

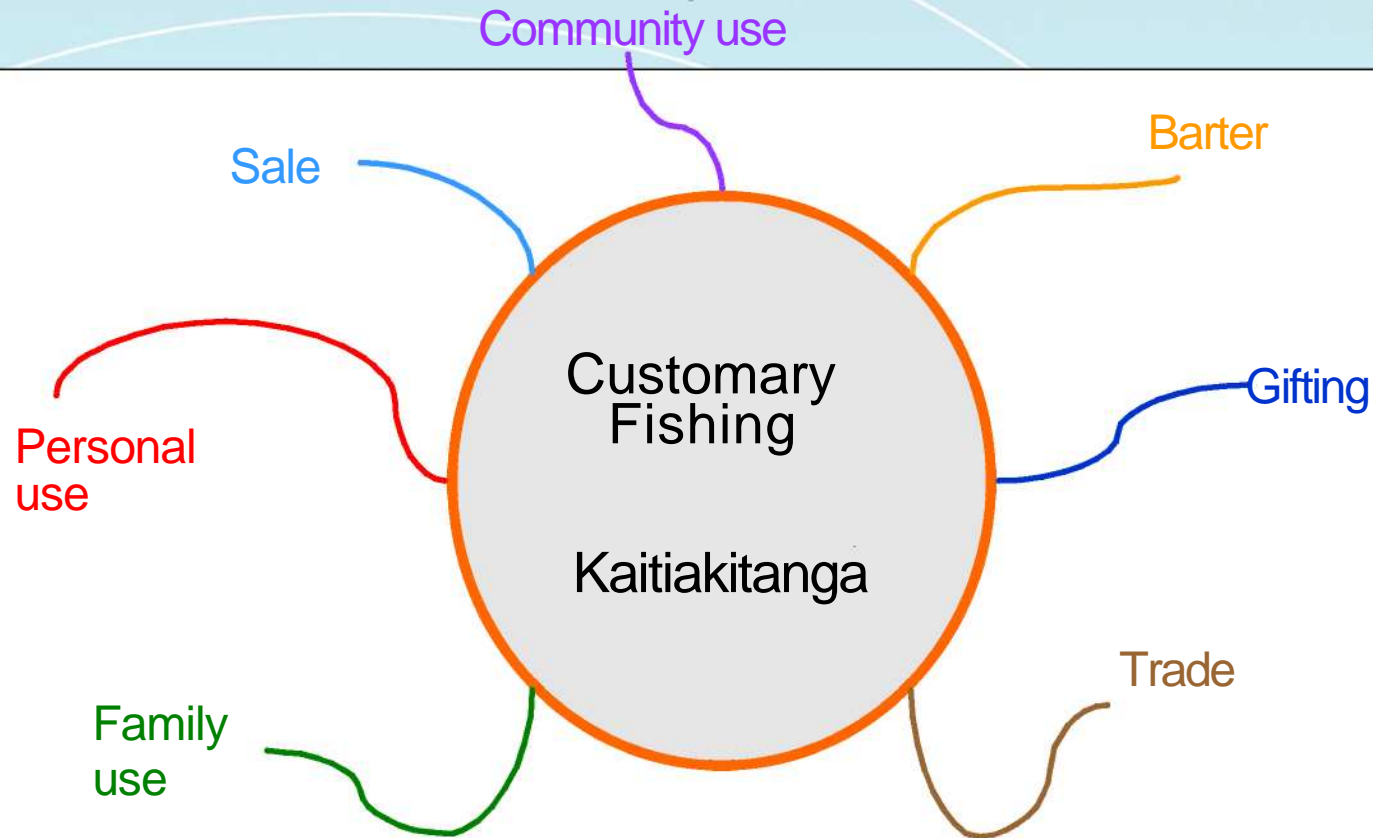
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# Iwi Māori Aquaculture in Hauraki Gulf

22 August 2014

## “The unfinished business of the Fisheries Settlement”

# Maori Customary Fishing rights





# Treaty of Waitangi

TE OHU  
KAIMOANA

TE OHU  
KAIMOANA

## ARTICLE I



**Crown  
Authority**



**Powers of  
Government**

## ARTICLE II



**Tino  
Rangatiratanga**



**Authority of  
Tribes**

## ARTICLE III



**Citizenship  
Rights**



**Status of Maori  
Individuals**



# The Fisheries Settlement

- 1840 Treaty of Waitangi (Article II)  
“Her Majesty the Queen of England confirms and guarantees to the chiefs and tribes of New Zealand their Lands and estates, forests and fisheries”
- 1983 Fisheries Act  
“Nothing in this Act shall affect any Maori fishing right” (S. 88 (2))
- 1982-84 regulations dis-enfranchise part-time fishers catching low volumes
- 1986 Fisheries Act      Quota management system introduced

# Nature of Right

***“I am satisfied that there is a strong case that before 1840 Maori had a highly developed and controlled fishery over the whole of the coast of New Zealand, at least where they were living.***

***That was divided into zones under the control and authority of hapu and tribes of the district. Each of these hapu and tribes had the dominion, perhaps the rangatiratanga, over those fisheries.***

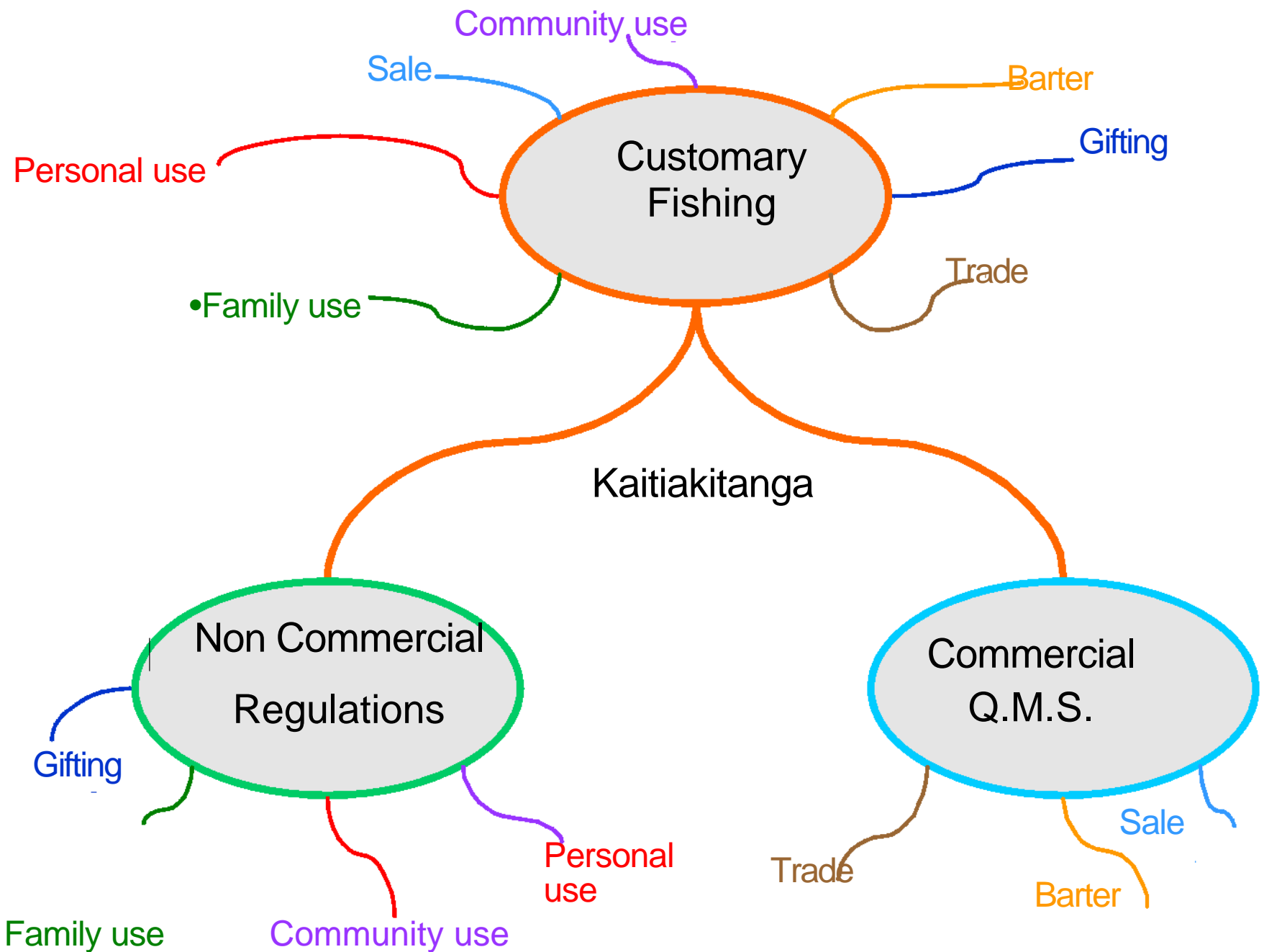
***Those fisheries had a commercial element and were not purely recreational or ceremonial or merely for the sustenance of the local dwellers”.***

***Justice Greig NZ High Court 1987***

# Customary Fishing Rights – What the Settlement recognised

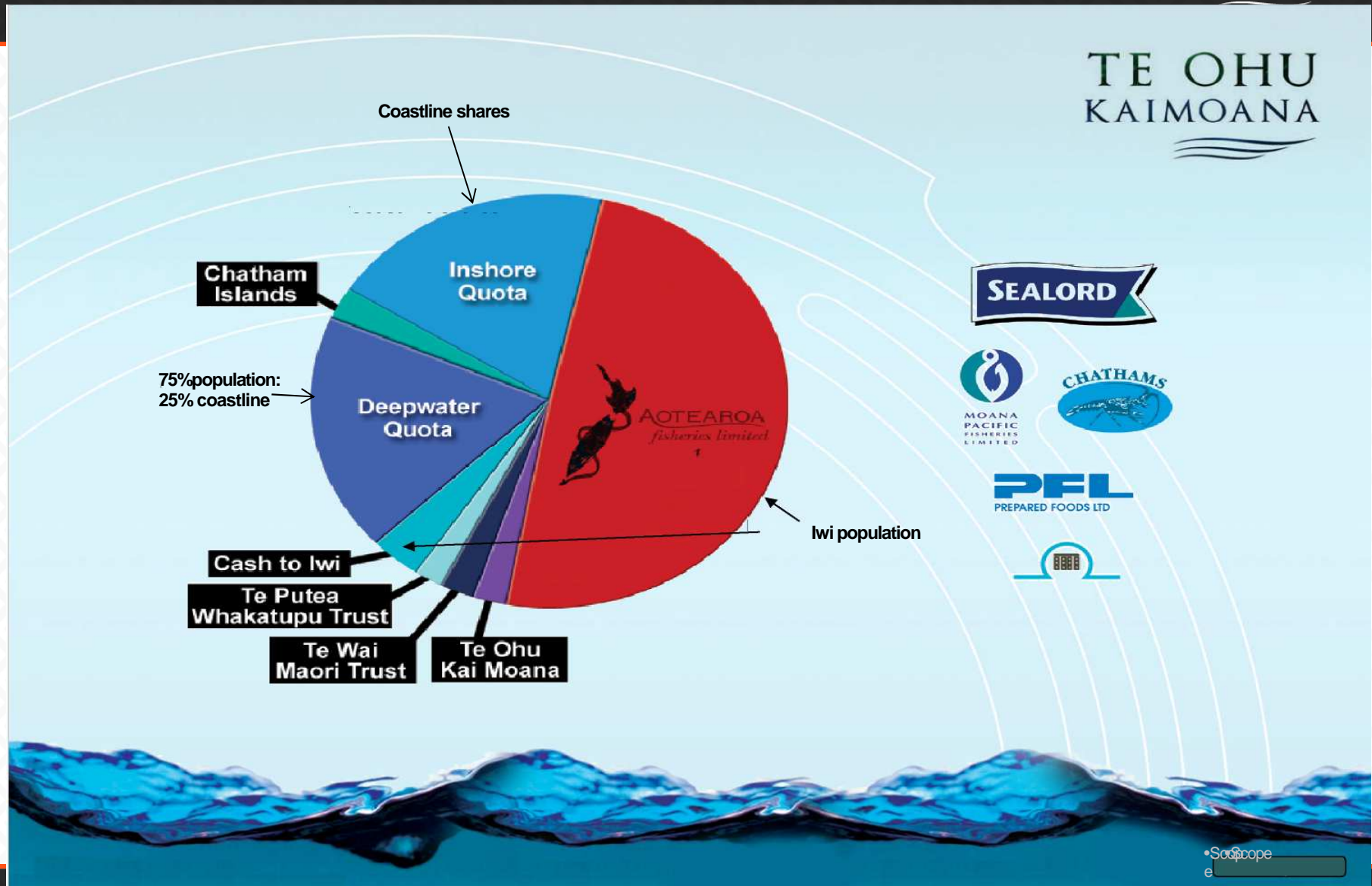
- Customary fishing included commercial and non-commercial
- In all cases not just historical, past present and future use
- Not limited by technology – allowed full development options as for other fishers
- Not limited in time - rights in perpetuity
- Able to have say in development and protection





# The Fisheries Allocation model - What and How ?

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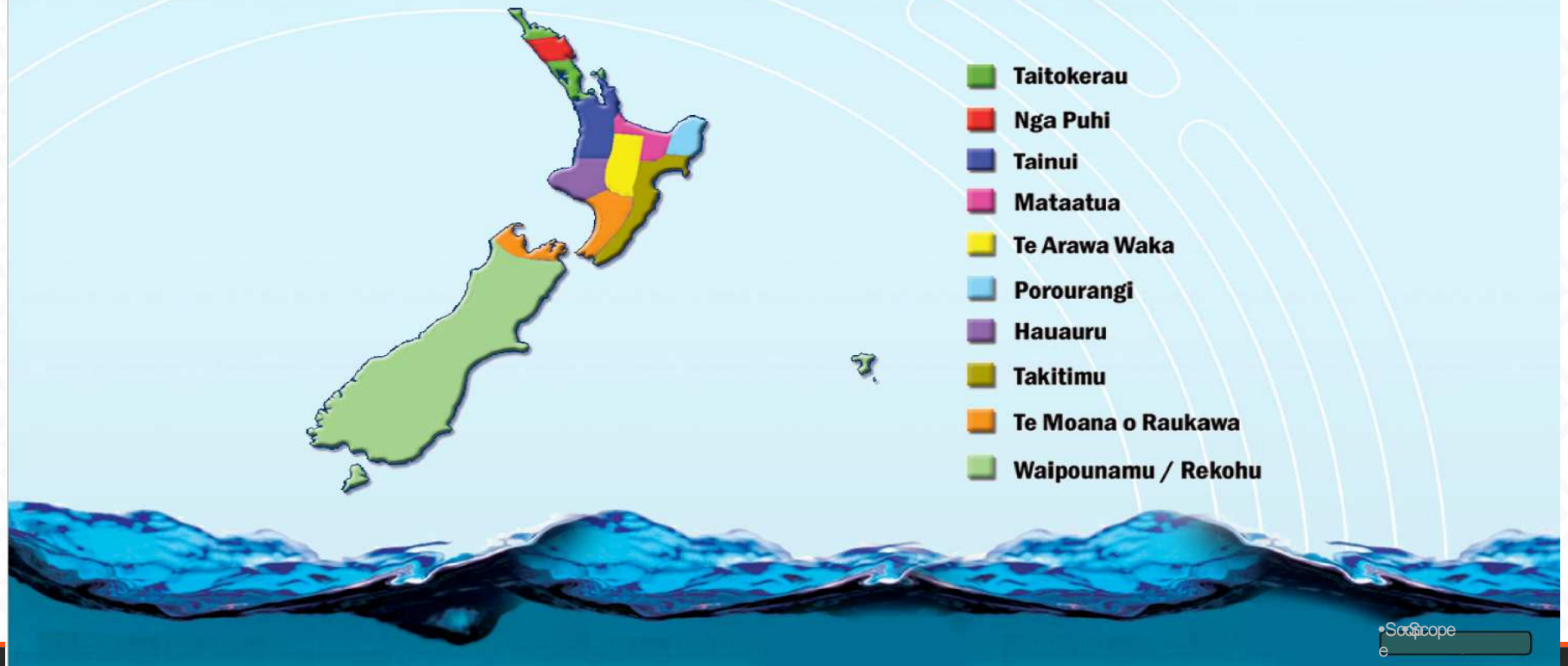


# Allocation - Who to?

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KAIMOANA

57 Iwi (traditional Tribes) agreed 1992-2004

TE OHU  
KAIMOANA



# Hauraki Iwi and iwi in Gulf

57 iwi but 4 are joint Mandated iwi organisations  
ie federations

Hauraki is one of these JMIOs - it has 12 iwi within it:

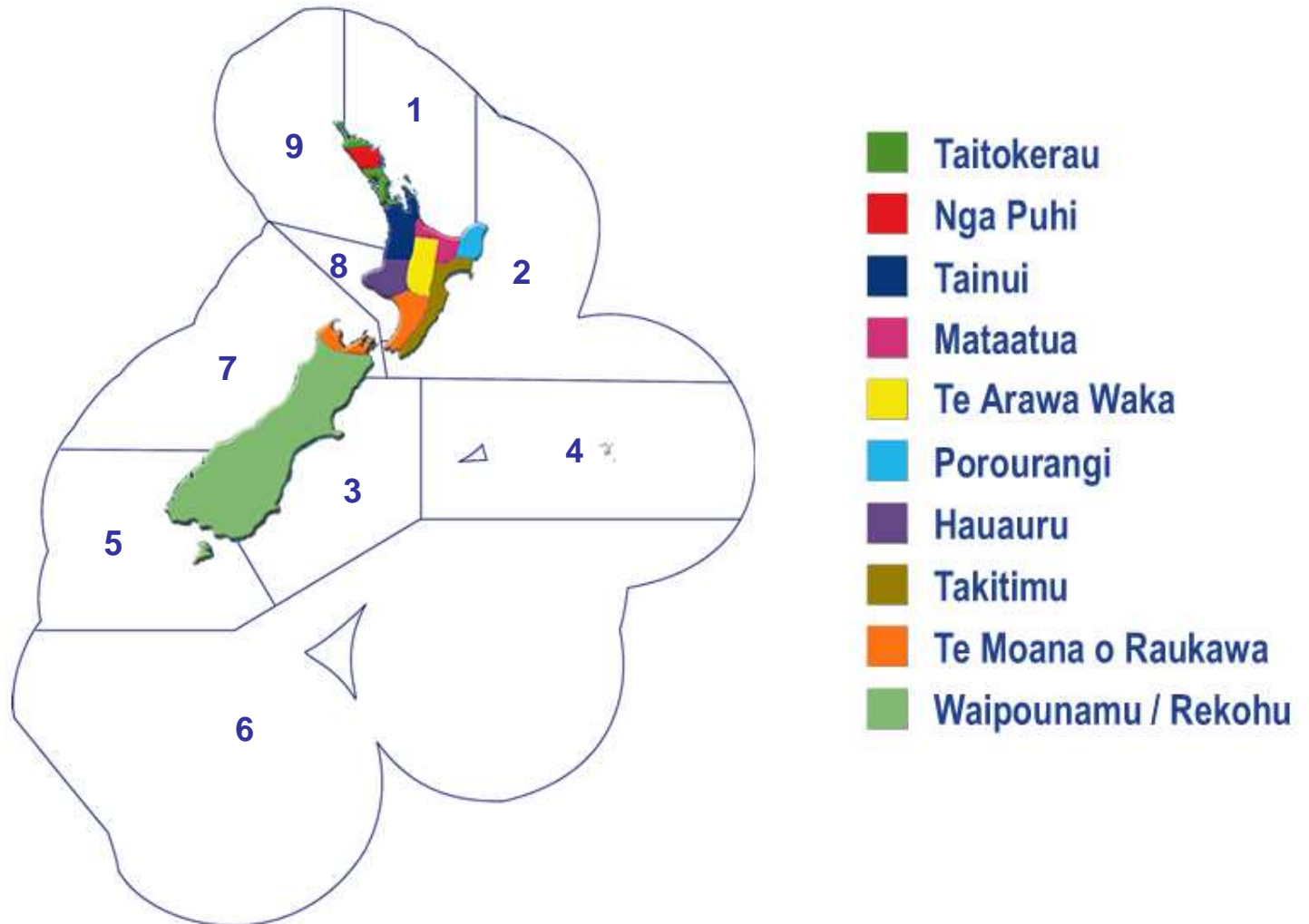
Ngati Hako; Ngati Hei; Ngati Maru; Ngati Paoa;  
Patukirikiri; Ngati Porou ki Harataunga, Ngati  
Pukenga ki Waiau; Ngati Rahiri Tumutumu;  
Ngai Tai; Ngati Tamatera; Ngati Tara Tokanui;  
Ngati Whanaunga

Other iwi in Gulf include: Ngati Wai, Ngati Whatua,  
Waikato Tainui,

Note : below all these are hapu



# Allocation of Settlement quota to iwi based on the QMS and classification



# Inshore (shallow) and deepwater fishstocks

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TE OHU  
KAIMOANA

Continental Shelf

Fishstocks are classified as:

**Inshore** - less than 300m

Allocated by proportions of QMA coastline

**Deepwater** - greater than 300m

Allocated 75% by Iwi population, 25% by coastline

**Highly Migratory Species** - allocated 100% by Iwi population

•300 metre depth

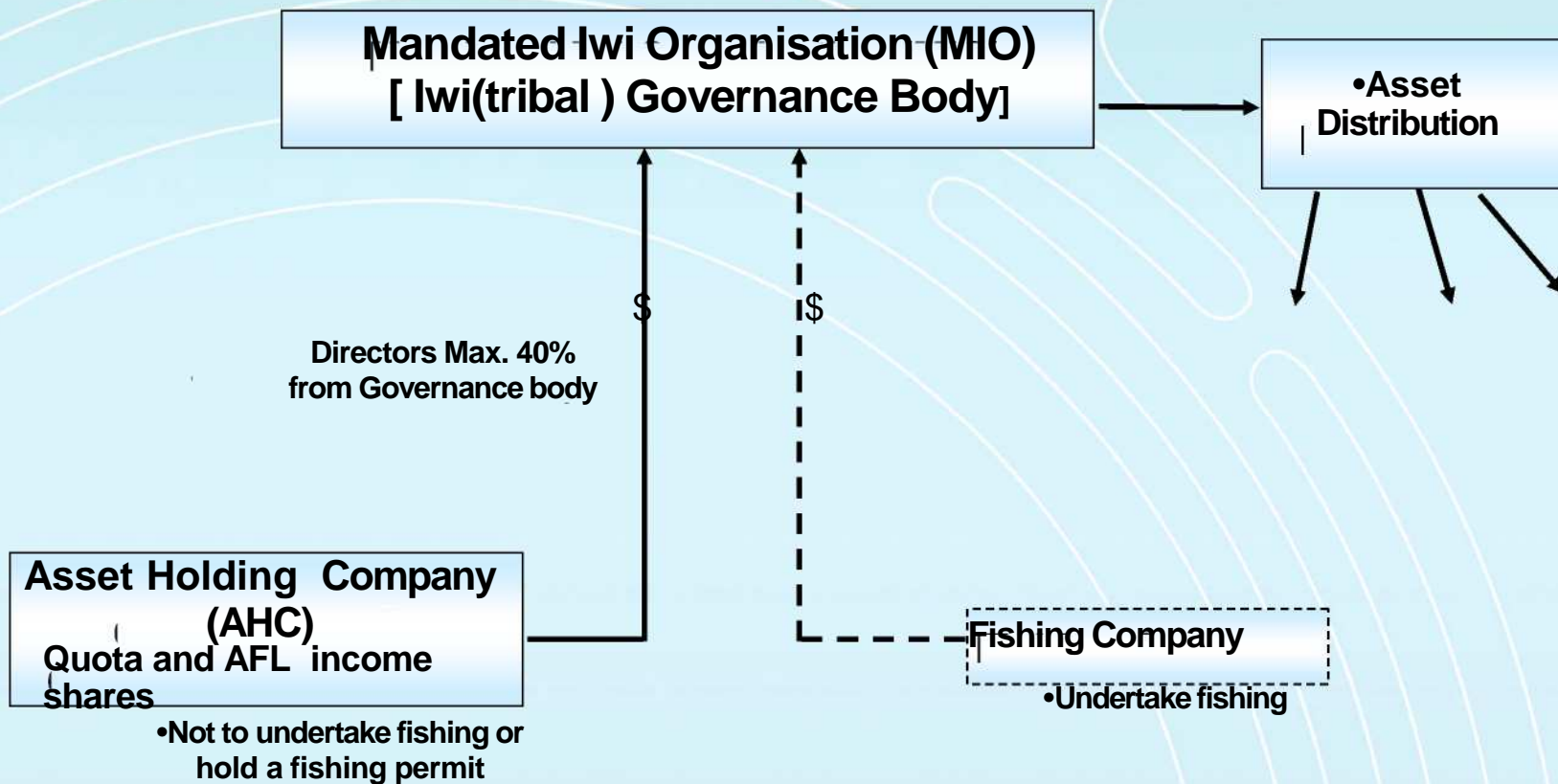
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# Allocation to Iwi – when?

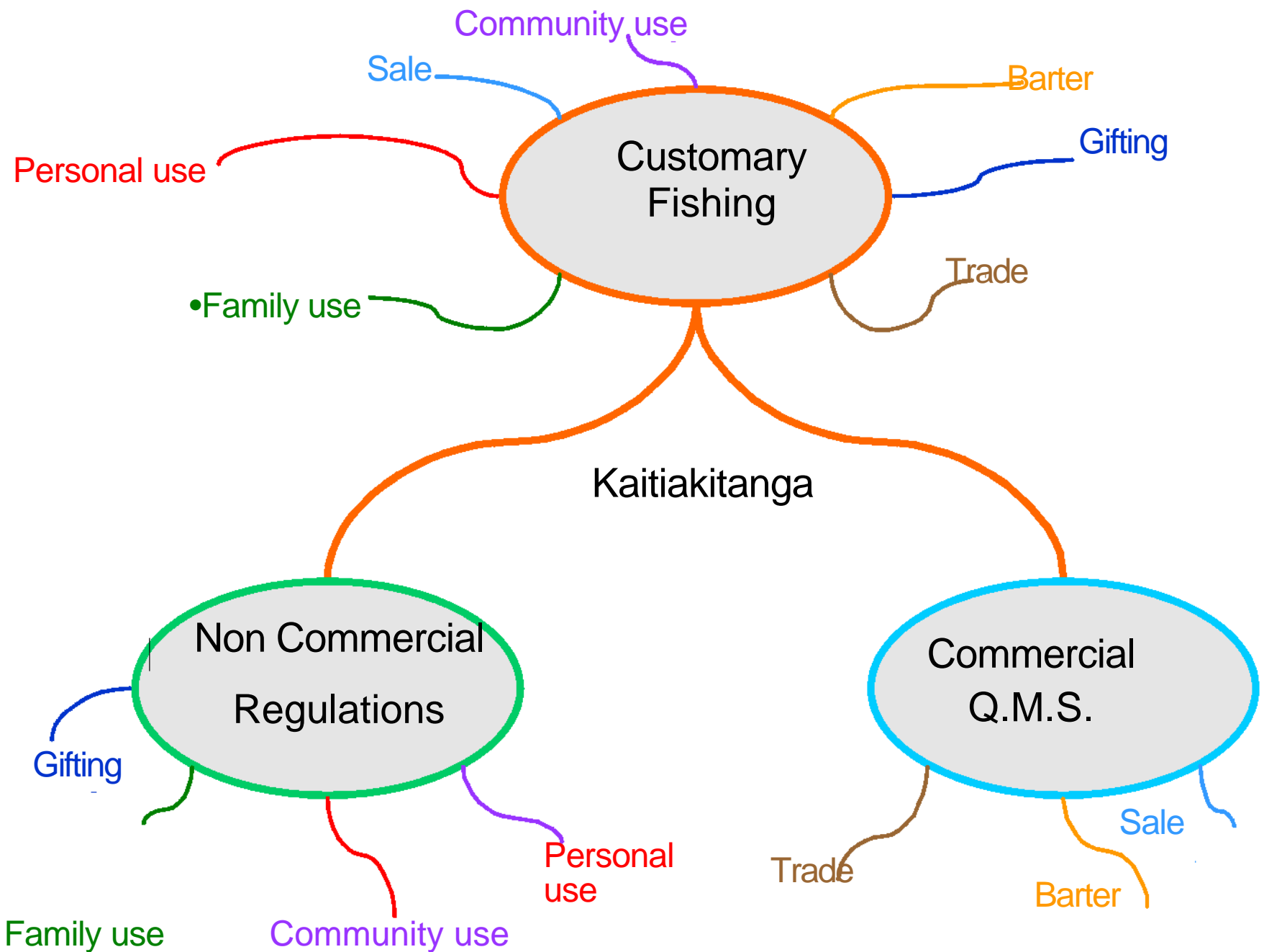
- When Iwi have systems
  - governance arrangements
  - constitutions
  - structures
  - register of members
- When iwi members have ratified those systems; &
- When Te Ohu Kai Moana recognises that these meet MFA requirements
- 55 of 57 recognised and population based assets transferred
- Agreements between MIOs for 75% of coastline

# Iwi Management of Settlement Assets

*When?*







## “The unfinished business of the Fisheries Settlement”

A representative 20% of Aquaculture space rights (from 1992 – as determined by the Crown in 2004)

Delivered to the iwi in a region collectively through Te Ohu Kaimoana

- For Settlement to be complete, there generally needs to be 2 Agreements:
  - An Regional Aquaculture Agreement - between the Iwi Aquaculture Organisations of a region and the Crown.
  - An Iwi Allocation Agreement - between the Iwi Aquaculture Organisations of a region.

# Māori Commercial Claims Aquaculture Settlement

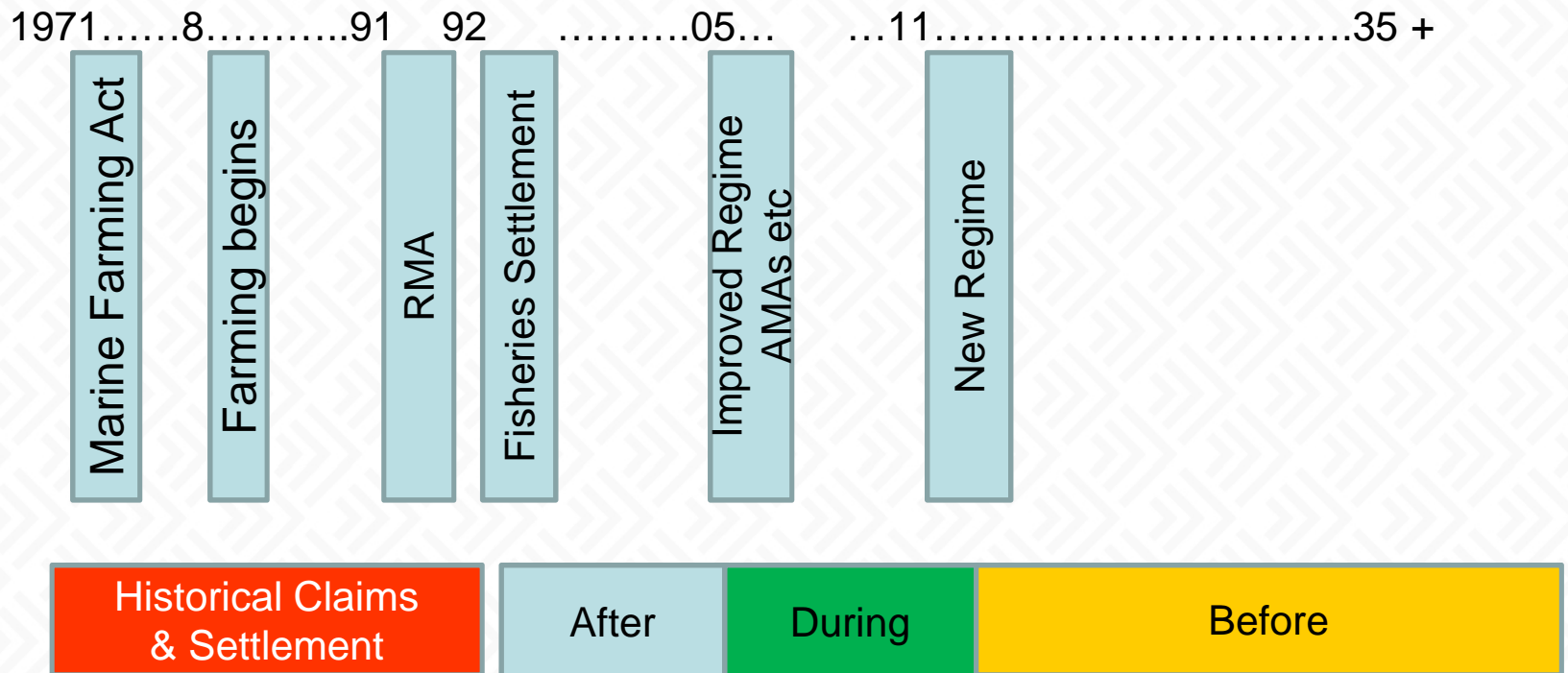
There have been three phases of settlement under the Māori Commercial Aquaculture Claims Settlement Act. Under each phase iwi might receive different assets to settle the Crown's commercial aquaculture obligations of a representative 20% of the total approved space.

	Pre-Commencement Space	Aquaculture Management Areas (AMAs)	New Space
Space approved under regime operating in period	1992 – 2004	2004-2011	2011 onwards
Asset Obligation	Cash only	Space Only	Space, Cash, Other or a combination
	Waikato East \$20m+ interest Great Barrier \$500K Western Firth tbd	Wilson's B 104 ha	Wilson's C (18 ha) Coromandel Fish zone (60ha) Waikato East New Space Auckland New Space



# Aquaculture Settlement provision

Representative space = 20% of total

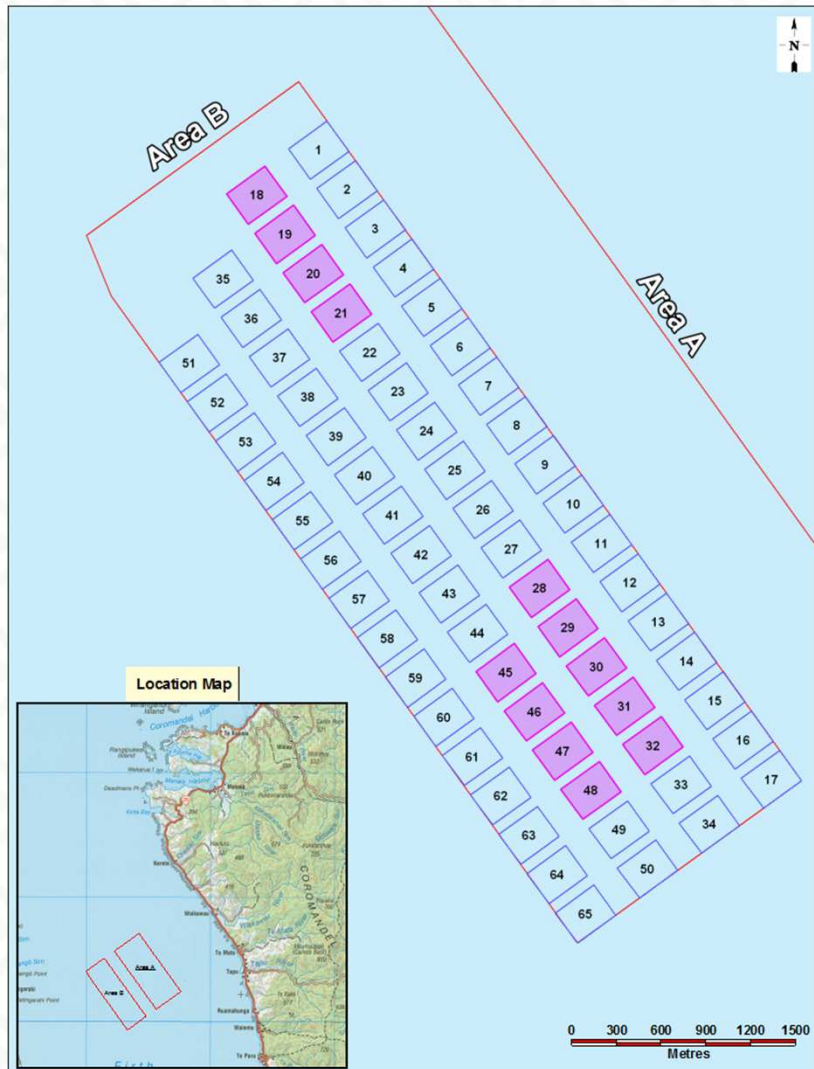


# Pre-Commencement Space

Asset	Value	Status	Iwi Interests
Hauraki Pre-Commencement Settlement	<b>\$20,092,431.00</b> (original amount received from Crown)  <b>\$25,623,590.20</b> (value asset when term deposit matures on 1 Dec 2014)	Te Ohu holds these funds	Hauraki Waikato-Tainui (?)
Auckland – Great Barrier Island	<b>\$500,000</b>	Still remains with the Crown	Hauraki, Ngātiwai, <i>Ngāti Whatua, Waikato-Tainui</i>
Auckland Western Firth	<b>200 ha @ \$100k/ha = \$20M</b>	Applications still being processed	Hauraki, Ngātiwai, Ngāti Whatua, Waikato-Tainui

- For iwi to receive these assets, agreement amongst all iwi that have interests needs to be achieved.

# Interim AMAs – Wilson Bay Area B

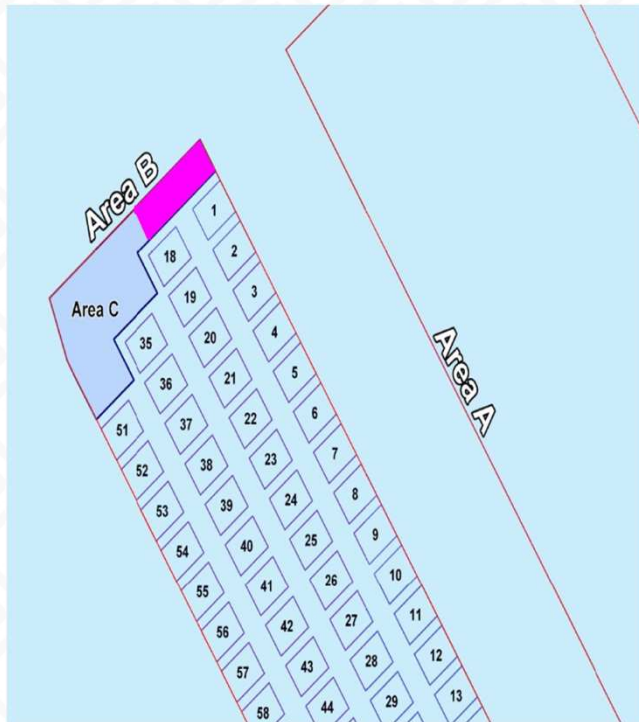


- The Aquaculture Reform, (Repeals and Transitional Provisions) Act 2004 provided for the interim AMAs. This relates to space created between 2004 to 2011. Iwi can only receive space (authorisations) under this settlement.
- Within the Waikato region, there was one AMA established: Wilson Bay - Area B.
- Te Ohu holds the authorisations for Blocks 18-21, 28-32 and 45-48.
- For these assets to be transferred, iwi that have interests in this area need to agree how these authorisations will be allocated.



# New Space Wilson Bay Area C & Coromandel Marine Farming Zone

- Wilson Bay – Area C (18ha) and the Coromandel Marine Farming Zone (60ha) were established by the aquaculture reforms in October 2011.



Wilson Bay - Area C

- These areas are considered to be new space and therefore a regional agreement is required before authorisations can be transferred.
- The authorisations for these areas remain with the Regional Council.



Coromandel Marine Farming  
Zone



# New Space Regional Aquaculture Agreements

- Now we move into the new space settlement which looks to settle space that is created after 1 October 2011 and into the future.
- In order to protect the potential value of the iwi entitlement in respect of anticipated new space and, in particular, to ensure that that entitlement could be delivered, it was seen as important that regional agreements be forward-looking, not just retrospective.
- One will need to be developed for the Waikato East region and one for the Auckland region.

# New Space Regional Aquaculture Agreements

- Regional Settlements are prospective and ongoing.
- Requires forecasts of future growth and value of that growth
- The Act provides that the Crown must ensure that iwi are provided with settlement assets that are representative of 20% of all anticipated new space in each region by:
  - Providing iwi with authorisations over particular space in the coastal marine area (CMA), plus a sum of money to reflect the value difference to iwi between obtaining a resource consent under the 2004 regime compared to the 2011 regime; or
  - Paying iwi the financial equivalent of that space; or
  - Entering into one or more regional agreements with the iwi of the region (which can include any or all the above).
- Authorisations (and ‘top-up’) do not include a resource consent.  
‘Top-up’ is cash to recognise value difference to iwi resulting from greater costs and loss of time to them in the 2011 regime compared with the 2004 regime the Settlement is based on

# Space forecast and valuation

- This requires forecasting of how much new aquaculture space will be created out into the future for what species and in what regions. This requires estimating:
  - for all aquaculture species how much NZ aquaculture will be sold in 2035;
  - how much existing consented space will be developed;
  - what the productivity of that and any new space will be;
  - in which regions will that development occurand then
- What is the value of that space
  - this requires an assessment of when development will happen; and
  - decisions on how to discount future earnings back to current values

- Te Ohu Kaimoana as trustee has been :
  - working at a regional level with representatives of each Iwi Aquaculture Organisation
  - working at a national level with representatives of each region (National Iwi Steering Group)
  - using several key experts to assist; and
- collaborating with MPI on the national workstreams - space forecasting, valuation and review



# National Forecast to 2035

## Settlement is 20% of this

National Growth By 2035 (GWT)				
	Mussels	Oysters	Salmon	
	129,241	2,479	21,697	
Regional Growth by 2035 (ha)				
REGION	Mussels	Oysters	Salmon	Total new space by region
Northland	210	170	-	380
Auckland	270	80	-	350
Waikato	652.2	65	-	717.2
Tasman	550	-	-	550
Marlborough	330	20	136	486
Canterbury	50	-	25	75
Southland	60	-	23	83
West Coast	20	-	-	20
Rest of North Island	60	20	-	80
Chatham Is.	8	-	-	8
Total new space Nationally	2210.2	355	184	2749.2



# Aquaculture Settlement Assets

## Waikato East

- While iwi consider their options for new space, they need to also recognise that they already own some aquaculture space and there are outstanding aquaculture settlement assets that are yet to be allocated to iwi. These assets include:

Asset	Value	Status	Iwi interests
New Space	130.44ha mussels 13ha oysters	To be negotiated with the Crown Authorisations + top-up or Cash or both Needs to be included in NSRAA	Waikato-Tainui? and Hauraki
Coromandel Fish Zone	60ha	Authorisations sit with the Regional Council Space only Agreement on allocation still required	
Wilson C	18ha	Authorisations sit with the Regional Council Space only Agreement on allocation still required	
Marine Farming Zone – Wilson Bay Area B	104 ha)	Te Ohu holds these authorisations on behalf of the iwi Space only Needs agreement on allocation	
Hauraki Pre-Comm Settlement	currently \$25,069,721.01	Currently sits with Te Ohu and is on a term deposit incurring interests, due to mature 1 December 2014. Needs agreement on allocation	
Ownership outside Settlements	Up to 140 ha mussels  Up to 140 ha mussels	Partially developed  Partially developed	Hauraki Fishing Group Tikapa Moana

# Aquaculture Settlement Assets

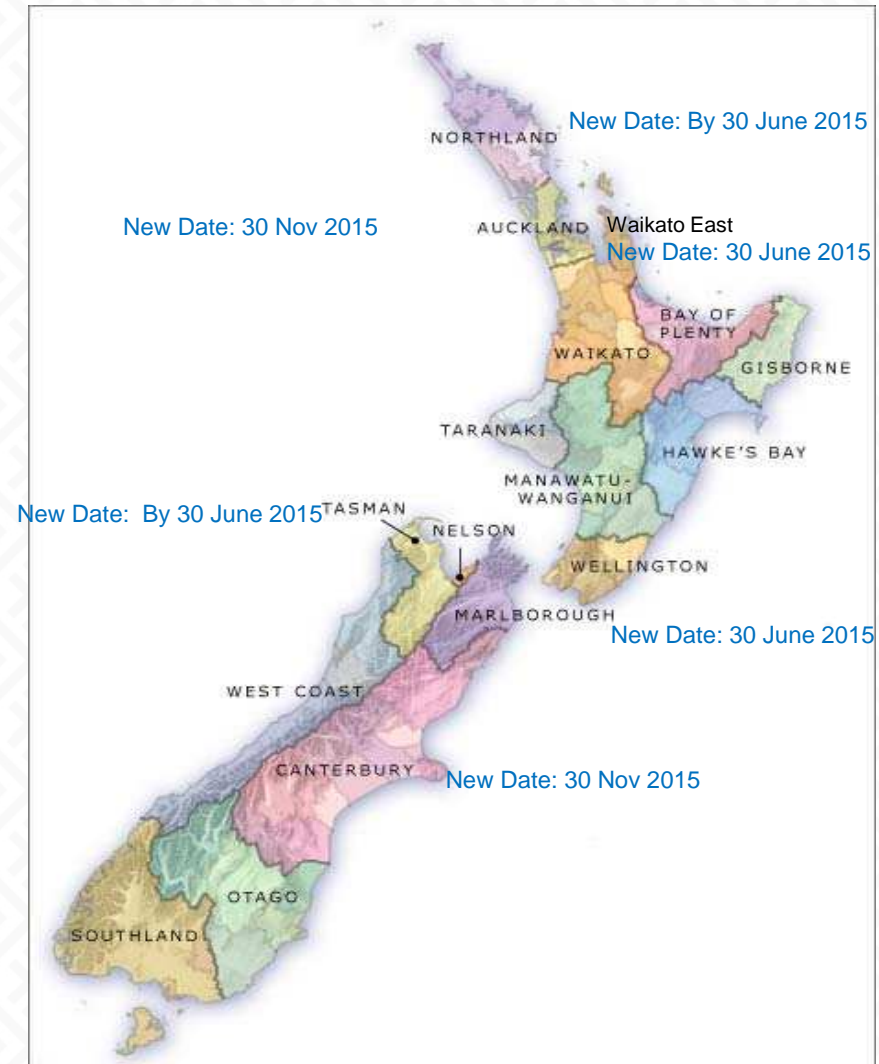
## Auckland Council

### Auckland Region

Asset	Value	Status	Iwi interests
New Space	54ha mussels 16ha oysters	To be negotiated with the Crown	Waikato-Tainui, Hauraki, Ngāti Whatua, Ngāti Wai
Pre-Comm Agreement – Great Barrier Island.	\$500k	Assets remain with the Crown (Waikato-Tainui and Ngāti Whatua acknowledge that they have no interests in the Great Barrier Island).	
Pre-commencement	Up to 200ha	Consent for 1000 ha expected in next few years	Waikato-Tainui, Hauraki, Ngāti Whatua, Ngāti Wai

# Timeframes for New Regional Aquaculture Agreements

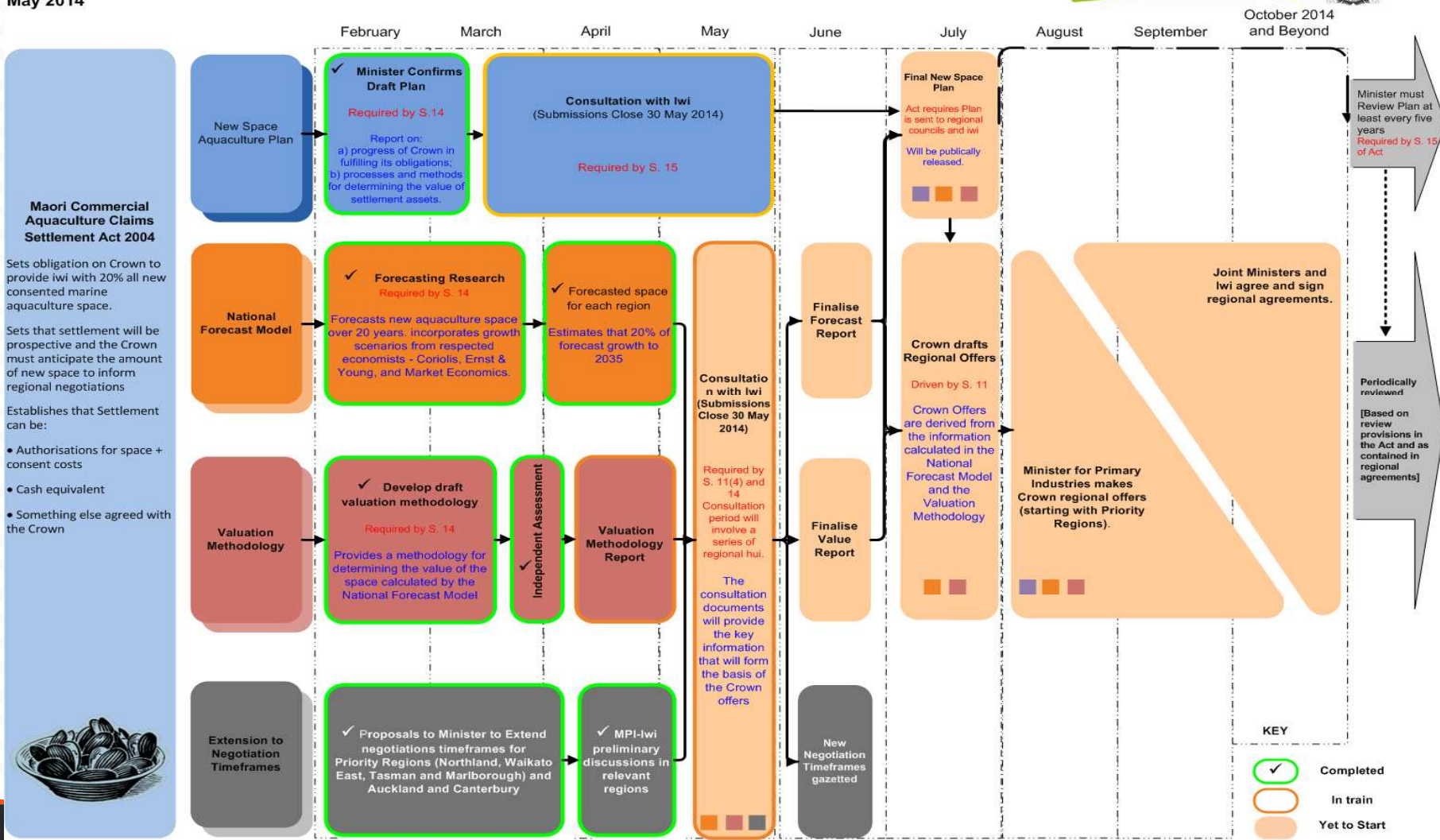
- The Ministry has gazetted the new timeframes for completing NSRAA with the different regions.
- This reflects the fact that the Crown and iwi could not negotiate NSRAA within the June 2014 timeframe.
- Despite the extension to timeframes MPI will use best endeavours to negotiate regional agreements.
- Crown offer provided to iwi on 8 August 2014.



# Journey to achieving Regional Agreements

## Maori Commercial Aquaculture Claims Settlement Act 2004 Getting to Regional Agreements on New Commercial Aquaculture Space May 2014

Ministry for Primary Industries  
Manatū Ahu Matua





# Iwi Māori Aquaculture in Hauraki Gulf

22 August 2014

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