3. KAURI AND THE WHALE

Oceanic Matter and Meaning in New Zealand

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Geopolitically, demarcating the borders of ocean jurisdictions granted under the 1982 United Nations Convention on the Law of the Sea (UNCLOS) has stabilized many international disputes over ocean resources and boundaries. Offshore jurisdictions conceived by UNCLOS are delineated as distances from coastal baselines, marking a fixed land/sea line of reference. Yet Aotearoa New Zealand has struggled with translating and implementing UNCLOS, as many in the country question the very division of territory and property along a land/sea binary. New Zealand legislation written to determine rights and responsibilities offshore has sparked fierce debates and protests, demonstrating not only the ambiguity within the multiple understandings of ocean space written into UNCLOS, but also that this treaty is categorically incompatible with other ways of knowing and practicing ocean spaces. Specifically, the coastline bisection and subsequent nationalization of submerged lands is in direct conflict with indigenous Māori cosmologies and tribal land rights that interpret landscapes and seascapes as an interrelated whole. Environmental politics stemming from this worldview call into question dominant Western and colonial epistemology and ontology and inform radically new frameworks for deriving sovereignty and practicing environmental management.

Interpreting and implementing the jurisdictions drawn up in UNCLOS have been an experiment in offshore governance through conflicting performances of territory and sovereignty in the ocean. Grappling with the ocean's materiality and dynamism, as a chaotic and flowing field, enacting the territorial logic of baselines has created social and political divisions in New Zealand leading to the ongoing controversies surrounding the division of offshore space and management. Focusing on disputed uses of offshore spaces necessarily confronts the

inherent ambiguity of the social and political process of partitioning watery space (Baldacchino 2010). The geophysical, hydrological, and biological materiality and mobility of oceans partially influence the logic of UNCLOS and national enactments of the international treaty, even as attempts are made to legislate around these intrinsic ocean features. Regulators must contend with the agency of the living and nonliving natures as they enact static borders among mobile bodies. Ships on the surface, whales, and human bodies, whether on deck or partially submerged, engender relational social and legal meanings, which have been enrolled in multiple and conflicting territorializations of the ocean. Categorical distinctions between landscapes and seascapes, static and mobile structures and bodies, human and nonhuman actors, have resulted in a complex matrix of offshore rights and responsibilities (Sammler 2016).

Enacting these ontological and ethical divisions counters the UNCLOS declaration, in its preamble, that "the problems of ocean space are closely interrelated and need to be considered as a whole." This contradiction, and its subsequent partitioning affects, is particularly significant in Aotearoa New Zealand, where "unlike western models of property, Māori relationship to the land is ontological, so that one's sovereignty is formed out of a genealogical relationship to the land, sea, and to nonhuman species" (DeLoughrey 2015, 356). This chapter follows calls to attend to multiple geopolitical, biopolitical, and ontological dimensions toward a rigorous oceanic studies (Blum 2010; Helmreich 2009; Lehman 2013; Steinberg and Peters 2015), applying an onto-epistemological framework to incorporate how discursive practices are causally related to material phenomena. In doing so, it makes explicit how the practices of knowing and being are entangled, to include an "understanding of the roles of human *and* nonhuman, material *and* discursive, and natural *and* cultural factors in scientific and other social-material practices" (Barad 2007, 26; emphasis in original). This chapter thinks beyond how ocean life and nonlife are imagined toward how they are practically enrolled in various ways to enact borders, perform territories, produce political spaces, and make claims of sovereignty (see also Povinelli 2016). This includes careful examination of the shifting legal arguments made to justify emergent ocean uses, as well as how the material engagement of the ocean can be used to resist extractive industry, allowing alternative legalities to emerge.

The following discussion begins by investigating the complexities and controversies that emerge from the oceans of New Zealand, beginning with the kinship of the kauri and the whale, emphasizing the ontological differences between Western categorizations and Māori cosmologies. The implementation of land and sea divisions via baselines has led to political unrest in Aotearoa

New Zealand and the rise of an independent Māori parliamentary party. Struggles over offshore indigenous property rights have been taking place among proposed development of seabed mineral projects. This chapter considers baselines as a political technology (Elden 2010). This means reading the baseline as a calculative apparatus that enacts cuts to refashion lively ocean worlds into divisible spaces and objects in direct opposition to Māori tribal holdings that span mountains to sea. Legislation nationalizing the foreshore and seabed, along with projects seeking to mine offshore, have created rifts in New Zealand society at the center of ongoing protests. Some protestors have taken their actions offshore. These protestors are meeting with challenges to their right to protest on and in the sea. While the freedom of navigation is enshrined in the UNCLOS treaty, particular ships—nuclear vessels, whaling boats, and activist flotillas—have encountered restrictions, demonstrating the difficulties and ambiguities of emergent offshore governance. Looking to specific moments, as the New Zealand government continues to produce legislation to (re)shape an ocean governance apparatus, this chapter will demonstrate how these events ground politics within material and lived oceans.

This research partially draws on four months spent in New Zealand in the austral winter of 2014, hosted by the University of Auckland. The in-country data collection included roughly thirty interviews with government employees from such institutions as the New Zealand Environmental Protection Authority, the New Zealand Petroleum and Minerals, and the Ministry of Māori Development, as well as leading national scientists and academics; participation in conferences, workshops, and debates; and visits to archives, museums, black-sand beaches, fern forests, and kauri stands.

Kauri Rāua Ko Parāoa (Kauri and the Sperm Whale)

Ina rā o nehe	In times long past
Te ūnga o Parāoa ki uta	A sperm whale came ashore
Te kī nāna ki a Kauri	And spoke thus to the kauri
E Kau! Hoake tāua	Kauri! Come with me
Ki tai te tio nā te mauru.	to the sea which is fresh and cool.
Kāo! I tā Kauri	No! Said the kauri
Ngākauria koe te taitai	you may like the sea
Engari au te tū iho nei	but I prefer to stand here
Ōkū wae ki rō onetapu.	with my feet in the soil.
Heoi e tā Parāoa	All right said the whale
Tēnā ia, whakawhitia ngā kiri.	then let us agree to exchange our skins.

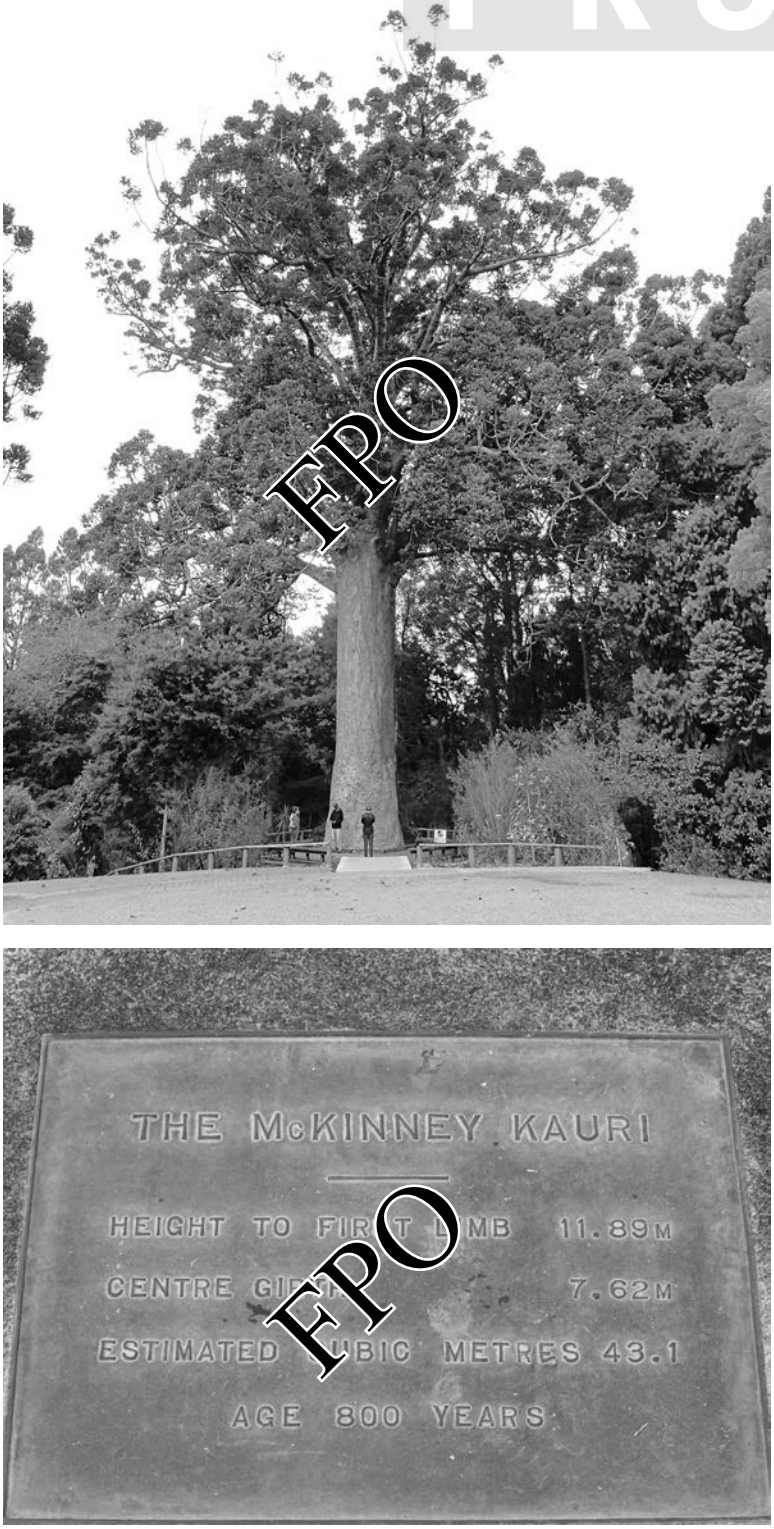
Nā reira ia	So that is why
Te kiri rākau kauri	the bark of the kauri
I rauangi, i kī nā i te hinū.	is thin and full of resinous oil.

—WALL TEXT, Te Ao Tūroa (Māori Natural History Gallery), visited August 17, 2014

While dominant understandings of a land-sea binary were codified by international law, Māori cosmologies and mythologies do not share this Western ontology nor necessarily divide natures—materially, practically, or politically—as demonstrated by tribal governance of areas that regard customary rights from mountains to sea. As Garth Harmsworth and Shaun Awatere explain, a fundamental tenet of Māori belief, *whakapapa*, engenders "connection, lineage, or genealogy between humans and ecosystems and all flora and fauna" (2013, 275). This includes a relationship with environments as a whole, a network of connections, as defined by *ki uta ki tai*, "a whole-of-landscape approach, understanding and managing interconnected resources and ecosystems from the mountains to the sea" (Harmworth and Awatere 2013, 275). Whakapapa situates both human and more-than-human bodies and materials within a smooth framework of kinship, entanglement, correspondence, exchange, and dispersed agency. One account, central to Māori mythology, offers some insight into the smooth exchange of materials, bodies, and narratives between the *hydro* and *geo* spheres by the shared origin account of kauri and whale.

Indigenous to New Zealand, kauri (*Agathis australis*) are towering trees reaching upward to fifty meters (see figures 3.1 and 3.2). Māori oral traditions present kauri to be the father of the sperm whale. Due to their incredible size, both are esteemed as *rangatira* (chiefs). Beyond their immensity, they are comparable in their smooth, yet textured, greyish-brown exterior, both bark and skin enclosing valuable oils, where, "kauri gum is like the ambergris found in the intestines of the sperm whale" (Tāmaki Paenga Hira [Auckland War Memorial Museum], visited August 17, 2014). Due to its combustibility, Māori long used kauri resin for cooking and lighting, similar to how spermaceti, the oil of the sperm whale (*Physeter microcephalus*), was used in early Western industrial nations. Colonizing Europeans harvested and sold kauri timber, known for its resistance to seawater and sturdy, straight-grained lumber for masts and spars. Used for various wares domestically and abroad, this tree, like the whale, was exploited to near collapse in the nineteenth century.

Other Māori narratives also bridge land and sea, employing human and more-than-human entities that openly exceed or exchange categories. The two main islands that constitute Aotearoa New Zealand are not presumed to be static land within a moving sea but, rather, as moving amid the ocean as canoe



FIGURES 3.1–3.2. The 800-year-old McKinney Kauri, with close-up of marker, Parry Kauri Park, Warkworth, New Zealand. Photos by author, July 6, 2014.

and fish. Epeli Hau'ofa offers some broader Pacific context when he writes, "Continental men, namely Europeans . . . introduced the view of 'islands in a far sea' . . . tiny, isolated dots in a vast ocean. . . . Our ancestors, who had lived in the Pacific for over two thousand years, viewed their world as 'a sea of islands' rather than as 'islands in the sea'" (1994, 153; see also DeLoughrey 2015). This continental gaze forms the dominant hegemonic view of oceans as seen from land, drawing lines of division between land and sea, between kauri and whale. Categorical binary divisions as an apparatus of settler colonial governance of difference and markets are defined by Elizabeth Povinelli (2016) as geontology. Povinelli's understanding of geontopower ensures the enclosure of life (*bios*) from nonlife (*geos*, *meteoros*) as a "way of sorting the world [that] makes sense only from the disciplinary logic of geology, a disciplinary perspective that relies on natural types and species logics" (Povinelli 2016, 11). Applied to ocean spaces and resources, divisions are employed to categorically enclose land (*geos*) from sea (*hydros*), human (*anthropos*) from animal (*zoe*), and surface seas (*pelago*) from deep ocean (*abbyso*) and seafloor (*bathy*). As Māori traditions instead draw lines of connection, instituting cuts between land/sea, human/nonhuman, creating discrete, bounded entities, goes against Māori whakapapa. The legislative implementation of these cuts in the form of baselines and offshore resource appropriation by the New Zealand national government led to widespread protest. Resulting political actions demonstrate the divergent ontologies, worlds at odds, "the world in which the dependent oppositions . . . are sensible and dramatic and the world in which these enclosures are no longer, or have never been, relevant, sensible, or practical" (Povinelli 2016, 16).

Developing Divisions

In a contemporary context, borders of nation-states and the spatial category of sovereign territory are often imagined as predominantly fixed. Politically constructed boundaries can be concealed as wholly technical, or even scientific, affairs, as if a coastline were an essential and stable object. Yet current events are reminders of how national boundaries are produced and in flux, demonstrated by the dredging up of islands in the South China Sea for their associated liquid territories and the shifting of sands across the Singapore Strait, as discussed in Jennifer Gaynor's chapter in this volume, or the disappearing territory, particularly of Pacific Island nations, due to sea-level rise.

Intrinsic to defining ocean boundaries are baselines, the technical division between land and sea. Defined as "the low-water line along the coast as marked on large-scale charts officially recognized by the coastal State" (UNCLOS, Arti-

cle 5), the baseline is a mechanism by which dynamic and shifting coastlines are transmogrified into static political borders. Baselines are geopolitically significant because not only do they provide the foundation for measuring maritime jurisdictions, but they also delimit the outermost extent of a nation's territorial land (Bateman and Schofield 2008). They are therefore a significant part of the discursive means by which the totality of the ocean is disassembled from an interrelated whole and reconfigured as disparate parts.

Following Stuart Elden's (2010) notion of territory as a political technology, made up by techniques to calculate, evaluate, and control both land and sea, the highly technical knowledge employed to delineate offshore territories can be examined alongside the political negotiations involved in making claims on these spaces. Baselines are one apparatus within the political technology for ocean territorialization, an act of measurement that "enacts agential cuts that produce determinate boundaries and properties of 'entities'" (Barad 2007, 148). While represented as natural, approximations of the coastline, baselines create meaning through social-material practices of boundary making; they enact cuts that fashion land and sea spaces into discrete entities. They are the foundational technical and political apparatus used by UNCLOS to partition the ocean. To consider the political technologies used to bound offshore territories, the materiality and mobility of ocean spaces and beings must be addressed. Yet, the national government in New Zealand has struggled to legislate around these issues, and, in response, the partitioning of land and sea through the implementation of baselines and nationalization of the seabed has provoked passionate demonstrations. Controversies persist as seabed mining projects seek to commodify ocean minerals.

Drawing a Line, Creating a Rift

The Foreshore and Seabed Act (2004) claimed all submerged lands and associated resources as property of the Crown, subsuming them under national authority. This became the central focus for political actions over clashing worldviews, one that embraces a Western land/sea binary inherent in ocean jurisdictional boundaries and another based in Māori cosmologies contending that sovereignty extends from mountains to sea. Interpreted as trampling Māori customary title to offshore spaces, the volatile debates stemming from these diverging ideologies triggered vigorous protests, or *hikoi*, in the capital city of Wellington. The rift inherent in this legislation "went off like an atomic bomb in the New Zealand political landscape. . . . These events fractured New Zealand society" (interview, September 4, 2014).[1] The dispute initiated a UN

Special Rapporteur report on human rights and fundamental freedoms of indigenous people (United Nations Commission on Human Rights 2006) and instigated the formation of an independent Māori parliamentary party. The Foreshore and Seabed Act was finally replaced in 2011 by the Marine and Coastal Area (Takutai Moana) Act. This legislation notwithstanding, an incredible amount of contention and confusion continues over the status of ocean spaces and resources.

In implementing parts of the Marine and Coastal Area Act, the Ministry of Māori Affairs (now renamed the Ministry for Māori Development) required *iwi* (Māori tribes) to submit applications to have their customary marine title over marine and coastal areas recognized. Submissions required that Māori prove continued exclusive occupation since the Treaty of Waitangi was signed with the British in 1840. Many iwi refused to participate in proving property rights over places they had never relinquished. Other New Zealanders have been worried they will lose access to the ocean if iwi rights are recognized. A government employee explained, "You gotta sort of tilt your head to the left and squint to get your head around [this act]; whilst no one owns it [the coastal waters], there are a set of rights underneath. First of all, starting from the top, is that the non-ownership applies to the physical stuff, the water column you can do all sorts of things in the water column, fishing and navigation and all that stuff remains. So, all New Zealanders' rights to navigate, recreate, fish, are codified in here" (interview, September 4, 2014). Resource rights and issues of access, in the water and on the seabed, are still being determined as iwi applications, due in 2017, are still being sorted.

Beyond the foreshore, the New Zealand government has contended with questions surrounding ocean resources and access within its expansive offshore jurisdictions. In practice, ocean space allows multiple uses to be stacked on top of one another, opening it up to a complex matrix of rights and responsibilities in both the horizontal and vertical dimensions. As the seafloor is being looked to as the next frontier for large-scale resource extraction, New Zealand has been surveying its offshore riches. The island nation has been one of the first to develop seabed mining legislation and regulatory bodies. This experimental industry aims to cut away chunks of the seabed or dredge up loose materials from the seafloor, crush them, and pump them up to a surface support ship. While there has yet to be a large-scale commercial seabed mining project operating in New Zealand or elsewhere, coalition movements aligning along indigenous and environmental issues have arisen around the ecological damages of these nascent excavation practices. Some have taken their protests to sea, blocking survey and extractive vessels with boats and even bodies. Some

protestors exchange their skins for survival suits to submerge themselves into the sea, employing thick buoyant neoprene, designed for ocean immersion, enclosing a body's trunk and limbs to resist lethally hypothermic seawater. These bodies in the sea have posed new challenges to the government regarding policing within ocean territory, specifically in the arguably ambiguous jurisdictions called the exclusive economic zones (EEZS). Within this watery, dynamic field, the mobility of bodies are guaranteed by UNCLOS, as one of its fundamental tenets to maintain global flows is freedom of navigation. However, as discussed below, some nations want to choose whose bodies, and which ships, are allowed within their EEZS.

Ocean Materiality

The complexities that ocean materiality brings to offshore delimitation and governance are key factors in unpacking the logic of UNCLOS. The mobility of water bodies, ship bodies, and animal bodies within, across, and through fixed jurisdictions forced the creation of new spatial logics to control ocean resources. Oceanic studies in the social sciences and humanities have raised critiques about the ocean being theorized as a frictionless space for globalization, as merely a metaphor for fluidity, mobility, and contingency (Bélanger 2014; Blum 2010, 2013; Helmreich 2011; Lambert, Martins, and Ogborn 2006; Steinberg 1999). Yet determined materialist approaches have embraced oceans as water, waves, flows, and energies, addressing the more-than-human physical characteristics that exert powerful agency. Some scholars include the biological as important components to engage the oceanic, addressed through human-coast or human-ship experiences (Brown and Humberstone 2016; Lehman 2012; Peters 2012) or more-than-human sea animal studies (Helmreich 2009; Johnson 2016). In this volume, Astrida Neimanis describes the ocean is a chemical solvent suspending toxic materiality, an impermanent benthic depository of chemical weapons. In Philip Steinberg, Berit Kristoffersen, and Kristen Shake's chapter, the sea ice confounds legal objectification by transcending the abstractions of earth-system disciplines. More than just conduit between atmo-, bio-, geo-, and hydro-spheres, the ice edge is always slipping between systems as its dynamically changes states—solid, liquid, gas—failing to collapse to the dimensionality of a bounded line. As with the ice, the political and legal regimes created to manage oceans only partially and sporadically confront ocean materiality.

After years of deliberations, the UNCLOS treaty produced a jurisdictional matrix representing a horizontal gradient of diminishing sovereignty with

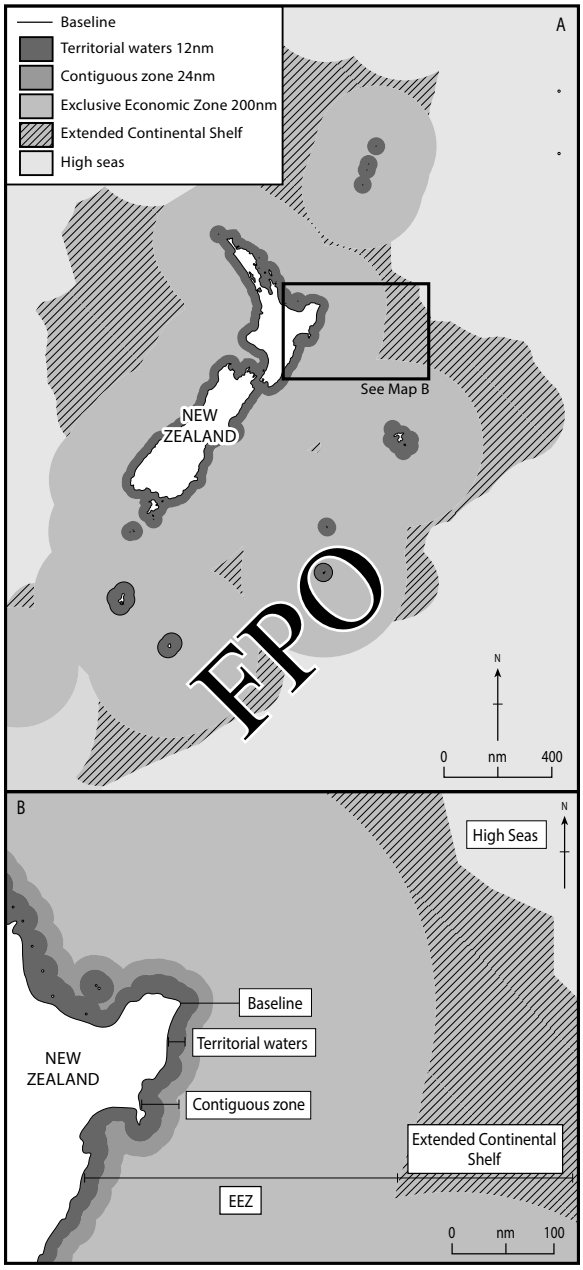


FIGURE 3.3. UNCLOS jurisdictions: territorial waters (12 NM), full territorial sovereignty; contiguous zone (24 NM), customs enforcement; exclusive economic zone (200 NM), sovereignty over resources but not control of navigation. Image by author. Data source: United Nations, 2016.

increasing distance from land (Sammler 2016); where full national territorial sovereignty is granted nearshore, a different bundle of spatial rights and responsibilities is granted further offshore (see figure 3.3). Offshore space is largely designated as EEZs, a sort of hybrid jurisdiction where coastal states are granted sovereign rights over resources but not outright sovereignty over the space itself (Jacques and Smith 2003). Predominantly the objects of state sovereignty are resources "for the purpose of exploring and exploiting, conserving and managing . . . whether living or non-living" (UNCLOS, Article 56), not the space containing them, enabling extraction without the full territorial responsibility. At the same time that offshore resources are secure, all other states maintain the right to peacefully navigate unrestricted through all nations' EEZs (UNCLOS, Articles 58 and 87), posing a conundrum for states reluctant to abandon the idea of full territorial sovereignty. As will be demonstrated below, the temptation to fully territorialize the EEZ, to establish the same sovereign control as on land, has proven difficult for many countries—New Zealand for example—to resist.

Ambiguity and Overterritorialization

The attempted balance of state's rights within EEZs has prompted assorted incidents. Despite guaranteed navigational rights, ships have indeed been stopped, deterred, or taken to international court when passing through another nation's EEZ jurisdiction. A routine function of states, to regulate borders, restrict access, and manage crossings, makes governments reluctant to relinquish offshore territorial sovereignty. Examples include various notifications or restrictions within an EEZ, such as the EU banning single-hulled heavy grade oil tankers from accessing their ports and France unilaterally demanding the interception of ships releasing ballast water out to ninety miles from shore. In fact, the International Maritime Organization (IMO) can be petitioned to designate Particularly Sensitive Sea Areas (PSSAs) and change shipping routes to create areas to be avoided for the protection of "ecological, socio-economic, or scientific attributes" (International Maritime Organization 2005). Some coastal states have petitioned to designate almost their entire EEZ as a PSSA (Caron and Scheiber 2014). Jon Van Dyke discusses this trend as a new norm of customary international "that allows coastal states to regulate navigation through their EEZ based on the nature of the ship and its cargo" (2005, 121).

While the EEZ is designated as high seas for navigational purposes, open to all states and common to all (UNCLOS, Articles 58 and 87), ambiguities emerge in managing the conflicting rights and responsibilities of a coastal state and navigating state. Despite UNCLOS expressly proclaiming that ocean spaces

"need to be considered as a whole" (UNCLOS, Preamble), the jurisdictions it prescribes nationally compartmentalize resource management. Yet, at the same time, coastal states have limited recourse under this treaty to address transnational environmental fallout from ship pollution and the transportation of hazardous materials, hazards exacerbated by the ocean's ability to mix, dissolve, and circulate pollutants, in contradiction to the intended fixity of borders, as if the discrete political units act as physical barriers. In the case of navigation, the political boundaries must be permeable. By this logic, ship activities are regulated by the IMO, not UNCLOS, releasing them from governance within the domain of territorial sovereignty. The slow creep of mining and hydrocarbon development farther and farther offshore is only one of many anxieties inherent in the proliferation of ocean uses. The history of whaling and nuclear testing in the Pacific also gives rise to specific apprehensions in the region (Vltchek 2013).

A Nuclear Past

The devastating nuclear testing history in the Pacific motivated the New Zealand Parliament to pass the Nuclear Free Zone, Disarmament, and Arms Control Act in 1987. This law bans nuclear-powered or nuclear-armed vessels from using ports or navigating New Zealand's internal waters and territorial seas as well as the airspace above New Zealand's territory. This legislation caused friction with other nations, especially the United States, which terminated its security commitments to New Zealand, agreed upon in the 1951 Australia, New Zealand, United States Security Treaty (ANZUS). As it is the policy of the United States to neither confirm nor deny the existence of nuclear weapons on its warships, this legislation effectively banned all American Navy ships. The first US Navy ship to enter New Zealand's territorial waters after creation of the nuclear free zone wasn't until 2016, almost three decades later. While not publicly confirmed as a non-nuclear propelled or armed ship, New Zealand's prime minister restated the country's nuclear-free policy to soothe any public concerns elicited by the *USS Sampson*'s visit.

In 2000, New Zealand's Green Party attempted to pass the Nuclear Free Zone Extension Bill, amending the original legislation to include the EEZ. Their justification was that, "under the Law of the Sea, ships have some rights of navigation through this zone; yet if those ships carry a cargo which could contaminate marine resources for centuries, this creates a conflict with the purpose of the EEZ. This bill resolves that conflict, for NZ, in favour of environmental protection" (Green Party of Aotearoa New Zealand 2000). This

amendment lost in Parliament in 2002, but it would have prohibited nuclear-propelled ships and ships carrying radioactive fuel or waste from transiting their 4-million-square-kilometer EEZ and demonstrates that interpretations of navigation within this jurisdiction are multiple. Despite UNCLOS's definition of fixed and distinct boundaries, the EEZ is a hybrid space being performed by various actors, and the product of ongoing political negotiation.

Whalers Not Welcome

More recently, New Zealand has expressed its view that Japanese whaling vessels are not welcome to transit their EEZ. In 2014, when a whaling vessel did enter, the Japanese ambassador was called to the capital for a rebuke by New Zealand's foreign minister, Murray McCully. He conveyed, "the deep disappointment of the New Zealand Government that Japanese whalers had been insensitive to the views of New Zealanders by entering New Zealand's EEZ" (McCully 2014). While at the same time admitting that the "Government has no legal means of excluding any vessel . . . [and] while the Japanese vessel has a right to pass through our EEZ, it is disappointing a request not to do so was ignored" (McCully 2014). The regulation of whaling vessels is a stand-in for the desire to regulate whale bodies—or the capture, slaughter, and transport of them—aligning with the justification of environmental protection in the declaration of a nuclear-free zone.

While New Zealand tests it ability to exclude ships from transiting its EEZ, operationalizing gaps and ambiguities created by this jurisdiction, this is certainly not the only coastal nation to confront such uncertainties. Struggles over extraterritorial spaces are taking place through the rifts opening within the land/sea binary that is used for delimiting territorial sovereignty, revealing entanglements that undergird negotiating oceanic space as a medium of multiple materialities, mobilities, and meanings. While theoretical understandings of territory and sovereignty recognize that these categories are never stable (Elden 2013), oceans make a prodigious space for examining emerging ruptures in relationships between states, space, and power. Uncertainty surrounding how much control states have in their offshore jurisdictions is culminating in frictions both between nations and within them. This ambiguity of governance raises not only questions regarding responsibilities concerning conservation and environmental degradation, but also conflicts over each coastal nation's infringements on the rights of other states and nonstate actors. New Zealand's implementation of ocean governance legislation has incurred intense debates from the start. The enactment of baselines and subsequent national appropriation

of all submerged lands prompted indigenous Māori groups to mobilize against the ontological and legal division of land and sea.

Mobilities and Flows

Sovereignty is defined within the EEZ as pertaining to extraction, exploration, and conservation. However, while the sovereignty over resources is explicit, the space itself is considered international commons, where all states benefit from the "freedoms of navigation and overflight, freedom to lay submarine cables and pipelines" (UNCLOS), same as on the high seas. Nevertheless, these freedoms must be "exercised with 'due regard' to the right of the coastal state to exploit the resources of the EEZ and the responsibilities of the coastal state to protect the marine environment" (Van Dyke 2005, 108). This delicate balance between state's rights promulgates tensions that have largely been playing out between foreign-flagged vessels and coastal states. However, conflicts are emerging in New Zealand over the government's ability to regulate its own citizens within their EEZ. Clashes between protesters near offshore extractive infrastructures have confused the policing of bodies and vessels at sea, forcing renewed scrutiny over inclusive and exclusive uses of this space.

Stephen Graham has called on scholars of geopolitics to move beyond the "classical, modern formulation of Euclidean territorial units jostling for space on contiguous maps" (2004, 20). As Steinberg and Kimberley Peters highlight, the ocean is not a fixed Euclidean space within which power is exercised, but a turbulent material volume of Lagrangian flows with multiple and nonlinear temporalities. Such materiality gives rise to what they refer to as a "wet ontology" that can assist in better understanding how "power is simultaneously projected on, through, in, and about space" (Steinberg and Peters 2015, 261). This theoretical trajectory offers considerable potential for examining heterogeneous political spatial arrangements and territorial configurations that are not produced or maintained by conventional means, falling outside dominant practices based on the imaginary of discrete borders delimiting an internally sovereign area (Agnew 2013). A wet ontology refocuses mobility as a part of territory and territoriality, and allows for an analysis of mobility within and through novel jurisdictions, such as the EEZ. This theoretical vantage is helpful in analyzing the proposed exploitation of precious sediments that flow from land, downstream and into the foreshore.

From Mountains to Seabed Mining

The New Zealand government has been working to initiate institutions and regulations for the seabed mining industry. The experimental nature of seabed mineral extraction, as well as the increasing distance and depth of offshore hydrocarbon drilling, have motivated multiple concerned groups to organize protest campaigns against such development on environmental and jurisdictional grounds. Kiwis against Seabed Mining (KASM) formed in 2004 in reaction to a proposal to extract ironsand off the coast of Taranaki Bight on the North Island, also home to the world's rarest, and critically endangered species, Maui's dolphin (interview, August 5, 2014). Local iwi also organized, with one of the focal points directing attention to the origins of the coastal iron-rich sand flowing from sacred Mt. Taranaki (see figures 3.4–3.7). The black sands of Taranaki's beach and seabed are made of titanomagnetite containing high concentrations of iron ore. These sands originate from the flanks of the volcanic mountain, eroded by streams and rivers into the sea, representing a direct material exchange from mountains to sea, a connection that illustrates a Māori understanding of whakapapa.

Operating new mining technologies at unfamiliar depths is full of uncertainty and potential hazards. Regulation addressing environmental management in the EEZ was undertaken in 2012 by New Zealand's Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act. The opacity and indeterminacy of the ocean as a medium, shrouding the seafloor beneath, dominates the imaginaries and practices of mining operations. As one government scientist put it, "At least with fisheries being surface, you can sort of see what's going on. If you are three thousand meters down or four thousand meters down with manganese nodules, then it's so much harder to actually measure what's happening, period. And that's a major problem for governance as well as natural science" (interview, July 29, 2014). While the ironsand mining proposed off Taranaki is relatively shallow compared to deep manganese nodule extraction, the environmental impacts are concerning. Demonstrators walked, biked, and surfed five hundred miles along the Taranaki coast to raise awareness about the proposed project. These actions were considered successful in raising awareness, as 4,850 submissions were sent to the Environmental Protection Authority (EPA) regarding the mining permit, with only a handful supporting the project (Baxter 2018). The permit was denied consent by the EPA in 2014, citing concerns over environmental impacts and uncertainty regarding economic benefits to the nation (Sammler 2016). However, the mining company, Trans-Tasman Resources, resubmitted its application and was

FIGURES 3.4–3.7. Black ironsands wash down from Mt. Taranaki and into the sea. Their dark color and magnetic properties signify the coveted ore within. Indigenous and environmental groups voice opposition to a proposed mining project off their shores. Clockwise from top left: Mt. Taranaki; black sands of Taranaki Beach; iron within the sands align with magnetic field; protest sign in the Taranaki region. Images by author.

granted a permit in August 2017, prompting several groups to submit appeals. The approval was then overturned by the High Court in August, 2018, ruling that the "adaptive management" approach violates the precautionary principles built into the EEZ act. The decision has been sent back to the Environmental Protection Authority for consideration of the implications.

Bodies at Sea: Emerging and Submerging Oceanic Activism

In reaction to increasing offshore exploitation, environmental activists have taken their protests to sea. Boats and kayaks have been used to physically interfere with, and voice political opposition to, extractive industries and ecological destruction. Protests on the water, by what some have dubbed kayaktivists, have been taking place in many locations around the world over the past several years. In Japan, Russia, and the United States they have blocked ships conducting seafloor resource surveys or towing offshore drilling equipment. For example, in 2015 demonstrators took to the Puget Sound in Washington state and the Willamette River in Oregon to block Shell's drilling platform from sailing for the Arctic. In Okinawa, hundreds rallied in 2014, many in kayaks and canoes, in support of Japanese sovereignty against the US military base on the island and the new construction underway to relocate the base on an environmentally sensitive bay. While these actions took place within territorial or internal waters, the trajectory for extractive projects farther offshore is provoking opponents to follow.

New Zealand protesters have also taken to the sea in reaction to deepwater oil drilling. Some bring signs and banners to sea to voice opposition, while others have used their boats to block ships associated with developing these resources. In 2013, a group called Oil Free Seas sailed a flotilla more than a hundred nautical miles offshore to block the Texas-based company, Anadarko, from drilling oil in the Deepwater Taranaki Basin. In reaction to such protests, in 2014 the government amended the Crown Minerals Act to create protective exclusion zones around exploration and extraction vessels as well as artificial structures within New Zealand's EEZ. These noninterference zones authorize the New Zealand Defence Force to arrest and detain boat protesters, who then face steep fines and even incarceration (New Zealand Parliament 2014). Within the EEZ, the New Zealand Ministry of Business, Innovation and Employment (MBIE) admits that there are "no clear enforcement powers" to restrict a ship's freedom of navigation, as territorial sovereignty ends at twelve nautical miles (MBIE 2013, 2). UNCLOS does offer a provision for coastal states to construct artificial islands, installations, and structures, which allows for a safety zone

up to five hundred meters (these zones are intended to protect extractive industry and energy-generation platforms within settled jurisdictions, unlike the artificial islands being built by China to bolster its territorial claims, as in the Spratly case discussed by Gaynor in this volume). The state may take appropriate measures to ensure the safety both of navigation and of any structure (Article 60). While this allows for some type of regulation of vessels entering a static exclusion zone, there is still ambiguity about whether it is legal to enforce such zones for mobile vessels. These gaps in jurisprudence have created legal battles and overturned court decisions all the way up to the Supreme Court of New Zealand.

In 2011, a skipper was arrested as part of a protest with the iwi of Te Whānau ā Apanui for interfering with a Petrobras vessel conducting under-sea oil exploration surveys in the EEZ. He and several other protesters entered the water in survival suits to block the vessel's path. Because the vessel was not a fixed structure, and because the skipper's body was not considered a "vessel," the application of law was unclear. However, the Supreme Court of New Zealand ruled to uphold his arrest for interfering with the ship's operation. In its ruling on *Teddy v. New Zealand Police* (2015), the court dismissed the police's justification that New Zealand ships are part of the territory and instead utilized the 1994 Maritime Transport Act, stating that it was amended to remove "any doubt about the extraterritorial effect," and concluding that "there are also now new offense and enforcement provisions in the Crown Minerals Act (1991) dealing with conduct interfering with structures or ships engaged in mining activity in the territorial sea, in the exclusive economic zone or above the continental shelf" (Supreme Court of New Zealand 2015, Article 11). Debates continue over whether it is a violation of UNCLOS to regulate navigation outside territorial waters, but the New Zealand government has so far upheld these amendments, attempting to fill legal gaps and quell uncertainty surrounding offshore resource extraction.

Conclusion

These examples highlight how the ocean's geophysical and biological materiality gets leveraged by different interest groups for geopolitical, national, indigenous, and environmental motivations as well as "the epistemological impact of colonial ontologies" (Prescod-Weinstein 2017) on the New Zealand seascape. As governments and indigenous and environmental groups struggle over the definition of rights and responsibilities within ocean spaces, there is potential for an intervention, to choose ontological cuts with greater care, "to take

responsibility for the epistemological and ontological worlds we enact through the paths we walk and talk" (Sundberg 2014, 40) and boat and swim.

Māori and other indigenous and transnationalist theorists and activists have long invoked multiplicities beyond the essentialism of land-sea binaries and invoked more-than-human ontologies in environmental governance and sovereignty struggles. One recent example in New Zealand, the Te Urewera Act of 2014, gave legal personhood to what was previously a national park, with "all the rights, powers, duties, and liabilities of a legal person" (16). The act poetically approaches Te Urewera with whakapapa as "ancient and enduring, a fortress of nature, alive with history . . . a place of spiritual value, with . . . an identity in and of itself, inspiring people to commit to its care" (8). Pita Sharples, a Māori academic (and the minister of Māori affairs when this legislation passed) recognizes that this onto-epistemological shift provides "a profound alternative to the human presumption of sovereignty over the natural world" (New Zealand Parliament 2014). Parliament has since granted personhood to the Whanganui River, recognizing it as "an indivisible and living whole, from the mountains to the sea, incorporating its tributaries and all of its physical and metaphysical elements" (Whanganui iwi and the Crown 2011, Subpart 1.2). Oddly enough, despite these shifts, these acts expressly maintain the mining rights of the Crown, as authorized under the Crown Minerals Act. Despite this reluctance to completely remove state mineral resource sovereignty, the legal espousal of indigenous ontology sets a precedent that Māori legal scholar Jacinta Ruru (2014) highlights as "undoubtedly legally revolutionary . . . in Aotearoa New Zealand and on a world scale."

Within the ruptures in relationships between states, space, and power furnished by oceanic materiality and mobility, introducing more-than-human bio- and geophysical connections and sovereignties provides alternative frameworks to the state's writing of the sea. Exchanging colonial epistemologies for nonbinary counternarratives, which "challenge the (geontological) ground on which the state derives its sovereignty, including the state's claims to the strand, seabed, and creatures of the ocean" (DeLoughrey 2015, 367), generates new practices of resistance to extractive industries. Ambiguities within EEZs offer potential for expanded state control, but are also productive for legally and bodily challenging national resource claims. Reversing the continental gaze and preponderance of extending land metrics into the sea provides the potential for ocean imaginaries to creep onshore, creating openings for flows, transformations, and relationalities, building on Steinberg and Peters (2015) "wet ontologies" toward manifesting "wet" coalitions, resistances, and emancipations on, in, and near the sea (Hadjimichael n.d.).

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Note

1 Generic titles, instead of full titles or names, are used for those interviewed in order to remove any identifying information. This choice was made given the extreme controversy surrounding the issue and the tightly knit community of people involved.

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