



NEW ZEALAND
Permanent Mission
TE AKA AORERE

NOTE: 2025/36

The Permanent Mission of New Zealand to the United Nations Office and other International Organizations in Geneva presents its compliments to Office of the United Nations Commissioner for Human Rights and has the honour to enclose a letter from the New Zealand Minister of Foreign Affairs, Rt Hon Winston Peters, addressed to Dr Albert K Barume, Special Rapporteur on the rights of Indigenous Peoples.

The Mission of New Zealand would appreciate it if this letter could be passed on to Dr Albert K Barume, Special Rapporteur on the rights of Indigenous Peoples.

The Permanent Mission of New Zealand to the United Nations Office and other International Organizations in Geneva takes this opportunity to renew to the Office of the United Nations Commissioner for Human Rights the assurances of its highest consideration

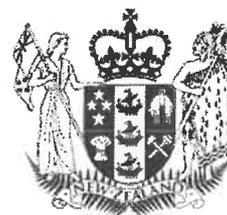
New Zealand Permanent Mission
GENEVA

6 August 2025



Rt Hon Winston Peters

Minister of Foreign Affairs
Minister for Racing
Minister for Rail



5 August 2025

Dr Albert K Barume
Special Rapporteur on the rights of Indigenous Peoples
Office of the United Nations Commissioner for Human Rights
Palais des Nations
1211 Geneva 10
Switzerland

Dear Special Rapporteur

**Mandate of the Special Rapporteur on the rights of Indigenous Peoples
AL NZL 2/2025**

Thank you for your letter of 12 June 2025. We have also been briefed on your meeting with New Zealand's Permanent Representative to the United Nations in Geneva, [REDACTED] of 17 July 2025.

We perfectly understand that the purpose of your letter of 12 June 2025 was to pass on feedback you had received about the New Zealand Government's policies and give us an opportunity to respond. That is, your letter was not intended to convey your own views.

We further understand that you did not directly receive the letter drafted to you by my colleague, [REDACTED] but rather that you learned about its existence from reports in the media. We deeply regret this breakdown in protocol and appreciate this opportunity to put the record straight.

Indeed, the New Zealand Government welcomes the chance to respond to the issues referred to in your letter of 12 June 2025 regarding the Regulatory Standards Bill, and the Wairarapa Moana and Wakatū Incorporated matters.

The New Zealand Government is committed to improving outcomes for all New Zealanders. We are focused on reaching targets to improve outcomes in health, education, law and order, work and housing and on providing public services to all New Zealanders including working

with iwi (tribes) and Māori to accelerate Māori economic growth and enable targeted investment in Māori social development.

The **Regulatory Standards Bill** (the Bill) was introduced to New Zealand's Parliament in May 2025 as a result of a Coalition Agreement between two of the three political parties that currently comprise the New Zealand Government. The Bill is being considered by the Finance and Expenditure Select Committee, which is expected to report back to Parliament later this year. The Bill is intended to reduce the amount of unnecessary and poor-quality regulation. As a mature democracy, New Zealand has well established systems for developing legislation in a way that takes account of a wide range of interests. **Appendix One** provides more information about relevant features of New Zealand's constitution that support this process. **Appendix Two** provides more information about the proposed Regulatory Standards Bill.

The New Zealand Government honours the undertakings that the Crown has made through past **Treaty of Waitangi settlements** and continues to actively address historical Treaty grievance claims through the Treaty settlement process. As at the end of June 2025, 101 of Deeds of Settlement relating to the settlement of historical Treaty claims have been signed between iwi (tribes) or groups of hapū (sub-tribes) and the Crown.

The Government's response of 22 October 2024 to the joint communication from the former Special Rapporteur on the rights of Indigenous Peoples, Mr Mr Calí Tzay, and Professors Xanthaki and Satterwaite (AL NZL 1/2024), outlined the process for settling Treaty claims and provided information about the two matters mentioned in your letter: the Wairarapa Moana ki Pouākani Incorporation (**Wairarapa Moana**) and the Proprietors of Wakatū (**Wakatū Incorporated**). Under New Zealand constitutional conventions, Ministers of the Crown must exercise judgement before commenting on matters before the courts, which is the situation here.¹ **Appendix Three** to this letter provides an update on those two matters consistent with that convention.

Yours sincerely



Rt Hon Winston Peters
Minister of Foreign Affairs

¹ Cabinet Manual 2023, para. 4.12 (<https://www.dPMC.govt.nz/sites/default/files/2023-06/cabinet-manual-2023-v2.pdf>).

Appendix One: relevant constitutional provisions

New Zealand is a constitutional monarchy with a parliamentary system of government. Parliament comprises the House of Representatives (the elected Members of Parliament) and the Sovereign in right of New Zealand.

New Zealand uses a Mixed Member Proportional (MMP) voting system to elect Members to New Zealand's House of Representatives. This means that political parties often enter into coalitions or other support arrangements to form a government. Since 1871 there has been a parliamentary select committee dedicated to considering bills, petitions and inquiries relating to Māori.

A distinctive feature of New Zealand's democratic system since 1867 are Māori electorates, a category of electorate for Māori in the House of Representatives. People of Māori descent can choose whether they are enrolled on the Māori electoral roll or the general electoral roll. The number of Māori seats in the parliament is proportionate to the number of people on the Māori roll compared to the general electoral roll. This is reviewed at regular intervals as part of the overall electorate boundary review process. Since 2002 there have been seven Māori electorates.

Signed by representatives of the Crown and approximately 500 Māori chiefs in 1840, Te Tiriti o Waitangi / the Treaty of Waitangi is a founding constitutional document in New Zealand. It is not directly enforceable as a legal instrument in the absence of statutory incorporation. However, it is reflected in the Waitangi Tribunal (established in 1975 as a permanent commission of enquiry by the Treaty of Waitangi Act 1975) and its jurisdiction to look at how Crown actions are consistent with the principles of the Treaty. It is also reflected in Treaty settlements and the governance arrangements established in connection with them.

New Zealand has ratified seven core international human rights treaties, including the International Covenant on Civil and Political Rights (ICCPR), and the Convention on the Elimination of all forms of Racial Discrimination. The New Zealand Bill of Rights Act 1990 (NZBORA) and the Human Rights Act 1993 provides protection for human rights within New Zealand, including legal recognition of the right to freedom from discrimination.

In expressing its support for the UN Declaration on the Rights of Indigenous Peoples in 2010, New Zealand made clear its position regarding the non-binding status of the declaration, which is not a treaty, and contains a mixture of references to existing rights and non-binding aspirations. New Zealand also made it clear that New Zealand has its own well-established processes for resolving claims in respect of traditionally held land and resources against the Crown which are grounded in the Treaty of Waitangi. Details of those processes were provided in the response to the joint communication from Mr Calí Tzay and Professors Xanthaki and Satterwaite.

All legislative proposals that are submitted to the New Zealand Cabinet must consider the human rights and Treaty of Waitangi implications of the proposal. All bills submitted to the House of Representatives must be accompanied by a departmental disclosure statement, which states whether the bill is consistent with NZBORA and the principles of the Treaty of Waitangi. NZBORA requires the Attorney General to notify the House of Representatives if a bill appears to be inconsistent with NZBORA. The Ministry of Justice scrutinises bills and advises the Attorney General on their consistency with NZBORA so that she can fulfil this obligation. Further information about the process for considering NZBORA in legislative development is available [here](#).

Appendix Two: Regulatory Standards Bill

Background: purpose, scope and effect of the Regulatory Standards Bill

The Regulatory Standards Bill (**the Bill**) was introduced to the House of Representatives on 19 May 2025. The Bill is currently being considered by the Finance and Expenditure Select Committee, which is expected to report back to the House later in 2025.

The purpose of the Bill is to:

- promote the accountability of the Executive to Parliament for developing high-quality legislation and exercising stewardship over regulatory systems;
- support Parliament's ability to scrutinise Government Bills and amendments; and
- support Parliament in overseeing and controlling the use of delegated powers to make legislation.

The Bill aims to achieve its purposes by:

- providing a benchmark for good legislation through a set of principles of responsible regulation (**principles**);
- providing for the transparent assessment of the consistency of proposed and existing legislation with the principles (**consistency accountability statements**);
- establishing a Regulatory Standards Board to independently consider the consistency of proposed and existing legislation; and
- strengthening regulatory quality by supporting the Ministry for Regulation in its regulatory oversight role.

Principles of responsible regulation

The specific principles cover the rule of law, liberties, taking of property, taxes, fees, and levies, the role of courts, good law-making processes including consultation, options analysis and cost-benefit analysis.

Requirements for Ministers and responsible agencies

In practice, the Bill will require responsible Ministers, administering agencies and other makers of legislation to assess the consistency of proposed and existing legislation (both primary and secondary) against these principles. Where inconsistency is identified, the Bill requires a statement from the responsible Minister (or maker of secondary legislation where not a Minister) to briefly explain the reasons.

Ministers, as well as makers of secondary legislation, must publish or present to the House of Representatives the results of those assessments and explanations. Some primary and secondary legislation is excluded or exempted from these requirements.

Establishment of the Regulatory Standards Board

The Bill will also establish a Regulatory Standards Board (**the Board**), with members to be appointed by the Minister for Regulation, to independently assess consistency of legislation, helping incentivise Ministers and agencies to complete robust consistency accountability statements.

The Board will be able to carry out inquiries into whether legislation is inconsistent with the principles. Any recommendations it makes are non-binding. The Board will only have a role in relation to legislation that is subject to consistency assessment requirements, and could investigate consistency with the principles in two broad ways as follows:

- it could look at consistency accountability statements of bills as introduced into the House of Representatives, and provide a report to a select committee on its findings:
- it could inquire into whether existing legislation is consistent with the principles, and report to the Minister for Regulation and the Minister responsible for the legislation in question (as well as the relevant chief executive and a complainant) on its findings.

Role of the Ministry for Regulation

The Bill will strengthen regulatory quality by supporting the Ministry for Regulation in its regulatory oversight role, including by requiring the Ministry to report on the overall state of the regulatory management system. It will also strengthen regulatory stewardship expectations for agencies and information-gathering powers for the Ministry to support the efficient and effective conduct of regulatory reviews.

Public consultation

Public consultation on a discussion document titled *'Have your say on the proposed Regulatory Standards Bill'* was released on 19 November 2024 with the consultation period closing on 13 January 2025. The consultation received over 20,000 responses and included engagement with Māori (with at least 114 iwi/hapū (tribe/sub-tribe) submissions, and at least 107 submissions from other Māori groups) and substantial feedback on Treaty-related aspects of the Bill, and which fed into the subsequent policy development process and Cabinet decisions. A summary of public submissions is [available](#).

Publicly available information

All documents relevant to the Bill and the process undertaken to date are publicly available on the Ministry for Regulation [website](#). In addition to the Bill, there are a number of publicly available documents that provide information about the background to the Bill and its scope. Those documents include:

- Frequently Asked Questions about the Regulatory Standards Bill | Ministry for Regulation
- Information Release - Policy Approvals for Progressing a Regulatory Standards Bill May 2025 | Ministry for Regulation
- Information Release - Summary of Submissions for proposed Regulatory Standards Bill | Ministry for Regulation
- Regulatory-Impact-Statement-proposed-Regulatory-Standards-Bill.pdf
- Treaty Impact Analysis - page 150

The Bill will not constrain Parliament's ability or any other existing power to make legislation. The Bill will not require the government or Parliament to support, or not support, any given legislative proposal or outcome or tie either to given policy settings. Inconsistency of legislation with the principles will not prevent new legislation from being passed or require existing legislation to be amended. Ministers will be able to confirm departure from the

principles and Parliament will not be constrained by the principles. The Bill specifically provides for this intention with clause 25 stating validity of legislation will not be affected by failure to comply with the Bill.

The Bill will not create or impose legal rights or obligations. The Bill will support and strengthen Parliament in its role only in the ways explicitly specified in the Bill – i.e. through the purposes set out above. The purpose of the Bill is to provide additional accountability mechanisms via increased transparency. There is no intent in the Bill that the principles or other aspects of the Bill are applied or considered in other circumstances, and the Act specifically provides in clause 24 that it does not confer or impose legal rights or obligations.

Absence of particular principles. The principles in the Bill are intended to focus specifically on the effect of lawmaking on existing interests and liberties, as well as good lawmaking processes more generally, in relation to the quality of regulation. They are not intended to be a comprehensive list of all principles that could be considered in relation to the design and content of legislation. Nothing in the Bill will prevent any additional principles from being considered in the process of lawmaking, or in the review of existing law.

Absence of Treaty of Waitangi. The Bill does not include reference to the Treaty of Waitangi / te Tiriti o Waitangi. The absence of reference to the Treaty / te Tiriti in the Bill reflects a decision to focus on a discrete set of goals, including promoting the accountability of the Executive to Parliament in relation to the quality of regulation (rather than on the relationship between the Executive and Māori). The Bill does not alter existing norms or constitutional settings relating to the Treaty / te Tiriti.

The Bill explicitly excludes Treaty Settlement Acts. The Bill includes a number of exclusions including legislation that provides for full and final Treaty settlements, the Marine and Coastal Area (Takutai Moana) Act 2011 and the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019, and any associated secondary legislation. This exclusion is intended to preserve legal certainty, uphold the integrity of Treaty commitments, and avoid reopening matters that were negotiated in good faith between the Crown and Māori. In addition, there is a mechanism in the Bill for further exclusions to be made via notices, following approval by the House of Representatives.

A Treaty of Waitangi Impact Analysis has been undertaken. The Ministry for Regulation undertook this analysis, a copy of which is [publicly available](#) with necessary redactions to protect legal privilege. In addition to the final Treaty Impact Analysis, a [preliminary interim analysis](#) was also produced and made available during public consultation on the Bill.

The Bill does not contravene the New Zealand Bill of Rights Act 1990. In fulfilment of the requirements of section 7 NZBORA, the Ministry of Justice has advised the New Zealand Attorney General that the Bill appears to be consistent with NZBORA. The advice is available [here](#).

Appendix Three: Wairarapa Moana and Wakatū Incorporation

The Government's response to the joint communication to former Special Rapporteur on the right of Indigenous Peoples, Mr Calí Tzay, and Special Rapporteurs Professors Xanthaki and Satterwaite of 22 October 2024 (AL NZL 1/2024) outlined:

- the role of the Waitangi Tribunal and nature of the historical Treaty of Waitangi/Te Tiriti o Waitangi claims;
- the established framework for the negotiation of settlements of historical and contemporary claims;
- the different types of settlement redress; and
- how settlements are comprehensive and final, and how they aim to restore relationships.

This response also outlined the background and context relating to the claim by Wairarapa Moana ki Pouākani Corporation (**Wairarapa Moana Incorporation**) to the land at Pouākani (**Wai 85**). We also noted that the Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua Claims Settlement Act 2022 fully settled the Wai 85 claim.

In 2023 the Wairarapa Moana Incorporation applied to the New Zealand High Court for a declaration that the Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua Settlement Act 2022 was inconsistent with the New Zealand Bill of Rights Act 1990 (NZBORA). On 7 August 2023, the High Court dismissed those proceedings.

Wairarapa Moana Incorporation appealed that decision to the New Zealand Court of Appeal. This appeal was heard on 22 October 2024. As of the date of this response, the outcome of this appeal is still awaited.

In relation to the Crown's appeal of the High Court's decision in *Stafford v Attorney-General* [2024] NZHC 3310 to the Court of Appeal, the Government's response to Mr Calí Tzay and Professors Xanthaki and Satterthwaite noted that the Crown was open to discussing the settlement of the litigation following the release of the High Court's judgment. With the High Court delivering an interim judgment on 30 October 2024, the Crown remains willing to engage in discussions with the plaintiff [REDACTED]