

Te Tiriti o Waitangi and its principles in policy-making

*Some of the experiences and lessons learned
from resource management reform*

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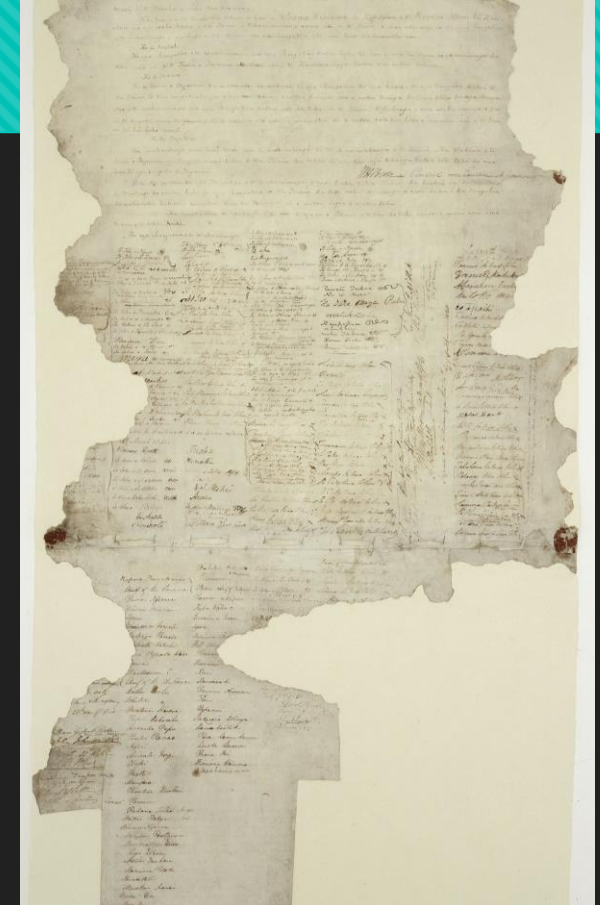
Will Collin

Outline

- Brief overview of Te Tiriti o Waitangi/the Treaty of Waitangi
- What are the principles of Te Tiriti?
- Te Tiriti and its principles in policy-making
- Lessons and experiences from resource management reform
- Questions and discussion

Overview of Te Tiriti o Waitangi/the Treaty of Waitangi

- Historical context around the signing of Te Tiriti o Waitangi / the Treaty of Waitangi
- There are key differences in meaning between the Reo Māori text and the English text



What are the principles of Te Tiriti pt.1

- The principles of the Treaty / te Tiriti were, in part, introduced as a concept at that time to manage the differences between the English and te reo Māori texts that were included in that Act. The principles of Tiriti are derived from the “spirit, intent, circumstances and terms of the Treaty”
- There is no final and complete list of the principles. The principles are generally held to be “constantly evolving as the Treaty is applied to particular issues and new situations”
- The articles of Te Tiriti have also been considered principles of Te Tiriti by the Waitangi Tribunal, and the Courts have noted that the principles of Te Tiriti “reflected the intention of the Treaty as a whole and included, but were not confined to, the express terms of the Treaty”

What are the principles of Te Tiriti pt.2

- There are some principles that are well established and generally held to be relevant in a number of circumstances.
- These include the principles of:
 - kāwanatanga
 - tino rangatiratanga
 - te mana taurite/ōritetanga/equity
 - houruatanga/partnership
 - matapopore moroki/active protection
 - options
 - whakaaronui tētahi ki tētahi/mutual recognition and respect
 - whakatika/redress
 - the duty to make informed decisions
 - matatika mana whakahaere/right to development
 - equal treatment
- There are also the principles of reciprocity, mutual benefit and the duty to act reasonably, honourably and in good faith, which are sometimes described as principles in their own right and other times described as aspects of the principle of partnership

Treaty consistency steps

- Metrics include those informed by mātauranga Māori and te ao Māori views
- Engagement – Include Māori perspectives on to what extent the policy has been successful

Treaty consistency steps

- Play part in ensuring equity for Māori submitters in Select Committee process
- Engagement – enable Treaty partners to lead, partner and/or participate in implementation

Treaty consistency steps

- Include Treaty Impact Analysis in advice to Minister
- Advise Minister to include Treaty impacts in their papers to Cabinet

Problem/Opportunity Definition

- Determine root causes of the issue
- Set policy objectives

Monitoring and Evaluation

- Measure the effectiveness of policy against metrics
- Evaluate if the policy has achieved the objectives and addressed root causes

Implementation

- For Bills – legislative and select committee process
- Put policy into action – guidance, perform statutory functions, enable partners

Ministerial and/or Cabinet Decisions

- Decisions on which option(s) to proceed with
- Obtain necessary approvals

Identify Options and Criteria

- Broad array of regulatory and non-regulatory options
- Criteria that will help pick between the options

Policy analysis and advice

- Options analysis against the criteria
- Develop advice and recommendations

Treaty consistency steps

- Research – what have we heard from previous engagement with Māori; Waitangi Tribunal reports; Treaty settlement commitments
- Engagement – Issues Paper: What are the views of Māori on the problem / opportunity?

Treaty consistency steps

- Treaty, te ao Māori and mātauranga Māori informed options and criteria
- Engagement – Options Paper: what are the views of Māori of the options and criteria?

Treaty consistency steps

- Treaty Impact Analysis – Treaty principles analysis, feedback from engagement, Treaty settlement and Māori Rights and Interests analysis, Waitangi Tribunal findings and recommendations

Policy Cycle with Treaty consistency steps

Lessons and experiences from RM reform

- There will often be barriers to best practice – balance the principled with the practical
- Value of strong relationships – go slow to go fast
- Role of the public service in applying Te Tiriti to policy is the same – first-best free and frank advice, then implement the decision of the government-of-the-day

Pātai / Questions

Kōrero Discussion

