

Submission to the Ministry for Regulation on the Regulatory Sector Review of Early Childhood Education

Introducing Mana Mokopuna – Children and Young People's Commission

Mana Mokopuna – Children and Young People's Commission is the independent Crown entity with the statutory responsibility to advocate for the rights, interests, participation and wellbeing of all children and young people (mokopuna) under 18 years old in Aotearoa New Zealand, including young persons aged over 18 but under 25 years old years if they are, or have been, in care or custody.

We independently advocate for and with mokopuna within the context of their families, whānau, hapū, iwi and communities, based on evidence, data and research, including direct mokopuna experiences and views.

Our work is grounded in the United Nations Convention on the Rights of the Child (the Children's Convention), Te Tiriti o Waitangi and other international human rights instruments. We are a National Preventative Mechanism under the Optional Protocol to the Convention Against Torture, meaning we monitor places where mokopuna are deprived of their liberty, including in the care and protection, youth justice, youth mental health and intellectual disability spaces.

We have a statutory mandate to promote the Children's Convention and monitor the Government's implementation of its duties under the Convention, and to work in ways that uphold the rights of mokopuna Māori including under Te Tiriti o Waitangi. We place a focus on advocating for and with mokopuna who are experiencing disadvantage, and we recognise and celebrate the diversity of mokopuna in all its forms.

Our moemoeā (vision) is *Kia kuru pounamu te rongo* – All mokopuna live their best lives, which we see as a collective vision and challenge for Aotearoa New Zealand. One of our current strategic advocacy priority areas is a strong start in life for all mokopuna, which sees us focus on mokopuna in their first 2000 days.

Executive Summary

- 1) Mana Mokopuna – Children and Young People's Commission welcomes the opportunity to provide this submission about regulation of the early childhood care and education sector (ECCE). We have used the acronym ECCE as we recognise the terms 'care' and 'education' have different connotations. While pre-school learning environments should not be too academic, they cater for childhood learning and development through play and interaction with others, alongside other aspects of early childhood services such as food provision, basic physical necessities, and supervision (care).
- 2) All children have rights under the UN Convention on the Rights of the Child (Children's Convention), to which New Zealand is a States Party. Mokopuna Māori have particular rights as Māori under Te Tiriti o Waitangi. Both these documents form an important basis through which to uphold and progress the rights of mokopuna in their early years,



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including through ECCE. The ECCE sector therefore has duties in Aotearoa New Zealand to uphold the human rights of mokopuna.

- 3) For mokopuna Māori, the Children’s Convention can be read through the lens of Te Tiriti to ensure Māori retain tino rangatiratanga over their taonga, including whānau, kāinga, te reo Māori, and the tipu ake (learning and development), and ira tangata (genes) of mokopuna Māori.
- 4) In the context of ECCE, New Zealand’s duties and obligations under the Children’s Convention are best supported when explicit consideration is given to considering what mokopuna need in ECCE, and what supports all mokopuna to experience their rights and positive outcomes in ECCE, which in turn contributes to a strong start in life and platform for good lifetime outcomes. We recommend the use of the ‘Child Impact Assessment Tool¹’ to inform all aspects of this Regulatory Review.
- 5) Undertaking a children’s rights impact assessment to develop and inform the final regulations to be proposed out of this Review will support New Zealand’s progressive implementation of the Children’s Convention, and ensure that the regulations support children’s rights and needs, including the full inclusion of all mokopuna. It can also be used to demonstrate transparently why certain decisions are being made, and what has been considered in making the decisions. In this way, the benefits and reasons of the regulation are clarified for everyone, and children’s rights and needs are kept central in the process of ECE regulatory decision-making which will ultimately directly affect them.
- 6) Mana Mokopuna is available and willing to provide advice and support to the Ministry for Regulation to help support the implementation of a child impact assessment process, in accordance with government guidelines provided by the Ministry of Social Development².

Recommendations

- 7) **We recommend** the regulation of the ECCE sector considers the rights and needs of mokopuna as a primary consideration, and that mokopuna and their rights are the central factor in decision-making through the Regulatory Review.
- 8) We recommend the Ministry implements the Child Impact Assessment Tool to support a children’s rights impact assessment process is undertaken, to ensure proposed regulation changes uphold children’s rights and needs, prevent or mitigate potential negative consequences for mokopuna, and make clear how decisions were made.
- 9) We recommend the regulation of ECCE recognises Te Tiriti o Waitangi and upholds the tino rangatiratanga of Māori to govern and operate ECCE services for mokopuna Māori.
- 10) We recommend the following specific rights be explicitly considered in the child impact assessment:
 - i) **Non-discrimination** -This could be supported by the following:
 - (a) minimum training and professional development requirements for teacher accreditation to help their professionalism, reduce bias and support inclusive education practices including for neurodiverse mokopuna

¹ [Child Impact Assessment Tool - Ministry of Social Development \(msd.govt.nz\)](https://www.msd.govt.nz)

² Child impact assessment tool; MSD ibid.

- (b) require personalised education and behaviour support plans for neurodiverse mokopuna
- (c) require non-discrimination of disabled mokopuna/mokopuna whaikaha
- (d) enable staff with diverse language/cultural skills to meet the diverse communication and language needs of mokopuna such as fluent speakers who can support mokopuna in learning te reo Māori (including in kohanga reo), Pacific languages, diverse ethnic languages, including of resettled mokopuna, and the needs of mokopuna with particular communication needs, such as reo turi, to ensure all mokopuna are able to be fully participating in their early learning environment, and that it is grounded in cultural and language inclusivity.

11) **Best Interests of the child** – which can be supported through:

- (a) regulated decibel limits for quiet sleeping or resting to avoid the problematic effects of noise and over-stimulation
- (b) ensuring there can be some one-to-one adult engagement with mokopuna regularly
- (c) support for sessional services and those involving parents, care-givers and whānau
- ii) **Education that develops the child**
 - (a) teaching-qualified and registered staff
 - (b) minimum teaching staff to mokopuna ratio
- iii) **Inclusive education**
 - (a) places for all kinds of differently-abled and disabled mokopuna to experience full inclusion and thriving in ECE, in line with their rights under the Children's Convention and the UN Convention on the Rights of Persons with Disabilities
- iv) **Highest attainable standard of health**
 - (a) require ECCE to enable and support breastfeeding
 - (b) food safety standards and staff training where centres provide meals for mokopuna
 - (c) staff training in public health measures, and contact tracing mechanisms, to support public health officials in cases of notifiable diseases
 - (d) environment standards e.g., warmth, air quality standards, water quality
- v) **Rest, play, cultural, sporting and recreational activities**
 - (a) Maintain Te Whāriki curriculum with child-led play and recreation.

Introduction

- 12) There are many reasons why Aotearoa New Zealand should support quality early childhood care and education (ECCE).³ The reasons include upholding children’s rights; supporting a strong start in life that leads to positive lifetime outcomes in health, education, pro-social relationships and wellbeing; which can, in turn lead to economic and productivity gains; and ultimately improving society through social cohesion.
- 13) In Aotearoa New Zealand, ECCE is market- rather than government-provided. It includes a range of service types, from parent collectives through to commercial enterprises. They are all regulated as is any sector to uphold standards of safety for people and the environment, and ensure accountability. However, unlike any other sector, ECCE provides services specifically for very young children, under 5 or 6 years of age, who are particularly vulnerable and have specific needs. This is an important reason for the ECCE sector to be well regulated – to uphold the rights and best interests of those mokopuna.
- 14) It is known that government investment in good quality ECCE provides long-term, positive return on investment because it improves lifetime outcomes for children⁴, it increases labour market participation of parents, and thereby improves productivity both now and in the future^{5 6}. These are key reasons that justify the government funding of ECCE, and regulations that support the sustainability of ECCE providers.
- 15) ECCE funding is outside the scope of this regulatory review, but we note briefly here that there are many regulations in relation to funding that underpin, or can undermine, the quality standards needed within the ECCE sector to uphold children’s rights, participation, and best interests. A lack of funding-related regulations can undermine quality through cost-cutting, which trades off the wellbeing of children against the viability or profitability of the service. In contrast, contractual requirements associated with receiving funding, such as meeting teacher registration quality standards, and teacher-child ratios, can safeguard the wellbeing of mokopuna. This submission does not discuss funding further, but notes that when considering the whole of the regulatory environment for ECCE, some of these financial and contracting-related regulations must be considered, as they uphold standards needed to protect mokopuna and their rights, and which are required to effectively meet their needs.
- 16) Overall, a regulatory regime must ensure that ECCE service providers uphold the rights and best interests of all mokopuna, including mokopuna Māori as tangata whenua, as well as mokopuna whaikaha, mokopuna Pacific and resettled mokopuna and those from diverse ethnic communities.

³ ECCE is defined as arrangements where mokopuna are cared for in places outside the home (such as kindergartens, playcentres, kohanga reo, and early learning centres), or within the home by paid people other than their parent or usual caregiver (e.g., a nanny).

⁴ The Dunedin Longitudinal Study found self-control at age 3 was a predictor for greater health, employment, wealth and happiness as an adult – described in [this article in American Scientist](#), 2013. It has also been established that the early learning environment, especially access to quality early childhood education, supports the early establishment of skills such as socialisation (at least in the short term) [Is participation in Early Childhood Education related to child health and development?](#) 2019. Furthermore, the quality level of ECCE is associated with better reading, maths and science outcomes at age 7: [Study of Early Education and Development \(SEED\): Impact Study on Early Education Use and Child Outcomes up to age seven years](#)

⁵ For example, studies analysed in [Big Change Starts Small](#) report from the Royal Foundation Centre for Early Childhood demonstrate positive economic returns for investment in early childhood and high costs due to poor outcomes that occur without access to ECCE. (Summarised by [Harvard Centre for the Developing Child; The cost of late intervention: EIF analysis 2016](#);

⁶ [The Front Project](#) – an Economic analysis of universal early childhood education (in the year before school in Australia) showed the economic returns on investment in ECE was 2 for every 1 dollar invested.

Children have rights and we are obliged to uphold them

The Children's Convention

- 17) As a States party to the United Nations Convention on the Rights of the Child (the Children's Convention), New Zealand is obliged to develop policies that advance and give effect to children's rights in practice. Policies that are developed in a children's rights consistent manner help to ensure that children experience their rights on a day-to-day basis.
- 18) This submission focuses on specific children's rights relevant to the ECCE sector, that need to be considered when developing proposed regulations for this sector, in order to uphold the rights of children, and support all mokopuna to thrive.
- 19) A good way to check whether or not the proposed regulatory system will uphold children's rights, is to use a Child Impact Assessment (CIA) tool in the process of developing any regulations, and making any decisions during this Review that will impact mokopuna. Given the fact that everything in the ECCE sector ultimately impacts on mokopuna, we recommend the comprehensive use of the CIA tool throughout the Review. MSD provides a CIA tool on its website.⁷ In addition, Mana Mokopuna would be pleased to provide advice and support to the Ministry for Regulation to support it to undertake a child impact assessment process to analyse its proposed regulations.

Article 2 - Non discrimination

- 20) All children should have all their rights met at all times, in all circumstances. Article 2 of the Children's Convention establishes the right to non-discrimination of children. In the ECCE context, this means all mokopuna should have access to ECCE in forms that meet their needs, regardless of their social status, the status of their parents including marriage and socioeconomic status, their ethnicity, religion, culture, ability or disability or any other characteristic.
- 21) Research from Growing Up in New Zealand and others have shown that lower socioeconomic groups are more likely to miss out on ECCE⁸. Living in poverty is a risk factor for poor outcomes for mokopuna and early intervention through ECCE can help. Mana Mokopuna expects an equity focus to ensure population groups more affected by poverty barriers (e.g., Māori, Pacific peoples, disabled) can participate in ECCE.
- 22) Mokopuna with disabilities should be accommodated by ECCE providers, either through specific government funding or rules to ensure disabled mokopuna can access ECCE that supports their full participation and development. In light of emerging knowledge about neurodiversity, and the relationship between some disabilities and early childhood behavioural challenges, for example FASD, ASD, ADHD⁹, it is important that ECCE teachers are qualified and knowledgeable about how to support neurodiverse

⁷ [Child Impact Assessment Tool - Ministry of Social Development \(msd.govt.nz\)](https://www.msd.govt.nz)

⁸ [Demographic differences in parental decision-making about early childhood education during the preschool years: Barriers and enablers to access.; Policy translation for early childhood education and care: the Growing Up in New Zealand approach](#)

⁹ [FASD = Fetal alcohol spectrum disorder – a form of brain and other organ damage caused by the teratogenic effects on a growing fetus of alcohol, a widely used and promoted product in Aotearoa New Zealand; ASD = autism spectrum disorder - a neurological and developmental disorder that affects how people interact with others, communicate, learn, and behave; ADHD = attention deficit hyperactivity disorder – characterised by inattention, hyperactivity and impulsivity.](#) These are examples of a much wider range of neurodiverse conditions each of which requires bespoke responses in education and care, to help children learn, develop tools and resiliency.

mokopuna in ECCE to enable their full inclusion and participation. This could be done by introducing the following regulations:

- minimum training requirements to achieve teacher accreditation, especially relating to neurodiversity and ‘noticing and responding’ to any disabilities (for example, FASD) and particular learning and communication needs
- professional development requirements, e.g., to ensure each ECCE has the ‘micro credentials’ to respond appropriately to disabled children’s needs
- requirements for personalised education with behaviour support plans for mokopuna who are likely to need specific responses to their additional learning and emotional needs. This would support inclusive education environments through all staff being aware and equipped to adjust their practice and make reasonable accommodations.

23) We recommend that the proposed regulations ensure the full inclusion of all disabled mokopuna.

24) ECCE should support diversity and provide for culturally relevant opportunities for all mokopuna, including kohanga reo – Māori language nests, Pacific language centres, other ethnic groups including resettled communities, reo turi (NZ sign language) and ECCE based on learning philosophies, cultures or religions that reflect the needs of families/whānau across the diverse communities of Aotearoa New Zealand.

25) Parental and care-giver participation in early childhood education is related to children's increased achievement, self-esteem, motivation, and wellbeing.¹⁰ Kohanga reo and Pacific language centres are examples of whānau/family¹¹-centred programmes, where parents, care-givers and whānau are closely involved with children’s development and learning. They support a cultural sense of belonging and can improve brain development.¹²

26) One way to support this diversity and inclusiveness is to ensure regulation supports ECCE to operate with staff who are competent and supportive of the cultures, languages, religions and specific needs of the attending mokopuna. Alongside this expertise, teachers must have up-to-date knowledge about childhood development, neuroscience, learning pedagogy, and best practice in inclusion for all mokopuna, including mokopuna with disabilities and neurodiversity. This must be regulated through teacher accreditation, to ensure that they have the ability to support all mokopuna to develop their abilities and talents to their full potential.

27) We recommend that the proposed regulations ensure the diverse language and cultural needs of mokopuna can be sustained. This must be supported by supervising adults who have the appropriate skills to meet the diverse needs of mokopuna.

Article 3 - Best Interests

28) Article 3 of the Children’s Convention establishes that the best interest of the child is a primary consideration in all decisions affecting children. For ECCE, this means that regulation is needed to protect the best interests of children, and the child’s best

¹⁰ <https://theeducationhub.org.nz/category/ece-resources/parent-and-whanau-relationships-in-ece/>

¹¹ And other family names: Aiga (Samoa), kopu tangata (Cook Islands), kāinga (Tongan), magafaoa (Niuean), matavuvale (Fijian) and kāiga (Tokelau, Tuvalu).

¹² <https://brainwave.org.nz/article/being-bilingual-learning-two-languages/>

interests must be the primary factor to consider when making decisions on the nature and substance of proposed regulations.

- 29) Upholding the best interests of the child must be grounded in mokopuna participation and voice, and evidence about what mokopuna need to experience their rights and best interests, for example physically, physiologically, socially, and culturally¹³.
- 30) The Children's Act 2014 requires children's workers to be police-vetted and assessed as suitable to work with children which is an important safeguard for child protection. All ECCE must have child protection policies – we support strong regulations to maintain these child protection measures, particularly in assessing suitability of staff.
- 31) Regulations are needed to set appropriate standards for things like quality of supervision (e.g., teacher to child ratios at different ages, qualifications), spaces to play and sleep, noise levels, food quality standards, room temperature, air quality and public health measures, hygiene of nappy changing facilities and toilet facilities for small children. These are factors bespoke to mokopuna in an ECCE setting, and are in addition to generalised regulations for things like building safety standards – some of which pertain specifically to children's needs, e.g., heights of door handles and safety fencing.
- 32) There are both risks and benefits of ECCE. Risk factors must be minimised or mitigated through regulated standards to ensure the best interests of mokopuna are maintained. Some risks include externalising behaviours among children, or lower responsivity of parents and/or caregivers to their children.^{14,15} Neuroscience research shows that stressful environments (e.g., that cause fear or anxiety, crowding, excessive noise) increase the toxic effects of persistent cortisol on brain wiring, resulting in more aggressive (externalising) behaviours and problems later in life.¹⁶ Therefore, regulation must be focused on:
 - avoiding problematic effects of noise and over-stimulation,
 - ensuring there can be some one-to-one adult engagement with mokopuna when in any kind of ECCE,
 - having quiet sleeping or resting spaces available.
- 33) While there is ample evidence that ECCE benefits children's outcomes, and a longer duration (months) improves outcomes (up to a point), we also know that part-time ECCE attendance (half a day) is just as good as attending full-time.¹⁷
- 34) It is important that the ECCE ecosystem provides for whānau by ensuring there are options for short-day-length services available within the ecosystem of services.
- 35) Enabling sessional services that help parents, caregivers and whānau to spend time with their mokopuna (at least for the first few years), would benefit both mokopuna and their care givers. Having ECCE where whānau are involved in the centre during the sessions can help them learn about childhood development and develop parenting and child

¹³ The United Nations Committee on the Rights of the Child has issued guidance on the best interests of the child as a right, a principle and a rule of procedure. *General comment No.14 (2013) on the right of the child to have his or her best interests taken as a primary consideration (art.3, para.1)* Available here: [General comments | OHCHR](#)

¹⁴ Loeb, S. et al. (2007) *How much is too much? The influence of preschool centers on children's social and cognitive development.* *Economics of Education Review*, v26, (1), Pages 52-66.

¹⁵ Votruba-Drzal, E. et al. (2010) *Child Care and the Development of Behavior Problems among Economically Disadvantaged Children in Middle Childhood.* *Child Dev.* v 81(5): 1460–1474.

¹⁶ (US) National Scientific Council on the Developing Child. (2005/2014). *Excessive Stress Disrupts the Architecture of the Developing Brain: Working Paper 3. Updated Edition.* <http://www.developingchild.harvard.edu>

¹⁷ Alexander, S. (2008) OECE, NZ [Assessing the Evidence on Early Childhood Education Effects: A systematic Review.](#)

caregiving skills. There is evidence for this in the systemic review of the effects of early childhood education on childhood outcomes in the United Kingdom,¹⁸ and is described practically in relation practices that increase family involvement in early childhood education in Aotearoa New Zealand.¹⁹

- 36) Undertaking a child impact assessment process will help the Ministry for Regulation develop a systematic method of determining whether final, proposed regulations can uphold the best interests of the child alongside other imperatives (e.g., sustainably running a centre), and ensure any final regulations are consistent with children's rights.

Article 12 – The right to have a say and to have voices considered in decisions

- 37) Part of the child impact assessment process involves hearing the views of mokopuna on a proposed policy. While we recognise there may be time-related barriers to the Ministry, it is useful and important that policy decisions for the ECCE sector are informed by the voices of the mokopuna the sector serves. If there is capacity, we strongly recommend child input to the review, using quality processes. Examples of good quality processes for listening to young mokopuna in the design of early childhood systems are provided in the footnote²⁰.

- 38) Mana Mokopuna is also pleased to offer advice on this topic.

Articles 28 and 29 - Education that develops the child

- 39) One of the key arguments in favour of investing in ECCE is to provide a strong start to a child's education, learning and development. Article 28 of the Children's Convention states that education should be provided without discrimination to all mokopuna and where possible should be free.²¹
- 40) Article 29 of the Children's Convention lists the areas of a child's development that education is designed to support, including Article 29(1): "States parties agree that the education of the child shall be directed to: (a) the development of the child's personality, talents and mental and physical abilities to their fullest potential."
- 41) The previous section of this submission mentioned some risks from ECCE depending on the quality of the ECCE. Effects of ECCE quality are also demonstrated in a longitudinal study: The Effective Pre-school, Primary and Secondary Education (EPPSE).²² This study has clearly demonstrated that higher quality ECCE has positive impacts on children's outcomes and poor quality ECCE can be harmful or is simply a wasted investment. For example, at age 11, children who had attended poor quality pre-school (compared to the no pre-school group) showed no significant benefits (other than slightly better pro-social behaviour, but this was offset by poorer rating for hyperactivity). In contrast, the effect of quality ECCE can have positive effects throughout education, as demonstrated by higher secondary school qualifications, grades, and social-behavioural outcomes at

¹⁸ Alexander, S. *ibid*

¹⁹ [https://theeducationhub.org.nz/category/ece-resources/Parent & whanau relationships in early childhood education and whanau relationships in ece/](https://theeducationhub.org.nz/category/ece-resources/Parent%20&%20whanau%20relationships%20in%20early%20childhood%20education%20and%20whanau%20relationships%20in%20ece/)

²⁰ *Belonging, community and capability: listening to the voices of young children to realise process quality in early childhood curriculum enactment in Wales*, Waters-Davies et al, 2023; *We're not useless, we know stuff! Gathering children's voices to inform policy* Barlett et al, 2022; *Children's voices: Inclusive early childhood placemaking with children* Watson & Newman, 2023

²¹ General Comment No. 7 (2005) *Implementing child rights in early childhood* CRC/C/GC/7/Rev.1

²² Taggart, B et al, (2015) *Effective pre-school, primary and secondary education project (EPPSE 3-16+)*. Department of Education (England).

age 16.²³ There is evidence that higher quality ECCE has beneficial impacts over and above the family characteristics associated with both selection into ECCE, and their socioeconomic status.²⁴

- 42) We can conclude, high *quality* ECCE independently reinforces the subsequent significant investment made by government in compulsory education, while poor quality ECCE can undermine it.
- 43) The quality of ECCE required to achieve positive life outcomes for mokopuna and to support them to develop their fullest potential, is reinforced by qualified-teaching staff. The existing requirements for teaching qualifications and registration are important to keep, we recommend following advice from experts on appropriate teacher:child ratios.

Article 23 - Assistance for disabled children

- 44) Mokopuna whaikaha have the right to inclusive education and to enjoy active participation, and be provided with assistance and all effective adjustments which may be needed for them to enjoy their rights to access education and recreation in ways that are conducive to them experiencing the fullest possible development.²⁵ The UN Convention on the Rights of Persons with Disabilities affirms this right and there is guidance available to support how to uphold it.²⁶
- 45) The ECCE ecosystem must be regulated in a way that enables places for all kinds of disabled and differently-abled mokopuna as noted in the earlier section of this submission relating to Article 2 – Non-discrimination.

Article 24 - Highest attainable standard of health

- 46) Mokopuna in ECCE can have worse health outcomes than those at home (or in small ECCE groups of fewer than six mokopuna).²⁷ This is mainly because ECCE are known to be regular places of transmission of infectious diseases, particularly skin and respiratory diseases, that are spread among large numbers of mokopuna.
- 47) Breastfeeding and a family setting is a protective factor for the health of mokopuna under 2 ½ years.²⁸ ECCE regulations should, for example, therefore enable a breastfeeding parent to come to a centre to feed their baby or toddler.
- 48) Public health measures are important to minimise hospitalisations from severe infectious illnesses that are associated with ECCE²⁹.
- 49) Regulations that would safeguard the right to health of mokopuna include public health measures such as:

²³ Taggart, B. Ibid

²⁴ Dearing E, et al. (2009) *Does higher quality early child care promote low-income children's math and reading achievement in middle childhood?* Child Dev. v80(5):1329-49.

²⁵ United Nations Convention on the Rights of the Child, article 23, paraphrased in relation to ECCE. In addition, the UN Convention on the Rights of Persons with Disabilities (ratified by New Zealand in 2008) - article 24 sets the standard for inclusive education.

²⁶ Inclusive Education: Understanding Article 24 of the Convention on the Rights of Persons with Disabilities

²⁷ NICHD Early Child Care Research Network (2003). *Child care and common communicable illnesses in children aged 37 to 54 months*. Arch Paediatric Adolescent Medicine, 157, 196- 200. referenced in Alexander s. *ibid*. "Centre-based ECE attendance was associated with increased ear infections, upper respiratory and stomach illnesses. Children in large group care (more than 6 children) were 2.2 times more likely to have upper respiratory tract illness, 1.6 times to have an ear infection, and 1.4 times to have a gastrointestinal tract illness as children not in ECE or in small group care."

²⁸ Alexander, S. *ibid*.

²⁹ Duncan, S. et al (2019). Is participation in Early Childhood Education related to child health and development?

- food safety standards and staff training where centres provide meals for mokopuna
- staff training in public health measures including personal hygiene, and how to teach mokopuna about it
- ability to have fresh air while maintaining warmth standards, such as HEPA filters in heat pumps/air conditioning
- contact tracing mechanisms to support public health officials in cases of notifiable diseases so they can communicate with at-risk mokopuna and their whānau.

50) The licence regulations regarding Hospital Bases ECE Services should ensure children’s best interests, health, participation and other rights of children, as the mokopuna attending those services tend to have more vulnerable health conditions that justify stronger regulations for their rights to be upheld.

Article 31 - Rest, play, cultural, sporting and recreational activities

“ I love playing on the monkey bars, puzzles, reading, drawing circles, reading books, drawing, drawing houses; I love everything, I love it all; I am going to smile all my days and all my weeks.”

(Child in early childhood education, NZ European; Education Matters to Me, 2018)³⁰

51) One of the key benefits of ECCE from a developmental, rights and child’s perspective is the opportunity to play. Socialising through play both alongside other mokopuna is important for childhood development and happiness. Play is an important part of the development of motor skills, problem-solving and language, as well as social emotional skills when playing with others. The right to play for all mokopuna is established under Article 31 of the Children’s Convention.

52) There should continue to be strong regulations relating to access to the outdoors, so mokopuna can play, preferably in places connected to nature such as areas shaded by trees, lawns, gardens, and other green spaces. ECE Reform has analysed space per child standards in other jurisdictions and recommends New Zealand aim to achieve standards in line with Australian minimum standards of 7 to 10m² per child outdoors³¹. Being able to safely run, kick throw and catch balls all depend on adequate spaces for children to play, and having enough space supports their physical and brain development, socialisation, and joy in life.

53) The existing curriculum in pre-school ECCE – Te Whāriki – is based on play, and child-led learning through play. The ECCE sector must continue to focus on child-led play and recreation rather than becoming too focused on teacher-led activities, academic achievements or measures.³² In fact, there is a trend for early primary to be more like pre-school by having play-based learning pedagogies among older children, as they are found to be more effective in that age group.³³

³⁰ Education matters to me: Key Insights | Mana Mokopuna

³¹ https://www.ecereform.org/files/ugd/519fab_381646d3b7da4192b39fa3dd36d5b29c.pdf?index=true p13

³² <https://theeducationhub.org.nz/wp-content/uploads/2018/06/Play-based-learning-.pdf>

³³ Learning through Play <https://nzcurriculum.tki.org.nz/Curriculum-resources/NZC-Online-blog/Learning-through-play-What-s-it-all-about>

General comments from the UN Committee on the Rights of the Child

- 54) The Children’s Convention is supported by General Comments which provide specific guidance for States Parties on implementation of the Convention. These are produced by the UN Committee on the Rights of the Child (the Committee). General Comment No.7 provides specific guidance to implementing children’s rights in early childhood.³⁴ We advocate for General Comment No. 7 to be considered in the Regulatory Review.
- 55) A key rights-based approach as highlighted in General Comment No.7 is to enable *free* education. The Committee recognises “the right to education during early childhood as beginning at birth and closely linked to young children’s right to maximum development.”³⁵ It acknowledged that some States are providing a year of free ECCE before primary schooling. Aotearoa New Zealand could better support children’s rights by making more ECCE free for those who need it to be free (e.g., low income whānau).
- 56) General comment No. 1 on the aims of education explains that the goal is to “empower the child by developing his or her skills, learning and other capacities, human dignity, self-esteem and self-confidence” and that this must be achieved in ways that are child-centred, child-friendly and reflect the rights and inherent dignity of the child.³⁶
- 57) Implementing children’s rights in early childhood is an effective way to help prevent personal, social and educational difficulties during middle childhood and adolescence (see general comment No. 4 (2003) on adolescent health and development).³⁷
- 58) General Comment No.7 states: “Appropriate assistance to parents can best be achieved as part of comprehensive policies for early childhood, including provision for health, care and education during the early years. States parties should ensure that parents are given appropriate support to enable them to involve young children fully in such programmes, especially the most disadvantaged and vulnerable groups. In particular, Article 18.3 acknowledges that many parents are economically active, often in poorly paid occupations which they combine with their parental responsibilities. Article 18.3 requires States parties to take all appropriate measures to ensure that children of working parents have the right to benefit from childcare services.”³⁸
- 59) To that end, we endorse the government taking the lead on regulating the ECCE sector so that it may provide sustainable services that meet the individual needs of each mokopuna both in working and non-working whānau/families, universally.
- 60) We strongly recommend a child rights impact assessment process be undertaken to ensure the final regulatory regime is progressively implementing the Children’s Convention as required, given Aotearoa New Zealand is a States Party to the Convention.

Te Tiriti o Waitangi

“ Māori language week shouldn't just be one week. It should be the kaupapa for everyday life. The community should see our Māori culture.”

(Rangatahi Māori; What makes a Good Life? 2019)

³⁴ General Comment No. 7 (2005) Implementing child rights in early childhood CRC/C/GC/7/Rev.1

³⁵ Ibid. at para 28.

³⁶ General Comment No. 1: The Aims of Education (article 29) (2001)

³⁷ CRC General comment No. 4 (2003): Adolescent Health and Development in the Context of the Convention on the Rights of the Child

³⁸ General Comment No 7 *ibid.* CRC/C/GC/7/Rev.1 page 10

61) The Children’s Convention is not the only children’s rights framework which the New Zealand government is obligated to uphold. Te Tiriti o Waitangi provides for several rights applicable to mokopuna, as articulated below. Mana Mokopuna affirms Te Tiriti o Waitangi and its Articles as the basis for partnership between the Crown and Māori.

62) Firstly, Mana Mokopuna acknowledges the unique status and rights of mokopuna Māori as tangata whenua (people of this land) of Aotearoa New Zealand. Te Tiriti o Waitangi is a founding document of Aotearoa New Zealand and a critical part of our constitution.³⁹ Importantly, we recognise that intergenerational experiences of colonisation and ongoing discrimination have created disparities in outcomes for mokopuna Māori, including their whānau, hapū, and iwi.

63) Given the positive, lifetime impacts of good quality ECCE, described earlier in this submission, to mitigate impacts of disadvantage, we consider it imperative that the ECCE sector:

- has a strong understanding of its obligations to Te Tiriti, both as private businesses in New Zealand, and as agencies that receive subsidies from the government
- is empowered to uphold specific commitments to the rights of mokopuna Māori as tangata whenua, which include honouring the tino rangatiratanga of their whānau, hapū and iwi, and recognising and respecting Māori participation, leadership and te ao Māori approaches to ECCE
- promotes te reo Māori and tikanga Māori to all our citizens as culturally unique taonga of Aotearoa New Zealand.

64) Te Tiriti has been described as having two key elements. The first relates to Articles 1 and 3, which give all people the right to live as citizens of New Zealand (under one law). Article 1 provides for kawanatanga (governance) – that requires good practices such as partnership, fiduciary duty, and transparent and ethical decisions. The second focusses on Article 2, which affirms for Māori the right to live as Māori, with authority and autonomy, and responsibilities for protecting and developing those things valued by Māori (ngā taonga katoa). Neither of these rights is exclusive of the other.⁴⁰

65) The rights and responsibilities of equality, equity and common citizenship for all New Zealanders (Article 3 – rite tahi/ equality) means that mokopuna Māori should enjoy the benefits of an ecosystem of ECCE that mitigates historic injustices and contemporary socioeconomic disadvantage and racism, to ensure mokopuna can thrive today and in the future, living as Māori. The Crown must acknowledge whakapapa, te ao and te reo Māori and the journeys shared with their whānau, hapū, iwi and tangata Tiriti. Mokopuna Māori have the right to equal outcomes.

66) The ECCE regulations should ensure that:

- Māori are able to have tino rangatiratanga over their kohanga reo and other kaupapa Māori ECCE (ECCE respecting Māori values)
- tangata whenua are consulted when there is policy change that affects their rights to provide ECCE according to tikanga Māori (Māori legal custom)

³⁹ Te Tiriti o Waitangi should also be considered in light of He Whakaputanga – Declaration of Independence of New Zealand that asserted that the sovereignty of New Zealand lay with iwi Māori.

⁴⁰ Human Rights Commission - [Human Rights and Te Tiriti o Waitangi](#)

- ECCE spaces are available equally to Māori as non-Māori, and mokopuna Māori can attend and learn as Māori, celebrating their whakapapa Māori, acknowledging their histories, and enjoying their right to learn te reo Māori
- Mokopuna Māori who are also reo turi mokopuna are able to experience both their languages and ways of communicating through ECCE.

67) Kohanga reo must be supported by the government to thrive, because it is integral to the survival of te reo Māori which is a fundamental right of Māori as tangata whenua. Regulation should ensure the government is able to support kohanga reo to thrive in the context of iwi, hapū and whānau governance and fully grounded in mātauranga Māori and Māori ECCE approaches.

68) Having regulation that supports ECCE to be grounded in the diverse cultures of Aotearoa New Zealand is in the best interests of many cohorts of mokopuna, including mokopuna Māori.

Conclusion

64) ECCE regulation exists mainly to protect children. Young mokopuna (especially in the first 2000 days) are particularly vulnerable and poor experiences of ECCE can affect their whole lives. A child impact assessment inherently ensures that children's rights are considered when making decisions. We recommend that the Ministry for Regulation undertakes a child impact assessment, including mokopuna voices, to inform every aspect of this Regulatory Review, and Mana Mokopuna is available to provide advice to the Ministry to support this.

Glossary - Kuputaka | Definition of Māori terms

Term	Definition
Ira tangata	Human genes, human element, mortals
Kāinga	Home, village, settlement
Kawanatanga	Governance, government, dominion, rule, authority
Kohanga reo	Early learning centre, immersed in te reo Māori and tikanga Māori
Mana Mokopuna	The Children and Young People's Commission
Mātauranga Māori	Māori knowledge, world view, perspectives, creativity, practices
Mokopuna	We refer to all children and young people in Aotearoa as mokopuna.
Ngā taonga katoa	All the treasures
Rangatiratanga / tino rangatiratanga	Authority, self-determination, sovereignty
Rite tahi	All equal, equity
Tangata whenua	People of the land
Taonga	Treasure
Te Reo Māori	The Māori language
Te Tiriti o Waitangi	The foundational document in Aotearoa New Zealand. It represents the partnership between Māori and the Crown.
Tikanga	Correct procedure, custom
Tipu ake	Grow up
Whaikaha	Whaikaha translates to disability or disabled which is a usage created within the Māori disabled community.
Whakapapa	Genealogy, lineage, descent. Referring to the past, present and future generations.
Whānau	The term whānau refers to all families including extended family and mokopuna.