Protecting Maori Fisheries Assets for Future Generations
THE “RACE FOR SPACE”

MAINTAINING THE VALUE OF FISHERIES RIGHTS ALLOCATED TO MAORI AS PART OF TREATY SETTLEMENTS IN NEW ZEALAND
The Articles of the Treaty

Article 1
- Crown Authority
- Powers of Government
- Law and Order
- Environmental Sustainability

Article 2
- Tino Rangatiratanga
- Tribal Authority (collective)
- Treaty Settlements (including fisheries)

Article 3
- Citizenship
- Individuals (including Maori)
- Use or Access to Fisheries
- Use or Access to Natural Resources
What the Settlements Contain

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

**Aquaculture**
- 20% of all Marine Farming Space
  - Established from 21 September 1992 and beyond
The Race for Space!!

- Customary Provisions
  - *Mataitai, Rahui and Taiapure* (area management tools)
- Aquaculture Management Areas
  - Marine Farms
- Recreational Rights
  - *Sub QMA Zoning and TAC re-allocations*
- Marine Reserves
  - *special and representative areas (for sustainability or public good?)*
- Coastal Developments
  - *Mariners, pipelines, discharge*
What are Iwi/Maori seeking?

- Recognition of the full “bundle” of customary rights
- Protection of existing rights
- Rights to develop & benefit from resources
- Full recognition of the role of Iwi & hapu in management & conservation
- No prejudice to future settlements
What is the purpose or reason for the new activity?

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

## Risk management approach:
- Identify, analyse, evaluate risks (what is/not acceptable)

## Assess the costs and benefits:
- Use the best tool at the least cost on existing users

## Adaptive management:
- Establish monitoring and review programme

- Assess the effects of the new activity on existing activities. Then consider:
  - Can the effect of the new activity on existing activities be avoided?
  - Can the effect of the new activity on existing activities be remedied or mitigated
• Conservation Statutes
  – Marine Reserves Act and the new 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!
• 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
• Resource Management Act
  – 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
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