

2 December 2024

To: Committee Secretariat
Justice Committee
Parliament Buildings
Wellington

RE: 'Treaty Principles Bill'

Far North District Council (FNDC) thanks the Justice Committee (the Committee) for the opportunity to submit on the 'Treaty Principles Bill'.

We recommend the Committee carefully consider the potential impacts and consequences this proposal could have.

The bill is short and has significant room for interpretation which we believe impacts both organisations and individuals on their ability provide a robust submission. The views expressed in this submission are purely on the operational impacts this bill may have and are not the views of any one person.

We wish to be heard in support of our submission.

Background

In considering this submission it is critical to acknowledge that the Far North holds a unique place in New Zealand's history. The great explorer Kupe, who many iwi trace their lineage too, is said to have first set foot in New Zealand on the shores of the Hokianga Harbour.

It was in Waitangi, in the Bay of Islands, that Te Tiriti o Waitangi (the Māori version of the Treaty) was first signed in 1840. We are proud of our heritage and to be the home of New Zealand's most important historical site – The Treaty Grounds.

The Far North also maintains the sacred space of Te Rerenga Wairua. For Māori, Cape Reinga is the most spiritually significant place in New Zealand. An ancient pohutukawa tree and a lonely lighthouse mark this special place. It is here that after death, all Māori spirits travel up the coast and over the wind-swept vista to the pohutukawa tree on the headland of Te Rerenga Wairua.

Te Tai Tokerau Northland is rich in Māori culture, from the language to the legends, the kai (food) to traditional performances, and most importantly, our sacred and significant places.

The Far North District is the most northern territorial local authority in New Zealand and shares borders with the Whangārei and Kaipara Districts. It has a land area of 669,251 hectares and an estimated residential population of approximately 74,700. Of those, approximately 38,000 are Māori (50.8%) which is significantly higher compared to the national average (14.6%), as per the 2023 census. The population of the Far North is predicted to grow to over 82,000 by 2043. As at April 2024, there are 35,366 people on the General Roll, and 14,721 on the Māori Roll for the Far North District.

The Far North is characterised by coastal harbours and bays on the east coast and long beaches interrupted by deep harbours on the west coast. Inland, the Far North is made up of rugged bush covered areas, farmland, and horticulture. There is no single main centre, instead our urban population is focused on a series of towns across the district, with Kerikeri, Kaitiāia, Kaikohe and Kawakawa being the largest being the largest. The Far North is a popular holiday destination, which leads to a fluctuating population over summer. Some areas have a household occupancy rate that doubles during peak season.

The Far North district includes approximately 144 marae, 10 Iwi Runanga and over 250 hapū. There have been 9 treaty settlements to date in the Far North with the potential for around 200 more as some hapū seek to settle as individual entities in addition to iwi. The largest iwi in the rohe, Ngapuhi, have not yet reached a treaty settlement. In addition, a number of hapū and iwi have had customary rights recognised, and 2 hapū have also received Mandated Iwi Status through Forestry and Fisheries settlements.

Tangata whenua have a long and rich association with the Far North. Council recognises this long settlement and therefore the special position of tangata whenua within this district, and the significant and long-term role Māori have in Council's decision making. The partnership with tangata whenua is embedded into the way FNDC works today and is an evolving relationship.

This relationship is further nurtured through the establishment of Te Kuaka Te Ao Māori Committee which is made up of 11 Elected Members and Te Kahu o Taonui. Te Kahu o Taonui was established in 2006/7, as a collective of Iwi in Te Tai Tokerau. Te Kahu o Taonui now includes representation

from the following Iwi: Ngāti Kuri, Te Aupōuri, NgaiTakoto, Te Rarawa, Ngāti Kahu, NgātiKahu ki Whangaroa, Whaingaroa, Ngāpuhi, Ngāti Hine, Te Roroa, Ngātiwai, and Ngāti Whātua.

FNDC is a small council with limited resources. These limitations mean that proposals and changes to legislation may impact more greatly on FNDC and our district.

FNDC acknowledge the true and genuine intentions of Te Tiriti o Waitangi principles and He Whakaputanga o nga rangatira o niu tireni through Te Pae Tata (Long Term Plan 2024-2027)

The proposed bill would further impact Councils ability to give effect to our Vision of He Whenua Rangatira A district of sustainable prosperity and Well-being.

Submission

Of the three principles of the Bill, the principle which we interpret will impact Council the most is *Principle two*.

As such, FNDC have a number of concerns with the Bill and its operation. These primarily relate to:

- impacts on tangata whenua
- impacts on our relationship with tangata whenua
- the significant impacts this bill would have on unsettled iwi and hapū
- impacts on FNDC to uphold and make good on our agreements with tangata whenua
- wider community effects
- resourcing.

Settled vs. unsettled iwi

There have been 9 treaty settlements to date in the Far North with the potential for around 200 more as each hapū could settle in their own right. This Bill is heavily swayed towards those who have settled, with little to no consideration to those who are yet to reach an agreement.

The majority of our District's iwi and hapū have not reached settlements under the Waitangi Tribunal. However, those 9 who have, under Principle Two of the proposed bill, will have power in their boundaries. This overlap in boundaries affects unsettled iwi (for example Te Roroa and Nga Puhī boundaries).

Staff will need to carefully manage the conflicting boundary areas impacting our operational tools and resources. For those who have not reached a treaty settlement, the Bill means our obligations under genuine partnership are at risk of not being upheld.

In local government we are governed mainly by the Local Government Act 2002. Clause four of the Local Government Act 2002 states:

In order to recognise and respect the Crown's responsibility to take appropriate account of the principles of the [Treaty of Waitangi](#) and to maintain and improve opportunities for Māori to contribute to local government decision-making processes, [Parts 2](#) and [6](#) provide principles and requirements for local authorities that are intended to facilitate participation by Māori in local authority decision-making processes.

Therefore, Council must align with the principles of the Treaty of Waitangi for all operational matters. If the principles are amended to only apply to the rights of iwi and hapū that have settled then it will be difficult for FNDC to adhere to our other requirements under the Local Government Act 2002, specifically sections 75, 81, and 82 which are intended to facilitate participation by Māori in local authority decision-making processes.

Relationships

As a district, FNDC strives to work closely with iwi and hapū and has embedded this collaboration into various layers of Council. We are concerned that this bill will unfairly impact tangata whenua and our relationship with them. We believe the management of settled vs unsettled iwi will cause significant issues within our district and impact our relationship with iwi and hapū.

FNDC have Memorandum of Understandings with 11 iwi and 3 hapū in the district which covers how we as a council will work with them. An obligation with the 11 iwi authorities through these

memoranda is to partner on matters of significance to iwi and hapū including undertaking inclusive engagement in resource consent matters. A concern now arises whether FNDC will be able to fulfil our obligations under these memoranda.

The partnership with tāngata whenua is embedded into the way FNDC works today although it is recognised this is evolving. This bill will impact a number of the mechanisms which FNDC has in place to ensure iwi and hapū input and partnership, for example:

- Iwi/Hapū (Environmental) Management Plans Policy which includes as an objective to “integrate and consider the views and values of iwi/hāpu regarding the use of natural and physical resources in Council’s strategies, plans, and work programs”.
- Policies in the Proposed District Plan, specifically to work proactively with iwi and hapū and implement agreements with them.
- A Mana Whakahono ā Rohe with Te Runanga a Iwi o Ngapuhi under the Resource Management Act. This has involved 2 years of work alongside the Iwi to develop a Relationship Protocol that outlines how we as council will work alongside the Iwi. This covers participation around resource management decisions such as planning, compliance, and monitoring.
- Hapū working groups – e.g. Kaikohe Wastewater Treatment Plant Hapū Roopu, Ahipara Takiwā Working Group, Taipa Placemaking Working Group, Ngati Kawa Ngati Rahiri Water Treatment Plant Working group.

FNDC are concerned about the effect the Bill may have on the relationship between iwi and hapū in the district, and the council.

Summary

Once again FNDC would like to thank the Committee for the chance to submit on this Bill.

We see significant risks and issues from the Bill, that would impact our community and disproportionately affect the significant number of iwi and hapū we have in our district. FNDC are concerned that if the Bill were to proceed:

- we may not be able to meet our requirements under the Local Government Act 2002
- we may not be able to fulfil our obligations under our 14 existing Memorandums of Understanding with iwi and hapū
- increased resources will be required to manage the relationships with settled vs unsettled iwi

We hope our views will give the committee an insight into the impacts the Bill would have and encourage the Committee to consider the submissions of FNDC carefully.