets connected to navigation, ports, fisheries, environmental regulation, disaster response, infrastructure, public revenue and national development.

This submission adopts a summarised version of the concerns and recommendations comprehensively outlined in the Fiji Hotel and Tourism Association's submission. It proposes practical alternatives that recognise customary interests and deliver fair economic benefits while safeguarding existing rights, public access, investor confidence, national infrastructure and coherent management of Fiji's marine resources.

For these reasons, Taveuni Dive Resort considers that the Bill should not proceed in its present form. It requires substantial amendment, wider consultation, independent economic and fiscal assessment, verified mapping, clear

implementation arrangements, transitional protections and enforceable legal and procedural safeguards.

<u>Recommendations</u>

We recommend that the Government and the Sub-Committee note and act on the following recommendations:

1. Reset the consultation process

Undertake transparent, timely and structured consultation with tourism and marine operators, customary owners throughout Fiji, the wider iTaukei community, financial institutions, affected communities, public agencies and other stakeholders before the Bill proceeds.

2. Reconsider the proprietary ownership-transfer model

Determine whether the Bill's objectives can be achieved through statutory recognition, benefit-sharing, consultation and co-management while preserving State ownership and coherent national regulation of marine areas. The framework must recognise that marine access supports the wider national economy and should not concentrate compensation and administrative burdens principally on tourism and marine operators.

3. Clarify the Bill's scope and legal effect

Clearly define the rights transferred by a vesting order, the rights and responsibilities retained by the State, the public rights that continue, and the persons, organisations, activities and supporting services captured by the Bill. The legislation must also explain how vested ownership interacts with navigation, existing leases and licences, infrastructure, minerals, environmental regulation and future development approvals.

4. Complete independent economic and fiscal assessments

Assess the likely effects of the Bill on investment, financing, property values, operating costs, employment, consumer prices, State revenue, public infrastructure and Fiji's competitiveness before enactment. Require a project-specific assessment before vesting any area where significant existing or proposed activity may be affected. Establish a coordinated process that avoids repeated negotiations and administrative duplication, prevents multiple or overlapping charges for the same journey, activity or commercial use, and accounts for existing State investment, infrastructure and incentives when benefits and compensation are determined.

5. Establish a clear and nationally consistent compensation framework

Define 'fair and equitable' compensation through a nationally prescribed and transparent methodology. Clarify the role of the iTaukei Fisheries Commission, distinguish compensation from rent, exclusivity payments, service charges, conservation contributions and other community benefits, require disclosure of existing payments, provide written reasons and independent review, and ensure that compensation remains proportionate and commercially sustainable.

6. Prohibit double compensation and recognise existing arrangements

Credit prior rents, premiums, access payments, licence fees, conservation contributions, goodwill payments and community benefits against any new liability. Existing compensation and community arrangements should not be reopened unless all affected parties agree in writing or an independent court or tribunal determines, under clear statutory and constitutional criteria, that alteration is necessary, lawful and fair.

7. Automatically preserve existing legal interests

Protect existing leases, licences, concessions, approvals, easements, mortgages, compensation agreements, subleases, concession rights and State-approved projects. These interests must continue according to their existing terms and must not be compulsorily renegotiated or altered solely because a marine area is vested. Alteration should occur only with the affected holder's prior written consent or an independent legal determination. Financiers, mortgagees, sublessees and other affected parties must receive prior notice and an opportunity to participate. Just and equitable compensation must be available where an existing right is compulsorily diminished, and access to the courts must remain available.

8. Strengthen governance, procedural fairness and judicial oversight

Require clear statutory criteria, independent legal, technical, environmental, valuation and economic advice, conflict-of-interest safeguards, public notice, access to maps and evidence, meaningful objection rights and written reasons for all decisions. Decisions should be published. The Tribunal must be independent, appropriately qualified, have effective powers and operate within prescribed timeframes. The Bill must be reconciled with the Constitution and related legislation, judicial review must remain available, and effective remedies must be provided for unlawful or procedurally unfair decisions.

9. Verify customary ownership and boundaries before vesting

Require independent mapping and surveying, publication of maps, coordinates and supporting evidence, notice to all affected customary groups, interest holders, financiers and public authorities, a formal objection and hearing process, written reasons and final resolution of overlapping claims before any vesting order is made. Maintain a publicly accessible register of verified customary owners, boundaries, vested areas and conditions. No operator or other interest holder should be required to negotiate, make payments or alter existing arrangements while customary ownership or boundaries remain disputed.

10. Protect public access, maritime operations and essential State functions

Preserve lawful passage, navigation, transit, anchoring, mooring, recreational and subsistence use, and ordinary access to marine areas. Clearly address declared ports, shipping routes, navigation channels, cruise vessels, tenders, cargo vessels, ferries, marinas and visiting yachts.

Ordinary transit and essential maritime operations should not require separate negotiations or attract overlapping fees across multiple vested areas. Vesting must not disrupt ports, shipping, inter-island transport, emergency access, public infrastructure, utilities, disaster response, environmental regulation, customs, border security, marine safety or national security. The Bill must operate consistently with Fiji's international maritime obligations and applicable domestic legislation.

11. Preserve State leases, minerals, revenue and infrastructure rights

Preserve existing State leases, licences, mortgages and related financial arrangements, and clarify whether the State, TLTB or another authority will administer those interests and collect future rents. Protect existing government revenue and identify how administrative and infrastructure costs will be funded. State ownership and regulation of minerals, and the operation, maintenance and future development of ports, channels, jetties, utilities, communications infrastructure, coastal works and other essential infrastructure must remain protected. State agencies must be able to perform public-safety, environmental, emergency and national-development functions without additional consent or compensation arising solely from vesting.

12. Protect and encourage conservation partnerships

Exclude genuine non-commercial conservation, restoration, research and environmental-stewardship activities from inappropriate fees and compensation obligations. Recognise and preserve existing marine protected areas, locally managed marine areas, conservation agreements and community partnerships. Provide clear and streamlined approval processes where regulatory consent is required, ensure that environmental or cultural restrictions are proportionate, transparent and consistently applied, and support co-management arrangements that encourage continued investment in marine conservation.

13. Develop a more balanced alternative framework

Develop a statutory benefit-sharing and co-management model that preserves State ownership and regulatory responsibility while formally recognising legitimate customary interests. Establish clear and consistent principles for calculating, collecting and distributing benefits; recognise existing fair community and conservation arrangements; and include transparent governance, reporting, auditing and dispute-resolution arrangements. Assess, where appropriate, a nationally administered funding mechanism that distributes obligations equitably and avoids fragmented negotiations and overlapping payments. Any funding mechanism must only be introduced after wide consultation and an independent economic and fiscal assessment.

14. Promote active iTaukei economic participation

Complement compensation and benefit-sharing with enterprise development, access to finance, technical and management training, joint ventures, equity participation, procurement opportunities and support for iTaukei-owned tourism, conservation, transport and marine-service businesses.

The objective should be long-term economic capability, enterprise ownership and intergenerational wealth, supported by transparent arrangements for receiving, managing, distributing and investing benefits in locally identified community-development priorities.

Taken together, these measures would provide a more balanced framework for recognising customary interests and delivering fair economic benefits without undermining existing rights, public access, investor confidence, national infrastructure or the coordinated management of Fiji's marine resources.

I thank the Parliamentary Standing Committee for giving us the opportunity to contribute to this important Bill.

Yours sincerely,

Carl M. Fox

Director

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Island Cruising
Submission on the Commercial Use of Marine Areas Bill 2025

16 July 2026

Submitted by:
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Executive Summary

Island Cruising welcomes the opportunity to provide feedback on the Commercial Use of Marine Areas Bill 2025.

We have consulted with our members who are currently cruising in Fiji and our submission includes their feedback.

We support the Bill's objective of recognising customary ownership of marine areas and ensuring that iTaukei communities receive fair and equitable benefits from commercial activities undertaken within their traditional waters.

However, we are concerned that, unless the legislation and subsequent regulations clearly distinguish between **commercial tourism operations** and **private recreational cruising**, the Bill could unintentionally discourage one of Fiji's most valuable forms of sustainable tourism.

International cruising yachts are unique within the tourism sector. They are highly mobile, stay for extended periods, disperse economic benefits throughout the country, and often visit remote communities that receive little or no benefit from mainstream tourism.

Feedback received from experienced cruisers throughout the Pacific demonstrates that where cruising destinations become perceived as expensive, inconsistent or overly transactional, yachts simply choose alternative destinations. This can reduce overall economic activity and ultimately disadvantage the very communities the legislation seeks to support.

Island Cruising has received feedback from our members that some Fijian communities have already begun requesting anchoring or access fees. While these practices are separate from the Bill itself, they have highlighted the importance of providing clarity about how the legislation will apply to recreational cruising.

We respectfully request that recreational cruising vessels be explicitly excluded from the definition of "commercial tourism activity" and that the Government continues to preserve Fiji's international reputation as one of the world's most welcoming cruising destinations.

About Island Cruising

Island Cruising has supported independent offshore cruising sailors for more than 40 years and is New Zealand's leading organisation assisting yachts cruising throughout the South Pacific.

Each year Island Cruising supports hundreds of yachts visiting Fiji through our Pacific Rally and cruising support programme. Approximately half of the recreational cruising vessels travelling through the South Pacific each season are members of Island Cruising.

Our members receive extensive pre-departure education on Fijian customs, sevusevu protocol, environmental protection, responsible anchoring, rubbish management, biosecurity requirements and respectful engagement with local communities.

Our “Rally” differs from other Rallies visiting Fiji. There are no set dates or fixed itinerary. Our members spend months independently cruising throughout Fiji and the rest of the Pacific, contributing to local economies through marina services, marine trades, supermarkets, fresh produce, transport providers, restaurants, accommodation, tourism operators and village communities.

Island Cruising also places significant emphasis on educating sailors about respectful engagement with Fiji's people and culture, including sevusevu protocols, environmental stewardship, responsible anchoring, marine biosecurity and supporting local businesses wherever possible. We also work very closely with Customs, Immigration, Health and Biosecurity to ensure that our members understand their obligations when it comes to visiting Fiji.

We therefore believe we are well placed to comment on how the Bill may affect the recreational cruising sector.

Support for the Objectives of the Bill

Island Cruising supports the intention of the Bill to:

- recognise customary ownership of marine areas;
- ensure that iTaukei communities benefit fairly from commercial activities;
- strengthen the role of customary institutions in marine management; and
- provide certainty for future commercial investment.

We acknowledge the importance of ensuring that local communities share in the economic benefits generated by Fiji's marine resources.

Our submission does not oppose these objectives.

Rather, we seek to ensure that the implementation of the legislation strengthens—not unintentionally weakens—Fiji's internationally recognised cruising tourism sector.

Recreational Cruising is Different from Commercial Tourism

The Bill repeatedly refers to "commercial tourism activity" but leaves the definition to future regulations. At present it is unclear whether organised cruising rallies, visiting recreational yachts or other non-commercial marine activities could become captured by future regulations.

We respectfully submit that this uncertainty should be resolved before the legislation is implemented.

Private cruising yachts differ fundamentally from commercial tourism operators. Unlike charter companies, dive operators or commercial tour providers, recreational yachts are simply visitors travelling independently through Fiji. Their use of Fiji's marine environment is incidental to their voyage, not a commercial activity conducted for profit.

Similarly, organised cruising rallies primarily provide education, safety coordination, weather support and administration for participating vessels. They should not be considered commercial tourism operators solely because participants contribute towards the costs of organising these services.

We recommend that recreational cruising vessels and organised cruising rallies be explicitly excluded from the definition of commercial tourism activity.

The Economic Contribution of Cruising Tourism
Cruising tourism differs significantly from most other visitor sectors.

Cruising yachts typically remain in Fiji for weeks or months, travelling throughout the country rather than remaining in one destination.

As they move between islands they typically purchase fuel, groceries and produce, marine repairs & maintenance, marina stays, accommodation, restaurants, transport, communications, tourism activities and handicrafts. Many spend up to six months in Fiji and spend tens of thousands of dollars each during their stay.

Most of the cruisers deliberately seek out smaller and more remote communities that receive little benefit from conventional tourism. This creates widespread economic benefits across Fiji rather than concentrating spending in major tourism centres.

The yachties often enjoy becoming part of the local community and building long-term relationships that extend well beyond a single visit.

Recreational Cruising Yachts are Highly Mobile
Unlike most tourists, cruising yachts are exceptionally mobile.

A vessel departing New Zealand or Australia can choose to spend an entire cruising season in Tonga, Fiji, Vanuatu, New Caledonia or French Polynesia. These decisions are influenced by weather, regulations, costs and visitor experience.

Even relatively small increases in complexity or cost can influence where yachts choose to cruise. Maintaining Fiji's reputation as a welcoming destination is therefore one of the country's greatest competitive advantages.

Potential Unintended Consequences
Feedback received from experienced cruisers consistently highlights concern that increasing mandatory local access fees or inconsistent charging practices may unintentionally discourage visitation.

Our members repeatedly emphasised that they are willing and eager to contribute to local communities. However, they also consistently distinguished between voluntary cultural contributions and compulsory or transactional charges.

Many reported that they happily participate in sevusevu, purchase local produce, hire guides, support village enterprises, deliver supplies to schools and clinics, and voluntarily contribute to community projects.

Where payments become perceived as mandatory, inconsistent or lacking transparency, the visitor experience changes significantly.

Several of our members observed that if yachts begin associating particular locations with compulsory fees, they are increasingly likely to alter their itineraries, shorten their stay in Fiji, bypass particular regions, or choose alternative cruising destinations altogether.

A Consistent and Transparent Approach

Island Cruising recognises that not all members of the cruising community oppose financial contributions to local communities. Some feedback we received demonstrates that some sailors support the principle of communities receiving a fair return from visiting yachts, provided any system is transparent, equitable, nationally consistent and directly benefits the communities and marine environments being visited.

It would be important to advertise any fees very carefully, to minimise misunderstandings and inconsistent charging between communities, provide accountability regarding how funds are used and potentially support marine conservation, visitor facilities such as moorings and waste disposal facilities, environmental management and community projects.

Island Cruising does not seek to prescribe a particular funding model. However, we believe that if any future visitor contribution system was proposed that it be considered very carefully and be developed collaboratively with Government, customary owners, the tourism industry and the local and international recreational marine sector to ensure it achieves the objectives of the legislation without discouraging visitation. We would respectfully request to be part of that conversation.

Lessons from Other Pacific Nations

Feedback from experienced cruisers travelling further afield described similar situations developing in the Solomon Islands and Papua New Guinea, where local anchoring fees began appearing in some communities. Cruisers reported avoiding those locations and choosing alternative anchorages.

Some local leaders subsequently expressed concern that fewer visiting yachts resulted in reduced opportunities for trade and lower spending within their communities.

While Fiji's circumstances are unique, these experiences illustrate an important lesson. The objective should not be to maximise revenue from each visiting yacht. Rather, the objective should be to maximise the number of yachts choosing Fiji and the total economic activity they generate throughout the country.

Maintaining Fiji's Reputation

For decades Fiji has earned an international reputation as one of the friendliest and most welcoming cruising destinations in the Pacific. That reputation represents an enormous economic asset. There have been many studies done in the past to calculate the income generated by the yachting community in Fiji, and the revenue is substantial.

Word-of-mouth recommendations within the cruising community are extremely influential. Conversely, perceptions of increasing costs, uncertainty or compulsory local fees can spread equally quickly and influence future cruising decisions.

If cruising destinations become perceived as expensive, uncertain or administratively complex, many yachts will simply adjust their itineraries and choose alternative destinations elsewhere in the Pacific.

Maintaining a welcoming and consistent, cost effective visitor experience is therefore likely to generate greater long-term economic benefits than introducing arrangements that unintentionally discourage visitation.

Opportunities for Communities

Island Cruising believes that empowering communities to develop and promote authentic visitor experiences will generate greater long-term economic returns, stronger cultural connections, and a more sustainable tourism model than relying primarily on mandatory access charges.

Cruisers love to support locally operated tourism experiences such as:

- guided hikes
- traditional meals
- handicrafts
- weaving demonstrations/lessons
- village tours
- cultural experiences
- environmental conservation projects
- produce markets

These experiences generate income and create jobs while strengthening relationships between visitors and communities. They also encourage repeat visitation and positive international promotion of Fiji.

Recommendations

Island Cruising respectfully recommends that when considering this bill, the Fijian Government:

1. Explicitly excludes private recreational cruising vessels from the definition of "commercial tourism activity".
2. Clarify that organised cruising rallies providing safety, education and administrative support are not captured as commercial tourism operators.
3. Define "prescribed commercial tourism activities" before the legislation is implemented and provide further opportunity for stakeholder consultation on those definitions.
4. Preserve freedom of navigation, innocent passage, emergency shelter and reasonable recreational anchoring consistent with existing legal protections.
5. Undertake an economic impact assessment of the recreational cruising sector before introducing any future measures that may affect visitation.
6. Encourage local communities to develop sustainable tourism experiences and services that provide long-term economic benefits from visiting recreational yachts, rather than relying solely on access or anchoring fees.
7. If visitor contributions are to be considered, they should be introduced only after careful consultation with customary owners, Government, the marine industry and the recreational cruising sector. Any framework should be nationally consistent, transparent and accountable, while recognising that recreational cruising is a highly mobile tourism sector. Even relatively small increases in cost, uncertainty or administrative complexity can influence cruising itineraries and reduce the number of yachts choosing to visit Fiji, ultimately diminishing the economic opportunities available to local communities.
8. Continue working collaboratively with the recreational cruising sector to encourage responsible tourism that benefits local communities while preserving Fiji's international competitiveness.

Conclusion
Island Cruising strongly supports Fiji's desire to ensure that customary owners receive fair recognition and equitable benefit from commercial activities undertaken within their traditional marine areas.

At the same time, recreational cruising represents one of Fiji's most sustainable and geographically dispersed forms of tourism.

Cruising yachts travel widely, stay for extended periods, support local businesses and villages throughout the country, and build lasting relationships with Fiji's people and culture.

By ensuring that recreational cruising remains clearly distinguished from commercial tourism, and by preserving Fiji's welcoming reputation, the Government has an opportunity to protect a tourism sector that contributes significant economic, social and cultural value to communities across the nation.

Island Cruising appreciates the opportunity to provide this submission and welcomes the opportunity to continue working collaboratively with Government, traditional leaders and industry stakeholders as the legislation and associated regulations are further developed.

Yours Sincerely

Viki Moore
Director
Island Cruising
www.islandcruising.nz

3 August 2026
Port Denarau Marina
Denarau Island
Nadi

The Chairperson
Parliamentary Standing Committee
Justice, Law and Human Rights
Parliament of Fiji
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Submission: Commercial Use of Marine Areas (CUMA) Bill 2025

Dear **Hon. Ratu Rakuita Vakalalabure**

Port Denarau Marina submits this response on behalf of its operations following consultations on the Commercial Use of Marine Areas Bill 2025 (CUMA).

Tourism is deeply connected to Fiji's marine environment, with operators and customary owners working together for decades through access arrangements, conservation partnerships and shared economic activity.

Port Denarau Marina acknowledges the legitimate customary connections of iTaukei communities to their qoliqoli areas and supports reforms that deliver fair and equitable benefit-sharing. However, proprietary ownership transfer of marine areas introduces significant legal, economic and operational uncertainty, with direct implications for investment confidence, financing and long-term viability. Marine areas are also national assets connected to navigation, ports, fisheries, environmental regulation, disaster response, infrastructure, public revenue and national development.

This submission adopts a summarised version of the concerns and recommendations comprehensively outlined in the Fiji Hotel and Tourism Association's submission. It proposes practical alternatives that recognise customary interests and deliver fair economic benefits while safeguarding existing rights, public access, investor confidence, national infrastructure and coherent management of Fiji's marine resources.

PORTDENARAUMARINA

For these reasons, Port Denarau Marina considers that the Bill should not proceed in its present form. It requires substantial amendment, wider consultation, independent economic and fiscal assessment, verified mapping, clear implementation arrangements, transitional protections and enforceable legal and procedural safeguards.

<u>Recommendations</u>

We recommend that the Government and the Sub-Committee note and act on the following recommendations:

1. Reset the consultation process

Undertake transparent, timely and structured consultation with tourism and marine operators, customary owners throughout Fiji, the wider iTaukei community, financial institutions, affected communities, public agencies and other stakeholders before the Bill proceeds.

2. Reconsider the proprietary ownership-transfer model

Determine whether the Bill's objectives can be achieved through statutory recognition, benefit-sharing, consultation and co-management while preserving State ownership and coherent national regulation of marine areas. The framework must recognise that marine access supports the wider national economy and should not concentrate compensation and administrative burdens principally on tourism and marine operators.

3. Clarify the Bill's scope and legal effect

Clearly define the rights transferred by a vesting order, the rights and responsibilities retained by the State, the public rights that continue, and the persons, organisations, activities and supporting services captured by the Bill. The legislation must also explain how vested ownership interacts with navigation, existing leases and licences, infrastructure, minerals, environmental regulation and future development approvals.

4. Complete independent economic and fiscal assessments

Assess the likely effects of the Bill on investment, financing, property values, operating costs, employment, consumer prices, State revenue, public infrastructure and Fiji's competitiveness before enactment. Require a project-specific assessment before vesting any area where significant existing or proposed activity may be affected. Establish a coordinated process that avoids repeated negotiations and administrative duplication, prevents multiple or overlapping charges for the same journey, activity or commercial use, and accounts for existing State investment, infrastructure and incentives when benefits and compensation are determined.

PORTDENARAUMARINA

5. Establish a clear and nationally consistent compensation framework

Define 'fair and equitable' compensation through a nationally prescribed and transparent methodology. Clarify the role of the iTaukei Fisheries Commission, distinguish compensation from rent, exclusivity payments, service charges, conservation contributions and other community benefits, require disclosure of existing payments, provide written reasons and independent review, and ensure that compensation remains proportionate and commercially sustainable.

6. Prohibit double compensation and recognise existing arrangements

Credit prior rents, premiums, access payments, licence fees, conservation contributions, goodwill payments and community benefits against any new liability. Existing compensation and community arrangements should not be reopened unless all affected parties agree in writing or an independent court or tribunal determines, under clear statutory and constitutional criteria, that alteration is necessary, lawful and fair.

7. Automatically preserve existing legal interests

Protect existing leases, licences, concessions, approvals, easements, mortgages, compensation agreements, subleases, concession rights and State-approved projects. These interests must continue according to their existing terms and must not be compulsorily renegotiated or altered solely because a marine area is vested. Alteration should occur only with the affected holder's prior written consent or an independent legal determination. Financiers, mortgagees, sublessees and other affected parties must receive prior notice and an opportunity to participate. Just and equitable compensation must be available where an existing right is compulsorily diminished, and access to the courts must remain available.

8. Strengthen governance, procedural fairness and judicial oversight

Require clear statutory criteria, independent legal, technical, environmental, valuation and economic advice, conflict-of-interest safeguards, public notice, access to maps and evidence, meaningful objection rights and written reasons for all decisions. Decisions should be published. The Tribunal must be independent, appropriately qualified, have effective powers and operate within prescribed timeframes. The Bill must be reconciled with the Constitution and related legislation, judicial review must remain available, and effective remedies must be provided for unlawful or procedurally unfair decisions.

9. Verify customary ownership and boundaries before vesting

Require independent mapping and surveying, publication of maps, coordinates and supporting evidence, notice to all affected customary groups, interest holders, financiers and public authorities, a formal objection and hearing process, written reasons and final resolution of overlapping claims before any vesting order is made. Maintain a publicly accessible register of verified customary owners, boundaries, vested areas and conditions. No operator or other interest holder should be required to negotiate, make payments or alter existing arrangements while customary ownership or boundaries remain disputed.

10. Protect public access, maritime operations and essential State functions

Preserve lawful passage, navigation, transit, anchoring, mooring, recreational and subsistence use, and ordinary access to marine areas. Clearly address declared ports, shipping routes, navigation channels, cruise vessels, tenders, cargo vessels, ferries, marinas and visiting yachts.

Ordinary transit and essential maritime operations should not require separate negotiations or attract overlapping fees across multiple vested areas. Vesting must not disrupt ports, shipping, inter-island transport, emergency access, public infrastructure, utilities, disaster response, environmental regulation, customs, border security, marine safety or national security. The Bill must operate consistently with Fiji's international maritime obligations and applicable domestic legislation.

11. Preserve State leases, minerals, revenue and infrastructure rights

Preserve existing State leases, licences, mortgages and related financial arrangements, and clarify whether the State, TLTB or another authority will administer those interests and collect future rents. Protect existing government revenue and identify how administrative and infrastructure costs will be funded. State ownership and regulation of minerals, and the operation, maintenance and future development of ports, channels, jetties, utilities, communications infrastructure, coastal works and other essential infrastructure must remain protected. State agencies must be able to perform public-safety, environmental, emergency and national-development functions without additional consent or compensation arising solely from vesting.

12. Protect and encourage conservation partnerships

Exclude genuine non-commercial conservation, restoration, research and environmental-stewardship activities from inappropriate fees and compensation obligations. Recognise and preserve existing marine protected areas, locally managed marine areas, conservation agreements and community partnerships. Provide clear and streamlined approval processes where regulatory consent is required, ensure that environmental or cultural restrictions are proportionate, transparent and consistently applied, and support co-management arrangements that encourage continued investment in marine conservation.

13. Develop a more balanced alternative framework

Develop a statutory benefit-sharing and co-management model that preserves State ownership and regulatory responsibility while formally recognising legitimate customary interests. Establish clear and consistent principles for calculating, collecting and distributing benefits; recognise existing fair community and conservation arrangements; and include transparent governance, reporting, auditing and dispute-resolution arrangements. Assess, where appropriate, a nationally administered funding mechanism that distributes obligations equitably and avoids fragmented negotiations and overlapping payments. Any funding mechanism must only be introduced after wide consultation and an independent economic and fiscal assessment.

14. Promote active iTaukei economic participation

Complement compensation and benefit-sharing with enterprise development, access to finance, technical and management training, joint ventures, equity participation, procurement opportunities and support for iTaukei-owned tourism, conservation, transport and marine-service businesses.

The objective should be long-term economic capability, enterprise ownership and intergenerational wealth, supported by transparent arrangements for receiving, managing, distributing and investing benefits in locally identified community-development priorities.

Taken together, these measures would provide a more balanced framework for recognising customary interests and delivering fair economic benefits without undermining existing rights, public access, investor confidence, national infrastructure or the coordinated management of Fiji's marine resources.

I thank the Parliamentary Standing Committee for giving us the opportunity to contribute to this important Bill.

Yours sincerely,

Cynthia Rasch

Chief Executive Officer

Email: cynthia@denaraumarina.com

Mobile: 707 5650

3 Aug 2026

Jeffery Holdings, T/A Subsurface
Musket Cove Resort
Malolo Lailai

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Submission: Commercial Use of Marine Areas (CUMA) Bill 2025

Dear **Hon. Ratu Rakuita Vakalalabure**

Jeffery Holdings submits this response on behalf of its operations following consultations on the Commercial Use of Marine Areas Bill 2025 (CUMA).

Tourism is deeply connected to Fiji's marine environment, with operators and customary owners working together for decades through access arrangements, conservation partnerships and shared economic activity.

Jeffery Holdings acknowledges the legitimate customary connections of iTaukei communities to their qoliqoli areas and supports reforms that deliver fair and equitable benefit-sharing. However, proprietary ownership transfer of marine areas introduces significant legal, economic and operational uncertainty, with direct implications for investment confidence, financing and long-term viability. Marine areas are also national assets connected to navigation, ports, fisheries, environmental regulation, disaster response, infrastructure, public revenue and national development.

This submission adopts a summarised version of the concerns and recommendations comprehensively outlined in the Fiji Hotel and Tourism Association's submission. It proposes practical alternatives that recognise customary interests and deliver fair economic benefits while safeguarding existing rights, public access, investor confidence, national infrastructure and coherent management of Fiji's marine resources.

For these reasons, Jeffery Holdings considers that the Bill should not proceed in its present form. It requires substantial amendment, wider consultation, independent economic and fiscal assessment, verified mapping, clear implementation

arrangements, transitional protections and enforceable legal and procedural safeguards.

Recommendations

We recommend that the Government and the Sub-Committee note and act on the following recommendations:

1. Reset the consultation process

Undertake transparent, timely and structured consultation with tourism and marine operators, customary owners throughout Fiji, the wider iTaukei community, financial institutions, affected communities, public agencies and other stakeholders before the Bill proceeds.

2. Reconsider the proprietary ownership-transfer model

Determine whether the Bill's objectives can be achieved through statutory recognition, benefit-sharing, consultation and co-management while preserving State ownership and coherent national regulation of marine areas. The framework must recognise that marine access supports the wider national economy and should not concentrate compensation and administrative burdens principally on tourism and marine operators.

3. Clarify the Bill's scope and legal effect

Clearly define the rights transferred by a vesting order, the rights and responsibilities retained by the State, the public rights that continue, and the persons, organisations, activities and supporting services captured by the Bill. The legislation must also explain how vested ownership interacts with navigation, existing leases and licences, infrastructure, minerals, environmental regulation and future development approvals.

4. Complete independent economic and fiscal assessments

Assess the likely effects of the Bill on investment, financing, property values, operating costs, employment, consumer prices, State revenue, public infrastructure and Fiji's competitiveness before enactment. Require a project-specific assessment before vesting any area where significant existing or proposed activity may be affected. Establish a coordinated process that avoids repeated negotiations and administrative duplication, prevents multiple or overlapping charges for the same journey, activity or commercial use, and accounts for existing State investment, infrastructure and incentives when benefits and compensation are determined.

5. Establish a clear and nationally consistent compensation framework

Define 'fair and equitable' compensation through a nationally prescribed and transparent methodology. Clarify the role of the iTaukei Fisheries Commission, distinguish compensation from rent, exclusivity payments, service charges, conservation contributions and other community benefits, require disclosure of existing payments, provide written reasons and independent review, and ensure that compensation remains proportionate and commercially sustainable.

6. Prohibit double compensation and recognise existing arrangements

Credit prior rents, premiums, access payments, licence fees, conservation contributions, goodwill payments and community benefits against any new liability. Existing compensation and community arrangements should not be reopened unless all affected parties agree in writing or an independent court or tribunal determines, under clear statutory and constitutional criteria, that alteration is necessary, lawful and fair.

7. Automatically preserve existing legal interests

Protect existing leases, licences, concessions, approvals, easements, mortgages, compensation agreements, subleases, concession rights and State-approved projects. These interests must continue according to their existing terms and must not be compulsorily renegotiated or altered solely because a marine area is vested. Alteration should occur only with the affected holder's prior written consent or an independent legal determination. Financiers, mortgagees, sublessees and other affected parties must receive prior notice and an opportunity to participate. Just and equitable compensation must be available where an existing right is compulsorily diminished, and access to the courts must remain available.

8. Strengthen governance, procedural fairness and judicial oversight

Require clear statutory criteria, independent legal, technical, environmental, valuation and economic advice, conflict-of-interest safeguards, public notice, access to maps and evidence, meaningful objection rights and written reasons for all decisions. Decisions should be published. The Tribunal must be independent, appropriately qualified, have effective powers and operate within prescribed timeframes. The Bill must be reconciled with the Constitution and related legislation, judicial review must remain available, and effective remedies must be provided for unlawful or procedurally unfair decisions.

9. Verify customary ownership and boundaries before vesting

Require independent mapping and surveying, publication of maps, coordinates and supporting evidence, notice to all affected customary groups, interest holders, financiers and public authorities, a formal objection and hearing process, written reasons and final resolution of overlapping claims before any vesting order is made. Maintain a publicly accessible register of verified customary owners, boundaries, vested areas and conditions. No operator or other interest holder should be required to negotiate, make payments or alter existing arrangements while customary ownership or boundaries remain disputed.

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Preserve existing State leases, licences, mortgages and related financial arrangements, and clarify whether the State, TLTB or another authority will administer those interests and collect future rents. Protect existing government revenue and identify how administrative and infrastructure costs will be funded. State ownership and regulation of minerals, and the operation, maintenance and future development of ports, channels, jetties, utilities, communications infrastructure, coastal works and other essential infrastructure must remain protected. State agencies must be able to perform public-safety, environmental, emergency and national-development functions without additional consent or compensation arising solely from vesting.

12. Protect and encourage conservation partnerships

Exclude genuine non-commercial conservation, restoration, research and environmental-stewardship activities from inappropriate fees and compensation obligations. Recognise and preserve existing marine protected areas, locally managed marine areas, conservation agreements and community partnerships. Provide clear and streamlined approval processes where regulatory consent is required, ensure that environmental or cultural restrictions are proportionate, transparent and consistently applied, and support co-management arrangements that encourage continued investment in marine conservation.

13. Develop a more balanced alternative framework

Develop a statutory benefit-sharing and co-management model that preserves State ownership and regulatory responsibility while formally recognising legitimate customary interests. Establish clear and consistent principles for calculating, collecting and distributing benefits; recognise existing fair community and conservation arrangements; and include transparent governance, reporting, auditing and dispute-resolution arrangements. Assess, where appropriate, a nationally administered funding mechanism that distributes obligations equitably and avoids fragmented negotiations and overlapping payments. Any funding mechanism must only be introduced after wide consultation and an independent economic and fiscal assessment.

14. Promote active iTaukei economic participation

Complement compensation and benefit-sharing with enterprise development, access to finance, technical and management training, joint ventures, equity participation, procurement opportunities and support for iTaukei-owned tourism, conservation, transport and marine-service businesses.

The objective should be long-term economic capability, enterprise ownership and intergenerational wealth, supported by transparent arrangements for receiving, managing, distributing and investing benefits in locally identified community-development priorities.

Taken together, these measures would provide a more balanced framework for recognising customary interests and delivering fair economic benefits without undermining existing rights, public access, investor confidence, national infrastructure or the coordinated management of Fiji's marine resources.

I thank the Parliamentary Standing Committee for giving us the opportunity to contribute to this important Bill.

Yours sincerely,

Sarah Jeffery

Director

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Fiji Hotel and Tourism Association

Fiji Hotel and Tourism Association

Official Submission on the Commercial Use of Marine Areas Bill 2025 (Bill No. 42)

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1 INTRODUCTION

The Fiji Hotel and Tourism Association (FHTA) submits this response on behalf of its members and the wider tourism industry following our own consultations on the Commercial Use of Marine Areas Bill 2025 (CUMA).

The Association is the peak body representing Fiji's tourism and hospitality sector, working to advance industry interests through evidence-based advocacy, sustainable practices, and strategic partnerships. It champions climate-resilient and inclusive growth, drives digital transformation and workforce development, and promotes supply chain integration to strengthen competitiveness. FHTA also prioritizes public health vigilance and emergency preparedness, while uniting government, private sector, and NGOs to streamline regulation and policy to safeguard Fiji's attractiveness for visitors and investors. Its core purpose is to ensure tourism remains a key driver of national economic growth and resilience.

Tourism remains closely linked to Fiji's marine environment, with operators working alongside customary owners for over three decades through established access arrangements, conservation partnerships, and shared economic activity. The industry at large approaches this Bill in good faith, but also with a very clear message. We acknowledge and respect that iTaukei communities have deep and legitimate customary connections to their *qoliqoli* areas, and that the current system may not have consistently delivered fair commercial benefit from marine areas used by tourism.

FHTA supports reform based on fair and equitable benefit-sharing. It also supports the recognition of legitimate customary interests in marine areas, including rights of access, use, consultation, cultural connection and environmental stewardship. However, the recognition of these interests is not necessarily the same as transferring proprietary ownership of the water column, foreshore, seabed, subsoil, lower airspace and reclaimed land.

The Bill therefore represents a significant legal and policy shift. By creating uncertainty regarding the scope of vested ownership, the treatment of existing legal interests, future compensation obligations and the regulatory processes applying to marine areas, it may have direct implications for investment confidence, financing, operating costs and the long-term viability of tourism businesses. Research concerning Fiji and developing economies more broadly demonstrates that stable and predictable legal and regulatory arrangements are important to private investment, while regulatory uncertainty, unexpected changes to existing rights and weak protection of property and contractual interests may discourage or delay investment[1].

Marine areas are also public and national assets connected with navigation, ports, fisheries, environmental regulation, disaster response, climate resilience, infrastructure, public revenue and national development. Any recognition of customary interests must therefore be balanced with the State's continuing responsibility to regulate and manage these areas coherently in the national interest.

This submission identifies the principal areas of concern and recommends drafting changes and practical alternatives that could achieve the Bill's intended objectives without destabilising the tourism sector or undermining existing rights and wider public interests. FHTA submits these views in the wider public interest to assist the Sub-Committee in fully considering the Bill's legal, constitutional, economic and operational implications.

[1] World Bank Group, Republic of Fiji: Systematic Country Diagnostic (2017); *Foreign Investor Policy Preferences and Experiences in Developing Countries*, World Bank Policy Research Working Paper No. 9425 (2020)

2 SUMMARY OF RECOMMENDATIONS

FHTA supports meaningful recognition of customary marine interests and a fair and equitable framework for sharing the benefits generated from commercial use. However, the Bill should not proceed in its present form. Substantial amendment, further consultation and clearer implementation arrangements are required to protect customary owners, existing interest holders, public rights, national infrastructure and Fiji's wider economic interests.

FHTA recommends that the Government and the Sub-Committee:

1. Reset the consultation process

Undertake transparent and structured consultation with tourism and marine operators, customary owners throughout Fiji, financial institutions, affected communities, public agencies and other stakeholders before the Bill proceeds.

2. Reconsider the proprietary ownership-transfer model

Determine whether the Bill's objectives can be achieved through statutory recognition, benefit-sharing, consultation and co-management while preserving State ownership and coherent national regulation of marine areas.

3. Clarify the Bill's scope and legal effect

Clearly define the rights transferred by a vesting order, the rights and responsibilities retained by the State, the public rights that continue, and the activities, organisations and supporting services captured by the Bill. "Commercial tourism activity" and the practical limits of "marine area" should be settled in the Bill itself, including appropriate exclusions for developed reclaimed land, existing State leases, declared port areas, navigation channels and established public infrastructure.

4. Complete independent economic and fiscal assessments

Assess the likely effects of the Bill on investment, financing, property values, operating costs, employment, consumer prices, State revenue, public infrastructure and Fiji's competitiveness before enactment. A further project-specific assessment should be required before vesting any area where significant existing or proposed activity may be affected.

5. Establish a clear and nationally consistent compensation framework

Define "fair and equitable" compensation through a transparent methodology, clarify the role of the iTaukei Fisheries Commission, distinguish compensation from rent and other payments, and ensure that compensation remains proportionate and commercially sustainable.

6. Prohibit double compensation and recognise existing arrangements

Credit prior rents, premiums, access payments, conservation contributions, goodwill payments and community benefits against any new liability. Existing compensation and community arrangements should not be reopened without the written agreement of affected parties or an independent legal determination.

7. Automatically preserve existing legal interests

Protect existing leases, licences, concessions, approvals, easements, mortgages, compensation agreements and State-approved projects for their existing terms. These interests should not be compulsorily renegotiated or altered solely because a marine area is vested. The Bill should also provide a staged and managed transition, preserve existing arrangements under the Regulation of Surfing Areas Act, and require consultation on draft regulations and an implementation roadmap before commencement.

8. Strengthen governance, procedural fairness and judicial oversight

Require clear statutory criteria, independent technical and legal advice, conflict-of-interest safeguards, public notice, access to evidence, meaningful objection rights and written reasons for decisions.

The Tribunal must be independent and appropriately qualified, judicial review must remain available, and TLTB must operate under published service standards, decision timeframes, fee schedules and proportionate enforcement procedures.

9. Verify customary ownership and boundaries before vesting

Require independent mapping and surveying, publication of boundaries and supporting evidence, notice to all affected parties, a formal objection process and final resolution of overlapping claims before any vesting order is made. A publicly accessible register of verified owners, boundaries, vested areas and conditions should be maintained.

10. Protect public access, maritime operations and essential State functions

Preserve lawful passage, navigation, anchoring, mooring, recreational and subsistence use, and ordinary access to marine areas. Vesting should not disrupt ports, shipping, inter-island transport, emergency access, public infrastructure, utilities, disaster response, environmental regulation or national security.

11. Preserve State leases, minerals, revenue and infrastructure rights

Clarify responsibility for administering existing State leases and collecting revenue after vesting. State ownership of minerals and the operation, maintenance and future development of ports, channels, jetties, utilities, coastal works and other essential infrastructure must remain protected.

12. Protect and encourage conservation partnerships

Exclude genuine non-commercial conservation, restoration, research and environmental-stewardship activities from inappropriate fees and compensation obligations. Existing marine protected areas, locally managed marine areas and community conservation arrangements should be recognised and preserved.

13. Develop a more balanced alternative framework

Consider a statutory benefit-sharing and co-management model supported, where appropriate, by a nationally administered funding mechanism. Any funding model should be introduced only after consultation and economic assessment and should include transparent collection, distribution, reporting and auditing arrangements.

14. Promote active iTaukei economic participation

Complement compensation and benefit-sharing with enterprise development, access to finance, skills training, joint ventures, equity participation, procurement opportunities and support for iTaukei-owned tourism, conservation, transport and marine-service businesses.

Taken together, these measures would provide a more balanced framework for recognising customary interests and delivering fair economic benefits without undermining existing rights, public access, investor confidence, national infrastructure or the coordinated management of Fiji's marine resources.

Detailed clause-by-clause issues and proposed amendments are set out in the **Schedule** at the end of this submission document.

3 PROCESS AND CONSULTATION

3.1 CONSULTATION INTEGRITY

Industry stakeholders participated in consultations in 2023 under the understanding that discussions were confined to a Review of the Surfing Act. Matters relating to *qoliqoli* ownership and broader marine tenure were explicitly **excluded** from the scope. The introduction of a Bill centred on these issues, without prior targeted consultation, has resulted in the industry not being afforded the opportunity to engage meaningfully on matters of direct consequence, with the Bill only available to industry after it had already been tabled in Parliament. We believe this goes entirely against the narrative around consultation and transparency purported by proponents of the Bill.

3.2 NEED FOR TRANSPARENT ENGAGEMENT

Legislation of this scale requires full disclosure of intent, clear policy direction, and structured consultation. The absence of this process has led to uncertainty and reactive engagement rather than informed participation. Our members have helped position Fiji on the global stage, but they must also answer to staff, banks, shareholders, communities and guests.

A policy change of this scale requires transparent, timely and genuine engagement. We cannot build a stable future for customary owners or tourism operators on uncertainty.

Recommendation

A reset in the consultation approach is required to restore confidence and ensure better outcomes, and that the consultation includes the wider iTaukei community – not just those within the Western Division or confined to tourism hot spots.

4 POLICY CLARITY AND LEGISLATIVE INTENT

4.1 DUAL OBJECTIVES

The Bill appears to pursue two concurrent objectives:

a) the transfer of proprietary ownership of marine areas to customary owners; and
b) the establishment of a compensation framework for the commercial use of those areas.

While these objectives are related, the Bill does not clearly establish **why** equitable recognition and benefit-sharing require the transfer of proprietary ownership. It should not proceed on the assumption that recognition of customary rights necessarily requires the transfer of title.

Parliament should first determine whether the intended outcomes **can be achieved** through statutory recognition, consultation, benefit-sharing, compensation and co-management, while preserving State ownership and national regulatory control over marine areas.

4.2 NATIONAL VERSUS SECTORAL BURDEN

This question is particularly important because qoliqoli and marine areas support the wider national economy, not only tourism. Goods, fuel, transport, utilities, infrastructure and inter-island movement all depend on marine access.

A framework that places the principal compensation and administrative burden on a narrow group of tourism and marine operators does not reflect this wider economic reality and risks creating inequitable outcomes. A matter of national importance is being addressed through a mechanism focused predominantly on one sector.

4.3 LEGAL NATURE AND SCOPE OF VESTED OWNERSHIP

The Bill also does not clearly define the nature, extent and limits of the ownership created by a vesting order. **It must be clear and specific about**:

a) which rights are transferred to customary owners;
b) which powers and responsibilities remain with the State;
c) which public rights continue after vesting; and

d) how vested ownership interacts with navigation, existing leases and licences, infrastructure, minerals, environmental regulation and future development approvals.

These matters are fundamental to understanding the legal and commercial consequences of the Bill. They should be **clearly stated in the legislation** and should not be left to subsequent negotiation, regulation or administrative interpretation.

4.4 Scope of Commercial Tourism Activities and Marine Areas

The Bill leaves the meaning of "commercial tourism activity" to regulations. This prevents operators, investors, financiers and customary owners from determining from the Bill itself which activities will be subject to vesting, consent, licensing or compensation. Core matters affecting the reach of the legislation should not be deferred until after enactment. The Bill should define the covered activities directly or, at minimum, require draft regulations identifying those activities to be released for consultation before the Bill is passed or commenced.

The definition of "marine area" is also unusually broad. It extends beyond foreshore and water areas to internal waters, lower airspace, seabed, subsoil and reclaimed land that would previously have formed part of the foreshore. In Fiji, this could create uncertainty for developed State-leased reclaimed land, riverbank and waterfront developments, port-adjacent sites, hotels, marinas, jetties, seawalls, coastal roads, public promenades and other established infrastructure that would not ordinarily be treated as part of a new marine-tenure regime.

The Bill should therefore narrow the definition or expressly exclude developed reclaimed land, existing State leases, declared port areas, navigation channels and established public or commercial infrastructure unless a particular area is specifically identified following mapping, consultation and an assessment of its legal, economic and operational effects.

5 STATE OWNERSHIP AND PUBLIC RIGHTS

The existing State Lands Act[2] framework treats the foreshore and the soil beneath Fiji's waters as State-controlled areas subject to protections for public rights. The Bill represents a significant departure from that framework by creating a new category of vested marine area to be administered through TLTB.

The Bill should therefore clearly explain why this departure is necessary and how existing protections for navigation, public access, environmental management, infrastructure, national development and other public-interest functions will continue after vesting.

Recommendation

FHTA strongly urges the Sub-Committee to reconsider whether the Bill's ownership-transfer model is necessary to achieve its stated objectives.

As an alternative, the Government should develop a clear statutory framework for the recognition of customary interests, consultation, benefit-sharing, compensation and co-management. Such a framework would better provide customary owners with fair and meaningful benefits while preserving State ownership, coherent national regulation and the public rights associated with marine areas of national economic, environmental and social importance.

Any compensation framework should:

a) apply according to clear, consistent and transparent principles;
b) recognise that commercial use of marine areas extends beyond tourism;
c) distribute obligations fairly across the activities and sectors that benefit from marine access; and
d) safeguard navigation, public access, existing legal interests, national infrastructure and wider public interests.

[2] State Lands Act

6 ECONOMIC AND INVESTMENT IMPLICATIONS

6.1 Sovereign and Investment Risk

The proposed Vesting Authority is given significant discretion over decisions that may affect ownership, existing legal interests and future commercial activity. Without clear statutory criteria, transparent decision-making processes and independent review, there is a risk that technical assessments may be influenced, or perceived to be influenced, by political considerations.

This creates uncertainty for investors and lenders. Tourism investments are typically long-term, capital-intensive and dependent on secure tenure, predictable operating costs and reliable regulatory arrangements. Any uncertainty regarding the rights transferred, the criteria applied, the evidence considered or the ability to challenge a decision may affect property valuations, financing terms and overall project viability.

6.2 Commercial Viability

This uncertainty is compounded by the multiple layers of negotiation, approval and compliance contemplated by the Bill. A single tourism operation may use or pass through several marine areas and may therefore be required to engage with multiple customary groups, TLTB and government agencies.

Separate processes for each area would increase transaction costs, extend approval timeframes and create operational inefficiencies. They may also make it difficult for operators and financiers to determine the full cost and legal requirements of a project before investment decisions are made.

6.3 Cost Escalation and Competitiveness

The risk is particularly significant for marine transport and island-based tourism. Resort transfers, supply vessels, staff transport, cruise excursions and other marine activities may pass through several qoliqoli during a single journey.

If each area requires a separate agreement, licence or compensation payment, cumulative costs could increase substantially. These costs would ultimately be absorbed by operators or passed on to visitors, increasing the price of travel and tourism services and weakening Fiji’s competitiveness against other destinations. Alternatively, there is no doubt that it would significantly erode tourism opportunities, cancel future investment interest and reduce commercial operational revenue that is relied on by communities, industry workers and government through taxes.

The Bill must therefore avoid creating multiple or overlapping charges for the same journey, activity or commercial use.

6.4 Public Investment and National Economic Return

The economic value generated from a commercial marine area is rarely attributable to the marine resource alone. Tourism and marine developments often depend on significant public investment and State support, including through roads, ports, jetties, airports, utilities, coastal protection, environmental regulation, marine safety, tax incentives, investment approvals and destination marketing.

Any benefit-sharing framework must therefore balance fair benefits for customary owners with the State’s contribution, the need to protect national economic interests and the public return generated from infrastructure, incentives and regulatory support.

The framework must recognise that additional costs imposed on operators affects State revenue, employment, investment, consumer prices and the viability of existing and proposed developments.

Recommendation

Before the Bill proceeds, the Government should commission an independent economic and fiscal impact assessment of the proposed vesting and compensation framework.

The assessment should consider its likely effects on investment, financing, property values, operating costs, consumer prices, employment, State revenue, public infrastructure and Fiji's global competitiveness.

Additionally, the Bill must:

a) prescribe clear and transparent criteria for vesting, compensation and commercial-use decisions;
b) require independent technical, legal and economic advice and written reasons for decisions;
c) preserve access to independent review;
d) establish a coordinated process that avoids repeated negotiations and administrative duplication across multiple marine areas;
e) prevent multiple or overlapping charges for the same journey, activity or commercial use;
f) account for existing State investment, infrastructure and incentives when determining benefits and compensation; and
g) require a project-specific economic assessment before any vesting order is made where significant existing or proposed commercial activity may be affected.

7 COMPENSATION FRAMEWORK

7.1 DEFINITION OF "FAIR AND EQUITABLE"

The Bill relies heavily on the concept of "fair and equitable" compensation without providing a clear methodology, benchmark or valuation standard. This creates a risk of subjective and inconsistent outcomes. Without a prescribed formula or transparent assessment process, operators and customary owners will be unable to predict their rights and obligations, and disputes will be difficult to avoid or resolve.

The compensation framework must also distinguish between:

a) compensation for customary interests;
b) rent payable under a lease or licence;
c) payment for exclusive access or use;
d) conservation and environmental contributions;
e) community or goodwill payments; and
f) charges for specific services or facilities.

Without these distinctions, operators may be required to make multiple payments for substantially the same area, access right or commercial activity.

7.2 ROLE OF THE ITAUKEI FISHERIES COMMISSION

The Bill should clearly define the role of the iTaukei Fisheries Commission in the compensation process. In particular, it must state whether the Commission is responsible for determining the amount and form of compensation, or for applying a methodology prescribed by legislation or regulation.

To ensure consistency, the principles and methodology for calculating compensation should be established nationally and applied uniformly across all marine areas. The Commission should not be required to develop different compensation arrangements for individual applications without clear statutory guidance.

The framework should specify the relevant factors to be considered, which may include:

a) the nature and intensity of the commercial use;
b) the area and duration of use;
c) whether the use is exclusive or non-exclusive;
d) the revenue or benefit generated from the activity;
e) existing infrastructure and public investment;
f) payments and benefits already provided; and
g) the social, cultural and environmental value associated with the area.

It should also establish appropriate limits, valuation procedures, review mechanisms and requirements for written reasons.

7.3 Prior Payments and Double Compensation

The Bill should expressly prohibit double compensation. Any rent, premium, licence fee, access payment, goodwill payment, conservation contribution, community benefit or other compensation previously provided for the same area, right, use or commercial activity should be identified and appropriately credited against any new liability.

An operator should not be required to pay twice for the same legal right, access arrangement or commercial use merely because ownership or administration of the marine area changes under the Bill.

Existing compensation and community arrangements should also be recognised and preserved. They should not be reopened unless:

a) all affected parties provide their prior, written consent; or
b) an independent court or tribunal determines, under clear statutory and constitutional criteria, that reopening the arrangement is necessary, reasonable and just.

Any decision to alter an existing arrangement should account for previous payments, investments and obligations undertaken in good faith and should provide affected parties with notice, an opportunity to be heard, written reasons and access to independent review.

Recommendation

FHTA recommends that the Bill include a nationally prescribed, transparent and consistently applied compensation framework before any vesting or compensation process begins.

The framework must:

a) define what constitutes "fair and equitable" compensation and prescribe a clear valuation methodology;
b) distinguish compensation from lease rent, exclusivity payments, service charges, conservation contributions and other community benefits;
c) clearly define the role of the iTaukei Fisheries Commission and require it to apply prescribed statutory criteria;
d) require disclosure and verification of all existing payments, agreements and benefits relating to the affected marine area;
e) prohibit double compensation and credit prior payments against any new liability;
f) automatically preserve existing compensation and community arrangements unless all parties agree in writing to alter them or an independent body determines that alteration is legally justified and fair;
g) require written reasons for compensation decisions and provide access to independent review; and
h) ensure that compensation is proportionate, commercially sustainable and does not impose unreasonable or overlapping costs on operators or consumers.

8 EXISTING RIGHTS AND LEGAL EXPOSURE

8.1 Renegotiation of Existing Agreements

Although the Bill states that existing legal interests and rights will continue according to their tenor, that protection is weakened by provisions elsewhere allowing existing terms and conditions to be renegotiated. Where agreement is not reached, the Vesting Authority may determine the terms that will apply.

Existing rights may therefore be materially altered after businesses, lenders and other parties have relied on State-issued leases, licences, approvals and related agreements. This creates uncertainty for parties that have invested capital, entered long-term contractual arrangements or provided financing on the basis of legally valid interests granted by the State.

The practical effect of the measure is to impose new obligations, curtail existing rights, or retrospectively unsettle established commercial arrangements. Such retrospective application risks engaging constitutional protections relating to property, leases, and other vested legal interests. Beyond the immediate legal exposure, these changes would undermine investor confidence, weaken contractual certainty, and erode trust in the stability of Fiji's regulatory environment. For a sector reliant on long-term investment and continuity, any perception of arbitrary or retrospective interference carries significant governance risks and may deter both domestic and foreign capital.

8.2 Protection of Existing Interests and Transitional Certainty

To avoid this uncertainty, existing leases, licences, concessions, approvals, easements, compensation agreements and other commercial arrangements should be automatically preserved. Their continuation should not depend on a discretionary exemption granted by the Vesting Authority.

An existing interest should only be altered where:

a) the affected interest holder gives prior written consent; or
b) an independent court or tribunal determines, under clear statutory criteria and applicable constitutional standards, that the alteration is necessary, lawful and just.

The transitional framework should also ensure that:

a) projects that have already received State, environmental, tourism or investment approvals are protected;
b) settled arrangements cannot be reopened solely because ownership of the marine area is subsequently vested;
c) compensation, rents, premiums and other payments previously made are recognised and appropriately credited;
d) sublessees, concession holders and other parties relying on the existing interest are protected; and
e) financiers and mortgagees receive adequate notice, access to relevant information and standing to participate in any process that may affect their security.

These protections are necessary not only for fairness to existing interest holders, but also to maintain confidence in State-issued rights and Fiji's wider investment and financing environment.

8.3 Implementation and Managed Transition

The Bill should not commence until its operative framework is sufficiently complete for affected parties to understand and comply with it. Draft regulations and an implementation roadmap should be released for consultation before commencement. The roadmap should identify the responsible agencies, decision processes, application requirements, transition dates, public-information arrangements and dispute pathways, and should provide for staged implementation where necessary.

A managed transfer of institutional knowledge will also be required if responsibility for foreshore and related marine interests moves from the Lands Department to TLTB. Relevant lease and licence records, maps, surveys, historical dealings, pending applications, earlier qoliqoli assessments and staff expertise should be transferred through a documented process. This is necessary to avoid duplicated work, inconsistent decisions, loss of historical context and the reopening of matters that have previously been considered or resolved.

Existing permits, access arrangements, applications and commercial operations should continue during the transition. In particular, rights and arrangements operating under the Regulation of Surfing Areas Act 2010 should be expressly preserved until clear replacement arrangements are lawfully established. No new compensation obligation or enforcement action should arise until the applicable boundaries, regulations, procedures and responsible authorities have been publicly confirmed.

8.4 Constitutional Protection of Existing Interests

The Bill raises constitutional questions where a vesting order or administrative determination diminishes an existing lease, licence, concession, approval, mortgage security or other property interest.

Any compulsory alteration of an existing right should therefore:

a) be expressly authorised by clear written law;
b) serve a legitimate and defined public purpose;
c) be reasonable, proportionate and non-arbitrary;
d) follow a transparent and procedurally fair process;
e) provide affected parties with notice, access to relevant evidence and an opportunity to be heard;
f) provide just and equitable compensation where required; and
g) remain subject to independent judicial review.

Constitutional questions, errors of law, jurisdictional errors and alleged breaches of natural justice should remain reviewable by the courts. A decision affecting existing property or contractual rights should not be made final and immune from judicial supervision.

Recommendation

FHTA recommends that the Bill include comprehensive savings and transitional provisions that automatically preserve all existing legal interests, approvals and commercial arrangements.

In particular, the Bill must:

a) provide that existing leases, licences, concessions, easements, approvals, mortgages, compensation agreements and related rights continue in full force according to their existing terms;
b) prohibit the compulsory renegotiation or alteration of those interests solely because a marine area becomes vested;
c) permit alteration only with the prior written consent of the affected interest holder or following an independent legal determination based on clear statutory criteria;
d) protect projects and investments that have already received lawful State and regulatory approvals;
e) recognise and credit all prior compensation, rents, premiums and other payments;
f) require notice to, and participation by, financiers, mortgagees, sublessees and other affected parties;
g) provide just and equitable compensation where an existing right is compulsorily diminished; and
h) preserve access to the courts for constitutional questions, errors of law, jurisdictional error and breaches of procedural fairness;
i) require draft regulations and an implementation roadmap to be released for consultation before commencement;
j) provide for staged commencement and continuity of existing permits, applications, access arrangements and operations during the transition;
k) require a documented transfer of relevant Lands Department records, mapping data and institutional expertise to TLTB; and
l) preserve rights and arrangements under the Regulation of Surfing Areas Act 2010 until lawful replacement arrangements are operational.

9 GOVERNANCE AND INSTITUTIONAL FRAMEWORK

9.1 Vesting Authority

The Vesting Authority is expected to exercise significant powers over ownership, existing legal interests and the commercial use of vested marine areas. As it comprises several Ministers, there is a risk that decisions may be influenced, or perceived to be influenced, by political considerations rather than objective legal, technical and economic assessment.

The Bill must therefore prescribe clear decision-making criteria and require the Authority to consider:

a) verified customary ownership and boundaries;
b) existing leases, licences, approvals, mortgages and other legal interests;
c) impacts on public access, navigation, infrastructure and commercial activity;
d) prior compensation and community arrangements; and
e) environmental, cultural and wider national interests.

Affected parties must receive adequate notice, access to relevant information and an opportunity to make submissions. The Authority must also disclose conflicts of interest, apply consistent standards and publish its decisions with written reasons.

These safeguards are necessary to ensure that vesting decisions are transparent, fair and capable of maintaining public and investor confidence.

9.2 Tribunal Structure

The Tribunal must be independent, appropriately qualified and empowered to review both factual and legal determinations, receive evidence and grant effective remedies.

Its membership should reflect the legal, customary, environmental, valuation and commercial complexity of the matters before it. Tribunal proceedings must be accessible, procedurally fair and completed within prescribed timeframes.

The Tribunal's decisions should not be final in a manner that excludes court supervision. Judicial review must remain available for constitutional questions, errors of law, jurisdictional error, breaches of natural justice, bad faith and unlawful interference with property rights.

9.3 Legislative Alignment

The Bill must align clearly with the Constitution and existing legislation governing State land, marine areas, public access, environmental management, fisheries, navigation, ports, minerals and iTaukei land administration.

Any departure from the State Lands Act, Marine Spaces Act, Rivers and Streams Act, Environment Management Act, fisheries legislation, port and navigation laws, mineral laws or TLTB-related legislation should be expressly identified and justified[3].

The Bill must also clarify which law prevails, where provisions conflict, and how vested ownership will interact with existing State powers, leases, licences, public rights, infrastructure, environmental regulation and international maritime obligations. Clear legislative alignment is necessary to avoid overlapping authority, inconsistent interpretation and future legal disputes.

9.4 Rule of Law and Procedural Fairness

The Bill states that vesting is to occur consistently with the rule of law and natural justice. However, the operative provisions must provide **practical and enforceable safeguards** to give effect to those principles.

Rights, liabilities, boundaries, compensation standards, exemption criteria and appeal rights must be sufficiently clear for affected persons to understand their position in advance. The Bill must therefore provide for:

a) legal certainty and predictable decision-making;
b) prospective rather than retrospective alteration of rights;
c) equality before the law;
d) clear limits on administrative discretion;
e) public notice and access to relevant maps, evidence and information;

[3] Marine Spaces Act 1977; Rivers and Streams Act 1880; Environment Management Act 2005; Fisheries Act 1941

f) meaningful objection rights and an opportunity to be heard;
g) written reasons for decisions;
h) independent appeal and judicial review; and
i) effective remedies for unlawful decisions.

These protections must apply consistently to decisions made by the iTaukei Fisheries Commission, TLTB, the Vesting Authority and the Tribunal.

Recommendation

FHTA recommends that the Bill establish a transparent, independent and technically grounded governance framework **before** any vesting process begins.

The framework must:

a) prescribe clear statutory criteria for all vesting, compensation and exemption decisions;
b) require independent legal, technical, environmental, valuation and economic advice;
c) require disclosure and management of conflicts of interest;
d) provide affected parties with notice, access to information and a meaningful opportunity to be heard;
e) require all decisions to be published with written reasons;
f) establish an independent and appropriately qualified Tribunal with effective powers and prescribed timeframes;
g) preserve judicial review and access to the courts on constitutional and legal questions;
h) clearly reconcile the Bill with the Constitution and all related legislation; and
i) provide effective remedies where decisions are unlawful, procedurally unfair or inconsistent with protected rights;
j) require TLTB to publish service standards, decision timeframes, fee schedules and coordination protocols with relevant State agencies;
k) require standard and transparent lease, licence and written-consent processes supported by an accessible public register; and
l) ensure that arrears, termination, offences and other enforcement measures are proportionate, allow reasonable cure periods and do not prejudice genuine disputes or essential access.

9.5 TLTB Administration, Leasing and Enforcement

The transfer of administration to TLTB must be supported by clear service and accountability standards. The Bill or regulations should prescribe decision timeframes, published application requirements, transparent fee schedules, standard lease and licence documentation, written reasons and appeal rights. Coordination protocols should also be established with the Lands Department, the Ministry responsible for environment, the Maritime Safety Authority of Fiji, port authorities, tourism agencies and other regulators, together with an urgent mechanism for access, safety or visitor-impacting disputes.

Lease and licence decisions must be based on clear evidence and published criteria, including decisions about whether an area is beneficially used or likely to be required by customary owners. All leases, licences, exemptions, consents and material conditions should be recorded in an accessible register, and any statutory requirement for consent should expressly require prior written consent.

Enforcement must be proportionate and adapted to the marine and tourism context. Termination should follow written notice, reasonable cure periods and notice to affected lenders, and should not occur while a genuine dispute about boundaries, compensation or obligations is being resolved. Offences should apply only to clearly defined breaches; a false declaration should require a knowingly or recklessly false material statement, with a mechanism to correct genuine errors. TLTB's administrative deductions from rent should also be transparently accounted for, independently audited and limited by a reasonableness test linked to actual administrative costs.

10 OPERATIONAL IMPACTS ON TOURISM

10.1 DEFINITION OF INTEREST HOLDERS

The definition of "interest holder" does not adequately reflect the complexity of tourism operations and marine-area partnerships. It does not clearly account for conservation partners, NGOs, community organisations and operators undertaking environmental stewardship or other non-commercial activities.

The Bill must clearly identify which persons and organisations are treated as interest holders and ensure that conservation, community and public-interest activities are not inadvertently subjected to commercial-use requirements.

10.2 TOURISM ACTIVITY VERSUS INDUSTRY

The Bill does not clearly distinguish between direct commercial tourism activities and the supporting services necessary for tourism operations, including staff and guest transport, logistics, supply vessels, maintenance, emergency movements and other essential services.

Without clear definitions and appropriate exemptions, operators may face uncertainty over which activities require consent, licensing or compensation. This could result in inconsistent application, duplicated compliance requirements and disruption to routine operations.

10.3 PUBLIC ACCESS AND NON-COMMERCIAL USE

The Bill must clearly preserve public access, freedom of movement and lawful non-commercial use of vested marine areas. General references to public enjoyment and innocent passage may not adequately protect activities such as anchoring, mooring, recreational or subsistence fishing, swimming, diving, snorkelling, kayaking, sailing and access to reefs or sandbanks.

Vesting should not authorise customary owners, TLTB or any other person to impose fees, permits or access restrictions on ordinary passage or non-commercial use unless expressly permitted by written law.

Any restriction should be for a defined purpose, such as safety, conservation, environmental protection or fisheries management, and must be reasonable, proportionate, publicly notified, non-discriminatory and subject to review.

10.4 EXISTING EXCLUSIVE RIGHTS AND ACCESS CONTROLS

The Bill preserves access and customary rights for iTaukei owners after vesting, but it does not clearly explain how those rights will interact with existing lawful interests that provide exclusive occupation, controlled access or exclusive commercial use. Tourism leases, licences and operating arrangements may depend on privacy, security, visitor-safety controls, environmental conditions and regulated access to beaches, jetties, marinas or other marine facilities.

Customary-owner access should therefore operate consistently with existing lawful interests and reasonable operating, safety, privacy and environmental requirements. An existing exclusive or controlled-access right should not be diluted or overridden solely by a vesting order. Any lawful variation should require notice, procedural fairness, appropriate compensation and access to independent review.

10.5 STATE POWERS AND PUBLIC-INTEREST FUNCTIONS

Vesting must not diminish the State's continuing authority and responsibility to manage marine areas in the wider public and national interest. The Bill should expressly preserve State powers relating to navigation, marine safety, ports, infrastructure, environmental and fisheries regulation, disaster response, coastal protection, national security, public revenue and national development.

It should also clarify that existing and future public infrastructure, utilities, emergency access routes and climate-resilience projects will not be restricted or made subject to additional consent or compensation requirements solely because a marine area has been vested.

These safeguards are necessary to ensure that recognition of customary interests does not prevent the State from carrying out essential public functions or managing Fiji's marine areas as part of a coherent national framework.

Recommendation

FHTA recommends that the Bill clearly define the persons, activities and uses that fall within its scope and establish practical safeguards for tourism operations, public access and essential State functions.

In particular, the Bill should:

a) define "interest holder" broadly enough to recognise all affected legal and operational interests, while excluding genuine non-commercial conservation and community activities from inappropriate commercial obligations;
b) distinguish direct commercial tourism activities from transport, logistics, emergency movements and other essential supporting services;
c) establish clear exemptions or streamlined arrangements for routine transit and essential operational activities;
d) expressly preserve lawful public, recreational, subsistence and non-commercial use of marine areas;
e) prohibit unauthorised fees, permits or restrictions on ordinary passage and non-commercial use;
f) preserve existing exclusive-use and controlled-access rights, including reasonable privacy, security, safety and environmental requirements; and
g) preserve the State's authority to manage navigation, infrastructure, safety, environmental protection, disaster response and other national public-interest functions.

11 ENVIRONMENTAL AND CONSERVATION CONSIDERATIONS

11.1 EXISTING CONSERVATION INVESTMENTS

Tourism operators and customary owners have established long-standing conservation partnerships, including marine protected areas, locally managed marine areas, coral restoration, mangrove rehabilitation, giant-clam nurseries and beach-clean-up programmes, among others.

These activities protect marine ecosystems, strengthen community partnerships and support Fiji's sustainable tourism objectives, including the National Sustainable Tourism Framework[4], Republic of Fiji National Ocean Policy 2020-2020[5], Biodiversity Strategy & Action Plan (2026)[6] (Protects 30% of marine and terrestrial ecosystems by 2030), Blue Economy Initiatives[7], as well as directly advancing SDGs 14, 13, 15, and 12. They should not be treated as commercial exploitation or subjected to additional consent, licensing or compensation requirements merely because they occur within a vested marine area.

The Bill should recognise and preserve existing conservation agreements and appropriately protect genuine environmental stewardship, research and restoration activities under the new framework – considering that the Government is struggling to deliver on these initiatives on their own.

11.2 RISK OF DISINCENTIVISING CONSERVATION

If conservation, restoration and environmental-management activities are classified as commercial use or become subject to additional fees, approvals and negotiations, operators and community partners may be discouraged from continuing or expanding them.

[4] National Sustainable Tourism Framework 2024-2034
[5] Fiji National Oceans Policy 2020
[6] Fiji National Biodiversity Strategy and Action Plan 2026-2030
[7] Blue Prosperity Fiji

Any requirements applying to conservation activities should therefore be clearly defined, proportionate and consistently administered. The framework should encourage continued collaboration between customary owners, tourism operators, NGOs and government agencies rather than creating additional barriers to marine protection.

Recommendation

FHTA recommends that the Bill expressly recognise and protect genuine conservation, restoration, research and environmental-stewardship activities undertaken by tourism operators, customary owners, NGOs and community partners.

In particular, the Bill must:

a) exclude genuine non-commercial conservation activities from commercial-use fees and compensation requirements;
b) preserve existing conservation agreements, marine protected areas and community partnerships;
c) provide clear and streamlined approval processes where regulatory consent is required;
d) ensure that environmental or cultural restrictions are proportionate, transparent and consistently applied; and
e) support co-management arrangements that encourage continued investment in marine conservation.

The framework should serve to increase the promotion of, rather than discourage, the collaboration and investment in protecting Fiji's marine environment for future generations.

12 CUSTOMARY OWNERSHIP AND BOUNDARY ISSUES

12.1 Verification of Ownership

The identification of customary owners and the boundaries of marine areas may be complex. Customary use often involves overlapping rights, shared fishing grounds, seasonal access, customary permissions, neighbouring village interests and different levels of authority within a vanua, yavusa or tikina.

The registered owners of adjoining land may also differ from the customary owners of the neighbouring qoliqoli. Without accurate verification, vesting will create uncertainty or intensify disagreements between customary groups, existing interest holders and commercial operators.

A clear and authoritative process is therefore required to determine customary ownership and boundaries before proprietary rights or commercial benefits are allocated.

12.2 Dispute Risk

The Bill may significantly increase the financial and legal consequences of customary ownership and boundary disputes. Once customary claims determine entitlement to proprietary ownership, rents, premiums, licence fees and compensation, disputes that previously concerned use, access or cultural recognition may become disputes over ownership and recurring commercial revenue.

Unresolved or overlapping claims may delay vesting, disrupt existing operations and place tourism operators between competing customary groups. These disputes should therefore be resolved before, rather than after, a vesting order is made.

12.3 Pre-Vesting Mapping, Notification and Objection Process

No vesting order must be made until customary ownership, boundaries and competing claims have been fully verified and resolved through a transparent process.

The Bill must require:

a) independent mapping and surveying of the proposed marine area;
b) publication of maps, coordinates and supporting information;

c) notice to affected customary groups, existing interest holders, financiers and relevant public authorities;
d) a reasonable period for objections and submissions;
e) access to the evidence relied upon;
f) a fair hearing where ownership or boundaries are disputed; and
g) publication of the final determination with written reasons.

These safeguards are necessary to prevent overlapping claims, protect existing rights and ensure that operators are not placed between competing customary ownership disputes. They would also ensure there is public information available on ownership and boundaries for clarification and consultation.

Recommendation

FHTA recommends that the Bill establish a comprehensive and transparent process for verifying customary ownership and marine-area boundaries before any vesting order is made.

The process should:

a) require independent mapping and surveying based on reliable customary, legal and technical evidence;
b) identify and notify all customary groups, existing interest holders, financiers and public authorities that may be affected;
c) provide public access to maps, coordinates and supporting information;
d) allow sufficient time for objections, submissions and competing claims to be heard;
e) require all overlapping ownership and boundary disputes to be finally resolved before vesting;
f) provide written reasons for ownership and boundary determinations; and
g) maintain a publicly accessible register of verified customary owners, boundaries, vested areas and related conditions.

No tourism operator or other interest holder should be required to negotiate, make payments or alter existing arrangements while customary ownership or boundaries remain disputed.

13 STATE LEASES AND REVENUE IMPLICATIONS

The transfer of State-managed marine areas to customary ownership raises important questions about the continuity of existing leases, administrative responsibility, government revenue and financial arrangements entered into by operators and lenders.

The Bill must clearly explain how existing State leases will be administered following vesting, whether current lease terms and revenue arrangements will continue, and how the rights of lessees, mortgagees and other interest holders will be protected. Any transition must avoid uncertainty over which authority is responsible for lease administration, rent collection, enforcement and the maintenance of public infrastructure.

13.1 State Powers, Minerals and National Infrastructure

The Bill should expressly preserve the State’s continuing regulatory authority and public-interest responsibilities over marine areas. A vesting order should not affect State ownership of minerals beneath land or water, or the State’s authority to regulate exploration, extraction, environmental protection and the collection of related public revenue.

Vesting should also not restrict the operation, maintenance or future development of essential public infrastructure and services, including ports, navigation channels, jetties, utilities, communications infrastructure, coastal-protection works, emergency access routes and disaster-response facilities.

These State powers and infrastructure rights must continue without requiring additional consent, licences or compensation solely because a marine area has been vested. This is necessary to protect public safety, government revenue, national development plans and the coordinated management of Fiji’s marine resources.

Recommendation

FHTA recommends that the Bill include clear transitional and savings provisions addressing State leases, public revenue and national infrastructure.

In particular, the Bill must:

a) preserve existing State leases, licences, mortgages and related financial arrangements;
b) clarify whether the State, TLTB or another authority will administer existing interests and collect future rents;
c) protect existing government revenue and identify how administrative and infrastructure costs will be funded;
d) preserve State ownership and regulation of minerals beneath land and water;
e) protect existing and future ports, navigation routes, utilities, coastal works and other essential public infrastructure; and
f) ensure that State agencies can perform public-safety, environmental, emergency and national-development functions without additional consent or compensation requirements arising solely from vesting; and
g) require a managed transfer of records, mapping information, pending matters and institutional expertise between the Lands Department, TLTB and other responsible agencies.

14 INTERNATIONAL AND MARITIME CONSIDERATIONS

Fiji's trade, tourism and inter-island connectivity depend on predictable and uninterrupted maritime operations. The Bill does not clearly explain how vesting will apply to declared ports, navigation channels, cargo and passenger shipping, cruise vessels and tenders, visiting yachts, marinas or vessels transiting through multiple marine areas.

While the Bill refers to innocent passage and freedom of movement, these protections do not fully address activities such as anchoring, mooring, tender operations, loading and unloading passengers or cargo, emergency movements and access to port infrastructure. Uncertainty over whether these activities require separate consent, licences or compensation could disrupt maritime operations, increase costs and create safety and reputational risks.

The Bill must operate consistently with Fiji's obligations under the United Nations Convention on the Law of the Sea, particularly the rights of innocent passage and archipelagic sea-lanes passage and the restrictions on charges imposed merely for passage. It must also preserve Fiji's ability to discharge its obligations under the International Convention for the Safety of Life at Sea, particularly Chapter V concerning safety of navigation and, where a vested area includes or affects a port facility used by international shipping, Chapter XI-2 and the International Ship and Port Facility Security Code. Any procedures affecting the arrival, stay or departure of international ships, passengers or cargo must also remain consistent with the Convention on Facilitation of International Maritime Traffic[8]. Vesting must not limit, fragment or otherwise interfere with the State's continuing authority to regulate maritime traffic, maintain navigational and port safety and security, facilitate trade, undertake emergency and search-and-rescue functions, or meet its responsibilities for national connectivity[9].

[8] United Nations Convention on the Law of the Sea 1982; International Convention for the Safety of Life at Sea 1974; International Ship and Port Facility Code; Convention on Facilitation on International Maritime Traffic

[9] Marine Spaces Act 1977; Sea Ports Management Act 2005; Maritime Transport Act 2013; Ship Registration Act 2013; Maritime Safety Authority of Fiji Act 2009; Customs Act 1986; Immigration Act 2003; and Biosecurity Act 2008, together with applicable subsidiary legislation.

Recommendation

FHTA recommends that the Bill expressly protect national and international maritime operations from disruption arising solely from the vesting of a marine area.

In particular, the Bill must:

a) clarify its application to declared ports, shipping routes, navigation channels, cruise vessels, tenders, cargo vessels, ferries, marinas and visiting yachts;
b) preserve safe and uninterrupted navigation, transit, anchoring, mooring and emergency access;
c) exempt ordinary transit and essential maritime operations from separate negotiations or overlapping fees across multiple vested areas;
d) preserve the State's authority over ports, shipping, customs, border security and marine safety; and
e) confirm the Bill's consistency with Fiji's international maritime obligations and applicable domestic legislation.

These safeguards are necessary to protect Fiji's tourism, trade, transport links and reputation as a safe and accessible maritime destination.

15 ALTERNATIVE FRAMEWORK

The proposed ownership-transfer model is administratively complex and may place disproportionate costs and compliance obligations on a limited number of industries. FHTA considers that the Bill's key objectives could be achieved through a more balanced framework that recognises customary interests, provides fair economic benefits and preserves coherent State regulation of marine areas.

Such a framework should combine:

a) statutory benefit-sharing and co-management;
b) a transparent and nationally coordinated funding mechanism; and
c) measures supporting active and long-term iTaukei economic participation.

15.1 Benefit-Sharing and Co-Management

FHTA recommends that the Government consider a statutory benefit-sharing and co-management model as an alternative to transferring proprietary ownership of marine areas.

Such a framework could formally recognise customary interests and provide customary owners with meaningful consultation, participation in decision-making, agreed commercial benefits and a role in environmental management, while preserving State ownership and regulatory control over marine areas of national importance.

The framework should establish clear and consistent principles for determining benefits, recording agreements, resolving disputes and ensuring accountability in the collection and distribution of funds. Existing community arrangements and conservation partnerships should also be recognised where they are fair, effective and supported by the parties.

A benefit-sharing and co-management approach – as opposed to passive revenue collection - may achieve the Bill's objectives with less disruption to existing rights, public access, investment certainty, national infrastructure and the coordinated management of Fiji's marine resources.

15.2 Nationally Administered Funding Mechanism

A nationally administered funding mechanism should also be considered to avoid fragmented negotiations and multiple compensation arrangements across individual marine areas. This option should be discussed widely with qoliqoli owners around Fiji.

One option would be a modest levy applied across an appropriately defined range of businesses or commercial activities that benefit from Fiji's marine resources.

The levy could be collected centrally and distributed through a transparent statutory framework, with an agreed portion directed towards long-term community priorities such as education, scholarships, vocational and enterprise training, environmental stewardship, community infrastructure and other locally identified development needs. This would enable the benefits generated from Fiji's marine resources to support both immediate customary beneficiaries and broader, intergenerational social and economic development.

Subject to full economic and fiscal assessment, this approach could:

a) distribute the responsibility more equitably across the economy;
b) reduce administrative and compliance costs;
c) avoid repeated negotiations and overlapping payments;
d) provide greater certainty for customary owners and businesses; and
e) support transparent and consistent allocation of benefits.

Any such mechanism would require clear collection, governance, auditing and distribution arrangements to ensure that funds reach the intended customary beneficiaries and are managed accountably.

15.3 Active iTaukei Economic Participation

Fair compensation and benefit-sharing should form part of a **broader strategy for active iTaukei participation** in the marine and tourism economy. Periodic rents or compensation payments may provide immediate benefits, but they do not necessarily build long-term economic capability, enterprise ownership or intergenerational wealth.

The framework should therefore support opportunities for customary owners and communities to participate as business owners, investors, employees, managers and commercial partners. This may include access to finance, enterprise-development support, technical and management training, joint ventures, equity participation, procurement opportunities and support for iTaukei-owned tourism, transport, conservation and marine-service businesses.

Clear governance and accountability arrangements should also apply to the receipt, management and distribution of benefits, including transparent reporting and opportunities to invest a portion of revenue in long-term community development.

A framework that combines fair benefit-sharing with active economic participation would provide more sustainable outcomes than a model based primarily on passive rent collection or compensation.

Recommendation

FHTA recommends that the Government reconsider the proprietary ownership-transfer model and develop an alternative statutory framework based on benefit-sharing, co-management and active iTaukei economic participation.

The framework should:

a) preserve State ownership and regulatory responsibility while formally recognising legitimate customary interests;
b) provide customary owners with meaningful participation in decision-making, environmental management and commercial benefits;
c) establish clear and consistent principles for calculating, collecting and distributing benefits;
d) recognise existing fair community and conservation arrangements;
e) assess the feasibility of a nationally administered funding mechanism that distributes obligations equitably and avoids fragmented negotiations and overlapping charges;
f) include transparent governance, reporting, auditing and dispute-resolution arrangements; and
g) support enterprise development, access to finance, skills, joint ventures, equity participation and other pathways to long-term iTaukei economic empowerment.

Any alternative funding mechanism must only be introduced following consultation and an independent economic and fiscal assessment of its likely effects on businesses, consumers, government revenue and national competitiveness.

16 CONCLUSION

The Commercial Use of Marine Areas Bill 2025, while well-intentioned, risks destabilising Fiji's tourism sector, undermining investor confidence, and weakening national economic resilience if enacted in its current form. By pursuing proprietary ownership transfer without clear safeguards, the Bill introduces uncertainty over existing rights, compensation obligations, and the State's continuing responsibility to regulate marine areas in the public interest.

FHTA strongly supports meaningful recognition of customary marine interests and equitable benefit-sharing. However, this must be achieved through a framework that preserves State ownership, ensures transparent governance, and distributes obligations fairly across all sectors that depend on marine access. A statutory model based on recognition, consultation, co-management, and nationally consistent compensation would deliver fair benefits to iTaukei communities while safeguarding public access, national infrastructure, and Fiji's competitiveness as a tourism destination.

We therefore urge the Sub-Committee to reset the consultation process, commission independent economic and fiscal assessments, and adopt a balanced alternative framework that integrates customary participation with sustainable enterprise development.

Such an approach will strengthen resilience, protect livelihoods, and ensure that Fiji's marine resources continue to serve both local communities and the wider national interest.

Only through clarity, fairness, and genuine partnership can this reform achieve its intended objectives without compromising the foundations of Fiji's tourism industry and broader economic growth.

Please direct any questions regarding this submission to:

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SCHEDULE: Commercial Use of Marine Areas Bill 2025 – Clause-by-Clause Issues and Safeguards

Clause / topic	Why this matters	Requested amendment / safeguard
Commencement, objectives and scope		
Clause 1: Commencement	The Act may commence on one or more dates appointed by the Minister by Gazette notice. The Submission considers that affected parties cannot comply with the new regime until the regulations, maps, processes, responsible agencies and transition arrangements are settled.	Provide that the operative provisions do not commence until draft regulations and an implementation roadmap have been published and consulted on. Permit staged commencement, preserve existing permits, applications and access arrangements during transition, and defer new compensation or enforcement obligations until the framework is operational.
Clause 2: “Commercial tourism activity”	The term means a prescribed commercial activity in the tourism industry. Because the covered activities will be set later by regulation, operators cannot presently determine whether resort transfers, marine excursions, diving, snorkeling, surfing, marina services, cruise excursions, beach clubs, cultural activities, conservation projects, jetties or access channels will be captured.	Define the covered tourism activities in the Bill itself or require draft regulations to be released for consultation before passage or commencement. Include clear exclusions or safe harbours for ordinary transit, navigation, public access, incidental guest services, existing lawful operations and genuine conservation or community-benefit activities.
Clause 2: “Commercial marine area” and “marine area”	The definitions extend to foreshore, internal waters, archipelagic waters, the territorial sea, lower airspace, seabed, subsoil and reclaimed land, including areas within marine protected areas. This may capture developed State-leased reclaimed land, riverbank and waterfront developments, ports, hotels, marinas, jetties, seawalls, coastal roads and public infrastructure not ordinarily treated as part of a new marine-tenure regime.	Narrow the definitions or expressly exclude developed reclaimed land, existing State leases, declared ports, navigation channels, public access areas and established public or commercial infrastructure unless a specific area is identified after mapping, consultation and legal, economic and operational assessment.
Clause 2: “Commercial purposes” and proposed use	“Commercial purposes” includes emissions-reduction projects under the Climate Change Act 2021, while “used for commercial purposes” includes proposed use. This may bring blue-carbon, mangrove, restoration or other environmental projects within the regime and may expose proposed developments to vesting and compensation processes before their commercial and regulatory position is settled.	Clarify the treatment of emissions-reduction projects and exclude genuine non-commercial conservation, restoration, research and environmental stewardship. Apply the regime to a proposed use only after the project has obtained the necessary approvals and a project-specific economic, environmental and operational assessment has been completed.
Clause 2: “Interest holder”	The definition is limited to a person, other than customary owners, with a legal interest in or rights over the area. It may not clearly capture all parties whose financing, security, contractual, operational, conservation or infrastructure interests may be affected, including mortgagees, sublessees, concessionaires, utility providers, NGOs and community partners.	Broaden or clarify the definition to include all registered and reasonably identifiable legal, financial, operational and derivative interests. Distinguish genuine conservation, community and public-interest activities from commercial use, and ensure all affected parties receive notice and standing to participate.

Clause / topic	Why this matters	Requested amendment / safeguard
Clause 2: "Customary owners", "customary rights" and Register	Customary ownership and rights are tied to groups and rights recorded in the Register. The Submission notes that marine use may involve overlapping or shared grounds, seasonal access, customary permissions, neighbouring village interests and differences between adjoining landowners and qoliqoli owners.	Require an authoritative pre-vesting verification process using reliable customary, legal, historical and technical evidence. Publish the evidence and boundaries, provide objections and hearing rights, and resolve overlapping ownership and boundary claims before proprietary rights or commercial benefits are allocated.
Clause 3: Objectives	The objectives assume that fair recognition requires reversion of proprietary ownership, while also referring to rule of law, natural justice and participation. They do not expressly require protection of existing interests, public rights, State functions, national infrastructure or wider economic and environmental interests.	Recast the objectives so that Parliament first considers whether statutory recognition, benefit-sharing and co-management can achieve the intended outcomes without proprietary transfer. Expressly include legal certainty, protection of existing rights, public access, State regulatory responsibility, national economic interests and sustainable marine management.
Clause 4: Act to bind the State	Because the Act binds the State, its vesting, consent, licensing, fee and enforcement provisions may affect State agencies, public infrastructure and essential public functions unless clear savings are provided.	Expressly preserve the State's authority to regulate navigation, ports, marine safety, fisheries, environmental protection, minerals, customs, border security, disaster response and national development. State infrastructure, emergency access and public-interest operations should not require additional consent or compensation solely because an area is vested.
Transfer process, ownership and compensation		
Clause 5: Transfer of ownership	The clause applies to the proprietary-transfer mechanism to State-held commercial marine areas. This is the central policy shift challenged by the Submission because it may alter the legal foundation for public rights, existing State interests, regulation, infrastructure and long-term investment.	Reconsider whether proprietary transfer is necessary. Prefer a statutory benefit-sharing and co-management framework that recognises legitimate customary interests while preserving State ownership and coherent national regulation. If transfer remains, tightly define eligible areas and require prior consultation, mapping and independent impact assessment.
Clause 6: Transfer application, ownership verification and boundaries	A customary owner may initiate the process and TFC must determine the merits, identify the area and entitle groups, and delineate boundaries by reference to the Register or prescribed surveys. The clause does not set detailed mapping standards, publication requirements, objection procedures or a process for resolving competing claims before a recommendation is made.	Prescribe independent mapping and survey standards, publish proposed maps, coordinates and supporting evidence, notify all affected groups and interest holders, allow adequate objections and hearings, and require all ownership and boundary disputes to be finally resolved before TFC recommends vesting.

Clause / topic	**Why this matters**	**Requested amendment / safeguard**
Clause 6(2)(e)–(f) and 6(3): Impact and compensation assessment	TFC must assess potential economic and environmental impacts and determine the applicable compensation scheme, but the Bill does not require an independent economic or fiscal assessment. Clause 6(3) also states that TFC's environmental assessment does not itself require an environmental impact assessment unless existing environmental law already does so.	Require independent economic, fiscal, legal, environmental and operational advice. A project-specific assessment should be mandatory where significant existing or proposed activity, public infrastructure or State revenue may be affected. Confirm that the Bill does not dilute requirements under the Environment Management Act 2005.
Clause 7: Notification of interest holders	Direct notice is required only where TFC is aware of an interest holder, together with newspaper publication. This may miss financiers, mortgagees, sublessees, concessionaires, marina users, tenants, license holders, utility providers and other derivative interests not readily apparent from a register.	Require reasonable enquiries and direct notice to all registered and reasonably identifiable affected parties. Publish notice online and in the Gazette, provide accessible maps and evidence, prescribe a meaningful objection period, and give affected parties a clear right to participate.
Clause 8: Existing interests and renegotiation	Existing interests continue initially, but TFC may renegotiate their terms after vesting. This creates tenure, valuation, financing and contractual risk for parties that invested based on State-issued leases, licenses, approvals, subleases and access arrangements.	Preserve all existing lawful interests for their full term, including contractually granted renewals. Alteration should occur only with the holder's prior written consent or an independent legal determination under clear statutory and constitutional criteria, with lender notice, compensation, written reasons and appeal rights.
Clause 9: Compensation scheme	The permitted methodology is broad and includes customary value, benefits accruing to developers or investors, intergenerational equity and recurring obligations. There is no clear national valuation formula, cap, credit for prior payments or distinction between compensation, rent, exclusivity payments, conservation contributions and service charges. Clause 9(3)(b) also seeks, where practicable, to pass payments to consumers or users, with implications for visitor prices and competitiveness.	Prescribe a nationally consistent and transparent methodology, relevant factors, valuation procedures, reasonableness limits and independent review. Credit existing rents, premiums, license fees, access payments, community benefits and conservation contributions; prohibit overlapping or double compensation; and ensure costs remain commercially sustainable.
Clause 10: TFC recommendation	TFC's recommendation records agreed terms or the absence of agreement and requests a vesting order. The clause does not require a reasoned finding on unresolved customary claims, existing legal interests, public access, navigation, infrastructure, fiscal effects, prior payments or wider national interests.	Require a comprehensive written recommendation addressing prescribed legal, technical, economic, environmental, customary and public-interest criteria. TFC should not recommend vesting until ownership and boundary disputes are resolved, affected parties have been heard and all required assessments are complete.

Clause / topic	Why this matters	Requested amendment / safeguard
Clause 11: Vesting order	The Vesting Authority must make a vesting order on receipt of TFC's recommendation. The area then vests "wholly and absolutely" notwithstanding the State Lands Act 1945 or any other written law. The clause provides no express discretion to refuse or defer vesting on public-interest grounds and does not require published reasons beyond Gazette notice.	Give the Authority power to refuse, defer or condition vesting under clear statutory criteria. Require verified boundaries, independent advice, conflict safeguards, notice, submissions, published reasons and a detailed map. Remove or narrow the overriding language and expressly preserve existing lawful interests, public rights, State powers, infrastructure, environmental approvals and international maritime obligations.
Clause 12: Exemptions	Exemptions from renegotiation are discretionary and may be time limited. Even a fair existing lease, license or compensation arrangement may later become subject to renegotiation, creating continuing uncertainty about financing, valuation, renewals and long-term planning.	Provide clear statutory entitlement to protection where the criteria are met, require written reasons, preserve appropriate exemptions for the full term of existing lawful interests, provide renewal certainty and lender notice, and allow appeal of a refusal, limitation, non-extension or expiry.
Clause 13: Effect of vesting order, access and public rights	The clause guarantees iTaukei-owner access and customary rights regardless of existing or future leases or licenses, while protecting freedom of movement, public enjoyment and innocent passage only at a high level. It does not clearly address conflicts with exclusive occupation, controlled access, privacy, safety and environmental conditions, or operational activities such as anchoring, mooring, tendering, loading, emergency movement and established transit routes.	Preserve navigation, archipelagic sea-lanes and innocent passage, anchoring, mooring, landing, emergency access, public and subsistence use, established operating routes and port access. Clarify that customary-owner access operates consistently with existing lawful exclusive or controlled-access rights and reasonable safety, privacy, security and environmental requirements unless lawfully varied with compensation and review rights.
Clause 14: Process where parties do not agree	If arbitration is not agreed, the Ministerial Vesting Authority may itself determine existing terms, rights and compensation. The determination is binding and may materially affect tenure, pricing, operating conditions, finance arrangements and investor confidence.	Require independent expert determination or Tribunal consideration before terms are imposed. Prescribe objective criteria, access to evidence, written reasons, procedural fairness, lender notice, interim protection of existing rights and a full appeal on law, fact and valuation.
Governance, appeals and procedural fairness		
Clause 15: Marine Area Appeals Tribunal	The Tribunal is appointed by the Chief Justice in consultation with the Attorney-General, but the Bill does not require specific legal, customary, environmental, valuation or commercial expertise, or detailed conflict-of-interest and independence safeguards.	Require a demonstrably independent and multidisciplinary Tribunal. Prescribe qualification requirements, transparent appointment and tenure arrangements, conflict declarations and recusal, and representation of the expertise needed to determine complex property, customary, environmental and valuation issues.
Clause 16: Tribunal role, powers and finality	The Tribunal may confirm, review or vary a Vesting Authority decision under clause 14, but its decision is final and cannot be challenged in court. The appeal pathway is narrow and may exclude court supervision of constitutional issues, errors of law, jurisdictional error and breaches of natural justice.	Broaden appeal rights where vesting, exemptions, compensation, lease decisions or existing rights are affected. Require rules on evidence, expert material, disclosure, written reasons, costs and timeframes, and preserve judicial review and access to the courts for constitutional and legal errors.

Clause / topic	Why this matters	Requested amendment / safeguard
TLTB administration, leases, revenue and enforcement		
Clause 17: Control and administration by TLTB	TLTB receives control and administration of vested marine areas, but the Bill does not prescribe service standards, decision timeframes, published requirements, fee schedules, inter-agency coordination or an urgent process for access, safety or visitor-impacting disputes.	Require published standards, timelines, application requirements and fees, written reasons and appeal rights. Establish coordination protocols with Lands, Environment, Maritime Safety, ports, tourism and other regulators, a documented transfer of Lands Department records and expertise, and an urgent operational contact mechanism.
Clause 18: Alienation and encumbrance	A vested marine area may be alienated only to the State and may not be charged or encumbered without TLTB consent; an instrument made without consent is null and void. Uncertainty about the clause's effect may affect lender security, refinancing, project finance, registered leases, subleases and infrastructure investment.	Clarify that existing securities, leases, subleases, licenses, operating rights and finance documents remain valid unless lawfully varied. Require lender notice, objective consent criteria, decision timeframes, written reasons and appeal rights, and establish clear protocols for future project financing.
Clauses 19–20: Transfer to the State and disposal of vested areas	A transfer back to the State requires a prescribed certificate, diagram or description and Register entry, while disposal and licensing must occur under the Act, subject to the State Acquisition of Lands Act 1940. The interaction with future public infrastructure, emergency works and national-development requirements is not fully explained.	Preserve the State's acquisition and public-interest powers and establish clear, transparent procedures for mapping, valuation, registration and compensation. Confirm that essential public infrastructure, utilities, navigation works, coastal protection and emergency facilities can be operated, maintained and developed without fragmented approval or additional compensation arising solely from vesting.
Clause 21: Leases and licenses	TLTB may grant leases and licenses on prescribed terms, including renewals, and a vesting order is deemed to be a condition of every lease or license whether issued before or after commencement. This may alter existing interests by operation of law and leaves key commercial terms to regulations.	Provide that a vesting order does not automatically vary an existing lawful lease or license. Prescribe transparent criteria, standard documentation, decision timeframes, renewal principles and appeal rights, while preserving existing terms unless the holder consents or an independent lawful process determines otherwise.
Clause 22: Criteria for leases and licenses	TLTB must be satisfied that the area is not beneficially used by iTaukei owners and is not likely to be required by them during the proposed term, but the Bill does not define the evidence, criteria or process for that assessment. This may affect renewals, new investment and long-term tourism operations.	Define the assessment criteria and evidentiary standard, require consultation and written reasons, provide appeal rights, and protect existing operations, renewals and approved development plans unless a clear and evidenced customary or public need cannot reasonably be accommodated otherwise.
Clauses 23–24: Forms, registration and fees	Lease and license forms, conditions and fees are largely left to regulations. Separate registers are created, but the Bill does not require them to contain all consents, exemptions and material conditions or to be publicly searchable. Multiple prescribed and registration fees may also increase transaction costs.	Publish standard forms, conditions, fees and processing requirements before commencement. Require reasonable and non-duplicative fees, transparent decision timelines and accessible registers recording leases, licenses, consents, exemptions, material conditions and current status.

Clause / topic	Why this matters	Requested amendment / safeguard
Clause 25: TLTB consent for dealings with leases	Sale, transfer, sublease or any other dealing requires TLTB's prior consent, which may be granted or withheld in its absolute discretion; a dealing without consent is null and void. This creates risk for ordinary restructures, subleasing, financing, enforcement of security and commercial transactions.	Require prior written consent under objective published criteria, prescribed timeframes, written reasons and appeal rights. Preserve existing derivative interests and finance arrangements, require notice to affected lenders and consider deemed consent where TLTB does not decide within the statutory period.
Clause 26: License arrears and default	TLTB may determine a license after one month of arrears or two months of another continuing default. These periods may be too short where the amount, boundary, compensation obligation or license condition is genuinely disputed.	Require written notice, reasonable cure periods, proportional enforcement, lender and operator notice, and a dispute carve-out preventing termination while a bona fide dispute is being resolved. Essential access and visitor safety should be protected during any enforcement process.
Clause 27: Distribution of rents and purchase money	TLTB may deduct up to 25% of rents and premiums for collection and administration, with further statutory deductions possible before distribution. The Bill provides limited transparency on the calculation of costs, distribution rules, auditing and the amount ultimately reaching customary beneficiaries.	Require clear distribution rules, beneficiary reporting, annual independent audits and disclosure of all deductions. Replace or supplement the 25% cap with a reasonableness test linked to actual verified administration costs and ensure deductions do not undermine fair community benefit-sharing.
Clause 28: Enforcement powers of TLTB	The enforcement powers and procedures in Part 5 of the iTaukei Land Trust Act 1940 apply with necessary modifications. The Bill does not identify how land-based powers will be adapted to marine navigation, tourism operations, passenger safety, emergency access and public use.	Specify the powers and modifications that apply require written notice and reasons, proportionate remedies and review rights, and ensure enforcement does not interrupt navigation, emergency access, public access or existing lawful operations without due process and appropriate safety arrangements.
Offences, legal precedence, regulations and savings		
Clause 30: False declarations	The clause already requires a knowingly false declaration or certificate that is false in a material particular, but the penalty is left to regulations and there is no express mechanism for correcting a genuine error made in a complex boundary, ownership, license or compensation process.	Retain clear knowledge and materiality requirements, specify the declarations covered, provide a prompt correction mechanism for genuine mistakes and require proportionate penalties that distinguish deliberate misconduct from inadvertent administrative error.
Clause 31: Breach and penalty	Every omission, neglect or act contrary to the Act, regulations, orders or lease, license or permit conditions is deemed an offence, with the penalty prescribed later. This is broad and may criminalise non-serious non-compliance or good-faith disputes over unclear obligations.	Limit offences to clearly defined written duties and serious or culpable breaches. Provide warnings and cure periods for non-serious matters, proportional penalties, and confirmation that a bona fide dispute over boundaries, access or compensation does not itself constitute an offence.

Clause / topic	Why this matters	Requested amendment / safeguard
Clause 32: Act to prevail	The Act prevails over every inconsistent written law. This may displace or create uncertainty around the Constitution, State leases, public access, environmental approvals, fisheries management, port and navigation laws, maritime safety, minerals and TLTB-related legislation.	Replace the blanket override with a clear hierarchy and targeted consequential amendments. Expressly preserve constitutional rights, existing registered interests, public access, environmental approvals, State powers, declared ports, navigation and maritime safety, and identify and justify every intended departure from existing law.
Clause 33: Regulations	Critical matters are left to regulations, including tourism activities, forms, fees, timelines, compensation methodology, arbitration, consent thresholds, tenure, lease and license terms, boundaries, unclaimed money and offences. The Minister must also establish a framework for determining marine areas for economic growth, but its relationship with vesting and compensation is unclear.	Release draft regulations and implementation roadmap for consultation before commencement. Ensure regulations cannot materially expand the regime without further consultation and appropriate parliamentary scrutiny, clarify the economic-growth framework, and prescribe objective standards, transparent fees, service timelines, transitional arrangements and consistent national processes.
Clause 34: Repeal and savings	The Regulation of Surfing Areas Act 2010 is repealed, although sections 6–9 continue subject to the new Act. The limited savings provision may leave uncertainty about existing surfing licenses, access arrangements, approvals, commercial operations and public-use protections during transition.	Insert comprehensive savings and transitional provisions preserving existing lawful surfing-area rights, permits, licenses, access arrangements and operations until clear replacement arrangements are in force. Clarify the continuing effect of sections 6–9 and the authority responsible during transition.
Clause 35 and Schedule: Consequential amendments	The Schedule removes vested commercial marine areas from “State land” and transfers significant Rivers and Streams Act functions from the Director of Lands to TLTB for vested areas. These changes may affect State leases, riverine activities, water rights, public use, fees, port operations, infrastructure and the allocation of regulatory responsibility.	Review and narrow the consequential amendments so they do not unintentionally disturb existing State interests, approvals, water rights, public access, navigation, riverine commerce or infrastructure. Require specific savings clauses, clear institutional responsibilities, continuity of pending matters and consultation on the legal and operational effects.

31 July 2026

Hilton Fiji Beach Resort and Spa – Denarau Island - Nadi
DoubleTree Resort by Hilton Fiji, Sonaisali Island - Nadi
Western Division
Hilton Garden Inn, Suva

The Chairperson
Parliamentary Standing Committee
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Parliament of Fiji
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Submission: Commercial Use of Marine Areas (CUMA) Bill 2025

Dear **Hon. Ratu Rakuita Vakalalabure**

Hilton Fiji Beach Resort and Spa, DoubleTree Resort by Hilton Fiji, Sonaisali Island and Hilton Garden Inn, Suva submits this response on behalf of its operations following consultations on the Commercial Use of Marine Areas Bill 2025 (CUMA).
Tourism is deeply connected to Fiji's marine environment, with operators and customary owners working together for decades through access arrangements, conservation partnerships and shared economic activity.

Hilton Fiji Beach Resort and Spa, DoubleTree Resort by Hilton Fiji, Sonaisali Island and Hilton Garden Inn, Suva acknowledges the legitimate customary connections of iTaukei communities to their qoliqoli areas and supports reforms that deliver fair and equitable benefit-sharing. However, proprietary ownership transfer of marine areas introduces significant legal, economic and operational uncertainty, with direct implications for investment confidence, financing and long-term viability. Marine areas are also national assets connected to navigation, ports, fisheries, environmental regulation, disaster response, infrastructure, public revenue and national development.

This submission adopts a summarised version of the concerns and recommendations comprehensively outlined in the Fiji Hotel and Tourism Association's submission. It proposes practical alternatives that recognise customary interests and deliver fair economic benefits while safeguarding existing rights, public access, investor confidence, national infrastructure and coherent management of Fiji's marine resources.

For these reasons, Hilton Fiji Beach Resort and Spa, DoubleTree Resort by Hilton Fiji, Sonaisali Island and Hilton Garden Inn, Suva considers that the Bill should not

proceed in its present form. It requires substantial amendment, wider consultation, independent economic and fiscal assessment, verified mapping, clear implementation arrangements, transitional protections and enforceable legal and procedural safeguards.

<u>Recommendations</u>

We recommend that the Government and the Sub-Committee note and act on the following recommendations:

1. Reset the consultation process

Undertake transparent, timely and structured consultation with tourism and marine operators, customary owners throughout Fiji, the wider iTaukei community, financial institutions, affected communities, public agencies and other stakeholders before the Bill proceeds.

2. Reconsider the proprietary ownership-transfer model

Determine whether the Bill's objectives can be achieved through statutory recognition, benefit-sharing, consultation and co-management while preserving State ownership and coherent national regulation of marine areas. The framework must recognise that marine access supports the wider national economy and should not concentrate compensation and administrative burdens principally on tourism and marine operators.

3. Clarify the Bill's scope and legal effect

Clearly define the rights transferred by a vesting order, the rights and responsibilities retained by the State, the public rights that continue, and the persons, organisations, activities and supporting services captured by the Bill. The legislation must also explain how vested ownership interacts with navigation, existing leases and licences, infrastructure, minerals, environmental regulation and future development approvals.

4. Formulate the Regulations for consultation

Regulations need to be formulated and considered in conjunction with the Bill in order for operators to understand the “real” impact to their business operation, owners lease arrangement along with consideration for a comprehensive schedule of “fees” to allow structure, fairness and remove ambiguity from any negotiations.

5. Complete independent economic and fiscal assessments

Assess the likely effects of the Bill on investment, financing, property values, operating costs, employment, consumer prices, State revenue, public infrastructure and Fiji's competitiveness before enactment. Require a project-specific assessment before vesting any area where significant existing or proposed activity may be affected. Establish a coordinated process that avoids repeated negotiations and administrative duplication, prevents multiple or overlapping charges for the same journey, activity or commercial use, and accounts for existing State investment, infrastructure and incentives when benefits and compensation are determined.

6. Establish a clear and nationally consistent compensation framework

Define 'fair and equitable' compensation through a nationally prescribed and transparent methodology. Clarify the role of the iTaukei Fisheries Commission, distinguish compensation from rent, exclusivity payments, service charges, conservation contributions and other community benefits, require disclosure of existing payments, provide written reasons and independent review, and ensure that compensation remains proportionate and commercially sustainable.

7. Prohibit double compensation and recognise existing arrangements

Credit prior rents, premiums, access payments, licence fees, conservation contributions, goodwill payments and community benefits against any new liability. Existing compensation and community arrangements should not be reopened unless all affected parties agree in writing or an independent court or tribunal determines, under clear statutory and constitutional criteria, that alteration is necessary, lawful and fair.

8. Automatically preserve existing legal interests

Protect existing leases, licences, concessions, approvals, easements, mortgages, compensation agreements, subleases, concession rights and State-approved projects. These interests must continue according to their existing terms and must not be compulsorily renegotiated or altered solely because a marine area is vested. Alteration should occur only with the affected holder's prior written consent or an independent legal determination. Financiers, mortgagees, sublessees and other affected parties must receive prior notice and an opportunity to participate. Just and equitable compensation must be available where an existing right is compulsorily diminished, and access to the courts must remain available.

9. Strengthen governance, procedural fairness and judicial oversight

Require clear statutory criteria, independent legal, technical, environmental, valuation and economic advice, conflict-of-interest safeguards, public notice, access to maps and evidence, meaningful objection rights and written reasons for all decisions. Decisions should be published. The Tribunal must be independent, appropriately qualified, have effective powers and operate within prescribed timeframes. The Bill must be reconciled with the Constitution and related legislation, judicial review must remain available, and effective remedies must be provided for unlawful or procedurally unfair decisions.

10. Verify customary ownership and boundaries before vesting

Require independent mapping and surveying, publication of maps, coordinates and supporting evidence, notice to all affected customary groups, interest holders, financiers and public authorities, a formal objection and hearing process, written reasons and final resolution of overlapping claims before any vesting order is made. Maintain a publicly accessible register of verified customary owners, boundaries, vested areas and conditions. No operator or other interest holder should be required to negotiate, make payments or alter existing arrangements while customary ownership or boundaries remain disputed.

11. Protect public access, maritime operations and essential State functions

Preserve lawful passage, navigation, transit, anchoring, mooring, recreational and subsistence use, and ordinary access to marine areas. Clearly address declared ports, shipping routes, navigation channels, cruise vessels, tenders, cargo vessels, ferries, marinas and visiting yachts.

Ordinary transit and essential maritime operations should not require separate negotiations or attract overlapping fees across multiple vested areas. Vesting must not disrupt ports, shipping, inter-island transport, emergency access, public infrastructure, utilities, disaster response, environmental regulation, customs, border security, marine safety or national security. The Bill must operate consistently with Fiji's international maritime obligations and applicable domestic legislation.

12. Preserve State leases, minerals, revenue and infrastructure rights

Preserve existing State leases, licences, mortgages and related financial arrangements, and clarify whether the State, TLTB or another authority will administer those interests and collect future rents. Protect existing government revenue and identify how administrative and infrastructure costs will be funded. State ownership and regulation of minerals, and the operation, maintenance and future development of ports, channels, jetties, utilities, communications infrastructure, coastal works and other essential infrastructure must remain protected. State agencies must be able to perform public-safety, environmental, emergency and national-development functions without additional consent or compensation arising solely from vesting.

13. Protect and encourage conservation partnerships

Exclude genuine non-commercial conservation, restoration, research and environmental-stewardship activities from inappropriate fees and compensation obligations. Recognise and preserve existing marine protected areas, locally managed marine areas, conservation agreements and community partnerships. Provide clear and streamlined approval processes where regulatory consent is required, ensure that environmental or cultural restrictions are proportionate, transparent and consistently applied, and support co-management arrangements that encourage continued investment in marine conservation.

14. Develop a more balanced alternative framework

Develop a statutory benefit-sharing and co-management model that preserves State ownership and regulatory responsibility while formally recognising legitimate customary interests. Establish clear and consistent principles for calculating, collecting and distributing benefits; recognise existing fair community and conservation arrangements; and include transparent governance, reporting, auditing and dispute-resolution arrangements. Assess, where appropriate, a nationally administered funding mechanism that distributes obligations equitably and avoids fragmented negotiations and overlapping payments. Any funding mechanism must only be introduced after wide consultation and an independent economic and fiscal assessment.

15. Promote active iTaukei economic participation

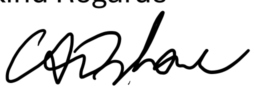
Complement compensation and benefit-sharing with enterprise development, access to finance, technical and management training, joint ventures, equity participation, procurement opportunities and support for iTaukei-owned tourism, conservation, transport and marine-service businesses.

The objective should be long-term economic capability, enterprise ownership and intergenerational wealth, supported by transparent arrangements for receiving, managing, distributing and investing benefits in locally identified community-development priorities.

Taken together, these measures would provide a more balanced framework for recognising customary interests and delivering fair economic benefits without undermining existing rights, public access, investor confidence, national infrastructure or the coordinated management of Fiji's marine resources.

I thank the Parliamentary Standing Committee for giving us the opportunity to contribute to this important Bill.

Kind Regards



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30th July 2026

Edge Resorts Fiji Limited
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Submission: Commercial Use of Marine Areas (CUMA) Bill 2025

Dear **Hon. Ratu Rakuita Vakalalabure**

Edge Resorts Fiji Limited submits this response on behalf of its operations following consultations on the Commercial Use of Marine Areas Bill 2025 (CUMA).

Tourism is deeply connected to Fiji's marine environment, with operators and customary owners working together for decades through access arrangements, conservation partnerships and shared economic activity.

Edge Resorts Fiji Limited acknowledges the legitimate customary connections of iTaukei communities to their qoliqoli areas and supports reforms that deliver fair and equitable benefit-sharing. However, proprietary ownership transfer of marine areas introduces significant legal, economic and operational uncertainty, with direct implications for investment confidence, financing and long-term viability. Marine areas are also national assets connected to navigation, ports, fisheries, environmental regulation, disaster response, infrastructure, public revenue and national development.

This submission adopts a summarised version of the concerns and recommendations comprehensively outlined in the Fiji Hotel and Tourism Association's submission. It proposes practical alternatives that recognise customary interests and deliver fair economic benefits while safeguarding existing rights, public access, investor confidence, national infrastructure and coherent management of Fiji's marine resources.

For these reasons, Edge Resorts Fiji Limited considers that the Bill should not proceed in its present form. It requires substantial amendment, wider consultation, independent economic and fiscal assessment, verified mapping, clear

implementation arrangements, transitional protections and enforceable legal and procedural safeguards.

<u>Recommendations</u>

We recommend that the Government and the Sub-Committee note and act on the following recommendations:

1. Reset the consultation process

Undertake transparent, timely and structured consultation with tourism and marine operators, customary owners throughout Fiji, the wider iTaukei community, financial institutions, affected communities, public agencies and other stakeholders before the Bill proceeds.

2. Reconsider the proprietary ownership-transfer model

Determine whether the Bill's objectives can be achieved through statutory recognition, benefit-sharing, consultation and co-management while preserving State ownership and coherent national regulation of marine areas. The framework must recognise that marine access supports the wider national economy and should not concentrate compensation and administrative burdens principally on tourism and marine operators.

3. Clarify the Bill's scope and legal effect

Clearly define the rights transferred by a vesting order, the rights and responsibilities retained by the State, the public rights that continue, and the persons, organisations, activities and supporting services captured by the Bill. The legislation must also explain how vested ownership interacts with navigation, existing leases and licences, infrastructure, minerals, environmental regulation and future development approvals.

4. Complete independent economic and fiscal assessments

Assess the likely effects of the Bill on investment, financing, property values, operating costs, employment, consumer prices, State revenue, public infrastructure and Fiji's competitiveness before enactment. Require a project-specific assessment before vesting any area where significant existing or proposed activity may be affected. Establish a coordinated process that avoids repeated negotiations and administrative duplication, prevents multiple or overlapping charges for the same journey, activity or commercial use, and accounts for existing State investment, infrastructure and incentives when benefits and compensation are determined.

5. Establish a clear and nationally consistent compensation framework

Define 'fair and equitable' compensation through a nationally prescribed and transparent methodology. Clarify the role of the iTaukei Fisheries Commission, distinguish compensation from rent, exclusivity payments, service charges, conservation contributions and other community benefits, require disclosure of existing payments, provide written reasons and independent review, and ensure that compensation remains proportionate and commercially sustainable.

6. Prohibit double compensation and recognise existing arrangements

Credit prior rents, premiums, access payments, licence fees, conservation contributions, goodwill payments and community benefits against any new liability. Existing compensation and community arrangements should not be reopened unless all affected parties agree in writing or an independent court or tribunal determines, under clear statutory and constitutional criteria, that alteration is necessary, lawful and fair.

7. Automatically preserve existing legal interests

Protect existing leases, licences, concessions, approvals, easements, mortgages, compensation agreements, subleases, concession rights and State-approved projects. These interests must continue according to their existing terms and must not be compulsorily renegotiated or altered solely because a marine area is vested. Alteration should occur only with the affected holder's prior written consent or an independent legal determination. Financiers, mortgagees, sublessees and other affected parties must receive prior notice and an opportunity to participate. Just and equitable compensation must be available where an existing right is compulsorily diminished, and access to the courts must remain available.

8. Strengthen governance, procedural fairness and judicial oversight

Require clear statutory criteria, independent legal, technical, environmental, valuation and economic advice, conflict-of-interest safeguards, public notice, access to maps and evidence, meaningful objection rights and written reasons for all decisions. Decisions should be published. The Tribunal must be independent, appropriately qualified, have effective powers and operate within prescribed timeframes. The Bill must be reconciled with the Constitution and related legislation, judicial review must remain available, and effective remedies must be provided for unlawful or procedurally unfair decisions.

9. Verify customary ownership and boundaries before vesting

Require independent mapping and surveying, publication of maps, coordinates and supporting evidence, notice to all affected customary groups, interest holders, financiers and public authorities, a formal objection and hearing process, written reasons and final resolution of overlapping claims before any vesting order is made. Maintain a publicly accessible register of verified customary owners, boundaries, vested areas and conditions. No operator or other interest holder should be required to negotiate, make payments or alter existing arrangements while customary ownership or boundaries remain disputed.

10. Protect public access, maritime operations and essential State functions

Preserve lawful passage, navigation, transit, anchoring, mooring, recreational and subsistence use, and ordinary access to marine areas. Clearly address declared ports, shipping routes, navigation channels, cruise vessels, tenders, cargo vessels, ferries, marinas and visiting yachts.

Ordinary transit and essential maritime operations should not require separate negotiations or attract overlapping fees across multiple vested areas. Vesting must not disrupt ports, shipping, inter-island transport, emergency access, public infrastructure, utilities, disaster response, environmental regulation, customs, border security, marine safety or national security. The Bill must operate consistently with Fiji's international maritime obligations and applicable domestic legislation.

11. Preserve State leases, minerals, revenue and infrastructure rights

Preserve existing State leases, licences, mortgages and related financial arrangements, and clarify whether the State, TLTB or another authority will administer those interests and collect future rents. Protect existing government revenue and identify how administrative and infrastructure costs will be funded. State ownership and regulation of minerals, and the operation, maintenance and future development of ports, channels, jetties, utilities, communications infrastructure, coastal works and other essential infrastructure must remain protected. State agencies must be able to perform public-safety, environmental, emergency and national-development functions without additional consent or compensation arising solely from vesting.

12. Protect and encourage conservation partnerships

Exclude genuine non-commercial conservation, restoration, research and environmental-stewardship activities from inappropriate fees and compensation obligations. Recognise and preserve existing marine protected areas, locally managed marine areas, conservation agreements and community partnerships. Provide clear and streamlined approval processes where regulatory consent is required, ensure that environmental or cultural restrictions are proportionate, transparent and consistently applied, and support co-management arrangements that encourage continued investment in marine conservation.

13. Develop a more balanced alternative framework

Develop a statutory benefit-sharing and co-management model that preserves State ownership and regulatory responsibility while formally recognising legitimate customary interests. Establish clear and consistent principles for calculating, collecting and distributing benefits; recognise existing fair community and conservation arrangements; and include transparent governance, reporting, auditing and dispute-resolution arrangements. Assess, where appropriate, a nationally administered funding mechanism that distributes obligations equitably and avoids fragmented negotiations and overlapping payments. Any funding mechanism must only be introduced after wide consultation and an independent economic and fiscal assessment.

14. Promote active iTaukei economic participation

Complement compensation and benefit-sharing with enterprise development, access to finance, technical and management training, joint ventures, equity participation, procurement opportunities and support for iTaukei-owned tourism, conservation, transport and marine-service businesses.

The objective should be long-term economic capability, enterprise ownership and intergenerational wealth, supported by transparent arrangements for receiving, managing, distributing and investing benefits in locally identified community-development priorities.

Taken together, these measures would provide a more balanced framework for recognising customary interests and delivering fair economic benefits without undermining existing rights, public access, investor confidence, national infrastructure or the coordinated management of Fiji's marine resources.

I thank the Parliamentary Standing Committee for giving us the opportunity to contribute to this important Bill.

Yours sincerely,

James McCann
Owner
Yasawa Island Resort & Spa
james@yasawa.com
+679 939 5129

Outlook

Bills Consultation

From Lote Tawakece <lotetawakece@gmail.com>
Date Thu 6/25/2026 3:19 AM
To Alumita Cabealawa <alumita.cabealawa@legislature.gov.fj>

1. Rights of Indigenous People's Bill. a) right to have our own Indigenous Fijian flag like the Aboriginals of Australia and the Maoris of New Zealand. b) right to teach traditional and culture of the Fijian people from primary to secondary schools curriculum.

2. Commercial Use of Marine Areas. a) right to own our Land and Qoliqoli as Land Owning Unit (LOU) 100% ownership replacing the 1965 Colonial land laws of the Mining and Mineral Act owned by the State.

5. Police Bill. a) forming of a Para Military Police Unit to combat drugs and hard core crimes to replace the Combined Military and Police operations. b) recruiting experienced retired CIA and DEA agents to train our police officers locally and help investigating white collars crime and drug cartels.

Thanks.

Lote Rokovau.
(Turaga ni Yavusa Savula, Nasavu, Naitasiri)

Contact 9660787.

Jay Lavé& Co
(Jemesa Lave Delana– Partner/Tax Consultant)
Mission: Accounting, Taxation and Business Consultancy Services for all Fijians. (Registered Tax Agent 899)
Address: Lot 2 Kurusiga, Hunter Street off Rewa Street, Flagstaff, Suva. Phone:3311-715, Mobile:717-6499,
email:jemesalave@gamil.com
GPO Box 16128 Suva

RAVIRAVI TIKINA COUNCIL

BEQA ISLAND

SUBMISSION TO THE PARLIAMENTARY STANDING COMMITTEE ON JUSTICE, LAW AND HUMAN RIGHTS

REVIEW OF THE CUSTOMARY MARINE MANAGEMENT (CUMA) BILL

Date: 15/06/2026

Submitted by:
Raviravi Tikina Council
Beqa Island, Fiji

COVER LETTER

The Chairperson
Parliamentary Standing Committee on Justice, Law and Human Rights
Parliament of the Republic of Fiji
Government Buildings
Suva, Fiji

RE: Submission on the Review of the Customary Marine Management (CUMA) Bill

Dear Chairperson,

On behalf of the Raviravi Tikina Council of Beqa Island, we respectfully submit this representation concerning the review of the Customary Marine Management (CUMA) Bill.

The people of Raviravi Tikina have maintained a customary relationship with our Qoliqoli areas for generations. These marine resources are central to our cultural identity, traditional governance systems, livelihoods, food security, and economic wellbeing.

We believe that any legislation concerning customary marine resources should recognise the rights of traditional custodians and provide an equitable framework that enables Qoliqoli holders to participate meaningfully in decisions affecting their ancestral marine areas.

Accordingly, this submission supports amendments to the CUMA Bill that would recognise proprietary ownership interests of Qoliqoli holders while preserving national oversight for environmental protection, fisheries management, and sustainable economic development.

We thank the Committee for providing the opportunity for public participation and respectfully request that our views be considered during deliberations on the Bill.

Yours faithfully,

Chairperson
Raviravi Tikina Council
Beqa Island

EXECUTIVE SUMMARY

The Raviravi Tikina Council supports amendments to the CUMA Bill that would vest proprietary ownership rights over customary Qoliqoli areas in the recognised Qoliqoli holders.

Our position is founded upon four key principles:

1. **Recognition of Traditional Ownership**
    - Qoliqoli areas are ancestral resources traditionally managed and protected by customary owners.
    - Legal recognition of proprietary rights is consistent with principles of customary stewardship and self-determination.
2. **Economic Empowerment**
    - Recognition of ownership would enable Qoliqoli holders to participate directly in economic activities arising from marine resources.
    - Communities would benefit through fisheries development, tourism partnerships, conservation initiatives, and sustainable resource management.
3. **Environmental Sustainability**

   - Communities with recognised ownership interests have stronger incentives to protect marine ecosystems and fish stocks for future generations.
   - National environmental and fisheries standards should remain in force.
4. **Partnership-Based Development**
   - Customary ownership and national development objectives are not mutually exclusive.
   - A framework can be established that protects investor confidence while ensuring equitable participation by customary owners.

The Raviravi Tikina Council recommends that Parliament amend the CUMA Bill to recognise proprietary rights of Qoliqoli holders while establishing governance, transparency, and sustainability safeguards.

SUBMISSION

1. INTRODUCTION

The Raviravi Tikina Council respectfully submits this position paper to the Parliamentary Standing Committee reviewing the CUMA Bill.

The people of Raviravi Tikina have relied upon the surrounding marine environment for sustenance, cultural practices, traditional obligations, and economic opportunities for countless generations.

Our customary relationship with the Qoliqoli is not merely economic. It forms part of our identity as indigenous custodians and carries obligations to preserve these resources for future generations.

We therefore submit that legal recognition of proprietary ownership rights is both economically beneficial and consistent with customary stewardship principles.

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2. ECONOMIC BENEFITS OF QOLIQOLI OWNERSHIP

2.1 Sustainable Fisheries Management

Secure ownership rights encourage responsible resource management.

When communities possess recognised rights and receive direct benefits from marine resources, they are more likely to:

- protect fish breeding grounds;
- discourage illegal fishing;
- implement conservation measures;

- support sustainable harvesting practices.

Recognition of ownership creates incentives for long-term stewardship rather than short-term exploitation.

2.2 Tourism and Community Development

Beqa Island is internationally recognised for its marine tourism assets.

Tourism activities associated with Qoliqoli areas include:

- diving operations;
- marine ecotourism;
- conservation initiatives;
- cultural tourism experiences.

Communities should be afforded opportunities to negotiate fair access arrangements and participate directly in the economic benefits generated from these activities.

2.3 Economic Inclusion

Ownership recognition would allow communities to:

- establish marine-based enterprises;
- participate in commercial partnerships;
- negotiate access agreements;
- create community development funds;
- invest in education and infrastructure.

The economic value derived from customary marine resources should contribute directly to the wellbeing of customary owners.

---

3. ENVIRONMENTAL PROTECTION

The Raviravi Tikina Council strongly supports environmental sustainability.

We submit that proprietary rights should be accompanied by:

- national fisheries regulations;
- environmental protection standards;
- scientific monitoring programs;
- conservation obligations;
- climate resilience measures.

Ownership should strengthen environmental protection rather than weaken it.

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4. INVESTMENT CERTAINTY

We acknowledge the importance of maintaining Fiji’s reputation as a stable investment destination.

Recognition of Qoliqoli ownership can improve certainty by clearly identifying legitimate stakeholders and establishing transparent engagement processes.

Investors, Government, and communities all benefit when rights and responsibilities are clearly defined.

---

5. GOVERNANCE SAFEGUARDS

The Raviravi Tikina Council recommends that legislation include:

- transparent decision-making processes;
- community consultation requirements;
- financial accountability mechanisms;
- dispute resolution procedures;
- protection against unfair commercial agreements;
- capacity-building support for Qoliqoli holders.

Strong governance is essential to ensuring that benefits are distributed fairly and sustainably.

RECOMMENDATIONS

The Raviravi Tikina Council respectfully recommends that Parliament:

1. Amend the CUMA Bill to recognise proprietary ownership rights of Qoliqoli holders.
2. Establish a statutory framework enabling Qoliqoli holders to derive economic benefits from their marine resources.
3. Maintain national fisheries and environmental regulations to ensure sustainability.
4. Provide legal recognition for negotiated access and partnership agreements.
5. Establish governance and transparency requirements for community decision-making.
6. Create mechanisms for mediation and dispute resolution.

7. Support capacity-building and financial management training for customary owners.

CONCLUSION

The Raviravi Tikina Council believes that recognition of proprietary ownership rights for Qoliqoli holders represents an important opportunity to strengthen customary stewardship, promote sustainable economic development, and enhance community participation in Fiji's marine economy.

We respectfully submit that ownership, stewardship, sustainability, and national development can coexist within a well-designed legislative framework.

The people of Raviravi Tikina remain committed to protecting our marine environment while contributing to the prosperity of Fiji and future generations.

We also enclose summary of our appeal.

Respectfully submitted.

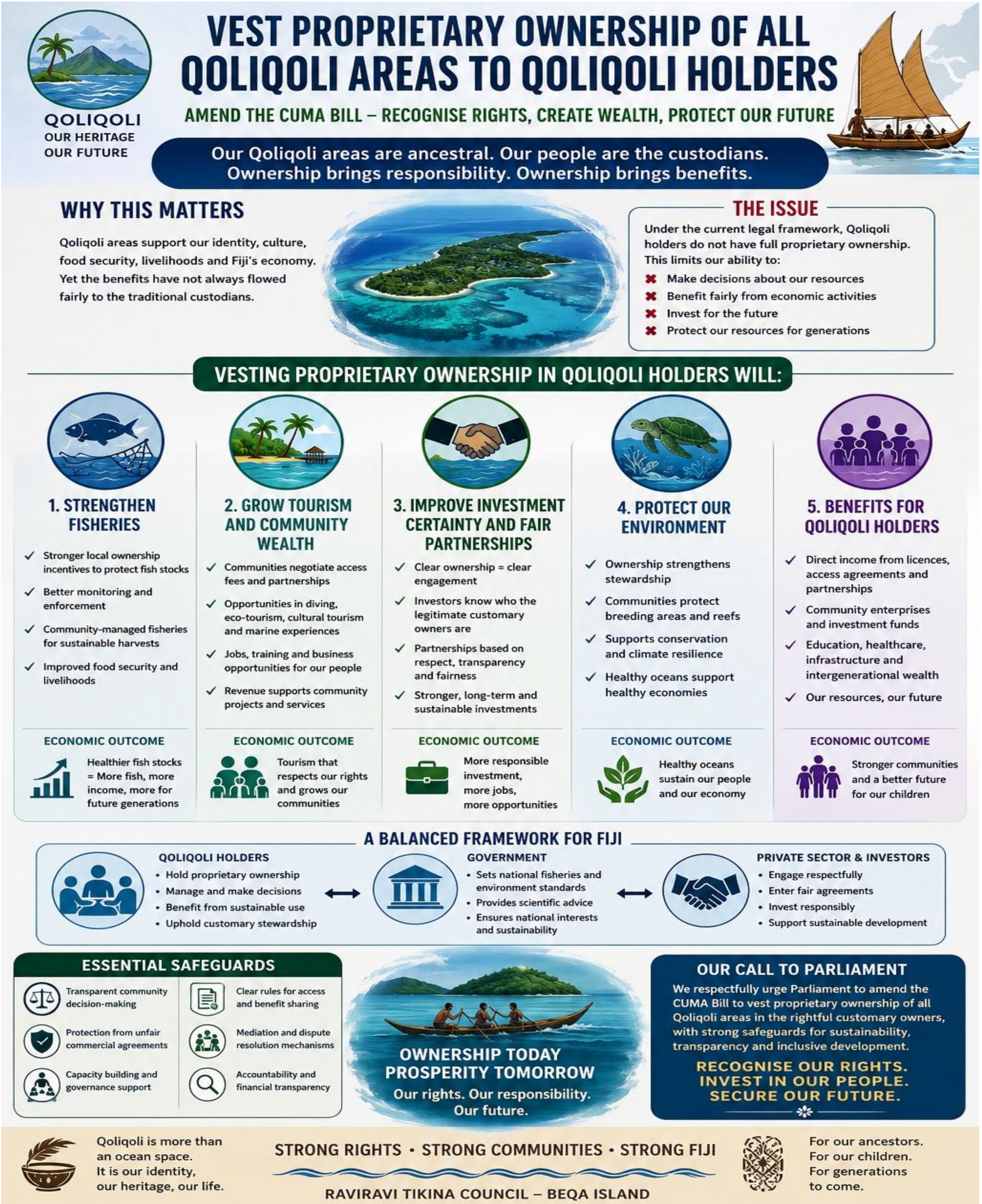
Yours sincerely,

Jemesa L Delana

Business Advisor/Tax Agent-899

For and on behalf of the Raviravi Tikina Council

SUMMARY CHART



Outlook

CUMA Bill 2026 submission

From Tevita Kautoga <tkautoga89@gmail.com>
Date Mon 6/22/2026 8:26 AM
To jackson_cakacaka@yahoo.com <jackson_cakacaka@yahoo.com>; Alumita Cabealawa <alumita.cabealawa@legislature.gov.fj>

SUBMISSION TO THE PARLIAMENTARY STANDING COMMITTEE ON JUSTICE, LAW AND HUMAN RIGHTS

Re: Customary Marine Use Areas (CUMA) Bill 2026

Date: 22/6/26

To the Chairperson and Members of the Parliamentary Standing Committee,
My name is Tevita Kautoga an advocate and business consultant namely Arise Consultantcy on Itaukei resources owners from the village of Togalevu in the Tikina o Bulu in the Province of Ba

I respectfully submit my views on the proposed Customary Marine Use Areas (CUMA) Bill 2026.

I support the objective of protecting customary marine areas and recognising the rights and interests of customary qoliqoli owners. However, I am concerned that Sections 5 and 6 of the current draft Bill do not fully achieve this objective.

1. Concern Regarding Sections 5 and 6

As currently drafted, Sections 5 and 6 provide that for commercial marine areas, customary owners may apply for the transfer of ownership from the State.

In my view, this approach does not adequately recognise the customary proprietary rights of qoliqoli owners because ownership remains vested in the State unless and until an application is made and approved.

I respectfully submit that ownership of qoliqoli areas should be recognised directly in legislation rather than requiring customary owners to apply for transfer of ownership.

2. Proposed Amendment

I respectfully request that Sections 5 and 6 be amended to adopt wording similar to Section 4(2) of the 2006 Qoliqoli Bill:

"Without further assurance, all proprietary rights to and interest in qoliqoli areas within Fiji's fisheries waters are transferred to and vest in the qoliqoli owners."

I believe this wording provides greater certainty and better reflects the intent of recognising customary ownership.

3. Historical Basis

My understanding is that there is historical support for recognising proprietary ownership of qoliqoli areas by customary owners, including:

- Statements and understandings recorded in discussions between Fijian chiefs and the Crown regarding protection of qoliqoli rights.
- The recommendations of the 1975 Cabinet Sub-Committee chaired by the late Mr Qoroniasi Bale under the leadership of the late Ratu Sir Kamisese Mara.
- The principles contained in the Indigenous and Tribal Peoples Convention (ILO Convention 169) and the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), which support recognition and protection of indigenous customary rights and resources.
- The provisions of the 2006 Qoliqoli Bill which sought to vest proprietary ownership directly in qoliqoli owners.

4. Economic Benefits

Recognition of ownership would provide greater certainty regarding the management and use of marine resources and would allow customary owners to participate more directly in benefits arising from the use of their qoliqoli areas, subject to appropriate national laws and environmental protections.

5. Conclusion

I respectfully request the Committee to reconsider Sections 5 and 6 of the CUMA Bill and recommend amendments that clearly vest proprietary ownership of qoliqoli areas in customary qoliqoli owners.

I thank the Committee for the opportunity to provide this submission and for considering the views of Itaukei on this important matter.

Yours faithfully,

Tevita Koroitamana Kautoga

Togalevu village / Tikina o Bulu / Province of Ba.

Contact 8316381/9392260

Outlook

(No subject)

From Seva Waisega <seva_waisega@yahoo.com>
Date Tue 6/16/2026 8:40 PM
To jackson_cakacaka@yahoo.com <jackson_cakacaka@yahoo.com>; Alumita Cabealawa <alumita.cabealawa@legislature.gov.fj>

FORMAL WRITTEN SUBMISSION

On the Commercial Use of Marine Areas Bill 2025 (Bill No. 42 of 2025)

Submitted by:

Name: Seva Koliniwai

Position: Koro N**akawaga, Mali, Macuata**
Date: [16 July 2026]

COVER LETTER

To:
The Chairperson
Standing Committee on Natural Resources
Parliament of the Republic of Fiji

Dear Sir/Madam,

I respectfully submit this written submission on the **Commercial Use of Marine Areas Bill 2025 (Bill No. 42 of 2025)**.

This Bill represents a significant and historic reform in Fiji's legal framework concerning marine resources. While I acknowledge and support the intention to restore proprietary rights of marine areas to customary iTaukei owners, I wish to highlight key areas requiring further strengthening—particularly regarding **customary fishing rights (iqoliqoli)** and **ownership and control of marine mineral resources**.

My submission outlines concerns and recommendations to ensure the Bill fully safeguards the rights, livelihoods, and long-term interests of customary landowners.

Yours faithfully,
Seva Koliniwai

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1. INTRODUCTION

The Commercial Use of Marine Areas Bill 2025 proposes a transformative shift by transferring **proprietary ownership of marine areas used for commercial purposes to customary iTaukei owners**.
[parliament.gov.fj]

Currently, marine and foreshore areas are vested in the State, and this Bill seeks to reverse that position by recognising customary ownership and strengthening indigenous participation in marine governance. [sas.com.fj]

This submission supports the intent of the Bill but urges improvements to ensure that customary rights are **fully protected, clearly defined, and enforceable**.

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2. RECOGNITION OF CUSTOMARY OWNERSHIP (QOLIQOLI)

The Bill aims to restore ownership of commercial marine areas to customary owners, aligning with traditional systems and indigenous governance. [fbcnews.com.fj]

Position

This objective is strongly supported, as:

- Qoliqoli are central to the cultural identity and survival of iTaukei communities
- Previous legislation vested ownership in the State without adequate recognition of customary rights [pacificbus...review.com]

Recommendation

The Bill should:

- Provide **explicit constitutional-level protection** of marine ownership rights
- Clearly define **customary marine boundaries** to prevent future disputes
- Ensure ownership is **permanent and not subject to arbitrary revocation**

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3. PROTECTION OF CUSTOMARY FISHING RIGHTS (IQOLIQOLI)

Key Issue

Despite customary rights being recognised, many communities still face **restrictions on accessing their traditional fishing grounds**, including licensing requirements and enforcement barriers. [fijitimes.com.fj]

This undermines:

- Food security
- Cultural practices
- Economic sustainability

Position

The Bill must go beyond commercial ownership and guarantee **full and unrestricted customary fishing rights**.

Recommendations

The Bill should explicitly:

- Guarantee the **right of customary owners to fish freely** within their iqoliqoli
- Remove requirements for **permits or licences for traditional fishing**
- Recognise fishing rights as:
    - A **customary right**
    - A **livelihood right**
    - A **cultural right**

Justification

Fishing is often the primary source of livelihood for coastal communities, and restrictions have negatively impacted traditional lifestyles. [fijiglobalnews.com]

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4. OWNERSHIP AND CONTROL OF MINERAL RESOURCES

Current Legal Context

There is ongoing uncertainty in Fiji regarding ownership of **minerals and marine resources**, with the State historically exercising control over such resources. [tltb.com.fj]

Concern

The Bill does not clearly state:

- Whether customary owners will have rights over **seabed minerals**
- How benefits from extraction (e.g. sand, minerals, carbon projects) will be shared

Position

Ownership of marine areas must include **meaningful economic rights over all resources within those areas**.

Recommendations

The Bill should:

1. Recognise customary ownership or provide **mandatory benefit-sharing** for mineral resources
2. Require **Free, Prior and Informed Consent (FPIC)** before any extraction
3. Establish a **royalty framework** benefiting landowning units (mataqali/yavusa)
4. Prevent unilateral State decisions regarding resource exploitation

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5. COMPENSATION AND EXISTING INTEREST HOLDERS

The Bill includes a framework for compensation for existing users and rights holders. [parliament.gov.fj]

Concerns

- Potential disputes between landowners and commercial operators
- Lack of clarity in valuation and dispute resolution

Recommendations

- Establish an **independent and transparent tribunal system**
- Ensure landowners' rights are **prioritised over commercial interests**
- Include customary representation in all decision-making bodies

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6. BALANCING ECONOMIC DEVELOPMENT

The Bill may affect tourism, investment certainty, and existing contracts. [sas.com.fj]

Position

While protecting indigenous rights is paramount, there must be a balance to maintain economic stability.

Recommendations

- Encourage **joint ventures between landowners and investors**
- Provide **clear transitional provisions** for existing commercial agreements
- Conduct economic impact assessments before implementation

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7. CONCLUSION

The Commercial Use of Marine Areas Bill 2025 is a **welcome and progressive reform** that acknowledges historical injustices and restores ownership to customary marine resource owners.

However, to achieve its full objectives, the Bill must:

- Strengthen protection of **customary fishing rights**
- Clarify **ownership and benefits of mineral resources**
- Ensure **fair and equitable economic participation**
- Safeguard the long-term interests of future generations

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8. SUMMARY OF KEY RECOMMENDATIONS

- ✅ Guarantee permanent customary ownership of marine areas
- ✅ Protect unrestricted access to iqoliqoli fishing grounds
- ✅ Recognise rights to marine and mineral resources
- ✅ Establish fair royalty and benefit-sharing systems
- ✅ Require Free, Prior and Informed Consent (FPIC)
- ✅ Balance indigenous rights with economic sustainability

Seva Waisega
Dierenselaan 102
2573KK, Den Haag
Netherlands
0031638326094 / 0031702111147

Outlook

Public Submission on Bills Before the Standing Committee on Justice, Law and Human Rights

From Semesa Tuicolo <semesa86@gmail.com>
Date Tue 6/16/2026 2:02 AM
To Alumita Cabealawa <alumita.cabealawa@legislature.gov.fj>

Dear Chairperson and Members of the Standing Committee on Justice, Law and Human Rights,

Please accept this email as my written submission regarding the following Bills currently under consideration by the Committee:

1. Rights of Indigenous Peoples Bill (Bill No. 37 of 2025)
2. Commercial Use of Marine Areas Bill (Bill No. 42 of 2025)
3. Pacifika Communities University Bill (Bill No. 9 of 2026)
4. Statistics Bill (Bill No. 11 of 2026)
5. Fiji Police Bill (Bill No. 12 of 2026)

Firstly, I would like to commend Parliament for inviting public participation in the legislative process. Meaningful consultation strengthens democracy and ensures that laws reflect the needs and aspirations of the people of Fiji.

With respect to the Rights of Indigenous Peoples Bill, I support efforts to protect Indigenous culture, language, traditional knowledge and customs. However, the Bill should clearly define the rights it seeks to protect and ensure that these rights operate alongside the constitutional rights of all Fijians. It should also provide mechanisms for consultation and dispute resolution where competing interests arise.

Regarding the Commercial Use of Marine Areas Bill, Fiji's marine resources are central to the livelihoods of many communities. The Bill should require free, prior and informed consultation with affected communities, ensure fair benefit-sharing arrangements, protect customary fishing rights, and include strong environmental safeguards and penalties for non-compliance.

In relation to the Pacifika Communities University Bill, I believe any new university institution should meet the highest standards of academic quality and governance. Independent accreditation, transparent appointments, equal access to education, and accountability in the use of public funds should be key components of the legislation.

For the Statistics Bill, public confidence in official data is essential. The legislation should guarantee the independence of the national statistics authority, protect the confidentiality of personal information, prevent political interference, and promote transparency and accessibility of statistical information.

With regard to the Fiji Police Bill, I believe this is one of the most important Bills before the Committee. Public confidence in policing depends on professionalism, accountability and respect for human rights. The Bill should establish independent oversight of complaints against police officers, strengthen disciplinary procedures, require mandatory investigation of serious misconduct allegations, clearly define police powers and limitations, strengthen conflict-of-interest provisions in investigations involving police personnel, and promote community policing initiatives. At the same time, police officers acting lawfully and professionally should also be protected from malicious or unfounded complaints.

Finally, I encourage Parliament to consider expanding future consultations beyond Suva so that citizens in the Western, Northern and Maritime Divisions, as well as Fijians living overseas, have greater opportunities to contribute to the legislative process.

The laws enacted today will shape Fiji's future for generations to come. I respectfully urge the Committee to ensure that these Bills uphold the principles of accountability, transparency, fairness, inclusiveness and respect for the rights and dignity of all people.

Thank you for considering my submission. I appreciate the opportunity to participate in this important process.

Yours faithfully,

Semesa Tuicolo

Semesa Tuicolo

Outlook

Formal Submission: Total Resource Ownership and Power (Bill No. 37 and Bill No. 42)

From Aceni Tanumi Jnr <acenitanumi27@gmail.com>
Date Mon 6/15/2026 10:43 PM
To Alumita Cabealawa <alumita.cabealawa@legislature.gov.fj>; jackson_cakacaka@yahoo.com <jackson_cakacaka@yahoo.com>

Dear Committee Secretariat,
My name is Aceni Tanumi Jnr, and I am submitting my formal position regarding the Bills currently before the Standing Committee on Justice, Law and Human Rights.
My unshakeable position as a resource owner and indigenous citizen is a demand for total power and ownership over our entire resource column—encompassing the sky, the land, the sea, the water beds, and the seabed floor.
Please record my specific views on the two relevant bills below:
1. Commercial Use of Marine Areas Bill (Bill No. 42 of 2025)
My Position: I strongly support this Bill because it strips commercial control of nearshore marine spaces away from the State and reverts full proprietary ownership back to the customary iTaukei resource owners.
My Condition: The final law must firmly lock in the rights of family trusts and clans to directly lease, manage, and collect 100% of the rental income from commercial tourism, floating structures, and seabed carbon-credit projects, completely bypassing the government as a middleman.
2. Rights of Indigenous Peoples Bill (Bill No. 37 of 2025)
My Position: I support the alignment of national law with the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP).
My Condition: The law must strictly enforce the rule of "Free, Prior, and Informed Consent." This means the State cannot authorize any development, extract minerals under any water bed, or exploit our airwaves and sky wealth (including atmospheric carbon credits) without explicit authorization and a legally guaranteed, equitable financial share flowing directly back to the traditional owners.
This week's consultation at BCR 2 is our opportunity to correct 152 years of state control over our inheritance. I request that my position on these two Bills be formally written into the committee’s final report to Parliament.

Yaca: Aceni Tanumi Jnr
Yavusa: Nakoroisoso
Mataqali: Naivakacuru
Tokatoka: Daku
District/Province: Naceva, Kadavu
Contact Mobile: [9460551]

Yours sincerely,

Aceni Tanumi Jnr

Outlook

Fwd: Submission on CUMA Bill

From Ratu Uluimouta <ratuuluimouta@gmail.com>
Date Thu 6/11/2026 8:40 AM
To Alumita Cabealawa <alumita.cabealawa@legislature.gov.fj>

---------- Forwarded message ---------
From: **Ratu Uluimouta** <ratuuluimouta@gmail.com>
Date: Wed, 10 Jun 2026, 5:34 pm
Subject: Submission on CUMA Bill
To: <alumita.cabealawa@legislative.gov.fj>

To begin with if Iam correct the Parliament is enforcing the Deed of Cession 1874 under the Deed of Sovereignty signed by Rt Sukuna and king George for Indigenous iTaukei People to be enslaved in their land.

Unless and until the Deed of Cession Documents is released from Britain only then the Indigenous iTaukei People of Fiji 🇫🇯 will have their rights over their land and qoliqoli. The red flag in the Fiji 🇫🇯 flag is the witness that St George 🇬🇧 still has his power in the Parliament of Fiji 🇫🇯.

Furthermore however, under the the Surfing Decree of 2010 the Director of Lands has the power over the Qoliqoli. Your CUMA Bill will further support the Surfing Decree of 2010 that have a serious limitations and enslaved Indigenous Taukei People more without their proper right.

The Queen previously has promised as per S4(2) to the GCC with the Bale Cabinet Subcommittee of 1995 that the proprietary rights should be given back to its owners. The ILO 169 is has also recommended together with the UNDRIP also the 2006 Qoliqoli Bill. It is stated...ALL PROPRIETARY RIGHTS IN QOLIQOLI AREAS IN FIJI 🇫🇯 ARE TRANSFERED TO QOLIQOLI OWNERS.

In my conclusion I bring to light who really are the rightful ownership of the Land, Qoliqoli and Chiefly Titles ?? Since this is being hidden from the face of the Indigenous people in Fiji 🇫🇯 however, the truth will only surface if the Indigenous iTaukei People of Fiji 🇫🇯 have come out of worshipping foreign gods (ChazuYAHU/Revelation 18:4) the Roman Catholic Doctrines (MatithYAHU/Matthew 7:15) brought to Fiji 🇫🇯 in 1835 by white missionaries and also they should abolished the image of the foreign god (Exodus 23:13) that was man-made created (Roman 1:18-25) at Viwa in 1847.
Vinaka.

Naivuatolu Community Cooperative

SUBMISSION TO THE STANDING COMMITTEE ON THE COMMERCIAL USE OF MARINE AREAS (CUMA) BILL 2025
From: Solomone Radaniva Tuibua, Eldest Member of Mataqali Vuniwi
Landowning Unit: Mataqali Vuniwi, Yavusa Wairuku, Waivunia Village, Nasavusavu, Cakaudrove
Date: 10th June, 2026

Subject: Return of Customary Marine Tenure, Enforcement Rights Against Commercial Users Under CUMA

CUMA bill explanation:

1. My Standing and Our Licensed Marine Protected Area

I am an indigenous Fijian and the eldest member of Mataqali Vuniwi, the customary owner of the qoliqoli where Naivuatolu Community Cooperative Marine Park is located in Maravu, Waivunia, Nasavusavu. While I am not the Turaga ni Yavusa, I make this submission on behalf of the struggles our Mataqali has faced as the owner of our traditional fishing grounds.
In 2019, our Mataqali was issued what we understand to be the only Ministry of Lands licence granted to any landowning unit in Fiji to manage a marine area. This licence was issued purely for conservation purposes. Our Mataqali paid the Government $100.00 per year for a 5 year term. We were placed under strict observation by the Lands Department and prohibited from undertaking any change within our own traditional Marine Protected Area, despite being the customary owners. Due to Fiji Surfing Decree Act, we were not able to gain a single cent from our own licensed marine park.
In 2024, the licence was renewed but the annual fee was increased to $1,000.00, a tenfold increase without consultation. The Ministry of Lands then advised us to apply for a full 99 year lease over the same marine park we had already been protecting for 5 years at our own cost.

2. The Core Problem: No Legal Power to Enforce User-Pays in Our Own Qoliqoli

For years our Mataqali has struggled with commercial diving agencies who bring tourist guests into our marine park to conduct business. These operators use our reefs, our fish stocks, and the biodiversity we have conserved, yet they have been reluctant to pay the fees we set for access.

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Under the current State licensing system, we have no legal ownership and therefore no enforceable right to stop them or to compel payment. When we raise the issue, we are told that the qoliqoli is owned by the State and we are only “licence holders for conservation”. This has left us funding the protection of a resource that others profit from without consent or compensation to the Mataqali.

This is the exact inequity CUMA must resolve.

3. Core Submission: Vest Ownership to Enable Management and Benefit Sharing

I submit that the CUMA Bill must return full proprietary ownership of all indigenous fishing grounds in Fiji to their respective iTaukei landowning units, as was the legal position before the Deed of Cession in 1874.

Ownership means the legal right to:

1. Exclude or grant access to commercial users like diving agencies.
2. Set and enforce user fees for tourist activities in our qoliqoli.
3. Enter commercial agreements for tourism, research, and blue carbon without requiring State approval.
4. Retain 100% of benefits from the sustainable use of our marine resources.

Specific recommendations for CUMA:

1. Automatic Conversion: All existing Ministry of Lands conservation licences held by LOUs must convert to 99 year customary title at no cost. LOUs should not pay to lease what they already conserved.
2. Statutory Enforcement Power: CUMA must give LOUs the same powers as a landowner to issue trespass notices and levy enforceable fees on commercial users in their qoliqoli. The State should assist with enforcement through Fisheries and Police.
3. Transitional Provision: All current commercial operators, including diving agencies using a qoliqoli, must negotiate access agreements with the LOU within 12 months of CUMA commencement or cease operations.
4. No Retrospective Fees to State: Fees paid by our Mataqali from 2019-2024 should be credited against future administrative costs, since we were paying the State to protect our own resource.

4. International Precedent: New Zealand’s Customary Marine Title

New Zealand’s Marine and Coastal Area (Takutai Moana) Act 2011 shows that recognising customary ownership strengthens the economy:

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1. Customary Marine Title gives iwi/hapū the right to say yes or no to commercial activities, and to set conditions including fees.
2. Result: Dive operators, aquaculture farms, and tourism ventures now sign access agreements directly with iwi. This has not stopped tourism. It has created partnerships and revenue streams for customary owners.
3. Enforcement: CMT holders can apply for wāhi tapu restrictions and infringement fines are issued by the Crown to support the iwi's rules.

Fiji should adopt this principle: If a diving agency wants to use Mataqali Vuniwi's reef, they must deal with Mataqali Vuniwi as the owner, not the State.

5. Conclusion
My Mataqali conserved our qoliqoli for 5 years under a state licence that banned us from benefiting from it, while commercial operators used it for free. We were then told to apply for a 99-year lease for the same area and charged 10x more.
CUMA must end this. It should restore ownership so that we can manage our qoliqoli, require diving agencies to pay fair access fees, and use that income to employ our youth as rangers and guides.

I request that the Committee:
1. Vest qoliqoli ownership in the registered Mataqali.
2. Give LOUs legal power to set and enforce commercial access fees.
3. Recognise conservation work by LOUs as evidence of ownership for CUMA purposes.

I am prepared to provide our licence documents and evidence of non-payment by diving agencies to the Committee.

Sincerely,

Solomone Radaniva Tuibua
Senior Advisor & Founder, NCC Ltd

Outlook

Mataqali Nakoroqaqa - SUBMISSION ON THE COMMERCIAL USE OF MARINE AREAS BILL (BILL NO. 42 OF 2025)

From Felix Colatanavanua <felixcolatanavanua@gmail.com>
Date Thu 6/4/2026 12:16 PM
To jackson.cakacaka@parliament.gov.fj <jackson.cakacaka@parliament.gov.fj>; Alumita Cabealawa <alumita.cabealawa@legislature.gov.fj>

SUBMISSION ON THE COMMERCIAL USE OF MARINE AREAS BILL (BILL NO. 42 OF 2025)

TO: The Standing Committee on Justice, Law and Human Rights

FROM: The Mataqali Nakoroqaqa
Traditional Qoliqoli Owners of Beqa Lagoon, Beqa Reef, and Frigates Pass
Under the Paramountcy of the Vunisa Levu na Roko Tui Sawau

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1. Introduction and Standing

This submission is presented by the Mataqali Nakoroqaqa, the Paramount Chiefly Mataqali of the Tukina Sawau, Vunisa Levu na Roko Tui Sawau. We are the sovereign, traditional qoliqoli custodians of the entire Beqa Lagoon, the outer Beqa Reef, and the world-renowned surfing asset known globally as Frigates Pass.

As paramount resource owners of one of the highest-value, most heavily commercialized marine ecosystems in the South Pacific, we hold a profound stake in the Commercial Use of Marine Areas Bill (Bill No. 42 of 2025). While we welcome the principle of reverting proprietary rights from State dominance back to traditional iTaukei custodians, we must guard against structural vulnerabilities that could strip away our ancestral territory through administrative manipulation or bureaucratic overreach.

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2. The Historical Paradox: A Direct Comparison to the Qoliqoli Bill

To properly evaluate Bill No. 42 of 2025, this Committee must examine it alongside the historical Qoliqoli Bill that disappeared into the state archives decades ago.

Feature	Archived Qoliqoli Bill	Commercial Use of Marine Areas Bill
Operational Scope	Sweeping and broad	Narrow and focused on commercial tourism and climate projects
Legal Title	Attempted wide native title	Transfers proprietary ownership of specific commercial marine areas
Financial Pipeline	Vulnerable to disputes	Centralized under TLTB

Feature	Archived Qoliqoli Bill	Commercial Use of Marine Areas Bill
Fatal Threat	Triggered national panic	Carries hidden risks including distorted mapping and statutory conflict

While more refined than the Qoliqoli Bill, this new Bill still creates an unstable, legally fragile framework by failing to resolve legislative overlaps or establish transparent landowner consent mechanisms.

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3. The Great Mapping Deception: Fracturing Traditional Boundaries

Our primary grievance is the mapping registry the State intends to use. Following the Qarase-era push for the Qoliqoli Bill, a new “proposed” map was engineered that sliced up our contiguous, ancestral qoliqoli boundaries.

This modern map:

- Arbitrarily fractured the unified territory of the Paramount Chiefly Mataqali.

- Reassigned vast marine assets to localized villages and alternative groups.

- Was operationally deployed by officials to misrepresent rightful ownership.

The presence of the word “Proposed” did not stop state actors and commercial entities from abusing these maps to undermine our traditional hierarchy. If Bill No. 42 relies on this registry, it will institutionalize the theft of ancestral rights under the guise of “reversion.”

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4. Real-World Exploitation: Frigates Pass and the Royal Davui Sand Bank (Nukutawai)

This threat is not theoretical. It is already happening inside Beqa Lagoon.

- Frigates Pass: Officials have repeatedly used the sliced maps to dilute our exclusive authority over this globally recognized surf asset.

- Royal Davui Sand Bank (Nukutawai): Resort developers have aggressively pushed the discredited maps to claim that the sand bank belongs to other groups, attempting to cut out the Vunisa Levu na Roko Tui Sawau from our sovereign inheritance.

This administrative gaslighting sets a terrifying precedent for all traditional qoliqoli owners across Fiji.

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5. Revenue Inequity and the Diversity of Commercial Exploitation

Beqa Lagoon is a multi-million-dollar economic zone with dense international tourism activity. Commercial exploitation includes:

- Shark diving operations charging premium global rates.

- Scuba diving and deep-sea eco-tourism.

- Jet ski tours, lagoon charters, and water sports.

- Elite surf tourism at Frigates Pass.

- Exclusive resort experiences on natural sand banks and cays.

For decades, operators have generated massive profits while paying negligible or non-existent rates to traditional owners. The Bill must mandate fair-market, globally aligned valuations.

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6. Omission of Mandatory 60% Mataqali Consent Protections

Under the iTaukei Land Trust Act, no native land can be leased without 60% signatures of registered Mataqali members. This is our ultimate democratic safeguard.

Bill No. 42 bypasses this protection by treating marine reversion as an administrative licensing system. This double standard is unacceptable. The TLTB must not issue any commercial marine lease without verified 60% consent from the Mataqali Nakoroqaqa.

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7. Statutory Overlap and Legislative Contradiction

Under the State Lands Act, all foreshores, riverbeds, and internal waters up to the high-water mark are vested in the State and administered by the Ministry of Lands.

Bill No. 42 transfers “absolute proprietary ownership” of these same areas to customary owners without amending the State Lands Act. This creates:

- Two conflicting laws over the same waters

- Administrative paralysis

- High vulnerability to court challenges

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8. Subversion of Property Governance: Overreach of the Ministry of Tourism

The Bill elevates the Minister for Tourism into the Vesting Authority. This is a profound distortion of roles.

Tourism is a promotional ministry with no mandate over land tenure, property rights, or indigenous assets. Property governance must remain with:

- Ministry of Lands

- iTaukei Land Trust Board (TLTB)

Tourism should be strictly consultative, not executive.

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9. Definitive Demands of the Mataqali Nakoroqaqa

We demand the following amendments be hardcoded into the final Bill:

- Use the 1940s Original Registry as the only authoritative mapping baseline.

- Ban all Qarase-era sliced maps, including any marked “proposed” or “draft.”

- Mandate 60% Mataqali consent for all commercial marine leases.

- Amend the State Lands Act to remove overlapping jurisdiction.

- Remove Tourism from executive authority, limiting it to consultation only.

- Require fair-market valuation for all commercial marine activities.

- Recognize the contiguous paramount boundaries of Beqa Lagoon, Beqa Reef, Royal Davui sand bank, and Frigates Pass under the Mataqali Nakoroqaqa.

Vinaka vakalevu

Ratu Felix Colatanavanua
Mataqali Nakoroqaqa
9776518

TAAG

TRANS AFFIRMATIVE ACTION GUILD

SUBMISSION TO THE PARLIAMENTARY STANDING COMMITTEE ON JUSTICE, LAW AND HUMAN RIGHTS

SUBMISSION ON: Commercial Use of Marine Areas Bill 2025 (Bill No. 42 of 2025)

SUBMISSION BY: Trans Affirmative Action Guild (TAAG)

DATE: June 21, 2026

1. INTRODUCTION & EXECUTIVE SUMMARY

The Trans Affirmative Action Guild (TAAG) welcomes the opportunity to provide feedback to the Parliamentary Standing Committee regarding the **Commercial Use of Marine Areas Bill 2025 (Bill No. 42 of 2025)**. As an organization committed to human rights, intersectional justice, economic equity, and institutional accountability, we recognize the state's initiative to regulate commercial access, streamline marine tenure, and clarify leasing frameworks within Fiji's ocean and coastal zones.

Ocean and coastal governance are deeply tied to socio-economic survival, gendered labor, and community climate resilience. This submission reviews the Bill through a combined **SOGIESC, Gender, Intersectionality, Sensitivity, and Climate Justice lens**. We focus specifically on how marine commercialization, exclusive leasing, and resource allocation impact Vakasa, Sian, Trans, and Non-binary (VST+) individuals, indigenous youth, and economically marginalized coastal populations facing the frontline impacts of the climate crisis.

A climate justice lens reveals that marine ecosystems—such as mangroves, coral reefs, and seagrass beds—are not merely financial assets to be partitioned for commercial tourism or industrial exploitation; they are critical natural protections against rising sea levels, storm surges, and climate-induced degradation. When customary or public marine spaces are exclusively leased, the physical and economic displacement falls heaviest on those relying on small-scale, subsistence coastal economies. TAAG presents specific statutory gaps, comparative reflections on prior testimonies, international state best practices, and concrete recommendations to ensure that ocean commercialization does not drive further displacement, ecological vulnerability, or structural inequality.

2. FIJI'S UN OBLIGATIONS & THE MANDATE FOR ALIGNMENT

To protect coastal populations and maintain equitable resource management, this Bill must give operational effect to the international treaties and sustainability frameworks Fiji has committed to uphold:

1. **The Paris Agreement & United Nations Framework Convention on Climate Change (UNFCCC):** Fiji is a leading global voice in climate advocacy. Under the Paris Agreement, state policies must prioritize ecosystem-based adaptation and climate resilience, ensuring that national development strategies do not undermine the adaptive capacities of local, climate-vulnerable communities.
2. **The Sustainable Development Goals (SDGs):** SDG 14 (*Life Below Water*) and **SDG 13** (*Climate Action*) must be paired with **SDG 5** (*Gender Equality*) and **SDG 10** (*Reduced Inequalities*). Under the UN 2030 Agenda, Fiji is bound to ensure that maritime economic growth (the Blue Economy) is socially inclusive and explicitly benefits marginalized coastal demographics.
3. **ICCPR & CEDAW:** Under ICCPR Article 26 (Equal Protection) and CEDAW, the state has an obligation to guarantee that economic policies, property-use legislation, and resource distribution frameworks do not discriminate against women or gender-diverse populations, nor strip them of their primary means of livelihood without equitable, non-discriminatory remediation.

3. ANALYSIS OF PRIOR SUBMISSIONS AND PUBLIC TESTIMONY

TAAG has tracked public and civil society discourse regarding Bill No. 42 of 2025. We offer the following analytical reflections to assist the Committee in evaluating current stakeholder positions:

A. Balancing Major Commercial / Tourism Interests with Local Climate Vulnerabilities

- **The Trend in Prior Submissions:** Submissions from the commercial tourism sector, private developers, and municipal bodies frequently advocate for maximum bureaucratic speed, security of tenure for investors, and clear guidelines regarding exclusive commercial rights over marine zones.
- **TAAG's Intersectional & Climate Justice Analysis:** TAAG cautions that granting unchecked "exclusivity" or prioritizing swift commercial alienation under Part 2 (Transfer of Ownership) and Part 4 (Control and Administration) creates zones of exclusion. For coastal VST+ youth, informal artisan workers, and indigenous women who harvest resources in intertidal zones, commercial alienation often results in their physical displacement. Furthermore, when private entities alter marine areas (e.g., coastal reclamation, mangrove clearing for resorts), the surrounding village loses its natural buffers against climate-induced coastal erosion. Corporate security must not compromise environmental and human security.

B. Interrogating Customary Consultation and Benefit Distribution

- **The Trend in Prior Submissions:** Submissions from provincial councils and traditional asset management entities emphasize strict adherence to customary protocols and require that the **Distribution of Rents (Clause 27)** explicitly flow through recognized traditional structures like the iTaukei Land Trust Board (TLTB).
- **TAAG's Intersectional Analysis:** TAAG strongly supports fair customary compensation. However, an intersectional lens requires asking *how* those funds are distributed internally within communities. Traditional mechanisms can sometimes be patriarchal or elder-centric, meaning that rental distributions rarely trickle down to young indigenous women, youth networks, or gender-diverse individuals. Given that climate shocks disproportionately impact marginalized groups, resource rents must be directed toward building community-wide climate resilience rather than concentrating wealth within elite hierarchies.

4. CORE GAPS, INTERNATIONAL BEST PRACTICES, AND RECOMMENDATIONS

Gap 1: Lack of Socio-Economic, Gender, and Climate Justice Impact Assessments in the Transfer and Lease Process (Part 2 & Part 4)

- **The Issue:** Part 2 outlines the process for the transfer of commercial marine areas and the issuance of leases and licenses by the State or TLTB (Clauses 21–22). The criteria focus almost exclusively on commercial valuation, developer capacity, and basic environmental clearances, completely lacking mandatory socio-economic, gender, or climate vulnerability impact assessments.
- **Intersectional & Climate Justice Lens:** Coastal *iTaukei* women and VST+ youth are heavily represented in the informal blue economy (e.g., gleaning, small-scale seaweed farming, artisan crafting). If a marine area containing vital mangrove forests or seagrass beds is leased exclusively to an industrial or tourism developer, the community loses both its immediate food security and its protection against extreme weather events. Climate justice demands that resource licensing does not push marginalized populations into higher zones of climate risk.
- **International State Best Practices:** In modern marine spatial planning, international best practice mandates inclusive social profiling. For example, under **South Africa's National Environmental Management: Integrated Coastal Management Act**, coastal lease allocations require a mandatory assessment of how the lease impacts local historical disadvantage, gender equity, and the livelihoods of informal, small-scale coastal fishers. Similarly, **Vanuatu's National Ocean Policy** integrates customary marine tenure with mandatory climate adaptation audits before large-scale commercial commercialization is authorized.

- **Recommendation:** Amend Clause 22 to include a mandatory climate justice and socio-economic audit requirement:

  "Prior to any commercial marine lease or licence being granted under this Act, the relevant authority must conduct a comprehensive, intersectional socio-economic, gender, and climate justice impact assessment to ensure the deployment of the lease does not strip local informal workers of their primary livelihoods or weaken the community's natural ecological protections against climate-induced coastal erosion and sea-level rise."

Gap 2: Exclusionary Compensation and Remediation Schemes (Part 2, Clause 9 & Part 3)

- **The Issue:** Clause 9 establishes a "Compensation scheme" for interest holders, and Part 3 establishes the Marine Area Appeals Tribunal. However, the definition of an "interest holder" is narrowly structured around formalized legal title or directly registered customary rights, completely ignoring informal users of the marine space.
- **Intersectional & Climate Justice Lens:** Power imbalances mean that young, low-income, and gender-diverse community members are rarely formal titleholders or registered decision-makers in customary trusts. As climate change degrades marine resources, competition for accessible coastal zones intensifies. If vulnerable users are barred from seeking compensation or accessing the Appeals Tribunal simply because their traditional usage was informal or subsistence-based, the Bill legalizes structural economic and environmental discrimination.
- **International State Best Practices:** The **Food and Agriculture Organization (FAO) Voluntary Guidelines on the Responsible Governance of Tenure** state that compensation schemes for natural resource re-allocation must explicitly recognize and protect informal, customary, and subsistence tenure rights, ensuring that women and marginalized groups who lack formal land titles are given equal standing in compensation tribunals.
- **Recommendation:** Expand Clause 15 and the accompanying definitions in Clause 2 to include informal resource users:

  "The Compensation Scheme under Clause 9 and the Marine Area Appeals Tribunal under Clause 15 must be accessible to any person who can demonstrate long-standing informal, subsistence, or customary reliance on the affected marine area, regardless of whether they hold formalized legal or registered title."

Gap 3: Missing Equity and Resilience Mandates in the Distribution of Rents (Part 4, Clause 27)

- **The Issue:** Clause 27 dictates the distribution of rents and purchase monies received from marine dealings. While it routes funds through formal and traditional management mechanisms, it lacks any statutory directive ensuring that funds are utilized transparently or equitably to build local climate adaptation and support vulnerable demographics.
- **Intersectional & Climate Justice Lens:** Resource wealth within communities can become concentrated in elite or patriarchal structures. To foster genuine community resilience against the climate crisis, funds generated from the commercialization of public and customary waters must be partially directed toward grassroots youth empowerment, gender equity programs, and localized climate adaptation infrastructure that benefits vulnerable groups like VST+ youth.
- **International State Best Practices:** In various international natural resource regimes, such as **Norway's State Sovereign Fund allocations** and **Canada's First Nations Joint-Economic Ventures**, statutory provisions mandate that a fixed percentage of commercial resource rents be deposited directly into community-managed socio-economic development funds targeted specifically at youth education, gender equity, and localized climate resilience projects.
- **Recommendation:** Amend Clause 27 to add an equity and climate resilience directive:

  "A designated portion of the rents and revenues distributed to communities under this section must be transparently earmarked for localized socio-economic and climate resilience development funds, supporting youth leadership development, gender equity programs, and community-led climate adaptation initiatives for marginalized demographics."

5. CONCLUSION

For the Commercial Use of Marine Areas Bill 2025 to drive sustainable and equitable economic growth, Fiji's Blue Economy must be built on the pillars of human rights, social inclusion, and climate justice. By embedding explicit intersectional, gender-inclusive, and livelihood safeguards directly into the text, the Parliamentary Standing Committee will protect vulnerable coastal populations from environmental degradation, economic exclusion, and climate displacement. TAAG urges the Committee to ensure that commercial ocean governance respects, protects, and uplifts all members of our communities equally.

TAAG thanks the Committee for considering this submission and welcomes the opportunity to appear before the Committee to provide oral evidence in support of these recommendations.

Respectfully submitted,

Trans Affirmative Action Guild (TAAG)

SUBMISSION ON THE COMMERCIAL USE OF MARINE AREAS (CUMA) BILL 2025

Submitted by: Tevita Daulako
Date: 04/07/2026

EXECUTIVE SUMMARY

This submission is respectfully presented to assist the Standing Committee in its consideration of the Commercial Use of Marine Areas (CUMA) Bill 2025.

The Bill represents one of the most significant legislative reforms affecting customary marine rights in Fiji in recent decades. It acknowledges the long-standing relationship between customary owners and their qoliqoli and seeks to establish a legal framework for the commercial use of customary marine areas.

The overall objectives of the Bill are welcomed and supported.

The Bill represents a positive step towards recognizing the proprietary interests of customary owners and creating greater certainty for commercial investment while ensuring that customary owners participate more directly in decisions affecting their traditional marine resources.

However, while the Bill establishes an important legal foundation, it remains primarily focused on recognizing commercial proprietary interests and establishing administrative processes.

It does not yet provide a comprehensive governance framework that ensures customary owners are properly empowered to administer, manage, protect and benefit from rights over the long term.

This submission therefore supports the passage of the Bill but respectfully recommends that the Standing Committee consider several amendments that would strengthen its operation, improve legal certainty and ensure that the legislation achieves its intended objectives.

The principal recommendations contained in this submission are:

- Recognition of properly constituted qoliqoli governance bodies established by customary owners;
- Statutory recognition of proprietary commercial rights while preserving the State’s regulatory responsibilities;
- Mandatory royalty payments in addition to compensation;
- Direct payment of royalties, compensation and other commercial benefits to recognized governance bodies established by customary qoliqoli owners;
- Governance and financial accountability standards;
- Mandatory Community Benefit Agreements for significant commercial projects;
- Stronger protection for traditional knowledge and cultural heritage;
- Clearer provisions relating to Free, Prior and Informed Consent (FPIC);
- Stronger environmental stewardship obligations;
- Improved dispute resolution mechanisms; and

- Greater transparency and public accountability in the management of commercial benefits.

These recommendations are intended to strengthen-not replace-the objectives of the Bill and to assist the Standing Committee in developing legislation that provides lasting benefits for customary owners while continuing to support responsible commercial investment and sustainable marine resource management.

1. INTRODUCTION

The Commercial Use of Marine Areas Bill represents an important milestone in the continuing evolution of Fiji's customary marine governance framework.

For many generations, customary owners have maintained deep cultural, spiritual, economic and environmental connections with their qoliqoli.

These marine areas have traditionally sustained communities through fishing, customary practices, cultural identity and stewardship of marine ecosystems.

In recent decades, however, Fiji's marine environment has also become increasingly valuable for commercial activities including tourism, surfing, aquaculture, marine recreation, scientific research, conservation initiatives, renewable energy projects and other emerging industries within the Blue Economy.

The increasing commercialization of marine resources has created both opportunities and challenges.

While commercial investment contributes to national economic development, it has also highlighted the need for legislation that appropriately recognizes the interests of customary owners while providing certainty for government, investors and commercial operators.

The introduction of the CUMA Bill provides an opportunity to establish such a framework.

This submission supports that objective.

Nevertheless, it is respectfully submitted that the Bill would benefit from additional provisions that strengthen governance, improve financial accountability, clarify ownership rights, promote equitable benefit sharing and reduce the likelihood of future disputes.

The recommendations contained in this submission are offered in a constructive spirit with the objective of assisting the Standing Committee in developing legislation that will serve Fiji effectively for many decades.

2. CONTEXT OF THE COMMERCIAL USE OF MARINE AREAS BILL

The commercial value of Fiji’s marine environment continues to grow.

Marine tourism, surfing concessions, aquaculture, conservation financing, marine scientific research, marine infrastructure, biodiversity projects and emerging blue economy industries are increasingly generating substantial economic value from customary marine areas.

As these industries continue to expand, so too does the importance of establishing a modern legislative framework capable of balancing:

- Customary ownership;
- Sustainable economic development;
- Environmental protection;
- Investor certainty; and
- National regulatory responsibilities.

The Bill recognizes the importance of customary proprietary interests in commercial marine areas and establishes a framework through which those interests may be recognized.

This represents a significant and welcome development.

However, recognizing proprietary interests alone is not sufficient to ensure successful implementation.

Experience throughout the Pacific demonstrates that disputes commonly arise because ownership is unclear, but because governance arrangements are inadequate.

Questions inevitably arise concerning:

- Who represents customary owners;
- Who negotiates agreements;
- Who receives commercial payments;
- Who manages community funds;
- Who distributes benefits;
- Who reports to beneficiaries; and
- Who is accountable when disputes occur.

Without clear legislative guidance on these matters, the recognition of proprietary rights may not translate into effective community empowerment.

Accordingly, this submission focuses on strengthening the governance framework that should accompany the recognition of customary proprietary rights.

3. GENERAL POSITION

The CUMA Bill establishes an important legal foundation for strengthening the participation of customary owners in Fiji’s marine economy while providing greater certainty for government, investors and commercial operators engaged in lawful commercial activities.

The objectives of the Bill are supported.

Recognizing customary proprietary interests has the potential to improve economic participation, encourage responsible investment and strengthen the relationship between customary owners and commercial users of marine resources.

Experience in natural resource governance demonstrates that legal recognition alone does not guarantee successful implementation. Disputes frequently arise where legislation does not clearly establish governance arrangements, financial accountability, benefit sharing mechanisms and institutional responsibilities.

Questions concerning representation, commercial negotiations, financial management, accountability and dispute resolution are fundamental to the successful operation of any resource management framework.

Where these matters remain uncertain, the practical benefits of recognizing proprietary interests may be significantly reduced.

For this reason, the Bill represents an opportunity not only to recognize customary proprietary rights but also to establish governance mechanisms that enable those rights to be exercised effectively for the long-term benefit of customary owners while maintain commercial certainty and public confidence.

The recommendations contained in this submission are intended to strengthen the implementation of the Bill by providing greater legal certainty, improved governance and stronger protection of customary interests without altering the fundamental policy objectives of the legislation.

4. RECOGNIZING PROPRIETARY RIGHTS WHILE CLARIFYING GOVERNANCE AND STATE RESPONSIBILITIES

One of the most significant achievements of the CUMA Bill is its recognition of the proprietary rights of customary owners in relation to commercial marine areas.

While this recognition is welcomed, the Bill would benefit from greater clarity regarding the relationship between proprietary rights, governance responsibilities and continuing regulatory functions of the State.

Historically, customary owners have exercised customary access to and use of their qoliqoli while the State has retained legislative and regulatory authority over matters including fisheries management, environmental protection, marine safety, navigation, public infrastructure and other matters affecting the national interest.

These responsibilities serve different legal purposes and should be recognized as complimentary rather than competing.

The recognition of proprietary commercial rights should not be interpreted as removing the State's responsibility to regulate activities undertaken in the public interest.

Likewise, the exercise of statutory regulatory powers should not diminish or undermine the proprietary commercial rights recognized under the legislation.

The Bill would therefore be strengthened by expressly recognizing that customary owners hold the proprietary commercial rights associated with recognized Commercial Uce Marine Areas while the State continues to exercise its statutory functions under existing laws.

Such clarification would provide greater legal certainty for all parties.

It would clearly distinguish between ownership of commercial proprietary rights and the government's continuing responsibility to regulate matters relating fisheries, environmental protection, marine safety, national security and other areas of public administration.

This distinction would also reduce uncertainty during commercial negotiations by identifying the respective roles of customary owners, government authorities and commercial operators.

5. IMPLEMENTATION GAP IN THE BILL

While the Bill establishes the legal recognition of proprietary interests, it does not fully translate those rights into an operational framework for day-to-day implementation.

In particular the Bill does not clearly provide:

- A standard mechanism for commercial decision-making on behalf of customary owners;
- An enforceable structure for managing commercial agreements;
- A consistent process for receiving the administering commercial benefits; or

- A clear accountability framework once commercial rights are exercised.

This creates a gap between legal recognition and practical enforcement.

In resource governance systems, this gap is significant. Without clear operational mechanisms, rights may exist in law but become difficult to exercise in practice.

The effectiveness of the Bill will therefore depend on whether it establishes clear institutional arrangements that convert recognized rights into functional governance systems capable of managing commercial activity consistently across all customary marine areas.

Addressing this gap requires explicit recognition of governance structures and supporting financial and administrative mechanisms within the legislation.

6. RECOGNITION OF CUSTOMARY QOLIQOLI GOVERNANCE BODIES

The effectiveness of the Bill depends on whether customary owners are able to exercise their proprietary rights through a clear and accountable governance structure.

At present, the Bill does not expressly establish or require the recognition of customary-based governance bodies to represent customary owners in relation to commercial marine areas.

This creates the uncertainty in practice, particularly in relation to:

- Negotiation of commercial agreements;
- Receipt and management of commercial payments;
- Representation of customary owners in legal and administrative processes; and
- Accountability for decisions made on behalf of customary owners.

The inclusion of recognized governance bodies within the legislative framework would revolve these uncertainties by providing a legally identifiable entity responsible for exercising commercial rights.

Such bodies would serve as the primary interface between customary owners, government agencies, and commercial operators.

Recognition should be conditional upon minimum governance standards to ensure legitimacy, including transparent decision-making processes, accountability mechanisms, and financial reporting obligations.

7. ROYALTY FRAMEWORK

The Bill does not clearly establish a statutory entitlement for customary owners to receive ongoing royalties from commercial activities undertaken within their marine areas.

This creates a structural limitation in the benefit-sharing model.

Compensation mechanisms address initial access or impact but do not adequately reflect the continuing economic value generated by long-term commercial use.

A royalty framework is therefore necessary to ensure that customary owners participate in the ongoing commercial returns derived from their marine resources.

Royalties should apply across all relevant commercial activities, including tourism operations, marine infrastructure, aquaculture, and other profit-generating uses.

This ensures alignment between resource use and long-term economic benefit.

8. DIRECT PAYMENTS OF COMMERCIAL BENEFITS

The Bill should provide for all commercial payments to be made directly to recognized customary governance bodies.

This includes:

- Royalties;
- Compensation;
- Access and use fees; and
- Negotiated commercial benefits.

Direct payment reduces administrative fragmentation and strengthens financial accountability.

It also ensures that customary owners maintain effective control over the benefits arising from their marine resources.

9. FINANCIAL GOVERNANCE AND ACCOUNTABILITY

Where customary governance bodies are recognized to receive and manage commercial benefits, minimum financial governance standards are essential.

These should include:

- Mandatory annual audits;
- Transparent financial reporting to customary owners;

- Conflict-of-interest safeguards;
- Clear internal approval processes for expenditure; and
- Proper record-keeping obligations.

Without such safeguards, there is a risk that financial benefits may become a source of internal dispute or mismanagement, undermining the objectives of the legislation.

Strong financial governance protects both customary owners and the integrity of commercial arrangements.

10. COMMUNITY BENEFIT AGREEMENTS

Significant commercial developments should require formal Benefit Agreements as part of the approval process.

These agreements should address:

- Employment opportunities for customary owners;
- Training and capacity development;
- Infrastructure support;
- Education and scholarship opportunities; and
- Environmental and conservation commitments.

This ensures that benefits extend beyond financial payments and contribute to broader community development outcomes.

11. FREE, PRIOR AND INFORMED CONSENT (FPIC)

The Bill would be strengthened by clearly defining the requirements for Free, Prior and Informed Consent.

FPIC should include:

- Full disclosure of project information prior to approval;
- Adequate time for internal consultation processes; and
- Documented collective decision-making through recognized governance structures.

Clear FPIC requirements reduce disputes and ensure legitimacy in decision-making processes affecting customary marine areas.

12. ENVIRONMENTAL STEWARDSHIP

Commercial use of marine areas should be accompanied by enforceable environmental obligations.

These should include:

- Environmental impact monitoring;
- Mitigation of adverse effects;
- Rehabilitation of damaged marine areas; and
- Contributions to conservation initiatives where appropriate.

Environmental protection is essential to ensuring that commercial use remains sustainable over the long term.

13. PROTECTION OF TRADITIONAL KNOWLEDGE

The Bill should provide stronger protection for traditional marine knowledge.

This includes safeguarding against:

- Unauthorized commercial use; and
- Exploitation of traditional ecological knowledge without consent or benefit-sharing.

Where traditional knowledge contributes to commercial value, appropriate recognition and benefit-sharing arrangements should apply.

14. DISPUTE RESOLUTION FRAMEWORK

A structured dispute resolution mechanism should be included to reduce reliance on litigation.

A staged approach is recommended:

1. Internal customary resolution processes;
2. Mediation;
3. Independent arbitration; and
4. Court proceedings as a final remedy.

This approach promotes efficiency and preserves community relationships.

15. TRANSPARENCY AND REPORTING

The Bill should require regular reporting on all commercial arrangements affecting customary marine areas.

Recognized governance bodies should be required to provide:

- Annual financial reports;
- Summaries of commercial agreements; and
- Updates on benefit distribution.

Transparency enhances accountability and strengthens public trust in the system.

16. LOCAL ECONOMIC PARTICIPATION

Priority should be given to customary owners in commercial opportunities arising within their qoliqoli.

Where appropriate, local participation should be encouraged through:

- Employment opportunities;
- Contracting and procurement;
- Joint ventures; and
- Capacity-building initiatives.

This ensures that economic benefits are retained within affected communities where possible.

17. SUMMARY OF KEY REFORMS

The Bill would be significantly strengthened by incorporating the following measures:

- Recognition of customary governance bodies;
- Statutory royalty framework;
- Direct payment mechanisms;
- Financial accountability requirements;
- Community Benefit Agreements;
- Clear FPIC provisions;
- Environmental safeguards;
- Protection of traditional knowledge; and
- Structured dispute resolution mechanisms.

These reforms would ensure that recognition of customary rights is translated into effective, transparent, sustainable long-term benefits.

18. <u>CLAUSE-BY-CLAUSE LEGAL ANALYSIS (OPERATIONAL FRAMEWORK)</u>

18.1 Overview of the Bill's Structure

The Bill establishes a framework for the commercial use of customary marine areas by:

- Recognizing customary proprietary interests in relation to commercial use;
- Providing processes for authorization of commercial activities; and
- Enabling administrative and regulatory arrangements for implementation.

While the structure provides a foundation for reform, several provisions rely heavily on administrative discretion rather than clearly defined statutory mechanisms.

This creates variability in implementation and may lead to inconsistent outcomes across different customary marine areas.

18.2 Recognition Provisions

The recognition provisions form the legal foundation of the Bill.

They establish that customary owners have proprietary interests in relation to commercial marine use.

However, the legal effect of this recognition is not fully defined in operational terms.

In particular, the Bill does not clearly specify:

- The scope of proprietary rights in commercial decision-making;
- Whether those rights include exclusive negotiating authority; or
- How conflicts between competing claims of representation are resolved.

This lack of precision may create uncertainty during implementation, particularly in areas where multiple groups assert customary authority.

18.3 Authorization and Approval Mechanisms

The Bill appears to retain a significant administrative role for State institutions in approving or facilitating commercial use arrangements.

While this ensures regulatory oversight, it also raises questions regarding:

- The extent of customary owner control in decision-making;

- Whether approvals are conditional on customary consent or merely consultative; and
- How competing interests between commercial operators and customary owners are balanced.

Clearer statutory guidance is required to ensure that authorization processes reflect the proprietary interests recognized under the Bill.

18.4 Payment and Benefit Flow

The Bill does not clearly establish a unified statutory mechanism governing the flow of commercial benefits.

In particular:

- Payment pathways are not fully standardized;
- There is no explicit requirements for direct payment to customary governance structures; and
- Distinctions, between compensation, royalties, and other commercial payments are not fully operationalized.

This creates a risk of fragmented payment systems and inconsistent benefit distribution.

A clearer statutory framework is required to ensure transparency, accountability, and predictability in financial flows.

18.5 Governance and Representation

One of the most significant operational gaps in the Bill is the absence of a clearly defined governance model for representation.

Without such a model, key questions remained unresolved:

- Who has legal authority to bind customary owners in agreements;
- How disputes between claimant groups are resolved; and
- How accountability is enforced once agreements are entered into.

This gap may lead to inconsistent representation and increased litigation risk.

A statutory recognition mechanism for customary governance bodies would address these concerns by providing a single accountable legal interface.

18.6 Enforcement and Compliance

The Bill provides a framework for regulating commercial use but does not fully detail enforcement mechanisms relating to:

- Compliance with benefit-sharing obligations;
- Enforcement of financial transparency requirements; and
- Consequences for non-compliance with customary consent processes.

Strengthening enforcement provisions would improve the credibility and effectiveness of the legislative framework.

18.7 Key Structural Weakness Identified

The primary structural issue identified across the Bill is the separation between:

- Legal recognition of customary proprietary interests; and
- The absence of a fully defined operational governance and fiscal framework.

Without bridging the gap, there is a risk that the Bill may function effectively at the approval stage but less effectively during long-term implementation.

This gap can be addressed through:

- Statutory recognition of governance bodies;
- Clear payment pathways; and
- Enforceable benefit-sharing and accountability mechanisms.

18.8 Interim Conclusion

The Bill establishes a strong foundation for recognizing customary proprietary interests in commercial marine use.

However, its effectiveness will depend on whether the operational framework is strengthened to ensure:

- Clarity of representation;
- Transparency of financial flows;
- Enforceability of obligations; and
- Consistency in implementation across all customary marine areas.

The following section sets out targeted amendments designed to address these structural issues.

19. RECOMMENDATIONS FOR STRENGTHENING THE BILL

Recommendation 1 – Recognize Customary Governance Bodies

The Bill should expressly recognize legally constituted governance bodies established by customary owners to represent their interests in relation to Commercial Use Marine Areas.

Where such a body has been established in accordance with prescribed governance standards, it should be recognized as the authorized entity to:

- Negotiate commercial agreements;
- Receive and manage commercial payments;
- Enter into legally binding agreements;
- Represent customary owners in administrative and legal proceedings; and
- Report to beneficiaries.

Suggested Legislative Amendment

Insert a provision recognizing customary governance bodies that satisfy prescribed governance and accountability requirements as the authorized representatives of customary owners for the purpose of the Act.

Reason

Recognition of ownership without recognizing who may lawfully exercise those rights creates uncertainty for customary owners, government agencies and commercial operators. A recognized governance body provides legal certainty, improves accountability and reduces the likelihood of competing claims of representation.

Recommendation 2 – Separate Compensation from Royalties

The Bill should distinguish between compensation and royalties.

Compensation should address the initial granting of commercial rights, disturbance, loss, or damage arising from a commercial activity.

Royalties should recognize the continuing commercial value generated from the use of customary marine areas and provide customary owners with an ongoing share of that value.

Suggested Legislative Amendment

Insert provisions establishing statutory royalty obligations for commercial activities that generate continuing revenue from recognized Commercial Use Marine Areas.

Reason

A one-time compensation payment does not adequately reflect long-term commercial use. Where a business continues to generate income from customary marine areas, customary owners should also receive continuing economic benefits. This promotes equity, strengthens community support for investment and aligns economic returns with the ongoing use of customary resources.

Recommendation 3 – Direct Payment of Commercial Benefits

The Bill should require that all commercial payments relating to recognized Commercial Use of Marine Areas be paid directly into the official account of a recognized customary governance body.

This should include:

- Compensation;
- Royalties;
- Access and Use fees;
- Concession payments; and
- Other negotiated commercial benefits.

Suggested Legislative Amendment

Insert a provision requiring that payments arising under this Act be made directly to a recognized governance body unless otherwise authorized by law.

Reason

Direct payment strengthens financial accountability, reduces administrative fragmentation and ensures that commercial benefits remain under the control of customary owners through their recognized governance structure.

Recommendation 4 – Clarify the Relationship Between Proprietary Rights and State Regulation

The Bill should expressly distinguish between proprietary commercial rights held by customary owners and the continuing regulatory responsibilities of the State.

Suggested Legislative Amendments

Insert a provision stating that recognition of proprietary commercial rights does not affect the State's responsibilities relating to fisheries management, environmental protection, navigation, maritime safety, national security or other statutory functions.

Reason

This clarification removes legal uncertainty, protects the public interest and confirms that ownership and regulation are complementary rather than competing concepts.

Recommendation 5 – Introduce Minimum Governance Standards

The Bill should establish minimum governance standards for recognized customary governance bodies.

These standards should include:

- A governing constitution or policy instrument;
- Transparent decision-making procedures;
- Annual independent audit;
- Financial reporting to beneficiaries;
- Conflict-of-interest rules; and
- Proper record management.

Reason

Commercial activities may generate substantial revenue over many years. Minimum governance standards protect beneficiaries, improve transparency and strengthen public confidence in the management of community funds.

Recommendation 6 – Require Community Benefit Agreements

Commercial projects of significant scale should not rely solely on financial payments.

The Bill should require Community Benefit Agreement that address:

- Local employment;
- Skills development;
- Scholarships;
- Local procurement;
- Infrastructure support; and
- Environmental commitments

Reason

Community development should form part of every major commercial project. Broader social and economic benefits contribute to sustainable development and strengthen relationships between commercial operators and customary owners.

Recommendation 7 – Strengthen Free, Prior and Informed Consent

The Bill should clearly define the requirements for Free, Prior and Informed Consent.

Consent should only be regarded as valid where customary owners have received sufficient information, adequate time to consider proposals and the opportunity to make collective decisions through recognized governance structures.

Reason

Clearly defined consent processes reduce disputes, improve transparency and strengthen the legitimacy of commercial agreements.

Recommendation 8 – Protect Traditional Knowledge

The Bill should include provisions protecting traditional ecological knowledge and cultural knowledge associated with customary marine areas.

Commercial use od such knowledge should require prior consent and equitable benefit-sharing where appropriate.

Reason

Traditional knowledge has increasing commercial value in marine research, conservation and biotechnology. The law should recognize and protect these interests.

Recommendation 9 – Strengthen Environmental Stewardship

Commercial operators should be required to minimize environmental impacts and restore damaged marine environments where appropriate.

Long-term commercial use should contribute to the sustainable management of customary marine resources.

Reason

Healthy marine ecosystems are essential to the continued economic, cultural and ecological value of customary marine areas.

Recommendation 10 – Introduce Periodic Review Mechanisms

The Bill should require the periodic reviews of:

- Royalty arrangements;
- Commercial arrangements;
- Governance arrangements; and
- Community benefit outcomes.

Reason

Commercial conditions change over time. Periodic review ensures that agreements remain fair, commercially relevant and responsive to changing economic and environmental circumstances.

Recommendation 11 – Clarify the Status of Customary Proprietary Rights

The Bill should expressly state that customary owners hold the proprietary commercial rights associated with recognized Commercial Use of Marine Areas while the State continues to exercise its regulatory responsibilities under written law.

Suggested Legislative Amendment

Insert a clause providing:

The customary owners of a recognized Commercial Use of Marine Area hold the proprietary rights associated with the commercial use and economic benefit of that marine area, *subject to this Act and other written laws. Nothing in this Act limits the lawful regulatory powers of the State under any written law*.

Reason

Historically, customary owners have exercised recognized customary rights of access and use, while the State has retained ownership and regulatory authority over marine areas. The Bill creates an opportunity to clarify this relationship. Explicitly recognizing proprietary commercial rights while preserving the State's regulatory role provides legal certainty, reduces future disputes, encourages responsible investment and ensures that customary owners become genuine participants in the commercial management of their marine resources.

This balanced approach recognizes that government must continue to regulate matters such as fisheries management, environmental protection, navigation, maritime safety and national security in the public interest, while ensuring that those regulatory functions do not diminish the proprietary commercial rights granted to customary owners under the Act.

SUBMISSION TO THE COMMERCIAL USE OF MARINE AREAS (CUMA) BILL 2025.

Submitted by: Manoa Malani, Damiano Logaivau and Jale Cavu of the Proposed Liberation of Fiji Party.

Date: 19/06/2026.

1. EXECUTIVE SUMMARY.

This submission supports the objective of restoring indigenous participation and ownership in the commercial use of Fiji's marine resources. However, significant concerns remain regarding the administration and implementation of the Commercial Use of Marine Areas (CUMA) Bill, particularly with S5 and S6 where licensing and approval powers are vested in the State.

The CUMA Bill has deviated and contradicted the 1881 Declaration by Queen Victoria. There was a resolution by the Bose Levu Vakaturaga in Lakeba in 1978 for a Sub Committee to be formed to review the 1881 declaration by the late Queen Victoria. The report was submitted back at Lambert Hall, Suva by the Bose Levu Vakaturaga - Sub Committee in 1979. The CUMA Bill should recognise that traditional marine areas are not merely public resources subject to State control, but are customary resources historically owned and managed by indigenous resource-owning units (mataqali) throughout Fiji's fourteen provinces.

Accordingly, this submission recommends that the licensing authority for commercial activities within customary marine areas be vested primarily in the recognised customary owners rather than requiring those owners to apply to the State for permission to utilise resources that are historically theirs.

2. HISTORICAL FOUNDATION OF INDIGENOUS MARINE RIGHTS.

Prior to Cession in 1874, indigenous Fijian communities exercised customary ownership, stewardship and governance over their lands, rivers, streams, reefs, lagoons, foreshore areas and marine resources.

The customary marine tenure system formed part of an integrated indigenous governance structure in which ownership and responsibility rested with the mataqali and other traditional units.

Many indigenous Fijians have maintained that these proprietary rights were never surrendered and that subsequent colonial and post-colonial legislation diminished these rights by converting ownership into limited user rights.

The current legal framework recognises customary fishing rights but does not fully recognise customary proprietary ownership of marine areas.

3. THE NAILAGA DECLARATION OF 1881 AND THE POSITION OF INDIGENOUS OWNERS.

Indigenous communities throughout Fiji continue to rely upon the historical understanding that assurances were given during the colonial period, seven years after the 1874 Deed of Cession at the Bose Levu Vakaturaga in Nailaga, Ba by the late Queen Victoria that customary ownership of indigenous resources would be protected and respected.

Particular significance is attached to the announcement associated with Queen Victoria at Nailaga, Ba, in 1881. According to longstanding indigenous understanding and oral history, assurances were made that indigenous resources, including marine resources, would ultimately remain under the ownership and control of the indigenous people through their mataqali structures.

For many indigenous resource owners, the principle arising from the Nailaga announcement is clear:

That indigenous resources belong to the indigenous people and should be administered by the customary owners through their mataqali and traditional institutions rather than through State ownership and control.

4. CONCERN REGARDING THE ROLE OF THE DEPARTMENT OF LANDS.

The submission strongly opposes provision such as S5 and S6 requiring customary resource owners to apply to the Department of Lands for licences to commercially utilise marine resources located within their own traditional marine areas.

Such a requirement effectively places the State in the position of owner and the customary owners in the position of applicants.

This approach is inconsistent with the fundamental objective of restoring indigenous ownership and control as stipulated in the ILO 169.

If the purpose of the CUMA Bill is to replace the Surfing Areas Decree 2010 and restore rights to indigenous owners, then the legislation should not create a new system whereby the State exercises primary authority over the same resources.

The requirement for resource owners to seek licences from the State undermines the principle of customary ownership and perpetuates the historical separation between ownership and control. Other upcoming developments such as ocean and deep sea mining and oil rigging should also be part of the new Bill's consideration.

The Bill should instead establish a framework in which:

(a) customary owners are recognised as the primary rights holders which consider rivers and marine tourism and other developments such as ocean, deep sea mining and oil rigging be part of the new Bill's consideration;

(b) the role of Government is regulatory and facilitative rather than proprietary;

(c) licences originate from customary ownership structures;

(d) Government oversight is limited to environmental protection, safety standards and national interests; and

(e) economic benefits flow directly to resource-owning communities.

APPENDIX A

HISTORICAL BASIS FOR INDIGENOUS MARINE OWNERSHIP IN FIJI.

1. **PRE-CESSION CUSTOMARY OWNERSHIP.**

Prior to the Deed of Cession in 1874, indigenous Fijians exercised customary ownership and stewardship over land, reefs, lagoons, foreshore areas, rivers, streams and marine resources according to customary law and practice.

The customary tenure system recognised the authority of mataqali and other traditional units over resources that sustained the economic, social and cultural wellbeing of indigenous communities.

Marine resources were not regarded merely as fishing areas but as part of the customary estate of indigenous owners.

2. **THE DEED OF CESSION (1874).**

The Deed of Cession established British sovereignty over Fiji while preserving indigenous rights and interests.

The understanding of many indigenous leaders was that traditional ownership would be protected under the Crown and not extinguished.

Subsequent investigations undertaken by colonial authorities recognised the importance of protecting indigenous ownership of lands, oceans and associated resources.

3. THE NAILAGA DECLARATION OF 1881.

At the Bose Vakaturaga held at Nailaga, Ba in September 1881, Governor Sir William Des Voeux communicated the wishes of Queen Victoria concerning indigenous rights over their qoliqoli and reefs.

The statement recorded by the 1979 Great Council of Chiefs Committee provides:

"It is Her Majesty's desire that neither you nor your people should be deprived of any rights in those reefs which you have enjoyed under your own laws and customs; and ... measures will be taken for securing to each matagali, the reefs which properly belong to it, exactly in the same way the rest of their land will be secured to them."

This statement has long been understood by indigenous communities as recognition that reefs, rivers, streams and marine resources properly belonging to mataqali were intended to be secured and protected in the same manner as customary land.

4. THE 1979 GREAT COUNCIL OF CHIEFS COMMITTEE REPORT.

In 1978 the Great Council of Chiefs established a committee to investigate whether Fiji's laws concerning fishing rights were consistent with the wishes conveyed by Sir William Des Voeux at Nailaga, Ba in 1881.

The Committee conducted extensive research into the history of customary marine ownership, colonial correspondence, legislation and legal practice.

The Committee concluded that existing laws concerning reefs and the foreshore did not comply with Queen Victoria's wishes and recommended that:

(a) legislation be enacted declaring that reefs and the foreshore belong to indigenous Fijians on a proprietary basis;

(b) legislation clarify indigenous ownership of river and stream beds adjoining customary land; and

(c) fishing licence fees be paid to the owners of the fishing grounds concerned.

These recommendations remain highly relevant to the current consideration of the Commercial Use of Marine Areas (CUMA) Bill.

5. IMPLICATIONS FOR THE CUMA BILL.

The CUMA Bill is intended to replace the Surfing Areas Decree 2010 and establish a framework for the commercial use of marine areas.

If Parliament accepts the historical position advanced by the Great Council of Chiefs Committee in 1979, then customary owners should not be required to seek permission from the Department of Lands to commercially utilise marine resources traditionally belonging to their mataqali.

Rather, the role of Government should be limited to regulation, environmental protection and public interest oversight, while ownership, licensing authority and economic benefits should reside primarily with the customary resource owners.

6. THE RIVERS AND STREAMS ACT AND THE EROSION OF CUSTOMARY OWNERSHIP.

The issue before Parliament is not limited to marine areas alone. Indigenous communities have long expressed concern that legislation relating to rivers, streams, reefs and foreshore areas, Ports Authority, etc. have progressively transferred ownership and control from customary owners to the State.

Similar to the commercial use of marine areas, there should also be a review of the Rivers and Streams Act, Ministry of Lands - Foreshore Reclamation and other legislations should vest ownership notwithstanding the customary understanding that such resources formed part of the traditional estate of adjoining mataqali from the 'Ridge to Reef' concept as their proprietor - qoliqoli and kanakana.

Gravel and sand business have been supplied to the hardware shops without any benefits to the qoliqoli owners. Even the EIA process is questionably biased and non consultative.

When considered together with legislation affecting reefs, rivers, streams, foreshore areas and fishing rights, a pattern emerges whereby indigenous proprietary rights have been reduced to limited use rights while ownership and regulatory authority have been vested in the Government.

Many indigenous communities regard this outcome as inconsistent with the assurances conveyed at Nailaga, Ba in 1881, seven years after the Deed of Cession, that reefs and customary marine resources belonging to mataqali would be secured and protected in the same manner as customary land.

The CUMA Bill therefore presents Parliament with an opportunity not only to address the commercial use of marine areas but also to acknowledge and rectify the historical displacement of indigenous proprietary rights over natural resources that were traditionally owned and managed under customary law.

7. **THE SURFING DECREE AND ITS REPLACEMENT.**

The Surfing Areas Decree 2010 was widely criticised by indigenous communities because it vested control over valuable surfing resources in the State and commercial operators without adequately recognising customary ownership rights and not paying any due service fees to the customary owners.

The replacement of the Surfing Areas Decree through the CUMA Bill presents a historic opportunity to correct this imbalance.

However, the Bill will fail to achieve its intended purpose if it simply transfers administration from one State-controlled mechanism to another.

The replacement legislation should provide genuine recognition of customary ownership, decision-making authority and economic participation.

The Bill must therefore move beyond consultation and benefit-sharing to include recognition of ownership and control.

8. RECOMMENDATION TO THE COMMITTEE.

The Parliamentary Standing Committee is respectfully requested to consider:

(a) the historical commitments associated with Queen Victoria at the Nailaga Bose Vakaturaga of 1881;

(b) the findings and recommendations of the 1979 Great Council of Chiefs Committee on Customary Ownership and Fishing Rights;

(c) The Parliamentary Standing Committee should consider the historical commitments made at the Bose Vakaturaga held at Nailaga, Ba in September 1881, including the assurances conveyed by Governor Sir William Des Voeux on behalf of Queen Victoria concerning the protection and security of reefs and marine resources belonging to indigenous owners.

The Committee should further consider the findings of the 1979 Great Council of Chiefs Committee on Customary Ownership and Fishing Rights, together with the continuing effect of legislation including the Rivers and Streams Act, which should also include vested ownership and control of rivers and streams to the indigenous people.

The Committee should determine whether the combined effect of existing legislation, including laws relating to reefs, foreshore areas, rivers and streams, has progressively displaced indigenous Fijians from the proprietary ownership of resources that were historically recognised as belonging to their mataqali. The Bill should also consider recent developments such as Deep Sea Mining, oil exploration, etc.

Accordingly, the Committee should recommend amendments to the CUMA Bill and related legislation to restore and recognise customary proprietary ownership rights over marine areas, reefs, foreshore areas, rivers and streams, consistent with the assurances given at Nailaga in 1881 and the recommendations of the 1979 Great Council of Chiefs Committee.

(d) amendments to the CUMA Bill to ensure that indigenous resource owners are recognised as the primary rights holders and are not required to obtain licences from the Department of Lands over marine resources historically belonging to them.

(e) Creation of a National Marine Resource Owners Register based on recognised customary ownership.

(f) Direct participation of customary owners in all commercial arrangements involving surfing, tourism, marine recreation, deep sea mining, oil exploration and resource utilisation.

(g) Statutory protection against alienation of customary marine ownership without the free, prior and informed consent (fpic) of the affected customary owners.

(h) Recognition of the authority of resource-owning mataqali in all fourteen provinces to manage and commercially benefit from their traditional marine areas.

9. CONCLUSION.

The CUMA Bill provides Parliament with an opportunity to address a longstanding historical grievance concerning indigenous marine ownership since 1881.

The Committee should ensure that the legislation restores genuine authority to customary owners and does not merely replace one form of State control with another.

The requirement for indigenous resource owners to apply to the Department of Lands for licences over resources traditionally belonging to their mataqali is inconsistent with the principles of customary ownership and with the historical understanding arising from the commitments made to indigenous Fijians during the colonial period, including the associated announcement by Queen Victoria to the chiefs gathering at Nailaga, Ba in 1881.

Parliament is therefore urged to amend the Bill to recognise the indigenous proprietary rights according to ILO 169, strengthen mataqali authority from the 14 provinces from the Rivers and Streams right to the Reefs as announced by Queen Victoria in 1881, and ensure that ownership, control and economic benefits of customary marine resources are returned to the indigenous people of Fiji.

[END].

Naivuatolu Community Cooperative

SUBMISSION TO THE STANDING COMMITTEE ON THE COMMERCIAL USE OF MARINE AREAS (CUMA) BILL 2025
From: Solomone Radaniva Tuibua, Eldest Member of Mataqali Vuniwi
Landowning Unit: Mataqali Vuniwi, Yavusa Wairuku, Waivunia Village, Nasavusavu, Cakaudrove
Date: 10th June, 2026

Subject: Return of Customary Marine Tenure, Enforcement Rights Against Commercial Users Under CUMA

CUMA bill explanation:

1. My Standing and Our Licensed Marine Protected Area
I am an indigenous Fijian and the eldest member of Mataqali Vuniwi, the customary owner of the qoliqoli where Naivuatolu Community Cooperative Marine Park is located in Maravu, Waivunia, Nasavusavu. While I am not the Turaga ni Yavusa, I make this submission on behalf of the struggles our Mataqali has faced as the owner of our traditional fishing grounds.

In 2019, our Mataqali was issued what we understand to be the only Ministry of Lands licence granted to any landowning unit in Fiji to manage a marine area. This licence was issued purely for conservation purposes. Our Mataqali paid the Government $100.00 per year for a 5 year term. We were placed under strict observation by the Lands Department and prohibited from undertaking any change within our own traditional Marine Protected Area, despite being the customary owners. Due to Fiji Surfing Decree Act, we were not able to gain a single cent from our own licensed marine park.

In 2024, the licence was renewed but the annual fee was increased to $1,000.00, a tenfold increase without consultation. The Ministry of Lands then advised us to apply for a full 99 year lease over the same marine park we had already been protecting for 5 years at our own cost.

2. The Core Problem: No Legal Power to Enforce User-Pays in Our Own Qoliqoli
For years our Mataqali has struggled with commercial diving agencies who bring tourist guests into our marine park to conduct business. These operators use our reefs, our fish stocks, and the biodiversity we have conserved, yet they have been reluctant to pay the fees we set for access.

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Under the current State licensing system, we have no legal ownership and therefore no enforceable right to stop them or to compel payment. When we raise the issue, we are told that the qoliqoli is owned by the State and we are only “licence holders for conservation”. This has left us funding the protection of a resource that others profit from without consent or compensation to the Mataqali.

This is the exact inequity CUMA must resolve.

3. Core Submission: Vest Ownership to Enable Management and Benefit Sharing

I submit that the CUMA Bill must return full proprietary ownership of all indigenous fishing grounds in Fiji to their respective iTaukei landowning units, as was the legal position before the Deed of Cession in 1874.

Ownership means the legal right to:

1. Exclude or grant access to commercial users like diving agencies.
2. Set and enforce user fees for tourist activities in our qoliqoli.
3. Enter commercial agreements for tourism, research, and blue carbon without requiring State approval.
4. Retain 100% of benefits from the sustainable use of our marine resources.

Specific recommendations for CUMA:

1. Automatic Conversion: All existing Ministry of Lands conservation licences held by LOUs must convert to 99 year customary title at no cost. LOUs should not pay to lease what they already conserved.
2. Statutory Enforcement Power: CUMA must give LOUs the same powers as a landowner to issue trespass notices and levy enforceable fees on commercial users in their qoliqoli. The State should assist with enforcement through Fisheries and Police.
3. Transitional Provision: All current commercial operators, including diving agencies using a qoliqoli, must negotiate access agreements with the LOU within 12 months of CUMA commencement or cease operations.
4. No Retrospective Fees to State: Fees paid by our Mataqali from 2019-2024 should be credited against future administrative costs, since we were paying the State to protect our own resource.

4. International Precedent: New Zealand’s Customary Marine Title

Naivuatolu Community Cooperative

New Zealand’s Marine and Coastal Area (Takutai Moana) Act 2011 shows that recognising customary ownership strengthens the economy:

1. Customary Marine Title gives iwi/hapū the right to say yes or no to commercial activities, and to set conditions including fees.
2. Result: Dive operators, aquaculture farms, and tourism ventures now sign access agreements directly with iwi. This has not stopped tourism. It has created partnerships and revenue streams for customary owners.
3. Enforcement: CMT holders can apply for wāhi tapu restrictions and infringement fines are issued by the Crown to support the iwi’s rules.

Fiji should adopt this principle: If a diving agency wants to use Mataqali Vuniwi’s reef, they must deal with Mataqali Vuniwi as the owner, not the State.

5. Conclusion

My Mataqali conserved our qoliqoli for 5 years under a state licence that banned us from benefiting from it, while commercial operators used it for free. We were then told to apply for a 99-year lease for the same area and charged 10x more.
CUMA must end this. It should restore ownership so that we can manage our qoliqoli, require diving agencies to pay fair access fees, and use that income to employ our youth as rangers and guides.

I request that the Committee:

1. Vest qoliqoli ownership in the registered Mataqali.
2. Give LOUs legal power to set and enforce commercial access fees.
3. Recognise conservation work by LOUs as evidence of ownership for CUMA purposes.

I am prepared to provide our licence documents and evidence of non-payment by diving agencies to the Committee.

Sincerely,

Solomone Radaniva Tuibua
Senior Advisor & Founder, NCC Ltd

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