



**Te Tāhuhu o
te Mātauranga**
Ministry of Education

Summary of Underpinning Analysis: Licensing Criteria for Kōhanga Reo affiliated to Te Kōhanga Reo National Trust Amendment Notice (2) 2026

Agency responsible	Ministry of Education
Portfolio	Early Childhood Education
Date finalised	19/08/2026

Good law-making: 9(i)

The importance of consulting, to the extent that is reasonably practicable, the persons or representatives of the persons that the responsible agency considers will be directly and materially affected by the legislation

Inconsistency identified? NO

Summary of agency analysis

The Licensing Criteria for Kōhanga Reo affiliated to Te Kōhanga Reo National Trust Amendment Notice (2) 2026 (the amendments) should be assessed as consistent with the principle. The amendments were developed following formal consultation with Te Kōhanga Reo National Trust (the Trust) and the Director of Regulation (DoR) as required by Section 41(1) of the Education (Early Childhood Services) Regulations 2008 (Regulations).

Good law-making: 9(j)

The importance of carefully evaluating—

- the issue concerned; and
- the effectiveness of any relevant existing legislation and common law; and
- whether the public interest requires that the issue be addressed; and
- any options (including non-legislative options) that are reasonably available for addressing the issue; and
- who is likely to benefit, and who is likely to suffer a detriment, from the legislation



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Inconsistency identified? NO

Summary of agency analysis

The amendments should be assessed as consistent with this principle. The amendments respond to the problem defined in the Early Childhood Education regulatory review. There is a clear case for amending licensing criteria given concerns about excessive and confusing regulatory requirements. The resulting amendments are coherent with the Regulations. This reflects a good law-making process.

Good law-making: 9(k)

The importance of the responsible agency identifying and developing effective arrangements for implementing the legislation

Inconsistency identified? NO

Summary of agency analysis

The amendments should be assessed as consistent with this principle. The development of the amendments has accounted for a staged commencement and a realistic 'go live' date that enables administering agencies to develop operational processes and guidance to support implementation. This process also accounts for a detailed approach to inform the public of changes.

Good law-making: 9(l)

Legislation should be expected to produce benefits that exceed the costs of the legislation to the public or persons

Inconsistency identified? YES

Summary of agency analysis

The amendments should be assessed as inconsistent with this principle. A full assessment of expected costs and benefits has not been undertaken for the amendments to kōhanga reo licensing criteria.

Good law-making: 9(m)

Legislation should be the most effective, efficient, and proportionate response to the issue concerned that is available

Inconsistency identified? YES

Summary of agency analysis

The amendments should be assessed as inconsistent with this principle. We have not produced a formal options analysis as part of this process. Formal options analysis was not undertaken for revising kōhanga reo licensing criteria.



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Rule of Law: 9(a)(i)

The law should be clear and accessible

Inconsistency identified? NO

Summary of agency analysis

The amendments should be assessed as consistent with this principle. The amendments are intended to make the licensing criteria clear and easily understood. Access to the amendments would be made available on the Ministry's website.

Rule of Law: 9(a)(ii)

The law should not adversely affect rights and liberties, or impose obligations, retrospectively

Inconsistency identified? NO

Summary of agency analysis

The amendments should be assessed as consistent with this principle. The amendments update the requirements that must be met to obtain or maintain a licence. The amendments apply prospectively and do not have a retrospective effect on rights, liberties or obligations.

Rule of Law: 9(a)(iii)

Every person is equal before the law

Inconsistency identified? NO

Summary of agency analysis

The amendments should be assessed as consistent with this principle. All early childhood services (including kōhanga reo) are required to meet minimum standards set by the Regulations. The licensing criteria are used to assess whether services, including kōhanga reo, are meeting those minimum standards. There are unique licensing criteria for centre-, hospital-, home-based ECE services as well as kōhanga reo.

Rule of Law: 9(a)(iv)

There should be an independent impartial judiciary

Inconsistency identified? NO

Summary of agency analysis

The amendments should be assessed as consistent with this principle. The licensing criteria establish requirements for assessing whether early childhood services meet the minimum standards for licensing. They do not affect existing rights under regulation 39 of the Regulations to appeal to a District Court with civil jurisdiction against decisions or



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directions of the DoR under the Regulations, including decisions relating to compliance with the licensing criteria and associated minimum standards, and do not affect the independence or impartiality of the judiciary.

Rule of Law: 9(a)(v)

Issues of legal right and liability should be resolved by the application of law, rather than the exercise of administrative discretion

Inconsistency identified? NO

Summary of agency analysis

The amendments should be assessed as consistent with this principle. The licensing criteria are applied by the DoR in assessing whether an early childhood service meets the minimum standards required to obtain and retain a licence. The criteria do not confer an absolute or unfettered discretion but instead guide and constrain administrative decision-making by specifying the requirements that a service must meet. The amendments do not affect access to judicial review, and do not affect existing appeal rights under the Regulations.

Liberties: 9(b)

Legislation should not unduly diminish a person's liberty, personal security, freedom of choice or action, or rights to own, use, and dispose of property, except as is necessary to provide for, or protect, any such liberty, freedom, or right of another person

Inconsistency identified? NO

Summary of agency analysis

The amendments should be assessed as consistent with this principle. The limits placed upon Te Kōhanga Reo National Trust, as the service provider for kōhanga reo affiliated to it, are intended to ensure compliance with minimum standards set out in the Regulations. We consider these limitations are therefore proportionate as a mechanism protecting the health and safety of mokopuna.

Taking of property: 9(c)

Legislation should not take or severely impair, or authorise the taking or severe impairment of, property without the consent of the owner unless-

- **there is a good justification for the taking or severe impairment; and**
- **fair compensation for the taking or severe impairment is provided to the owner; and**
- **the compensation is provided, to the extent practicable, by or on behalf of the persons who obtain the benefit of the taking or severe impairment**

Inconsistency identified? NOT APPLICABLE



Summary of agency analysis

The amendments do not provide for the taking or severe impairment of property.

Taxes, fees and levies: 9(d)

The importance of maintaining consistency with section 22(a) of the Constitution Act 1996 (Parliamentary control of taxation)

Inconsistency identified? NOT APPLICABLE

Summary of agency analysis

The amendments do not impose taxes.

Taxes, fees and levies: 9(e)

Legislation should impose, or authorise the imposition of, a fee for goods or services only if the amount of the fee bears a proper relation to the cost of providing the good or service to which it relates

Inconsistency identified? NOT APPLICABLE

Summary of agency analysis

The amendments do not impose fees.

Taxes, fees and levies: 9(f)

Legislation should impose, or authorise the imposition of, a levy to fund an objective or a function only if the amount of the levy is reasonable in relation to both—

- the benefits that the class of payers is likely to derive, or the risks attributable to the class, in connection with the objective or function; and
- the costs of efficiently achieving the objective or providing the function

Inconsistency identified? NOT APPLICABLE

Summary of agency analysis

The amendments do not impose levies.

Role of courts: 9(g)

Legislation should preserve the courts' constitutional role of ascertaining the meaning of legislation

Inconsistency identified? NO

Summary of agency analysis



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The amendments should be assessed as consistent with this principle. Amendments to the kōhanga reo licensing criteria do not affect existing appeal rights to a District Court available under the Regulations, or otherwise alter the courts' constitutional role of ascertaining the meaning of legislation and secondary legislation.

Role of courts: 9(h)

Legislation should make rights and liberties, or obligations, dependent on administrative power only if the power is sufficiently defined and subject to appropriate review

Inconsistency identified?

NO

Summary of agency analysis

The amendments should be assessed as consistent with this principle. The licensing criteria are applied within a statutory and regulatory framework that clearly identifies the powers of the DoR and the circumstances in which those powers may be exercised. The criteria are used to assess compliance with minimum standards under the Regulations, and do not limit judicial review or affect the right of appeal under the Regulations.