New Zealand House of Representatives
Te Whare Māngai o Aotearoa

Justice Committee
Komiti Whiriwhiri Take Ture

54th Parliament
April 2025

Principles of the Treaty of Waitangi Bill

94—1

And two related petitions

Presented to the House of Representatives
by Hon James Meager, Chairperson

Contents

Principles of the Treaty of Waitangi Bill

Petition of Chris Hickson

Petition of Maringi Te Rangi-Ataahua James

Recommendation

The Justice Committee has examined the Principles of the Treaty of Waitangi Bill and recommends, by majority, that this bill not proceed.

The committee also considered the petition of Chris Hickson—To object to the treaty principles bill—and the petition of Maringi Te Rangi-Ataahua James—Stop the Treaty Principles Bill – Toitū Te Tiriti and recommends that the House take note of its report.

About the bill as introduced

This bill fulfils an undertaking in the coalition agreement between the New Zealand National Party and ACT New Zealand to introduce a Treaty Principles Bill, based on ACT's policy, and support referring it to a select committee.

As stated in the bill's explanatory note, the overarching objective of the bill is to define what the principles of the Treaty of Waitangi are in statute, to:

- create greater certainty and clarity to the meaning of the principles in legislation
- promote a national conversation about the place of the principles in the country's constitutional arrangements
- create a more robust and widely understood conception of New Zealand's constitutional arrangements, and each person's rights within them
- build consensus about the Treaty/te Tiriti and New Zealand's constitutional arrangements that will promote greater legitimacy and social cohesion.

Parliament originally introduced the concept of the Treaty principles into legislation in the Treaty of Waitangi Act 1975. This was partly to reconcile differences between the te reo Māori and English texts. However, Parliament did not define the principles. The courts and the Waitangi Tribunal (which the Act established) have instead developed the principles over decades of jurisprudence. The Tribunal inquires into and makes recommendations about claims regarding the practical application of the principles. It also determines whether certain matters are inconsistent with the principles.

The purpose of the bill is to set out the proposed principles of the Treaty of Waitangi in legislation, and require, where relevant, those principles to be used when interpreting legislation. The bill proposes three principles:

- Civil government—The Government of New Zealand has full power to govern, and Parliament has full power to make laws. They do so in the best interests of everyone, and in accordance with the rule of law and the maintenance of a free and democratic society.

- Rights of hapū and iwi Māori—The Crown recognises the rights that hapū and iwi had when they signed the Treaty/te Tiriti. The Crown will respect and protect those rights. Those rights differ from the rights everyone has a reasonable expectation to enjoy only when they are specified in Treaty settlements.
- Right to equality—Everyone is equal before the law and is entitled to the equal protection and equal benefit of the law without discrimination. Everyone is entitled to the equal enjoyment of the same fundamental human rights without discrimination.

The bill would not apply to the interpretation of a Treaty settlement Act or the Treaty of Waitangi Act regarding a historical Treaty claim settled after the bill commenced.

If passed, the bill would require the support of a majority of electors voting in a referendum to come into force. It would commence 6 months after the date on which the referendum result was officially declared. The bill would automatically be repealed if it were not supported by a majority in the referendum.

Our consideration of the bill

We set out below our process for considering the bill.

Written submissions

On 19 November 2024, we called for public submissions on the bill. The closing dates for submissions were 11:59pm on 7 January 2025 for those made via the Parliament website and 5:00pm on 8 January 2025 for hard-copy submissions.

On 6 and 7 January 2025, some prospective submitters experienced difficulties submitting, or were unable to make submissions, via the Parliament website. These issues were caused by an unprecedented number of people simultaneously using the website. We reopened for submissions on 9 January 2025, with a new closing date of 1:00pm on 14 January 2025. The purpose of reopening was to provide an opportunity to submit for people who had tried to make a submission but were unable to do so. We also agreed to accept some emailed submissions from people who were unable to submit through the website.

About 303,500 submissions were lodged through the website and by email. This also included a submission from ACT New Zealand and 31,022 others. We also received a number of hard-copy submissions. We discuss in more detail below how we decided to count them.

Hard-copy submissions

Some organisations choose to make submissions on bills that include contributions from multiple individuals. We refer to these as “collated submissions”. We resolved to count collated submissions lodged in hard copy by organisations in one of two ways, depending on the nature of the individual contributions they were made up of. If the individual contributions were unique in nature and were otherwise consistent with the nature of individual submissions, we counted the collated submissions as individual submissions. If the individual contributions were not unique in nature or were more in the nature of what are commonly referred to as “form submissions”, the collated submissions were counted as a single submission from the organisation and X number of others (or, on behalf of X others).

Where individual contributions included a mix of form-based content and unique individual comment, we made a judgement about the overarching character of the collated submissions in deciding how to count the submissions.[1]

We received about 1,700 hard-copy submissions from individuals. We also received collated submissions in hard copy from eight organisations that ran submission campaigns. We agreed to receive the following as individual submissions:

- 655 submissions delivered by Common Grace Aotearoa
- 640 postcards from the Green Party of Aotearoa New Zealand
- 306 postcards from Toitū te Tiriti
- 654 submissions delivered by Tuku Kōrero.

We resolved to receive collated submissions from the following organisations as single submissions:

- Green Party of Aotearoa New Zealand and 12,347 others
- Hapai Te Hauora and 10,020 others
- Hobson's Pledge and 24,706 others
- Tauranga Intermediate and 124 others
- Tōku Waka and 313 others
- Waitomo Papakainga and 207 others.[2]

Vetting written submissions

When we called for submissions, we expressed our desire for a measured debate that would mirror the rules for debating amongst MPs in Parliament. We agreed that we would not accept submissions containing:

- racist material, particularly overt racism and content that characterises people as racist
- strong swear words
- abusive personal reflections against MPs or other individuals.

We also agreed that, generally, we would not accept anonymous submissions. This included submissions made only under a first name, or using only initials or an obvious pseudonym. We resolved to make exceptions to these guidelines where it was clear that an individual with initials or a single name was using their legal name and was not attempting to use a pseudonym.

Staff from the Office of the Clerk are responsible for vetting each submission to ensure that they meet the committee's criteria and raise no procedural issues under Standing Orders. Standing Order 220 provides that a select committee may return a written submission that it considers irrelevant to its proceedings, offensive, possibly defamatory, or suppressed by an order of a New Zealand court. Under Standing Order 240(a), a committee may return a

1 We resolved that all individual submissions lodged via the Parliament website would be counted as individual submissions. This includes any single submission arising from submission campaigns that contained collated contributions from individuals, as well as individual form submissions lodged by individuals.

2 Most of these submissions were provided as individual documents. The exception was the Green Party's submission, which was provided as a single document with 12,347 signatories.

written submission if it contains an allegation that may seriously damage the reputation of a person. A committee would do so if it were not satisfied that the submission was relevant, or it considered that the risk of harm to the person concerned outweighed the benefit of receiving the submission. Office of the Clerk staff also vet and translate submissions made in te reo Māori.

Oral submissions on the bill

We received more than 16,000 requests from submitters to make an oral submission. It was not possible to hear from all these submitters in the time that we had available. We therefore agreed a process for deciding who to invite to our hearings. We decided to schedule 80 hours of submissions across five weeks, including 20 hours of hearings as a full committee. We agreed to split into two subcommittees for the remainder, which allowed us to hear from more people. Each subcommittee was scheduled to meet for 30 hours.

We agreed that each political party represented on the committee (which comprised every party in Parliament) should nominate submitters to be invited to hearings. To assist our selections, we asked advisers to list submitters that met the following criteria:

- iwi, hapū, post-governance settlement entities, and other pan-Māori organisations
- notable individuals, including current and former members of Parliament
- local government authorities
- large and/or relevant national civil society organisations
- wider state sector agencies
- relevant academics, including legal and Māori academics and historians
- campaign submission organisers
- political parties
- individual members of the public whose submissions were particularly high-quality and substantive in nature
- young people, or submitters whose work is focused on young people
- any other noteworthy submitters identified by advisers on the bill.

Each political party represented on the committee was invited to submit two lists of 100 submitters nominated to be invited to hearings (an initial list in January, and a second list in February). Parties could allocate slots to randomly selected submitters, which some chose to do. The chairperson and a representative from the Opposition were authorised to agree the final lists of submitters to be invited on behalf of the committee. The final lists took account of double-ups between parties' nominations, the relative priority accorded to nominated submitters by parties, and practical considerations related to the arrangement of hearings. For example, after the initial 10 hours of hearings were completed, a primary list of invitees was agreed that totalled exactly 70 hours of hearing time. Remaining nominated submitters were placed on a back-up list, which was used to fill gaps when submitters declined the committee's invitation, did not respond to the invitation, or cancelled a scheduled hearing slot.

Submitters that met the criteria for one of our categories of interest listed above were invited for 10 minutes, except for individual members of the public, who were invited for five minutes. Submitters who did not fit one of the categories were invited for five minutes. This

included a number of randomly selected submitters, as well as some organisations that did not fit any of the categories.

In total, we heard from 529 submitters over 79 hours and 35 minutes. This consisted of 22 hours and 19 minutes as a full committee and 57 hours and 16 minutes as two subcommittees.

We thank those submitters who took the time to share their views in written submissions and at oral hearings. We acknowledge that only a small percentage of submitters were able to meet with us. However, the written submissions were all read and analysed by our advisers from the Ministry of Justice.

Analysis of submissions

Submissions were provided to our advisers from the Ministry of Justice while committee staff continued the vetting mentioned above. The advisers read the submissions and attended our hearings. Based on this information, they prepared a departmental report. The report contains statistics about the written submissions, including the percentage of submitters who supported or opposed the bill, or whose position was unclear or not stated. It also includes an analysis of the broad themes from all written submissions and a more detailed analysis of submissions from those submitters who requested an oral submission.

We include below a brief overview of the themes raised by submitters who supported or opposed the bill, but we have not summarised the more detailed analysis provided in the departmental report. Some submitters appeared to neither support nor oppose the bill. We encourage interested readers to consult the departmental report for a detailed analysis of submissions.[3]

Themes raised by supporters of the bill

The themes raised by supporters of the bill are set out on pages 9 to 12 of the departmental report. They related to:

- lack of clarity and certainty about the principles
- the importance of equality for all
- use of a referendum to facilitate a national conversation around the Treaty/te Tiriti
- promoting social cohesion.

Themes raised by opponents of the bill

Pages 12 to 25 of the departmental report contain the themes raised by opponents of the bill, which related to:

- inconsistency of the bill with the Treaty/te Tiriti
- flaws or inadequacies in the bill development process
- the bill's promotion of formal equality over equity
- the negative effect of the bill on social cohesion
- uncertainty of legal and constitutional implications
- the negative effect on the Crown–Māori relationship

[3] A copy of the departmental report is available on the Parliament website.

- concerns that the bill is contrary to international commitments and would negatively affect New Zealand's reputation
- opposition to the use of a referendum and support for a national conversation around the Treaty/te Tiriti
- unnecessary clarification of already defined principles
- negative environmental impacts of the bill
- negative effect on the status of te reo and mātauranga Māori initiatives
- rejection of the concept of Treaty principles.

Our next steps on the bill

Submissions are published after they have been vetted and the committee has tabled and released them. The act of tabling a paper represents a committee resolving to accept it into its proceedings.

When we concluded our consideration of the bill, committee staff were still vetting submissions. The vetting process will ultimately result in the return of submissions that we judge to be inconsistent with Standing Orders or our resolutions. Returned submissions do not form part of the official record. Due to the problems experienced with the Parliament website, submitters may also have inadvertently submitted multiple times. Each submitter will be counted only once even if they made multiple submissions. However, this count cannot occur until all submissions have been processed. The final number of submissions and submitters will therefore not be available until the vetting of submissions is completed and we have made decisions about returning submissions. We intend to provide an update on the final numbers when this information is available.

We were advised that Office of the Clerk staff may not finish vetting submissions for procedural issues before the bill's report-back date of 14 May 2025. When a committee makes a final report to the House on a bill, the bill is no longer before the committee. At that point, submissions that are lodged but not yet tabled are not considered to be committee proceedings on the bill. As the committee has not decided to accept the lodged submissions, they cannot be considered part of the committee's official record on the item of business.

When a committee makes a final report to the House on a matter, the proceedings relating to that matter are transferred to the custody of the House. In this case, the unprocessed submissions will remain in the committee's custody, given that they are not formally proceedings on the bill. However, given the unprecedented nature of this scenario, there could be some doubt about the procedural status of the submissions or the subsequent actions taken in respect of them.

As we have completed our consideration of the bill, we have decided to report back to the House. We discussed options to reduce doubt about the procedural status of the unprocessed submissions and to ensure the completeness of the official record of parliamentary proceedings on the bill. They included seeking an extension to the reporting deadline.

We agreed unanimously to seek authority from the House to continue to table and release or return submissions on the bill after we have presented our final report. On 10 March 2025, we wrote to the Business Committee seeking support for a motion in the House to give us

that power. At the time of reporting, no agreement was reached on our request by the Business Committee.

We intend to continue to table and release, or return, submissions after reporting the bill to the House. If the House grants us the authority outlined in our letter of 10 March, the submissions will be tabled as records on the bill. If it does not, the submissions will be tabled under General Business.

The latter approach is consistent with the practice followed by select committees in the most comparable precedents, such as when committees receive evidence on financial scrutiny after reporting to the House on the relevant business. However, under the House's rules, these submissions would not form part of the official record of our proceedings on the bill. This is because the bill will no longer be before us.

We understand that the Clerk of the House intends to publish on the Parliament website any submissions related to the bill that we table under General Business, and to seek a decision from the House to endorse this approach.

Green Party of Aotearoa New Zealand differing view

Te Tiriti is tapu. It is a sacred covenant that carries characteristics of mutual benefit, good faith, permanence, mutual respect, commitment to relationship. It is the founding agreement that legitimises the presence of people who would otherwise be only visitors in Aotearoa.

We express our strongest condemnation of this bill in its entirety and wish to set out our concerns in full detail given there has been truncated analysis of the bill and its submissions from the public. We wish to make the following comments on the bill.

Justification or rationale for this bill does not exist

The development of this bill was not preceded by a legitimate policy imperative or outcome. This exercise has been estimated[4] to cost around $6 million to the Government and has put the onus for truthful and accurate information regarding Te Tiriti o Waitangi on the general public.

This bill is premised on an assertion that the principles of the Treaty are unclear. This assertion is baseless. The Regulatory Impact Statement on this bill says that this bill creates **additional uncertainty** because it displaces existing case law about how the principles should be applied in real life.[5] This bill is effectively a reset button on decades of jurisprudence and careful weighing of evidence by the Courts. This is the case law that gives clarity on what Te Tiriti o Waitangi means according to the Courts, and this bill would overturn that clarity for no justifiable reason. Principles that have been carefully and deliberately established over the last 40 years including partnership, active protection, and redress would no longer be relevant.

[4] Renny, C. (2025). CTU estimates. Bluesky. Available at: https://bsky.app/profile/did:plc:l47czrddub2wojs5udzwfywn/post/3lggmhk2tbk2x?utm_source=substack&utm_medium=email.

[5] Ministry of Justice. (2024). Regulatory Impact Statement: Providing certainty on the Treaty principles, p. 16. Available at: https://www.beehive.govt.nz/sites/default/files/2024-09/Regulatory%20Impact%20Assessment%20Treaty%20Principles%20Bill.pdf.

This bill is a prime example of executive and legislative overreach by Parliament. We have a separation of powers for a reason, which is to provide an effective check on unbridled power wielded by politicians. The author of this bill and some submitters supporting the bill made claims about an "unelected judiciary". This deliberately misrepresents the role of the judiciary. Judges should not be punished and dragged through the mud with no right of reply. The role of our judiciary is to interpret and apply legislation passed by Parliament, and there is no credible evidence that they have done anything *but* that in relation to legislation which mentions, or is relevant to, Te Tiriti o Waitangi. It is critical to our democracy that these roles remain independent and it is completely inappropriate for elected members to generate public uncertainty and distrust to our judicial system in order to enhance their own power.

Contrary to the assertions of the bill's author, it is not unusual or extraordinary to have constitutional arrangements that recognise and provide for different ancestry, languages, religions, and genders. Canada, Denmark, Bolivia, Sweden, Finland, Ecuador, and the Philippines[6] are a few countries that have enabled constitutional recognition of indigenous rights. The reason why examples of constitutional structures that affirm indigenous self-determination and autonomy are apparently uncommon is that in many settler colonial countries the cultural, political, and constitutional presence of indigenous peoples is extremely limited, as a result of deliberate efforts to render indigenous peoples invisible. This bill exists in a tradition of assimilationist approaches to indigenous people. The recognition of Māori rights does not diminish the rights of others. Upholding Te Tiriti also protects the rights of non-Māori to make Aotearoa their home. It ensures that our country's constitutional promise and social cohesion is achieved for the benefit of all.

We also note that this bill does not include interpretation or definitions for the wording it uses to replace the principles of the Treaty. Despite the bill using contested language such as "best interests", "everyone", "free", "democratic", "equal protection", "equal benefit", "equal enjoyment", and "fundamental rights"—there is no definitions provided for these contested terms, nor does the bill point to any similar interpretations within existing laws which might help in the application of the drafted principles.

In summary, there is no justification for this bill aside from the author of this bill seeking to incite a culture war because it gives him and his pathetic policies a platform.

Misrepresentation of the principles of the Treaty

The existing Treaty principles are far more clear than has been alleged by supporters of this bill. The principles as we know them, and as they are applied, have been developed by the courts and the Waitangi Tribunal over the last 50 years. The bill misrepresents the normal legal processes whereby courts develop law and principles over time—presenting that as somehow uniquely inappropriate. It is true that public education on Te Tiriti o Waitangi has been lacking throughout our history, but the bill does not solve that problem and further skews the public understanding of the true history and intent of Te Tiriti o Waitangi.

Parliament is not the appropriate place to decide the Treaty principles in the way contemplated by this bill. This is what this bill is attempting to achieve. In a great show of

[6] Hayward, B. (2024). Submission to the Justice Select Committee on the Principles of the Treaty of Waitangi Bill, p. 3.

humility by previous Parliaments, including the Government who presided over the Treaty of Waitangi Act 1975 when it came into effect, they acknowledged that **Parliament does not have the knowledge or expertise** to determine and define the principles. Parliamentarians come from all walks of life and have a vast array of skills; however very few have a coherent understanding of the historical context in which Te Tiriti was signed, nor proficiency in Te Reo Māori to understand the true context of the original text, nor the experience applying the principles in a judicial context. Aside from the constitutional inappropriateness, Parliament is out of its depth when it comes to unilaterally adjudicating over Te Tiriti o Waitangi and we suggest that this is left to people with proper constitutional and legal skills and understanding to interpret and determine the principles and adherence to those. This is an abuse of power. Moreover, and arguably more importantly, that is something that should happen with the Māori Tiriti partner, not by the Crown alone.

The author of this bill takes advantage of the relative lack of understanding of Te Tiriti o Waitangi which is an additional suppressive act due to the fact that it is not something that many New Zealanders ever learnt about in school. The author has crafted the principles in this bill in a way that suggests that all New Zealanders are not already equal in terms of human rights. This is not true.

There is not one reputable source or academic who concurs with the author's interpretation of the Treaty principles. This has been confirmed by the Waitangi Tribunal in the strongest of terms.[7]

We wish to make the following comments on the principles as defined in this bill:

On Principle 1, Māori never ceded sovereignty

This bill defines the first principle of the Treaty of Waitangi/ Te Tiriti o Waitangi as:

> 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.

This misrepresentation of Article 1 demonstrates a complete lack of understanding of the historical context in which Te Tiriti was signed. Many of the bill's supporters argued that Māori could not cede sovereignty because it was never ours to begin with, or because there were inter-tribal disputes. This completely dismisses and purposefully ignores **He Whakaputanga o te Rangatiratanga o Nu Tireni 1835** which is the document preceding Te Tiriti o Waitangi which **affirmed independence and sovereignty for Māori**. Both He Whakaputanga and Te Tiriti o Waitangi were signed in order to safeguard hapū and iwi Māori in the face of rapid change. We can see through this bill and its process that this is the enduring nature of Te Tiriti, even 185 years later after its signing. The fact that sovereignty was never ceded is equally true for other signatories to Te Tiriti who did not sign He Whakaputanga in 1835.

[7] Waitangi Tribunal (2024). 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. Available at: https://forms.justice.govt.nz/search/Documents/WT/wt_DOC_217933408/Nga%20Matapono%20W.pdf

The distortion of our historical context by the ACT Party is not only limited to their illiteracy in New Zealand history, it extends to their historical illiteracy in relation to the history of the Crown. In 1840, Great Britain was not a democratic society, and the ruling classes at the time were opposed to the prospect that it ever might be.[8] How could the first article of Te Tiriti be interpreted to say "the maintenance of a free and democratic society", when this was not the type of society that either of the signatories had, or aspired to, upon signing? In the words of Ani Mikaere:

> In 1840 the Crown came to Māori as supplicant, not the other way around. The rangatira who signed Te Tiriti agreed to allow the Crown to remain in Aotearoa on the condition that it take responsibility for the conduct of its own citizens.

Article 1 of Te Tiriti is about rangatira who signed Te Tiriti o Waitangi agreeing to **share** power and authority with the Governor. This was not a transfer of sovereignty, power, or authority from rangatira to the Crown. Article 1 is a form of delegated authority drawn from the absolute tino rangatiratanga that Māori possessed in 1840, outnumbering non-Māori by 1 to 40 demographically, militarily, economically, and culturally.[9] The fact that Māori never ceded sovereignty has already been spelt out by the Waitangi Tribunal's Te Paparahi o te Raki report.

On Principle 2, tino rangatiratanga

This bill defines the second principle of the Treaty of Waitangi/Te Tiriti o Waitangi as:

> 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. 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.

This misinterpretation of Article 2 completely disregards tino rangatiratanga affirmed by Te Tiriti o Waitangi. It constrains Māori rights to those conferred through Treaty settlements. Treaty settlements in and of themselves already fail to compensate for the violent dispossession of Māori land thanks to this Parliament's decision to apply a fiscal limit to all Treaty settlements which reflects around 1 percent of the estimated financial impacts of Treaty breaches. This represents a legacy of colonial instincts whereby some of the people who have benefitted from this violent dispossession are now defending their right to preserve their interests which they got through lying, murdering, raping, infecting, and pillaging Māori.

Tino rangatiratanga is far broader than property rights or Treaty settlements. Tino rangatiratanga did not come into existence in 1840, or 1835. It doesn't exist relative to the Crown's comfortability of acknowledging its existence.

This bill seeks to replace tino rangatiratanga, which is a **collective right,** with individual rights. This is a classic libertarian interpretation where most things are seen to be bought

[8] O'Malley, V. (2024). Submission to the Justice Select Committee on the Principles of the Treaty of Waitangi Bill, p. 1.

[9] O'Malley, V. (2024). Submission to the Justice Select Committee on the Principles of the Treaty of Waitangi Bill, p. 2.

and owned by individuals, and the purpose of rights in their view is to assert control and exclusive power over something else.

On Principle 3, equality for who?

This bill defines the third principle of the Treaty of Waitangi/ Te Tiriti o Waitangi as:

> Everyone is equal before the law. Everyone is entitled, without discrimination, to the equal protection and equal benefit of the law; and the equal enjoyment of the same fundamental human rights.

Principle 3, as it is proposed in this bill, purports to be about honouring the concept of equality. As pointed out by many submitters, this phrasing about equality is misleading. The term “equality” is highly-contested and there are many iterations of the term. What this bill refers to is what would be known as “formal equality”. Formal equality makes a presumption that everyone is equal right now and therefore we should treat everyone the same.

In reality, Māori are over-represented in the worst statistics due to enduring legacies of colonisation. For example, we have shorter life expectancy, we have poorer health and education outcomes, we are over-represented in prison and in homelessness statistics. If everyone were to receive equal treatment, this would maintain, and indeed entrench, existing inequalities. We want to be clear that it is not a fault of iwi, hapū, or Māori that we are over-represented in such statistics. The shame and burden of responsibility for these statistics falls squarely on this Crown and its decisions to violently separate our people from our land, our language, our identities, our history, and our future. We can only live in a society with equal outcomes and equal quality of living if we first address areas where specific groups have been let down so that we can all operate from an even playing field, otherwise this principle simply consolidates inequality. That is why developed democracies choose to subscribe to frameworks of “substantive equality”, as opposed to “formal equality” which is focussed on equality of results and outcomes. Substantive equality is about redressing disadvantage, accommodating difference, and achieving structural change.

In reality, equal protection of the law and equal enjoyment of the same fundamental human rights is **already recognised and safeguarded** under the United Nations Universal Declaration of Human Rights, the New Zealand Bill of Rights Act 1990, Human Rights Act 1993, and Senior Courts Act 2016. To act as if the only way to achieve these rights are through rewriting historic agreements and relinquishing Māori rights is misleading and sinister.

We are still looking for any credible evidence that “special treatment” exists for Māori. Moreover, Te Tiriti in and of itself did not confer any “special rights” to Māori. It **affirmed** pre-existing rights that Māori **already had**. Te Tiriti granted “special rights” to the Crown, if anybody.

Select committee is not a “national conversation”

The Green Party has always supported a national conversation about constitutional transformation in line with Matike Mai report prepared by the Independent Working Group on

Constitutional Transformation.[10] However, a select committee process does not constitute a national conversation. Select committee is a one-sided process where there are very few exchanges of ideas, where the Government is in control and sets the parameters, and no ability to ask questions or delve deeply into the public's views. Not to mention, this process has been rushed with many submissions not able to be processed before the report back to the House in May. Moreover, the Crown cannot abrogate its constitutional responsibilities to Māori by asking the public to adjudicate on the matter via select committee or via national referendum. Aside from the extreme inadequacies of this so-called "conversation", an arguably even greater problem is that this "conversation" is happening unilaterally, without the involvement of the Māori tiriti partner. As the Waitangi Tribunal pointed out, that is not a conversation, it is a monologue. The invitation for Māori to take part in the select committee process, as though that is enough, is unjust, unconstitutional, and falls far short of what Te Tiriti o Waitangi requires.

Parliament is power, but it is not omnipotent. The fact that its executive branch, Cabinet, think that they can unilaterally amend our country's founding document is historical vandalism and propaganda in the most dangerous form.

The select committee process has been unfathomably shabby. Not because of the hard work by the committee's secretariat, but because it has been rushed. This is the most submitted-on bill in the history of this Parliament. We have been unable to analyse submissions to the high standard we are accustomed to, our oral hearings were not live-captioned for those with hearing impairments, Te Reo Māori translation has been slow due to a lack of capacity to translate, and analysis has been cut short in order to fit into the Government's timeframes. This Parliament should never get in the habit of rushing legislation and cutting short the traditional process on such a polarising bill of national significance.

A national referendum where a majority of people get the opportunity to undermine discrete rights of a minority population, who far outweighed the Crown and its subjects during the time of signing, is a recipe for polarisation, extremism, and social division[1112]. A referendum which undermines the covenant between Māori and the Crown, led by politicians who are well-versed in giving opinions but constitutionally- and historically-illiterate undermines our aspirations and full ability to be an **honourable kāwanatanga.** This bill has completely undermined the mana and honour of the Crown against all advice from its officials and the people of New Zealand who it purports to represent.

Final comments

Overall, this bill has been an international embarrassment. We have attracted international attention for this legislative attack on our indigenous people, as well as our inability to honour our agreements. New Zealand is party to 1,900 treaties. Te Tiriti o Waitangi, the treaty which

[10] The Independent Working Group on Constitutional Transformation. (2016). Report of Matike Mai Aotearoa. Available at: https://nwo.org.nz/wp-content/uploads/2018/06/MatikeMaiAotearoa25Jan16.pdf.

[11] Eisenberg, A. (2004). When (if Ever) Are Referendums on Minority Rights Fair? Representation and Democratic Theory, edited by David Laycock, University of British Columbia Press, pp. 3-22. https://doi.org/10.59962/9780774851787-003.

[12] Koopmans, R. (2018). Cultural Rights of Native Majorities between Universalism and Minority Rights. Discussion Paper SP VI 2018–106. http://dx.doi.org/10.2139/ssrn.3739916.

founded our nation, is the one that this Government refuses to honour or uphold. This bill has been an absolute insult to Māori which will take a very long time to heal. This bill has been described as a “legislative attack”, “worst assault on Māori”, and even as an invitation, in the words of former Prime Minister Jenny Shipley, for civil war. A discussion of this nature must be informed by tikanga and led by both parties to Te Tiriti.

Arguments from people supporting this bill made in submissions were incoherent, factually inaccurate, based on outdated perspectives and arguments, and many were outright racist. In reality, Te Tiriti and its interpretation is not a matter that is keeping New Zealanders up at night. It is only a vocal, fixated minority who believe that their rights have been eroded by the presence of Te Tiriti. The New Zealanders who wish to wage war against our indigenous people, via this bill, will inevitably fail because this type of culture war is not natural or normal to New Zealand, it is imported. New Zealanders know that we have far more important issues to solve than this.

This bill is part of a suite of legislation that attacks and diminishes the mana of Te Tiriti o Waitangi because Treaty rights are seen as a barrier to the Government’s agenda of facilitating corporate exploitation of nature. Indigenous rights do stand in the way of unfettered environmental exploitation. It is no coincidence that most of the world’s most intact biodiversity is in indigenous controlled land. Many iwi have leveraged their rights under Te Tiriti to protect their precious natural environment. For example, Ngāti Ruanui in Taranaki have defended their seabed from mining by Trans-Tasman Resources so that they might protect their taonga for future generations. In previous years Te-Whanau-ā-Apanui exercised their rights over their customary waters in the Raukumara Basin to successfully oppose deep sea oil drilling by transnational Brazilian oil company Petrobras. These protections of the natural commons—our oceans, rivers, climate, and taonga native species—benefit all New Zealanders, Māori and non-Māori alike. Indeed insofar as Māori exercise of tino rangatiratanga and kaitiakitanga achieves the preservation of natural biodiversity and ecosystem health it contributes to the viability of life on Earth for the good of all humanity.

Te Tiriti in the fullness of its intent and meaning is the pathway to cohesive nationhood. An Aotearoa in which everyone thrives and present and future generations can sustain and enjoy all that our beautiful country has to offer.

We oppose this bill in the strongest terms.

Te Pāti Māori differing view

The Principles of the Treaty of Waitangi Bill is a distortion of Te Tiriti o Waitangi based on a false historical narrative. It is designed to take away indigenous rights, assert Parliamentary dominance over Māori, and erase any duty of the Crown to act with honour and integrity.

Te Pāti Māori represent the more than 100,000 people who marched to Parliament from Te Rerenga Wairua and Te Waipounamu for Te Tiriti o Waitangi.

We vehemently oppose this bill on the following grounds:

1. It unilaterally rewrites a Treaty between Māori and the Crown, without the consent of both parties, and despite the overwhelming opposition of Māori.
2. It promotes extreme division, misinformation, and threatens safety in our communities.

3. It undermines the legal and constitutional framework of Aotearoa.

The Treaty Principles Bill has no place in a Parliament that exists only by consent of Te Tiriti o Waitangi. To unilaterally redefine the Treaty Principles is to undermine the legitimacy of Parliament and every law it has passed since 1840.

The Principles of the Treaty of Waitangi Bill claims to solve a problem that doesn't exist. There is no ambiguity in the articles of Te Tiriti o Waitangi. As Chief Justices Dame Sian Elias has stated: "it can't be disputed that the [text of the] Treaty is … the Māori text."

Successive Parliaments have used this notion of ambiguity to maintain dominance and privilege over Māori. The Treaty Principles Bill is the latest attempt to uphold the myth that the intent of our tupuna when they signed Te Tiriti is unclear, and that Māori ceded sovereignty.

By facilitating this campaign of misinformation and division, this Parliament is risking the safety of our mokopuna and the future of our nation.

Te Pāti Māori will not allow this weaponised ignorance to continue.

The Principles of the Treaty of Waitangi Bill brings Parliament into disrepute and should have never been allowed to be introduced to the House. This sentiment is shared by 90 percent of submitters.

We therefore assert that the Principles of the Treaty of Waitangi Bill must not proceed to the second reading.

We recommend:

- The Principles of the Treaty of Waitangi Bill be abandoned immediately.
- That the House condemns this bill in the strongest possible terms.
- That Parliament develop Te Tiriti o Waitangi education programme to be incorporated into the induction of all new MPs.
- The Crown undergo a reconciliation process in partnership with Māori to undo the damage the Principles of the Treaty of Waitangi Bill has caused to social cohesion.

New Zealand Labour Party differing view

The submission process on this bill demonstrated that the opposition to the bill is overwhelming. It confirmed that bringing this bill was wasteful, divisive, and futile.

The fact that the Principles of the Treaty of Waitangi Bill was introduced shows a lack of leadership by the Government. It is an abuse of the privilege of being in Government to introduce a bill that it knows has no chance of passing and which it explicitly does not support. As the Bar Association said in its submission, it is "a misuse of the Parliamentary process to promote incorrect information about Te Tiriti".

Were a litigant to take such an approach in court they would be labelled vexatious. Former Prime Minister the Rt Hon Jenny Shipley observed in her submission that the bill is promoted by a minor party in Government, and it has been allowed to unilaterally promote this bill

causing “unprecedented mistrust in the New Zealand Government and the New Zealand Parliament by both Māori and Pakeha”.

This shows a woeful lack of leadership by the current Prime Minister.

The principles in the bill bear no relationship to the Treaty

Most fundamentally, the statements that this bill puts forward as the “principles” of the Treaty bear no relationship to the Treaty whatsoever.

It is a bald attempt to replace the precepts of our founding document with principles that range from constitutional truisms (Parliament of New Zealand has full power to make laws); a rewriting of Treaty promises (right of iwi and hapu are preserved only if those rights are agreed in a treaty settlement); and an incomplete annunciation of human rights (everyone is equal before the law).

However, in claiming that these are the principles of the Treaty the bill and its promoters seek to erase the actual power of the Treaty. As the Cabinet paper on this bill stated:[13]

> the proposed policy is not grounded in the Treaty/te Tiriti or the existing Treaty principles, that the underlying rationale for the principles as described in the ACT party policy relies on a novel reading of the Treaty/te Tiriti that is not supported by the available evidence.

The promoters of the bill have demonised the principles of the Treaty as if they are in fact some invention that extends the Treaty or undermines the authority of Parliament.

Nothing could be further from the truth. As noted by many submitters it is the function of the courts to undertake the interpretative task in respect of the law. It is not for the executive to usurp this role.[14]

This includes the Treaty, especially when explicitly referred to in legislation. In doing this the courts have taken a conservative and incremental approach in explaining what the Treaty means in any given context—which is consistent with how our case law system operates.

As the New Zealand Law Society said in its submission: “This “dialogue” between the limbs of government about the Treaty principles is in accordance with the doctrine of comity and consistent with the rule of law”.[15]

In fact, if this bill were to pass it would be a breach of comity by Parliament. Parliament would be reaching into the realm of the Courts. As the New Zealand Māori Council stated, “Under this Bill, the legislature would interpret the Treaty when that is the ordinary function of the judiciary”.[16]

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13 https://www.beehive.govt.nz/sites/default/files/2024-09/20240910%20-%20Cab%20paper%20Redacted.pdf.

14 See for example the submission of Natalie Coates at p 3.

15 Submission of New Zealand Law Society / Te Kāhui Ture o Aotearoa at p 3 citing Hille, Jones and Ward *Treaty Law: Principles of the Treaty of Waitangi in Law and Practice* (Thomson Reuters, Wellington, 2023) at [1.14] and Geoffrey Palmer “The Treaty of Waitangi — Principles for Crown Action” (1989) 19 VUWLR 335 at 345.

16 Submission of the New Zealand Māori Council at p 7.

The “principles of the Treaty” is a shorthand for saying that when we ask how we honour the Treaty today we need to consider its historical context and what was intended by its signatories, as well as its modern setting and how the original promises can be meaningfully implemented in today’s society. They are not a static set of interpretive rules, but rather an approach to respect the words of the Treaty and give it meaning today.

To pass a bill which claimed the Treaty had effects which were simply untrue would not just be a legal fiction, it would also be dishonest.

The bill is a constitutional overreach.

This bill seeks to revisit one of the foundations upon which the legitimate and inclusive democratic government of New Zealand is based. It seeks to erode the Treaty of Waitangi by disingenuously reframing its principles in a way which makes it largely meaningless as protections and promises to Māori from the Crown.

At the heart of this bill is a fundamental constitutional misstep. Many submitters touched on the issue of Parliamentary Sovereignty, some expressing that Parliament could pass this bill if it chose to do so, others expressing the view that it could not, and a third view that even if it did it would not actually change the principles of the Treaty—it would be as effective as legislating for the earth to be flat.

If a bill of this nature were to pass it would no doubt enter our statute book. However, that is not without consequences of its own.

Our constitutional framework is built on a series of documents, agreements and events of which the Treaty of Waitangi is arguably the most important. As professor Andrew Geddis pointed out, the Treaty is part of the story that gives the formation of the nation of New Zealand meaning, and it has a status which goes beyond mere enforceability in our courts.[17]

The legitimacy of the Government is based on that network of legal instruments and institutions. To unilaterally rewrite a cornerstone of the constitution would throw the right of the Government to govern, and of Parliament to make law, in question.

New Zealand is also a member of the community of nations and its actions are judged on the international stage. To date New Zealand has been respected for its genuine efforts to address the overrepresentation of Māori in statistics relating to criminal justice, poor health outcomes and mortality, and unemployment etc; as well as its efforts to address historical Treaty breaches.

To pass this bill, especially given the woeful process it followed prior to introduction, would cut across our international obligations and undermine our credibility as a responsible democracy.

Is Parliament competent (or wise) to rewrite the Treaty?

Parliament clearly has the ability to make laws for New Zealand. However just as it cannot legislate the earth to be flat, it cannot legislate away the historical and legal facts of the Treaty.

[17] Submission of Professor Andrew Geddis, p 2.

This idea that Parliament is constrained, and especially so in respect of the Treaty, is not a new idea.

In 1984 Sian Elias stated "[The application of Parliamentary supremacy to New Zealand] ignores our own history, including the Treaty itself, which sets up a fetter on the sovereignty there ceded in it"[18] and the courts have recognised in respect of other legislation:

> does not purport to repeal the Treaty of Waitangi. Moreover, a nation cannot cast adrift from its foundations. While Parliament is free to make the legislative changes envisaged in the deed, whatever constitutional or fiduciary significance the Treaty may have of its own force could only remain.[19]

The scope of Parliament's power is limited by the historical, international, and constitutional context in which it sits. To suggest otherwise takes a simplistic view of sovereignty and democracy and ignores principles of legitimacy and responsible government.

While some are attracted to the idea that Parliament can do whatever it likes, this fails to acknowledge that underpinning Parliament's authority is a set of norms and values from which its authority emanates. The Treaty of Waitangi is part of that system of norms and values. To legislate away the principles of the Treaty would be to erode Parliament's right to make law.

This was a central part of the submission from 50 King's Counsel, who pointed out that this bill purports to unilaterally change the meaning of the Treaty, to erase the guarantee of tino rangitiratanga, and preclude the role of the courts in protecting the rights granted by the Treaty.

The bill undermines human rights

The bill takes a selective approach to human rights. Underlying its approach is the fallacy that the law does not already protect the equal rights of all New Zealanders. A further assumption is that there ought to be no distinction between Māori as the indigenous people of New Zealand and other New Zealanders. This was well expressed by the Human Rights Commission in its submission when it stated:[20]

> the equal enjoyment of rights by some groups may require specific protection and distinct, targeted action. Recognition of tino rangatiratanga through Te Tiriti, or the rights of Indigenous peoples to self-determination, does not undermine or conflict with rights to equality. Rather, they recognise and seek to address the entrenched discrimination and denial of equal rights that Tangata Whenua experience.

It is well recognised that indigenous people have rights which are distinct from and complementary to wider rights. These include matters such as self-determination, the preservation of culture and language and to retain a distinct cultural identity.[21] New Zealand

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[18] Sian S. Elias, *The Treaty of Waitangi and Separation of Powers in New Zealand*, in Courts and Policy 206 (Bruce Gray & Bruce Mclintock eds., 1994).

[19] *Te Runanga o Wharekauri o Rekohu v Attorney General* [1992] NZCA 503; [1993] 2 NZLR 301, 308 per Cooke P.

[20] Submission of Te Kāhui Tika Tangata Human Rights Commission at p 15.

[21] For example, United Nations Declaration on the Rights of Indigenous Peoples articles 18, 19, 32, 38.

has recognised these rights by acceding to the United Nations Declaration on the Rights of Indigenous Peoples. We all have a right to our cultural heritage, but as has been so often observed there is no risk of the tradition of western knowledge, music, language and other cultural traditions withering away. However, this is a risk in respect of Māori traditions.

In order to accord Māori an equal right to the preservation of heritage, particular steps to protect and promote Te Ao Māori are needed. This was well encapsulated by Carwyn Jones when in his written submission he observed that the United Nations Declaration on the Rights of Indigenous Peoples:[22]

> provides a clear statement from the international community that, in order to give effect to the basic human rights of Indigenous peoples, those rights need to be recognised and implemented in distinctive ways. This Bill, instead, adopts an assimilationist approach, ignoring treaty rights and removing a mechanism to recognise Māori rights, ensuring existing inequities will become further entrenched.

This right is further reaffirmed in respect of children who have a right to have their culture, language, identity, and family relationships preserved—as is set out in the Children's Convention[23] and pointed out by Mana Mokopuna—Children and Young People's Commission in its submission. As pointed out by the 50 King's Counsel, the purported principle three in the bill would undermine the right of Māori to be Māori and have tikanga recognised and protected in our law and by our courts.

A particularly pernicious aspect of this bill is the fact that it seeks to reduce the rights conferred on Māori to individually held citizenship rights. While it is correct that the Treaty conferred the rights of citizenship/British subjects on Māori (which were not afforded in substance for some time) it does much more than that. It sets out a framework for how the collective rights and interests of Māori are to be preserved. This distinction was well expressed by Hon Hekia Parata in her oral submission to the committee and was expanded on by Professor Jonathan Boston in his written submission. He noted that it is normal to see rights as individual rights; group (or collective) rights such as the right of hapu to manage collectively owned land; and group specific rights, such as the traditional right of a member of a particular hapu to gather food from a particular location.

This bill would undermine vested rights such as customary rights over land or to collect food simply because they are collectively held. Such rights are not based on the Treaty, they exist independently of it and predate it. To suggest (as the bill does) that such rights can exist only if they are contained in the settlement of a historical treaty claim under the Treaty of Waitangi Act 1975 is a shameful attempt at expropriation of rights.

The Treaty (in Article Three) did grant Māori the Queen's protection, and all rights (tikanga) accorded to British subjects. However, in the Article Two promise Māori were guaranteed "te tino rangatiratanga" or the unqualified exercise of their chieftainship over their lands, villages, and all their property and treasures. These rights are not simple rights or freedoms of individuals. Rather they are rights of communities to manage their own affairs, and to live

[22] At p 4.

[23] Children's Convention, Articles 7 and 8, Article 9 Articles 30 and 31.

in a way in which they chose. This is of course consistent with the instruction that Lord Normanby gave to Captain Hobson prior to the signing of the Treaty to ensure Māori "must be carefully defended in the observance of their own customs, so far as these are compatible with the universal maxims of humanity and morals".

A modern liberal democracy

Of the submitters that supported the bill many made reference to the need to remove distinctions based on race in a modern liberal democracy. The claim seems to be that whatever a majority of voters favour is an appropriate reform. This fundamentally misconstrues what a modern liberal democracy is. While concepts of democracy some hundreds of years ago might have placed emphasis on the primacy of the individual and formal equality for all (although this has never existed in reality), a modern liberal democracy recognises that proper government is considerably more nuanced. As Professor Bronwyn Hayward observed in her submission:

> Public referenda are rarely used in democracies for constitutional questions where a majority of voters can determine minority rights because they almost inevitably escalate polarisation, extremism and social division.

This approach is conventional and echoed in the Cabinet Manual which provides:[24]

> A balance has to be struck between majority power and minority right, between the sovereignty of the people exercised through Parliament and the rule of the law, and between the right of elected governments to have their policies enacted into law and the protection of fundamental social and constitutional values. The answer cannot always lie with simple majority decision-making. Indeed, those with the authority to make majority decisions often themselves recognise that their authority is limited by understandings of what is basic in our society, by convention, by the Treaty of Waitangi, by international obligations and by ideas of fairness and justice.

A modern liberal democracy ensures that government is conducted according to law—including international law relating to human rights, the rights of indigenous people and the law of treaties. This bill transgresses all of these.

It also requires responsible Government which ensures that all sections of the population are protected and that vulnerable communities are promoted. It also requires that lawmaking is conducted responsibly—that where a law is proposed it is needed, and it is consulted and developed thoroughly before introduction unless there is a pressing urgency.

Lawmaking in a democracy is also consultative and collaborative, and the more impactful the law change is the more extensive such a process of consultation and collaboration is expected to be. This was pointed out by the Legislation Design and Advisory Committee, which in its submission stated:[25]

> Consultation supports the legitimacy of the law-making process and is one of the principal mechanisms through which the Government (via Ministers and

[24] https://www.dpmc.govt.nz/sites/default/files/2023-06/cabinet-manual-2023-v2.pdf at p 5.

[25] Legislation Design and Advisory Committee submission at para 14.

> government agencies) discharges its responsibility to make informed decisions to act in good faith towards Māori.

This bill provides an example of both substance and process of what a modern liberal democracy is not.

It is a further abuse of parliamentary procedure and resources to run a policy idea up a flagpole. Good government requires an extensive process prior to a bill being introduces into Parliament. This includes whether there is a problem and what is it, what the options to address it are, what the wider community consider about the best approach, and what the costs and benefits of any intervention might be. This has not been done in respect of this bill. In fact, this bill is using the parliamentary process and resources to promote ACT Party ideology with the National Party's consent. It is deplorable.

Does the Treaty give different rights based on ancestry?

The ACT member of the committee repeatedly put to submitters the following question: "does the Treaty of Waitangi give different rights based on ancestry?" The question of course plays to the fears that the ACT Party has been stirring up that the Treaty gives some sort of privilege to Māori. The answer to the question of privilege was well expressed by Dame Anne Salmond who observed in her written submission:

> The promoters of the Treaty Principles Bill seek to define efforts to remedy these breaches of the Queen's promises as "privilege" and "special treatment" for Māori citizens. Given the undeniable facts of our history this is dishonest and a stain on democracy in New Zealand.

The objective of honouring the Treaty in both its versions and the spirit in which it was entered into seeks to preserve and protect those things which are treasured by Māori. This is not a narrow concept and what is important in Te Ao Māori is wide ranging and changeable, as with any living culture. However, it is clear that preservation of te Reo, kapa haka, mātauranga Māori, and the numerous and diverse other threads that make up Māori culture, knowledge and traditions does not disadvantage any person or group. Indeed, to fail to do that would be to deprive those people to whom Māori culture is important of that—and that is exactly what happened for a large party of the history of New Zealand.

The proponents of the bill also claim that there are other advantages given to Māori, for example, where health care is delivered by a Māori health authority, or social services are provided under a Māori model like Whanau Ora. This of course ignores two important facts. One is that non-Māori are not precluded from receiving government services in a way which suits them best—which may be in a kaupapa Māori way. However more importantly it ignores the fact that the provision of services in a non-Maōri way is in effect providing them in a western/European way, and this ignores and diminishes the relevance of te ao Maōri. It is in fact unequal because it promotes one world view over the other. Of course, for many who are immersed in the western world view it may seem to be the only (or the only appropriate) world view. This is what colonialism is.

Proponents of the bill, including the member in charge, have sometimes suggested that no modern democracy distinguishes citizens on the bases of ancestry. In this regard it was useful to have the submission of Professor Bronwyn Hayward, who pointed out:

> In reality, very many modern democracies including for example Canada, Denmark, Boliva, Sweden, Finland, Ecuador, and The Philippines have enabled constitutional recognition of Indigenous Peoples' rights, and this constitutional recognition is "pivotal in safeguarding Indigenous Peoples' collective rights". As the UN Special Rapporteur on the Rights of Indigenous Peoples, José Francisco Calí Tzay (2024), recently noted, "Across the globe, we witness various exemplary cases, each tailored to the unique context of its respective country.

One often repeated statement was that Māori were given special privileges under the Resource Management Act. There was no substantive evidence provided for this, and the Auckland City Council in its oral submission rejected that this was the case. It is true that where there is an application for a resource consent for a use outside of the District Plan the interests of Māori, including local iwi and hapu, are relevant to decision making. However it is hard to understand how consultation with the mana whenua is in any way a special privilege. Rather it is recognition of a relationship with the land and a way to ensure that customary legal rights which have not been extinguished are not inadvertently overridden by the grant of a consent.

Shabby process

It is hard to imagine a more important constitutional change than one which affects the Treaty of Waitangi, or a process that has been less satisfactory for such a change than the one that has been undertaken.

First, there is no problem that needs addressing. The Regulatory Impact Statement in respect of the bill under the heading "Problem Definition" was reduced to simply stating that:[26]

> The coalition Government has agreed to introduce a Treaty Principles Bill (the Bill), based on existing ACT Party policy and support it to a Select Committee as soon as practicable. The problem as described in the relevant ACT Party policy document is that the courts, the Waitangi Tribunal (the Tribunal) and the public service are increasingly referring to vague Treaty principles to justify actions that are contrary to other matters (such as equal rights for all citizens). The Bill would define the principles to stop this from happening.

The fact is that the best that could be said was that the ACT Party wanted to introduce this bill, and the Government has agreed. There is no indication outside of ACT Party dogma that there is a problem to be solved. The overwhelming majority of submitters supported this view.

The Legislation Design and Advisory Committee noted the very significant constitutional impact that the bill would have if passed and noted that the lack of consultation was "problematic". It stated that in such cases "deliberation research and extensive consultation are usually expected" prior to any referendum.[27]

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[26] https://www.beehive.govt.nz/sites/default/files/2024-09/Regulatory%20Impact%20Assessment%20Treaty%20Principles%20Bill.pdf.

[27] Legislation Design and Advisory Committee at para 13.

For a bill of this nature, significant consultation prior to the development of the underlying policy, and drafting and introduction of the bill is to be expected. That consultation should be as broad as possible but certainly include those most directly impacted by the bill.

The opposite has occurred. The Regulatory Impact Statement noted:

> The Associate Minister of Justice directed a process that did not include public consultation on policy. Instead, public engagement will occur as part of the select committee process. The limited timeframes and lack of consultation to date have left gaps in the analysis.

The result is that there has been no significant consultation on this bill before its introduction. As the Waitangi Tribunal noted, in its *Ngā Mātāpono* report:[28]

> This complete disempowerment of Māori in a process to rewrite the principles is unprecedented. It goes against the tenets of good government that Māori are entitled to expect as citizens, let alone as the Crown's Treaty/te Tiriti partner. This exclusion from any say in a process to abrogate fundamental rights is extremely prejudicial, and the impacts will not fade for a long time even if the Bill does not proceed beyond the select committee.

It is also clear that there was no sufficient time given to officials to properly develop policy, and that the policy development process was constrained by the fact that the Government was interested only in meeting its coalition agreement commitment, and not to any meaningful process.

This was observed in the Regulatory Impact Statement when it said:

> The Cabinet and Ministerial direction focused on the implementation of the policy in the National-ACT Party coalition agreement. Due to the scope of the policy being tightly defined, we did not consider approaches that involve broader consideration of the Treaty and our constitutional arrangements.

It is therefore not surprising that a poorly-thought-out and poorly-drafted bill has come before this committee.

We are also concerned that the process before this committee has been less than satisfactory. We are concerned that the member in charge chose to introduce the bill at a time when submissions would be due over the summer period.

We are also very concerned that this committee has not had the requisite time to consider the over 300,000 submissions. The Office of the Clerk has worked hard to manage the process but the fact is that the sheer volume of submissions has not been able to be processed. This means that members have not had a full and proper opportunity to consider all of the submissions made before this matter is reported back.

The fact is that there are thousands of submissions from all kinds of New Zealanders that have not been tabled as evidence to the committee and have not been released publicly

[28] https://www.waitangitribunal.govt.nz/en/news-2/all-articles/news/tribunal-releases-report-on-treaty-principles-bill.

(though this may occur after the event). This is immensely disrespectful to the many New Zealanders who took the time to make a submission and undermining of the legitimacy of the select committee process. We sought, on several occasions, to seek an extension of time for the consideration of these submissions but this was opposed by government members. We consider that deplorable.

We consider it particularly disturbing that, in the face of this, the National Party dominated Justice Select Committee has reported the Principles of the Treaty of Waitangi Bill back more than a month earlier than the date of 14 May set by Parliament.

The result is that many thousands of submissions have not been processed and are not captured on the parliamentary record.

This is an appalling lack of process and was a decision made in the face of the fact that Labour sought an extension of time so that all submitters could be heard and their submissions put on the permanent record. Instead, the committee has rammed it through with outrageous haste.

David Seymour stated to Cabinet that there would be "six months of consultation" before select committee and a Cabinet Minute resolved that it be considered by the committee until the week of 16 May and stated after first reading "I look forward to seeing what Kiwis have to say on the bill over the six month select committee process". The Government members scampering to report this bill back early shows the process for what it really is—a sham that shows contempt for both Parliament and the many individuals from all walks of life who submitted on the bill but whose submissions are currently lost to the record.

We know that the Hon James Meager has been waiting to relinquish the chair of the committee when the bill is reported back, but it is deplorable that this has been done a month early.

This is a demonstrable lack of leadership. The New Zealand public were promised a say on this bill and that has now been denied.

ACT New Zealand differing view

In 1975, Parliament passed the Treaty of Waitangi Act. That Act's preamble says it was:

> established to make recommendations on claims relating to the practical application of the principles of the Treaty and, for that purpose, to determine its meaning and effect and whether certain matters are inconsistent with those principles.

However, nowhere in the Treaty of Waitangi Act, and at no time since, has Parliament said what those principles are.

Parliament's silence has been filled by court findings, Waitangi Tribunal reports, and government departments attempting to define the principles. The resulting principles afford Māori different rights from other New Zealanders.

Seeing the Treaty as a "partnership between races", as the Court of Appeal once said, does not work as a constitutional foundation for a country. It is time for Parliament to say what the

principles of the Treaty are. The purpose of this bill is to break Parliament's 49-year silence and to define the principles in law, so it is clear what the Treaty means to modern New Zealanders.

The bill commits to protecting the rights of everyone, including Māori, and upholding Treaty settlements. It commits to give equal enjoyment of the same fundamental human rights to every single New Zealander.

The bill also democratises the principles of the Treaty; it gives everyone a say. The commencement clause says the principles of this bill only come into force if a majority vote for it to do so in a referendum. The principles we know today have been created by a small number of New Zealanders, even though we all must live within them. But if democracy means anything, it means every person has a say in how the rules we all live under are made. It is that democratisation of the Treaty that is so important. The big change here is the idea that each person has a say on the rules they live under.

We believe in freedom under the law. We believe that you have those rights because of being a human being, not because you have any particular ancestry. We believe that all New Zealanders deserve tino rangatiratanga, the right to flourish as they would like to live, because all human beings are alike in dignity, and thus the bill does not extinguish any right; it does not take from anyone. It reinforces the rights of the Treaty as universal human rights.

A system of equal rights is essential for solving the practical problems we face: a separate health administration, seats reserved at the table of public entities, the requirement to consult people on resource management decisions based on ancestry—all of this makes the task of solving the very real problems we solve all the harder than if we join hands in common humanity against the challenges we seek to overcome.

In summary, the Principles of the Treaty of Waitangi Bill fills a silence this Parliament has left for five decades. In so doing, it affirms the basis of our country. It is not division. Treaties are supposed to unite people, not divide them. We are fortunate that our country was founded by a voluntary agreement giving ngā tikanga katoa rite tahi, or equal rights, to all.

Opponents of the bill

Opponents of the bill have raised a number of objections.

The bill is inconsistent with the Treaty

The bill does not alter the Treaty itself but instead seeks to define its principles through a democratic process rather than relying on interpretations developed by the courts, the Waitangi Tribunal, or the public service. The current interpretations have created a system where different groups have different rights, which is inconsistent with equal rights and liberal democracy. The bill would restore the meaning of the Treaty to what was written and signed in 1840. The bill's principles—government authority, property rights, and legal equality—are based directly on the Treaty's text.

There has been inadequate engagement and consultation on the bill

The bill democratises the principles of the Treaty and gives everyone a say. The commencement clause says the principles of this bill only come into force if a majority vote

for it to do so in a referendum. The principles we know today have been created by a small number of New Zealanders, even though we all must live within them. But if democracy means anything, it means every person has a say in how the rules we all live under are made. It is that democratisation of the Treaty that is so important. The big change here is the idea that each person has a say on the rules they live under.

The development of the bill is based on a flawed policy rationale

The bill is necessary to clarify Treaty principles, which have been inconsistently applied in ways that undermine equality under the law. Previous governments have expanded Treaty-related obligations in ways that create legal and political distinctions between Māori and non-Māori, which is incompatible with a liberal democracy.

The bill promotes formal equality under the law and disregards the concept of equity

The text of the Treaty promises “nga tikanga katoa rite tahi” (the same rights and duties for all New Zealanders). We reject interpretations that grant different rights or political status based on ancestry. ACT acknowledges historical wrongs, and we support the Treaty settlement process. However, we believe that focusing on legal equality is the best way forward, rather than maintaining race-based political structures.

The bill is divisive and would have a negative impact on social cohesion

The status quo, which treats New Zealanders differently based on their ethnicity, is divisive and fosters resentment. Defining the principles of the Treaty to mean that all New Zealanders have equal rights will unite us and allow us to move forward as a country.

The bill would create legal uncertainty as the principles are not sufficiently clear and there would be an extended period of uncertainty until the courts could establish how to apply them

The bill is needed to reduce legal uncertainty by clearly defining Treaty principles rather than allowing courts and government agencies to continue evolving them over time. Current interpretations create ongoing legal ambiguity and codifying the principles in legislation would provide clarity and stability.

Petition of Chris Hickson: To object to the treaty principles bill

Petition of Maringi Te Rangi-Ataahua James: Stop the Treaty Principles Bill–Toitū Te Tiriti

The petition of Chris Hickson was presented to the House on 5 March 2024. It requests:

> That the House of Representatives ensure that the treaty principles bill does not go further than the select committee.

The petition of Maringi Te Rangi-Ataahua James was presented to the House on 20 November 2024. It requests:

> That the House of Representatives stop any work on the Principles of the Treaty of Waitangi Bill and instead work towards entrenching He Whakaputanga o te Rangatiratanga o Nu Tireni and Te Tiriti o Waitangi into our constitution; and note that more than 203,653 people have signed a similar online petition.

We have recommended, by majority, that the bill not proceed. We consider that our recommendation addresses the matter raised by both petitioners. We have no further matters to bring to the attention of the House.

Appendix A—Committee procedure

The Principles of the Treaty of Waitangi Bill was referred to the committee on 14 November 2024. The closing date for submissions was 14 January 2025. More than 307,000 submissions from interested groups and individuals were lodged on the bill. At the time of finalising our report, the final number of submissions that we officially received was yet to be confirmed. We heard oral evidence from 529 submitters at hearings by videoconference and in Wellington. We have provided more information about our process in the body of our report. We have also included a list of our decisions and recorded votes (which includes motions and amendments that were not agreed to) in Appendix B.

We received advice on the bill from the Ministry of Justice. The Office of the Clerk provided advice on the bill's legislative quality.

We considered the bill alongside two petitions. The Petition of Chris Hickson—To object to the treaty principles bill—was referred to the Petitions Committee on 5 March 2024 and transferred to us on 21 November 2024. The Petition of Maringi Te Rangi-Ataahua James—Stop the Treaty Principles Bill – Toitū Te Tiriti—was referred to the Petitions Committee on 20 November 2024 and transferred to us on 30 January 2025.

Committee members

Hon James Meager (Chairperson)
Hon Ginny Andersen
Jamie Arbuckle
Carl Bates (from 29 January 2025)
Cameron Brewer (until 29 January 2025)
Tākuta Ferris
Paulo Garcia (until 29 January 2025)
Dr Tracey McLellan
Rima Nakhle
Tamatha Paul (until 29 January 2025)
Tom Rutherford (from 29 January 2025)
Todd Stephenson
Hon Dr Duncan Webb
Dr Lawrence Xu-Nan (from 29 January 2025)

Related resources

The documents that we received as advice and evidence are available on the Parliament website.

Appendix B—List of committee decisions and recorded votes

18 November 2024

Hon Dr Duncan Webb moved, That the committee report back to the House with a pro forma report and recommend that the bill not pass.

On the question, that the motion be agreed to, the votes were recorded as follows:

AYES 5
Hon Kieran McAnulty, Tākuta Ferris, Dr Tracey McLellan, Tamatha Paul, Hon Dr Duncan Webb

NOES 6
Jamie Arbuckle, Cameron Brewer, Paulo Garcia, James Meager, Rima Nakhle, Todd Stephenson.

The motion was not agreed to.

James Meager moved, That the committee call for public submissions on 19 November 2024 and close submissions at 11.59pm on 7 January 2025.

Tamatha Paul moved an amendment, That the words “19 November 2024” be replaced with “18 November 2024” and the words “7 January 2025” be replaced with “14 February 2025”.

Tākuta Ferris moved an amendment, That the words “7 January 2025” be replaced with “2 December 2024”.

On the question, that Tākuta Ferris’s amendment be agreed to, the votes were recorded as:

AYES 1
Tākuta Ferris

NOES 10
Jamie Arbuckle, Cameron Brewer, Paulo Garcia, Hon Kieran McAnulty, Dr Tracey McLellan, James Meager, Rima Nakhle, Tamatha Paul, Todd Stephenson, Hon Dr Duncan Webb

The amendment to the motion was not agreed to.

On the question, that Tamatha Paul’s amendment be agreed to, the votes were recorded as:

AYES 1
Tamatha Paul

NOES 9
Jamie Arbuckle, Cameron Brewer, Paulo Garcia, Hon Kieran McAnulty, Dr Tracey McLellan, James Meager, Rima Nakhle, Todd Stephenson, Hon Dr Duncan Webb

ABSTENTIONS 1
Tākuta Ferris

The amendment to the motion was not agreed to.

On the question, that the motion be agreed to, the votes were recorded as:

AYES 9
Jamie Arbuckle, Cameron Brewer, Paulo Garcia, Hon Kieran McAnulty, Dr Tracey McLellan, James Meager, Rima Nakhle, Todd Stephenson, Hon Dr Duncan Webb

NOES 1
Tamatha Paul

ABSTENTIONS 1
Tākuta Ferris

The motion was agreed to.

Resolved, That option two for the indicative workplan listed in the appendix of the paper titled “Clerks of Committee (Initial Procedures - Principles of ToW Bill)” be adopted.

Noted, that the workplan is indicative only and may need to be revisited and modified later in the process.

Resolved, That a media release be made alongside the call for public submissions, including the following points:

- further process decisions will be made and communicated to the public at a later date, including criteria for submissions that will not be accepted
- notes that the committee intends to conclude hearings by the end of February 2025
- that the committee intends to facilitate a measured debate

Resolved, That the chairperson and Dr Duncan Webb be delegated authority to agree that text of the media release on behalf of the committee, and that the text be shared with members before it is circulated.

21 November 2024

Hon Dr Duncan Webb moved, That the committee not hear any oral submissions on the Principles of the Treaty of Waitangi Bill and consider only submissions made in writing.

On the question, that the motion be agreed to, the votes were recorded as:

AYES 4
Hon Ginny Andersen, Dr Tracey McLellan, Tamatha Paul, Hon Dr Duncan Webb

NOES 6
Jamie Arbuckle, Cameron Brewer, Paulo Garcia, James Meager, Rima Nakhle, Todd Stephenson

The motion was not agreed to.

Resolved, That the indicative work plan be amended to add hearings in the sitting week starting Monday, 27 January 2025, and that hearings in that week should consist of significant submitters with a moderate tone.

Resolved, That the Law Association's request for an extension to the deadline for written submissions to Tuesday, 14 January 2025 be granted, on the condition that it must lodge a placeholder submission via the Parliament website prior to the end of Tuesday, 7 January 2025.

Resolved, That authority be delegated to the chairperson and one Labour Party committee member to decide requests for extensions made before the end of Tuesday, 24 December 2024, on behalf of the committee.

Resolved, That in principle the committee intends to treat submissions arising from submission campaigns according to the following points, noting that final decisions will be made on a case-by-case basis after the call for submissions has closed:

- Submissions can be lodged in two ways only:
- via the Parliament website, or in hardcopy by post or delivery to Parliament.
- Collated submissions lodged in hardcopy by organisations may be counted as individual submissions to the committee if the individual contributions are unique in nature and are otherwise consistent with the nature of individual submissions.
- Collated submissions lodged in hardcopy by organisations may be counted as a single submission from the organisation and (or, on behalf of) X others (where X is the number of individual contributions) if the individual contributions are not unique in nature or are otherwise inconsistent with the nature of individual submissions.
- Any single submission lodged via the website will be counted only as a single submission.

Resolved, That committee staff be authorised to share the committee's intended approach to the treatment of submissions arising from submission campaigns with organisations organising such campaigns.

Resolved, That the chairperson, deputy chairperson, and one Opposition committee member be authorised to make initial decisions about whether a submission meets any criteria adopted by the committee for being returned to the submitter, noting that the committee makes final decisions.

Resolved, That to facilitate final decisions by the committee on the returning of submissions, committee staff be asked to prepare a spreadsheet listing the reason(s) each submission is ear-marked for returning, and to circulate this with copies of the submissions.

Resolved, That submissions containing racist material fitting the following criteria be returned, subject to the initial and final decision-making process agreed for this bill at this meeting:

- Overt racism is not acceptable.
- Characterising policies or documents as racist is generally acceptable.
- Characterising people as racist is not acceptable.
- The chairperson, deputy chairperson, and Opposition committee member involved in initial decision-making about submissions may continue to develop the criteria applying to racist material in submissions.

Resolved, That submissions containing the words “fuck” or “cunt” be returned, subject to the initial and final decision-making process agreed for this bill at this meeting.

Resolved, That submissions made under only a first name, a first name and an initial, initials only, or a clear and obvious pseudonym be returned by committee staff without further consideration by the committee.

Resolved, That anonymity will be granted to submitters only in exceptional circumstances (such as evidence of a risk to personal safety) and that committee staff be authorised to decline requests for anonymity that provide no evidence of exceptional circumstances (such as requests predicated on the general consequences of expressing political views publicly) on behalf of the committee.

Resolved, That submissions containing generic allegations and adverse reflections against political parties be accepted.

Resolved, That submissions containing personal reflections against members of Parliament be returned, subject to the initial and final decision-making process agreed for this bill at this meeting.

Noted, that committee staff provide written submissions that have not yet been tabled or released by the committee to parliamentary security where committee staff consider doing so to be in the interest of the safety and well-being of members of Parliament, parliamentary staff, or the submitter.

Noted, that the Office of the Clerk anticipates there may be pressure on Parliament’s te reo Māori translation and interpretation service, and that this may affect the speed of delivering translations of submissions made in te reo Māori.

Noted, that the possibility of demand for New Zealand Sign Language interpretation was raised by a committee member for committee staff’s attention.

Noted, that committee staff estimate that the committee could plan to hold a maximum of 60 hours of hearings in full committee or 120 hours of hearings in two subcommittees across the three weeks dedicated to hearings in the committee’s indicative work plan.

Noted, that it is expected that only a relatively small proportion of submitters asking to make an oral submission will be able to be heard from.

Resolved, That departmental officials be asked to provide advice by the close of Tuesday, 14 January categorising submitters who have asked to make an oral submission based on the following categories, for the purpose of assisting the committee’s decision-making about who to hear from:

- Iwi, hapū, post-governance settlement entities, and other pan-Māori organisations
- Notable individuals, including current and former members of Parliament
- Local government authorities
- Large and/or relevant national civil society organisations
- Wider State sector agencies
- Relevant academics, including a breakdown of legal academics, historians, and Māori academics

- Campaign submission organisers
- Political parties
- Individual members of the public whose submissions are particularly high-quality and substantive in nature
- Any other noteworthy submitters identified by advisers.

Resolved, That hearings will be held at Parliament and via Zoom video-conference only.

Noted, that committee members can disclose publicly that the committee does not intend to invite the Minister in charge of the bill to attend a hearing of evidence, in line with the committee's general practice.

Noted, that committee members can disclose publicly that the committee does not intend to appoint an independent specialist adviser on this bill.

Resolved, That the initial briefing from departmental officials be scheduled to take place in December, subject to meeting time availability.

Resolved, That the committee intends to issue public communications about the select committee process on a regular basis.

Resolved, That the Chairperson and Hon Dr Duncan Webb be authorised to approve media releases drafted by committee staff on behalf of the committee.

Resolved, That Media releases approved by the chairperson and Hon Dr Duncan Webb be circulated to committee members prior to their general public circulation.

Resolved, That committee staff be asked to draft a media release covering relevant decisions from this meeting.

Noted, that Lawrence Xu-Nan asked that the media release covering decisions from this meeting be sent to him too when it is sent to committee members.

Resolved, That the committee's intentions and expectations for the draft report on the bill be discussed in January 2025, when the call for submissions closed.

27 November 2024

Resolved, That the Ministry of Justice be allowed to use a third party to assist with analysing submissions on the bill.

Resolved, That Ministry of Justice advisors notify the committee who the contract provider is before the contract is signed, pending notification to the committee of who the provider will be.

Resolved, That the Chair and a Labour member be delegated to approve the adviser's chosen provider.

3 December 2024

Resolved, That submissions be tabled and released after the closing date, and the secretariat be authorised to communicate this decision to the public.

Resolved, That hardcopy submissions must be received by the closing date for submissions and if they are not, that they be treated as late submissions, which are accepted only by decision of the committee.

Resolved, That the secretariat be asked to investigate extending the closing date and time for submissions to 5.00pm on 8 January 2025 and report back to the committee at its next meeting.

Resolved, That the petition of Chris Hickson be reported back with this bill.

Noted, That the committee discussed submissions that are made using only a first name and appear to be from schoolchildren and that these will be returned under the committee's relevant decision made on 21 November 2024, and the secretariat indicated it will communicate with relevant schools where possible to explain the committee's decision and how they and their students can make submissions.

Resolved, That Allen + Clarke be approved as the third party provider to assist the Ministry of Justice with analysing submissions, and that officials be asked to provide information in writing about how Allen + Clarke will assist, with particular reference to the use of artificial intelligence, and the nature of analysis the company will conduct for the ministry.

12 December 2024

Resolved, That the deadline for the receipt of hardcopy submissions be extended to 5.00pm Wednesday, 8 January 2025.

Noted, That the deadline for submissions lodged via the Parliament website remain at 11.59pm Tuesday, 7 January 2024.

Resolved, That a media release be issued notifying the extension to the deadline for hardcopy submissions, to be agreed using the process agreed at the meeting on Thursday, 21 November 2024.

Noted, that the extension for hardcopy submissions will be noted in the call for submissions on the Parliament website.

Resolved, That the Green Party's requests in its correspondence dated 21 November 2024 be declined, and that the party be informed of the extension for hardcopy submissions.

16 December 2024

Resolved, That a letter be sent to the Human Rights Commission acknowledging receipt of its letter.

Resolved, That the Chairperson, Deputy Chairperson, and a member of the Labour Party be authorised to agree general process matters and requests relating to submissions on behalf of the committee, until 5.00pm Wednesday 8 January 2025.

9 January 2025

Resolved, That committee staff be asked to provide further information about the geographic origins of traffic to the Parliament website between 5 and 7 January 2025.

Resolved, That public submissions be reopened at 1.00pm on Thursday, 9 January and close at 1.00pm on Tuesday, 14 January.

Resolved, That email submissions sent to justice@parliament.govt.nz and TreatyPrinciples@parliament.govt.nz between Monday, 6 January and 9.00am on Thursday, 9 January from people who indicated that they could not access the website be accepted, if their email contains a name, reference to technical issues, an attachment or text of a submission, an otherwise complies with the committee's decisions about submissions.

Resolved, That people who contacted the secretariat to request an extension be informed of the call for submissions.

Resolved, That the Office of the Clerk be asked to respond to emails consisting only of complaints about the submissions process as appropriate.

Noted, that the chairperson intends to call a meeting for 16 January to consider oral submissions data for hearings on Monday 27 January and Thursday 30 January, as previously planned.

16 January 2025

Resolved, That the chairperson and Hon Dr Duncan Webb be authorised to select submitters for hearings on Monday, 27 January 2025, and Thursday, 30 January 2025, based on 25 suggested submitters from each party represented on the committee.

Resolved, That each party's suggestions for submitters be due by 5.00pm on Monday, 20 January.

Resolved, That 80 hours of hearings be scheduled for this bill.

Resolved, That two subcommittees be appointed to hear evidence on this bill.

Resolved, That subcommittee A be comprised of Hon Ginny Andersen, Paulo Garcia, James Meager, Dr Tracey McLellan, Tamatha Paul, and Todd Stephenson.

Resolved, That James Meager be appointed the chairperson of subcommittee A.

Resolved, That Tamatha Paul be appointed deputy chairperson of subcommittee A.

Resolved, That subcommittee B be comprised of Jamie Arbuckle, Cameron Brewer, Tākuta Ferris, Rima Nakhle, and Hon Dr Duncan Webb.

Resolved, That Hon Dr Duncan Webb be appointed the chairperson of subcommittee B.

Resolved, That Jamie Arbuckle be appointed the deputy chairperson of subcommittee B.

Resolved, That advisers be asked to provide a categorised list of the remaining oral submissions requests for consideration at the committee's meeting on Friday, 24 January.

Resolved, That advisers be asked to include a category in their analysis for organisations making submissions on behalf of young people, or whose work is focused on young people.

Resolved, That the Act Party be asked to remove the names and comments of people who provided those through the Act Party website from its submission.

Resolved, That James Meager and Hon Dr Duncan Webb be authorised to approve a press release on behalf of the committee that communicates the decisions made today about oral hearings and updates the public on the process for releasing information about written submissions.

Resolved, That the secretariat be asked to respond to Fraser Geary's questions via email.

24 January 2025

By leave, agreed that the paper titled "Clerks of Committee (Submissions volume and effects on committee process - Treaty Principles Bill) 2025 01 24" may be tabled and considered at this meeting.

Noted, that the paper titled "Clerks of Committee (Submissions volume and effects on committee process - Treaty Principles Bill) 2025 01 24" was considered.

Resolved, That departmental officials be asked to provide advice about the earliest time by which they could delivery an analysis of submissions in favour, neutral, and opposed to the bill, for the following categories:

- Each of the 1,196 categorised submissions.
- Each of the 17,664 submissions that asked to make an oral submission and which were analysed to create the list of 1,196 categorised submissions.
- All submissions on the bill.

Resolved, That consideration of the following matters be scheduled for the meeting on Monday, 27 January 2025:

- Whether the committee wishes to instruct departmental officials to prepare a departmental report.
- If officials are to prepare a departmental report, what expectations the committee has for the contents of that report.
- If officials are to prepare a departmental report, what deadline should be set for delivery of the report.

Resolved, That the following process for selecting submitters be set down for confirmation at the meeting on Thursday, 30 January 2025, to enable members to consult caucus colleagues if they wish to do so:

- Each party would nominate up to 100 names of submitters they would like the committee to invite to make oral submissions.
- The deadline for submitting lists would be 5.00pm on Monday, 3 February 2025.
- The chairperson and Hon Dr Duncan Webb would be authorised to determine a list of submitters to fill the remaining 70 hours of hearing time (list A) and a list of submitters to call on to fill gaps left by submitters not responding, declining the invitation, or cancelling a scheduled slot (list B).
- Parties could differentiate between list A and list B nominations, which the chairperson and Hon Dr Duncan Webb would take into account in determining the lists.
- The chairperson and Hon Dr Duncan Webb would aim to ensure that the distribution of invitees between parties is equitable, noting the possibility of overlap between parties' nominations.

- All submitters would be given 10 minutes, except for submitters fitting category 12 (other notable individual submission), or any submitter who would fit that category if they were to be categorised, who would be given 5 minutes.

Noted, that committee staff are working on arranging access for members to all the submissions in the list of 1,196 categorised submitters as soon as possible.

Resolved, That committee staff be asked to prepare and circulate a spreadsheet of all submitters that have asked to make oral submissions.

Noted, That the categorisation of submitters requesting an oral submission by departmental officials is not yet finally complete, as set out in the paper titled “Clerks of Committee (Hearings decisions - Treaty Principles Bill) 2025 01 23”.

Resolved, That committee staff be asked to prepare a draft media release about the committee’s process for selecting submitters, for consideration at the meeting on Thursday, 30 January 2025.

Resolved, That the setting of subcommittee meeting times be left to the chairperson of each subcommittee.

Resolved, That submitters be informed before hearings that the committee has specifically asked them not to read their submissions out as the committee will have read their submissions.

By leave, agreed that the written submissions of those submitters scheduled to make oral submissions on Monday, 27 January 2025 be tabled and released.

James Meager moved, That the Minister in charge of the bill be invited to make an oral submission for 15 minutes at 8.15am on Monday 27 January.

On the question, That the motion be agreed to, the votes were recorded as:

AYES 6
James Meager, Jamie Arbuckle, Cameron Brewer, Paulo Garcia, Todd Stephenson, Vanessa Weenink.

NOES 5
Hon Ginny Andersen, Tākuta Ferris, Dr Tracey McLellan, Tamatha Paul, Hon Dr Duncan Webb.

The motion was agreed to.

Noted, that the committee discussed what can be disclosed from this discussion under the confidentiality rules as being:

- the committee discussed the arrangement of hearings, an approach was tentatively agreed and will go to caucuses for consultation, and the committee will be scheduled to confirm the approach on Thursday, 30 January 2025;
- there is no update on the total number of submissions at this stage as processing submissions continues; and

- a list of submitters for Monday, 27 January will be published in the afternoon (of Friday, 24 January 2025).

Resolved, That committee staff be asked to circulate a record of the decisions made at this meeting to committee members.

27 January 2025

Tamatha Paul moved, That advisers be instructed not to prepare a departmental report.

On the question, that the motion be agreed to, the votes were recorded as:

AYES 3
Tamatha Paul, Hon Ginny Andersen, Hon Dr Duncan Webb

NOES 6
Jamie Arbuckle, Cameron Brewer, Paulo Garcia, James Meager, Rima Nakhle, Todd Stephenson

The motion was not agreed to.

Resolved, That the officials be asked to begin preparing a departmental report that includes:
- statistics about written submissions
- the proportion of submitters for and against the bill
- analysis of the broad themes from all written submissions
- a more detailed analysis of submissions from those submitters that make oral submissions.

Noted, that the due date for the departmental report will be revisited at the meeting on 30 January.

By leave, agreed that the submissions of those submitters speaking on Thursday be tabled and released.

Noted, that the chairperson consulted the committee about his proposed response to a media query about the department's use of a third party contractor for analysis of submissions, which was to contain only non-confidential information.

Resolved, That the chairperson and Debbie Ngarewa-Packer be authorised to make initial decisions about collated hardcopy submissions, which are to be confirmed by the committee.

30 January 2025

Resolved, That the following process be confirmed for the selection of submitters to be invited to make oral submissions:
- Each party may nominate up to 100 names of submitters they would like the committee to invite to make oral submissions.
- The deadline for submitting lists is 5.00pm on Monday, 3 February 2025.
- The chairperson and Hon Dr Duncan Webb are authorised to determine a list of submitters to fill the remaining 70 hours of hearing time (list A) and a list of submitters to

call on to fill gaps left by submitters not responding, declining the invitation, or cancelling a scheduled slot (list B).
- The order in which submitters are listed by parties will be taken to reflect their relative priority, which the chairperson and Hon Dr Duncan Webb will take into account in determining the lists.
- The chairperson and Hon Dr Duncan Webb will aim to ensure that the distribution of invitees between parties is equitable, noting the possibility of overlap between parties' nominations.
- All submitters are to be given 10 minutes, except for submitters fitting category 12 (other notable individual submission), or any submitter who would fit that category if they were to be categorised, who are to be given 5 minutes.

Resolved, That the deadline for officials to lodge the departmental report with committee staff be 5.00pm Wednesday, 12 March 2025.

Noted, that the chairperson intends to schedule consideration of the departmental report for the meeting on 13 March 2025.

Resolved, That Tom Rutherford and Dr Lawrence Xu-Nan be appointed as members of subcommittee A.

Resolved, That Carl Bates be appointed as a member of subcommittee B.

Resolved, That Hon Ginny Andersen be appointed deputy chairperson of subcommittee A.

Noted, that the draft media release about the committee's process for selecting submitters will be further considered and agreed on the committee's behalf by the chairperson and Hon Dr Duncan Webb as per the committee's established process for media releases on this bill.

Resolved, That in respect of collated hardcopy submissions, the following initial decisions made by the chairperson and Debbie Ngarewa-Packer be confirmed, specifically that:
- the submissions delivered by Hapai Te Hauora be received as "Hapai Te Hauora and 10,020 others".
- the submissions delivered by Hobson's Pledge be received as "Hobson's Pledge and X others", where X is the final number of contributions counted by committee staff.
- the submissions delivered by Waitomo Papakainga be received as "Waitomo Papakainga and 207 others".
- the submissions delivered by the Green Party on behalf of Tauranga Intermediate be received as "Tauranga Intermediate and 124 others".
- the main submission delivered by the Green Party be received as "Green Party of Aotearoa New Zealand and 12,347 others"
- the 142 emails delivered by the Green Party be accepted as individual submissions if they meet the same criteria set for the acceptance of email submissions on 9 January 2025
- the 13 emails delivered by Tōku Waka be accepted as individual submissions if they meet the same criteria set for the acceptance of email submissions on 9 January 2025, and that the remaining submissions delivered by Tōku Waka be received as "Tōku Waka and 313 others"

- the 640 Green Party postcards be received as individual submissions
- the 306 Toitū te Tiriti postcards be received as individual submissions
- the 654 submissions delivered by Tuku Kōrero be received as individual submissions
- the 655 submissions delivered by Common Grace Aotearoa be received as individual submissions
- in respect of the box of 87 submissions delivered by the Green Party, committee staff be asked to provide further advice about the nature of the submissions.

Noted, that the chairperson may respond to Jordon Wansbrough if he considers it desirable to do so.

13 February 2025

Resolved, That the submissions from Torri Aleshia Ngaha Taueki-Watson, Levi Harrison, and Leanne Barrett not be accepted and be returned as being irrelevant.

Resolved, That the submissions listed in Appendix A of these Minutes not be accepted and be returned as being offensive.[1]

Noted, That the committee discussed whether it is a priority for members to have access to all the submissions in the electronic system and the general view of the committee was that members are content to ask for access to specific submissions as needed, rather than being granted access to the "working site" part of the electronic system.

Resolved, That a second round of invitations to make oral submissions be undertaken, with the following provisions:

- Each party may nominate up to 75 submitters to invite.
- The chairperson and Hon Dr Duncan Webb are authorised to agree the final list of invitees on behalf of the committee.
- Speaking slots will be allocated on a first-come, first-served basis.
- Submitters invited in the first round of invitations who did not respond by the deadline of 12 February 2025 may be scheduled for oral submissions in spite of missing the deadline for the first round of invitations.

Resolved, That no further late submissions be accepted on the bill, and that committee staff be asked to respond to any requests for late submissions on the committee's behalf, including thanking correspondents' interests in the committee's work.

20 February 2025

Resolved, That committee staff be authorised to book submitters from the categorised list of submitters provided by advisers and people who contact the committee requesting to make an oral submission, in order to maximise available hearing time.

[1] The full list of names has not been included because it does not serve to illustrate our overall process and we do not wish to draw particular attention to the names of submitters who had their submissions returned.

Resolved, That the chairperson and Hon Dr Duncan Webb be authorised to approve a generic response to correspondence related to complaints about members' behaviour during hearings of evidence.

3 March 2025

Resolved, That the clerk be asked to provide advice for the next meeting which provides options for how to handle submissions on the bill that have not been processed by the time the committee reports the bill back to the House.

Resolved, That PCO not be asked to prepare a revision-tracked version of the bill.

Resolved, That secretariat staff be instructed to prepare a bar-1 report that focuses on the committee's process and makes reference to the substantive analysis of submissions in the departmental report.

6 March 2025

Resolved, That a letter be sent to the Business Committee to seek authority from the House to continue to table and release or return submissions on the Principles of the Treaty of Waitangi Bill after the committee has issued its final report on the bill.

Resolved, That those who made submissions through the Hobson's Pledge website and are seeking to remove their submissions be redirected to contact Hobson's Pledge.

Resolved, That the email from the advisers dated 4 March 2025 containing indicative information about the departmental report not be tabled.

Resolved, That advisers be asked to provide an updated email that correctly accounts for the committee's decisions about bulk hardcopy submissions made by organisations.

Noted, That the Office of the Clerk is available to provide detailed legislative quality advice on this bill.

13 March 2025

Resolved, That the advisers were asked to provide an updated departmental report that:

- calculates the total number of submissions accounting for the committee's decisions on how collated submissions should be counted
- includes English translations of te reo Māori words used in the body of the report at the first usage

Resolved, That the submission made by Act New Zealand and 31,022 others be counted as a single submission.

Hūhana Lyndon moved, That an extension be sought from the Business Committee on the report back date of the bill until 14 June 2025.

On the question, That the motion be agreed to, the votes were recorded as follows:

AYES 3
Hon Ginny Andersen, Dr Tracey McLellan, Hūhana Lyndon

NOES 7
Paulo Garcia, Carl Bates, Rima Nakhle, Nancy Lu, Tom Rutherford, Hon James Meager, Tākuta Ferris

The motion was not agreed to.

20 March 2025

Resolved, That the departmental report tabled on Thursday, 13 March be replaced with the updated version tabled today.

Resolved, That differing views be sent to the clerk of committee by 5.00pm next Wednesday, 26 March 2025.

Noted, That members were asked to take the draft report to their caucuses next week.

Resolved, That staff be asked to provide an updated forecast on when submission processing will be completed at the committee's next meeting.

Hon Dr Duncan Webb moved, That the committee seek an extension of time to report back date on the Principles of the Treaty of Waitangi Bill until such time as all submissions are available to members.

On the question, That the motion be agreed to, the votes were recorded as follows:

AYES 4
Hon Ginny Andersen, Dr Tracey McLellan, Tamatha Paul, Hon Dr Duncan Webb

NOES 6
Carl Bates, Hon James Meager, Rima Nakhle, Tom Rutherford, Todd Stephenson, Tanya Unkovich

The motion was not agreed to.

3 April 2025

Resolved, That the decision at the meeting on 10 February 2025 to table and release the following submissions be rescinded, on account of the submissions contravening the committee's decision not to accept anonymous submissions:

- A close immediate family of some 25 members
- All the Whanau in NZ and Overseas
- Mervyn J
- Te Whatu Ora.

Resolved, That the decision at the meeting on 20 March 2025 to table and release the following submissions be rescinded, on account of the submissions contravening the committee's decision not to accept anonymous submissions:

- AISEA M
- Anna M
- Ariana J
- Caitlin O
- Casey H

- D W
- Donna R
- Emma S
- Helen O
- Jack S
- Kieren P
- Laura W
- Linds C
- Ngākara H
- Paul G
- Renee W
- Sam A
- Saranjot K
- YGM
- Zara S.

Hon James Meager moved, That the proposed amendments in draft report 4 be adopted. On the question, that the motion be agreed to, the votes were recorded as:

AYES 6

Jamie Arbuckle, Carl Bates, Hon James Meager, Rima Nakhle, Tom Rutherford, Todd Stephenson

NOES 4

Hon Ginny Andersen, Tākuta Ferris, Dr Tracey McLellan, Hon Dr Duncan Webb

The motion was agreed to.

Resolved, That the words “additional wording to be agreed by the committee” not be included in the body of the report.

Hon Dr Duncan Webb moved, That the report be amended to include the sentence “We approached the Business Committee for guidance as to whether it would be possible for the House to resolve that submissions that have not yet been processed by the Clerk can be included in the record as submissions on this bill. The Business Committee did not provide guidance back to us on this but the putting of such a motion is clearly an option that is open to the Government.”

On the question, that the motion be agreed to, the votes were recorded as:

AYES 5
Hon Ginny Andersen, Tākuta Ferris, Dr Tracey McLellan, Tamatha Paul, Hon Dr Duncan Webb

NOES 6
Jamie Arbuckle, Carl Bates, Hon James Meager, Rima Nakhle, Tom Rutherford, Todd Stephenson

The motion was not agreed to.

Resolved, That the chairperson be authorised to make a brief media statement informing the public that the committee has presented its report to the House, and thanking the public for its submissions.

Resolved, That the media statement be circulated to members before it is published.