**Suggested submission to The Treaty Principles Bill**

**Summary - this section for our info only, impact of the Bill on M+G**

The Treaty Principles Bill is a piece of proposed legislation in New Zealand that seeks to define the principles of the Treaty of Waitangi (Te Tiriti o Waitangi) in statutory terms. Currently, the Treaty principles are undefined in law and have evolved through case law, government policies, and Waitangi Tribunal findings. The Bill aims to provide clarity on these principles by introducing three core ideas:

1. **Civil Government**: The government retains full authority to govern under the rule of law in a free and democratic society.
2. **Rights of Hapū and Iwi Māori**: Recognition and protection of the rights held by Māori signatories at the time of the Treaty signing, where those rights are explicitly recognized in legislation or agreements.
3. **Equality**: All individuals are entitled to equal protection and benefit of the law without discrimination.

The Bill has been controversial, as critics argue it represents a significant departure from the original text and intent of the Treaty, potentially undermining the Treaty partnership and Māori rights. Some see it as an attempt to dilute Māori autonomy and influence, while others, including proponents like the ACT Party, view it as a way to reduce the ambiguity surrounding the Treaty in legal and political contexts

For museums and galleries, the Bill could raise significant concerns, particularly regarding the preservation and display of taonga (treasures) and artifacts, as these are often linked to the active protection of Māori culture under existing interpretations of the Treaty. If the principle of partnership is weakened or reinterpreted, the ability of Māori groups to influence decisions about their cultural heritage may be diminished.

**Possible Angles for a Submission**

1. **Cultural Impacts**: Emphasize how redefined principles might limit the recognition and protection of Māori cultural artifacts, challenging the role of museums and galleries in safeguarding taonga.
2. **Partnership Principles**: Argue that the Bill undermines the established partnership between the Crown and Māori, which is critical for collaborative decision-making in cultural institutions.
3. **Heritage and Representation**: Highlight the risk of marginalizing Māori perspectives and reducing opportunities for their direct involvement in decisions regarding their heritage in public collections.
4. **Ambiguity in Practice**: While the Bill claims to clarify the principles, it may create more confusion or conflict in sectors like museums, where the interpretation of the Treaty principles has allowed for inclusive and cooperative practices.

You could propose retaining the flexibility of the current system, which allows the Waitangi Tribunal and courts to interpret the Treaty principles based on context, ensuring they remain relevant and sensitive to Māori cultural interests. This approach can also uphold the living nature of the Treaty, adapting to modern challenges while respecting its original spirit.

**Proposed submission**

[Date]

Justice Select Committee

New Zealand Parliament

**Objection to The Treaty Principles Bill**

Museums Aotearoa is the professional membership organisation for museums and those who work in or have an interest in museums and the museum sector. The 'museum sector' includes museums, public art galleries, historical societies, science centres and historic places open to the public. Museums Aotearoa members include these institutions and people who work within them and individuals connected or associated with the arts, culture and heritage sector in New Zealand. The museum sector comprises 417 institutions throughout New Zealand.

Museums Aotearoa seeks to promote excellence in museums and galleries and support the ongoing development of a vibrant, creative and relevant sector.

Public museums and galleries:

* care for and provide access to and education about New Zealand’s culture and heritage for current and future generations. Our members hold our national collections of visual arts, decorative arts, documentary history, military objects and collections, social history, technology, natural history, taonga Māori, archaeology and ethnology. Much of our museum and gallery activity takes place in heritage buildings, in locations dictated by historic significance and locations; and
* make essential contributions to education, tourism, social cohesion and our sense of nationhood.

We ask the Justice Select Committee to consider our concerns about the implications of this legislation on cultural institutions, particularly regarding their responsibilities and relationships with tangata whenua under Te Tiriti o Waitangi (the Treaty of Waitangi).

Key Issues Raised by the Bill

1.0 Reduction of Partnership Principles:

The proposed statutory definitions of the Treaty principles in the Bill appear to undermine the current emphasis on the Crown's partnership with Māori, as understood through case law and Waitangi Tribunal findings. For museums and galleries, partnership has been fundamental to establishing cooperative relationships with iwi and hapū for the care, display, and interpretation of taonga. A more rigid definition of principles risks weakening these relationships, potentially reducing opportunities for shared decision-making.

2.0 Narrow Interpretation of Rights:

By focusing on the explicit recognition of Māori rights in legislation or agreements, the Bill overlooks the broader context of active protection. Many museums and galleries play a critical role in protecting Māori cultural heritage, which includes items and knowledge not necessarily covered by specific agreements. This narrow framing risks marginalizing these institutions' ability to fulfill their obligations under the current interpretation of the Treaty.

3.0 Cultural Heritage Implications:

Museums and galleries are kaitiaki (guardians) of collections that often include taonga with profound significance for iwi and hapū. Reinterpreting Treaty principles to focus more on equality rather than partnership could marginalize Māori voices in decisions about their heritage. This could result in missed opportunities for meaningful engagement and a loss of trust between institutions and Māori communities.

4.0 Ambiguity of Application:

While the stated intent of the Bill is to provide clarity, it could introduce further ambiguity in practice. The current framework allows for flexible interpretation by the Waitangi Tribunal and courts, which has helped museums and galleries respond to modern challenges and honor Te Tiriti’s spirit in evolving contexts. Restricting this interpretive flexibility risks creating unnecessary legal and operational challenges.

Recommendations for the Bill

It is our strong preference for the Bill to not progress. However, if it does, to ensure the Bill supports the cultural sector and maintains alignment with the principles of Te Tiriti o Waitangi, I recommend the following:

5.0 Explicit Support for Cultural Institutions:

Include clauses recognising the role of museums and galleries as kaitiaki of taonga, with specific obligations to engage with iwi and hapū in decision-making processes concerning collections. This would align with existing practices under the ICOM Code of Ethics and National Services Te Paerangi guidelines.

6.0 Provisions for Taonga and Repatriation:

Incorporate explicit protections for the active preservation and repatriation of taonga, reflecting New Zealand’s commitments under the UN Declaration on the Rights of Indigenous Peoples (UNDRIP). This would ensure museums and galleries can continue collaborative repatriation efforts with iwi and hapū.

7.0 Flexibility in Treaty Principles:

Avoid overly prescriptive definitions of the Treaty principles. Retain the ability for these principles to evolve through case law and Waitangi Tribunal findings to reflect the dynamic nature of Te Tiriti relationships.

8.0 Support for Orphan Works and Digital Preservation:

Address legislative gaps that affect museums and galleries by creating exceptions for:

* The preservation of collections, including digitisation efforts.
* Safe harbour provisions for orphan works, allowing institutions to responsibly utilise items of uncertain provenance while ensuring safeguards for rightful claimants.

9.0 Dedicated Consultation with Cultural Institutions:

Engage directly with Museums Aotearoa and other cultural stakeholders to ensure their expertise and concerns inform the Bill’s development. Their insight is invaluable in understanding the real-world implications of legislative changes.

Conclusion

Museums and galleries play an integral role in preserving and celebrating Aotearoa New Zealand’s shared cultural heritage. To fulfill their obligations under Te Tiriti o Waitangi, they require legislation that supports partnership with Māori, safeguards taonga, and reflects the dynamic and evolving nature of Treaty principles. While the Treaty Principles Bill seeks to provide clarity, it risks undermining these critical functions without careful consideration of its impacts on the cultural sector.

I urge the Government to dismiss the Bill

Nāku noa, nā