



He rangahau ki te ariā

Exploring the concept

ko te Tiriti te putake e

of a Treaty based

whakatuturutia ai nga

environmental

tikanga mo te taiao

social framework

Case Studies

Nga Whakamaramatanga

PARLIAMENTARY COMMISSIONER FOR THE ENVIRONMENT

Te Kaitiaki Takeo e Te Whare Pūtea

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These case studies summarise various initiatives undertaken by agencies and tangata whenua to audit or evaluate their work in environmental management in relation to:

- the Treaty of Waitangi and the statutory requirements
- tangata whenua involvement in agencies' processes
- the values and interests of tangata whenua in the environment and natural resources.

There has not been the space here to give more than a brief outline of these projects and their respective kaupapa as auditing or evaluation exercises. For further details, contact the agency or group involved. Please also refer to the report, the Legislation: Nga Ture, and the Current Initiatives: Nga Whakatutakitanga Hou for further information.

EXISTING AUDIT FRAMEWORKS

A number of frameworks already exist for auditing or evaluation of agencies' policies, programmes and activities in relation to Maori and the Treaty. These models could be adapted for application to local government, or to a particular environmental management agency, as has already been done with Environment Waikato's audit process (see case study).

REPORT OF THE CONTROLLER AND AUDITOR-GENERAL: DELIVERING EFFECTIVE OUTPUTS FOR MAORI (1998)

The Auditor-General's report addresses the work of public sector organisations, setting out a framework of fundamental processes that agencies should follow in order to be effective for Maori and to have a positive impact on outcomes for Maori. These are set out as a series of 'expectations' for the activities and processes of agencies, providing, in effect, a suite of criteria or standards against which an audit could be carried out.

The report notes that this model would be applicable to all central government agencies – to the extent that the agency's role and activities contribute to the outcomes experienced by Maori, and to Government's strategic objectives for Maori – and also suggests that it may be relevant for local authorities. The model is designed for self-review by the agency concerned.

Detailed 'expectations' are set out, followed by explanatory commentaries, for:

- strategic planning, including the Treaty, the wider Government context, translating strategy into action, and monitoring strategy
- policy advice, including research, analysis, consultation, assessment of policy options, and evaluation of the impacts of policies
- service delivery, including design of programmes, evaluating options, communication and information dissemination, contractual arrangements that include appropriate service delivery standards in relation to Maori, and monitoring and evaluation
- human resources, agency structures, and the agency's working environment, corporate values and organisational practices.

TE PUNI KOKIRI: EVALUATION FOR
MAORI – GUIDELINES FOR GOVERNMENT
AGENCIES (1999)

These guidelines were developed as part of TPK's monitoring role for government agencies (see case study on the review of the Department of Conservation). Designed to assist agencies undertaking evaluations of the effectiveness of their services, policies and programmes for Maori, the guidelines are presented as a set of minimum critical success factors that agencies should consider. These are conveniently given in checklist form, with detailed discussion of the various issues, implications, and practical requirements.

Matters covered include:

- the Treaty as providing '*the fundamental framework for accountability and outcomes between Maori and the Crown*'¹
- ethical issues, including tikanga and manaakitanga, appropriate research tools, informed consent, working with communities and making information available, and koha
- planning and designing the audit or evaluation process, including ensuring Maori involvement and input from the earliest stages, building relationships of trust, and using appropriate methods
- analysis of information and issues
- reporting and communicating results.

NEW ZEALAND CONSERVATION
AUTHORITY: TEMPLATE FOR GIVING
EFFECT TO SECTION 4 OF THE
CONSERVATION ACT (1999)

Arising from a hui at Waihi Marae, Lake Taupo, in 1999, the template is a practical mechanism for the NZCA to give recognition to its responsibilities under section 4 of the Conservation Act (the Treaty provision – see Legislation: Nga Ture). The NZCA was concerned for a process within the legislative framework which would give certainty and ensure that matters are considered appropriately. The NZCA determined that its decisions should always contain an explicit statement of how section 4 was addressed.

Through the template, the NZCA requires, in all papers prepared by DoC or generated by the NZCA itself for discussion at NZCA meetings, information to be provided on:

- the section 4 considerations
- the consultation undertaken with tangata whenua/manawhenua, and the basis for an informed decision to be made
- the adequacy of the information provided for the consultation, and the nature of that process and information
- the comments of those consulted
- how those comments have been taken into account in reaching a recommendation or any decision.

As well as this scrutiny of the section 4 implications of particular conservation matters and decisions, the NZCA is also monitoring these areas over the longer term, by keeping records of section 4 issues and agreed positions arising from section 4 considerations, and conducting an annual self-review of its performance.

TAIERI RIVER PROJECT – TOOLS FOR MAORI PARTICIPATION IN FRESHWATER MANAGEMENT

The project focuses on the Taieri River, as a taonga of particular importance to Ngai Tahu. Freshwater is fundamental for Maori, central to life both in practical ways and for its spiritual and cultural values. The Taieri and its catchment was a key mahinga kai resource. The close association of the people with the Taieri is evidenced in historical settlements and gathering-sites, and in the extensive knowledge of the resources, and tikanga for their proper and sustainable utilisation, held by the tupuna. This knowledge, passed down to whanau and hapu today, is itself regarded as a taonga.

The Taieri River Project was initiated to address a lack of incorporation of Maori values in management agencies' systems and processes for freshwater monitoring: *'all the "science" involved in determining the levels of abstraction, maximum sustainable yield and minimum flows, fails to relate to iwi values.'*² Ngai Tahu contended that the minimum flow levels set for the Taieri in the Otago Regional Council's Proposed Regional Water Plan were too low. There were also concerns about the orientation of monitoring systems such as the Ministry for the Environment's Environmental Performance Indicators programme.

The purposes of the first phase of the Project were to *'enable Maori to participate in all aspects of freshwater management... [by] the development of tools and processes that link traditional Maori knowledge and practices to contemporary resource management practices.'*³ Objectives included:

- identifying indicators used by Maori to assess the health of freshwater resources
- recording iwi assessments of the health of the Taieri and the resources dependent on it

- analysing the relationships between this information and the hydrological, biological and other data recorded by Western science
- recommending a monitoring methodology and additional performance indicators for Maori cultural and spiritual values in water management.

Through a comprehensive process – involving detailed observations of the river under different conditions and seasons, and interviews with kaumatua – thirty indicators were identified. They include fish, birdlife and riparian vegetation, the colour and smell of the water, the sound of the water flow, the presence of riffles and other movement, and traditional place names. The whole catchment is considered, given that the mauri of a waterway stems from the headwaters, and reflecting Ngai Tahu's 'Ki uta, ki tai' principle (from the mountains to the sea). History, patterns of customary fishing, and cultural and spiritual values are integrated with the business of identifying adverse impacts and remedial actions, and determining appropriate flow regimes.

The second phase of the project, which is almost completed, has validated the indicators and assessed the health of 46 sites through the Taieri and Kakanui catchments. The indicators and the information gathered has been used to develop a Cultural Health Index (CHI) that reflects the cultural significance of the site, the mahinga kai values present, and the overall stream health. To date Ngai Tahu have trialled the CHI on two rainfed lowland streams, and hopes that in the future the Index can be applied by tangata whenua to assess the condition of river systems throughout New Zealand.

The project was collaborative, with Ngai Tahu working with Western scientists. The CHI was developed by combining

cultural knowledge and Western science to deliver a robust tool – grounded in cultural beliefs, values and practices, but easily communicated to water managers.

ENVIRONMENT WAIKATO TREATY AUDIT

Environment Waikato (EW) is one of the very few councils in New Zealand to have undertaken an audit of its provisions for fulfilling its Treaty responsibilities.⁴ The council's 1998-2008 Strategic Plan included goals to take account of the principles of the Treaty, and to conduct a Treaty audit at regular intervals to evaluate progress. The council's commitment to a corporate-wide best-practice model for its Treaty responsibilities, so that Treaty compliance is a normal part of good environmental management practice, is promoted as taking EW beyond the minimal statutory requirements.

In 2000, EW commissioned an audit to be undertaken by external consultants of its policies and procedures to take account of the principles of the Treaty, and to show that the Treaty principles had been taken into account in its decision-making processes; organisational capability and infrastructure were also evaluated. The audit focused on the council's internal processes and systems; neither elected councillors nor tangata whenua or other Maori stakeholders were involved.

The audit methodology was developed through an iterative process between the external reviewers and EW staff to identify benchmark objectives, performance indicators, and a staff interview process. In the absence of a specific EW definition of the Treaty principles, the audit was based on the definition given in a 1993 report from the Ministry for the Environment.⁵ Existing audit frameworks from the Office of the Auditor General, Te Puni Kokiri and the Department of Internal Affairs (see case

study in this section) were also used, and adapted to reflect the role and requirements of local government as opposed to central government agencies. The methodology was designed to be transferable to other regional and territorial local authorities.

Areas of EW's policies and operations covered by the audit included:

- planning and reporting
- policy and programme evaluation
- data collection, research and analysis
- organisational and staff capacities
- processes to provide outputs for tangata whenua.

Under these categories a wide range of matters was assessed, including:

- tangata whenua involvement in the identification of strategic objectives
- the articulation and understanding of the Treaty principles, and their implications for EW, within the organisation and corporate documents
- systems for assessing the impacts of policies and procedures on tangata whenua
- the development of MOUs between EW and tangata whenua.

The audit acknowledged the mechanisms that EW had in place, and the council's commitment to best practice. EW's strengths and weaknesses were identified, and recommendations made for improvements including the development of an organisational definition of the Treaty principles and their implications, and practical matters to ensure transparency and consistency of the Treaty commitment throughout the council, from the strategic levels to business planning and through to operational levels.

KIA MAU KI TE TITI MO AKE
TONU ATU: KEEP THE TITI
FOREVER

This research project focuses on the titi⁶ of the small islands around Rakiura (Stewart Island), and their traditional harvest by Rakiura Maori. The project is important in terms of Treaty based environmental audit processes in two ways – as a systematic bicultural evaluation or audit of the southern titi populations and the influences on them, and as a model of negotiated collaboration between tangata whenua and an academic institution, the University of Otago.

Titi migrate to the northern hemisphere each winter, returning to the southern islands in spring to breed. For many generations, Rakiura Maori have undertaken an annual harvest of young titi chicks; this is *‘one of the last remaining widespread “cultural harvests” or customary uses of wildlife still largely controlled by Maori.’*⁷ As kaitiaki of this traditional resource, Rakiura tangata whenua have extensive knowledge of the birds, their behaviour, habitat and seasonal requirements, and the patterns of harvest going back over many years.

In 1994 Rakiura Maori decided, with agreement from the muttonbirding community, to undertake a ten-year research programme in partnership with ecologists from the University of Otago. The aims of the research are:

- to safeguard the titi resource for Rakiura Maori and their mokopuna
- to determine whether current harvest levels are sustainable
- to record and compare matauranga Maori or traditional knowledge of the titi with the findings of Western science
- maximum involvement of tangata whenua in the project, including a Rakiura Maori PhD student

- to learn from kaitiakitanga and matauranga Maori for improved Pakeha environmental stewardship.

A formal cultural safety contract governs the research partnership, establishing Rakiura Maori as the kaitiaki to lead the programme and guide research directions in consultation with the university team. Rakiura Maori retain ownership of their traditional environmental knowledge, and have full discretion over its recording and any possible publication of that knowledge. However, the scientific data is jointly owned by the university and Rakiura Maori; this information is first reported to Rakiura Maori at the annual muttonbirders’ hui. The contract provides that the scientific findings must be published, regardless of the implications for the sustainability of harvesting; this ensures academic and scientific integrity. A regular newsletter, *Titi Times*, keeps birders up to date with the research work, and explores wider issues such as the nature of science, how it approaches issues, and how it relates to matauranga Maori (Issue 8, June 2001). A number of formal scientific papers have also been published about various aspects of the work.

For the university researchers, working within a bicultural research kaupapa has been both challenging and rewarding:

*The Rakiura community have proved to be the toughest “ethics committee” that I have ever faced, such is their passion for protecting the birds and their environment. The research team is forbidden to visit the Titi Islands during the egg-laying and early chick periods. To do so would violate a centuries old rahui that has been imposed to protect the resource. In many ways the research effort has been different because of its Maori dimension.*⁸

The project is characterised by ongoing scrutiny and evaluation of the methodology, the data, the practical working relationships between the research team and the birders,

and the wider project partnership. This inherent 'rolling auditing' is firmly based in both tikanga Maori and academic frameworks:

*Science itself could benefit from a diversity of approaches... Nurturing the partnership must become the first priority when one is trying to work in a community-driven, consensus approach that embodies whanaungatanga.*⁹

TE PUNI KOKIRI: MINISTRY OF MAORI DEVELOPMENT – REVIEWS OF THE DEPARTMENT OF CONSERVATION: TE PAPA ATAWHAI

The two reviews¹⁰ were undertaken as part of Te Puni Kokiri's (TPK) role to monitor government departments' provision of services to Maori (see Current Initiatives: Nga Whakatutakitanga Hou). The first (1998) review focused on the Department of Conservation's (DoC) internal processes, relationships with iwi and hapu in managing the public conservation estate, and the manner in which DoC discharges its responsibilities under section 4 Conservation Act.¹¹ The follow-up review (2001) considered progress on addressing the needs identified in 1998, focusing on DoC's relationships with iwi and hapu, and its capacities and processes to support those relationships.

Conducted under formal agreements between TPK and DoC, the review process included interviews with DoC staff at all levels of the organisation, review of relevant documents and policies, and qualitative research with external Maori stakeholders on their experiences with and perceptions of the department.

The 1998 review assessed DoC's strategic objectives for Maori articulated in such formal mechanisms as the Kaupapa Atawhai Strategy, the Strategic Business Plan, the

annual Purchase Agreement with the Minister of Conservation, and the Pukenga Atawhai Competencies Framework for departmental staff. The review found that the impact, on the ground, of such processes and programmes was varied, and that iwi and hapu had continued concerns about the nature of their relationships with DoC. The adverse effects of historical and contemporary grievances between the Crown and tangata whenua were acknowledged. The review identified limited opportunities for iwi and hapu to be actively involved with DoC in cooperative conservation management, and suggested the department could be more proactive in developing such opportunities for tangata whenua to contribute. The review advised DoC to adopt a more inclusive and transparent approach, and noted that iwi and hapu need to be involved in the identification of conservation issues and strategic priorities for Maori. A series of recommendations were made, focusing on the need for DoC to implement its strategies and goals in a more systematic way, and to:

- establish formal systems for the involvement of Maori staff across all the department's processes
- evaluate iwi and hapu perceptions of relationships and service delivery.

More specific recommendations were also made relating to DoC's planning, monitoring and reporting, output delivery, relationships with Maori, staff and organisational capacity, data collection and research, and systems for evaluation of policies and programmes.

The 2001 follow-up review recognised a number of positive practical steps taken by DoC to fulfil its commitment to building and maintaining effective relationships with Maori. Significant progress was identified in areas of policy (with the suite of initiatives under Nga Akiakitanga), Maori employment, Treaty and tikanga training

(Te Pukenga Atawhai programme), initiatives to develop iwi skills and abilities for conservation, and mechanisms to involve iwi and hapu in programme delivery. However the follow-up review found that such improvements were variable between divisions and conservancies, and made recommendations intended to ensure greater consistency, such as cross-conservancy sharing of experience and best practice. Recommendations were also made in relation to DoC's management structures, capabilities and skills, and processes to ensure tangata whenua perspectives are incorporated in strategic decisions and policy development.

TE WAKA KAI ORA – INDIGENOUS ORGANIC STANDARDS

Te Waka Kai Ora (TWKO), the national organisation for Maori organics producers and growers, was first launched in early 2001 at a national Maori organics hui at Ratana Pa. A series of regional hui through 2001 led to the formal establishment of TWKO as an incorporated society to represent and foster the Maori organics sector, at a second national hui in Whanganui in January 2002.¹²

The objectives and aims of TWKO include:

- providing a pathway toward the production, processing, and labelling of pure, safe and healthy products
- protecting and enhancing the life essence of the resources of tangata whenua – nga taonga tuku iho
- acknowledging and working in harmony with nature, its resources and elements, and the spiritual values
- fostering and encouraging collaboration and nga tikanga o nga taonga tuku iho (philosophies, concepts, practices and ideas)

- fostering understanding and awareness of te Tiriti, and working within a mutually beneficial and supportive Treaty partnership relationship with the Crown
- protecting New Zealand's organic future by declaring a GMO-free environment and agriculture
- creating and implementing an indigenous organic brand, standards and verification systems.

The development of Maori organic standards and certification systems is central to the vision of TWKO. The concept is to establish an authentic, strong indigenous brand to identify and promote organic products that have been produced under a kaupapa of cultural integrity, tikanga, kaitiakitanga and whanaungatanga, *'encapsulating all the elements used and [their] spiritual life being'*,¹³ as well as meeting organics, health and environmental standards. The indigenous organic standards will completely disallow any possibility of GMO contamination. It is intended that the indigenous organic brand will assist Maori organic producers in both domestic and international markets.

There are currently three organics standards in place in New Zealand (Bio-gro, Demeter and AgriQuality); work is also under way for the establishment of a minimum national standard, incorporating a certification scheme, for New Zealand organic products. TWKO supports the idea of national standards, but also insists on the importance of indigenous branding and verification of Maori organic products. TWKO is developing frameworks for how the indigenous organic brand and standards would function alongside other standards and certification systems. Auditing of Maori organic producers' operations and products will thus be a two-phase process – assessment by an independent certification agent under conventional organics standards, as well as verification by TWKO-trained inspectors or regional Maori peer groups of tikanga Maori cultural integrity.

The development of the indigenous organic brand and standards is a proactive mechanism for advancing kaitiakitanga and environmental principles, and strengthening the Treaty partnership in the organics and agricultural sector. As an independent system developed by Maori, for Maori, according to tikanga and Maori principles, it will be a practical demonstration of the value of auditing performance against strict standards so that quality and integrity are guaranteed.

DEED OF SETTLEMENT MONITORING

Under the Ngai Tahu Deed of Settlement, one of the requirements on the Ministry for the Environment (MfE) is to monitor councils' performance in implementing the Resource Management Act 1991 (RMA) Treaty provisions. The approach has been a qualitative monitoring exercise rather than a quantitative audit or evaluation.

Under the Deed the monitoring by MfE is to take place annually and includes all 26 councils in the Ngai Tahu rohe. MfE verbally reports back to Te Runanga o Ngai Tahu (TRoNT) on the various councils' progress. MfE does not report back directly to the individual councils as to how they are meeting their implementation of Treaty provisions as MfE believes this could be antagonistic and could potentially damage relationships.

Both MfE and TRoNT view relationship building as a key to improved environmental management. Because of this, both groups are flexible in their approach to the compulsory monitoring so that the focus can be given to relationship building. This has led to local Ngai Tahu being involved in councillor training on Treaty issues, as councillors have been identified as a key component in improving relationships.

MfE reports that the monitoring discussions can lead to improvements in councils' implementation, giving the opportunity for issues to be raised and discussed in an unthreatening environment. However there is no compulsion for a council to change its behaviour.

One of the main issues for TRoNT is that the Treaty provisions in the RMA are vague and not as strong as they would like them to be. RMA obligations are legally enforceable (see Legislation: Nga Ture), however councils' implementation of the RMA Treaty provisions is highly variable and changes with councillor and staff movement. Thus energy is often spent on re-educating and relationship building as opposed to raising the standards of the implementation of the Treaty provisions.

If another iwi or hapu was considering this instrument in a Deed of Settlement, TRoNT would recommend that the monitoring went beyond the Treaty provisions to consider the overall relationship between the iwi and council. Direction should be given for all of the relevant legislation with appropriate implementation methods being spelt out so that councils' responsibilities are clearly and unambiguously understood.

- 1 Te Puni Kokiri. 1999. *Evaluation for Maori – Guidelines for Government Agencies*. p 11.
 - 2 Gail T Tipa, 2001. Taieri River Case Study. Paper presented to UNESCO Pacific Sub-region Workshop on Indigenous Science and Traditional Knowledge, September 2001, Te Herenga Waka Marae, Wellington. Page 2.
 - 3 Ibid, page 1.
 - 4 Kowhai Consulting Ltd, 2000, *An Audit of Environment Waikato Procedures and Processes for Working with Tangata Whenua*. Environment Waikato.
 - 5 Diane Crengle, 1993, *Taking Into Account the Principles of the Treaty of Waitangi: Ideas for Implementation of Section 8 Resource Management Act 1991*. Ministry for the Environment.
 - 6 Also known as muttonbirds, sooty shearwaters, or *puffinus griseus*.
 - 7 Henrik Moller. 2000. Co-management of a bicultural research project: A research provider's perspective. In *He Minenga Whakatu Hua o Te Ao*, Proceedings of a hui in August 2000 at Murihiku Marae, Invercargill, coordinated by Rakiura Runaka, the Rakiura Titi Islands Committee, and the University of Otago Zoology Department (www.otago.ac.nz/Zoology/hui_wananga.html). See also Jane Kitson. 1999. Kia Mau Ki Te Titi Mo Ake Tonu Atu: Rakiura Maori and Scientists team up to keep the Titi forever. In *Te Karaka*, Raumati/ Summer 1999, pp. 14 – 17.
 - 8 Henrik Moller. 1998. WAI 262: Bridging two solitudes. In the *Newsletter* of the Otago Institute Inc, a Regional Constituent Body of the Royal Society of New Zealand, November 1998.
 - 9 Moller. 2000.
 - 10 Te Puni Kokiri. 1998(a). *Review of the Department of Conservation Te Papa Atawhai Service Delivery to Maori*. Te Puni Kokiri, Monitoring and Evaluation Branch; Te Puni Kokiri. 1998(b). *Department of Conservation Te Papa Atawhai Service Delivery to Maori. Key Stakeholder Interviews*. Te Puni Kokiri, Monitoring and Evaluation Branch; Te Puni Kokiri. 2002.
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- Follow up Review of the Department of Conservation's Relationships with Maori*. Te Puni Kokiri, State Sector Performance Group.
 - 11 Section 4 provides that the Conservation Act is to be so interpreted and administered as to give effect to the principles of the Treaty of Waitangi.
 - 12 *Hui Taumata: Nga Hua o Rongo-Ma-Tane*, Ratana Pa, February 2001; *Hui-a-Tau: Te Waka Kai Ora*, Rangahaua Marae, Whanganui, January 2002. See also: Report of Te Waka Kai Ora, pp 5-19 in: Organics Working Group, *Report: Facilitating the efficient and sustainable development and growth of the New Zealand organic sector*. Ministry of Agriculture and Forestry, September 2001.
 - 13 Report of Te Waka Kai Ora, as above, p 11.

www.pce.govt.nz