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Matatū. Tū Mataora.  
Stand tall. Shape the future.

## Submission on the Principles of the Treaty of Waitangi Bill

### 1. Process

The Council acknowledges this submission will become public information.

### 2. Oral submission

The Council wishes to speak to this submission.

### 3. Position Statement

The Council does not support the Principles of the Treaty of Waitangi Bill (the bill). We do not believe it will achieve the overarching objectives set out in the Explanatory Note, especially that of building consensus around Te Tiriti | Treaty and our constitutional arrangements to promote greater legitimacy and social cohesion.

Our submission will explain the reasons for our opposition which relate primarily to:

- the practical and lived experiences of teachers and learners which demonstrates that formal equality in conjunction with substantive equality better serves the educational aspirations and progress of all learners rather than formal equality alone.
- The bill's lack of recognition of the collective aspects of equality

Part I of this submission provides some context around Matatū Aotearoa | Teaching Council and why it is submitting on this Bill. Part II sets out our substantive position on the Bill.

## PART I: ABOUT THE SUBMITTER

### 4. Matatū Aotearoa | Teaching Council

Matatū Aotearoa | Teaching Council of New Zealand (the Council) is the independent professional body for registered teachers | kaiako from early childhood education (ECE) through to primary and secondary schooling in English and Māori medium. There are currently 112,000 certificated teachers | kaiako in Aotearoa New Zealand. The statutory purpose of the Council, set out in section 478 of the Education and Training Act 2020<sup>1</sup>, is “to ensure safe and high-quality leadership, teaching and learning ... through raising the status of the profession”.

The Council acts in the interests of registered teachers | kaiako to:

- provide direction to teachers | kaiako
- enhance the status of teachers | kaiako
- establish and maintain criteria for teacher | kaiako registration, standards for ongoing practice and criteria for the issue of practising certificates and limited authorities to teach
- monitor and maintain the requirements relating to teacher | kaiako conduct and competence
- establish and maintain the Code of Professional Responsibility and Standards for the Teaching Profession | Ngā Tikanga Matatika mō te Haepapa Ngaiotanga me ngā Paerewa mō te Umanga Whakaakoranga (the Code | Ngā Tikanga Matatika and the Standards | Ngā Paerewa)
- establish and maintain standards for qualifications that lead to teacher | kaiako registration and approve teacher | kaiako education programmes.

### 5. The Council and Te Tiriti – The Wall of Identity | Te Pātū o te Whare

As a Tiriti led values-based organisation the Council is proud to display our commitment to give practical effect to Te Tiriti in an engaging and understandable way. To that end we have developed The Wall of Identity which provides a tool for the Council, teachers, and others to acknowledge the diversity of the profession and the communities we serve. The Wall of Identity is made of four tukutuku panels, each representing a community of focus reflecting our foundations of a Te Tiriti led organisation. In a marae, the tukutuku panels are there to remind us of where we have come from and what we aspire to.

The Mana Whenua / Tangata whenua (people of the land) panel reflects Māori as the indigenous people of Aotearoa and the first of the two partners in Te Tiriti. The Tangata Tiriti panel ensures the Council operates in a partnership framework that celebrates diversity. The Tagata o le Moana panel acknowledges the continuing relationship between Aotearoa and Pacific nations, the shared history with Māori, and the waves of migration that has enabled Pacific people to make this country their home as Tangata Tiriti. The Tangata Tiriti Multicultural panel acknowledges Aotearoa as it is today, a rich multicultural society.

The Wall of Identity is a visual reminder of the Council’s commitment to Te Tiriti to guide the organisation, the profession, and the wider education sector recognising the combined whakapapa of Aotearoa New Zealand. This is the intention of Te Tiriti, providing a place for all to call Aotearoa New Zealand home and recognise the responsibilities we all share.

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<sup>1</sup> New Zealand Government, *Education and Training Act 2020*, accessed December 16, 2024, <https://www.legislation.govt.nz/act/public/2020/0038/latest/LMS324557.html>.



## 6. The teaching professions commitment to Te Tiriti – Code | Ngā Tikanga Matatika, and Standards | Ngā Paerewa.

The Code has been developed with our profession for our profession and reflects the expectations of conduct and integrity that we all share. The Standards for the Teaching Profession are made up of six standards that provide holistic descriptions of what high-quality teaching practice looks like in Aotearoa New Zealand. Within the Code the profession makes two direct commitments to uphold Te Tiriti and is held to a single standard to uphold Te Tiriti partnership. Both also detail other broader commitments to respecting and supporting diversity within education.

Good teaching practice includes recognising the individuality of learners amongst a cohort of equals, and culturally adapting one’s practice to meet learners’ needs. Every teacher must show how they use the Standards each year in a professional growth cycle, and then how they meet the Standards once every three years as part of applying for a new Practising Certificate. For more information on the Code, and Standards please see Appendix A.

## PART II: ABOUT THE BILL

The stated purpose of the Principles of the Treaty of Waitangi Bill 2024 (the bill) is to clearly define the legal principles that underpin the Treaty of Waitangi (the Treaty) to ensure the Treaty principles are interpreted through a common understanding.

### 7. Formal equality alone fails everyone.

The Bill intends the population to enjoy the Treaty's benefits through formal equality. However, the bill does not accurately reflect the aspirations of broader society. Opposition from Te Ao Māori, legal professionals, societal groups, and others demonstrates a serious misalignment between the bill's intentions to emphasise formal equality and the public's desire for maintaining and enhancing substantive equality.

The dichotomy between the formal and substantive aspects of equality is well highlighted by the Human Rights Commission

*“Formal equality is equal treatment before the law. It reflects the Aristotelian notion that, to ensure consistent treatment, like should be treated alike. However, equal treatment does not always ensure equal outcomes, because past or ongoing discrimination can mean that equal treatment simply reinforces existing inequalities. To achieve substantive equality – that is, equality of outcomes – some groups will need to be treated differently. It follows that not all different treatment will be considered discriminatory.”<sup>2</sup>*

At present the bill's intention is to subvert aspects of substantive equality within our legal framework and prioritise formal equality. In doing so the Government is emphasising the importance of equality as a starting point but not as an outcome. Outcomes are instead to be framed as a matter of personal responsibility and thus should be the concern of individuals, not government, regardless of real systemic issues in their pursuit of equal outcomes.

Teachers have long understood that formal equality alone fails to lift outcomes for learners. No two learners are the same, and the very essence of a skilled teacher is to be able to adapt their practice to meet the needs of each learner as an individual. While formal equality ensures every learner has access to education, it is the substantive equality that ensures teachers deliver education within the contextual understandings of individuals so they may enjoy equal outcomes with their peers. Throughout the teaching profession we have found that both aspects must be utilised to deliver positive outcomes for all.

### 8. Te Tiriti o Waitangi is a tool that best exemplifies formal and substantive equality

Teacher experiences demonstrate that when teachers can address the cultural needs of learners, they observe improved levels of achievement. This delivers substantive equality in outcomes which is particularly impactful for Māori and Pacific learners. Kura Kaupapa Māori, bilingual instruction, and providers that allow space for difference, all enjoy better outcomes for their learners<sup>3</sup>. These models also work on greater inclusion of whānau and communities

<sup>2</sup> Human Rights Commission – Te Kāhui Tika Tangata, "Equality and Freedom from Discrimination," accessed December 16, 2024, <https://tikatangata.org.nz/human-rights-in-aotearoa/equality-and-freedom-from-discrimination>.

<sup>3</sup> New Zealand Qualifications Authority (NZQA), *NCEA in Kaupapa Māori Senior Secondary Settings*, 2024, accessed December 16, 2024, <https://www2.nzqa.govt.nz/assets/About-us/Official-releases/2024-2025/NCEA-in-Kaupapa-Maori-Senior-Secondary-settings-OC00816.pdf>.

expanding the responsibility of learning to more than just teachers. Whānau and communities accept this responsibility because of the tangible differences in their young persons' personal confidence and education satisfaction. The benefits are realised, and the burden is shared<sup>4</sup>.

In consultation with the workforce the Articles of Te Tiriti o Waitangi (Te Tiriti) were identified as the best expression of formal and substantive equality. At the core of Te Tiriti is a commitment to equality, which in turn cannot be attained without the formal and the substantive aspects together. In recognition of this the Council has codified the Articles of Te Tiriti into the profession's Code of Professional Responsibility | Ngā Tikanga Matatika, and Standards for the Teaching Profession | Ngā Paerewa.

For decades teachers have agitated for greater resourcing and supports to meet the needs of Māori and Pacific learners. Teachers did not equate negative education outcomes to be a failure of their learners or communities but identified them as a failure of the system to provide.

A Western education model based solely on formal equality cannot meet the needs of all learners<sup>5</sup>. Instead, what is required is for teachers to feel supported to adapt and shift daily within a system designed for diversity enabling them to match the formal equality with the substantive. Supports such as Ka Hikitia<sup>6</sup>, Taumai te reo<sup>7</sup>, Tapasā<sup>8</sup>, and others were developed as substantive equality approaches to support teaching.

The bill as it stands is in opposition to the expectations of teachers and their experiences of how to meet the needs of all learners, and on this basis the Council opposes the bill. Formal equality is a broadly agreeable pursuit but without the substantive equality to match it will fail to deliver any outcomes of value.

## 9. The Bill risks homogenising services

A concern of the Council is that Principle 2 may limit our ability to develop tailored Māori strategies unless our ability to do so is legislatively affirmed.

Under Principle 2 “...those rights [of Māori] differ from the rights of everyone ... only if those rights are agreed in the settlement of a historical treaty claim ...”<sup>9</sup>. As education strategy is not commonly addressed in settlements an aggressive interpretation of Principle 2 could limit the Council's ability to design bespoke strategies to address historic Māori underachievement.

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<sup>4</sup> New Zealand Council for Educational Research (NZCER), *Māori Parents and Education: Ko Ngā Mātua Māori me te Mātauranga*, 2006, accessed December 16, 2024, <https://www.nzcer.org.nz/research/publications/maori-parents-and-educationko-nga-matua-maori-me-te-matauranga>.

<sup>5</sup> A. Alton-Lee, *Quality Teaching for Diverse Students in Schooling: Best Evidence Synthesis* (Ministry of Education, 2003), accessed December 16, 2024, [https://www.educationcounts.govt.nz/\\_data/assets/pdf\\_file/0019/7705/BES-quality-teaching-diverse-students.pdf](https://www.educationcounts.govt.nz/_data/assets/pdf_file/0019/7705/BES-quality-teaching-diverse-students.pdf).

<sup>6</sup> Ministry of Education, “*Ka Hikitia – Ka Hāpaitia: The Māori Education Strategy*,” accessed December 16, 2024, <https://www.education.govt.nz/our-work/overall-strategies-and-policies/ka-hikitia-ka-hapaitia>.

<sup>7</sup> Ministry of Education, “*Te Ahu o te Reo Māori: Fostering Education in Te Reo Māori*,” accessed December 16, 2024, <https://www.education.govt.nz/our-work/overall-strategies-and-policies/te-ahu-o-te-reo-maori-fostering-education-in-te-reo-maori>.

<sup>8</sup> Teaching Council of Aotearoa New Zealand, *Tāpasa: Cultural Competencies Framework for Teachers of Pacific Learners*, 2019, accessed December 16, 2024, <https://teachingcouncil.nz/assets/Files/Tapasasa/Tapasasa-Cultural-Competencies-Framework-for-Teachers-of-Pacific-Learners-2019.pdf>.

<sup>9</sup> New Zealand Government, *Treaty Principles Bill 2024* (Government Bill 94-1), accessed December 16, 2024, <https://www.legislation.govt.nz/bill/government/2024/0094/latest/whole.html>.

While there are legal provisions for tailored Māori education such as Kura Kaupapa Māori, Designated Special Character and Partnership schools, there is limited protection for cultural tailoring for the 97 percent of Māori learners in regular English medium schools and ECE providers<sup>10</sup>. Section 4 of the Education and Training Act 2020 states that the purpose of that Act includes establishing and regulating an education system “that honours Te Tiriti o Waitangi and supports Māori-Crown relationships”. However, Section 7 of the Bill may be read as an expectation that Section 4 of the Education and Training Act 2020 (and other similar provisions) must be read through the narrow lens of the principles in Section 6 of the Bill. As it currently stands Te Tiriti is being used as a foundation for specialised education tailoring allowing for specific attention on the individual and acknowledging the spectrum of contexts within a cohort.

Not being able to design bespoke services for that 97 percent would be counterproductive to meeting the Government’s education objectives. Learners are more actively engaged when their education is culturally relevant which will assist the government to achieve its targets of 90 percent attendance by 80 percent of learners, and 80 percent Year 8 learners performing to curriculum expectations<sup>11</sup>. Perceived legal pressures may also deter local attempts to develop Māori centric community projects. The culmination of an inability for the Council to develop tailored supports, and the community’s inability to provide support, will weaken the overall supports that teachers currently enjoy.

In place of tailored supports we may instead be required to implement homogenised services irrespective of the contextual differences within which each learner and teacher operate<sup>12</sup>. Under such designs learners may struggle to engage with materials, and teachers may find themselves without supports. Both conclusions will not serve to lift education outcomes, particularly for Māori, Pacific, and new migrant learners, and learners from lower socioeconomic backgrounds. Homogenous delivery is not a way teachers deliver instruction and will serve only to damage government relationships with teachers and outcomes for learners.

## **10. Te Tiriti is a significant and long-standing consideration in the education sector.**

As demonstrated in the Council’s priorities, Te Tiriti has been a longstanding and significant consideration across the profession and sector. The reason for this is due to a consistent reflection by teachers that while all learners enjoy equality of access to education it is the outcomes driven individual-based approaches which teachers implement that makes education effective and valuable to learners.

Te Tiriti is also an effective tool for addressing historic education grievances against Māori. Education can transform lives and emancipate individuals from negative cycles, conversely it can also be used to control and indoctrinate. For the betterment of their people Māori have actively pursued education prior to and since the signing of Te Tiriti. However historically education has been a negative experience for Māori, particularly when it has been delivered in a manner underpinned by Anglo-centrism. Policies of Māori assimilation into English cultural

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<sup>10</sup> Education Review Office (ERO), "Te Muka Here Tangata: Human-Centred Education," accessed December 16, 2024, [https://evidence.ero.govt.nz/media/yvjit34j/ero\\_te-muka-here-tangata\\_print-1.pdf](https://evidence.ero.govt.nz/media/yvjit34j/ero_te-muka-here-tangata_print-1.pdf).

<sup>11</sup> Department of the Prime Minister and Cabinet (DPMC), "Government Targets," accessed December 16, 2024, <https://www.dPMC.govt.nz/our-programmes/government-targets>.

<sup>12</sup> The Education Hub, "What is Culturally Responsive Teaching?" accessed December 16, 2024, <https://theeducationhub.org.nz/what-is-culturally-responsive-teaching/>.

norms degraded Māori language and culture<sup>13</sup>. Consequently, the damage done negatively impacted an entire generation's views on identity which has been passed down to their descendants<sup>14</sup>. During the 1970s Māori actively pursued their own education models to reverse the cultural impacts of single model assimilative education<sup>15</sup>. The tool most effective to achieving formal support for their efforts was Te Tiriti which upholds protections for taonga Māori including language and culture<sup>16</sup>. Te Tiriti as a system foundation allows for enduring freedom and protection for Māori education models and subsequently makes it a longstanding core consideration for educators and the sector. We can observe the Te Tiriti foundation heavily reflected in strategies and resources and teacher owned and led concepts such as our Code | Ngā Tikanga Matatika, and Standards | Ngā Paerewa.

Academically there is a strong evidence base to support a sense of belonging and strong understanding of identity being indicators for success in education. This affirms that learners who feel that their place within a learning environment is meaningful are more likely to proactively engage in education; additionally, learners who have a strong sense of personal identity are more likely to engage with confidence and are able to contextualise their learnings beyond the learning environment leading to long term retention<sup>17</sup>.

Te Tiriti establishes a constitutional license and cultural foundation from which relationships can be built upon dependent on the context. For teachers this means greater contextual capabilities and inclusive learning environments that allow learners to develop their sense of belonging and grow in their identity. The alignment of academic findings and teacher experiences are significant metrics to consider. Aotearoa New Zealand is in the unique position of having a compelling tool to reflect this in Te Tiriti.

## 11. Conclusion.

Teachers recognise that equality of access to resources is essential. What they also recognise is that from equality of access there must be equality in implementation; the ability to design resources that meet the needs of individuals, including Māori. At present, the bill is a threat to this and could result in homogenisation of resources and supports, as well as teaching's longstanding commitments to Te Tiriti. Damage to these would be a disservice to our diverse learners.

What teachers know is that formal equality fails everyone, and substantive equality is a much better lens through which to design policy. This is the irrefutable experience of teachers. Teachers have engaged in learning to recognise the unique opportunity Te Tiriti provides to

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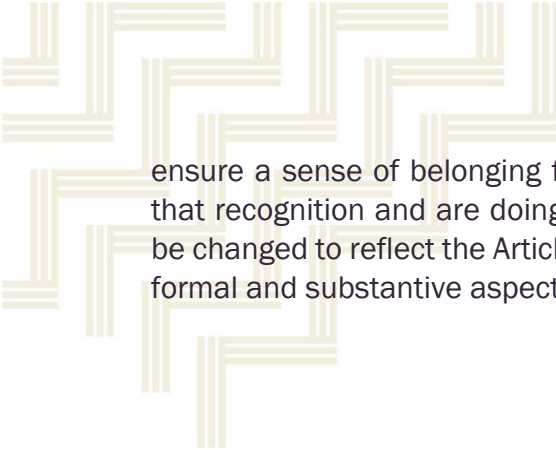
<sup>13</sup> T. Kāretu, "Te Reo Māori: A Language in Peril," *Te Kaharoa* 11, no. 1 (2018): 1–10, accessed December 16, 2024, <https://ois.aut.ac.nz/te-kaharoa/index.php/tekaharoa/article/view/117>.

<sup>14</sup> T. K. Hoskins and A. Jones, "Rethinking the 'Self' in Self-Determination: Toward a More Relational Worldview in Education," *MAI Journal* 9, no. 2 (2020): 101–114, accessed December 16, 2024, [https://www.journal.mai.ac.nz/system/files/MAI\\_Jrn1\\_2020\\_V9\\_2\\_Hoskins\\_FINAL.pdf](https://www.journal.mai.ac.nz/system/files/MAI_Jrn1_2020_V9_2_Hoskins_FINAL.pdf).

<sup>15</sup> Ministry for Culture and Heritage, "Māori Education – Mātauranga," in *Te Ara: The Encyclopedia of New Zealand*, accessed December 16, 2024, <https://teara.govt.nz/en/maori-education-matauranga>.

<sup>16</sup> Waitangi Tribunal, Report on the Te Reo Māori Claim (Wai 262), 1986, accessed December 16, 2024, [https://forms.justice.govt.nz/search/Documents/WT/wt\\_DOC\\_68482156/Report%20on%20the%20Te%20Reo%20Maori%20Claim%20W.pdf](https://forms.justice.govt.nz/search/Documents/WT/wt_DOC_68482156/Report%20on%20the%20Te%20Reo%20Maori%20Claim%20W.pdf).

<sup>17</sup> Transcend Education, "Designing for Learning Primer," February 2020, accessed December 16, 2024, [https://transcendeducation.org/wp-content/uploads/2022/12/DesigningforLearningPrimer\\_Transcend\\_WebVersion\\_Feb\\_2020.pdf](https://transcendeducation.org/wp-content/uploads/2022/12/DesigningforLearningPrimer_Transcend_WebVersion_Feb_2020.pdf).



ensure a sense of belonging for all. As the professional body for teachers, the Council shares that recognition and are doing so with success. The Council encourages the principles instead be changed to reflect the Articles and the pre-amble of Te Tiriti o Waitangi which uphold both the formal and substantive aspects of equality.



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