



Ministry of Business, Innovation and Employment (**MBIE**)

Buy Now – Pay Later Regulations

12/13/2021 December

**By email:** [buynowpaylater@mbie.govt.nz](mailto:buynowpaylater@mbie.govt.nz)

Teena koe,

## **BUY NOW – PAY LATER REGULATIONS IN AOTEAROA NEW ZEALAND DISCUSSION DOCUMENT**

1. This letter is sent to you on behalf of Te Whakakitenga o Waikato Incorporated (formerly known as Waikato-Tainui Te Kauwhanganui Incorporated).
2. Te Whakakitenga o Waikato Incorporated (Waikato-Tainui) is the governing body for the 33 hapuu and 68 marae of Waikato Tainui and manages the assets of Waikato-Tainui for the benefit of over 81,000 registered tribal members.
3. Waikato-Tainui provides this letter in response to the Buy now – Pay later Regulations in Aotearoa New Zealand Discussion document on behalf of our hapuu and iwi members

### **BACKGROUND TO WAIKATO-TAINUI**

4. Waikato-Tainui are tangata whenua and exercise mana whakahaere within our rohe (tribal region). Our Waikato-Tainui rohe is bounded by Auckland in the north and Te Rohe Potae (King Country) in the south and extends from the west coast to the mountain ranges of Hapuakohe and Kaimai in the east. Significant land marks within the rohe of Waikato include the Waikato and Waipaa Rivers, the sacred mountains of Taupiri, Karioi, Pirongia and Maungatautari, and the west coast of Whaingaroa (Raglan), Manukau, Aotea and Kawhia moana, the eastern areas of Tikapa Moana (Firth of Thames), and principally, New Zealand's longest river, the Waikato.
5. Waikato Tainui assert our status as Treaty Partners first and foremost. Which is guaranteed under our settlement legislation (Waikato Raupatu Claims Settlement Act 1995 and Waikato Raupatu Claims Waikato River Settlement Act 2010). Waikato Tainui affirm under law an obligation on the Crown to co-design any policy and legislative changes which directly or indirectly effect our Settlement legislation. As a result, omits the submission process for Waikato Tainui and demands direct engagement with the Crown. In our view the relationship between Waikato Tainui and the Crown is unique and remains to be ignored by the Crown.

6. Waikato-Tainui has a range of rights and interests including, but not limited to, those that arise from the following:
  - (a) The 1995 Waikato Raupatu Lands Settlement (and the Waikato Raupatu Settlement Act 1995), the 2008 Settlement and Settlement Act.
  - (b) Tikanga and customary law.
  - (c) Common law (including the common law relating to aboriginal title and customary law); and
  - (d) The Treaty of Waitangi and its principles
7. Waikato-Tainui is concerned about parts of the proposed discussion document and wants to ensure that:
  - a. The new changes to the BNPL does not adversely affect the rights, interests, responsibilities, and opportunities of Waikato-Tainui
  - b. The co-management principles that underpin our 2008 Settlement and the Settlement Act are recognised and upheld: and
  - c. Related to the above, allow our people to be able to exercise their mana whakahaere on issues relating to their financial sustainability's.
8. Waikato-Tainui wishes to be heard.

#### **WAIKATO-TAINUI SPECIFIC COMMENTS**

9. Given the lack of direct engagement as Treaty Partners with the Crown in relation to the buy now – pay later discussion document and the importance of this topic to our iwi and hapuu, Waikato-Tainui is not in the position at this stage to respond to all the questions posed within the discussion document. The responses provided in this letter are from a high-level tribal perspective.
10. **Question:** As a consumer (or consumer representative), have you faced financial hardship from BNPL?
11. Waikato-Tainui acknowledges that BNPL schemes can offer a useful alternative for people whose poor credit histories bar them from accessing more mainstream credit products. However, the statistics of people facing financial hardship from BNPL are Maaori and Pacific, therefore as an advocacy for our people it is only right that there needs to be an equal approach between Iwi and the Government to establishing the most sufficient protection plan for all types of consumers.
12. Waikato-Tainui has over 80,000 tribal members, 30 to 40% of them are currently beneficiaries. Therefore, it is only right that we submit on behalf of our financially vulnerable whaanau.
13. **Question:** Do you agree with our assessment of how BNPL will evolve in New Zealand? (Q4)
  - a) Waikato-Tainui has major concerns with the rise in popularity, that the schemes facilitate impulse purchases, which put low-income families more at

risk of overspending, this will then result in credit rate damages for future purchase opportunities.

- b) Waikato-Tainui needs clarification around what this may look like for those who are financially vulnerable as oppose to those who are on an annual income of \$40,000 or over.
  - Will there be an equal outcome for both parties? or;
  - Are these regulation changes based on the richer class
- c) Furthermore, we have concerns for our tribal members with their own businesses that rely on BNPL for e-commerce and their physical stores, should the new regulations come into play does this guarantee protection over our business owners, will they still gain the same amount of profit and intake as they usually would.

#### 14. **The three options that have been proposed:**

- a) The racial gap among BNPL users brings up the question of financial discrimination or barriers for minorities trying to access financial services. Waikato-Tainui believes that because of the income and wealth gap between the richer majority and minorities, it is difficult to tell break out BNPL trends apart from the broader credit industry trends. This has then proven that the engagement between Iwi and the Government for this matter needs to be strong, effective, and consistent. All options are lacking an equal approach.
- b) With the division between lower income consumers and higher income consumers, there needs to be consideration of regulations that fits all. In regards to option 2 of the discussion document, has its perks but there is still the risk of financial hardship, where a voluntary code may not result in a satisfactory level of protection to the consumers.
- c) Option 3 seems to be the more preferred option in the discussion document. Waikato-Tainui believe that implementing BNPL within the CCCFA will not necessarily prevent the financial hardship for consumers as well as businesses, as noted "Costs are likely to be passed on to businesses or consumers, which will increase the cost of borrowing or the costs of consumer goods".
- d) That is a major concern once again for the financial safety of our people and businesses. As an iwi approach looking into decreasing the triggers of financial hardship especially for our people with low-incomes, we would implement regulations that could still be accessible yet have the resources to identify which members are facing financial struggle due to BNPL and possibly providing free budgeting, or other advisory services.

## CLOSING COMMENTS:

15. In addition to the BNPL Regulations, we note the MBIE is undertaking a review of the proposed Options in Aotearoa. From a policy perspective, we do not think that this will effectively prevent financial hardship for all consumers, especially our people and our Maaori businesses. However, we support the potential approach of putting in place regulations but needs to be with an equal perspective. We urge the Crown to engage directly with us to co-design these frameworks and consider how they may deliver outcomes for all people in the future.
16. Lastly, we reiterate that this letter deals with how we engage with the BNPL Regulations as it relates to our tribal registry, and the comments made in this letter are separate and additional to those that may be made by tribal members and/or experts who have lived experiences or wish to submit their response.

Marae Tukere  
Chief Executive Officer  
Te Whakakitenga o Waikato Incorporated

