

He rangahau ki te aria  
ko te Tiriti te putake  
e whakatuturutia  
ai nga tikanga mo te taiao

*Exploring the concept  
of a Treaty based environmental  
audit framework*



# Health Impact Assessment Symposium - 30 March 2004

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Office of the Parliamentary  
Commissioner for the  
Environment

pce



# The PCE - who are we?

- Independent of Government
- Investigations, advocacy and advice for improved environmental management
- Freedom to publish findings
- Recommendations to Ministers and local government
- Citizens' concerns - matters raised by the public about environmental management

# Range of PCE investigations

- Intensive agriculture
- Science and environmental policy
- Urban - sustainable cities, water, w/water
- Biosecurity - NZ under siege
- Genetic engineering for possum biocontrols
- Wetlands management
- Electricity sector environmental performance
- Marine and coastal management

# The PCE and the Treaty



- Take full and balanced account of the principles of the Treaty
- Investigations may have regard to any land, water, sites, fishing grounds, physical or cultural resources, or interests associated with such areas, which are part of the heritage of tangata whenua and which contribute to their wellbeing (Environment Act 1986)

# Why would the PCE look at Treaty audit frameworks?

- To contribute towards improving environmental management systems and processes - for councils, DOC, ERMA, other agencies, and tangata whenua
- To help in achieving better quality environmental outcomes



# PCE's scoping study

*Terms of Reference:*

To scope

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whakatuturutia ai nga

*environmental*

tikanga mo te taiao

*audit framework*

PARLIAMENTARY COMMISSIONER FOR THE ENVIRONMENT  
*Te Kaitiaki Takeo a Te Whaea Papatipu*

- The concept of a Treaty based environmental audit framework
- How such a framework would need to be developed
- Potential applications in environmental management

# Why an audit framework?

- Councils and other environmental agencies have obligations under law and policy:
  - To the principles of the Treaty of Waitangi
  - To consult and involve tangata whenua
  - To provide for Maori values and interests
- How to assess progress and effectiveness in fulfilling these duties?



# Resource Management Act

- Section 6(e): To recognise and provide for the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga
- Section 6(f): To recognise and provide for the protection of historic heritage from inappropriate subdivision, use and development
- Section 7(a): To have particular regard to kaitiakitanga

# Resource Management Act

- Section 8: To take into account the principles of the Treaty of Waitangi
- Provisions for councils' planning processes and consideration of resource consents
- Requirements for councils to monitor the state of the environment, and the efficiency and effectiveness of policies
- NZ Coastal Policy Statement - provisions for tangata whenua values and involvement

# Local Government Act 2002

- Establishes principles and requirements for local authorities that are intended to facilitate participation by Maori in local government decision-making processes - in order to recognise and respect the Crown's responsibility to take appropriate account of the principles of the Treaty



# Other environmental statutes

- Conservation Act -
  - Section 4: To give effect to the principles of the Treaty of Waitangi
- Hazardous Substances and New Organisms Act -
  - Section 6(d): To take into account the relationship of Maori and their culture and traditions with their ancestral lands, waters, sites, waahi tapu, valued flora and fauna, and other taonga
  - Section 8: To take into account the principles of the Treaty of Waitangi

# Putting it all into practice

- Experience with the RMA - ongoing challenges with
  - Consultation and communication
  - Resourcing and time available
  - Capacities and understanding
  - Mandates, recognition, respect
  - Accountability
- Such challenges can be daunting...

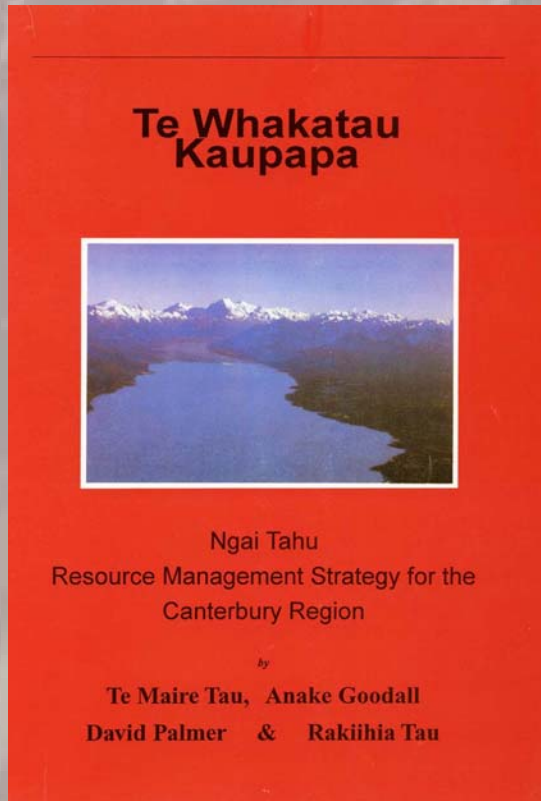
# How might an audit framework help?

- Monitor and evaluate systems for
  - Communication, dialogue, working together - MOUs, charters
  - Iwi / hapu involvement in planning, policy and strategy development
  - On-the-ground implementation of policy statements
  - Iwi / hapu input into councils' processing of resource consents



# How might an audit framework help?

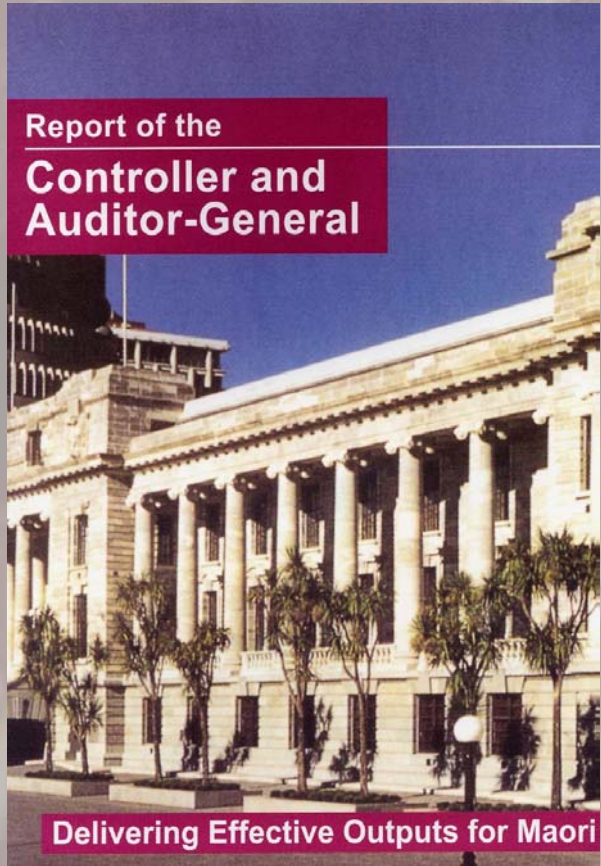
- Monitor and evaluate
  - Recognition and implementation of iwi / hapu environmental management plans
  - Processes and capacities of iwi and hapu eg. tribal resource management units



# How might an audit framework help?

- Monitor and evaluate
  - Awareness, education and upskilling – for agency staff and councillors (tikanga and Maori values) and for tangata whenua (legal, agency processes, environmental science)
  - Damage to or losses of natural taonga and resources
  - Recognition and practical application of matauranga Maori – traditional environmental knowledge

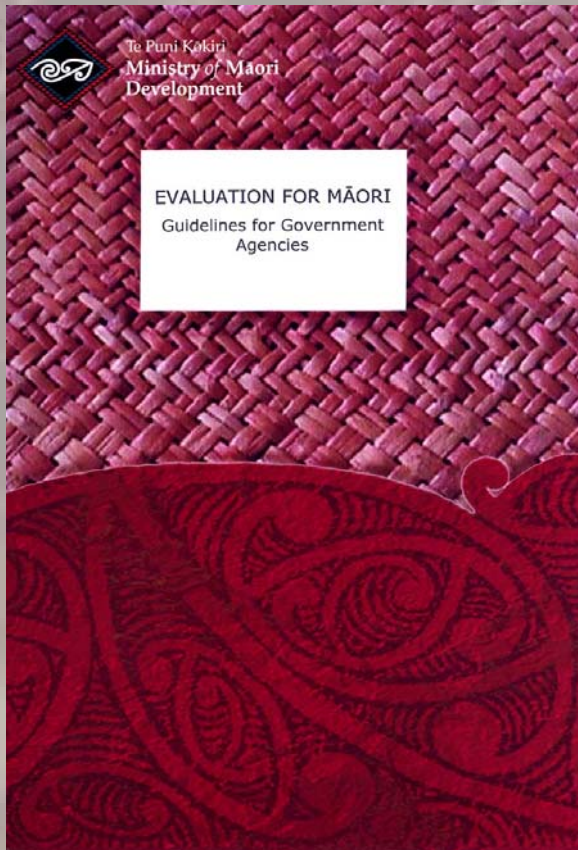
# Existing audit models



- Auditor-General (1998):  
*Delivering Effective Outputs for Maori*
- "Expectations" / criteria for
  - Strategic planning
  - Policy and consultation
  - Service delivery
  - Human resources, agency culture



# Existing audit models



- Te Puni Kokiri (1999) *Evaluation for Maori - Guidelines*
- Critical success factors for agency assessment of
  - Treaty accountability
  - Ethical issues, tikanga
  - Maori involvement and input
  - Communication
  - Relationships of trust

# Concerns and cautions

- Case law on the interpretation of Treaty principles and other statutory requirements is continually evolving
- Auditing is retrospective, checking back on present systems - rather than forward-looking, proactive and innovative
- Auditing is only a measuring tool - then constructive action is needed to address any matters identified

# Concerns and cautions

- Auditing focuses on agency processes and structures - rather than values, mindsets and relationships
- Auditing could become just another layer of bureaucracy without delivering real change
- Scale and costs of developing, setting up and running an audit framework process



# Scoping study conclusions

- Wide support for improving systems and accountability for agencies' fulfillment of their Treaty obligations
- Wide diversity of views about audit frameworks, how they might help, and what would be appropriate
- Importance of active participation in deciding
  - To develop an audit framework
  - What it should address, and how
  - How it should be developed and reviewed
  - How it should be run, and who should run it

# Scoping study conclusions

- Importance of local / regional focus:
  - Based in local needs and experience - practitioners and kaitiaki on the ground
  - Respecting manawhenua of iwi and hapu
  - Keep a strong focus on kaitiakitanga and improved environmental outcomes - to protect and sustain nga taonga tuku iho

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