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Committee Secretariat
Justice Committee
Parliament Buildings
Wellington

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Principles of the Treaty of Waitangi Bill

Tēnā koutou

Council would like to thank the Committee for this opportunity to provide comment on the Principles of the Treaty of Waitangi Bill.

Council is concerned over the nature and extent of this Bill. We believe it will have impact on the recognition and standing of our mana whenua partners, the partnership we share, and the importance this has to support our functions and responsibilities as a territorial authority.

In the spirit and strength of our partnership with mana whenua, Council supports our iwi partners and their opposition to this Bill.

Kāpiti Coast District Council – in partnership with iwi

Kāpiti Coast District Council has a long history of working in partnership with its three mana whenua partners Ātiawa ki Whakarongotai, Ngā Hapū o Ōtaki, and Te Rūnanga o Ngāti Toa Rangatira. For over 30 years, Council and iwi partners have collectively worked in the spirit of partnership to support shared outcomes for our district and our residents. This partnership continues to grow from an early focus on resource management, towards a broader and better understanding and reflection of a Māori world view across all Council's work.

More recently, the relationship has reflected this strength of partnership, providing for a greater voice as part of our formal Council decision making, with voting rights on our key committees and a non-voting seat at our Council table. Full voting rights are limited by legislation, which is why to support partnership and democracy, Council recently resolved to have a Māori ward at the next local government election.

This partnership is reflected in our strategic direction, where our relationship and partnership with mana whenua is an intrinsic part of the focus of Council and our community, on People,

Place and Partnership. This journey has been founded on the Treaty principles of partnership, protection, and participation and the underscoring values of Kotahitanga and Tino Rangatiratanga.

We are concerned that the proposed Bill and any re-interpretation of requirements generated by the proposed new principles would weaken or significantly undermine this relationship and the journey we are on. With mana whenua providing a unique part of our district's culture and history, both Council and the Kāpiti Coast district and its communities, would be more the poorer from any challenge to or weakening of this relationship.

The impacts of redefining principles on council functions and processes

When the Treaty of Waitangi Act was passed in 1975, Parliament refrained from giving definition to the principles of the Treaty, instead leaving to the Tribunal the task of developing them through “the practical application of the principles ... to determine its [the Treaty] meaning.” Since 1975, the Tribunal, the Courts, and the Executive, have proposed a range of similarly expressed principles. While a single summary of these would be difficult as the meanings, interactions and nuances can be significantly different, they all reflect a similar focus and intent. This openness is an expression of a healthy and robust legal and civil system at work, allowing for the evolution of what are deeply complex concepts expressed in words of multi-layered richness.

Over time, and through Tribunal judgements, case law and governmental practice, a level of consensus has developed as to what the principles encompass in spirit and deed and how they should be applied in any particular case. These are most succinctly embodied in the three ‘P’s’, ‘Partnership’, ‘Protection’, and ‘Participation’. Looked at from any perspective, these are three pillars of any healthy democracy, and not concepts to be concerned by.

The Local Government Act 2002 (LGA) is the main empowering Act for local government in Aotearoa New Zealand. Of note:

- It states the purpose of local government, provides a framework of powers, promotes its accountability, and provides for local authorities to play a broad role in promoting the social, economic, environmental, and cultural well-being of their communities (LGA s.3).
- Section 4 of the LGA recognises the Crown’s responsibility to take appropriate account of the principles of the Treaty of Waitangi/Te Tiriti o Waitangi, and states that, accordingly, Parts 2 and 6¹ of the Act provide principles and requirements for local authorities that are intended to facilitate participation by Māori in local authority decision-making processes.

Part II of the Resource Management Act 1991 (RMA) establishes the purpose and principles of that Act, to promote the sustainable management of natural and physical resources. Of note:

- Section 6 lists matters of national importance, with 6(e) requiring people exercising functions and powers under the Act to recognise and provide for “the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, wahi tapu, and other taonga.”
- Section 7 in listing other matters to be given particular regard to, and at 7(a) notes “Kaitiakitanga” as one of these matters. Section 8 elaborates, requiring people exercising

¹ Part 2: [Purpose of local government, and role and powers of local authorities](#)

Part 6: [Planning, decision-making, and accountability](#)

functions and powers under the Act to take into account the principles of the Treaty. This imposes a statutory obligation on local authorities when acting in the capacity of a 'Consent Authority' and when undertaking policy work under the RMA, to take the Treaty principles into account in their decision making.

Bringing in new interpretations of the Treaty and its principles will render all that jurisprudence and practice supporting these Acts and their operationalisation, obsolete. This will see any application of the new principles challenged and tested in terms of process, scope, and degree, again through the courts. This creates potential for significant delays to supporting and enabling critical decisions and investment to support growth and community needs, but also adds significant and unnecessary expense to Council and in turn, our community, at a time when our ratepayers are already hurting from the rising cost of living.

Thank you again for the opportunity to comment on this Bill of such importance to Aotearoa New Zealand. Council **does not** wish to be heard on its submission.

Nāku iti noa, nā

A handwritten signature in black ink, appearing to read 'Darren Edwards', with a stylized flourish at the end.

Darren Edwards
Chief Executive
Kāpiti Coast District Council