

Founding Cultures:

The cultures of Cook's and
Kupe's peoples in modern
New Zealand

Justice Joe Williams,
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Two founding cultures...

- ▶ **Kupe's people**
- ▶ Culture based on whanaungatanga
- ▶ That culture evolved in response to this land
- ▶ People became kaitiaki
- ▶ And so became Maori



Two founding cultures...

- ▶ **Kupe's people**

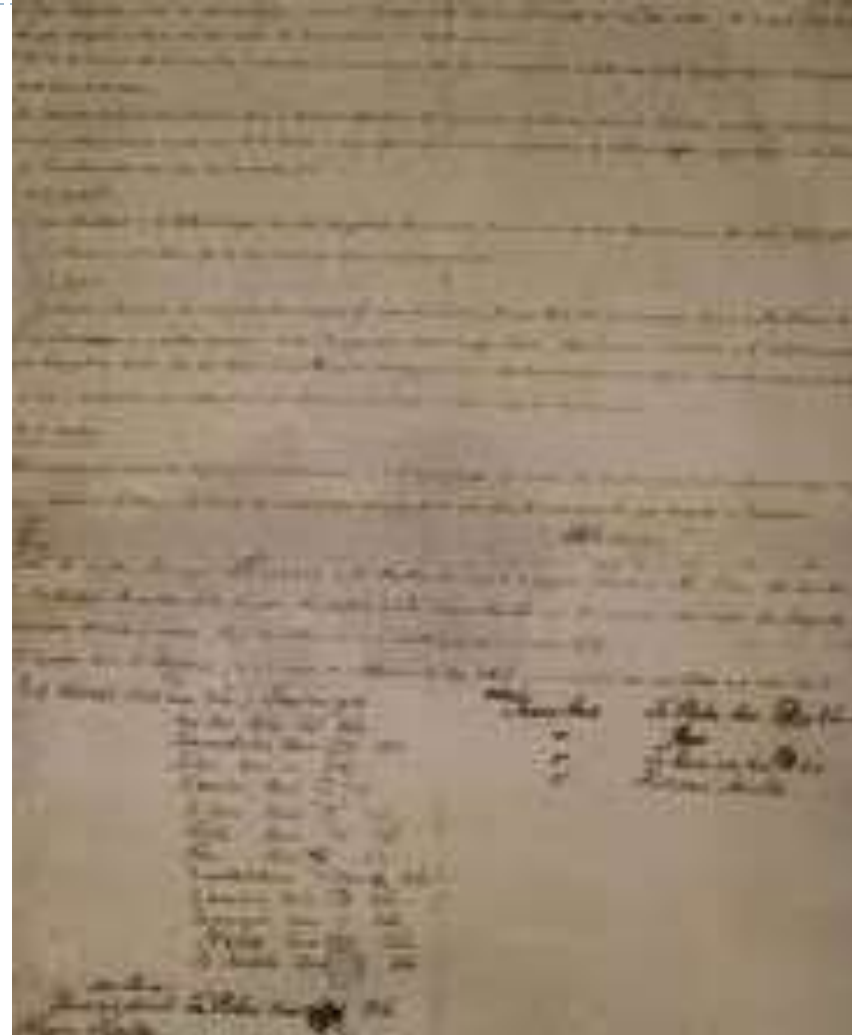
- ▶ Culture based on whanaungatanga
- ▶ That culture evolved in response to this land
- ▶ People became kaitiaki
- ▶ And so became Maori

- ▶ **Cook's people**

- ▶ Relate to environment through property rights and each other through contract
 - ▶ Acquire knowledge through empirical science and deductive reasoning
 - ▶ Protect rights through rule of law
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Two founding cultures meet...

- ▶ **The Treaty promise**
 - ▶ *Partnership/rangatiratanga*
- ▶ **The reality**
 - ▶ *One culture privileged*
 - ▶ *The other sidelined*



Our findings: *Ko Aotearoa Tēnei...*

- ▶ **About contemporary relationships**
- ▶ **Development, not compensation**
- ▶ **Place of Maori culture now and in future**



Our findings: *Ko Aotearoa Tēnei...*

- ▶ **Treaty interests**
 - ▶ *Control is key*
 - ▶ *Kaitiaki interests balanced alongside others*

- ▶ **NZ at a crossroads**
 - ▶ *Economic disparity*
 - ▶ *Growing Māori population*
 - ▶ *A choice about the Treaty relationship*



Perfecting the partnership

- ▶ **A way forward for the Treaty relationship**

- ▶ *Beyond grievance and 'original sin'*
- ▶ *To an ongoing partnership based on good will and bringing mutual advantage*
- ▶ *We win or lose together*
 - ▶ *Mai i nga Kuri a Whareki ki Tihirau*
 - ▶ *I Aotearoa nui tonu*



Resource management

- ▶ **Kaitiaki relationships with environment are a source of Maori culture**
- ▶ **RMA gives local authorities and other Crown delegates control of those relationships**



Resource management

- ▶ **Ownership of fungible resources is largely a cultural distraction**
- ▶ **Law should deliver kaitiaki:**
 - ▶ *Control...*
 - ▶ *Partnership...*
 - ▶ *Influence...*
 - ▶ *Through a fair and transparent balancing process*
- ▶ **Existing RMA mechanisms not used**
- ▶ **Some Treaty settlements deliver this but inconsistently**



Iwi Resource Management Plans

- ▶ Iwi involvement compulsory, formal, pro-active
 - ▶ Funded capacity building
 - ▶ Formal and compulsory DC and RC negotiation
 - ▶ Agreed portions binding rules and policies
 - ▶ Un-agreed portions appealable or left to influence
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Council Accountability

- ▶ MfE and councils to account for use (or non-use) of ss33, 36B and 188 to Parliament via PCE

Commitment to Capacity Building

- ▶ MfE to fund IRMP capacity building

National Policy Statements

- ▶ Need for NPS on Maori participation in RMA to give firm guidance to councils and MfE
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Department of Conservation

- ▶ **DOC controls surviving remnants of pre-Treaty environment**
 - ▶ *Conservation of places*
 - ▶ *Conservation of wildlife*
 - ▶ *Customary use*
 - ▶ *Commercial opportunities – contracts and concessions*



Department of Conservation

- ▶ **DOC is required to interpret its legislation to 'give effect to' Treaty principles**
- ▶ **But policies and practices 'write down' this provision**
- ▶ **Control usually stays with DOC**



Department of Conservation

- ▶ **Partnership is the starting point**
 - ▶ *Survival of species is paramount*
 - ▶ *Tangata whenua have the right to exercise kaitiakitanga*
- ▶ **Amend conservation and wildlife laws**
- ▶ **Move towards 'kaitiaki conservation'**
- ▶ **Already done in settlements**



Can you see the island?