



KEY ISSUES FOR IWI/MAORI  
IN DEVELOPING AN  
OCEANS POLICY

TE OHU  
KAIMOANA

*“Coastlines  
Spatial planning for  
land and sea”*

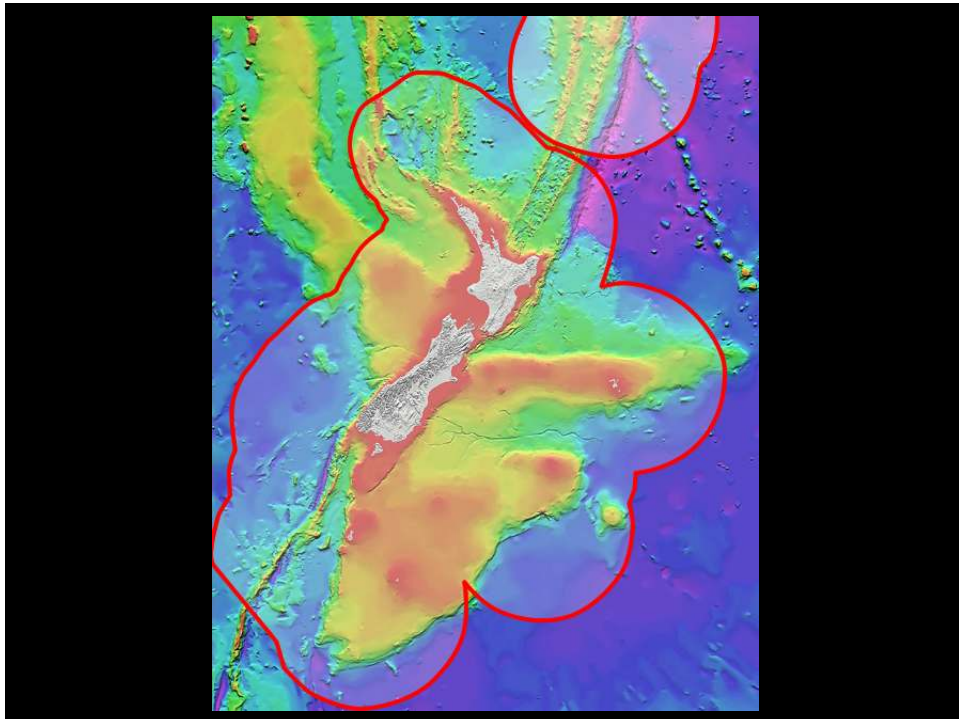
Organised by eds  
1-2 June 2011  
Aotea Centre, Auckland



## Quick Facts

### Geography

- Land mass of 270,000 km<sup>2</sup>
- Coastline of 15,000 km
- Marine Area out to EEZ 4 million km<sup>2</sup>





# Waka Kinship Groupings



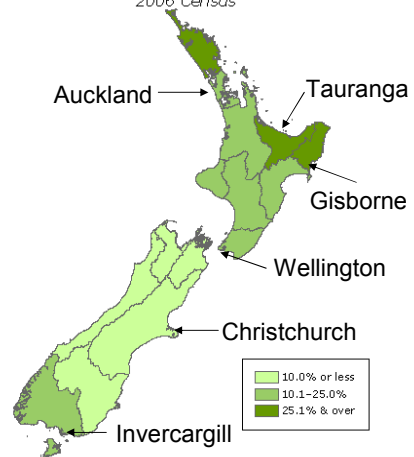
- Taitokerau
- Nga Puhi
- Tainui
- Mataatua
- Te Arawa Waka
- Porourangi
- Hauauru
- Takitimu
- Te Moana o Raukawa
- Waipounamu / Rekohu



# Maori Demographics

- Maori population 600,000
- 7.25% of the total NZ population (4,365,000)
- 87% of Maori live in the North Island
- 25% live in Auckland
- 84% in urban areas

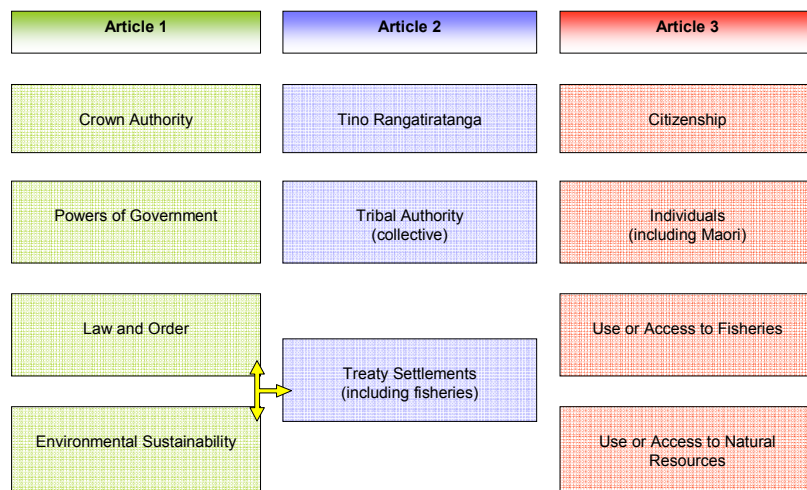
Proportion of Māori Ethnic Population by Region  
2006 Census



## Key Issues

- The Treaty of Waitangi rights and obligations
- Allocation decisions and priorities based on the Treaty of Waitangi
- Work with Maori in a constructive not divisive way
- Develop fair, equitable and lasting solutions to competition for space

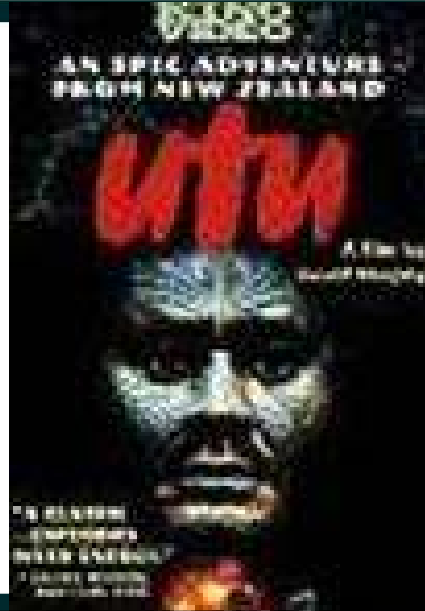
## The Articles of the Treaty



## Tikanga (customary lore)

### Maori Values and Principles

- Kaitiakitanga
- Whanaungatanga
- Rangatiratanga
- Manaakitanga
- Kotahitanga
- Tapu and Noa
- Koha and Utu

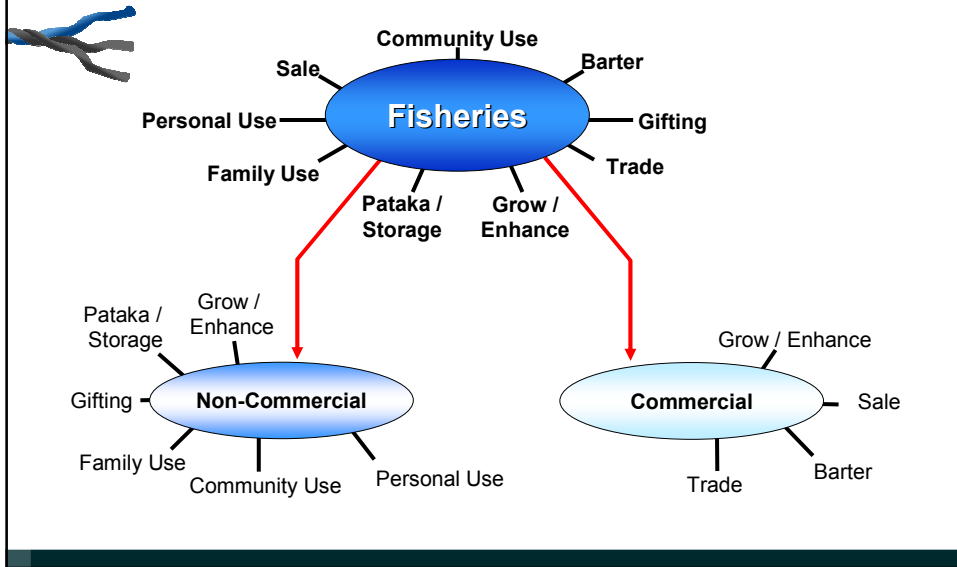


## Treaty Settlements

- Fisheries
- Commercial
  - Quota, Cash and Subsidiaries
- Customary
  - Use and Management rights
- Participation
  - Management & Conservation of NZ fisheries



## Maori Customary Fishing Rights Separated



## Treaty Settlements



- **Aquaculture**
- **20% of all Marine Farming Space**
  - Established from 21 September 1992 and beyond
- **Pre commencement**
  - 1992 to 2004
  - 95% settled in cash
- **New Space**
  - 2004 and beyond
  - yet to be resolve

- Customary Fisheries Provisions
  - *Mataitai, Rahui and Taiapure* (local area management tools)
- Customary Commercial ITQ rights
  - *Perpetual right to harvest fishstocks within broad QMAs*
- Aquaculture
  - *Marine Farms*
- Recreational Rights
  - *Sub QMA Zoning and TAC re-allocations*
- Marine Reserves
  - *special and representative areas (for sustainability or public good?)*
- Coastal Developments
  - *Marinas, pipelines, discharge*
- Coastal and Marine Area Act
  - *Protected customary rights and customary marine title*

Reforms	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
Completed												
Biodiversity Strategy	Feb											
Environmental Strategy	March	→	→	→	→	March						
Aquaculture 1	→	→	→	→	Dec	Pre 04	→	→	→	→	→	
Marine Protected Areas Policy					→	Dec						
MPA Implement Plan						→	→	→	Feb			
Incomplete												
Oceans Policy		June	→	→	→	→						
Marine Reserves Bill		May	→	→	→	→						
Aquaculture 2						New Space	→	→	→	→	→	?
EEZ						→	→	→	→	→	→	?



- Protection of existing Treaty settlements, including the Fisheries & Aquaculture Settlements
- No prejudice to future settlements
- Recognition of all customary and commercial rights including:
  - Rights to benefit from fishing, marine farming, and other uses of marine resources including development rights
  - Full recognition of the role of Iwi /hapu in management & conservation (“kaitiakitanga”)

## A Principled and Consistent Approach

### What is the purpose or reason for the new activity?

- Is it to protect environmental sustainability (left)?
- Or is it to allocate or reallocate new use rights (right)?

#### Risk management approach:

- Identify, analyse, evaluate risks (what is/not acceptable)

- Assess the effects of the new activity on existing activities. Then consider:

#### Assess the costs and benefits:

- Use the best tool at the least cost on existing users

- Can the effect of the new activity on existing activities be avoided?

#### Adaptive management:

- Establish monitoring and review programme

- Can the effect of the new activity on existing activities be remedied or mitigated

- **Best Method**
  - Establish the extent of the risk(s) associated with any identified threats, acceptability of those risks and consider realistic options
  - Choose the option(s) that would provide the least cost method of satisfactorily reducing any unacceptable risks
- **Least cost**
  - means all current and future costs (to both Government and existing users) associated with the establishment, implementation, monitoring and review of the chosen option(s) including any transitional costs.

What would this involve:

- Applying a measure (best method least cost)
- Establishing a monitoring programme for improved biodiversity outcomes
- Reviewing progress towards outcomes
- Evaluate the measure in terms of the stated biodiversity outcomes sought

- No clear overarching goals – Not future looking
- Unclear priorities between different uses and values
- Lack of consistent principles & processes
- Poor co-ordination between decision-makers
- Lack of a best method / least cost adaptive management approach
- Limited capacity for Maori to respond
- Information overload and much confusion

- A relationship of mutual trust & co-operation
- Recognition of Tikanga
- Treaty Based Decision Framework



### Key Issues

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## Examples of Inconsistent Effects Tests Across Statutes

1. Conservation Statutes
2. Fisheries & Aquaculture Statutes
3. Resource Management Act

## 1. Conservation Statutes

### Marine Reserves Act and Bill

- Purpose & process is not clear
- No risk or adaptive management approach
- No consideration of cost effective measures
- Protection is weak because of undue test
- Ability to integrate through avoiding, remedying or mitigating effects on existing users (very weak)
- No compensation options!

## 2. Fisheries & Aquaculture

### Fisheries Act

- Provides stronger protection but improvements are needed

### Mataitai Reserves

- Interpretation not clear
- Process needs to be clarified

### Marine Farming

- Process provides strong protection but greater incentives are needed

### Marinas, pipelines and other activities

- Definition of Environment very broad
- Provides weak protection
- Should be strengthened
- With the exception of aquaculture (handled under the Fisheries Act) effects on fishing of other activities are not considered consistently

### Undue or Adverse Effects Test

- Acknowledge the existence of prior users
- Requires consideration of effects or impacts
- Give protection but:
  - Offer varying degrees of protection
  - Tests open to interpretation
  - Process followed in assessment flow from interpretation.
  - Therefore inconsistent processes & decision-making across statutes
- Give weak to moderate incentives to avoid, remedy or mitigate adverse effects
  - Not well structured - need to create the right incentives for resolution

### **Do Current Coastal Marine Laws Adequately Address Maori Treaty Settlement Interests**

- No clear overarching law – Oceans Policy?
- Unclear:
  - priorities between different uses and values
  - purposes for applying management tools
  - processes to integrate new activities
  - co-ordination between decision-makers
- Lack of justifiable approaches to address:
  - public good vrs threats and risks to sustainability
  - Protection of property rights (inconsistent treatment)
  - costs and effectiveness of measures
  - changing circumstances