



**Independent
Māori Statutory
Board**



Te Tiriti o Waitangi Audit Executive Summary

March 2012



Independent Māori Statutory Board

Meaning Behind Logo

Ki te kahore he whakakitenga ka ngaro te iwi
Without foresight or vision the people will be lost
Kingi Tawhiao Potatau te Wherowhero

The pieces of this logo represent the land mass and outlying islands that make up Tamaki Makaurau and the colour and texture represent nga moana that binds these pieces together. The overarching meaning behind this logo is the future vision and moving forward, the koru represents unity and working together and the line (or spine) up the centre represents the direction or goal the city is working towards.

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Message from the Chairman



Ko te Tiriti o Waitangi te pūtaketanga o te Noho Ngātahi o te Iwi Māori me Tauīwi.

E Ngā Reo , e ngā mana, e ngā waka, e raurangatira mā, tēnā koutou katoa.

E tika ana ra ki poroporoakihia ā rātou kua wheturangitia – haere oti atu rātou.

Ko tātou ngā mōrehu o rātou, ka nui te mihi kia koutou e pikau nei i ngā kaupapa.

Tēnā koutou katoa.

It is pleasing to welcome on behalf of the Independent Māori Statutory Board, the completion of the Te Tiriti o Waitangi Audit Report.

The audit approach and this report are significant milestones for the Board.

The establishment of the new Auckland Council and the Independent Māori Statutory Board in 2010 provided an opportunity to address the Council's response to Māori in Tāmaki Makaurau as a key priority, and establish a strong foundation for Council to respond effectively to its statutory responsibilities to Māori.

Despite the new local governance arrangements in Auckland, councils have been required to fulfill these statutory obligations to Māori for many years.

The independent findings are crucial for the Board and Council. The findings set a baseline for a programme the Board and the Council can work collaboratively on, to effect real change within the Council (including Local Boards and Council Controlled Organisations).

The audit identifies 10 high level areas in its findings, where the Council needs to make improvements. The recommendations help to identify priority areas where resources can be targeted to improve the Council's systems and structures, and enable the Council and the Board to put in place key actions, timeframes and owners against the recommendations. This will help to create a pathway for the Council to fulfill its statutory responsibilities to Māori in Tāmaki Makaurau.

For many of us, Māori in particular, the report findings will not be a surprise. What it does provide is evidence to what we already know.

The Board acknowledges the work of independent auditors, PricewaterhouseCoopers for delivering the Te Tiriti o Waitangi Audit Report.

The next step for the Board is to ensure the recommendations are turned into action and to further ensure there is a process to monitor the Council against those actions. The Board considers that Mana Whenua and Mataawaka should be involved in establishing key performance indicators to monitor and measure these actions. As a matter of urgency, the Board will also continue to work and guide the Council to make improvements in areas rated in the report as being a significant priority risk.

The Board and the Council are committed to achieving a best practice approach to Māori and local government in Tāmaki Makaurau.

David Taipari
Chairman

Background to Te Tiriti o Waitangi Audit

The Audit

Te Tiriti o Waitangi Audit (the Audit) was initiated by the Independent Māori Statutory Board (the Board) to support its role in ensuring Auckland Council (Council) acts in accordance with statutory provisions referring to the Treaty of Waitangi.

The audit was divided into two phases.

Phase One – Developing the audit approach

A legal framework setting out the Council's relevant statutory Treaty provisions and obligations to Māori was completed by Atkins Holm Majurey Law (AHM Law). PricewaterhouseCoopers (PwC) then developed the audit approach which identified stakeholders and guidelines (expected good practice) and a recommended audit plan against each of the statutory provisions. This audit approach was endorsed by the Board.

Phase Two – Auditing Council against the audit approach

The key deliverables of the audit approach includes:

- Input from Māori;
- Interviews with Council staff (including local board and CCO staff);
- An audit report outlining PwC's:
 - Observations;
 - Priority ratings;
 - Recommendations;
- Agreed actions and recommendations

A key part of the audit is for the Council and the Board to develop a clear programme of work to address the report recommendations. The Board will monitor Council's progress and assist Council to meet the agreed actions.

The approach for delivering Phase Two was not a standard internal audit process. Input from Māori was an important part of the approach to provide guidance in developing the actions and recommendations. The scale of the work, ability to obtain quality information from Māori and ensuring Māori feedback into the audit was properly presented posed a number of challenges due to the relatively short timeframe.

The strategy for delivering the audit approach required re-scoping and selecting only key statutory provisions to audit in this phase. It is anticipated that more work will be required to complete all statutory provisions outlined in the audit approach.

Findings and Recommendations

The detailed report sets out the specific findings and recommendations and has been presented to the

Auckland Council. The recommendations must be read in context with the observations and findings to get an accurate reflection of their meaning. For this reason, they are not included in the Executive Summary.

In summary, the Audit finds that the core building blocks of Auckland Council are significantly weak and almost certain to compromise Māori legislative rights. These are areas that should be addressed as a matter of urgency and include Auckland Council's:

- Knowledge of Statutory Obligations in relation to Māori and provisions relating to Te Tiriti o Waitangi;
- Policies to set established principles, rules and guidelines;
- Consultation and Engagement with Māori
- Capacity of both Māori and Auckland Council

The other areas of the findings were identified as being a serious weakness likely to compromise Māori legislative rights. These areas should be addressed as a matter of importance and include Auckland Council's:

- Processes, Systems and Data
- Roles and Responsibilities
- Decision making
- Training and Awareness
- Communication
- Monitoring

In the report, PwC have set out recommendations to address each of the areas. These recommendations will form the basis for the agreed actions between the Board and the Council and will be monitored against progress.

Next steps

The Board and the Council have worked through the recommendations and the Council has provided comment.

In developing the work programme, the Board expects and will work with the Auckland Council to:

- Take a transformational approach to addressing these findings across the organisation with the leadership of the CEO and Executive Leadership Team of Auckland Council.
- Set priorities for policies and processes that relate to Council's statutory obligations to Māori and set timeframes for the development and implementation of these policies by May 2013.
- Agree on the scope, timeframe, actions and resources to implement the agreed actions to address significant and high-risk ratings. This will form the work programme between the Board and the Council.
- Regularly monitor and account for progress against the actions and recommendations at governance and management levels.

Executive Summary

Introduction

Thank you for requesting PricewaterhouseCoopers to execute Te Tiriti o Waitangi Detailed Audit Plan (“the audit”) on your behalf, in order to assess the Auckland Council group’s performance in acting in accordance with statutory references to Te Tiriti o Waitangi (“Te Tiriti”) and statutory responsibilities to Māori.

As required by the Independent Māori Statutory Board (“the Board”), Auckland Council group’s performance has been assessed in accordance with Te Tiriti o Waitangi Best Practice Audit Approach.

Te Tiriti o Waitangi Best Practice Audit Approach (“Te Tiriti Audit Approach”) covers the full legislative framework which impacts upon the Auckland Council group (herein referred to as “Council” and including the Governing Body, Auckland Council organisation, Local Boards and CCOs) as determined by the Board in conjunction with their legal advisors Atkins Holm Majurey Ltd (“AHM”). The Auckland Council organisation provided input into the development of Te Tiriti Audit Approach and as such this represents an agreed view on what would be considered expected practices against which Council could be assessed.

Background

Council is in the process of establishing strategies for the next 20 – 30 years after amalgamating the eight legacy councils into Auckland Council and establishing 21 Local Boards and 7 substantive CCOs.

At the time of the audit, strategic plans including the Auckland Plan, Local Board Plans and CCO Statements of Intent, were still in draft form, and other documents including the Long Term Plan and Unitary Plan were in development.

Within the draft Auckland Plan, Council’s strategic direction is to “enable Māori aspirations through recognition of the Treaty of Waitangi and customary rights.” Four fundamental tenets are set out in this Plan to guide future outcomes:

- “Creating a relationship where Māori are able to make important decisions concerning matters of significance to them
- Making smarter decisions about how best to support these aspirations
- Forming sustainable partnerships with Māori that have mutually beneficial region-wide outcomes
- Recognising and providing for the customary right outcomes from Treaty settlements.”

Policies and initiatives to support these strategic plans are in progress. The next step in the overall Council integration requires the establishment of an enterprise transformation project to bring together the 3000+ systems and processes from the legacy entities into single Council processes.

However, in the context of Māori requirements, compliance with two principle pieces of legislation – the Local Government Act 2002 and the Resource Management Act 1991, has been a longstanding requirement of local authorities, including those legacy entities comprising the new Council. There is an agreed view throughout Council and the Board that the performance of previous councils was mixed – in terms of compliance and understanding of Treaty principles and the legislative responsibilities to Māori. The new Council inherited this position. In the process of doing so, a number of service issues have arisen, such as capacity contracts not having been reviewed or renewed.

The Board and Auckland Council organisation developed Te Tiriti Audit Approach with a view to establishing a detailed baseline from which Council could readily implement an improvement plan to create a new, more robust approach to respond to its statutory responsibilities to Māori.

Note: This audit did not assess the performance of those previous bodies against the above two statutes (and others) but we considered previous arrangements such as Memoranda of Understanding and Service Level Agreements in order to understand what was good practice and the existing challenges faced.

Detailed scope

The scope for the audit was set by the Board and focused on a subset of high priorities from the legislative framework. These high priorities included certain Māori legislative rights set out in the following acts of Parliament:

- Local Government Act 2002
- Local Government (Auckland Transitional Provisions) Act 2010
- Local Government Rating Act 2002
- Public Works Act 1981
- Resource Management Act 1991.

The specific Māori legislative rights in scope are detailed in Appendix I.

The audit assessed the current processes and controls that exist within the Auckland Council group to meet the requirements of Treaty of Waitangi Principles (Treaty Principles), Māori legislative rights, Treaty Settlements, Memorandums of Understandings and Service Agreements.

The detailed scope of this audit has included:

1. workshops with a sample of Mana Whenua and Mataawaka organisations
2. interviews with a sample of Auckland Council group staff
3. review of a sample of key Auckland Council group documentation
4. limited sample testing, where appropriate.

A sample of CCOs¹ was selected for review. These were:

- Auckland Transport
- Watercare Services Limited
- Auckland Tourism, Events and Economic Development Ltd
- Auckland Council Property Limited

A sample of Local Boards was also selected:

- Howick
- Rodney
- Manurewa²

As such, our report provides a snapshot of existing processes and it should be noted that other initiatives and processes may exist which have not been brought to our attention and considered as part of this audit.

Stakeholders interviewed

We interviewed a large sample of people from the Auckland Council group and selected Mana Whenua and Mataawaka organisations as part of this audit. See Appendix II for a table listing those interviewed and areas covered.

Documents reviewed

We reviewed a sample of key documents from the Auckland Council group as part of this audit. A list of key documents reviewed can be found in Appendix III.

Team conducting the review

The team conducting the audit included:

- Wayne Tainui (Partner)
- Lara Hillier (Partner)
- Wiremu Doherty (specialist Māori advisor)
- Tara Nathan (Director)
- Rachel Fowler (Senior Manager)
- Jamie Rihia (Senior Manager, Manukura Māori Business Team)
- Jade Collins (Manager)
- Rawiri Heke (Associate)

In addition, specialist subject matter advice was provided by:

- Liz Greenwood (Manager, specialist Local Government sector advisor)
- David Walker (Director, specialist Local Government sector advisor)

Basis of findings

The audit findings are based on meetings held with a sample of key stakeholders, reviews of a sample of relevant documentation and results of detailed testing which was conducted on a sample basis, where appropriate.

¹ Auckland Waterfront Development Agency Limited were originally selected for review, however they were not available to meet during the audit timeframe.

² Members of the Manurewa Local Board were not available to meet during the audit timeframe.

Priority ratings

The priority rating table below has been agreed with the Board and used to assess each area of findings identified during the audit as: Significant, High, Moderate or Low.

Rating	Definitions
Significant	A significant weakness or gap which is almost certain to compromise Māori legislative rights and should therefore be addressed as a matter of some urgency. Issues of this nature relate to fundamental weaknesses in the core building blocks of a robust control framework, or critical elements required to give effect to Treaty principles.
High	A serious weakness or gap in process or control which is likely to compromise Māori legislative rights and should therefore be addressed as a matter of importance.
Moderate	A moderate weakness or gap in process or control which may compromise Māori legislative rights and should therefore be addressed as a medium term priority.
Minor	A minor weakness which is unlikely to compromise Māori legislative rights, however may improve or refine a process.

Contents of this report

This report sets out the detailed findings, priority ratings, examples of good or poor practice and recommendations for the way forward arising from this audit, conducted in accordance with Te Tiriti Audit Approach and the agreed scope of the audit.

Overall comments

The fundamental structures, i.e. identification and knowledge of legislative obligations, policies, processes and controls, needed to actively support Treaty principles and ensure compliance with the range of statutes relating to local government, in which there are references to Treaty principles and responsibilities to Māori, are under development and lack maturity in a number of areas.

Some of the requirements have been considered at a policy or strategy level, but often lack the underlying detailed processes, roles, responsibilities, systems and data to ensure the objectives and intended outcomes will be met.

A more mature approach, which has Māori requirements embedded within day to day business as usual processes, and Māori statutory requirements which are clearly communicated and understood throughout the Council, would improve Council's ability to meet its statutory obligations and therefore enhance overall Māori outcomes.

Top 10 themes

The audit findings are categorised within 10 broad areas, and some individual findings relate to many of the areas identified. The top 10 themes, together with their priority rating (defined previously) are listed below:

Framework for the delivery of the Treaty audit recommendations

Framework for internal control	Areas of findings	Priority Rating
Legislation	1. Knowledge of obligations	Significant
Plan		
Policy	2. Policies	Significant
Process	3. Processes, Systems and Data	High
Control	4. Roles and Responsibilities	High
	5. Decision Making	High
	6. Consultation and Engagement	Significant
	7. Capacity	Significant
	8. Training and Awareness	High
	9. Communication	High
Monitor	10. Monitoring	High

Note: These are detailed in an order aligned with a typical framework for internal control rather than in order of priority.

These 10 themes are interlinked, and the left side of the diagram above depicts the fundamental structures within which a framework for internal control should operate.

These themes are designed to allow for the alignment of the Māori Wellbeings project, and positive impact for Māori.

There are instances where good practice is occurring, but this often relates to institutional knowledge held by certain individuals rather than embedded processes working as intended. Examples of good practice are detailed in this report.

Next steps

Recommended next steps for the Governing Body and Council organisation are to:

- Work closely with the Independent Māori Statutory Board, Local Boards and CCOs to allocate responsibilities, actions plans and target completion dates for each area of findings
- Implement a monitoring and reporting framework to assess progress against action plans
- Undertake periodic reviews/audits to determine the extent to which improvements are being achieved.

Acknowledgement

We would like to extend our appreciation for the assistance provided by staff and management in the completion of this review.

Yours faithfully



Wayne Tainui
Partner
PwC



Lara Hillier
Partner
PwC

Comment from the Chief Executive of Auckland Council

The Te Tiriti o Waitangi Audit is one of two key projects in the Independent Māori Statutory Board's (IMSB) work programme contained in the 2011/12 Funding Agreement between the Board and Auckland Council.

It provides a basis by which the IMSB can fulfil its statutory obligation to assist the Auckland Council by ensuring the Council acts in accordance with statutory provisions referring to the Treaty of Waitangi.

It also provides a baseline for the Council to understand its current state of compliance and to develop a forward work program.

I expected at the outset of this project that many areas for improvement would be identified. This is a natural consequence of amalgamating 8 councils, all of whom had different approaches and practices, and of the huge work program the Council has been committed to in its first 18 months of existence.

I am pleased to note that some of the matters identified in the audit are already in the early stages of being addressed.

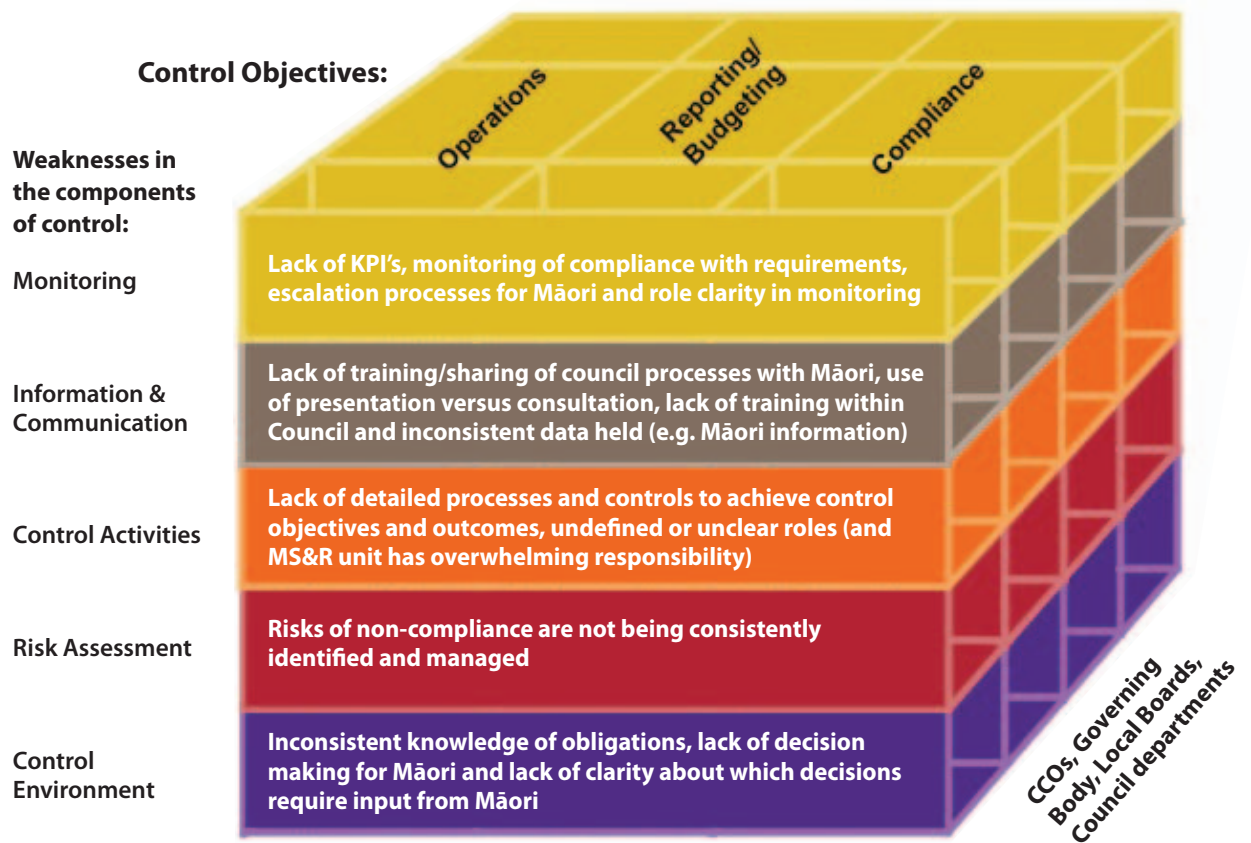
However, the audit recommendations now provide a solid basis for a structured and prioritised work program to be developed and implemented, and for a reporting regime to be put in place to keep track of our progress against the program.

I look forward to a continued constructive working relationship with the IMSB as the program of work is developed and implemented.

Doug McKay
Chief Executive

Interlinking nature of control weaknesses

A summary of the interlinking nature of control weaknesses is demonstrated (through examples) using the COSO³ internal control model below:



³ COSO stands for Committee of Sponsoring Organisations, a voluntary private organisation that created the COSO model, and set the global standard for the definition of internal control.

