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Burnett Foundation Aotearoa Submission on the Principles of the Treaty of Waitangi Bill

1. I/We wish to make the following comments

Burnett Foundation Aotearoa is a registered charity and non-government organisation funded through contracts with Te Whatu Ora and independent fundraising to work towards HIV and STI prevention, support for people living with HIV, and great sexual health for rainbow and takatāpui communities. Our work includes health promotion, condom distribution, testing, counselling and support, research, policy, and information services. Burnett Foundation Aotearoa advocates for healthy public policy and environments that support people living with HIV and rainbow and takatāpui communities.

Burnett Foundation Aotearoa has been a strong ally of Māori and does not support the Principles of the Treaty of Waitangi Bill. Te Tiriti o Waitangi is a protective mechanism that ensures Māori rights to good health outcomes.

Kaitiakitanga and partnership underpinned decisions made in the 1990s by Te Roopu Tautoko to work in partnership with the New Zealand AIDS Foundation (now Burnett Foundation Aotearoa) to continue education and health promotion services for whānau and hapori Māori living with HIV. We continue to acknowledge the legacy of those who have gone before us, and in 2023 we released our Rautaki Māori. This strategy sets out our commitment to moving together with takatāpui and hapori Māori to deliver great health outcomes, through partnership, active protection, meaningful participation, and mana ōrite (equity). All of this is underpinned by Te Tiriti o Waitangi and seeks to enable tino rangatiratanga (self-determination) and reflects our commitment to respecting our country's bicultural heritage.

Given our remit as a community public health organisation working in the HIV and rainbow sexual health sectors, Burnett Foundation Aotearoa advocates strongly for health systems that are responsive to the needs of takatāpui, Māori who identify as part of rainbow communities, and all Māori living with HIV (Māori PLHIV). Colonisation is a foundational determinant of health outcomes in Aotearoa NZ (Curtis et al., 2023). European colonisation in the Pacific disrupted the widespread acceptance of rainbow and takatāpui people among many Pacific cultures, including in Māori society (Kerekere, 2017). Dr Elizabeth Kerekere (2017) highlights that takatāpui face a unique intersection of discrimination due to their Māori identity and diverse gender, sexuality, or sex characteristics, enduring systemic racism rooted in colonisation. The health system must be enabled to respond and address discrimination that is compounded for takatāpui, Māori who identify as part of rainbow communities, and Māori PLHIV.

Sexual health inequities for Māori in Aotearoa New Zealand

Takatāpui and Māori continue to be overrepresented in STI, HIV and AIDS diagnoses in Aotearoa New Zealand and experience inequities in accessing sexual healthcare across the motu. Concerningly, the 2023 rate of congenital syphilis among Māori woman reflects the severe inequities that exist for Māori in accessing antenatal, sexual health and overall healthcare (ESR, 2023). The 2022 Sex and Prevention of Transmission Study (SPOTS) study found that identifying as Māori was one of the key factors associated with being less protected from HIV. Māori face greater barriers to accessing PrEP than the national average, with 27.4% of Māori aware of and eligible for PrEP but not taking it, versus the 18.9% of people nationally (Saxton et al, 2024a). Māori face greater barriers to regular testing for HIV, with 44% not having been tested in the last year, versus 31% of people nationally (Saxton et al, 2024b).

Stigma and discrimination can also be compounded for Māori PLHIV. The Aotearoa New Zealand People Living with HIV – Māori Report 2021 found that three quarters of participants had experienced some form of stigma or discrimination because of their HIV status (Te Whāriki Takapou, 2021). Just under half had been verbally harassed by members of the public, a quarter had been refused employment, and a small number had experienced verbal abuse when accessing HIV specific healthcare. The report also found that Māori PLHIV were two to three time more likely to be struggling with their mental health compared to the general Māori population.

The National HIV Action Plan Aotearoa New Zealand 2023-2030 commits the health sector to improving Māori health and wellbeing in relation to HIV by delivering on our Te Tiriti o Waitangi obligations. This is a direct response to the Waitangi Tribunal's Hauora: Stage One Report on the Health Service and Outcomes Inquiry that showed persistent health inequities experienced by Māori across almost every disease state were the consequence of the failure to apply the principles of Te Tiriti at the structural, organisational, and health practitioner levels of the health and disability system (Waitangi Tribunal 2019, pages 30–33). We do not believe the Bill sufficiently considers recommendations made by the Waitangi Tribunal. It is only by addressing the inequitable healthcare and access experienced by Māori that the National HIV Action Plan can achieve its ambitious vision for New Zealand to be the first country to eliminate new local HIV transmissions by 2030.

The Principles of the Treaty Bill does not sufficiently uphold the Crown's obligations to Māori

The three principles as defined in the Principles of the Treaty of Waitangi Bill do not provide an appropriate framework to address the significant inequities that exist within the healthcare system for Māori, particularly takatāpui, Māori who identify as part of rainbow communities, and Māori PLHIV. Burnett Foundation are concerned that the Bill does not adequately reflect the Crown's obligations to Māori under Te Tiriti o Waitangi and instead is a breach of human rights and Te Tiriti o Waitangi.

The Bill redefines the partnership with Māori, erasing tino rangatiratanga, and removing commitments to achieving equity for Māori. This is particularly concerning for the health sector given Māori are disproportionately impacted by poor health outcomes across many indicators, and the sector has significant work to do to remove barriers to health, making the Bill unworkable. Burnett Foundation Aotearoa believes that the proposed Bill disrupts the progress that has been made toward achieving our goal of eliminating new local HIV transmissions in Aotearoa New Zealand by 2030.

We are also concerned that the proposed principles have been imposed on New Zealanders in their being developed solely by the Crown, without meaningful engagement with tangata whenua. Meaningful engagement, partnership and shared decision-making with Māori is essential to effectively uphold the Crown's obligations. There is danger that the current Bill fosters further division.

2. I/We wish to make the following recommendations

Burnett Foundation Aotearoa recommends that the Principles of the Treaty of Waitangi Bill be withdrawn.

Te Tiriti o Waitangi is the guiding document for Aotearoa New Zealand

We strongly believe that Te Tiriti o Waitangi is the most appropriate guiding document for Aotearoa New Zealand. The Principles of the Treaty of Waitangi Bill reinterprets the relationship with Māori and undermines the significant work that has been undertaken by Burnett Foundation Aotearoa and within the wider health and rainbow sectors to incorporate Te Tiriti o Waitangi into practice and enable partnerships with takatāpui and Māori to directly address the inequities faced by Māori in accessing HIV prevention and support and wider sexual health services. This work has been supported by the Ministry of Health's own guiding documents, firstly He Korowai Oranga: Māori Health Strategy (Ministry of Health, 2001) and more recently the Ministry's Te Tiriti Framework principles of Tino rangatiratanga, Equity, Active protection, Partnership and Options that are to be considered and applied by the health sector to achieve Māori aspirations for Pae Ora (Healthy futures for Māori) (Ministry of Health, 2020).

Burnett Foundation Aotearoa believe that ongoing work is required to honour Te Tiriti, address historical harms and breaches, and provide redress, to achieve equitable health access and outcomes for takatāpui, Māori who identify as part of rainbow communities, and Māori PLHIV.

Ngā mihi,



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