Constitutional Amendment: First Schedule Te Tiriti o Waitangi

A paper from Te Tiriti o Waitangi Komiti



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Recommendations

1. That the paper be received.
2. That all wording Treaty of Waitangi and the Treaty is changed to Te Tiriti o Waitangi and Te Tiriti.
3. That the word **'translation'** in the phrase, 'The Māori and the English **'translation'** of the Treaty [Tiriti]…' is changed to **'texts'** and the phrase would read, 'The Māori and the English **'texts'** of the Treaty…' clause 1.
4. That schedule 1 of the Constitution be amended as follows, including replacing the English text of the Treaty of Waitangi to Network Waitangi Otautahi 'AN EXPRESSION IN ENGLISH OF THE TEXT IN TE REO MĀORI.'[1]

   From:

   ## THE TREATY OF WAITANGI

   The inclusion of a third object in Rule 4(c) in 1988 stems from a 1987 Conference instruction that Executive action the following resolution which was received by that Conference:

   THAT this National PPTA Conference makes explicit its commitment to the principles of the Treaty of Waitangi as central to the Constitution of the PPTA.

   The Māori and English translation of Te Tiriti o Waitangi are included in the Constitution as the First Schedule.

   To:

   ## Te Tiriti o WAITANGI

   The inclusion of a third object in Rule 4(c) in 1988 stems from a 1987 Conference instruction that Executive action the following resolution which was received by that Conference:

   THAT this National PPTA Conference makes explicit its commitment to the principles of the Treaty of Waitangi as central to the Constitution of the PPTA.

   In 2024, Annual Conference updated this commitment to reflect Te Tiriti o Waitangi, replacing all references to the Treaty of Waitangi and the Treaty with Te Tiriti o Waitangi and Te Tiriti, respectively.

   The Māori and English texts of Te Tiriti o Waitangi are included in the Constitution as the First Schedule.

   FROM:

   <u>English Version</u>

   Victoria, the Queen of England, in her concern to protect the chiefs and the subtribes of New Zealand and in her desire to preserve their chieftainship[1] and their lands to them and to maintain peace[2] and good order considers it just to appoint an administrator[3] one who will negotiate with the people of New Zealand to the end that their chiefs will agree to the Queen's Government being established over all parts of this land and (adjoining) islands[4] and also because there are many of her subjects already living on this land and others yet to come. So the Queen desires to establish a government so that no evil will come to Māori and European living in a state of lawlessness. So the Queen has appointed 'me, William Hobson a Captain' in the Royal Navy to be Governor for all parts of New Zealand (both those) shortly to be received by the Queen and (those) to be received hereafter and presents[5] to the chiefs of the Confederation chiefs of the subtribes of New Zealand and other chiefs these laws set out here.

The first

The Chiefs of the Confederation and all the Chiefs who have not joined that Confederation give absolutely to the Queen of England for ever the complete government[6] over their land.

The second

The Queen of England agrees to protect the chiefs, the subtribes and all the people of New Zealand in the unqualified exercise[7] of their chieftainship over their lands, villages and all their treasures.[8] But on the other hand the Chiefs of the Confederation and all the Chiefs will sell[9] land to the Queen at a price agreed to by the person owning it and by the person buying it (the latter being) appointed by the Queen as her purchase agent.

The third

For this agreed arrangement therefore concerning the Government of the Queen, the Queen of England will protect all the ordinary people of New Zealand and will give them the same rights and duties[10] of citizenship as the people of England.[11]

[signed] William Hobson Consul & Lieut Governor

So we, the Chiefs of the Confederation of the subtribes of New Zealand meeting here at Waitangi having seen the shape of these words which we accept and agree to record our names and our marks thus.

Was done at Waitangi on the sixth of February in the year of our Lord 1840.

TO:

THE TREATY OF WAITANGI

AN EXPRESSION IN ENGLISH OF THE TEXT IN TE REO

(Signed at Waitangi on the 6th February 1840 and afterwards around the country by over 500 Rangatira)

Victoria, the Queen of England, in her gracious thoughtfulness to the Rangatira and Hapu of New Zealand, and in her desire to record both her recognition of their paramount authority and that the lands are theirs, so that all may live in peace and good order, has thought it right to send an officer to make arrangements with the Maori people of New Zealand. Let the Rangatira agree to the Kawanatanga (governorship – the delegated duty to govern Pakeha and other non-Maori) of the Queen over all parts of this land and its islands. This is to be done because a great number of her people have settled in this country, and others will come. The Queen desires to arrange Kawanatanga so that no evil will come to the Maori people or to the Pakeha, who are living here in a state devoid of systems and practices.". Now the Queen has been pleased to send me, William Hobson, a Captain in the Royal Navy, to be the Kawana for all parts of New Zealand which have been allocated, or shall be allocated, to the Queen. And she says to the Rangatira of the Confederation of the Hapu of New Zealand and the other Rangatira, these are the laws [precepts]spoken of:

This is the first

The Rangatira of the Confederation and all the other Rangatira who have not joined that Confederation delegate Kawanatanga to the Queen of England forever for lands entrusted to Pakeha and other non-Maori.

This is the second

The Queen of England will make the arrangements and recognises the Tino Rangatiratanga (retained paramount and ultimate authority, which includes sovereignty) of the Rangatira, Hapu and all the people of New Zealand over their lands, villages and everything else that is held precious. But the Rangatira of the Confederation and all the other Rangatira allow the Queen to trade for the use of those pieces of land that the owner's consent to allocate, subject to agreement over payment which will be agreed to between the Rangatira and an agent who will be appointed by the Queen.

This is the third

This is the arrangement for the agreement to the Queen's Kawanatanga. The Queen will care for all the Maori people of New Zealand and ensure that they have the same access to the laws same access to the systems, practices and customs as the people of England.

This is the fourth

The Governor says that all faiths - those of England, of the Wesleyans, of Rome and also Māori custom and religion - shall all alike be protected by him. (This fourth article was agreed to before any of the Rangatira had signed the Treaty. It came about when the Catholic Bishop Pompallier asked Hobson that there be a guarantee of freedom of religion. The Anglican missionary William Colenso subsequently worded the article then Hobson and the Rangatira agreed to it.)

Now we, the Rangatira of the Confederation of the Hapu of New Zealand, assembled here at Waitangi and we, the other Rangatira of New Zealand, understand the intent of these words and agree to their entirety, and so we put here our names and our marks. Done at Waitangi on the 6th day of February in the year of our Lord 1840

Network Waitangi Otautahi www.nwo.org.nz.

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1 Introduction

1.1 Te Tiriti o Waitangi over the last few years has undergone political interference and legislative change in both education (removal of 127(d)(1) school boards obligations to give effect to Te Tiriti o Waitangi) and policy -Treaty Principles Bill (2024), Treaty Clause Review (2026).

1.2 As attacks on Te Tiriti intensify, so too has public understanding of Te Tiriti o Waitangi and the growing recognition that the English text distorts the original intent and guarantees of the Māori text, demanding urgent correction and honest constitutional reckoning.

1.3 In 2024, at the PPTA Annual Conference, delegates agreed to review the Treaty of Waitangi text contained within the Association's Constitution. While the inclusion of Hugh Kawharu's 1988[1] explanation represented a progressive step at the time by providing greater insight into the meaning of Te Tiriti o Waitangi, subsequent scholarship has produced more accurate interpretations of how the Māori text would have been understood by the rangatira who signed it. The recommended text reflects this evolving understanding and more closely aligns with the intent and meaning of Te Tiriti o Waitangi as understood by Māori in 1840.

2 Discussion

2.1 The replacement of 'translation' for 'texts' is important for several reasons:

2.1.1 The English "translation" of Te Tiriti o Waitangi fundamentally misrepresents what more than 500 rangatira understood and agreed to in te reo Māori. It does not faithfully convey the meanings, obligations, or guarantees contained within the Māori text and therefore cannot legitimately be considered a true translation of Te Tiriti.

2.1.2 In international law where there is any ambiguity, the contra proferentem principle applies, which means that a decision is made against the party that drafts the document. The indigenous language text takes preference.

2.2 Replacing the English text of the Treaty of Waitangi to Network Waitangi Otautahi 'AN EXPRESSION IN ENGLISH OF THE TEXT IN TE REO MĀORI'[2] is significant because:

2.2.1 The 1988 translation by Hugh Kawharu is problematic because rangatria did not agree to a government, they agreed to a Governor (Hobson) to keep Pākehā lawful.

2.2.2 Important distinction in the recommended text – (governorship – the delegated duty to govern Pākehā and other non- Māori).

2.2.3 The Fourth Article pertaining to religion has been included.

3 Rationale for Change

3.1 The recommended changes ensure the constitution is more accurate in its interpretation of the historical and cultural intent and significance of Te Tiriti o Waitangi.

[1] **New Zealand Royal Commission on Social Policy, The Commission, Wellington, N.Z., 1988 https://paperspast.natlib.govt.nz/books/ALMA1988-9915974373502836c-The-April-report--report-of-the-**

[2] Treaty_Poster_with_Declaration_of_Independence.pdf

3.2 The replacement of the 1988 interpretation of Te Tiriti o Waitangi to a more contemporary understanding demonstrates the Association's cultural competence and development to 'affirm and advance' Te Tiriti o Waitangi.

4 Conclusion

As an education union, we lead in spaces that others follow. Updating the Association's interpretation of Te Tiriti o Waitangi to one that is accurate, contemporary and significantly true to the historical and cultural intent of Te Tiriti o Waitangi demonstrates true leadership. The constitutional change is another step towards the development of affirming and advancing Te Tiriti o Waitangi.