

By email

18 December 2024

Committee Secretariat
Justice Committee
Parliament Buildings
Pōneke – Wellington
TreatyPrinciples@parliament.govt.nz

Tēnā koutou

Treaty Principles Bill – Greater Wellington Regional Council Submission

1. Te Pane Matua Taiao / Greater Wellington Regional Council makes the following submission to the Justice Committee on the Treaty Principles Bill (the Bill).
2. Te Pane Matua Taiao opposes this Bill in its entirety and seeks that it is abandoned immediately.

Introduction

3. Over the past half century, all three branches of government have recognised that Te Tiriti o Waitangi (Te Tiriti) is ‘a binding agreement between the Crown and Māori which is fundamental to New Zealand’s constitutional arrangements’ and affirms and guarantees pre-existing Māori rights and interests.¹
4. As a regional council, Te Pane Matua Taiao recognises that the Te Tiriti partnership is between the signatories to Te Tiriti: hapū/iwi Māori and the Crown.² Local government is nevertheless bound to give effect to Te Tiriti and to uphold the partnership, as indicated by our statutory responsibilities set out in the Resource Management Act 1991, Local Government Act 2002 and other relevant legislation.
5. In many cases we are the most evident portrayal of the Crown in a local setting. We take our responsibility to Te Tiriti and to the rights of our mana whenua partners – including tino rangatiratanga – very seriously.

¹ Kings Counsel Open Letter, ‘King’s Counsel Express Grave Concerns about the Treaty Principles Bill’, 13 Nov 2024.

² Our reference to Te Tiriti instead of the Treaty recognises the primacy of Te Tiriti as the original agreement, which was signed by most rangatira and which was explained to and understood by the rangatira.

6. Te Pane Matua Taiao established formal partnerships with mana whenua 30 years ago and is more committed than ever to upholding them. These partnerships continue to be critical to our shared success protecting our environment and managing significant network infrastructure, while meeting the cultural, social and economic needs of our communities.
7. Until both parties to Te Tiriti willingly engage on constitutional reform and how this should reflect Te Tiriti, we and other public organisations have appreciated the guidance from the Waitangi Tribunal (the Tribunal) and the Courts about how to interpret the Treaty principles. This guidance has developed over the decades – as the understanding of what Te Tiriti means and how to honour it has matured – and has included the role, functions and duties of local government. We submit that Parliament has no role to unilaterally interpret what the Treaty principles are. It is not the role of the Crown to determine the Treaty principles.
8. We submit that this Bill is misguided, inflammatory and divisive. It relates in no way to the meaning and promise of Te Tiriti and stems from an absolute misunderstanding of the formation of treaty relations. It is driven by populist sentiments which have no place in a fair and just representative democracy.

The introduction of the Bill breaches Te Tiriti and creates social division

9. Te Pane Matua Taiao wholly supports the findings and recommendations of the Waitangi Tribunal in Wai 3300. We are deeply concerned that our expert independent commission of inquiry on Te Tiriti has been ignored: ‘If this Bill is not enacted, it would still be an appalling breach...The fact that Cabinet could approve such a Bill and introduce it to Parliament would grant an official imprimatur to these ‘principles’ that they would not otherwise have, and could influence the debate long after this Bill has failed to progress beyond the select committee stage’.³
10. Even if the Bill is not enacted, it has already impacted negatively on the Māori-Crown relationship and stimulated division, misinformation, ill-informed debate and anti-Māori sentiment in our communities locally and nationally.

³ Waitangi Tribunal, Wai 3300, *Ngā Mātāpono/The Principles: Part II of the Interim Report of the Tomokia Ngā Tatau o Matangireia – The Constitutional Kaupapa Inquiry Panel on The Crown’s Treaty Principles Bill and Treaty Clause Review Policies*, 5 November 2024, pp. xvi-xvii.

11. We submit that the select committee process extends and amplifies this ill-informed debate and the associated prejudice to Māori.⁴ The process and timing sets the groundwork for a highly divisive referendum on implementation of the Bill and increases the risk that the intended referendum succeeds. A referendum is a ‘wholly inappropriate way of addressing such an important and complex constitutional issue... which so profoundly impacts on indigenous rights’.⁵

The Bill if enacted would significantly prejudice Māori and impact councils and communities

12. We agree with the Wai 3300 Tribunal that ‘if this Bill were to be enacted, it would be the worst, most comprehensive breach of the Treaty / te Tiriti in modern times’.⁶ We also support the open letter of 42 King’s Counsel and leading legal minds in Aotearoa who expressed ‘grave concerns’ that the Bill seeks to unilaterally rewrite Te Tiriti and redefine it in law, abrogating Māori rights and offending the principles underpinning our representative democracy.

13. The Bill advances a long-discredited agenda of assimilation and is expected to cause ongoing social division, discrimination and harm to Māori communities at the local and national level.

14. In the local government context – by removing Māori rights guaranteed in Te Tiriti – the Bill would nullify the legislative levers which require local government to recognise those rights and interests. This would create the conditions for local government to abrogate Māori rights and breach Te Tiriti in the exercise of its powers and functions delegated from the Crown.

15. The Bill could therefore erode Māori involvement in decision-making at the local and regional level and impede decades of progress partnering with Māori for the benefit of communities in critical areas including biodiversity, climate change, infrastructure, economic development and wai (water).

⁴ Ibid. pp. xvii.

⁵ King’s Counsel Open Letter, 13 November 2024.

⁶ Ibid.

16. The Bill would also create significant legal confusion, resulting in protracted litigation, legal and operational complexity and uncertainty.⁷ The resulting material costs, reduced efficiency and impacts on outcomes will be borne by councils, whānau, hapū, iwi and communities.

Relief sought

17. Te Pane Matua Taiao seeks that the Bill is abandoned immediately.

18. We call on the government to apply more resources to civics and Te Tiriti education instead.

19. Te Pane Matua Taiao wishes to speak to our submission.

20. The primary point of contact for any matters arising from this submission is Verity Smith, Principal Advisor, Te Pane Matua Taiao, verity.smith@gw.govt.nz.

Nā māua noa, nā



Daran Ponter
Heamana – Chair



Hikitia Ropata
Chair, Te Tiriti Komiti

On behalf of Te Pane Matua Taiao – Greater Wellington Regional Council

⁷ Ibid.