

**NEW ZEALAND SUBMISSION PREPARED BY ORANGA TAMARIKI—MINISTRY FOR CHILDREN TO THE UNITED NATIONS EXPERT MECHANISM ON THE RIGHTS OF THE INDIGENOUS PEOPLES STUDY ON ‘THE RIGHTS OF THE INDIGENOUS CHILD UNDER THE UNITED NATIONS DECLARATION ON THE RIGHTS OF THE INDIGENOUS PEOPLES (UNDRIP)’ CHILDREN IN STATE CARE – 2 MARCH 2021**

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## **Background**

*Aotearoa New Zealand is committed to enhancing the wellbeing of tamariki Māori*

The Government’s vision for Aotearoa New Zealand is to be the best place in the world for children and young people. To have their basic needs met, children should be safe from all forms of harm, live in a stable and healthy environment, be surrounded by loving whānau (family), and be supported to reach their full potential.

Achieving this vision has meant that there has been a shift in focus to transform the way Ministers and government agencies work together to improve the wellbeing of children and young people. As part of this change in thinking, the government has duties to Te Tiriti o Waitangi (The Treaty of Waitangi) to meet the needs of tamariki Māori (indigenous children) and their whānau, including empowering and supporting Māori to deliver solutions that work best for them.

Evidence shows that tamariki Māori are more likely than non-Māori to face a range of inequities from the time they are born. Inequities include poorer access to health and social services, and an increased vulnerability of tamariki Māori to experience harm, poverty, housing instability, time in youth justice, and poor health and education outcomes.

The connection between optimal wellbeing and a strong sense of cultural identity is well reported. Tamariki Māori have the status of a rangatira (chief) within Māori culture. They are valued and held with high esteem, because the health and wellbeing of tamariki Māori reflects the health and wellbeing of the hapū (kin collective) and iwi (tribe).

For successive years, the government has been focused on making progress to correct past mistakes. This includes reversing the impacts of historical Crown policies which led to generations of tamariki Māori not having opportunities to be immersed in the language, traditional practices, bodies of knowledge and societal systems that contribute to the formation of their cultural identity as Māori and their wellbeing.

*Te Tiriti O Waitangi (The Treaty of Waitangi) sets out an enduring expectation of partnership between Tangata Whenua and Tangata Tiriti*

The signing of Te Tiriti o Waitangi (Te Tiriti) in 1840 by Tangata Whenua (Māori) and Tangata Tiriti (non-Māori representatives of the British Crown on behalf of all other citizens), intended to establish a partnership between indigenous and non-indigenous peoples. However, since then the Crown has struggled to ensure that Tangata Whenua were able to live with the same cultural, social and economic autonomy as they had anticipated.

This has been acknowledged in numerous Acts of Parliament in settling historic grievances with iwi. Ongoing contemporary claims made by iwi and Māori organisations indicate that the Crown has continued to breach its Te Tiriti obligations.

## **Oranga Tamariki—Ministry for Children and the welfare of tamariki Māori in the state care and protection and youth justice systems**

The Government's increased focus on child wellbeing has acknowledged that Māori wellbeing is and needs to be a key feature of success.

Oranga Tamariki—Ministry for Children (Oranga Tamariki), established in April 2017, currently has state responsibility for the provision of care and protection, youth justice and adoption services for all children (including tamariki Māori) who come to the attention of the Ministry.

Tamariki Māori are currently over-represented in the state care and protection and youth justice systems. This over-representation has often been identified as a symptom of a much deeper problem of wellbeing inequality for tamariki Māori. The Crown has publicly accepted that these disparities are unacceptable and must be addressed.

### *Legislative reforms to the Oranga Tamariki Act 1989 have strengthened the rights of indigenous children*

Legislative changes made to the Oranga Tamariki Act 1989 (the Act), which came into force on 1 July 2019, have aimed to strengthen the rights of children (including tamariki Māori) who interact with the Oranga Tamariki system. Key changes include:

- strengthening the purposes and principles in the Act to have greater recognition of the child, or young person's place within their family, whānau, hapū, iwi and family group
- including new provisions which explicitly refer to upholding the rights of the child in line with the United Nations Convention of the Rights of the Child and the United Nations Convention on the Rights of Persons with Disabilities
- the passing of the Oranga Tamariki (National Care Standards and Related Matters) Regulations 2018. The National Care Standards set out the standard of care every child and young person in care needs, and the support caregivers can expect to receive. It includes a number of requirements aimed at reducing disparity in care, and ensuring that support is giving to build, maintain and strengthen a child's connection to their cultural identity.

### *Oranga Tamariki has undertaken initial work to enhance the focus on Te Tiriti across its policies, practices and services*

Since its establishment, Oranga Tamariki has made a number of changes to improve how it works with Māori. Legislative changes made to the Act now sets out explicit duties of the chief executive of Oranga Tamariki to provide a practical commitment to Te Tiriti ([section 7AA of the Act](#)). It will take time to embed the changes needed to fully realise the intent of section 7AA, and Oranga Tamariki has taken a number of steps to work towards achieving this.

While Section 7AA is focused on tamariki Māori only, references to whānau, hapū and iwi can be found throughout the Act. Additionally, in the purpose of the Act, the Ministry is required to recognise mana tamaiti (tamariki) and the whakapapa and whanaungatanga for all children (definitions included as Appendix One).

To support this work, Oranga Tamariki has established the Treaty Response Unit and the Treaty Partnerships Unit. The Treaty Response Unit provides assurance and advice on matters relating to Te Tiriti obligations including provisions under section 7AA of the Act, and it monitors and reports on Oranga Tamariki's progress to improve outcomes for tamariki Māori and their whānau (within the context of hapū and iwi) through policies, practices, and services.

The Treaty Response Unit is responsible for publishing an [annual report](#) on the measures that Oranga Tamariki has taken to improve outcomes for tamariki Māori as part of its section 7AA obligations. It also provides secretariat support for the Oranga Tamariki Māori Design Group, which was established to provide an independent perspective on the design and implementation of the Ministry's policies, practices and services, as it impacts on Māori.

The Treaty Partnerships Unit are responsible for leading the development of the Treaty Partnerships strategy in partnership with iwi and Māori. Along with regional managers, the team also provides support and oversight of Strategic Partnership agreements and relationships, and coordinates cross-agency investments to support tamariki and whānau.

#### *Oranga Tamariki is developing a Māori-centred practice approach*

Oranga Tamariki staff and partners are leading practice changes across the country which aim to increase the ability of whānau to participate in decisions affecting their tamariki. Examples include:

- The development of a new Māori-centred practice framework which supports a greater focus on partnered practice
- increased [Māori specialist roles](#) (who work with whānau and frontline practitioners)
- facilitating decision-making through iwi-led Family Group Conferences and [hui-a-whānau](#) (family meetings where decisions are made about the welfare and care of tamariki Māori)
- increased involvement or leadership of iwi and Māori organisations in the assessment and intake processes.

#### *Oranga Tamariki is focused on increasing partnerships with iwi and Māori organisations to support Māori-led solutions*

The groundwork is being set so that in the future it is not necessary for Oranga Tamariki to provide many of the services and functions the state has historically provided. The objective is that locally designed and relevant solutions increasingly become available through site, regional and national partnerships, supported by increasing shared resourcing and decision-making. Some examples of work being done to support this includes:

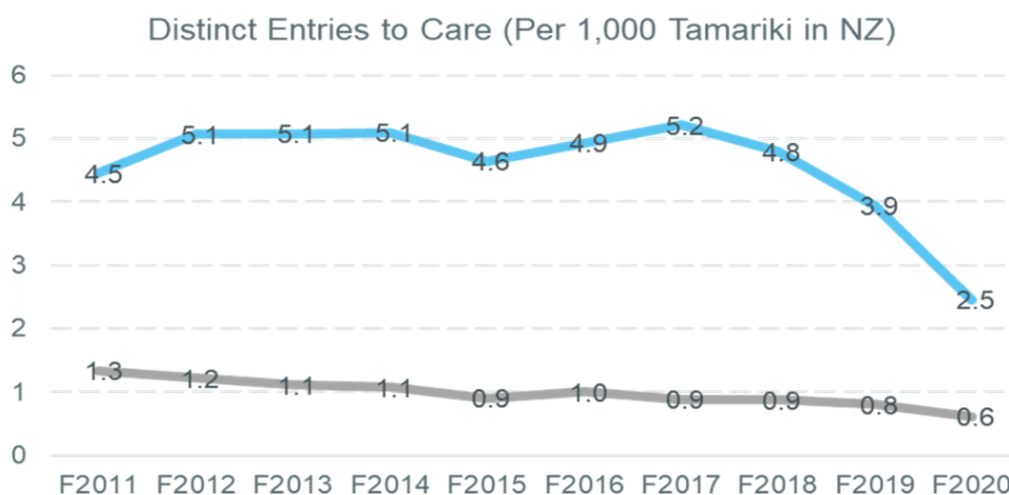
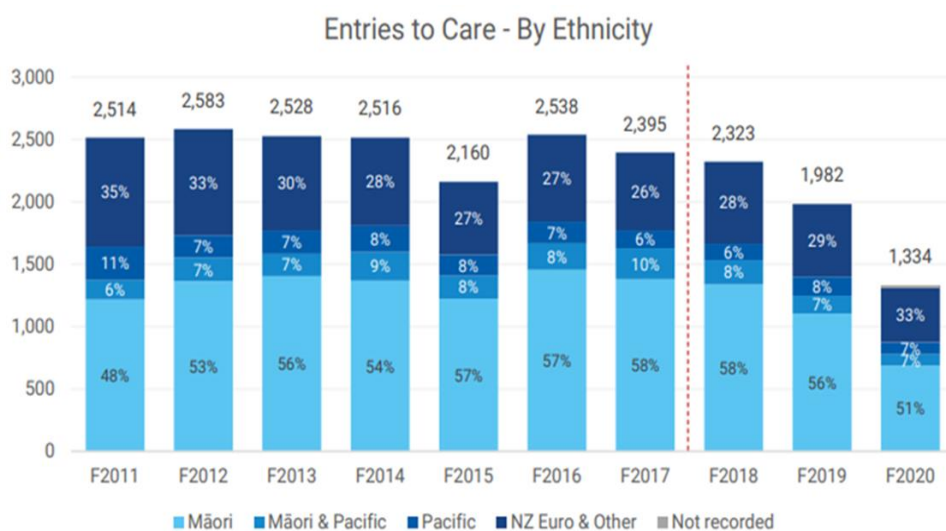
- Oranga Tamariki has signed 7 strategic partnerships with iwi and Māori organisations across the country. The Ministry also has a range of relationships that sit outside strategic partnerships with iwi and Māori organisations, from formal MOU agreements through to site level agreements.
- The Oranga Tamariki Whānau Care team has established iwi partnerships whereby iwi are resourced by Oranga Tamariki to design, develop and build capacity for the devolvement of care of their tamariki from the State. Such a move enables iwi to walk alongside their own tamariki and whānau and to tailor services that enable whānau to heal and provide an environment for their own tamariki to flourish.

- ‘Nga Tini Whetū’ was launched in 2020 as an early support initiative which seeks to strengthen families and improve the safety and wellbeing of children before they are in need of care and protection. The initiative works with 800 families in the North Island and is a collaboration between Oranga Tamariki, Te Puni Kōkiri, the Accident Compensation Corporation and the Whānau Ora Commissioning Agency.

*These initial changes to the Oranga Tamariki system are showing promising results for tamariki Māori and their whānau*

The section 7AA vision is that “No tamaiti Māori (Māori child) needs state care”. To support this, Oranga Tamariki has commenced reporting on [key measures of disparity and disproportionality](#) between tamariki Māori and non-Māori children who interact with the Oranga Tamariki system.

Based on this data, these changes are starting to show positive results. For example, as outlined in the tables below entries into state care for tamariki Maori have declined since the establishment of Oranga Tamariki, with entries recorded for the 2020 financial year being lower than previous years.



Māori have been calling on the Crown to do better for Māori in the areas of child protection and youth justice for some time. While data is showing promising results, there is still much to do to improve how services work for tamariki and whānau Māori. Since 2019, there have been [several reviews and inquiries](#) into the way Oranga Tamariki works, including the legislation the Ministry works under, its policies and practice.

The reviews shine a light on what further work is needed to support tamariki and whānau Māori. While system change takes time, these reviews have highlighted that change is not happening fast enough and is not always working in the right way for Māori. Oranga Tamariki has already made changes to address some of the issues raised and will keep making them in response to these reviews.

## Appendix One – Definition of Mana Tamaiti (Tamariki), Whakapapa and Whanaungatanga

The definitions of these concepts are provided in section 2 (interpretation) of the Oranga Tamariki Act 1989:

- **mana tamaiti (tamariki)** means the intrinsic value and inherent dignity derived from a child's or young person's whakapapa (genealogy) and their belonging to a whānau, hapū, iwi or family group, in accordance with tikanga Māori (Māori custom) or its equivalent in the culture of a child or young person
- **whakapapa**, in relation to a person, means the multi-generational kinship relationships that help to describe who the person is in terms of the mātua (parents), and tūpuna (ancestors) from who they descend
- **whanaungatanga**, in relation to a person means—
  - the purposeful carrying out of responsibilities based on obligations to whakapapa:
  - the kinship that provides the foundations for reciprocal obligations and responsibilities to be met:
  - the wider kinship ties that need to be protected and maintained to ensure maintenance and protection of their sense of belonging, identity, and connection.