



To the Justice Select Committee on the

Treaty Principles Bill

About PPTA Te Wehengarua

PPTA Te Wehengarua represents the majority of teachers engaged in secondary education in New Zealand, including secondary teachers, principals, and manual and technology teachers.

Under our constitution, all PPTA Te Wehengarua activity is guided by the following objectives:

- to advance the cause of education generally and of all phases of secondary and technical education in particular;
- to uphold and maintain the just claims of its members individually and collectively; and
- to affirm and advance Te Tiriti O Waitangi.

This submission is from the PPTA Te Wehengarua's Te Reo ā Rohe and is representative of our role as the link between Kaiako Māori, iwi and mana whenua and PPTA Te Wehengarua.

About Te Reo ā Rohe

Te Reo ā Rohe is one of the dedicated Māori groups that connect the Post Primary Teachers' Association Te Wehengarua (PPTA) with Kaiako Māori and their hapori / communities. We are comprised of kaiako Māori members elected on a geographical basis by Māori members of the Association. Te Reo ā Rohe has the responsibility for making decisions that impact Māori members. Our role is to connect Māori members and advocate for their rights and to act as a channel for their concerns; to consider and represent those concerns to the PPTA Te Wehengarua Executive; and to liaise with Māori members and consult regularly with kaiako Māori on issues pertaining to Māori secondary education.

The role of Te Reo ā Rohe extends beyond the classroom, encompassing responsibilities to iwi, hapū, and te ao Māori. As educators, Te Reo ā Rohe carry the vital task of ensuring that te reo Māori me ōna tikanga are delivered authentically and made accessible to rangatahi and mokopuna. This responsibility is deeply rooted in a history where mātauranga Māori was largely absent from education systems. Kaiako Māori serve as cultural guardians, upholding te reo Māori and tikanga while fostering culturally responsive education that reflects and respects Māori heritage.

Te Reo ā Rohe stands firm against the Treaty Principles Bill and views this bill as a violation of Te Tiriti o Waitangi. Particularly, as Māori educators the Treaty Principles Bill threatens Te Tiriti o Waitangi in education, and alongside proposed changes to legislation such as removing s127 of the Education and Training Act (2020) provides a vehicle to further erode Te Tiriti o Waitangi education clauses. Our stance is grounded in a commitment to honouring Te Tiriti o Waitangi as the founding document of Aotearoa and the intent of Te Tiriti for a peaceful agreement between two peoples and a commitment to live together and thrive.

We ask that the select committee consider all the points made by Te Reo ā Rohe and the rationale behind our opposition to this divisive bill.

Our recommendations are:

- 1. To honour Te Tiriti o Waitangi and stop tampering with the agreement between Rangatira and the Crown made in 1840.
- 2. To halt the Treaty Principles Bill and stop the select committee process immediately.
- 3. That the government addresses the concerns about the harm this bill has caused among New Zealanders through a national apology by the Prime Minister of New Zealand.

- 4. That the government invests in education on Te Tiriti o Waitangi for all New Zealanders.
- 5. That all legislated Te Tiriti o Waitangi references that have been implemented to address colonial injustices remain intact and are not tampered with.
- 6. As Te Tiriti o Waitangi partners, Māori are consulted on all matters pertaining to Te Tiriti o Waitangi.

Introduction

Te Tiriti o Waitangi created a foundational relationship to establish a partnership between iwi Māori and the Crown. "Te Tiriti forms the founding agreement Aotearoa was built upon. It provides the foundations for an enduring relationship between tangata whenua and tangata Tiriti that ensures everybody is looked after and nobody is left behind." ¹

'I'm appalled. By definition, a treaty has two partners (at least). ACT is trying to redefine us and the meaning of the treaty without engaging with the other partner to the Treaty. They want to rewrite the rules of the game to benefit their extremist agenda and are dressing it up in weasel words. Of course, we all want true equality, but ACT want to ignore research, evidence, and decades of work and jurisprudence to suppress us so we never get it' (Secondary Kaiako).

At the time of the signing, Māori were clearly operating tino rangatiratanga- self-determination, within tikanga Māori including manaakitanga the foundation and basis of Te Tiriti o Waitangi (1840). Nearly two hundred years later, the Treaty Principles Bill seeks to contest the intent of Te Tiriti o Waitangi, a manipulative political manoeuvre to end Te Tiriti o Waitangi based on the right-wing ideology of the ACT party. To state that everybody is equal ignores diversity and historical inequity. To assert that everyone is equal reeks of white privilege and historical amnesia. It also dismisses the colonial impact Māori suffered because of land wars, land confiscations, culture, tikanga and language deprivation. The bill dismisses inequality and instead creates division with uninformed statements taken out of context to gain public support through repetitive rhetoric that: 'rights based on ancestry is wrong' and that somehow tino rangatiratanga for Māori was not what Te Tiriti o Waitangi says. The bill is a "politically motivated attack on perceived Māori privilege".²

'I don't think either the current Treaty principles and their associated bill, or the principles being proposed by the ACT party in the new Treaty principles bill, capture the articles of the Māori version of Te Tiriti o Waitangi/the Treaty of Waitangi, or the very clear statements re independence and sovereignty expressed in He Whakaputanga' (Secondary kaiako).

The Treaty Principles Bill totally dismisses the intent and meaning of Te Tiriti o Waitangi. Te Tiriti o Waitangi: Article 2 - embodied pre-existing rights Māori possess to tino rangatiratanga- self-determination

Te Tiriti o Waitangi recognised two spheres of authority – the tino rangatiratanga and kāwanatanga spheres.³ Te Tiriti o Waitangi was an invitation by the Māori world to share an existence based on respect and peace in Aotearoa. Te Tiriti o Waitangi was a plan for everyone to flourish.

'I think the new principles being proposed by the ACT party are a deliberate assault on Māori aspirations towards realising our independence and sovereignty, as asserted and acknowledged by the British Crown in

¹ https://forms.justice.govt.nz/search/Documents/WT/wt DOC 217933408/Nga%20Matapono%20W.pdf

 $^{^2\,\}underline{\text{https://www.1news.co.nz/2024/11/05/govt-to-introduce-controversial-treaty-principles-bill-this-thursday/}$

³ https://forms.justice.govt.nz/search/Documents/WT/wt DOC 217933408/Nga%20Matapono%20W.pdf

He Whakaputanga, and an assault on the articles of the Māori version of Te Tiriti o Waitangi/the Treaty of Waitangi (Secondary kaiako).

'I think the current Treaty principles brought us closer than before, but not close enough, and that they've enabled successive governments to continue to avoid the question of sovereignty' (Secondary Kaiako).

Treaty Principles Bill and the Ideology of Equality.

Members of Te Reo ā Rohe question the audacity of the Act party leader, David Seymour, who has doggedly pursued and orchestrated a bill that arrogantly assumes authority to change Tiriti principles, that seeks to eliminate Māori access to te Tiriti justice and claims. David Seymour's ideological assertion is that ALL New Zealanders have tino rangatiratanga, bestows a Māori concept outside its' cultural origin and also ignores pre-existing rights of Māori to tino Rangatiratanga. The bill is based on misinformation, anti-Māori sentiment and has cherry-picked words from Te Tiriti and reinterpreted them to suit ACT Party right-wing ideology.

'I think the notion of equal rights as referred to in the proposed new principles is a fallacy and that there is considerable evidence to prove that Māori have never enjoyed the equal rights supposedly guaranteed to them. I don't imagine that's about to start now. I also believe that democracy doesn't necessarily serve Māori and other indigenous peoples as it tends to ensure that we remain unable to gain a majority and therefore the ability to dictate what might happen in the way that successive governments made up of a majority of non-Māori have been able to. I also believe that given He Whakaputanga asserted our independence and sovereignty, and that this was reinforced by the Māori version of Te Tiriti o Waitangi/the Treaty of Waitangi: 1) hapū and iwi should be self-governing if they want to be or 2) hapū and iwi should be represented in all forms of government and governmental organisations etc., including school boards and health boards etc., and that representation should ensure an equal say and equal ability to determine outcomes, and with rights of veto if any decision is deemed to be potentially damaging to hapū and/or iwi members (secondary kaiako).

From lived experience, Te Reo ā Rohe experience first-hand the diversity within their classrooms, teaching in environments where resources vary significantly based on equity indices. Ākonga arrive at kura with unique needs that demand tailored approaches. A one-size-fits-all model is insufficient and fails to address the complexities of supporting every learner effectively. The idea that resourcing need as if the need is the same independent of the context is absurd.

'Disgraceful. ACT having no responsibility towards tangata whenua and also any people who are disadvantaged (secondary kaiako).

David Seymour is determined to disseminate and repeat false information, asserting that everyone is equal while dismissing tino rangatiratanga. David Seymour has asserted that the Bill "provides an opportunity for New Zealanders — rather than the courts and the Waitangi Tribunal — to have a say on what the Treaty means". All through New Zealand law there are acknowledgements that people need to be treated differently to achieve equality. Section 19(2) of the New Zealand Bill of Rights Act 1990 allows for measures to be taken in good faith to help people or groups who have been disadvantaged by discrimination⁴. This is a major omission in David Seymour's ideological positioning of the Treaty Principles Bill. The insistence that treating everyone the same is fair, not only dismisses Māori pre-existing rights to tino rangatiratanga, is full of historical amnesia and comes from a position of privilege. Our colonised history and the negative treatment of Māori is ignored in the proposed text as well as the process that has formed the Treaty Principles Bill. Additionally, the assertion that the Treaty Principles Bill provides an opportunity for all New Zealanders to have a say undermines the agreement between iwi and the Crown.

"Did the Treaty give different rights to different groups, or does every citizen have equal rights? I believe all New Zealanders deserve to have a say on that question." David Seymour's assertion that Te Tiriti o Waitangi is discriminatory displays ignorance about the intent of our founding document, a binding contract signed in 1840 between iwi through Rangatira and the Crown - and it is the only document that creates legitimacy for the British Crown to establish any form of government in Aotearoa.

'I believe they neglect the foundation of Aotearoa New Zealand as a nation. I believe that within being a bicultural nation you need to recognise, individualise, and celebrate different cultures. I believe in equity over equality (Secondary Kaiako).

Coalition Government Divisive Agreement.

Te Reo ā Rohe understand that the current coalition government of New Zealand has agreed to the debate of a bill that defines three new principles based on the articles from the Treaty of Waitangi. The intent of the Treaty Principles Bill is to replace these principles, undermine Te Tiriti o Waitangi and absolve government from all obligations to uphold the right of Māori to tino rangatiratanga, partnership, protection and participation.

We do not accept the National party argument that agreement to allowing the bill was the cost of the coalition agreement. This demonstrates a lack of leadership in taking ownership of the consequences and in prioritising power over the good of the people of Aotearoa. As Annette Sykes, Te Tiriti expert and lawyer) said, "Why would someone who wants to be the leader of the nation permit the tail to wag the dog" (Waitangi, 2024) – a visual analogy that critiques the weakness operating within the structural coalition government arrangements.

The Prime Minister's overseas absence at the 1st reading of the Treaty Principles Bill has many wondering whether honouring Te Tiriti and maintaining social cohesion is important to this Government.

The Waitangi Tribunal Response.

Te Reo ā Rohe concur with the Waitangi Tribunal reports on the Treaty Principles Bill. The Waitangi Tribunal are Tiriti experts whose voice on such constitutional Tiriti matters originate from years of research and evidence.

In response to the new principles proposed by the Act party, the first Waitangi Tribunal report on the Treaty Principles Bill states the Bill 'contains inaccurate representations of the text and spirit of the Treaty / Te Tiriti and warped interpretations of te reo Māori from Te Tiriti o Waitangi is a breach of the duty to act in good faith and to act reasonably...' The Treaty of Waitangi Act (1975) established Waitangi Tribunal as a body with powers to inquire into Crown actions deemed to be "inconsistent with the principles of the Treaty".

Parliament introduced the concept of the Treaty principles into legislation in the Treaty of Waitangi Act 1975. The principles of partnership, protection and participation help guide and support claims processes as well as decision makers on contemporary issues and policy decisions. The process by which the current Bill has been developed and is being considered fails to honour these principles.

The Crown's agreement to pursue the Treaty Principles Bill 2024 unilaterally belies the existence of the partnership established by Te Tiriri o Waitangi. Despite the constitutional significance of defining the Treaty principles in legislation in 1975, and the importance of this to Māori, the Crown has pursued Act's? - policy without any engagement or discussion with Māori.

Te Reo o Rohe agree with the Tribunal which states that the bill before the House is "unfair, discriminatory, poorly designed." That it has been pursued "without any engagement or discussion with Māori" is a disgrace.

⁵ https://www.1news.co.nz/2024/11/05/govt-to-introduce-controversial-treaty-principles-bill-this-thursday/

⁶ https://forms.justice.govt.nz/search/Documents/WT/wt DOC 217933408/Nga%20Matapono%20W.pdf

⁷¹ https://www.1news.co.nz/2024/08/16/treaty-principles-bill-a-politically-motivated-attack-waitangi-tribunal/

Māori do not want this policy and have been strongly opposed from the beginning. The Waitangi Tribunal found that the Treaty Principles Bill 'based on existing ACT policy', as the coalition agreement requires, is a solution to a problem that does not exist; there is no policy imperative that justifies it; it is 'novel' in its Treaty interpretations; it is fashioned upon a disingenuous historical narrative; its policy rationales are unsustainable; and its current text distorts the language of the Treaty / Te Tiriti.' It has been pursued without any consideration of the Crown's constitutional and Treaty / Te Tiriti obligations to Māori. Senior officials gave clear advice to Ministers on this, also warning that it would damage the Māori—Crown relationship, and risk undermining social cohesion.

Te Reo ā Rohe opposes the newly proposed Treaty Principles Bill because of the failure of the Crown to engage in discussion as equal Treaty/ Te Tiriti partners. The commitment of the ACT party to rewrite the principles of Te Tiriti o Waitangi in isolation, completely betrays their responsibilities as equal partners. The Crown's process has deliberately excluded any engagement with Māori as Treaty partners. The Cabinet rejected their duty to consult Māori as a "novel reading of the Treaty" by the courts and the public service. ⁹

This Bill dishonours the trust between Treaty partners, breaking the very promise that was agreed upon, by excluding Māori voices from the conversation. To reshape Te Tiriti without honouring the position of Māori in the partnership, betrays the very essence of why our tūpuna signed. The goal of our tūpuna was a shared pathway to kotahitanga and prosperity for all citizens of Aotearoa. Te Reo ā Rohe know that this Bill is not how we progress towards that.

'I think this is part of a global movement determined to undermine indigenous peoples and their rights as indigenous peoples so that the rich can continue to profit from the exploitation of natural resources, something which indigenous peoples and most of their leaders tend not to favour' (Secondary Kaiako)

The proposed Treaty Principles Bill states:

- **Principle 1**: The Executive Government of New Zealand has full power to govern, and the Parliament of New Zealand has full power to make laws,
 - (a) in the best interests of everyone; and
 - (b) in accordance with the rule of law and the maintenance of a free and democratic society.
- Principle 2:
 - (1) The Crown recognises, and will respect and protect, the rights that hapū and iwi Māori had under the Treaty of Waitangi/te Tiriti o Waitangi at the time they signed it.
 - (2) However, if those rights differ from the rights of everyone, subclause (1) applies only if those rights are agreed in the settlement of a historical treaty claim under the Treaty of Waitangi Act 1975
- Principle 3:
- (1) Everyone is equal before the law.
- (2) Everyone is entitled, without discrimination, to
 - (a) the equal protection and equal benefit of the law; and
 - (b) the equal enjoyment of the same fundamental human rights.

The Problem with the Principles and the intent and implications of the words.

What would be the effect on contemporary, rather than historical Treaty settlements, or future breaches of the Treaty by the Crown in light of the wording of Principle two? Previously, the Principle two referred to rights, '...specified in legislation, Treaty settlements or other agreements with the Crown.' The final version defines 'settlement of a historical treaty claim under the Treaty of Waitangi Act 1975.' The changes to the

https://forms.justice.govt.nz/search/Documents/WT/wt_DOC_217933408/Nga%20Matapono%20W.pdf

 $^{^9~}https://forms.justice.govt.nz/search/Documents/WT/wt_DOC_217933408/Nga\%20Matapono\%20W.pdf$

Principle two wording of the Treaty Principles Bill suggests that tino rangatiratanga is dismissed and relegated to 'historical claims' possibly limiting the claims process to a time period that restricts access to justice for iwibased claims and breaches of Te Tiriti o Waitangi.

Te Reo ā Rohe opposes the newly proposed Treaty Principles Bill because it distorts and diminishes the true intent and significance of Te Tiriti o Waitangi, undermining Mana Māori Motuhake. According to the Waitangi Tribunal Report, "considered as a whole, the new principles discriminate against Māori, they abrogate Māori rights, and they extinguish tino rangatiratanga in a legal sense." ¹⁰

The newly proposed Treaty Principles Bill deliberately attempts to undo the progress of many legislative victories to date by reimagining the original purpose of the Treaty principles. Replacing them with the ideology that Te Tiriti o Waitangi is an agreement within a single people when it is a covenant of two sovereign Peoples.

Te Reo o Rohe has particular concerns that-

<u>Principle 1:</u> dismisses pre-existing rights prior to and stated in Article 2 of Te Tiriti o Waitangi which guarantee the right of Māori to tino rangatiratanga. It also privileges 'law' over 'Māori lore'. It ignores indigenous rights to follow and practice tikanga Māori and taonga tuku iho (customs and practices handed down from ancestorial intelligence). Parliament has the power to make laws by virtue of Te Tiriti and in partnership with Māori, not as an inarguable right.

<u>Principle 2:</u> Asserts that the rights of Te Tiriti and the Treaty are interchangeable, assuming consistent translations of each text. This is not accurate. Te Tiriti o Waitangi ensures Maori, as a party to the agreement, retain tino rangitiratanga, it does not grant that to all. Uses of the word 'had' – implies/ asserts that Māori no longer have those rights. This aligns to the Act party position that Māori ceded sovereignty but Principle 2 of Te Tiriti o Waitangi is clear that this is not the case.

The bill also states that Māori only have rights where these are written in the settlement of historical treaty claims and therefore extinguishes Māori rights to Te Tiriti claims and justice for colonial redress and wrongs.

Te Reo ā Rohe oppose the restrictions of the new wording and the implications this has for Article II Te Tiriti o Waitangi and the 'tino rangatiratanga o raatou wenua o raatou kainga o raatou taonga katoa.' 11

Further, in the exposure draft of this Bill, "special" rights for Māori may exist only where they were provided for in legislation, treaty settlements or other agreements with the Crown. While this already had the unacceptable effect of seeking to extinguish rights as provided for in Te Tiriti itself, the Bill as it now stands appears to go further, providing for rights for Māori only in historical treaty settlements, defined as those arising from 'a policy or practice adopted or an act done or omitted by or on behalf of the Crown, before 21 September 1992'. 12

We question the effect of this revised wording on contemporary claims let alone potential future breaches of Te Tiriti by the Crown. Attempting to legislate over possible recourse for breach of contract and undermining Te Tiriti once again. This bill seeks to prevent future claims the government is obligated to address.

¹⁰ https://forms.justice.govt.nz/search/Documents/WT/wt DOC 217933408/Nga%20Matapono%20W.pdf

¹¹ https://teara.govt.nz/en/document/4216/the-three-articles-of-the-treaty-of-waitangi

¹² https://www.legislation.govt.nz/act/public/1975/0114/latest/whole.html#DLM435375

<u>Principle 3:</u> The equality agenda as opposed to an equity agenda, assumes a starting point of equality before the law which experience shows is not the case for Māori. The bill is targeted towards New Zealanders' sense of fairness, but in doing this, there is a disregard towards the reality of differences, inequity and the have and have nots present in New Zealand today. This bill seeks to eliminate 'by Māori, for Māori' initiatives and will certainly not address the current inequality that is evident in our country, where Māori do not enjoy equal – life spans, health, educational outcomes, incarceration rates.

Let us be mindful of the tamariki/ mokopuna who will witness this piece of legislation that is being proposed and the opposition it has caused. We need to lead by example, and honour Te Tiriti o Waitangi. This is made particularly difficult when right-wing ideologists want to rewrite our history and distort our founding document.

Our mother of the nation, Whina Cooper reminds us of the true importance within Te Tiriti o Waitangi in her famous quote,

"Take care of our children. Take care of what they hear. Take care of what they see. For how the children grow, so will the shape of Aotearoa." (Whina Cooper) 13

Jenny Shipley

'The voice of Māori, that reminds us that this was an agreement, a contract- and you do not rip up a contract and then just say, "Well, I'm happy to rewrite it on my terms, but you don't count...I would fight against it. Māori have every reason to fight against it." Former National party Prime Minister -Dame Jenny Shipley.

(The late) Dr. Moana Jackson

Journalist, Jamie Tahana reminds us of the debate between the late Māori academic and advocate of PPTA Te Wehengarua, Dr. Moana Jackson and the then National Party's Māori affairs spokesperson, Gerry Brownlee. When asked to discuss 'Māori privilege,' Dr. Moana Jackson replied that "Under the Treaty there are rights pre-existing which were reaffirmed. The need that Māori now have arose out of a breach of those rights so to address Māori need you're actually recognizing certain rights have been breached and it seems to me to be quite wrong to therefore call the addressing of need based on a breach of rights as a special privilege and it is also wrong because it misinterprets our history where that taking of power, the taking of land from Māori actually resulted in the privileging of Pākehā. The establishment of Pākehā institutions of power and Pākehā wealth was the privileging done at the expense of Māori so perhaps we need a Minister of Race Relations to consider Pākehā privilege and the gross breach of rights that Māori have endured for over 160 years." ¹⁵

Recorded in 2005, the Seabed and Foreshore protest was fresh in the minds of New Zealanders, former Act Party leader, Don Brash's infamous Orewa speech railed against Treaty 'principles' and the so-called 'Māori privilege' and 'grievance industry.' Near twenty years on, the Act party policy has once again reared its racial targeting of Māori but the attack is directed to our constitutional arrangement through the redefining of Te Tiriti o Waitangi without consultation.

42 King's Counsel Lawyers Oppose Treaty Principles Bill.

Other experts have joined the Waitangi Tribunal in their condemnation of the Treaty principles Bill. A group of King's Counsel lawyers (42) have written a letter to Prime Minister Christopher Luxon and Attorney General Judith Collins which expresses grave concerns about the Treaty Principles Bill", and request that it be abandoned. The letter states, "The coalition Government's Treaty Principles Bill seeks to redefine in law the meaning of Te Tiriti, by replacing the existing 'Treaty Principles' with new Treaty Principles which are said to reflect the three articles of Te Tiriti. The problem is that they do not. By imposing a contested definition of the three articles, the Bill seeks to rewrite the Treaty itself," the lawyers' letter said. ¹⁶

¹³ https://corpus.nz/picture-paints-thousand-words/

¹⁴ https://www.rnz.co.nz/news/political/533944/treaty-principles-bill-inviting-civil-war-jenny-shipley-says

 $^{^{15}\,\}underline{\text{https://e-tangata.co.nz/comment-and-analysis/we-wont-let-progress-slip-without-a-fight/}\\$

https://www.stuff.co.nz/nz-news/360486124/top-lawyers-tell-pm-abandon-treaty-principles-bill

400 Church Leaders Oppose the Treaty Principles Bill

The letter sent by 400 church leaders to MPs calling on them to vote down the Treaty Principles Bill aligns with oppositional action the Te Reo ā Rohe supports. In particular, Te Reo ā Rohe agree with church leaders whose opposition to the bill includes the bill's inconsistency with Te Tiriti o Waitangi and the failure to recognise the collective rights of iwi Māori or guarantee their relationship with the Crown.¹⁷

Te Reo ā Rohe take this point further state that the purpose of the Treaty Principles Bill is to undermine Te Tiriti o Waitangi, the relationship between iwi / Rangatira and the Crown and change the intent.

Hīkoi mō te Tiriti

Thousands have joined the 'Hīkoi mō te Tiriti' to protest the Treaty Principles Bill, come together in 'Kotahitanga' and put a stop to the coalition Government's undermining of Māori development. On November 19, 2024, tens of thousands of Hīkoi mō te Tiriti supporters gathered in Te Whanganui-a-Tara / Wellington, marching to demonstrate their unwavering support for Te Tiriti o Waitangi.

Conclusion

Te Reo ā Rohe oppose the Treaty Principles Bill, rejecting the political posturing behind the notion that treating everyone the same ensures fairness. They call for the bill to be stopped, insist that Te Tiriti o Waitangi be honoured, and emphasise the importance of building on progress already achieved. Existing inequities must be acknowledged and addressed, not disregarded as if differences are imaginary.