



TE KĀHUI RARAUNGA

# SUBMISSION TO THE SELECT COMMITTEE FOR THE TREATY PRINCIPLES BILL

|         |                                                 |     |                   |
|---------|-------------------------------------------------|-----|-------------------|
| Ki:     | Select Committee for the Treaty Principles Bill | Nā: | Te Kāhui Raraunga |
| Marama: | Korekore Te Whiwhia o Hakihea                   | Ra: | 19 December 2024  |

## TE PŪTAKE I INTRODUCTION:

1. Te Kāhui Raraunga Charitable Trust (Te Kāhui Raraunga or TKR) is an independent body established in 2019 to lead the action required to realise the aspirations of iwi-Māori through the advocacy of the Data Iwi Leaders Group. TKR's aim is to enhance the social, cultural, environmental, and economic well-being of iwi-Māori; to enable iwi, hapū and whānau Māori to access, collect and use Māori data.
2. Te Kāhui Raraunga strongly opposes the Treaty Principles Bill (the Bill) as currently proposed. Our submission:
  - outlines our concerns and advocates for a more meaningful and comprehensive approach to implementing the Treaty of Waitangi, with a particular focus on Māori data;
  - reflects our duty to protect the sovereignty and well-being of Māori (specifically whānau, hapū, iwi) communities, which we believe is undermined by this Bill.

## NGĀ RARU KI TAI I SERIOUS ISSUES WITHIN THE BILL

3. In our analysis of the Bill, we have identified 6 key issues:-
  1. Treaty Principles cannot be used as Substitute for Full Treaty Implementation
  2. The Principle of Partnership Has Been Undermined in the Data Context
  3. The Principle of Protection Has Been Inadequately Applied to Māori Data
  4. The Principle of Participation Is Meaningless Without Control
  5. There is a lack of Accountability and Enforcement Mechanisms
  6. A clear Lack of Recognition and Protections due to the absence of a Treaty Settlement.



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### **1. Treaty Principles cannot be used as a substitute for full Treaty Implementation**

4. Te Tiriti O Waitangi is a foundational document that defines the relationship between the Crown and Iwi-Māori. While we usually privilege Te Tiriti o Waitangi over The Treaty of Waitangi, for the purposes of this submission we intentionally utilise refer to the Treaty of Waitangi (the Treaty) to ensure ease of alignment to the bill itself.
5. The Crown has repeatedly reduced the Treaty to a set of abstract principles, which can be conveniently interpreted to suit government agendas. Te Kāhui Raraunga rejects the notion that these principles can fully encapsulate the Treaty's intent, especially in relation to Māori data sovereignty.
6. The Treaty was not simply a document of partnership or protection; it was a mutual agreement that guaranteed iwi-Māori self-determination (tino rangatiratanga) over all aspects of our taonga, including data, knowledge, and culture. Māori Data is a taonga, and as such the principles set out in the Bill lack the specificity and depth needed to fully uphold Māori sovereignty over data and information, particularly in an age where Māori knowledge systems and intellectual property are under increasing threat from colonial and commercial forces.

### **2. The Principle of Partnership Has Been Undermined in the Data Context**

7. The principle of “partnership,” as invoked in this Bill, is a term that has often been wielded to advance the Crown's interests, rather than a true collaborative relationship with iwi-Māori. In the realm of data, this has manifested in ongoing issues where iwi-Māori knowledge and data are used without meaningful consent or recognition of our authority.
8. Māori data sovereignty is not merely about being consulted or “partnered” in the Crown's processes; it is about full, unambiguous control of Māori data by Māori. The Bill fails to address the core issue of Māori ownership over their own data. This includes data generated within iwi, hapū, and community contexts, as well as data relating to Māori health, education, and environmental practices. If the Crown continues to frame its relationship with Māori through the lens of partnership without giving us full control over our own data and knowledge, the principle will remain hollow and irrelevant.

### **3. The Principle of Protection Has Been Inadequately Applied to Māori Data**

9. The Treaty guarantees the protection of Māori taonga, including our data, knowledge, and cultural resources. However, the Bill fails to offer concrete mechanisms to ensure that Māori data is fully protected from exploitation and misuse. Māori knowledge systems, as embodied in data, are vulnerable to appropriation by both the Crown and private sector interests, often without adequate safeguards for their culturally appropriate use.
10. The Bill's protection provisions are insufficient, offering only vague references to “safeguarding” or “protecting Māori interests,” but no clear mechanisms for ensuring Māori data is treated with the



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respect and control it deserves. Te Kāhui Raraunga asserts that the Crown has a duty to protect Māori data sovereignty by creating legal frameworks that safeguard Māori data from commercial exploitation and ensure that iwi, hapū, and Māori entities retain ownership and control over all data associated with their communities.

### **4. The Principle of Participation Is Meaningless Without Control**

11. The Bill includes provisions for Māori participation in decision-making processes. However, participation, in and of itself, is meaningless if Māori do not have true decision-making power. In the context of data, participation often means being consulted on decisions that have already been made, rather than having real control over how data is collected, used, and shared.
12. Te Kāhui Raraunga stresses that participation should not be reduced to tokenism. Māori must have the final say in how data relating to our communities, languages, and knowledge systems is handled. This includes the ability to veto inappropriate uses of Māori data, the right to set ethical guidelines for the collection and analysis of data, and the power to decide who can access and benefit from our data.

### **5. A Lack of Accountability and Enforcement Mechanisms**

13. While the Bill references the need for adherence to Treaty principles, there are no clear mechanisms to ensure that the Crown upholds these principles in a way that guarantees Māori data sovereignty. Without enforceable accountability provisions, the Crown will continue to act in ways that undermine Māori rights and control over their data.
14. Te Kāhui Raraunga asserts that effective enforcement mechanisms are needed to ensure that Māori data sovereignty is respected. This should include the establishment of independent oversight bodies, robust legal protections for Māori data, and clear penalties for violations.

### **6. Lack of Recognition and Protections Due to the Absence of a Treaty Settlement**

15. Te Kāhui Raraunga is not a Treaty-recognized entity and, as such, is excluded from the legal protections and benefits that are afforded to those iwi and hapū that have completed Treaty settlements under current legislation. This exclusion is a significant concern, particularly as the Bill outlines various protections and provisions that apply only to Treaty-settled entities. These protections, which are intended to ensure the Crown upholds its obligations to Māori, fail to extend to Te Kāhui Raraunga and other Māori entities that have not yet been formally recognized through a Treaty settlement process.
16. This gap is problematic because Te Kāhui Raraunga, as Māori data sovereignty advocates, plays a crucial role in advocating for and protecting the data, knowledge, and cultural rights of Māori communities. However, without Treaty recognition, we are excluded from the full scope of protections under the Bill, leaving our efforts vulnerable to exploitation and misuse by the Crown and



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other entities. The lack of formal Treaty settlement means that Te Kāhui Raraunga's rights to data sovereignty, as guaranteed by the Treaty, are not fully protected in the same way that settled iwi are. This further entrenches inequities and creates a two-tiered system where some Māori entities have access to stronger protections, while others—particularly those advocating for Māori data sovereignty—are left without essential safeguards.

17. Te Kāhui Raraunga calls on the government to recognize that the absence of a Treaty settlement should not exempt any Māori entity, including Te Kāhui Raraunga, from the protections guaranteed under the Treaty. Data sovereignty and Māori self-determination are fundamental Treaty rights that transcend the settlement process. The Bill must be amended to ensure that all Māori entities, regardless of their settlement status, are afforded equal protection and recognition in the framework of this legislation.
18. This paragraph highlights the specific issue of Te Kāhui Raraunga's lack of recognition through a Treaty settlement and the consequences this has for its ability to access the protections guaranteed under the Bill, particularly in relation to data sovereignty. Māori rights in relation to data use and ownership.

### KUPU WHAKATEPE | CONCLUSION

19. Te Kāhui Raraunga strongly opposes the Treaty Principles Bill and strongly recommend that the bill is withdrawn.
20. In its current form, the Bill continues to perpetuate a framework that reduces the Treaty to abstract principles, rather than a comprehensive and enforceable legal agreement. In particular, the Bill fails to adequately address Māori data sovereignty, a critical area in which the Crown continues to overstep and undermine Māori authority.
21. We call for the Bill to be withdrawn in the first instance. In the event it is not withdrawn, it must be amended to include:
  - Clear recognition of Māori data sovereignty as an essential element of the Treaty of Waitangi, with legal provisions to ensure Māori control over their data and knowledge systems.
  - Robust accountability and enforcement mechanisms to ensure the Crown meets its obligations to Māori, including clear penalties for breaches of Māori data rights.
  - Full participation of Māori in decision-making with regard to data governance, including decision-making power, not just consultation.
  - Comprehensive protection for Māori data from exploitation and misuse, ensuring that iwi, hapū, and Māori entities retain ownership, control, and benefit from the use of their data.
22. This Bill, in its current form, is inadequate and fails to meet the Crown's Treaty obligations. Te Kāhui Raraunga stands firm in our commitment to protecting Māori data sovereignty and calls on the government to amend the Bill to reflect the true spirit of the Treaty of Waitangi.



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### NGĀ TŪTOHUNGA I RECOMMENDATIONS:

23. Te Kāhui Raraunga strongly recommends:

1. To withdraw the Bill: We strongly urge the Crown to withdraw the Treaty Principles Bill.
2. In the (unlikely) event that the Treaty Principles Bill proceeds, that it must be reframed to:
  - a. include Māori data sovereignty as a central element;
  - b. create enforceable legal obligations to protect Māori data sovereignty, including accountability mechanisms for Crown agencies and private entities as outlined in the Māori Data Governance model; and
  - c. Ensure Māori control and decision-making authority over all data, knowledge, and information related to Māori people, culture, and resources.
3. Genuine Consultation: Undertake a comprehensive consultation process with iwi, hapū, and Māori partners to ensure that any legislative action related to Te Tiriti reflects the voices and aspirations of Māori.
4. Honour Tino Rangatiratanga: Commit to legislative and policy frameworks that uphold tino rangatiratanga, ensuring Māori have a meaningful role in decision-making processes that affect their rights and interests

Signed:

[Your Name/Title]

Te Kāhui Raraunga

[Contact Information]