



PSA 

Eco Network

# PSA Eco Network submission on the Principles of Treaty of Waitangi Bill

December 2024

## About the PSA Eco Network

The PSA Eco Network is part of the New Zealand Public Service Association Te Pūkenga Here Tikanga Mahi, the union representing almost 96,000 public and community service workers.

The PSA Eco Network represents over 3,000 workers across the PSA's membership who are motivated to act to improve workplace sustainability and campaign for action on climate change across the public sector.

Our members come from across the public sector – from the Public Service to the wider state sector, local government, the health sector, and publicly funded community services. In many cases our members are motivated by the same knowledge and expertise that also enables them to deliver quality advice and public services. Our members see the importance of public and community services in leading a just transition to a low-emission, sustainable Aotearoa.

## Our feedback on the Bill

We strongly oppose this Bill and call for it to be withdrawn immediately.

This Bill significantly undermines the very first collective agreement of this country, Te Tiriti o Waitangi; the rights of Māori as Tangata Whenua and all of those who are enabled to live in Aotearoa through Te Tiriti. Therefore, it undermines our collective ability as a nation to address pressing social, economic and environmental challenges including climate change. It undermines the integrity and effectiveness of public, state, local and community services. It undermines Aotearoa's ability to pursue equitable response to the environmental and climate crisis.

We also oppose the planned Treaty clause review and (at the very least) call on the Government to follow the Waitangi Tribunal's advice of suspending the review to allow for it to be reworked in co-design / collaborative process with and agreed by Māori.

## Honouring te Tiriti is central to an effective and high-integrity public, state, local and community services

As legislated in the Public Services Act 2020, the fundamental characteristic of the public service is acting with a spirit of service to the community (Section 3E). For those of us working in public services and for Crown agents this is upheld through a set of principles outlined in Section 12 of the Act, starting with political neutrality (Section 12, 1A) and including the proactive promotion of stewardship of the public services. But for all those working for the public service, state sector, local government, public health sector and community public services, our long-term responsibility is to Aotearoa. Te Tiriti o Waitangi is the founding document of our country. We must uphold Te Tiriti to uphold the integrity and spirit of service expected from us, and respect for Māori as tāngata whenua and the responsibility they have as kaitiaki of Aotearoa and its people.

The years of work building up the relationship, trust and respect of our public institutions to better involve and be guided by Māori is instrumental to effective decision-making. While public sector efforts in this space are not perfect, this Bill would effectively reverse all progress made to date by foisting on all public entities diminished scope for responsiveness to Māori, eroding years of goodwill and trust built up by the public sector.

This Bill is part of a concerted pattern by this Government to undermine the role Te ao Māori within the public sector through, as a non-exhaustive list of examples:

- Disestablishing the Māori Health Authority, created to addressing evidenced gaps in our public health response
- Attacks on the adoption and use of New Zealand’s official language, Te Reo Māori, and tikanga Māori in public sector workplaces
- Introduction of the Fast Track Consenting bill for development projects, enabling developers to skip the step of consulting with mana whenua on proposals that affect their whenua
- Rejection of the United Nations Declaration on the Rights on Indigenous Peoples (UNDRIP) committed to in coalition agreements
- Obscuring the role of colonisation in Aotearoa’s history through changes to the school histories curriculum
- Reviews of Treaty clauses across all of New Zealand’s legislation, as committed to in coalition agreements
- Removing Section 7AA from the Children’s and Young People’s Wellbeing Act, and promoting a narrative around this removal that obscures the practical function the policy holds in binding Oranga Tamariki to the principles of Te Tiriti
- Plans to replace the National Policy Statement for Freshwater, which currently requires local authorities to work with Māori to ensure the “life supporting capacity of freshwater” is a priority

In other words, not only is the Bill an attack on Te Tiriti, it also an indirect attack on the integrity and effective function of our public institutions. To proceed with a Bill that so blatantly attacks indigenous

rights in this country is to put all public servants in a compromised and unsafe position, forced to work in a way that is in conflict with the Crown's responsibilities as a treaty partner under the direction of the Government of the day. The Government's broad and sweeping attacks on the public sector and disregard for indigenous rights only compounds the negative impacts of this Bill.

## The Bill undermines te Tiriti, the Crown-Māori partnership, and the role of Māori as tāngata whenua in Aotearoa

The proposed Bill is an affront to the Crown's good faith and partnership obligations to Māori by unilaterally redefining the established principles without any active or meaningful engagement with, or reference to, the rights and interests of Te Ao Māori. The proposed principles themselves do not reflect any current credible or established interpretation of the Te Tiriti as carefully developed by the Courts and the Waitangi Tribunal over the last few decades; and unnecessarily interfere in the evolving constitutional core of New Zealand's political framework. The Bill also does not recognise the importance of He Whakaputanga or UNDRIP, which confirms that many Māori sought to preserve Māori sovereignty and governance structures.

We support the Waitangi Tribunal's findings on this Bill in that it would significantly breach Te Tiriti itself through a prejudicial extinguishment of tino rangatiratanga. We share their view that this Bill is a deliberate attempt to revoke the distinct status of Māori as well as the proposed principles being completely devoid of any appreciation of the history of land theft, destruction and political suppression suffered by Māori through the process of colonisation of Aotearoa.

**Of note from the Tribunal's criticism of the proposed principles contained in this Bill is that the kāwanatanga granted to the Crown in 1840 was never interpreted as unrestrained power of the Crown over Māori, but rather that agreeing to govern with a particular duty of care and protection for Māori rangatiratanga.**

Like the Tribunal, we not only call for the Treaty Principles Bill to be abandoned at the earliest opportunity; we also call on the Crown to resource and undertake genuinely restorative work to repair the Crown-Māori relations harmed directly and deeply by the introduction of this Bill.

## Honouring te Tiriti is essential to guide an equitable response to the environmental and climate crisis

Māori communities are at the forefront of addressing climate impacts and environmental degradation. Centring Te Tiriti and following the leadership of tāngata whenua are key to shaping both an innovative environmental management and just transition response in Aotearoa. Many of our members work alongside Māori, leading environmental work programmes and policy development, and we know the benefits that the generosity of mātauranga and te ao Māori have brought to these spaces.

In particular, the Bill undermines efforts to address major challenges in environmental planning and climate action.

### *Planning*

The Treaty Principles Bill is the latest in a long term, historical project of ignoring the rights of Māori to engage in their own valid planning approaches and forcing them to assimilate to Western practices.

Whether conscious or not, this seeks to erase Māori ways of living and practicing planning by assuming that the Government's Western approach is the only right way to do things.

Hon David Seymour has embedded the idea into the Bill that Māori ways of living and decision-making being prioritised in New Zealand is somehow undemocratic or provides them with special privileges. This perspective could not be further from the truth. When we recognise the cultural imperative of Māori to act as kaitiaki/ guardians over our environment and communities and equip them to fulfil that role, we recognise that no singular planning system is superior to another and that they are equal under the law.

As New Zealand communities face increasingly complex challenges associated with rapid technological change, globalisation and the increasing effects of climate change, Māori planning practices are incredibly well placed to be part of the solution. The existing Principles created by the Waitangi Tribunal provide an opportunity and pathway forward for Western Planning and Māori planning approaches to exist in genuine partnership. There is still work that needs to be done in finding the right ways to balance the Crown and Māori's different planning approaches and that is a discussion that will be required to continue into the future. Unfortunately, this Treaty Principles Bill will not further that discussion and will severely damage the progress that has already been made.

### *Climate Change*

We know that climate change will disproportionately affect ordinary working people and Māori communities, as both groups tend to live in and around areas which are acutely vulnerable to the effects of climate change and also often lack the financial means to effectively mitigate and adapt to changing climate and adverse weather events.

In order to support these communities and help meet the challenges of a changing climate, a just transition response which centres Te Tiriti is fundamental. A just transition in New Zealand is not only about ensuring workers and communities are supported through a shift to a low-zero carbon economy but requires us to recognise the value Māori voices and leadership in the transition. It is PSA Eco Network's view that for a transition to be truly just in a New Zealand context, we must bring communities together to fully partner with Māori and begin to integrate local and mātauranga solutions into climate policies, supporting Māori-led environmental initiatives and ensuring that both Māori and working people help lead the shaping the future of work and climatic weather responses.

Suffice to say, the Bill does not help in anyway in this work, as it effectively diminishes the role and scope of Māori kaitiakitanga and legal involvement in environmental policy and climate response. It also sows division and social antagonism that run contrary to a culture of unity and partnership necessary for disparate communities to work together to meaningfully respond to climate change. We ultimately consider this Bill to be a distraction from the urgent work required to help communities to reduce emissions and to build climate resilience for the long-term health and hauora of all Aotearoa/New Zealand.

## **What we would like to see instead**

In addition to seeking the Bill to be abandoned and restorative work to rebuild the relationship between the Crown-Māori relations harmed by the introduction of this Bill, the PSA Eco-Network also recommends the following:

- Recognition and embracing mana whenua as kaitiakitanga across all public sector and environmental/climate policy to ensure sustainable and inclusive approach to environmental guardianship.
- Incorporation of more, not less, of co-governance models in public sector decision-making ensuring Māori are able to have say in influence policies and process that impact their communities and the environment.
- Government to meaningfully respond to Waitangi Tribunal's kaupapa inquiry into climate change once it is finalised and published.
- Increased funding and collaborative partnerships between the government, iwi and hapu on environmental programme including climate resilience and adaptation – ensuring Māori communities have the resources and support to respond to climate change.
- Embedding just transition frameworks across the public sector, local government, state sector, the public health system and community and public services that centre Te Tiriti ensuring policies that transition workers and communities into green, sustainable industries also meets the needs and rights of Māori.
- Greater public education on Te Tiriti and climate justice in order to empower the public to understand their rights, responsibilities and the interconnectedness of environmental sustainability, social equity and Māori rangatiratanga.

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