Association of Consulting and Engineering

Level 11
79 Boulcott Street
Wellington 6011

PO Box 10247
Wellington 6140
acenz.org.nz

20 December 2024

Justice Committee
Parliament Buildings
WELLINGTON

Submitted: Via portal

Kia ora,

Submission on the Principles of the Treaty of Waitangi Bill

Thank you for the opportunity to comment on the Principles of the Treaty of Waitangi Bill (the Bill).

ACE New Zealand does not support the Bill.

Who we are

The Association of Consulting and Engineering New Zealand (ACE New Zealand) is an incorporated society – a firm-based membership organisation representing around 270 professional services firms and more than 16,000 people working across the built and natural environments.

Our members range from large global firms to employee-owned small and medium enterprises, employing specialists including engineers, project managers, planners, scientists, architects, surveyors and other technical disciplines. Our teams contribute significantly to Aotearoa New Zealand's economy by advising, designing and delivering on critical technology, policies and practices, and construction and infrastructure across the built and natural environment in Aotearoa.

Our members have a deep understanding of the policy and stakeholder issues linked to the economic wealth, wellbeing and prosperity of our society, as well as project design, delivery and decision-making, from our largest infrastructure projects in New Zealand through to smaller community projects.

Our commitment

ACE New Zealand's Rules outline our commitment to recognise Te Tiriti o Waitangi and promote diversity and inclusion in everything we do. This commitment means we cannot support the Bill for the reasons outlined below.

The Bill

ACE New Zealand notes the purpose of the Bill (as stated in clause 3) is to set out the principles of the Treaty of Waitangi in legislation and to require, where relevant, that those principles be used when interpreting legislation. We reflect that the principles of the Treaty, as stated in clause 6 of the Bill, differ from the articles of the Treaty of Waitangi/Te Tiriti o Waitangi

itself and from "Treaty principles" as developed by New Zealand courts when interpreting legislation that includes this expression.

Those principles developed by the courts and now well established in New Zealand law, include the principle of partnership and the principle of active protection. These principles are central to the effective planning, design and delivery of infrastructure in New Zealand and risk being undermined if established Treaty principles no longer form part of New Zealand law, which is the effect of the Bill (subject to limited exceptions in clause 8 of the Bill).

Industry impact of the Bill

ACE New Zealand recognizes the importance of efficient and effective infrastructure planning and delivery and of attracting and developing highly skilled talent that contributes positively to a productive society and the collective prosperity of all in Aotearoa. Strong, collaborative partnerships between the Crown, Tangata Whenua[1] and industry are critical to ensure the efficient and effective planning and delivery of infrastructure in New Zealand.

We are concerned the proposed Bill introduces challenges and ambiguity that may undermine this collaborative environment, risking our members ability to integrate Māori perspectives, foster partnerships, and deliver projects aligned with Tangata Whenua aspirations and national regulations.

The potential for the Bill to hinder our members' abilities to plan and deliver infrastructure efficiently and effectively includes the following:

- Creating unpredictability in legal and regulatory frameworks, which may complicate compliance with Māori land rights, environmental protections, and Resource Management Act (RMA) obligations, particularly for firms engaging with Māori landowners and Tangata Whenua. A stable, predictable legal environment is essential for effective and culturally sensitive project delivery and we seek clarity on the Bill's implications for the legal frameworks ACE New Zealand members navigate, particularly in infrastructure, urban planning, and resource management.

- Collaborative processes with Tangata Whenua are integral to many ACE member projects related to land development, resource management, environmental engineering, planning, and infrastructure. The Bill may make it more challenging for firms to engage meaningfully, co-create culturally sensitive and aligned solutions, and ensure responsiveness to Tangata Whenua needs. Additionally, it may introduce the potential for delays, disputes, and reputational risks associated with projects requiring Tangata Whenua support. Consultation with Māori communities is important in shaping New Zealand's development landscape, ensuring Tangata Whenua have a meaningful role in decisions that affect their land, resources, communities, and people. The Bill's erosion of Treaty rights may limit Tangata Whenua involvement in decision-making, affecting culturally sensitive outcomes in projects and having long-term impacts on Aotearoa's environments.

- Heightened social tensions emerging from the Bill may make it harder for ACE members to foster consensus in the community and move infrastructure projects forward. This could complicate community engagement and public consultation for ACE members, who must balance diverse stakeholder expectations.

- Altering the Crown-Tangata Whenua relationship could disrupt partnerships critical to urban planning, infrastructure development, and environmental stewardship, impacting the effective working relationships that have been developed between the industry and Tangata Whenua through many years of collaboration on behalf of central and local government clients. This fragmentation could undermine the trust and collaboration that are crucial for project success. Due to the ambiguity and complexity involved, enacting the proposed bill may elevate the risk of budget overruns and cause delays in infrastructure delivery. The Bill's Crown-driven approach to Treaty principles could reduce

[1] The term Tangata Whenua used here encompasses Iwi, Hapū, Whānau, and Iwi Māori.

responsiveness to Tangata Whenua needs, affecting land development, environmental management, and climate change adaptation.

Conclusion

This submission highlights four key areas of concern where the proposed Bill impacts the industry. In our view, the Bill poses significant challenges to the collaborative and inclusive framework essential for ACE New Zealand members to deliver projects that align with Māori values, community expectations, and national regulations. By creating uncertainty and undermining respectful engagement, the Bill risks weakening partnerships central to effective and culturally sensitive infrastructure delivery.

ACE New Zealand remains steadfast in its commitment to Te Tiriti o Waitangi, efficient infrastructure delivery, and respectful engagement with Māori communities that upholds tino rangatiratanga and cultural autonomy. We will continue our work in Aotearoa underpinned by our commitment, independent of the change(s) the Treaty Principles Bill is seeking to make.

Nga mihi,

Helen Davidson
Chief Executive