

**I MUA I TE KOOTI TAIAO O AOTEAROA ENV-2019-AKL-117
TĀMAKI MAKAU RAU**

**BEFORE THE ENVIRONMENT COURT
AUCKLAND REGISTRY**

UNDER the Resource Management Act 1991 (the **RMA**)

AND

IN THE MATTER of an appeal under clause 14(1), Schedule 1 of
the RMA

AND

IN THE MATTER of section 274 of the RMA

**BETWEEN BAY OF ISLANDS MARITIME PARK
INCORPORATED V NORTHLAND REGIONAL
COUNCIL**

ENV-2019-AKL-117

**THE ROYAL FOREST AND BIRD PROTECTION
SOCIETY INCORPORATED V NORTHLAND
REGIONAL COUNCIL**

ENV-2019-1KL-127

Appellants

AND NORTHLAND REGIONAL COUNCIL

Respondent

**BRIEF OF EVIDENCE OF LISA MARIE TE HEUHEU ON BEHALF
OF TE OHU KAI MOANA TRUSTEE LIMITED**

14 MAY 2021



WHĀIALEGAL

Solicitor M M E Wikaira

P 027 646 7797

E maia@whaialegal.co.nz

PO Box 910 WELLINGTON 6140

www.whaialegal.co.nz

INTRODUCTION	2
Qualifications and Experience	2
TE OHU KAIMOANA GROUP	4
PURPOSE AND SCOPE OF EVIDENCE	7
TE OHU KAIMOANA	7
Purpose	7
Ngā Whakaarotau: Priorities.....	10
OUR APPROACH: TE HĀ O TANGAROA KIA ORA AI TĀUA.....	11
Ngā Kawa: Values	13
Ngā Mātāpono: Principles.....	14
OUR MAHI.....	15
WHY TE OHU KAIMOANA IS PARTICIPATING IN THESE PROCEEDINGS.....	19

INTRODUCTION

1. Ko Lisa Marie Te Heuheu tōku ingoa.
2. He uri ahau nō Ngāti Raukawa, Ngāpuhi me Ngāti Maniapoto.
3. I am Te Mātārae (Chief Executive) of Te Ohu Kai Moana Trust (**Te Ohu Kaimoana**), an independent Māori trust established by deed of trust under the Māori Fisheries Act 2004. The deed of trust is attached as **Appendix A**. The party to these proceedings is the corporate trustee of Te Ohu Kaimoana, Te Ohu Kai Moana Trustee Limited. Te Ohu Kai Moana Trustee Limited is a company formed under the Companies Act 1993 as required by section 33(2) of the Māori Fisheries Act 2004.

Qualifications and Experience

4. I have a Bachelor of Science (Major in Earth Sciences), Diploma in Environmental Management and a Post Graduate Diploma in Management. I am an experienced resource management practitioner and have worked in resource management for 16 years. Of particular relevance, I have worked as an Environmental Planning Consultant in private

practice, for Iwi and in my own consultancy business. Over the span of my career, I have undertaken various projects and held a number of roles including:

- (a) working on resource consent processes;
- (b) developing local and central government policy;
- (c) working with Iwi and Hapū to establish resource management units and create environmental management plans;
- (d) being commissioned to provide independent advisory reports to local government, central government and industry groups (e.g. Independent 5 year review of the Co-Governance of the Waikato River, Independent advice on mātauranga māori inclusion in the Waikato District Plan, Chair of an Independent technical working group of New Zealand's Hazardous Substances and Compliance System for the Minister of the EPA);
- (e) Academic Research Fellow with Otago University on Mātauranga Māori and the interface with the Resource Management Act;
- (f) Chair on the Environmental Protection Authority (EPA) Statutory Māori Advisory Committee, as part of that role a co-opted non-voting position on the EPA Board;
- (g) Co-Chair of the United Nations Framework Convention on Climate Change, Global International Indigenous Peoples Forum on Climate Change for the Conference of Parties, known as COP 22, held in Marrakech, Morocco in 2016;
- (h) Governance Committee Member, International Advisory Committee - Queens University, Ontario,

Canada (Research Programme on a Shared Future: Achieving Strength, Health, and Autonomy through Renewable Energy Development for the Future with Indigenous Communities); and

- (i) Governance Committee Member of Dairy New Zealand, Low Nitrogen Livestock Research Programme (for environmental outcomes in the Dairy Industry).
5. In my role as Te Mataarae (Chief Executive) of Te Ohu Kaimoana, I regularly meet with the leadership across the Te Ohu Kaimoana Group to facilitate collective approaches and strategically align direction.
 6. Prior to taking on the role of Te Mātārae, I was Chair of Te Wai Māori Trust, part of the Te Ohu Kaimoana Group.

TE OHU KAIMOANA GROUP

7. The Te Ohu Kaimoana Group structure is attached as **Appendix B**. All entities under the group were established pursuant to the Māori Fisheries legislation. The Group includes:
 - (a) Te Ohu Kaimoana Trustee Limited (the corporate trustee of Te Ohu Kaimoana Trust);¹
 - (b) Te Wai Māori Trustee Limited (the corporate trustee of Te Wai Māori Trust);²
 - (c) Te Pūtea Whakatupu Trustee Limited (the corporate trustee of Te Pūtea Whakatupu Trust);³ and

¹ Established as the Māori Fisheries Commission (as it then was) under section 4 of the Māori Fisheries Act 1989.

² Established under section 92 of the Māori Fisheries Act 2004.

³ Established under section 79 of the Māori Fisheries Act 2004.

- (d) Aotearoa Fisheries Limited, which trades as '**Moana New Zealand**'.⁴
8. Te Ohu Kaimoana works to advance the interests of Māori in the marine environment, including customary fisheries, commercial fisheries and aquaculture as well as providing policy and fisheries management advice to iwi and the wider Māori community. I speak to its purpose in more detail at paragraphs 15 to 22 of my evidence. Te Ohu Kaimoana is the successor to the Māori Fisheries Commission (1989 – 1992) and the Treaty of Waitangi Fisheries Commission (1992 – 2004). Te Ohu Kaimoana has been structured to ensure the fisheries settlement endures for future generations of Māori.
9. Te Wai Māori Trust is the Māori Freshwater Fisheries Trust. The purpose of Te Wai Māori Trust is to work with Iwi and the Crown to advance the interests of Iwi in freshwater fisheries. Advancing Māori interests in freshwater means:
- (a) increasing iwi and hapū capacity and capability in freshwater and their ability to control their freshwater fisheries;
 - (b) fostering indigenous fisheries expertise, knowledge and understanding;
 - (c) increasing the quality and range of information to iwi and hapū on freshwater fisheries and their interests; and
 - (d) ensuring that the indigenous fisheries are well and can be enhanced.

⁴ Established under section 60 of the Māori Fisheries Act 2004.

11. Te Wai Māori Trust provides policy advisory services, undertakes and/or commissions key research on freshwater fisheries issues, and ensures funding is available for iwi and hapū for freshwater development purposes.
12. Te Pūtea Whakatupu Trustee (**Te Pūtea Whakatupu**) holds and manages funds on behalf of the beneficiaries under the Māori Fisheries Act 2004, to promote education, training, and research, including matters that relate to fisheries, fishing and fisheries-related activities. Te Pūtea Whakatupu defines its purpose as “upholding and creating opportunities for educational pursuits that enable the sustenance of Māori identity”. In 2020 Te Pūtea Whakatupu developed a workforce and training strategy for the Māori fisheries sector, *Te Ngake o Te Kupenga*. Te Pūtea Whakatupu worked alongside iwi and Māori fisheries industry experts to map the national fisheries workforce and align training, education, research and development opportunities. Te Pūtea Whakatupu is currently in year four of a five-year strategy, ‘Te Rautaki’, with the goal to become a leading voice for Māori philanthropy and impact investment.
13. Moana New Zealand is the largest Māori-owned fisheries company in Aotearoa. It is owned by all 58 Mandated iwi Organisations, as recognised by the Māori Fisheries Act 2004, and sells freshly caught wet fish, crayfish, paua and farmed shellfish in New Zealand and internationally. The decisions, actions and investments made by Moana New Zealand have a long-term perspective that are respectful to fisheries and the ecosystems that Māori are intrinsically linked to.
14. Moana New Zealand (through Aotearoa Fisheries Limited) owns 50% of Sealord. With fishing operations in New Zealand and Australia, Sealord is one of the largest seafood companies in the southern hemisphere. As one of New Zealand’s best-known seafood brands, Sealord is one of the largest quota

holders in the country and mainly harvests sustainable seafood from deepwater fisheries.

PURPOSE AND SCOPE OF EVIDENCE

15. The purpose of my evidence is to:
- (a) provide an overview of Te Ohu, including our functions, purpose, priorities and activities;
 - (b) explain our approach, “Te hā o Tangaroa kia ora ai tāua”; and
 - (c) explain why we have joined as an interested party in these proceedings.

TE OHU KAIMOANA

Purpose

16. The purpose of Te Ohu Kaimoana is to work with Iwi and the Crown to advance the interests of Iwi individually and collectively, primarily in the development of fisheries, fishing, and fisheries-related activities, in order to:
- (a) benefit the members of iwi and Māori generally;
 - (b) further the agreements made in the Fisheries Settlement;
 - (c) assist the Crown to discharge its obligations under:
 - (i) the ‘**Fisheries Settlement**’ (which encompasses the Māori Fisheries Act 1989, 1992 Fisheries Deed of Settlement, the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992, the Māori Fisheries Act 2004 and Māori Commercial Aquaculture Claims Settlement Act 2004); and
 - (ii) Te Tiriti o Waitangi 1840; and

- (d) contribute to the achievement of an enduring settlement of the claims and grievances referred to in the Fisheries Settlement.
17. The functions of Te Ohu Kaimoana include, as a means of furthering its statutory purpose:
- (a) fostering, promoting, commissioning, or funding research into the sustainable management of fisheries; and
 - (b) in relation to fisheries, fishing, and fisheries-related activities, acting to protect and enhance the interests of iwi and Māori in those activities.
18. In fulfilling its statutory and trustee roles on behalf of iwi and Māori, Te Ohu Kaimoana:
- (a) assists and empowers 58 mandated iwi organisations (**MIOs**), who represent iwi throughout Aotearoa, to manage and protect their customary non-commercial and commercial fisheries rights, guaranteed in the Fisheries Settlement and the Maori Commercial Aquaculture Settlement; and
 - (b) provides capacity and support to MIOs on various national and local environmental matters, particularly as they intersect with Māori fishing rights protected by the Fisheries Settlement and the Treaty of Waitangi.
19. Te Ohu Kai Moana Trustee Limited is the corporate Trustee for the Takutai Trust, whose role is to assist Iwi and the Crown to reach regional aquaculture settlements under the Māori Commercial Aquaculture Claims Settlement Act 2004.
20. MIOs have approved a Māori Fisheries Strategy for Te Ohu Kaimoana which has as its goal “that MIOs collectively lead

the development of Aotearoa’s marine and environmental policy affecting fisheries management through Te Ohu Kaimoana as their mandated agent.” The *Māori Fisheries Strategy 2017* (the **Māori Fisheries Strategy**) is attached as **Appendix C**.

21. The Māori Fisheries Strategy proposes a vision for Māori fisheries as, “The on-going Treaty Partnership between Iwi and the Crown is given effect through development of fisheries-related legislation, policies and arrangements that recognise and respect the rangatiratanga of Iwi over their traditional fisheries.” The Māori Fisheries Strategy recognises that the role of Te Ohu Kaimoana is to:
- (a) influence and advocate for Māori fisheries and kaitiakitanga-based marine management regionally, nationally, and internally as agreed with iwi through the application of the best class research and analysis;
 - (b) increase the capacity of Māori to influence fisheries management through increasing knowledge, experience and connectivity across the participants in the Māori fishing industry; and
 - (c) support MIOs to assist kaitiaki to undertake customary fisheries management responsibilities, and support AHCs, collective Māori operating entities and Moana NZ to undertake their commercial fisheries management responsibilities.
22. In addition to delivering the Fisheries Strategy, Te Ohu Kaimoana released *Te Ara Taupuhipuhi, Te Ohu Kaimoana Three-Year Strategic Plan* for the period 1 October 2017 to 30 September 2020 (the **Strategic Plan**). This is attached as **Appendix D**. This plan details how Te Ohu Kaimoana will contribute towards fulfilling the vision of the Fisheries

Strategy. The Strategic Plan identified four important activities over the three-year period, all of which have been established to achieve our aspirational goals for Māori and Iwi. Those are:

- (a) Maintain and grow positive relationships with Iwi and key stakeholders;
- (b) Reorganise Te Ohu Kaimoana capacity for the future;
- (c) Develop and respond to initiatives to protect and enhance Māori fisheries rights; and
- (d) Complete our statutory duties.

23. Te Ohu Kaimoana is a product of the 1992 Deed of Settlement and an agent of MIOs. It is a Māori organisation which must negotiate a careful balance that best blends our values of:

- (a) Ngākau Tapatahi (Integrity);
- (b) Rangatiratanga (Leadership); and
- (c) Whanaungatanga (Relationships).

Ngā Whakaarotau: Priorities

24. Our key priorities reflect our role to protect the Fisheries Settlement and ultimately assist Iwi to deliver the benefit it provides. These include:

- (a) Supporting iwi to exercise rangatiratanga over their fisheries resources.
- (b) Ensuring continued access to kaimoana for Iwi.
- (c) Strengthening a constructive partnership with the Crown by building strong relationships with relevant Ministers and senior officials.

- (d) Improving marine protection in a manner that is consistent with Māori fishing rights and responsibilities.
- (e) Improving fisheries management performance, including through supporting collective action.
- (f) Improving economic performance by encouraging collaboration amongst Iwi quota holders and Māori fishing businesses and supporting an amended Māori Fisheries Act 2004.
- (g) Helping Iwi and the Crown deliver regional aquaculture settlements which requires an amendment to the Māori Commercial Aquaculture Claims Settlement Act 2004.

OUR APPROACH: TE HĀ O TANGAROA KIA ORA AI TĀUA

25. The role of Te Ohu Kaimoana is to ensure that Māori fisheries rights are protected and respected, in a manner that is consistent with:
- (a) the health of our taiao, including our moana and marine life in Aotearoa; and
 - (b) the whakapapa relationship that hapū and iwi have with te taiao (and the associated reciprocal obligations).
26. 'Te hā o Tangaroa kia ora ai tāua' (the breath of Tangaroa sustains us) is an expression of the unique and lasting connection Māori have with the marine environment. (A diagrammatic depiction of 'Te hā o Tangaroa kia ora ai tāua' is attached as **Appendix E**.) It underpins our purpose, policy and principles and leads our kōrero every time we respond to matters affecting Māori fishing interests. All decisions and advice offered by Te Ohu Kaimoana on fisheries is

underpinned by this kōrero, to ensure the sustainability of Tangaroa's kete for today and our mokopuna yet to come.

27. This concept highlights the importance of humanity's interdependent relationship with Tangaroa to ensure our mutual health and wellbeing. Recognising our ongoing interdependent relationship acknowledges the Māori worldview that humanity is descended from Tangaroa and all children of Ranginui and Papatūānuku. We are part of the ongoing cycle of life. The mauri of Tangaroa needs to be maintained and nourished to provide for our future generations.
28. 'Te hā o Tangaroa kia ora ai tāua' is underpinned by whakapapa, tiaki, hauhake and kai:
- (a) *Whakapapa*: Māori descend from Tangaroa and have a reciprocal relationship with our tupuna. This recognises that when Māori (and by extension Te Ohu as an agent of Iwi) are considering policy affecting Tangaroa we are considering matters which affect our tupuna – rather than a thing or an inanimate object.
 - (b) *Tiaki* - Māori have an obligation to care for Tangaroa, his breath, rhythm and bounty, for the betterment of Tangaroa and for the betterment of humanity as his descendants. We recognise that as descendants of Tangaroa, Iwi Māori have the obligation and responsibility to Tiaki – care for our tupuna so that Tangaroa may continue to care and provide for Iwi.
 - (c) *Hauhake*: Māori have a right and obligation to cultivate Tangaroa, including his bounty, for the betterment of Tangaroa (as a means of managing stocks) and support Tangaroa's circle of life. Our right and obligation of hauhake (cultivation) is underpinned by our tiaki obligations and responsibilities to

Tangaroa.

- (d) *Kai* - Māori have a right to enjoy their whakapapa relationship with Tangaroa through the wise and sustainable use of the benefits Tangaroa provides to us. Ultimately our right to kai – to enjoy the benefits of our living relationship with Tangaroa and its contribution to the survival of Māori identity – depends upon our ability to Tiaki Tangaroa in a meaningful way.
29. 'Te hā o Tangaroa kia ora ai tāua' does not mean that Māori have a right to use fisheries resources to the detriment of other children of Tangaroa: rights are an extension of responsibility. It speaks to striking an appropriate balance between people and those we share the environment with. Our MIOs carry out their kaitiaki responsibilities to ensure this outcome is achieved, but can only do so if their rangatiratanga (authority) is recognised.

Ngā Kawa: Values

30. There are also several specific kawa (values) that Te Ohu Kaimoana promotes to foster the desire to preserve marine areas in a way that protects the integrity of our Treaty rights. They are represented as four kawa, encapsulated as follows:

He kawa whakapapa mai i te rangi ki te whenua

He kawa whakatō mauri ki te moana

He kawa hauora ki te tangata

He kawa tapu i ahua mai nō Tangaroa e!

Sacred whakapapa from the heavens to the land

That breathes essence into our waters and oceans

And provides sustenance to our people

A symbol of the power of Tangaroa!

31. Te Kawa Tuatahi, the first value, is '*He kawa whakapapa mai i te rangi ki te whenua*'. Our sacred whakapapa, which descends from atua and is the source of our rights and obligations in the physical world, from the heavens to the land. These rights include the obligation and right to be responsible kaitiaki to provide sustenance.
32. Te Kawa Tuarua, the second value, is '*He kawa whakatō mauri ki te moana*'. The spiritual and physical essence and health of our oceans is paramount to a Māori worldview. Oceans, waterways and land are indivisible entities of sacred origin that are essential to provide sustenance to tangata.
33. Te Kawa Tuatoru, the third value, is '*He kawa hauora ki te tangata*'. Our wellbeing as people is intimately connected to our oceans. If our oceans are healthy and plentiful, our people can be sustained and looked after forevermore.
34. Te Kawa Tuawha, the fourth value, is '*He kawa tapu i ahua mai nō Tangaroa e!*' Tangaroa, as the atua of our oceans and waterways, provides us with the means to support our wellbeing as children of Ranginui and Papatūānuku.

Ngā Mātāpono: Principles

35. Accordingly, the principles that guide our approach to the moana, including in participating in these proceedings, are:
 - (a) Te hā o Tangaroa kia ora ai tāua - The breath of Tangaroa sustains us. As descendants of Tangaroa we uphold the principles of whakapapa, tiaki, hauhake and kai consistent with our obligations as kaitiaki.
 - (b) Protect the integrity of the 1992 Deed of Settlement and uphold Treaty settlement rights. Our objective is to ensure that the interests of iwi, to care for and cultivate Tangaroa, are protected for current and

future generations.

- (c) Protect the long-term opportunity for iwi to exercise rangatiratanga. Rangatiratanga was guaranteed to Māori under the Treaty of Waitangi. Te Ohu Kaimoana seek to uphold and protect that guarantee.

OUR MAHI

- 36. Consistent with 'Te hā o Tangaroa kia ora ai tāua, Te Ohu Kaimoana undertakes a range of work to protect the marine environment.
- 37. Our policy work is built upon the guiding principles of 'Te hā o Tangaroa kia ora ai tāua', and this framework provides a Te Ao Māori perspective. We continue to engage in policy development initiatives, and our feedback remains consistent that sustainable fishing and conservation are not in opposition to each other; rather, they are entwined and balanced by responsible fisheries management.
- 38. We also work closely with Crown agencies across the natural resources sector (**NRS**), particularly the Ministry for Primary Industries, Department of Conservation, the Ministry for the Environment and the Ministry of Foreign Affairs and Trade. This is reflected in our involvement in policy matters both domestically and internationally. Our engagement with NRS in 2020 has centred on the marine protected area discussion paper option, fisheries management settings like the annual sustainability rounds process, and marine conservation such as the National Plan of Action for Seabirds initiative. Engagement with MFAT focused on the development of New Zealand's position on a new global framework for managing biodiversity.

40. Over the last two years, our broader policy engagement has focused on the following:
- (a) Developing the revised marine protected area (MPA) policy (as referred to in my above paragraph).
 - (b) Continuing to engage in sustainability rounds for fish-stock management: Te Ohu Kaimoana staff have been involved in both the fisheries assessment working group and the stock assessment plenary process and are familiar with the science that underpins the proposals. Te Ohu Kaimoana staff participate in discussions with officials regarding allocations of stocks.
 - (c) Spatial management proposals: supporting Ngai Tahu in their response to the proposed South East Marine Protected Areas and the proposed extension of the Moutere Ihupuku/Cambell Islands Marine Reserve.
 - (d) Engaging in discussions concerning proposals for customary fishing tools: In May 2020, Te Ohu Kaimoana supported Ngati Kuta and Patukeha ki Te Rawhiti in their application for a renewal of their two-year temporary closure of Maunganui Bay in the Bay of Islands. This closure saw the prohibition of taking all fisheries resources except kina.
 - (e) Conservation levy services: Te Ohu Kaimoana policy engaged in research for the conservation of marine protected species.
 - (f) Climate change impacts on fisheries and the role of the Emissions Trading Scheme.
 - (g) Area-Based Conservation Measures under the UN Convention on Biological Diversity (**CBD**) as well as

the post-2020 global biodiversity framework. We have experienced first-hand how the outcomes of international guidelines that lack considered indigenous input, like the CBD, can marginalise indigenous issues and more specifically influence the development of policy within Aotearoa (the proposed Rangitāhua/Kermadec Ocean Sanctuary, discussed below, is a direct result of this type of influence).

- (h) Participating in the Benthic Impacts Science Working Group hosted by Fisheries New Zealand, discussing the framework and tools that will best assess any benthic impacts caused by fishing. Forthcoming discussions will focus on implementation of zonation as a tool to identify habitats of significance.
41. The Te Ohu Kaimoana Board has been active in further discussions on Rangitāhua/Kermadec Ocean Sanctuary. The Chair, Rangimarie Hunia and the Chief Executive at the time, Dion Tuuta, met with officials and Ministers to propose a solution based on the principles and parameters developed and endorsed by iwi in September 2019. The principles define a solution that aligns with 'Te hā o Tangaroa kia ora ai tāua', upholds the integrity of Te Tiriti o Waitangi and the Fisheries Settlement, and protects the long-term developmental opportunity for iwi to exercise rangatiratanga within the Rangitāhua/Kermadec area. Te Ohu Kaimoana has maintained contact with officials throughout 2020, despite the impact of COVID-19, and we are currently engaged in progressive discussions with government.
42. Another key focus for Te Ohu Kaimoana has been our continued involvement in the Māori Commercial Aquaculture Claims Settlement Bill. This was introduced in August 2020 and amends the Māori Commercial Aquaculture Claims Settlement Act 2004 to provide Te Ohu Kaimoana with

greater flexibility to allocate and transfer aquaculture settlement assets to iwi.⁵ As at 14 May 2021, this Bill is still being considered by the Māori Affairs Select Committee. Te Ohu Kaimoana is pleased with the progress that we have made with iwi and MPI, and we await further progress of the Bill through the House.

43. In 2019, Te Ohu Kai Moana Trustee Limited appeared in the Court of Appeal (**CA**) against Trans-Tasman Resources Limited (**TTRL**) as a cross-appellant alongside and supporting the position of Taranaki Iwi, Ngāti Ruanui and Ngā Rauru. Te Ohu Kai Moana Trustee Limited opposed the application made by TTRL to mine iron sands off the South Taranaki Coast. Prior to this matter being heard in the CA, the Environmental Protection Authority's decision (though a Decision-Making Committee) to grant TTRL's consent to remove five million tonnes of iron-rich sand a year for 20 years from a 66 square kilometre area offshore from Patea was quashed in August of 2018 by the High Court. Alongside Ngāti Ruanui and Ngā Rauru, Te Ohu Kai Moana Trustee Limited were successful in the CA.
44. The impacts of seabed mining could have been disastrous for the sea life, food supply, customary fishing interests and the future of tamariki for Ngāti Ruanui and Ngā Rauru. Te Ohu Kaimoana had a duty to support iwi, and to protect both 'Te hā o Tangaroa kia ora ai tāua' and the integrity of the Fisheries Settlement.

⁵ It is based on the first proposal Te Ohu Kaimoana provided government in June 2018.

WHY TE OHU KAIMOANA IS PARTICIPATING IN THESE PROCEEDINGS

45. These proceedings, where Māori interests represent a diverse range of perspectives, demonstrate that having a whakapapa relationship with the moana and parts of te taiao – that being kaitiaki – is multidimensional, complex and layered.
46. As with the hapū parties advocating for marine protected areas, as an organisation that acts for the benefit of Māori interests, Te Ohu Kaimoana recognises its obligation to care for Tangaroa. We also recognise that we have been tasked with another role – to protect the kaitiaki interests of Iwi to cultivate kai affirmed through the Fisheries Settlement, and to protect those interests for current and future generations. Marine protection requires a considered and sophisticated approach, that meaningfully engage those with the full range of interests in the kaupapa.
47. In the RMA context, the section 6(e) obligation to recognise and provide for the Māori relationship with ancestral lands and waters also extends to the very active and real relationship Māori have with the moana as a source of sustenance. This is a part of the reciprocal kaitiaki relationship and obligations that we have with Tangaroa, and with each other, acknowledged in section 7(a). The recognition of the principles of Te Tiriti o Waitangi in section 8 is undoubtedly relevant to a right that is referenced as being sourced in Article 2 of Te Tiriti o Waitangi. Recital A in the Preamble to the 1992 Deed of Settlement states, 'By the Treaty of Waitangi the Crown confirmed and guaranteed to the Chiefs, tribes and individual Māori full exclusive and undisturbed possession and te tino rangatiratanga of their fisheries.' A similar recital can be found in the Preamble to the Māori Fisheries Act 2004. Part 9 of the Fisheries Act 1996 states its object is to make "better provision for the recognition of rangatiratanga and of the right secured in relation to fisheries

by Article II of the Treaty of Waitangi.”

48. Thus, the Maori right to fish, and our customary connection to that practice, are also relevant to the Māori provisions of Part 2 of the RMA.
49. This is the first plan proceeding to arise since the *Mōtītī* line of cases, which broke new ground for regional fisheries management, and in which the CA acknowledged that it did not all the information before it to decide matters in respect the Treaty implications for Māori customary fishing rights (commercial or non-commercial). Without Te Ohu Kaimoana’s participation there was risk that the same outcome would arise in Northland. The paucity of reference to the Fisheries Settlement in the evidence filed to date, and to the relationship, speaks to that risk.
50. As a key stakeholder for Māori fishing matters, MIOs, Māori and Iwi rely on Te Ohu Kaimoana to protect the Fisheries Settlement as that decision is applied locally.
51. Te Ohu Kaimoana does not dismiss the need for protection measures where science and mātauranga Māori confirm that is required. However, we consider that the Fisheries Settlement, including the Treaty obligations inherent in it, requires one to ask how those measures are best put in place, particularly with respect to the process undertaken and the measures that are ultimately chosen.

Tangaroa kai atu, Tangaroa kai mai.



L M Te Heuheu
14 May 2021

Te Ohu Kai Moana Trust Deed

Treaty of Waitangi Fisheries Commission
(the Commission)

Te Ohu Kai Moana Trustee Limited (Te Ohu Kai
Moana Trustee)



TABLE OF CONTENTS

1	DEFINITIONS AND CONSTRUCTION	1
1.1	Defined terms	1
1.2	Construction	3
1.3	Precedence of Maori Fisheries Act.....	4
2	CREATION OF TE OHU KAI MOANA	4
2.1	Creation of trust	4
2.2	Declaration of trust.....	4
3	PURPOSE OF TE OHU KAI MOANA.....	4
4	DUTIES AND FUNCTIONS OF TE OHU KAI MOANA TRUSTEE	4
4.1	Performance of duties	4
4.2	Functions	6
4.3	Limitation on the functions of Te Ohu Kai Moana Trustee	7
4.4	Functions not otherwise limited.....	7
5	CAPACITY OF TE OHU KAI MOANA TRUSTEE.....	8
6	OBLIGATIONS OF TE OHU KAI MOANA TRUSTEE.....	8
6.1	Records.....	8
6.2	Decisions and disclosure	8
6.3	Dealing with Trust money	9
6.4	Reliance on others	9
7	ANNUAL AND 5 YEAR STRATEGIC PLANS.....	10
7.1	Financial Year.....	10
7.2	Development of plans.....	10
7.3	Circulation of draft plans.....	10
7.4	Annual and 5 year rolling strategic plan must be adopted	10
7.5	Content of annual plan	10
8	REPORTS AND FINANCIAL STATEMENTS	12
8.1	General reporting obligation	12
8.2	Annual report.....	12
8.3	Contents of annual report	12
8.4	Further contents of annual report.....	13
8.5	Financial statements must be audited	14
8.6	General meeting	14
9	REMUNERATION AND EXPENSES OF DIRECTORS	14
10	REVENUE REVIEW	14

Handwritten signature and initials, possibly 'C' and 'ORSE', with a large 'X' mark over the signature area.

TE OHU KAI MOANA TRUST DEED

11 **AUDIT OF TE OHU KAI MOANA TRUSTEE 15**

12 **INCOME TRUSTS 15**

12.1 Power to pay or appropriate income 15

12.2 Provisions relating to payments and appropriations of income 15

12.3 Power to retain or accumulate income 16

13 **CAPITAL TRUSTS 16**

13.1 Power to pay or appropriate capital 16

13.2 Power to lend capital 16

14 **RECEIPTS 17**

14.1 Receipt of gifts and grants 17

14.2 Receipts for payments 17

15 **AMENDMENTS TO DEED..... 17**

16 **PROHIBITION OF BENEFIT OR ADVANTAGE IN CARRYING OUT TRUST17**

17 **INDEMNITY OF TE OHU KAI MOANA TRUSTEE 18**

18 **INSURANCE 19**

19 **WINDING UP 19**

Handwritten signature and initials in the bottom right corner, possibly reading 'CPS'.

PARTIES

Treaty of Waitangi Fisheries Commission established as the Maori Fisheries Commission under section 4 of the Maori Fisheries Act 1989 and renamed the Treaty of Waitangi Fisheries Commission by section 14(1) of the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992 (*the Commission*)

Te Ohu Kai Moana Trustee Limited a company formed under the Companies Act 1993 as required by section 33(2) of the Maori Fisheries Act (*Te Ohu Kai Moana Trustee*)

BACKGROUND

- A Under section 31 of the Maori Fisheries Act, the Commission must establish a trust for the purpose set out in section 32 of that Act.
- B Te Ohu Kai Moana Trustee has been formed under the Companies Act 1993 in accordance with section 33 of the Maori Fisheries Act.
- C Under section 194 of the Maori Fisheries Act, the existing undertaking of the Commission vests in Te Ohu Kai Moana Trustee on the Appointed Day (except to the extent that it is already vested in Aotearoa Fisheries Limited) and is to be held by Te Ohu Kai Moana Trustee subject to the Maori Fisheries Act and to the trusts and other provisions set out in this deed.

NOW THIS DEED RECORDS:**1 DEFINITIONS AND CONSTRUCTION****1.1 Defined terms**

In this deed, unless the context requires otherwise:

Allocate has the meaning given to it in section 5 of the Maori Fisheries Act;

Aotearoa Fisheries Limited means the company established as required by section 60 of the Maori Fisheries Act;

Appointed Day has the meaning given to it in section 5 of the Maori Fisheries Act;

Coastline Entitlement has the meaning given to it in section 5 of the Maori Fisheries Act;

Committee of Representatives has the meaning given to it in section 5 of the Maori Fisheries Act;



Deed of Settlement has the meaning given to it in section 5 of the MF Act;

Financial Year has the meaning given to it in section 5 of the Maori Fisheries Act;

Fisheries has the meaning given to it in section 5 of the Maori Fisheries Act;

Fishing has the meaning given to it in section 5 of the Maori Fisheries Act;

Income Share has the meaning given to it in section 5 of the Maori Fisheries Act;

Iwi has the meaning given to it in section 5 of the Maori Fisheries Act;

Iwi Register has the meaning given to it in section 5 of the Maori Fisheries Act;

Mandated Iwi Organisation has the meaning given to it in section 5 of the Maori Fisheries Act;

Maori Fisheries Act means the Maori Fisheries Act 2004;

Panui has the meaning given to it in section 5 of the Maori Fisheries Act;

Quota has the meaning given to it in section 5 of the Maori Fisheries Act;

Recognised Iwi Organisation has the meaning given to it in section 5 of the Maori Fisheries Act;

Representative Maori Organisation has the meaning given to it in section 5 of the Maori Fisheries Act;

Revenue Review means the review of the revenue requirements of Te Ohu Kai Moana Trustee to be carried out under section 41 of the Maori Fisheries Act;

Settlement Assets has the meaning given to it in section 5 of the Maori Fisheries Act;

Settlement Quota has the meaning given to it in section 5 of the Maori Fisheries Act;

Special Resolution has the meaning given to it in section 5 of the Maori Fisheries Act (which at the date of this deed is a resolution of Te Ohu Kai Moana Trustee approved by 75% or more of its directors entitled to vote on the motion);

Te Kawai Taumata means the members of the group (or their alternate members) established in accordance with section 55 of the Maori Fisheries Act;

Handwritten signature and initials in the bottom right corner of the page. The signature appears to be 'CNS' and there are some other scribbles and initials above it.

Te Ohu Kai Moana means the Trust established by this deed in accordance with section 31 of the Maori Fisheries Act;

Te Ohu Kai Moana Group has the meaning given to it in section 5 of the Maori Fisheries Act;

Te Ohu Kai Moana Trustee means Te Ohu Kai Moana Trustee Limited, the corporate trustee of Te Ohu Kai Moana, established as required by section 33(2) of the Maori Fisheries Act;

Te Putea Whakatupu Trust means the Trust established in accordance with section 79 of the Maori Fisheries Act;

Te Putea Whakatupu Trustee means Te Putea Whakatupu Trustee Limited, the corporate trustee of Te Putea Whakatupu Trust, established as required by section 80 of the Maori Fisheries Act;

Te Wai Maori Trust means the Trust established in accordance with section 92 of the Maori Fisheries Act;

Te Wai Maori Trustee means Te Wai Maori Trustee Limited, the corporate trustee of Te Wai Maori Trust, established as required by section 93 of the Maori Fisheries Act;

Trust Fund means that part of the existing undertaking of the Commission to be vested, under section 194 of the Maori Fisheries Act, in Te Ohu Kai Moana Trustee on the Appointed Day, and includes any related earnings or capital gains and any other money, investments or other property, rights, or commitment received or acquired by Te Ohu Kai Moana Trustee with the intention that it be held by Te Ohu Kai Moana Trustee subject to the trusts and other provisions set out in this deed.

1.2 **Maori Fisheries Act terms**

Expressions used in this deed and defined in the Maori Fisheries Act (whether generally, or for the purposes of one or more particular provisions) have the same meaning given to them by the Maori Fisheries Act as it may be amended from time to time.

1.2 **Construction**

In the construction of this deed, unless the context requires otherwise a reference to an enactment is a reference to that enactment as amended from time to time, and to any enactment made in substitution or consolidation of that enactment.

Handwritten signature and initials, possibly 'LW' and 'CRS', with a large 'X' mark over them.

1.3 Precedence of Maori Fisheries Act

To the extent that a provision of this deed is inconsistent with the Maori Fisheries Act the provision has no effect.

2 CREATION OF TE OHU KAI MOANA

2.1 Creation of trust

By this deed the Commission establishes a trust called Te Ohu Kai Moana.

2.2 Declaration of trust

Te Ohu Kai Moana Trustee acknowledges that it is the trustee of Te Ohu Kai Moana and that it holds and will distribute the Trust Fund upon the trusts and with the powers and duties set out in this deed, the Maori Fisheries Act, the constitution of Te Ohu Kai Moana Trustee, and at general law.

3 PURPOSE OF TE OHU KAI MOANA

The purpose of Te Ohu Kai Moana is to advance the interests of Iwi individually and collectively, primarily in the development of Fisheries, Fishing and fisheries-related activities, in order to:

- (a) ultimately benefit the members of Iwi and Maori generally; and
- (b) further the agreements made in the Deed of Settlement; and
- (c) assist the Crown to discharge its obligations under the Deed of Settlement and the Treaty of Waitangi; and
- (d) contribute to the achievement of an enduring settlement of the claims and grievances referred to in the Deed of Settlement.

4 DUTIES AND FUNCTIONS OF TE OHU KAI MOANA TRUSTEE

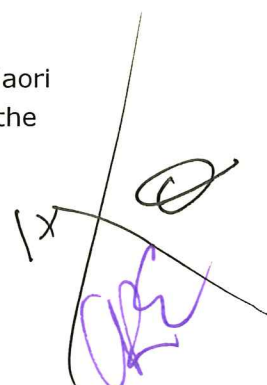
4.1 Performance of duties

Te Ohu Kai Moana Trustee must administer the Settlement Assets in accordance with the purposes of the Maori Fisheries Act and the purpose of Te Ohu Kai Moana, including performing the following duties:

- (a) as required by sections 7 and 196 of the Maori Fisheries Act, to determine the appropriate classifications of quota shares; and
- (b) as required by section 157 of the Maori Fisheries Act, to apply to register Settlement Quota interests against:
 - (i) the quota shares listed in Schedule 1 of the Maori Fisheries Act; and



- (ii) any quota shares allocated under section 44 of the Fisheries Act 1996; and
- (c) to allocate and transfer the Settlement Assets in accordance with Part 3 of the Maori Fisheries Act; and
- (d) to manage on a transitional basis, collectively or separately as Te Ohu Kai Moana Trustee considers appropriate, the Settlement Assets to be allocated to an Iwi, until they are transferred to the Mandated Iwi Organisation of the Iwi; and
- (e) to determine the Coastline Entitlements of Iwi under section 11 and Schedule 6 of the Maori Fisheries Act; and
- (f) to establish and maintain the Iwi Register required by section 40 of the Maori Fisheries Act and to record the matters required by or under that Act or any other Act to be recorded in the Iwi Register; and
- (g) if Te Ohu Kai Moana Trustee is satisfied that each commercial fisher is wholly owned by 1 or more Mandated Iwi Organisations, to advise the chief executive of the Ministry of Fisheries as to those commercial fishers who are approved entities for the purposes of section 74(2A) of the Fisheries Act 1996; and
- (h) to make extracts of the Iwi Register available, on request, to Mandated Iwi Organisations, members of Iwi and the members and alternate members of Te Kawai Taumata, in accordance with any policy prepared under section 53 of the Maori Fisheries Act; and
- (i) to assist Recognised Iwi Organisations to establish a register of Iwi members that includes the contact details and date of birth for every person included in that register; and
- (j) to assist Iwi to meet the requirements of sections 14, 17, and 130(3) of the Maori Fisheries Act; and
- (k) where the lack of a Mandated Iwi Organisation for an Iwi prevents the Mandated Iwi Organisation of another Iwi from making its coastline claims under clause 3 of Schedule 6 of the Maori Fisheries Act, Te Ohu Kai Moana Trustee must give priority to assisting the Iwi that does not have a Mandated Iwi Organisation, as provided for in paragraph (j); and
- (l) to the extent that they relate to matters provided for by or under the Maori Fisheries Act, to approve constitutional documents under section 17 of the



Maori Fisheries Act and any changes made under section 18 or required under section 25 of that Act ; and

- (m) to appoint the directors of Aotearoa Fisheries Limited; and
- (n) to establish Te Putea Whakatupu Trust as required by section 79(1) of the Maori Fisheries Act, appoint the directors of Te Putea Whakatupu Trustee in accordance with section 88 of that Act, and make the payments required by section 90(1) and (3) of that Act; and
- (o) to establish Te Wai Maori Trust as required by section 92(1) of the Maori Fisheries Act, appoint the directors of Te Wai Maori Trustee in accordance with section 101 of that Act, and make the payments required by section 103(1), (3) and (4) of that Act; and
- (p) to consider and, if satisfied, approve the annual plans of Te Putea Whakatupu Trustee and Te Wai Maori Trustee; and
- (q) to prepare the final financial statements of the Commission, as provided for in section 197 of the Maori Fisheries Act; and
- (r) to perform any other duties prescribed by or under the Maori Fisheries Act or any other enactment, including recognising Mandated Iwi Organisations as required by section 13 of the Maori Fisheries Act, and transferring assets to Aotearoa Fisheries Limited under section 75(3) of that Act.

4.2 **Functions**

As a means to further the purpose of Te Ohu Kai Moana, Te Ohu Kai Moana Trustee may:

- (a) foster, promote, commission, or fund research into the sustainable management of Fisheries;
- (b) in relation to Fisheries, Fishing, and fisheries-related activities, act to protect and enhance the interests of Iwi and Maori in those activities;
- (c) in relation to other activities, so long as the nature of the business activities of Te Ohu Kai Moana Group, taken as a whole, are not significantly changed from the primary focus on Fisheries, Fishing, or fisheries-related activities:
 - (i) approve other activities, including, but not limited to, activities related to the seafood industry;

- (ii) give prior approvals to specified entities of Te Ohu Kai Moana Group to conduct other activities up to thresholds specified by Te Ohu Kai Moana Trustee;
- (d) require Mandated Iwi Organisations to demonstrate their progress in meeting the criteria and requirements set out in section 14, 17, or section 130(3)(b) of the Maori Fisheries Act, as the case may be, before granting assistance under clause 4.1(i) or (j);
- (e) in accordance with section 71 and the provisions of Part 4 of the Maori Fisheries Act, acquire or dispose of Income Shares, Settlement Quota, and Quota other than Settlement Quota, and sell annual catch entitlement generated by Settlement Quota or by Quota other than Settlement Quota;
- (f) perform the functions of the voting shareholder of Aotearoa Fisheries Limited;
- (g) apply the funds of Te Ohu Kai Moana by way of payments to:
 - (i) Mandated Iwi Organisations; and
 - (ii) Te Putea Whakatupu Trustee and Te Wai Maori Trustee as specified in sections 90(5) and 103(6) of the Maori Fisheries Act respectively but subject to the restrictions in section 137(2) of that Act; and
- (h) grant assistance, as permitted by or under the Maori Fisheries Act, to:
 - (i) Mandated Iwi Organisations;
 - (ii) individual Maori and groups of Maori;
- (i) maintain reserve funds to the extent that it considers prudent; and
- (j) exercise any rights and perform any other functions permitted by or under the Maori Fisheries Act or any other enactment.

4.3 **Limitation on the functions of Te Ohu Kai Moana Trustee**

As required by section 35(2) of the Maori Fisheries Act, Te Ohu Kai Moana Trustee must not undertake Fishing or hold a fishing permit.

4.4 **Functions not otherwise limited**

This clause 4 does not limit the activities (other than Fishing or holding a fishing permit) that Te Ohu Kai Moana Trustee may undertake to further the purpose of Te Ohu Kai Moana.

5 CAPACITY OF TE OHU KAI MOANA TRUSTEE

- 5.1 For the purpose of performing its functions under the Maori Fisheries Act or any other Act, Te Ohu Kai Moana Trustee:
- (a) has full powers to act in its role as the trustee of Te Ohu Kai Moana;
 - (b) is empowered to make all decisions of Te Ohu Kai Moana;
 - (c) may perform any functions or exercise any powers conferred on it or Te Ohu Kai Moana by the Maori Fisheries Act or any other Act;
 - (d) has full capacity to carry out, undertake, or fund, any business or activity, do any act, or enter into any transaction; and
 - (e) for the purposes of paragraph (d), has full rights, powers and privileges.
- 5.2 Clauses 5.1(d) and (e) apply subject to:
- (a) the provisions of the Maori Fisheries Act and any other enactment;
 - (b) this deed and the constitution of Te Ohu Kai Moana Trustee; and
 - (c) the general law.

6 OBLIGATIONS OF TE OHU KAI MOANA TRUSTEE

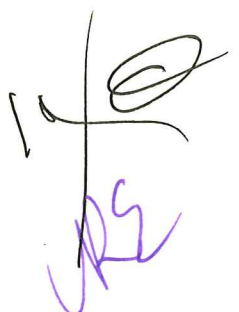
6.1 Records

Te Ohu Kai Moana Trustee must in addition to its specific obligations in respect of iwi register documentation imposed by section 51 of the Maori Fisheries Act, maintain complete and accurate records, including:

- (a) minutes of meetings of Te Ohu Kai Moana Trustee or of any committee appointed by Te Ohu Kai Moana Trustee;
- (b) copies of resolutions of Te Ohu Kai Moana Trustee; and
- (c) complete and accurate books and accounts.

6.2 Decisions and disclosure

- (a) Te Ohu Kai Moana Trustee must record all material decisions taken by Te Ohu Kai Moana Trustee.



- (b) Te Ohu Kai Moana Trustee is not obliged to disclose any reasons for its decisions, unless required to do so by order of the Court, or to the extent required under section 179 of the Maori Fisheries Act.

6.3 Dealing with Trust money

- (a) Te Ohu Kai Moana Trustee must ensure that all money received by or on behalf of Te Ohu Kai Moana is paid immediately to the credit of Te Ohu Kai Moana in an account or accounts with a bank or banks selected from time to time by Te Ohu Kai Moana Trustee.
- (b) All cheques and other negotiable instruments, withdrawal slips and receipts for money and transfers must be signed, drawn, accepted, endorsed or otherwise executed or authorised (as the case may be) on behalf of Te Ohu Kai Moana in such manner as Te Ohu Kai Moana Trustee decides from time to time.
- (c) Except where there is an entitlement to payment of a certain sum under the Maori Fisheries Act, Te Ohu Kai Moana may set off any amount owing by any person to Te Ohu Kai Moana Trustee against any payment it would otherwise make to that person.

6.4 Reliance on others

- (a) Te Ohu Kai Moana Trustee, when exercising powers or performing duties as a trustee, may rely on reports, statements, financial data and other information prepared or supplied, and on professional or expert advice given, by any of the following persons:
- (i) an employee of the Te Ohu Kai Moana Group whom Te Ohu Kai Moana Trustee believes on reasonable grounds to be reliable and competent in relation to the matters concerned;
 - (ii) a professional adviser or expert in relation to matters which Te Ohu Kai Moana Trustee believes on reasonable grounds to be within the person's professional or expert competence;
 - (iii) a director or committee of directors of Te Ohu Kai Moana Trustee, in relation to matters within the director's or committee's designated authority.
- (b) Paragraph (a) applies to Te Ohu Kai Moana Trustee only if Te Ohu Kai Moana Trustee:
- (i) acts in good faith; and
 - (ii) makes proper inquiry where the need for inquiry is indicated by the circumstances; and

Handwritten signature and initials in purple ink, located in the bottom right corner of the page. The signature appears to be 'C' with a flourish, and the initials 'AJM' are written vertically to the left.

(iii) has no knowledge that such reliance is unwarranted.

7 ANNUAL AND 5 YEAR STRATEGIC PLANS

7.1 Financial Year

The Financial Year of the Trust is the period of 12 consecutive months commencing on 1 October.

7.2 Development of plans

(a) As required by section 36(1)(b) of the Maori Fisheries Act, Te Ohu Kai Moana Trustee must develop:

- (i) an annual plan; and
- (ii) a 5-year strategic plan that is updated annually.

(b) Each such annual plan must correspond with a Financial Year of the Trust.

7.3 Circulation of draft plans

Te Ohu Kai Moana Trustee must circulate drafts of the plans referred to in clause 7.2 for comment, prior to their adoption by Te Ohu Kai Moana Trustee, to:

- (a) each Mandated Iwi Organisation;
- (b) each Recognised Iwi Organisation (for so long as each of those entities continues in existence under section 27 of the Maori Fisheries Act); and
- (c) each Representative Maori Organisation.

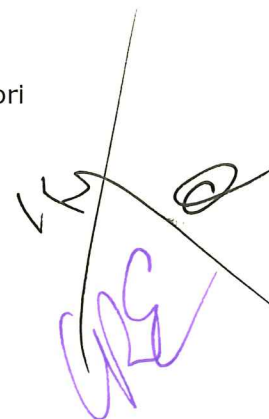
7.4 Annual and 5 year rolling strategic plan must be adopted

After the draft annual plan and draft 5-year strategic plan have been circulated in accordance with clause 7.3, and after having considered comments on those plans, Te Ohu Kai Moana Trustee, must, prior to or during each Financial Year, adopt an annual plan for that Financial Year and a 5-year strategic plan commencing with that Financial Year.

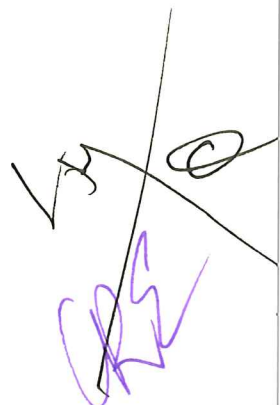
7.5 Content of annual plan

The annual plan for a Financial Year must include the following information:

- (a) whether Te Ohu Kai Moana Trustee will hold and account separately or collectively for:
 - (i) the net proceeds of sales referred to in section 152(4) of the Maori Fisheries Act; and



- (ii) Income Shares and dividends referred to in section 153(1) of the Maori Fisheries Act; and
- (b) the matters referred to in section 152(5)(a) of the Maori Fisheries Act (which relates to the sale of annual catch entitlement) for the year to which the plan applies, unless those matters have been included in a Panui; and
- (c) the budget for Te Ohu Kai Moana Trustee for that Financial Year; and
- (d) the budget to be paid by Te Ohu Kai Moana Trustee for Te Kawai Taumata, as provided for under clause 19 of Schedule 8 of the Maori Fisheries Act, including the daily rate for meetings payable to the members and alternate members of Te Kawai Taumata under clause 18 of Schedule 8 of that Act; and
- (e) when relevant, the budget for:
 - (i) a review under section 114(2) and (3)(a) of the Maori Fisheries Act; and
 - (ii) a Committee of Representatives, as provided for under section 115(1) of the Maori Fisheries Act, including the daily rate for meetings payable to the members of a committee under section 120(4) of that Act; and
- (f) the scale of fees (expressed in bands of \$10,000) that applies for:
 - (i) the directors of Te Ohu Kai Moana Trustee, to be paid by Te Ohu Kai Moana Trustee; and
 - (ii) the directors of Te Putea Whakatupu Trustee, to be paid by Te Putea Whakatupu Trustee; and
 - (iii) the directors of Te Wai Maori Trustee, to be paid by Te Wai Maori Trustee;
- (g) the policy that must apply to the payments referred to in paragraphs (d), (e) and (f) of reimbursing allowances to, or actual and reasonable expenses of, the directors, members, and alternate members, as the case may be.



8 REPORTS AND FINANCIAL STATEMENTS

8.1 General reporting obligation

Te Ohu Kai Moana Trustee must provide, in a timely manner, to Mandated Iwi Organisations, Recognised Iwi Organisations (for so long as each of those entities continues in existence under section 27 of the Maori Fisheries Act), Representative Maori Organisations and members and alternate members of Te Kawai Taumata:

- (a) the minutes of every general meeting held in accordance with clause 8.6; and
- (b) the annual report required by clause 8.2, together with information on where the report is publicly available; and
- (c) the annual and strategic plans referred to in clause 7.2.

8.2 Annual report

In measuring its performance against the annual plan and strategic plan referred to in clause 7.2, Te Ohu Kai Moana Trustee must report annually, not later than 5 months after the end of each Financial Year, to:

- (a) Mandated Iwi Organisations;
- (b) Recognised Iwi Organisations;
- (c) Representative Maori Organisations; and
- (d) the members and alternate members of Te Kawai Taumata.

8.3 Contents of annual report

In each annual report required by clause 8.2, Te Ohu Kai Moana Trustee must:

- (a) describe any amendments made to the trust deed of Te Ohu Kai Moana; and
- (b) describe the key activities undertaken by:
 - (i) Te Ohu Kai Moana Trustee; and
 - (ii) any subsidiary set up by Te Ohu Kai Moana Trustee, including Aotearoa Fisheries Limited; and
 - (iii) Te Putea Whakatupu Trustee and Te Wai Maori Trustee; and



- (c) describe any Special Resolution passed or approval granted during that year in respect of the matters referred to in clause 4.2(c); and
- (d) separately describe each of the funds it has reserved under clause 4.2(i), the reason why each reserve fund is held, and any proposed applications of those reserves; and
- (e) separately describe each sale of Income Shares sold under section 71 of the Maori Fisheries Act; and
- (f) describe how the revenue from annual catch entitlements sold in the previous year was used; and
- (g) describe separately or collectively, as provided for in the annual plan, the Income Shares and dividends held under section 153(1) of the Maori Fisheries Act; and
- (h) describe separately, in relation to any loan referred to in section 75(4)(f) of the Maori Fisheries Act:
 - (i) the capital sum of the loans; and
 - (ii) the money received, in each case by way of capital repayments or interest; and
 - (iii) loans written off or discharged; and
- (i) list any appointments made by Te Ohu Kai Moana Trustee to the board of directors of Aotearoa Fisheries Limited, Te Putea Whakatupu Trustee, and Te Wai Maori Trustee.

8.4 Further contents of annual report

Each annual report must also include:

- (a) the audited financial statements of Te Ohu Kai Moana and Te Ohu Kai Moana Trustee; and
- (b) a statement of:
 - (i) the payments made under clause 4.2(g); and
 - (ii) the fees (expressed in bands of \$10,000) and the reimbursing allowances or actual and reasonable expenses paid to each of the directors of Te Ohu Kai Moana Trustee, Te Putea Whakatupu Trustee, and Te Wai Maori Trustee ; and

(iii) the remuneration and reimbursing allowances or actual and reasonable expenses paid, collectively, to:

(A) the members and alternate members of Te Kawai Taumata;
and

(B) the members of a Committee of Representatives.

8.5 **Financial statements must be audited**

Te Ohu Kai Moana Trustee must ensure that the financial statements of Te Ohu Kai Moana for each Financial Year are audited by a chartered accountant in public practice.

8.6 **General meeting**

Not later than 8 months after the end of each Financial Year Te Ohu Kai Moana Trustee must hold a general meeting to discuss and address issues arising from the annual report for that Financial Year. Each such meeting must be convened and conducted in accordance with the constitution of Te Ohu Kai Moana Trustee.

9 **REMUNERATION AND EXPENSES OF DIRECTORS**

(a) Fees or remuneration for attendance at meetings, as the case may be, and reimbursing allowances or actual and reasonable expenses may be paid to each of:

(i) the directors of Te Ohu Kai Moana Trustee;

(ii) the directors of Te Putea Whakatupu Trustee, and Te Wai Maori Trustee (to be paid by those companies);

(iii) the members and alternate members of Te Kawai Taumata; and

(iv) the members of a Committee of Representatives.

(b) The fees, reimbursing allowances or actual and reasonable expenses referred to in paragraph (a) must be determined in accordance with the annual plan of Te Ohu Kai Moana Trustee as required by clause 7.5 and section 37 of the Maori Fisheries Act.

10 **REVENUE REVIEW**

Te Ohu Kai Moana Trustee must commence and complete, during the 12th year after the commencement of the Maori Fisheries Act, a Revenue Review as required by section 41(2) of the Maori Fisheries Act, and report as required by

section 41(3) of the Maori Fisheries Act. The scope of the Revenue Review is set out in section 42 of the Maori Fisheries Act.

11 AUDIT OF TE OHU KAI MOANA TRUSTEE

- (a) Not later than 4 years after the commencement of the Maori Fisheries Act (which occurred on 26 September 2004), Te Ohu Kai Moana Trustee must arrange for an audit of Te Ohu Kai Moana Trustee as required by section 105(1)(a) of the Maori Fisheries Act.
- (b) Subsequent audits of Te Ohu Kai Moana Trustee must be arranged and conducted in accordance with section 106 of the Maori Fisheries Act, if required.
- (c) The audits to be carried out under this *clause 11* must consider and report on the matters set out in section 108 of the Maori Fisheries Act.
- (d) As required by section 109 of the Maori Fisheries Act, the audits to be carried out under this clause 11 must also consider and report on:
 - (i) the progress that Te Ohu Kai Moana Trustee has made towards allocating and transferring settlement assets; and
 - (ii) the contribution that Te Ohu Kai Moana Trustee has made towards assisting Iwi to meet the requirements for recognition as Mandated Iwi Organisations.
- (e) Not later than 60 working days after receiving an audit report from an audit carried out under this *clause 11*, Te Ohu Kai Moana Trustee must follow the procedure set out in section 113 of the Maori Fisheries Act.

12 INCOME TRUSTS

12.1 Power to pay or appropriate income

Te Ohu Kai Moana Trustee may pay or appropriate, or decide to pay or appropriate, as much of the income arising from the Trust Fund in an Income Year as it thinks fit for or towards the purpose of Te Ohu Kai Moana including funding the operations of Te Ohu Kai Moana Trustee and making payments under clause 4.2(g) or granting assistance under *clause 4.2(h)*, or otherwise as contemplated by the Maori Fisheries Act that in each case is consistent with the purpose of Te Ohu Kai Moana.

12.2 Provisions relating to payments and appropriations of income

- (a) Te Ohu Kai Moana Trustee, by written resolution, may, in anticipation of a payment or appropriation under clause 12.1, appropriate any investments for the purpose of Te Ohu Kai Moana including funding the operations of Te Ohu Kai

Moana Trustee and granting assistance under clause 4.2(h), or otherwise as contemplated by the Maori Fisheries Act that is consistent with the purpose of Te Ohu Kai Moana. This does not authorise appropriation of shares of any kind in Aotearoa Fisheries Limited or Settlement Quota, except as specified by the Maori Fisheries Act.

- (b) In any Income Year, Te Ohu Kai Moana Trustee may appropriate all or part of the income derived or to be derived from the Trust Fund during that Income Year even though, at the time of appropriation, it has not received the income being appropriated.
- (c) If Te Ohu Kai Moana Trustee appropriates any income for any purpose of Te Ohu Kai Moana the recipient of that income takes an absolute and indefeasible interest in that income as from the date on which it is appropriated.

12.3 **Power to retain or accumulate income**

Te Ohu Kai Moana Trustee need not distribute all of the income arising from the Trust Fund in an Income Year, but may, to the extent that it considers prudent:

- (a) retain or decide to retain all or part of that income to establish or augment any reserve fund, which may be used at any later time for any purpose for which income arising from the Trust Fund may be used; or
- (b) accumulate or decide to accumulate all or part of that income. The accumulated income must be added to the capital of the Trust Fund so that it becomes part of the Trust Fund and is held on the same trusts and with the same powers.

13 **CAPITAL TRUSTS**

13.1 **Power to pay or appropriate capital**

At any time Te Ohu Kai Moana Trustee may pay or appropriate as much of the capital of the Trust Fund as it thinks fit for or towards the purpose of Te Ohu Kai Moana including funding the operations of Te Ohu Kai Moana Trustee and making payments under clause 4.2(g) or granting assistance under clause 4.2(h) or otherwise as contemplated by the Maori Fisheries Act that is consistent with the purpose of Te Ohu Kai Moana. Any payment or appropriation of capital may be made either in addition to or in place of any payment or appropriation of income. This does not authorise appropriation of shares of any kind in Aotearoa Fisheries Limited or Settlement Quota, except as specified by the Maori Fisheries Act.

13.2 **Power to lend capital**

At any time Te Ohu Kai Moana Trustee may lend any money out of the capital of the Trust Fund as it thinks fit for or towards the purpose of Te Ohu Kai Moana (including by way of granting assistance under clause 4.2(h)) or otherwise as

contemplated by the Maori Fisheries Act that is consistent with the purpose of Te Ohu Kai Moana. Any loans may be made with or without a requirement to pay interest and on such terms and conditions as Te Ohu Kai Moana Trustee thinks fit; but always with such security as Te Ohu Kai Moana thinks fit.

14 RECEIPTS

14.1 Receipt of gifts and grants

Te Ohu Kai Moana Trustee may receive solicited and unsolicited gifts or grants from the Crown or other persons of any real or personal property for the purpose of Te Ohu Kai Moana or for any specific purpose that comes within the purpose of Te Ohu Kai Moana.

14.2 Receipts for payments

The receipt of the secretary, treasurer or other person or persons appearing to Te Ohu Kai Moana Trustee to be authorised to give receipts on behalf of the recipient of any payment made under this deed, is a complete discharge to Te Ohu Kai Moana Trustee for that payment.

15 AMENDMENTS TO DEED

Te Ohu Kai Moana Trustee may amend this deed by Special Resolution, subject to the restrictions set out in section 36(2)(b) of the Maori Fisheries Act. Any amendment to the purpose of Te Ohu Kai Moana may only be made if authorised or contemplated by an Act of Parliament. However, if Te Ohu Kai Moana has charitable status for taxation purposes:

- (a) this deed must not be amended without first obtaining written confirmation from the Commissioner of Inland Revenue and/or any charities commission or similar entity then having relevant jurisdiction that the proposed amendment does not jeopardise any charitable status of Te Ohu Kai Moana; and
- (b) a Special Resolution for the amendment of any part of this deed is effective only if the amendment does not jeopardise any charitable status of Te Ohu Kai Moana.

16 PROHIBITION OF BENEFIT OR ADVANTAGE IN CARRYING OUT TRUST

- (a) If Te Ohu Kai Moana has charitable status for taxation purposes, Te Ohu Kai Moana Trustee must ensure that no benefit, advantage or income may be afforded to, or received, gained, achieved or derived by any Related Person where that Related Person, in his or her capacity as a Related Person, is able in any way (whether directly or indirectly) to determine, or to materially influence the determination of:

- (i) the nature or amount of that benefit, advantage or income; or
 - (ii) the circumstances in which that benefit, advantage or income is, or is to be, so afforded, received, gained, achieved or derived.
- (b) A person who in the course of, and as part of the carrying on of his or her business of a professional public practice, is rendering professional services to Te Ohu Kai Moana or to any entity by which the purpose of Te Ohu Kai Moana is carried out, is not, by reason only of doing so, in breach of the terms of this clause.
- (c) For the purposes of this clause 16 *Related Person* in relation to any business to which section CB4(1)(e) of the Income Tax Act 1994 applies, means a person specified in paragraphs (i) to (iv) of the 2nd proviso to that section, the persons currently specified being:
- (i) a settlor or trustee of the trust by which the business is carried on; or
 - (ii) a shareholder or director of the company by which the business is carried on; or
 - (iii) a settlor or trustee of a trust that is a shareholder of the company by which the business is carried on; or
 - (iv) that person, where he or she and the settlor, trustee, shareholder or director already mentioned in this definition, are associated persons for the purposes of the Income Tax Act 1994.

17 INDEMNITY OF TE OHU KAI MOANA TRUSTEE

- (a) Without prejudice to the right of indemnity by law given to trustees (and except to the extent to which Te Ohu Kai Moana Trustee, or any director, employee, attorney or agent of Te Ohu Kai Moana Trustee has the benefit of an insurance policy referred to in clause 18), Te Ohu Kai Moana Trustee and each of its directors, employees, attorneys or agents are entitled to be reimbursed for and are hereby indemnified out of the Trust Fund in respect of:
- (i) all liabilities (and expenditure) which are properly incurred in the execution or purported execution of the trusts under this deed or the exercise or purported exercise of any powers, authorities or discretions under this deed; and
 - (ii) against all actions, proceedings, costs, claims and demands in respect of any matter or thing done or omitted or in any way relating to this deed,

and Te Ohu Kai Moana Trustee may retain and pay out of the Trust Fund all sums necessary to effect and satisfy that indemnity.

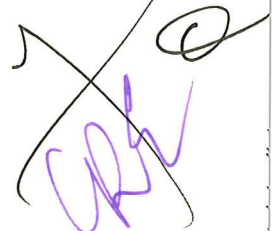
- (b) However, paragraph (a) does not apply in respect of any liabilities, expenses, actions, proceedings, costs, losses, claims or demands arising out of fraud or dishonesty on the part of Te Ohu Kai Moana Trustee or the particular director, employee, attorney or agent seeking the indemnity.
- (c) For the purposes of paragraph (a)(i), a director's remuneration, reimbursing allowances and actual and reasonable expenses will only be "properly incurred" if done so in accordance with the provisions of the annual plan required by clause 7.2.

18 **INSURANCE**

Te Ohu Kai Moana Trustee is authorised to take out a trustee's or director's indemnity insurance policy or policies in relation to itself, any of the directors of Te Ohu Kai Moana Trustee and any person employed by Te Ohu Kai Moana Trustee and to pay the premiums in respect of that policy or those policies out of the Trust Fund.

19 **WINDING UP**

- (a) Te Ohu Kai Moana Trustee must wind up Te Ohu Kai Moana only if required to do so by an Act of Parliament.
- (b) On the winding up of Te Ohu Kai Moana by Te Ohu Kai Moana Trustee, Te Ohu Kai Moana Trustee must give or transfer all surplus assets (including capital and accumulated income) after the payment of costs, debts and liabilities, in the percentages specified in column 3 of Part I of Schedule 3 of the Maori Fisheries Act, for the relevant Iwi:
 - (i) to each Mandated Iwi Organisation that has charitable status; or
 - (ii) in the case of a Mandated Iwi Organisation that does not have charitable status, to an entity with charitable status nominated by the Mandated Iwi Organisation to benefit the relevant Iwi or its members; or
 - (iii) if no Mandated Iwi Organisation exists or no nomination is made under clause 20(b)(ii), to an entity with charitable status nominated by Te Ohu Kai Moana Trustee to benefit the relevant Iwi and its members.



This Deed is executed on the 24th day of November 2004

Executed for and on behalf of the
TREATY OF WAITANGI FISHERIES
COMMISSION under common seal in
the presence of:

[Signature]
Witness Signature

Mungo Tamarapa Lloyd
Witness Name

Solicitor
Witness Occupation

Wellington
Witness Address

)
)
)
)

[Signature]
Commissioner

[Signature]
Commissioner



Executed by the TREATY OF WAITANGI
FISHERIES COMMISSION, under
common seal, exercising the powers,
functions, duties, rights,
responsibilities, liabilities and
exemptions of TE OHU KAI MOANA
TRUSTEE LIMITED under section 190 of
the Maori Fisheries Act 2004 in the
presence of:

[Signature]
Witness Signature

Mungo Tamarapa Lloyd
Witness Name

Solicitor
Witness Occupation

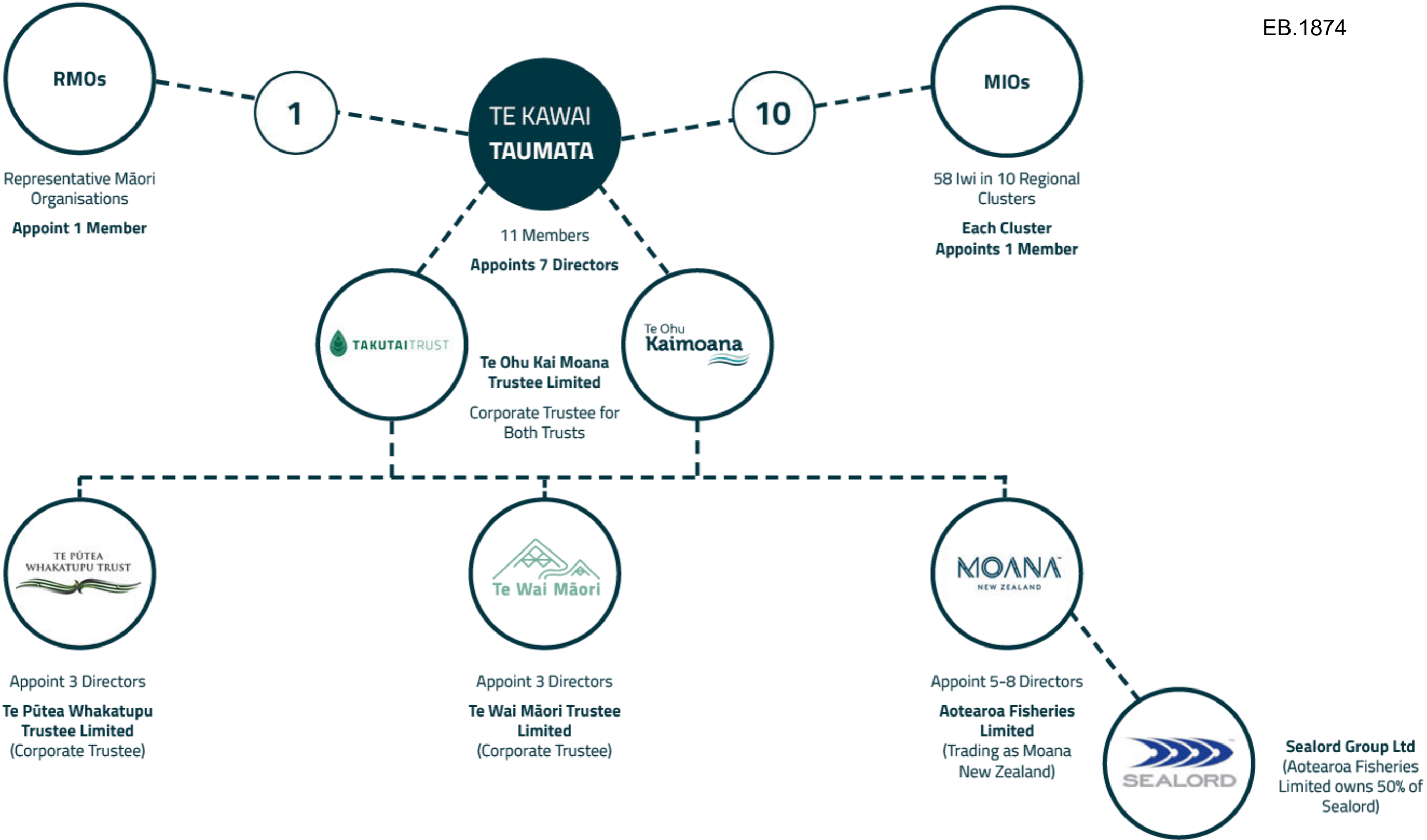
Wellington
Witness Address

)
)
)
)
)
)
)

[Signature]
Commissioner

[Signature]
Commissioner





MAORI FISHERIES STRATEGY

FEBRUARY 2017

Te Ohu Kaimoana
Ka Ora ki Tai – Ka Hua ki Uta
A Bountiful Ocean Will Sustain Us

Contents

Executive Summary.....	2
Introduction	5
Iwi Aspirations from Fisheries.....	10
Setting the Scene: A Brief History of Maori Fisheries	13
Environmental Scan – The Maori Fisheries Sector	21
Commercial Sector, Seafood New Zealand and Sector Representative Entities	28
Environmental Non-Government Organisations	36
The Politics of Fisheries Rights.....	42
Strengths, Weaknesses, Opportunities, Threats and Key Issues	48
Maori Fisheries Strategy	52
Conclusion.....	59

“Fishing rights are to be respected and protected not as a privilege for Maori but because these rights belonged to the various communities which formed the people of Aotearoa before the European came to its shores and have never been sold or given away.”

-New Zealand Law Commission, 1986

Executive Summary

The 1992 Maori fisheries settlement was the catalyst for present day Maori economic and political development based on the Crown’s recognition and guarantee of Maori commercial rights to fisheries.

The fight for Crown recognition of Maori commercial fishing rights was begun by Muriwhenua, Ngai Tahu, Tainui and joined by the New Zealand Maori Council on behalf of all Maori. This occurred prior to the development of any formal Crown settlement policy and was achieved through a combination of legal strategy and hard fought political negotiations underpinned by the unwavering belief in the unextinguished Maori right to fisheries as guaranteed by the Treaty of Waitangi.

The 1992 Fisheries Settlement proposal was ultimately mandated by Iwi who then agreed a pragmatic allocation system based on coastline and population factors.

Allocation of the settlement required Iwi to establish formal governance and asset management structures which have evolved in less than 15 years to form the foundation of the present Iwi-based political and commercial economy which is increasingly recognised as an important component of New Zealand’s future economic and social wellbeing.

Since the fisheries settlement Iwi have become an intrinsic part of the commercial fishing industry and Maori customary rights have become codified within the customary regulations.

The fisheries settlement also resulted in the creation of pan-Maori structures which have also evolved over time. The Maori Fisheries Commission was established to receive the interim collective settlement and evolved into the Treaty of Waitangi Fisheries Commission to manage the assets until it could define and facilitate the final allocation process to Iwi.

The Commission further evolved into Te Ohu Kaimoana (primarily to facilitate allocation), Aotearoa Fisheries Ltd (to manage collective commercial interests), Te Wai Maori Trust (to advance freshwater fisheries rights) and Te Putea Whakatupu Trust (to promote education among those Maori not receiving benefit from the settlement).

The Rise and Fall of Maori Fisheries Rights

The fisheries settlement recognised collective Maori rights to commercial fisheries and the allocation process enabled Iwi to exercise mana over their specific share of those rights.

Following allocation, the Maori focus on securing rights prevalent during the 1980s and early 1990s evolved into an Iwi-centric focus on the exercise of rights. The exercise of rights brought with it a natural focus on commercial development based on an expectation that the Crown would honour the political agreements made in the Fisheries Deed of Settlement.

From the period 2004 onwards Te Ohu Kaimoana focused its core efforts on completing the allocation process. While Te Ohu Kaimoana continued to protect Maori rights the collective Maori focus on maintenance of rights diminished from that of previous years.

This reduced focus on Treaty rights, combined with inevitable changes in Iwi and Government personnel over time has resulted in a weakening of institutional knowledge regarding the Fisheries Deed of Settlement.¹

This has coincided with a time of increasing global public (and therefore political) concern regarding environmental matters and a weakening of public confidence in the commercial fishing industry.

From a position of strength in 1992, Maori now face a situation where Deed of Settlement rights are under increasing threat of unilateral extinguishment by Government emboldened by Maori complacency regarding fisheries rights protection.

Government confidence has also been emboldened by increasing diversity of Iwi views regarding the relative importance of commercial fisheries compared to Iwi environmental perspectives and individual political positioning.

From a position of general unity in 1992 regarding Treaty rights Iwi are now more diverse in their views regarding how fisheries rights should be balanced and exercised. This lack of unity creates risk when dealing with a Treaty Partner which is highly selective in its approach to dealing with Maori issues.

Maori Fishing Strategy

Te Ohu Kaimoana has been challenged to devise a strategy to guide the future of Maori fishing and inform the future purpose of Te Ohu Kaimoana. Achieving this requires an understanding of the fundamentally political (and therefore fragile) nature of Maori fisheries rights.

Individual Iwi fisheries rights and the benefits they generate are based on a foundation of rights common to all tribes.

The development of a Maori fisheries strategy to guide future Maori fisheries development requires understanding where the commonality of Maori rights ends and the diversity of Iwi rights begins. This is required to understand how these differences affect each other and how they must be balanced in the interests of protecting the rangatiratanga of all Iwi.

When collective Maori rights to fishing are secured, Iwi can exercise their rights to fishing with certainty - no matter how small or large their commercial or customary interests may be.

If collective Maori rights to fishing are not secured, or are constantly under threat – then Iwi will not be able to exercise their rights to fishing with certainty - no matter how small or how large their commercial or customary interests may be.

When the fragility of Maori fisheries rights is fully understood, it becomes clear that the Maori fisheries strategy is not concerned with fishing but with the maintenance and advancement of collective Maori fishing rights as guaranteed under the Deed of Settlement through the establishment of a partnership between Iwi and the Crown to develop Treaty-based policy to guide New Zealand's fisheries management.

And when this is understood it becomes apparent that the protection of Maori fisheries rights requires the collective and unanimous support of all Mandated Iwi Organisations if Maori rights to fisheries are to be protected and advanced for the benefit of Iwi and Aotearoa as a whole.

¹ The current Treaty Settlements Minister, Chris Finlayson, has recognised this fact and sought to address it by establishing a Treaty Settlements compliance unit within the Ministry of Justice.

Vision

“The ongoing Treaty Partnership between Iwi and the Crown is given effect to develop fisheries-related legislation, policies and arrangements recognising and respecting the rangatiratanga of Iwi over their traditional fisheries.”

Strategy

To achieve this vision the following high level strategies need to be executed:

1. The roles of the competing Maori political and commercial structures are aligned to reduce duplication and support the protection and advancement of the full range of collective Maori traditional fisheries rights including;
 - a. Clarifying the relationship between and respective roles of Mandated Iwi Organisations and the Iwi Chairs Forum to establish a unified Maori political voice with the Crown;
 - b. Individual Iwi-owned and Maori collectively-owned fishing companies developing commercial strategies based on Iwi-driven principles which improve industry behaviour and promote the protection and advancement of the full range of collective Maori traditional fisheries rights.
 - c. Te Ohu Kaimoana and Te Wai Maori Trust reorganising into an agent of Mandated Iwi Organisations to act as an influencer and advocate for the protection and advancement of Maori collective fisheries rights based on strong knowledge, integrity and relationships.
2. Re-establishing Maori and Government understanding of the rights granted under the Deed of Settlement to establish a Treaty-based approach to developing future fisheries-related policy with the Crown;
3. Mandated Iwi Organisations collectively identifying, developing and promoting fisheries leadership to advocate protect and advance the full range of collective Maori traditional fisheries rights with the best support possible.
4. Mandated Iwi Organisations working collectively to develop national and regional fisheries policy which protects and advances the full range of Maori traditional fisheries rights guaranteed under the Deed of Settlement.

Introduction

As a result of its extensive engagement with Iwi over the past two years, Te Ohu Kaimoana has agreed the need for the development of a Maori Fishing Strategy to help guide its future priorities for action and associated future structure in a manner that is ultimately for the benefit of all Maori.

This report sets out the basis for an overarching Maori fisheries strategy to inform and guide the future development of Te Ohu Kaimoana.

To develop an appropriate strategy to underpin Maori fisheries this report considers the following questions:

1. What do Iwi want from their fisheries rights?
2. How is the NZ fisheries sector structured and how does it function?
3. Where are the key sources of power and decision-making located within the fisheries sector?
4. Where are Iwi located in the fisheries sector relative to the sources of power and decision-making within the fisheries sector?
5. Does the Iwi and Maori position within the fisheries sector advance the achievement of rangatiratanga?

In considering these questions this report canvasses the recent history of Maori involvement in fisheries and attempts to present an overview of the entire fisheries sector in order to draw some conclusions about the place of Maori and iwi within the sector and how to strengthen this position.

Fishing (commercial, customary and recreational) is an inherently political undertaking which involves balancing the interests of commercial, customary and recreational interest groups with Maori being the only group represented across all three different sectors.

This therefore makes Maori unique within the New Zealand fisheries regime which is underpinned by the Fisheries Act 1996.

Fisheries Act 1996

Management of New Zealand's fisheries resources is governed under the Fisheries Act 1996. This Act is administered by the Minister for Primary Industries with advice from the Ministry of Primary Industries.

The Act establishes a broad framework for managing customary, recreational and commercial fishing. The purpose of the Fisheries Act is to provide for the utilisation of fisheries resources while ensuring sustainability.

Sustainability is the principal objective of the legislation and is defined to cover both the sustainability of harvest and manage the adverse effects of fishing on the environment. The Act is intended to facilitate the activity of fishing and deals with fisheries resources that can be harvested and used sustainably either now or in the future.

In giving effect to the purpose of the Act, decision makers are required to take into account environmental and information principles, and to act consistently with the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992 and international obligations.²

The Fisheries Act 1996 does not operate in isolation but operates alongside a number of other pieces of legislation and agreements and international treaties which create an overall context within which fisheries operates.

² www.mpi.govt.nz

These statutes and Agreements include the Maori Fisheries Deed of Settlement, Treaty of Waitangi (Fisheries Claims) Settlement Act 1992, Marine Reserves Act 1971, Resource Management Act 1991, and numerous others.

Each of these pieces of legislation can impact on fisheries and the key tool used for managing New Zealand's fisheries, the Quota Management System (QMS).

Quota Management System

The Quota Management System (QMS) was introduced in 1986 to manage and conserve New Zealand's major commercial fisheries. The QMS is based on the simple concept of limiting the total commercial catch from each fishery while providing quota holders with the maximum in flexibility to harvest their catches.³ The Quota Management System is the only fisheries management system that has been mandated by Iwi as the most appropriate way of managing New Zealand's fisheries.

By the early 1980s fishing pressure had considerably reduced the size of a number of New Zealand's major inshore fisheries stocks. In these fisheries commercial catches were declining, the economics of fishing were deteriorating and the recreational fishery was suffering from the reduced availability of fish. There was widespread agreement that the consequences of continuing with the management measures that existed at that time would have resulted in the economic collapse of some commercial fisheries and that the recreational fishery would have continued to decline.⁴

The objectives of the QMS at introduction were to:

- Rebuild inshore fish stocks where required;
- Ensure that catches were limited to levels that could be sustained over the long term;
- Ensure that catches were harvested efficiently with maximum benefit to Industry and to New Zealand;
- Allocate catch entitlements equitably based on individual permit holders commitment to the fishery;
- Manage the fisheries so that Industry retains maximum security of access and flexibility of harvesting;
- Integrate the management of inshore and deepwater fisheries;
- Develop a management system which can be applied both nationally and regionally;
- Provide financial assistance to facilitate restructuring of the Seafood Industry to meet the above claims; and
- Enhance the recreational fishery.

Although there have been a number of revisions and enhancements to the QMS since 1986, its essential elements remain the same.

The QMS helps ensure sustainable utilisation of fisheries resources through the direct control of harvest levels for each species in a nominated geographical area. A fish species can consist of numerous geographically isolated and biologically distinct populations. Each fish species in the QMS is subdivided into separate fish stocks defined by Quota Management Areas (QMAs).

New Zealand currently has 100 species (or species groupings) subject to the QMS. These species are divided into 638 separate stocks. Each stock is managed independently to help ensure the sustainable utilisation of that fishery.⁵

³ Foreword – New Zealand Commercial Fisheries: The Guide to the Quota Management System.

⁴ Ibid, p 6.

⁵ <http://fs.fish.govt.nz/Page.aspx?pk=81>

For every fishstock managed under the QMS a Total Allowable Catch (TAC) is set. Each TAC is determined by assessing the size of the stock that will support the maximum sustainable yield (MSY) and by setting the total annual catch that will maintain the stock size or will allow the stock size to improve stock size.

This provides a measure of the total annual allowable take by all groups including commercial, recreational and customary users.

Once TAC's have been determined, a Total Allowable Commercial Catch (TACC) is set for each fishstock. Each TACC is determined after consideration of the TAC and consultation with representative groups taking into account recreational, customary, economic and social interests in the fishery, plus other mortality caused by fishing. Each TACC is allocated amongst quota owners as Individually Transferrable Quota (ITQ) – which gives the right to a specified share of the TACC for a quota species within a particular area.

On the first day of each fishing year quota generates an annual right to catch a specified amount of a particular fish stock known as an Annual Catch Entitlement (ACE). The ACE is then allocated to the owner of the quota from which it was generated, who may then use the ACE for fishing or dispose of it by sale or otherwise.

While ITQ shares are a fixed percentage of the TACC, the amount of ACE generated from those shares may vary from year to year as the TACC increases or decreases.

During each fishing year catches by fishermen are progressively counted against their ACE holdings through a strict compliance and reporting procedure which ensures that fishermen catch up to the level of ACE that they control for any species. The system carries significant penalties for fishing over allocated amounts.⁶

The QMS is a sophisticated and world leading fisheries management system which operates per the key principle of sustainability to ensure utilisation of fisheries – both marine and freshwater. The system has clear parallels with Maori concepts of kaitiakitanga to manage and protect resources for future generations use.

Freshwater Fisheries

For the purpose of the Maori Fisheries Act, fisheries are defined to have the same meaning as “fishing resources” under the Fisheries Act 1996 (the ‘Fisheries Act’). Under the Fisheries Act fishing resources is defined to mean any one or more stocks or species of fish, aquatic life, or seaweed.

The number of freshwater fish species native to Aotearoa is not entirely clear. In 1997 a New Zealand State of the Environment Report noted that there had been 29 species identified but that further genetic research was likely to result in scientists finding fish previously described as sub populations are actually genetically distinct species.⁷

Both the Department of Conservation and the National Institute of Water and Atmospheric Research (NIWA) now recognise “at least” 35 native freshwater fish species. The taxonomy of some “species” is yet to be confirmed and a number remain “indeterminate” meaning that genetic testing has yet to confirm whether they are genetically distinct species.

⁶ New Zealand Commercial Fisheries: The Guide to the Quota Management System, pp 7-9.

⁷ Te Wai Maori, Freshwater Fisheries in New Zealand Environmental Scan, 2006, p 2.

Whether a fish is classified as a true freshwater fish or a “marine fish that sometimes inhabits freshwater” will also determine the exact number of “freshwater” fish species. The Conservation Act 1987 (the ‘Conservation Act’) defines freshwater fish as follow:

“all species of finfish of the Classes Agnatha and Osteichthyes, and all shellfish of the Classes Mollusca and Crustacea, that my, at any time in the life history of the species, inhabit freshwater; and includes any part thereof and such finfish and shellfish that seasonally migrate into or out of freshwater.”⁸

Characteristics of Freshwater Fish

New Zealand has relatively few freshwater fish species and less diversity compared to other countries.

Many of the species are highly localised and probably have small natural populations. Of all New Zealand’s freshwater species only eels and the giant kokopu exceed 2 kilograms in weight. These characteristics mean that stocks of most species represent a very small total biomass.

Many of New Zealand’s freshwater species are not only small but well camouflaged, bottom dwelling and extremely secretive. Consequently they are hard to find and the public generally has little knowledge of them. Even fish biologists know very little about the life cycles of many species.

Because of these characteristics, few species form fisheries that have recognised commercial or recreational value.

The four freshwater species within the quota management system are The main species that do have customary and other values are Tuna (Eels), Kanae and Aua (Grey Mullet and Yellow-eyed Mullet), and Patiki (Flounder). Three other species listed in Schedule 4C of the Fisheries Act are Piharau (Lampreys), Freshwater Mussels and South Island Koura stocks.

Freshwater Regulation

The freshwater fisheries management regime is characterised by a complex and sometimes overlapping regulatory environment. In this context, the Ministry of Fisheries (the Ministry) is responsible for the management of most freshwater species under the Fisheries Act. Exceptions include “sports fish”, “whitebait”, and “unwanted aquatic life” as detailed below.

Fish & Game New Zealand (FGNZ) has a statutory mandate to manage New Zealand’s freshwater “sports fish” fisheries including salmon and trout. The Department of Conservation (DOC) has responsibilities under the Conservation Act 1987, the most significant of which include managing “whitebait” and controlling access to waterways in DOC administered public lands. DOC also administers the Freshwater Fisheries Regulations 1983, which include provisions relating to both indigenous fish and “noxious fish”.

Under the Biosecurity Act 1993, the Ministry for Primary Industries has statutory responsibilities in relation to freshwater biosecurity and regional councils have responsibilities for regional pest management strategies. Of those freshwater species managed under the Fisheries Act, eels are the only species managed under the quota management system (QMS).

The characteristics of eels pose particular challenges for fisheries management. Eels have a life history unique among fish that inhabit New Zealand waters, spending most of their lifecycle in freshwater or estuarine environments before migrating to an oceanic spawning ground.

It is thought that each eel species forms a single biological stock, but, as most of their lives are spent within a certain catchment, a number of management stocks have been defined at a regional level.

North and South Island eel stocks are listed in Schedule 3 of the Fisheries Act, which provides alternative options to the approach for setting a total allowable catch (TAC). Further flexibility is provided for the setting of the TAC of the Lake Ellesmere fishery, which can be increased within the fishing year.

Freshwater Environmental Context

A number of environmental factors characterise freshwater environments, including water quality, river gradients, water levels, sediments and flow velocities. Changes to these characteristics can have major impacts on the freshwater fisheries within them. Another important factor is the effect of obstructions to the passage and migration of species that need to move between water bodies to complete their life cycles.

While the environmental conditions are different, the essential elements and system controlling freshwater fisheries are the same as those which control marine fisheries.

Iwi Aspirations from Fisheries

Every iwi is unique in terms of its story of who its people are and the people from whom they descend. Yet in many ways every Iwi is similar in terms of their desire to realise tino rangatiratanga or self-determination over their future by contributing to the wellbeing of their people.

A review of over 40 Mandated Iwi Organisation and Asset Holding Company strategic plans and reports articulating the strategic aspirations of each group highlights more similarities among Iwi than differences.

Fundamentally each Iwi aspires to ensure that their unique whakapapa and worldview will endure and flourish and their tikanga and worldview shall live on in perpetuity.

Iwi Leadership

It is often stated that Maori share a similar set of values which should drive similar behaviours in decision making and approach. Because human beings are complex this is not always the case. The Mandated Iwi Organisations formed for fisheries settlement purposes are collectives of individuals elected from their Iwi constituents. The wider New Zealand fishing sector is made up of a range of individual people who pursue different strategies for different reasons and will do so per a range of different values.

This point is simply made to remind ourselves that the acceptance or rejection of a Maori fishing strategy is dependent upon the individual leadership of 60 separate and distinct Maori fisheries settlement entities.

Te Putea Whakatupu Maori Fishing Strategy

In February 2014 Te Putea Whakatupu Trust produced a document entitled *A Strategy for the Maori Fishing Industry*.⁹

This challenging report argued that the lack of a formal Maori fishing strategy meant that the potential benefits available to Iwi from the Settlement were not being realised and the durability of the Settlement was being compromised.

The document promulgated a vision of the Māori Fishing Industry which supported the preservation of Māori identity by developing a sustainable relationship with fisheries resources that are owned by Māori, managed, harvested, processed and offered to the world in way that expresses and exemplifies manaakitanga.

The strategy argued this vision was not being realised by the default Settlement structures established under the Māori Fisheries Act 2004. After nine years, the report argued that the commercial performance of our default Settlement structures is unsatisfactory and had actually declined over time.

The report argued strong and innovative Māori participation in value chains utilising iwi owned Settlement quota has not eventuated and the key issue preventing the emergence of a Māori Fishing Industry is the lack of integration between iwi owned quota and the collectively owned corporate structures of the Settlement. There has also been limited cooperation and coordination between

⁹ Toroa Strategy, *A Strategy for the Maori Fishing Industry – A Report Prepared for Te Putea Whakatupu Trust*, February 2014.

these corporate settlement entities and other entities owned by iwi operating in the same fisheries value chains.

This strategy postulated the need for structural changes within the Maori fishing industry to improve commercial performance.

Although predominantly focused on the performance of Maori commercial fisheries this report made a number important observations which continue to be relevant today and will need to be addressed if Maori are to successfully protect their rights, fully realise the benefit of the 1992 Fisheries Settlement and lead the New Zealand fishing industry.

The following draft strategy has drawn from insights in the Te Putea Whakatupu Maori Fishing Strategy report as well as a range of other sources of information including Mandated Iwi Organisation strategic and annual plans.

Assumptions

The success of any strategy is ultimately dependent upon the people who will be responsible for its execution. This strategy is therefore underpinned by two broad assumptions about the people and entities who make up the present Maori fishing industry.

1. Elected Iwi leaders want to contribute to the wellbeing of their people and will manage their fisheries interests in a way they determine best achieves that.

This assumption recognises that the core purpose of Iwi fisheries interests is to provide for the wellbeing of their people while also recognising that each Iwi will define for itself what wellbeing constitutes.

This assumption also recognises the diversity of views which are likely to exist regarding Iwi relationships with Tangaroa and the fisheries settlement and the relative importance which Iwi may place on their differing fisheries interests from commercial to non-commercial customary.

2. Iwi leadership seek to enhance tribal mana and their own individual mana which in turn will influence how they view collaboration or competition with other Iwi and third parties.

Collaboration is often promoted as a key strategy for overcoming many of the issues that Maori face in the primary sector including fisheries. However, the pursuit of mana – whether this be at the Iwi level or the individual leadership level – remains a strong driver within Maori society and will continue to play a significant role in determining who will collaborate and who will seek to develop their interests alone.

Collaboration will only occur if it is mana-enhancing for Iwi and their leadership sees more benefit in working with others than they could achieve alone.

The decision to collaborate is therefore one Iwi leaders will either make or not make based on their personal preferences, world view and strategic aspirations. It should not be assumed that Iwi leadership desires to work together even if it is more commercially or politically advantageous to do so.

When considering these assumptions it is clear that a single and unified Maori commercial fishing strategy cannot be imposed upon Iwi or Maori fishing companies because no single Maori entity controls the entirety of Maori fishing interests and is unlikely to ever do so again.

Therefore, this strategy can only highlight the very real challenges, threats and opportunities to Maori rights and interests and offer solutions for addressing these challenges.

It will be up to each individual Iwi to decide which path they will travel within this overriding roadmap of possibilities to the future. And it will be up to each Iwi to accept the consequences of their decisions.

Setting the Scene: A Brief History of Maori Fisheries

Traditional Māori Fishing Rights

Māori fisheries rights stem from our whakapapa to the Atua and our connections to Tangaroa, one of the children of Ranginui and Papatūānuku. From this divine origin, Māori inherited a number of rights and duties and obligations to maintain the well-being of communities of people and the natural environment.

Whilst Māori inherited the gifts of the sea from Tangaroa that helped sustain the people, these gifts came with attendant obligations to protect te Whare o Tangaroa for future generations which became normalised within practices of kaitiakitanga.

[NOTE – To be completed following Te Pa o Tangaroa Wananga]

Treaty of Waitangi

Maori fisheries rights and their necessary relationship with Tangaroa are recognised and guaranteed by the Crown in article 2 of the Treaty of Waitangi which states the following:

Ko te tuarua

Ko te Kuini o Ingarani ka wakarite ka wakaae ki nga Rangatira ki nga hapu - ki nga tangata katoa o Nu Tirani te tino rangatiratanga o o ratou wenua o ratou kainga me o ratou taonga katoa. Otiia ko nga Rangatira o te wakaminenga me nga Rangatira katoa atu ka tuku ki te Kuini te hokonga o era wahi wenua e pai ai te tangata nona te wenua - ki te ritenga o te utu e wakaritea ai e ratou ko te kai hoko e meatia nei e te Kuini hei kai hoko mona.

Article the second

Her Majesty the Queen of England confirms and guarantees to the Chiefs and Tribes of New Zealand and to the respective families and individuals thereof the full exclusive and undisturbed possession of their Lands and Estates Forests Fisheries and other properties which they may collectively or individually possess so long as it is their wish and desire to retain the same in their possession; but the Chiefs of the United Tribes and the individual Chiefs, yield to Her Majesty the exclusive right of Preemption over such lands as the proprietors thereof may be disposed to alienate at such prices as may be agreed upon between the respective Proprietors and persons appointed by Her Majesty to treat with them in that behalf.

The Treaty of Waitangi remains a key constitutional document for Aotearoa as a nation and remains a key platform underpinning the nature of the relationship between Maori and the Crown in terms of the management of fisheries and the supporting marine environment in Aotearoa.

1992 Deed of Settlement

In 1987 the New Zealand Government attempted to introduce a new regime to manage New Zealand's commercial fisheries – the quota management system (QMS). This system assigned property rights to individuals and companies in the seafood industry. However in doing so the Government ignored Maori fishing rights secured and guaranteed under the Treaty of Waitangi. On that basis Maori mounted a legal challenge.

In 1989 the Crown and Maori – through representatives of Ngai Tahu, Muriwhenua, Tainui and the New Zealand Maori Council reached an interim agreement. This allowed for the QMS to be implemented and Maori to receive \$10m cash and 10% of all fish stocks introduced into the QMS,

progressively provided at 2.5% per annum for 4 years or a cash equivalent where the Crown proved unable to provide the quota.

At the same time the Maori Fisheries Commission was established under the Maori Fisheries Act 1989 to get Maori into the business of fishing.

By 1992 the Crown and Maori reached a full and final settlement. The deal extinguished any further claims Maori had to commercial fishing rights and involved an agreement by the Crown to pay \$150m to the Maori Fisheries Commission to be used for the development and involvement of Maori in the New Zealand fishing industry, including the participation in a joint venture to acquire a 50% shareholding in Sealord Products Limited, and provision for the allocation to the Commission of 20% of all commercial fisheries brought into the QMS subsequently.

A key part of the Deed of Settlement involved the Crown's recognition "that traditional fisheries are of importance to Maori and that the Crown's Treaty duty is to develop policies to help recognise use and management practices and provide protection for and scope for exercise of rangatiratanga in respect of traditional fisheries."¹⁰

By entering into the Deed of Settlement the Crown and Maori affirmed "that they consider the completion and performance of this Settlement Deed to be of the utmost importance in the pursuit of a just settlement of Maori fishing claims."¹¹

The Maori Fisheries Commission was reconstituted as the Treaty of Waitangi Fisheries Commission under the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992 to hold and manage the assets received through the settlement on behalf of Iwi and develop a methodology to allocate and transfer those assets to Iwi.

Allocation Methodology Development

Over the course of the next 10 years the Commission consulted widely to obtain agreement on a methodology to allocate the settlement assets to Iwi. Key issues included the allocation formulae including whether quota should be allocated based on an Iwi's population or coastline, what entitlements are for 'urban Maori' disassociated from their Iwi and whether the entire settlement should be distributed, consolidated in a central organisation, or have some assets distributed to Iwi and some managed centrally on behalf of Iwi.

In May 2003, an allocation model supported by 93.1% of Iwi was presented to the Minister of Fisheries and in September 2004 the Maori Fisheries Act 2004 was passed in Parliament.

Between 1992 and 2004 the value of the fisheries settlement tripled in size and was valued at approximately \$750 million by the time the Maori Fisheries Act 2004 was passed. This process was without precedent in Maori history and resulted in a pragmatic but imperfect solution which resulted in 57 organisations being recognised for Fisheries Settlement purposes.

For a brief period in our history all Maori commercial fishing interests were managed centrally through the Treaty of Waitangi Fisheries Commission. This concentrated Maori fisheries power and influence into one single nationally representative Maori commercial fisheries entity.

Yet the centralised management model was viewed by many as a paternalistic creation of statute which did not reflect the rangatiratanga and the pre-eminence of Iwi as anticipated within the Deed

¹⁰ Section K, Preamble to the 1992 Fisheries Deed of Settlement.

¹¹ Section L, Preamble to the 1992 Fisheries Deed of Settlement.

of Settlement itself. Despite its undoubted national influence and reach iwi rejected centralised management of their fisheries assets in favour of direct control over their assets.

The distribution of the settlement assets has resulted in the fragmentation of the commercial and political influence of the 1992 Fisheries Settlement which in turn has slowed the development of the Maori fishing industry and contributed to a weakening of Maori influence in the development of national fisheries policy.

Commercially iwi have been unable or unwilling to voluntarily replicate the scale of national collaboration which temporarily existed under the mantle of the Treaty of Waitangi Fisheries Commission. It is presently unclear whether such commercial cooperation will ever occur again without the creation of suitable structures and organisational cultures which recognise the mana and rangatiratanga of iwi.

This is unfortunate as recent Crown actions in relation to the Kermadec Ocean Sanctuary and Future of Our Fisheries proposals suggest the loss of national political influence within the fisheries sector has reached such a level where the Crown now believes it can act against the promises made in the Deed of Settlement without the agreement of its Treaty Partner.

Allocation

The passing of the Maori Fisheries Act 2004 provided for the allocation and transfer of Maori fisheries assets derived from the 1989 interim settlement and the 1992 full and final Sealord deal. On 29 November 2004, the assets held by the Treaty of Waitangi Fisheries Commission were vested in Te Ohu Kaimoana Trustee Ltd and Aotearoa Fisheries Ltd (AFL).

Te Ohu Kaimoana Trustee Ltd was tasked with holding the assets of behalf of 57 iwi in the form of income shares in AFL, cash and quota until they had met mandating requirements prescribed under the Maori Fisheries Act 2004 and signed share agreements regarding quota shares with neighbouring iwi. Once this process was complete each Mandated iwi Organisation received a mix of quota (deepwater, inshore, harbour and freshwater), income shares in Aotearoa Fisheries Ltd and cash. The total assets that iwi directly received amounted to approximately half the value of the Maori fisheries settlement. This transition process was expected to take 5 years.

Aotearoa Fisheries Ltd was established as a commercial entity to amalgamate the commercial interests previously held by the Treaty of Waitangi Fisheries Commission including the 50% shareholding in Sealord Group and other businesses the Commission had acquired over time. The investment in AFL was held through a combination of voting shares and income shares, all initially held by Te Ohu Kaimoana Trustee Ltd.

Te Ohu Kaimoana would progressively transfer 80% of income shares to iwi after they had achieved mandate and reached coastline agreements. All voting shares were to be held by Te Ohu Kaimoana until the conclusion of a substantive review set down for 2015.

In March 2005 Te Putea Whakatupu and Te Wai Maori were established by Te Ohu Kaimoana Trustee Ltd to support specific areas of interest for iwi and Maori.

In 2005 Te Runanganui a Iwi o Ngapuhi was the first organisation to receive their fisheries settlement assets followed on by 54 other iwi groups. Over the next 10 years Te Ohu Kaimoana devoted the majority of its energy to working with Mandated iwi Organisations to progress asset

allocation. As at the time of writing this report two Iwi were yet to complete the required processes and receive their fisheries settlement asset entitlements.

2015 Statutory Review

In June 2015, iwi agreed significant changes should be made to the Fisheries Settlement governance arrangements established under the Māori Fisheries Act 2004 (MFA). These changes are designed to give iwi direct control of Te Ohu Kaimoana (Te Ohu) and Aotearoa Fisheries Ltd (AFL), resolve structural problems with Te Wai Māori Trustee Ltd and Te Pūtea Whakatupu Trustee Ltd and simplify the process for trading fisheries settlement assets amongst iwi and Māori Fisheries Settlement entities.

These changes will also place stronger obligations on the entities to work more closely and cooperatively with iwi.

The 2015 review of Māori Fisheries Settlement entities

The changes sought by iwi are the result of a review of Māori Fisheries Settlement entities' governance arrangements, required by s114 – 127 of the MFA. In August 2014, a reviewer¹² was appointed by a Committee of Representatives (appointed by iwi in accordance with the MFA). The reviewer completed his review and released his report in March 2015.

The reviewer's main conclusions were:

- a. Iwi want a much closer relationship with their entities (particularly AFL)
- b. Iwi are ready to directly control the centrally held assets including AFL and Te Wai Māori, as well as Te Ohu (should they choose to retain it)
- c. Iwi should be able to quit their commercial fisheries assets within the Māori pool if they do not wish to invest in their development.

The reviewer's recommendations called for significant changes to the current structural arrangements of Te Ohu, AFL, Te Wai Māori Trustee Ltd and Te Pūtea Whakatupu Trustee Ltd as well as simplification of the processes for trading settlement assets within the Māori pool. These would require:

- a. Removal of the electoral college system and Te Kawai Taumata as the system for appointing the directors of Te Ohu
- b. Wind-up or significant restructure of Te Ohu as a policy and advocacy body
- c. Direct control of AFL by iwi – by enabling iwi owned Asset Holding Companies (AHCs) to appoint AFL's directors
- d. Greater control of the appointment of Te Pūtea Whakatupu directors by urban Māori authorities and iwi (with the majority of the appointments to be made by the urban Māori authorities)
- e. Direct appointment of the directors of Te Wai Māori by iwi
- f. Simplification of the process for trading AFL shares and settlement quota within the "Māori pool"¹³

The reviewer also recommended Te Ohu fund the establishment of an Iwi Working Group to work through the detail of his recommendations.

¹² Barrister Tim Castle

¹³ This presently includes Mandated Iwi Organisations, their Asset Holding Companies, and the Te Ohu Kaimoana group (AFL, Te Ohu Kaimoana and subsidiaries)

In response, Ohu established an Iwi Working Group as a committee of the board to analyse the implications of the recommendations, work through how they should be implemented and make recommendations to iwi.

The IWG formed a preliminary view on the recommendations, consulted with iwi throughout the country and firmed up resolutions for iwi to vote on at a Special General Meeting (SGM) in June 2015.

Decisions made by Iwi

Iwi passed 12 binding resolutions at the June SGM. The resolutions supported the following structural changes:

- a. Removal of the electoral college system and Te Kawai Taumata as the system for appointing the directors of Te Ohu
- b. Retention of a restructured Te Ohu to protect and enhance the settlement through advocacy and policy advice, with a funding model to be approved by iwi at the 2016 Hui-a-Tau
- c. Retention of Te Ohu's role in appointing the directors of Te Wai Māori and Te Pūtea Whakatupu, but with an increase in the maximum number of directors that can be appointed to each
- d. Transfer of Te Ohu's voting and income shares in AFL to iwi – giving them direct control of the company
- e. Retention of the current restrictions on the sale of settlement assets outside the Māori pool – but with a simpler process for trading those assets within the pool.

Each entity is required to implement the relevant resolutions in a reasonable time. In addition, if amendments to the MFA are required, Te Ohu Kaimoana must request the Minister for Primary Industries to promote the necessary amendments¹⁴.

Te Ohu developed a plan to implement the resolutions, which was endorsed by iwi. The plan made a commitment to request the Minister to promote any necessary amendments by 30 September 2016.

Iwi passed three additional "non-binding" resolutions at the June 2015 SGM. While these resolutions do not carry the same statutory requirement on each entity to implement them, they have the clear support of iwi and are included in the changes put forward in this report where practical. The resolutions call for:

- a. Integration of Te Ohu Kai Moana, Te Wai Māori and Te Pūtea Whakatupu into one trust (known as the "Straw Tangata" model) to enable greater alignment of all three
- b. A further review of settlement entities no later than 10 years from the date the new structural relationships are in place
- c. A binding Right of First Refusal (RFR) to allow iwi to buy the assets of AFL and/or Sealord if the companies wanted to sell them.

Progressing the resolutions

From June 2015 to March 2016, Te Ohu carried out an extensive engagement process with iwi to clarify its own future business and funding model, and to clarify how the remaining resolutions should be implemented. This included a survey of iwi priorities, a series of regional hui, a national workshop and smaller focus groups. Proposals were circulated to iwi in February and a further process of engagement carried out before the Hui-a-Tau on 31 March 2016.

¹⁴ S 127 (3) MFA

The main issue to be decided at the Hui-a-Tau was Te Ohu's future funding model.

Te Ohu had assessed a number of funding options and recommended to iwi they support a model that would enable it to retain funds that it had accumulated since its establishment in 2004, and use the income to fund its operations. Te Ohu would develop policies for distribution of surpluses and seafood related investments.

This recommendation proved to be contentious with a number of Iwi expressing the desire to receive a share of the accumulated funds for their own investment purposes.

Te Ohu's recommended approach was not put to the vote at the Hui-a-Tau. Instead a set of alternative resolutions was proposed to the effect that iwi should lead an independent review of the funding models proposed/considered by Te Ohu. These resolutions were passed by iwi.

Review of Te Ohu's funding models

In late April 2016, a second IWG was appointed by iwi to carry out the review, with funding support from Te Ohu. Unlike the previous IWG, it operated independently from Te Ohu and secured its own technical advice.

In May, the IWG appointed independent reviewers Chapman Tripp and Korda Mentha who made recommendations on their review at the end of July¹⁵.

The reviewers concluded the best funding model was for Te Ohu to retain some of its accumulated funds with the balance to be distributed to iwi in proportion to their notional population. They also recommended legislative changes to enable Te Ohu to distribute funds to iwi for broader charitable purposes than fishing, and to non-charitable iwi entities. Finally, they recommended a compulsory levy model should be included in the MFA should iwi decide it provides the best funding option in future.

The IWG consulted with iwi on the reviewer's recommendations and firmed up resolutions for iwi to vote on at an SGM planned for 30 August 2016. With some modifications, they largely supported the approach taken by the reviewers.

Iwi voted on the IWG resolutions at the August SGM. They supported:

- a. An immediate review by Te Ohu of its operational structure and activities to confirm funds available to retention and distribution
- b. A preferred funding model for Te Ohu of "Retain some, Distribute some"
- c. Establishment of processes to enable iwi to be involved in approval of unbudgeted projects requiring expenditure of over \$1m capital
- d. Distribution of any surpluses to iwi on an equal basis (as opposed to population, as recommended by the IWG)
- e. Broadening of the charitable purposes to which distributions can be made by Te Ohu
- f. Inclusion of a compulsory levy system in the MFA
- g. A further review of Te Ohu's funding requirements within 5 – 7 years from the date of Te Ohu's restructure.

Subsequent Crown Policy Proposals

Concurrent to the statutory review process and recent Iwi discussion regarding the costs of maintaining a restructured Te Ohu Kaimoana, the Crown has been busy developing a significant amount of policy and legislative reform which will seriously undermine the Deed of Settlement and Iwi rights contained therein.

¹⁵ Chapman Tripp and Korda Mentha

The Kermadec Ocean Sanctuary Bill 2016, promoted by the Ministry for the Environment without consultation with Iwi, seeks to ban all human activity in the FMA10 area. The recently released *Future of Our Fisheries* proposals promotes changing the fundamental sustainability and utilisation purposes underpinning the Fisheries Act and reallocating catch shares between sectors.

In a similar vein to the Kermadec proposal the Marine Protected Areas policy seeks to set aside a greater proportion of New Zealand's inshore coastal areas as no-take marine reserves which could impact upon Maori traditional fishing rights. In addition to this the Crown has promoted two significant recreational fishing parks which establish significant national precedent and represent threats to iwi fishing interests.

These matters have required immediate and significant response at a time of ongoing change.

It is therefore important for Iwi to consider these matters when considering the future of Te Ohu Kaimoana and to ask what organisation, skills and resources are required to halt government which has demonstrated a lack of concern for the views of its Treaty Partner.

Summary

The Maori fisheries settlement recognised collective Maori rights to commercial fisheries and the allocation process enabled Iwi to exercise mana over their specific share of those rights. These two factors remain intimately intertwined today such that individual Iwi rights rest upon a foundation of collective Maori rights.



As a result of the collective Treaty settlement all Iwi individual fisheries rights are dependent upon the rights of every other Iwi being maintained. The protection and maintenance of Iwi rights ultimately requires collective action by all Iwi but the choice of how those secured rights are exercised is the decision of each individual Iwi.

Therefore:

1. When underlying pan-Maori fishing rights are secured, individual Iwi can exercise tino rangatiratanga over their fisheries in a manner that achieves their aspirations whether this be through collaboration or competition.
2. When underlying pan-Maori fishing rights are constrained or extinguished the tino rangatiratanga of every Iwi concerning fisheries will be constrained, limited or extinguished.

Following allocation, the Maori focus on securing rights prevalent during the 1980s and early 1990s evolved into an Iwi-centric focus on the exercise of rights. The exercise of rights brought with it a natural focus on commercial development based on an expectation that the Crown would honour the political agreements made in the Fisheries Deed of Settlement.

From the period 2004 onwards Te Ohu Kaimoana focused its core efforts on completing the allocation process. While Te Ohu Kaimoana continued to protect Maori rights the collective Maori focus on maintenance of rights diminished from that of previous years.

This reduced focus on Treaty rights, combined with inevitable changes in Iwi and Government personnel over time has resulted in a weakening of institutional knowledge regarding the Fisheries Deed of Settlement which, unless reversed, can only serve to undermine the security of Maori fisheries rights.¹⁶

¹⁶ The current Treaty Settlements Minister, Chris Finlayson, has recognised this fact and sought to address it by establishing a Treaty Settlements compliance unit within the Ministry of Justice.

Environmental Scan – The Maori Fisheries Sector

Iwi and Maori Structures

The Maori fisheries sector (as per the Maori Fisheries Act 2004) is controlled by 56 separate Mandated Iwi Organisations and 56 Asset Holding Companies and 2 Recognised Iwi Organisations (Ngati Tama and Whanau a Apanui).

These structures were a requirement of the Maori Fisheries Act in order to receive their settlement allocation which have developed over time to form the core foundation of modern Maori political and commercial economy.

These 114 organisations are made up of over 544 individual Trustees elected from Iwi membership and approximately 178 directors of Iwi Asset Holding Companies. There is some overlap by virtue of some AHC directors also being Trustees of their governing MIO.

Te Ohu Kaimoana, Moana New Zealand Ltd, Te Wai Maori Trust and Te Putea Whakatupu Trust are Pan-Iwi national collective entities which work to benefit all Iwi and all Maori. This group of entities comprises approximately 20 individual directors.

Approximately 750 individual people with a range of different views and perspectives are responsible for leading the Maori fishing sector and its future success or failure. An important point to understand when considering Maori fisheries is that traditional Maori fisheries interests are ultimately controlled by political entities rather than commercial entities.

Te Ohu Kaimoana

Te Ohu Kaimoana acts on behalf of all Mandated Iwi Organisations who are the representative of the Crown's Treaty Partner. Te Ohu Kaimoana is mandated to represent Iwi on fisheries related matters by virtue of the Maori Fisheries Act 2004.

The purpose of Te Ohu Kai Moana is to advance the interests of iwi individually and collectively, primarily in the development of fisheries, fishing, and fisheries-related activities, in order to—

- a) ultimately benefit the members of iwi and Maori generally; and
- b) further the agreements made in the Deed of Settlement; and
- c) assist the Crown to discharge its obligations under the Deed of Settlement and the Treaty of Waitangi; and
- d) contribute to the achievement of an enduring settlement of the claims and grievances referred to in the Deed of Settlement.

Te Wai Maori Trust

The purpose of Te Wai Maori Trust is to advance Māori interests in freshwater fisheries through:

- Undertaking or funding research, development and education;
- Promoting the protection and enhancement of freshwater fisheries habitat;
- Promoting the establishment of freshwater fisheries;
- and Using resources to bring direct and indirect benefits to Māori in respect of their freshwater fisheries interests

Te Putea Whakatupu Trust

The purpose of Te Pūtea Whakatupu Trust is to hold and manage the trust funds on trust for and on behalf of the beneficiaries under the Deed of Settlement, in order to promote education, training,

and research, including matters that relate to fisheries, fishing, and fisheries-related activities, but not in a manner that could adversely affect the charitable status (if any) of the Trust.

Maori Commercial Quota Ownership and Influence

The QMS was introduced in 1986 to manage and conserve New Zealand's major fisheries. The QMS is based on the simple concepts of utilisation and sustainability. Once customary and recreational allowances have been set, the QMS limits the total commercial catch from each fish stock while allowing quota owners to buy, sell and lease their quota or catching rights, and to choose the method and time of year they harvest their catches within these limits.¹⁷

Today 97 species, or groups of species are managed as 633 fish stocks under the QMS.

The Quota Management System was only implemented once legal action by Maori was lifted through the agreements reached in the 1992 Deed of Settlement. The QMS is therefore the only system endorsed by Maori for the management of fisheries within Aotearoa.

Quota (and the Annual Catch Entitlement – ACE - it generates) is the core asset of the Fisheries Settlement. ITQ has been described as the currency of the settlement and Mandated Iwi Organisations (through their Asset Holding Companies) are first and foremost quota owning entities.¹⁸

Quota ultimately bestows the right to catch certain species and amounts of fish. Control of quota – or more precisely control of large amounts of the right kinds of quota – remains an important lever in exerting influence over the fishing industry.

Without the key input of fish, fishing vessels, fish factories and seafood businesses have no revenues and must be valued in another (inferior) use.

By virtue of the 1992 Settlement and post-Settlement investment Maori are significant collective quota owners in every marine and freshwater species included in the QMS – including the high value species such as Koura, Paua, Hoki, Orange Roughie, Squid and Snapper. However, as discussed in the previously this collective ownership is fragmented into its constituent Iwi parts.

Species¹⁹	Maori Collective Ownership %	Estimated Average Value (NZD\$)
Koura	35%	\$65m
Paua	43%	\$17m
Hoki	39%	\$573m
Orange Roughie	53%	\$15m
Snapper	27%	\$33m
Gurnard	36%	\$1.5m
Blue Cod	23%	\$3m
Bluenose	31%	\$2m
Shortfin Eel	38%	\$3m
Longfin Eel	45%	\$0.9m

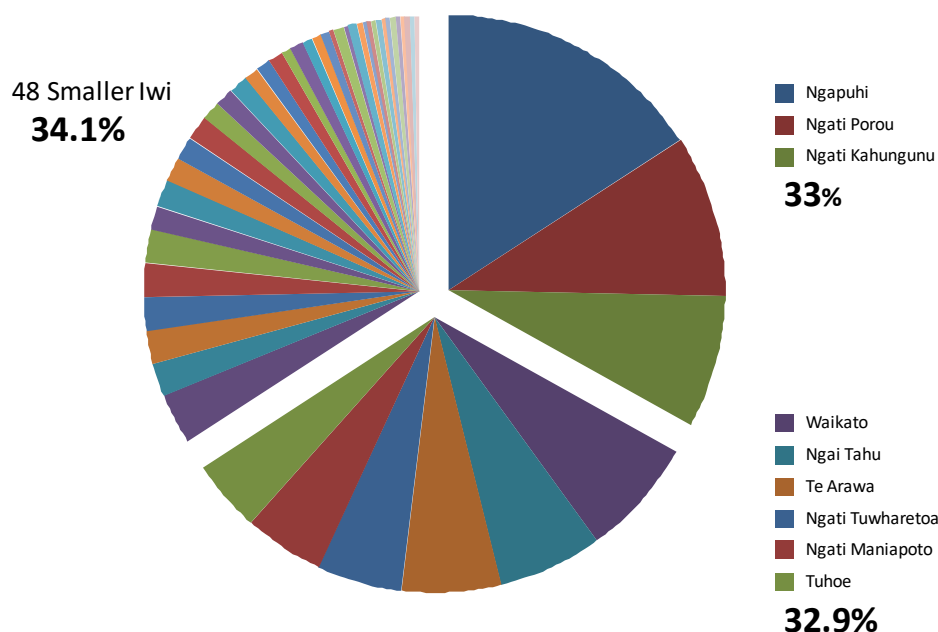
¹⁷ New Zealand Commercial Fisheries: The Atlas of Area Codes and TACCs 2015/2016, p 5.

¹⁸ For a more detailed explanation of ITQ see Te Putea Whakatupu Trust, *A Strategy for the Maori Fishing Industry*, pp 33-36.

¹⁹ INSERT RIDER HERE

The fisheries settlement allocation methodology, and subsequent fisheries investment by individual Iwi has created a significant range in the size of individual Iwi commercial quota holdings and respective Iwi shares in Moana New Zealand Ltd.

Based on the 2004 allocation methodology, Te Runanganui o Ngapuhi received the largest individual quota parcel with Ngati Hauti receiving the smallest. The largest 3 Iwi (Ngapuhi, Ngati Porou, Ngati Kahungunu) own 33% of the shares in Moana NZ, with the next 6 biggest iwi (Waikato, Ngai Tahu, Te Arawa, Ngati Tuwharetoa, Ngati Maniapoto & Tuhoe) owning another 33% collectively. The remaining 34% of Moana NZ is owned by smaller iwi. These large iwi also received the largest volumes of valuable deepwater stocks, with inshore stocks being allocated on an iwi's share of coastline.



Like most primary industries a minimum level of scale is required to run an economically viable fishing business. Most individual Iwi do not own sufficient quota to undertake commercial fishing on their own. Therefore most Iwi Asset Holding Companies lease their annual catch entitlement (ACE) to fishing companies or processors who pay a fee for the right to use the ACE.

While Māori are collectively the largest owners of a number of valuable quota species this ownership has not translated into dominance of the commercial industry. Unfortunately the level of influence that Maori are said to have within the commercial fisheries sector is often overstated.

One of the key reasons for this is the fact that not all Maori owned quota flows through Maori-owned value chains. Instead it is fragmented into competing seafood companies.

Maori Participation in the Fisheries Value Chains

A value chain is the process or activities by which a company adds value to an article for the market. Value chain represents the various processes and activities which convert a raw material (fish) into a finished product. The fisheries value chain is broken into Quota owners, quota harvesters (fishermen), fish processors, logistics and marketing.

During the 1990s, following the initial settlement, several iwi established companies or joint ventures to utilise iwi quota but encountered problems of insecure quota allocations and the

difficulties of participating in value chains from a foundation of small and highly fragmented quota portfolios. Those problems remain prominent today.

Today the main surviving vertically integrated Iwi-owned fishing companies are:

- Ngāi Tahu Fisheries Limited (Especially crayfish and bluff oysters)
- Ngāti Porou Fisheries Limited (Fish processing and retailing, lobster depot)
- Port Nicholson Fisheries Limited Partnership (Crayfish processing and exporting)

Moana New Zealand and Sealord

Collectively Iwi own 100% of Moana New Zealand Ltd (formerly known as Aotearoa Fisheries Ltd). Moana NZ Ltd is a full value chain company which owns inshore quota and processes it into a range of finished products for sale. Moana NZ Ltd specialises in inshore wetfish species, oysters and paua.

Through Moana NZ Ltd Maori own 50% of Sealord in partnership with Japanese company Nippon Suisan Kaisha. Sealord is also a full value chain company which specialises in the processing and marketing of Deepwater fisheries species.

Increasingly as Maori capacity and experience has increased since the settlement process Iwi are increasingly collaborating in long term arrangements to increase the collective size of their quota packages to improve their negotiating position and opportunities for taking an active position in the fisheries value chain in their own right.

Iwi Collective Partnership

The Iwi Collective Partnership (ICP), is a limited partnership established by 15 Iwi to specialise in seafood. The collective works together to improve economic returns, create cost savings and provide greater social and cultural opportunities for the benefit of their Iwi Members and the communities they serve.

The ICP is presently made up of Te Rarawa, Ngati Awa, Whakatohea, Ngai Tai, Ngai Te Rangi, Te Arawa, Ngati Manawa, Ngati Whare, Ngati Tuwharetoa, Ngati Porou, Rongowhakaata, Te Aitanga a Mahaki, Taranaki Iwi, Ngati Ruanui and Nga Rauru Kiihahi.

Port Nicholson Fisheries LP

Port Nicholson Fisheries Limited Partnership (PNF) is a similar grouping of Iwi and Maori businesses which have collectivised to specialise in processing and export of live lobster.

PNF is made up of Maruehi Fisheries, Whanganui Iwi Fisheries, Ngaruahine Fisheries, Te Atiawa (Taranaki) Holdings, Ngati Apa Developments, Te Kupenga o Maniapoto, Atiawa ki Whakarongotai, Te Hoiere, Ngati Apa ki te Ra To AHC, Mahaki Ltd, Totaranui Ltd (Te Atiawa), Ngati Koata, Rongowhakaata AHC, Ruamano Quota Holdings, Pare Hauraki AHC, Ika Toa Ltd, Ngati Mutunga o Wharekauri AHC, the Iwi Collective Partnership, and Parininihi ki Waitotara Incorporation. In 2016 Moana NZ Ltd ceased exporting lobster under its own brand in favour of joining the PNF collective.

Iwi Deepwater Collective

While not a formal business entity the Iwi Deepwater Collective (IDC) is a grouping of 19 Iwi including Ngapuhi, Ngai Tahu, Ngati Kahungunu, the ICP, Pare Hauraki and Ngati Mutunga o Wharekauri. The IDC has recognised the commercial risk to Iwi as a result of reduced Deepwater catching capacity and is working to ensure Iwi have the ability to catch their deepwater ACE.

These types of collective commercial arrangements are a logical and necessary step for Iwi to consider if they wish to increase their level of influence and control within the commercial fishing industry.

Ngai Tahu Fisheries

Of the larger Iwi quota owners Ngai Tahu processes and exports lobster, mussels and oysters under its Tahu brand. The Iwi leases its wetfish ACE to Talleys with agreed catch plans for Ngai Tahu fishermen and has its paua processed and marketed under contract by Moana NZ Ltd.

Ngati Porou Seafood Group

Ngati Porou Seafoods Group owns an export certified processing factory produces fresh and frozen seafood products in its own right which are sold nationally and exported to Europe, Asia, Australia and America. Ngati Porou markets specialty smoked fish under its 'Ahia' brand and also partners with Port Nicholson Fisheries Ltd to hold live lobster.

Deepwater

Deep water fisheries account for 63% of New Zealand Fish production. This category contains hoki, the largest fishery by volume (130,000 tonnes) which is, strictly speaking, a mid-water trawl fishery. "Deep water" is therefore a term that encompasses true deep water species (orange roughy, cardinal, alfonsino and oreo dory), middle depth fisheries (hoki, hake, ling, barracouta and warehou) and squid. These species are generally caught by large, company owned or charter vessels and frozen.

Inshore

Inshore fisheries are located on the continental shelf, generally at depths of less than 200 metres. Species include snapper, blue cod, red cod, bluenose, terakihi, gurnard, rig, moki, hapūka, flat fish, monkfish, warehou and trevally. These species are largely caught by small independently owned vessels and landed fresh.

Lobster

In spite of accounting for less than half of 1% of fish production by volume, lobsters (koura) are New Zealand's most valuable export fish species. Production in 2012 was 2,800 tonnes of which approximately 2,500 tonnes are exported to Hong Kong and China for \$223m. Māori 100% own 2 successful lobster exporting business: Ngāi Tahu Seafoods and Port Nicholson Fisheries LP (a collective of over 23 individual Iwi and Maori businesses). Together these companies account for approximately 50% of crayfish exports. Ngati Kahungunu are shareholders in Fiordland Lobster.

Paua

Although only 900 tonnes in green weight production, the Pāua fishery is New Zealand's eighth most valuable (\$46m in 2012). AFL (Prepared Foods Limited) is the largest processor (canner) of pāua for export and the largest pāua quota owner. The principle pāua quota owning iwi (Ngāi Tahu, Ngāti Mutunga ki Wharekauri and Moriori) are PFL suppliers.

Pelagic

Pelagic (surface dwelling) species include tunas, kahawai and mackerals. The most important species are albacore tuna (currently outside of the quota management system) and southern Bluefin tuna. The Māori Fishing Industry has little presence in the pelagic sector.

Aquaculture

Aquaculture is subject to a separate Settlement with the Government. Unlike the Fisheries Settlement, many iwi do not have a distinct Settlement entitlement or aquaculture interest. Moana has significant interests in aquaculture but the differences in underlying iwi ownership mean that the Māori Fishing Industry should be defined separately from the Māori Aquaculture Industry (if there is such a thing). Moreover, the distinct history of the Aquaculture Settlement means that it cannot be assumed that the values underlying the two Settlements are identical.

Freshwater

Commercial development of New Zealand freshwater fisheries is predominantly focused on long and shortfin eels. In 2012 this industry had an estimated value of \$6.1 m for export, which equated to around 830,000 kg. In Belgium, Germany, Hong Kong, Italy, Republic of Korea, Netherlands, Taiwan, United States of America and the United Kingdom there is demand for New Zealand eels, which may be processed into various forms, frozen, or sold as live eels. In Japan, freshwater eels are considered a delicacy and importing eels has become increasingly important in light of declines in Japan's domestic eel catch.

Customary non-Commercial Rights

The collection of seafood for customary Non-Commercial purposes at the local level is an important and tangible expression of the ongoing Maori relationship with Tangaroa. The harvesting, storing and sharing of kaimoana for customary purposes is a practice handed down by our tupuna which is a key element of Maori identity. If iwi fail to exercise their customary rights and practices they lose the tikanga (customary practice) underpinning their relationship with Tangaroa for future generations.

The creation of specific customary fisheries regulations was provided for by section 3.5.1.1 of the Deed of Settlement and formalised under the Fisheries (Kaimoana Customary Fishing) Regulations 1998. This was also done in recognition of the special relationship between Maori and places of importance for customary food gathering.

Under the regulations customary food gathering is defined in regulation 2 as follows:

“Customary food gathering means the traditional rights confirmed by the Treaty of Waitangi and the Treaty of Waitangi (Fisheries Claims) Act 1992, being the taking of fish, aquatic life, or seaweed or managing fisheries resources, for a purpose authorised by Tangata Kaitiaki/Tiaki, including koha, to the extent that such purpose is consistent with Tikanga Maori and is neither commercial in any way nor for pecuniary gain or trade:”

Customary rights remain a tangible local expression of the Maori relationship with Tangaroa and is an important element in the maintenance of tribal mana particularly at the local level.

Ironically, whereas Iwi commercial interests in fisheries are managed through Mandated Iwi Organisations, customary fishing remains controlled by the Ministry for Primary Industries without any reference to MIOs. Similarly, the appointment of Tangata Kaitiaki/Tiaki is the responsibility of the Minister for Primary industries not Iwi entities. Therefore a key element of the fisheries settlement remains incomplete.

The reason for this disconnect lies in the timing of the original settlement and the subsequent delay in establishing MIOs for allocation. Allocation of commercial assets did not proceed until Iwi had established appropriate structures in the form of MIO and AHC's after 2004.

Customary regulations were first developed and implemented in 1998 before MIO structures had been established. Had matters proceeded in a more orderly fashion MIO - on behalf of Iwi – would likely have assumed the authority to appoint their Tangata Kaitiaki directly without reference to the Minister for Primary Industries.

An unintended consequence of this is a situation where a key element of the fisheries settlement is not being managed efficiently and has the potential to create a disconnect or perception of competition between Maori customary and commercial interests.

Additionally, as Te Ohu Kaimoana is responsible to Mandated Iwi Organisations it has no direct relationship with customary fishers. Te Ohu Kaimoana therefore lacks a direct connection with Tangata Kaitiaki/Tiaki who are performing customary functions at the local level.

This is a valuable source of information which Iwi and Te Ohu Kaimoana do not gain access to. Similarly, Tangata Kaitiaki are unable to gain direct access to relevant policy information created by Te Ohu Kaimoana.

At the time of writing just over 420 individuals, plus two committees, are appointed as tāngata tiaki/kaitiaki under the Fisheries (Kaimoana Customary Fishing) Regulations 1998 (in respect of the North Island), with 146 appointments under the Fisheries (South Island Customary Fishing) Regulations 1999. The network of mātaihai reserves has expanded further, with 37 in total (27 in the South Island, 10 the North Island).

Commercial Sector, Seafood New Zealand and Sector Representative Entities

Seafood is among New Zealand's top 10 largest exports accounting for \$1.71 billion in seafood exports each year and supporting over 20,000 jobs. New Zealand's top export markets include China (including Hong Kong), Australia, USA and Japan.

New Zealand Fisheries

- New Zealand's marine fisheries waters (Exclusive Economic Zone and territorial sea) measures 4.4m km², and is the world's **fifth largest EEZ**, making it an ocean territory 'superpower'.
- New Zealand's **15,134 km** long coastline is the ninth longest in the world.
- Sustainability of New Zealand fish stocks is ensured through a world leading **Quota Management System (QMS)** that controls harvest levels for each fish species and area.
- **130** species are commercially fished in New Zealand, with the QMS managing **100** species in **638** stock areas.
- Maori own **50%** of New Zealand's fishing quota.
- Each year, the Ministry for Primary Industries reviews the **Total Allowable Commercial Catch (TACC)** for fish stocks and sets limits so that enough fish remain for breeding.
- There are more than **500** individual area TACCs for **100** species.²⁰

Seafood is a key part of the Maori economy accounting for approximately **XX%** of the Maori asset base.

Commercial Seafood Companies

As of 2012 New Zealand had a total of 1,649 seafood businesses comprising processing (99), fishing (1,264) and aquaculture (286). This number is declining as the industry consolidates over time. In 2012 the top 10 seafood companies in New Zealand by turnover were identified as follows:

- Sealord - \$487m
- Sanford - \$460m
- Talley's – Estimated \$220m
- Aotearoa Fisheries Ltd (Now Moana New Zealand Ltd) - \$154m
- NZ King Salmon - \$104m
- Independent - \$80m
- Fiordland Lobster - Estimated \$75m
- United – Estimated \$70m
- Nga Tahu Seafood – Estimated \$70m
- Kono - \$47m

²⁰ www.seafood.org.nz/industry/key-facts/

The seafood industry is relatively consolidated with the top four firms accounting for over half of employment and the top 10 for almost three quarters.²¹

Sealord

Sealord is a vertically integrated seafood fishing and marketing company exporting to over 60 countries with significant global investments. The company has fishing operations in New Zealand and Australia and is one of the largest fishing companies in the Southern Hemisphere.

It's key products include frozen and chilled fish, oysters, mussels and other prepared seafood products. Sealord is one of the largest quota holders in Aotearoa and is owned 50% by Iwi (through Moana New Zealand Ltd) and 50% by Japanese company Nippon Suisan Kaisha. Maori ownership in Sealord was gained by virtue of the 1992 Fisheries Settlement.

The company has approximately 1100 staff globally.

Sanford

Sanford is New Zealand's largest integrated fishing and aquaculture business, operating 47 vessels and 210 aquaculture farms. The company supplies 90 different species to its customers.

Sanford company undertakes inshore, purse seine and deepwater fishing including vessels for freezing and processing at sea. Its aquaculture farms are located across New Zealand and produce mussels, oysters and King Salmon. Approximately 82% of Sanford's product by value are exported.²²

Sanford is a publicly listed company and was established 1881.

Talleys

Talley's Fisheries is part of the Talley's Group. Talleys undertakes both inshore and deepsea fishing operations and specialises in frozen and chilled fish, shellfish and byproducts.

Talleys inshore operations are located in Motueka, Timaru, Westport and Blenheim where they process the catch from over 100 inshore fishing vessels. Talley's Deepsea fishing is undertaken under their Amaltal brand using a number of modern factory trawlers with automated on board processing facilities.

Talleys was established in 1936 and remains a private family-owned business.

Moana New Zealand Ltd (formerly Aotearoa Fisheries Ltd)

Moana New Zealand (formerly Aotearoa Fisheries Ltd) was established in 2004 and is a 100% Iwi-owned fishing company specialising in fresh and frozen fish, oysters, paua and prepared seafood products.

Moana New Zealand owns significant quota holdings on behalf of Iwi and specialises in inshore fisheries, paua and oysters. The company processes and markets wetfish, paua and oysters under its Moana brand. Moana's lobster quota is processed and marketed through Port Nicholson Fisheries Limited Partnership which it joined in 2016.

NZ King Salmon

New Zealand King Salmon is a vertically integrated salmon farming, processing and marketing company which accounts for approximately 70% of NZ salmon production. The company specialises in fresh, frozen and smoked King salmon.

²¹ www.coriolisresearch.com/pdfs/coriolis_iFAB_2013_seafood

²² www.sanford.co.nz

The company was established in 1985 and is 51% foreign owned.

Independent Fisheries

Independent Fisheries Ltd is based in Christchurch and specialises in Deepsea fishing. The company is a supplier of whole and dressed fish (hoki, southern blue whiting, mackerel, barracoota) and arrow squid and also markets a range of processed seafood products.

The is privately owned and was first established in 1959.

Fiordland Lobster Company

Fiordland Lobster is New Zealand's largest exporter of live lobster currently accounting for around 35% of total NZ exports.

The company is a group of fishermen, shareholders and private investors set up in the late 1980s with a vision to create a vibrant live lobster export venture. The company's exports lobster under its KiwiLobster brand.

Fiordland Lobster's key focus is on China, where the majority of the company's catch is currently exported, while other important markets include Japan, Hong Kong and the Middle East. Alternate KiwiLobster seafood products are exported to Australia and the United States.

The Fiordland Lobster Company's head office is based in Te Anau with fish receiving depots and export packing factories located in both the North and South Islands.²³ Ngati Kahungunu are a 6% shareholder in Fiordland Lobster.

United Fisheries

United Fisheries was established in 1974 and is located in Christchurch. United Fisheries is a family owned business undertaking fishing, marine farming, production, and marketing. United Fisheries owns quotas covering the main commercial species of New Zealand.

The company's catching operation utilises company owned and operated fishing vessels, and a number of chartered deep-sea factory trawlers. United Fisheries owns several established mussel farms, as well as having contracts with other farms, which provide a secure supply of the unique New Zealand Greenshell Mussels and Pacific Oysters.

Ngai Tahu Seafoods

Ngāi Tahu Seafood is a wholly owned subsidiary of Ngāi Tahu Holdings Corporation, the commercial arm of Te Rūnanga o Ngāi Tahu. It forms one of the 'three pillars' of Ngāi Tahu commercial development, with sister companies Ngāi Tahu Property and Ngāi Tahu Tourism.

Ngai Tahu operates facilities in Bluff, Christchurch, Kaikōura and Picton ranging from simple, wharf-based receiving chillers through to full, export-registered processing plants.

Most seafood offered by Ngāi Tahu Seafood is caught against Ngāi Tahu quota by Ngāi Tahu fishers – families who have been fishing for generations. There are also important commercial relationships with a number of other New Zealand fishers and processors. Ngai Tahu processes and exports lobster, mussels and oysters under its Tahu brand.

Kono

Kono NZ LP (Kono) is a vertically integrated, family-owned Māori food and beverage producer – an artisan producer, and exporter of award-winning wine, cider, seafood, fruit and natural fruit

²³ www.lobster.co.nz/our-ethos/about-us/

bars. Kono aspires to be the world's best indigenous food and beverage provider, and has a global consumer focus, particularly in Asia where it has established a wholly-owned trading entity in Shanghai. Kono's seafood specialises in Greenshell mussels, oysters and lobster.

Port Nicholson Fisheries Limited Partnership

Since 2012, Port Nicholson Fisheries Limited Partnership has established itself as a significant processor and exporter of live lobster to the China market. PNFLP is a Maori cooperative lobster vehicle which currently has over 26 Iwi and Maori partners.

PNFLP is New Zealand's second largest lobster business accounting for approximately 25% of New Zealand's live lobster exports. The partnership operates from 2 export facilities in Wellington and Auckland.

Seafood New Zealand, Sector Representative Entities and Commercial Stakeholder Organisations

Like other New Zealand primary industries, the seafood industry has established advocacy bodies dedicated to the promotion of the seafood sector.

Unlike other primary industries like agriculture which have more consolidated categories, seafood industry bodies are organised around key fisheries species and sectors.

Seafood New Zealand

Seafood New Zealand provides overarching representation of the commercial fishing sector. It promotes the interests of all fishing industry sectors by providing economic information and advice, coordinating industry resources, and enhancing the industry's profile in the community.

The industry is also made up of Sector Representative Entities (SRE) including rock lobster, paua, deepwater, aquaculture and inshore finfish. Each SRE is dedicated to the promotion and management of the interests they represent with responsibility in consultation processes and wider engagement processes related to their sector-specific interests.²⁴

Commercial Stakeholder Organisations are companies or associations owned by rights-holders that represent the interests of those rights holders. This means that CSO's can represent and manage the specific affairs of a particular fishery (eg Paua, Rock Lobster), a geographic area (eg Chatham Islands), specific fish stock (eg CRA4) or a group of stocks.

Paua Industry Council

The Paua Industry Council (PIC) is a national umbrella service agency for five regional commercial stakeholder groups representing commercial paua fishery's interests.

Each regional representative group (PauaMAC – derived from the Quota Management System designation for paua, and Management Area Council) draws membership and majority mandate from fishing and non-fishing quota owners, ACE holders, permit holders, processors and exporters from within the seven designated management areas.

The PauaMAC's are the foundation of paua industry activities, consistent with a long held industry desire to have regional autonomy and self-determination in research, compliance, management, planning and implementation. PauaMAC's have an equal shareholding in PICL and each year they appoint a representative to the PICL board of directors.

²⁴ www.seafood.org.nz/

The PICL Chairman is elected by the board and has oversight of PICL operations. The five PauaMAC's contribute a share of the PICL operational budget in proportion to the Total Allowable Commercial Catch (TACC) for their region.

PICL provides PauaMAC's (and their constituent members) with a range of technical, administrative, research, and management assistance. PICL also coordinates and helps deliver generic industry advocacy on issues related to fisheries legislation, research planning, environment and conservation, nature and extent of fisheries services and cost recovery, compliance planning, and the devolution of fisheries management roles under the terms of the 1996 Fisheries Act.

Funding for the PauaMAC's and PICL's operational budgets are derived from a second tier levy facilitated under the terms of agency agreements that the PauaMAC's hold with the NZ Seafood Industry Council (SeaFIC) to coordinate and respond to all generic issues related to paua fisheries and to the industry.²⁵

Rock Lobster Industry Council

[The New Zealand Rock Lobster Industry Council Ltd](#) (RLIC) is the national representative organisation for the New Zealand rock lobster industry. The RLIC is the umbrella organisation for nine commercial stakeholder organisations operating in each of the rock lobster management areas in New Zealand. The regional groups are known as CRAMACs and these appoint the RLIC Board members who in turn appoint an independent chairperson.

CRAMAC membership comprises the full range of lobster industry participants from fishermen through to processors and exporters. The RLIC and CRAMACs are funded by way of a Rock Lobster Commodity Levy established in 2013.

RLIC is not affiliated to any other seafood industry organisation but has both formal and informal collaborations with several, including the Paua Industry Council, Fisheries Inshore New Zealand, Aquaculture New Zealand and Seafood New Zealand. The RLIC maintains strong links to lobster industry organisations and agencies in Australia.

Since 1997 the RLIC has been the principal rock lobster stock monitoring and stock assessment research provider to the Ministry for Primary Industries and also has research collaborations with Seafood Innovations Ltd and several tertiary institutions. The RLIC is pro-actively involved in all aspects of New Zealand rock lobster fisheries management.²⁶

Fisheries Inshore NZ

Fisheries Inshore New Zealand (FINZ) is a non-profit organisation that was established by quota owners, ACE holders and fishers to work together to advocate for common interests in inshore finfish, pelagic and tuna fish stocks. FINZ works to ensure that New Zealand gains the maximum economic yields from their inshore fisheries resources, managed within a long-term sustainable framework.

The FINZ mission is to provide dynamic and transparent leadership, inform decision making and actively engage with its members, officials and other stakeholders as they advocate for the increased recognition of the value of New Zealand's inshore fisheries. The FINZ vision is to ensure a healthy sustainable fishery that is internationally competitive, profitable and recognised as the preferred

²⁵ www.paua.org.nz/

²⁶ www.nzrocklobster.co.nz/

source for consumers of wild caught fish worldwide

FINZ represents participants in New Zealand's major inshore commercial fisheries, including snapper, blue cod, bluenose, tarakihi, warehou, gurnard, rig, blue moki, flounder, hapuka (groper), trevally, turbot, school shark and john dory. Tuna and pelagic fishers catch southern blue fin tuna, skipjack tuna, albacore, kahawai and mackerels.

Examples of FINZ's work include:

- Representing the interests of quota holders and local fisher groups
- Collaborating with Government and government departments to ensure improved fisheries management
- Undertaking fisheries research and stock assessment programs
- Implementing and monitoring fisheries management programs
- Managing and minimising adverse environmental affects
- Ensuring integrity at all levels of process and engagement²⁷

Deepwater Group

The Deepwater Group (DWG) is a non-profit organisation that works in partnership with the Ministry for Primary Industries to ensure that New Zealand gains the maximum economic yields from their deepwater fisheries resources, managed within a long-term sustainable framework.

Its mission is to optimise the sustainable economic value of our deepwater fisheries. The Deepwater Group's vision is to be recognised as the best managed deepwater fisheries in the world.

The group represent participants in New Zealand's major deepwater commercial fisheries, including hake, hoki, jack mackerel, ling, orange roughy, oreos, scampi, southern blue whiting and squid. Shareholders of Deepwater Group hold around 96% of the entire deepwater quota in New Zealand.

The New Zealand deepwater fisheries sector involves more than 50 seafood companies, which between them operate more than 60 commercial vessels and collectively employ more than 15,000 people.

Deepwater Group works to provide vision and leadership to ensure New Zealand's deepwater fisheries are profitable, sustainable, and managed in an environmentally and socially responsible way.²⁸

Examples of their work includes:

- Representing the interests of quota holders
- Working in partnership with Government and government departments
- Undertaking fisheries research and stock assessment programs
- Implementing and monitoring fisheries management programs
- Managing and minimising adverse environmental affects
- Ensuring integrity at all levels of process and engagement
- Maintaining standards that meet or exceed those required for Marine Stewardship Council certification.

²⁷ www.inshore.co.nz/

²⁸ deepwatergroup.org/

Aquaculture NZ

Aquaculture New Zealand was formed in 2007 as a single voice for the New Zealand aquaculture sector to protect the current industry, while enhancing its profitability and providing leadership to facilitate transformational growth.

Its aim is to see the New Zealand aquaculture sector recognised within New Zealand and around the world as producing healthy, high quality, environmentally sustainable aquaculture products.

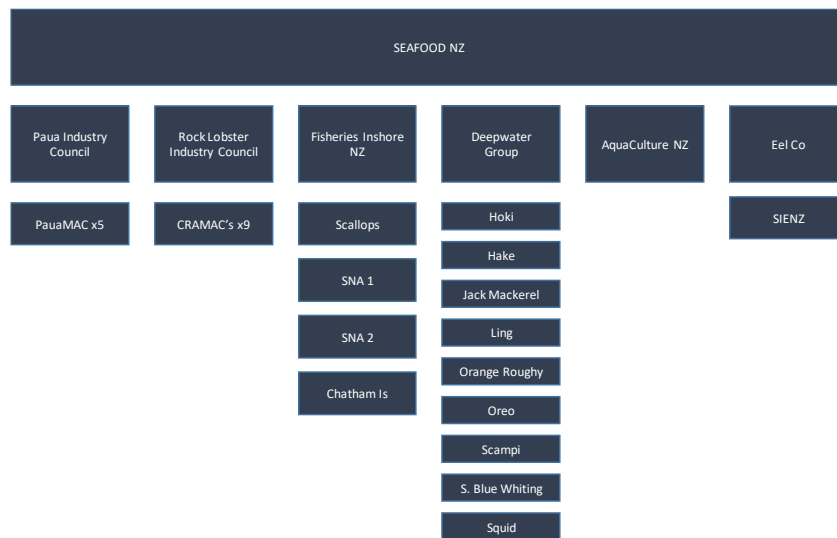
Aquaculture New Zealand brings together the membership of the individual species bodies, the New Zealand Mussel Industry Council, the New Zealand Salmon Farmers Association and the New Zealand Oyster Industry Association.

Primarily funded through an industry levy, the organisation’s chief role is the implementation of the industry strategy which will see the sector grow to earn \$1billion annually by 2025.²⁹

Eel Enhancement Company and South Island Eel Industry Association

The Eel Industry presently has two organisations representing the interests of quota owners. The Eel Enhancement Company is owned by North Island quota owners. The organisation represents owner interests to government and other agencies, provides advice on the fishery and provides research services to various clients.

The South Island Eel Industry Association (SIEIA) involves 32 commercial eel harvesters taking the majority of shortfin and longfin eel catch in the South Island. SIEIA works to ensure that the productive capacities of eels are maintained at high levels and are not sacrificed in favour of short term or sectoral interests.



Summary

The New Zealand commercial seafood sector is made up of a combination of many competing companies with Maori and Iwi-owned organisations comprising some of the largest. The competitive and multifaceted nature of the industry is often a barrier to cooperation and several sector representative entities have been established to promote the common good of differing seafood sectors. Maori and Iwi representation on these entities is not strong.

²⁹ www.aquaculture.org.nz/

Every seafood processing company relies on access to fish and seafood as the primary input for their processing chains. Iwi are a significant supplier of Annual Catch Entitlement through disparate value chains in return for an annual lease charge.

Iwi support Maori-owned and non-Maori owned processing companies who compete for the use of Iwi ACE. The decision on which commercial company an Iwi may lease its ACE to can be affected by many issues including reputation and relationships, price and additional benefits companies may offer to Iwi groups for accessing their quota.

The potential collective power of Iwi quota is therefore fragmented through New Zealand's commercial fishing industry and attempts to consolidate all Maori quota through a single value chain have thus far failed to materialise.

Yet on a more positive note, Iwi are increasingly examining more collective models to increase their negotiating leverage with commercial companies and in order to take more active positions in the fisheries value chain.

Environmental Non-Government Organisations

An Environmental Non-Governmental Organisation (ENGO) is usually a not-for-profit organisation which is independent from Government and industry and dedicated to advancing thinking on an issue or cause.

ENGO's are essentially private organisations whose interests and agenda are diverse and not necessarily congruent with the public interest or democratic governance.

ENGO's can be funded from a range of sources are usually funded by donations and fundraising but can also be funded from endowments. ENGO's can be small and local or have significant global networks and reach.

Public surveys reveal that ENGO's often enjoy a high degree of public trust which gives them a high degree of political influence towards their specific causes. Advocacy groups have become adept at using information to advance their positions and aggressively and opening use such information to influence political and bureaucratic processes. It is also clear that the highly advocacy based politics of northern hemisphere nations is now increasingly focusing on Pacific fisheries.

We need only consider the process surrounding the proposed enactment of the Kermadec Ocean Sanctuary to understand how philanthropic funding and ENGO advocacy has been used to gain high level political influence and outcome.

NGO's are an increasingly powerful influence on New Zealand's political decision-making. The following organisations are highly active and engaged in promoting their perspective and policy positions.

Greenpeace NZ and Greenpeace International

Greenpeace is an independent global environmental campaigning organisation that acts to change attitudes and behaviour, to protect and conserve the environment and to promote peace.

Greenpeace states it does this by:

- “Catalysing an energy revolution to address the number one threat facing our planet: climate change.
- Defending our oceans by challenging wasteful and destructive fishing, and creating a global network of marine reserves.
- Protecting the world's ancient forests and the animals, plants and people that depend on them.
- Working for disarmament and peace by tackling the causes of conflict and calling for the elimination of all nuclear weapons.
- Creating a toxic free future with safer alternatives to hazardous chemicals in today's products and manufacturing.
- Campaigning for sustainable agriculture by rejecting genetically engineered organisms, protecting biodiversity and encouraging socially responsible farming.”³⁰

Greenpeace New Zealand Incorporated is an independent not for profit organisation which is affiliated with Greenpeace International (based in the Netherlands) and 28 other Greenpeace offices around the world. Greenpeace is present in more than 55 countries across Europe, the Americas, Asia, Africa and the Pacific.³¹

³⁰ www.greenpeace.org/new-zealand/en/about/

³¹ www.greenpeace.org/international/en/about/

Greenpeace New Zealand is independently responsible for carrying out global campaign strategies within the specific context of Aotearoa. Greenpeace International coordinates worldwide campaigns and monitors the development and performance of national and regional Greenpeace offices.

Greenpeace is funded from individual supporters and foundation grants. Greenpeace NZ has approximately 53,000 individual supporters. It does not accept funding from governments or corporations.

WWF NZ and WWF International

WWF-New Zealand is the local office of the WWF International Network. WWF, formerly known as World Wide Fund for Nature, is a charitable trust which describes itself as the world's largest and most experienced independent conservation organisation. It has close to 5 million supporters worldwide and a global network active in more than 100 countries.

WWF's mission is to stop the degradation of the planet's natural environment and to build a future in which people live in harmony with nature. This is achieved by working on the ground with local communities, and in partnership with government and industry, using the best possible science to advocate change and effective conservation policy.

WWF's New Zealand programmes include research, advocacy and partnerships aimed at protecting habitats and species, minimising harm from fishing and other activities, reducing impacts from climate change, and conserving and protecting New Zealand wildlife.

The majority of donations to WWF-New Zealand are spent on conservation in New Zealand, Antarctica and the Southern Ocean.³²

The organisation has a marine programme dedicated to ensuring marine protection through establishing marine protected areas, supporting the Kermadec Ocean Sanctuary, promoting sustainable fisheries, seeking legal protection for Hector's and Maui's dolphins, working with fishers to protect seabirds and protecting Antarctica and the Southern Ocean.

WWF NZ has a goal of ensuring that "by 2025 New Zealand's marine environment is healthy, resilient and thriving; an environment New Zealanders live in harmony with, feel proud of and connected to. A representative network of marine protected areas has been created around New Zealand, and fisheries are being managed in a sustainable way. By-catch of non-target species – particularly threatened species – has been reduced to a level which does not impact populations."³³

WWF New Zealand had total expenditure of just over \$5 million for the 2015/16 financial year and derives two-thirds of its funding from donations.

Pew Charitable Trusts

The Pew Charitable Trusts is a United States-based independent non-profit NGO founded in 1948. The Pew Charitable Trusts is the sole beneficiary of seven individual charitable funds established between 1948 and 1979 by two sons and two daughters of Sun Oil Company founder Joseph Newton Pew and his wife, Mary Anderson Pew.

³² www.wwf.org.nz/about_us/

³³ www.wwf.org.nz/about_us/missions_and_goals/

The original Pew Memorial Foundation was a grant making organization that made donations anonymously based on a philosophy that good works should be done quietly.³⁴ In 2002 Pew became a public charity giving it more flexibility to engage in new initiatives.

Today the organisation has over US\$7.5 billion in assets and has three broad goals:

- Improving Public Policy - Pew studies and promotes nonpartisan policy solutions for pressing and emerging problems affecting the American public and the global community.
- Informing the Public – Pew uses impartial, fact based public-opinion polling and other research tools to track important issues and trends.
- Invigorating Civic Life - Pew supports national initiatives that encourage civic participation. In its hometown of Philadelphia, Pew supports organizations that create a thriving arts and culture community and institutions that enhance the well-being of the region's neediest citizens.³⁵

Pew is one of the wealthiest NGO foundations in the U.S. As an NGO, it is considered an umbrella organisation that influences (through support funding and political connections) many other NGOs in the U.S. and around the world, including WWF (in Geneva), Human Society US, Greenpeace and others.

One of the major areas of Pew's work today is related to the environment and its objectives to promote and support the creation of marine protected areas in various parts of the world. The Pew Charitable Trusts were highly active in the campaign to establish the Kermadec Ocean Sanctuary and funded a number of high profile projects in support of the sanctuary.

The Nature Conservancy

The Nature Conservancy (TNC) is a US-based charitable environmental organisation with 1 million members and a presence in 69 countries around the world.

Established in 1951, TNC describes itself as the leading conservation organisation working around the world to protect ecologically important lands and waters for nature and people. Its stated mission is to "conserve the lands and waters on which all life depends."³⁶

TNC has priorities in Land, Water, Oceans, Cities and Climate. Its ocean specific work focuses on sustainable fishing, illegal fishing, ocean conservation, resilient coastal communities and mapping ocean wealth.

The organisation takes a scientific approach to conservation and works with all sectors of society including businesses, individuals, communities, partner organisations and government agencies to achieve its goals. Its expanding international conservation efforts include work in North, Central and South America, Africa, the Pacific, the Caribbean and Asia.

As of 30 June 2015 TNC had total assets of approximately US\$6.7 billion. For the 2015 financial year TNC generated total support and revenue of US\$947 million and applied over US\$563 million towards conservation activities and actions and purchases of conservation lands and easements. For the same period the organisation expended approximately \$227 million on administration and fundraising.³⁷

³⁴ www.pewtrusts.org/en/about/history

³⁵ www.pewtrusts.org/~media/assets/2016/05/financialstatements_pct_2015.pdf?la=en

³⁶ www.nature.org/about-us

³⁷ www.nature.org/media/annualreport/2015-annual-report.pdf

TNC has only recently established a presence in New Zealand and is presently undertaking a project to case study the Quota Management System for possible application in other countries.

Environmental Defence Society

The Environmental Defence Society (EDS) is a not for profit environmental organisation comprised of resource management professionals who are committed to improving environmental outcomes.

EDS was first established in 1971 and operates as an environmental think tank on environmental management and litigator on environmental matters of national importance. EDS has a long interest in the management of New Zealand's marine space.

EDS has produced a number of policy reports on relevant topics including oceans policy, the establishment of an Environmental Protection Authority, the development of new legislation for the Exclusive Economic Zone (EEZ), the protection of marine mammals, marine protected areas and the environmental history of the Hauraki Gulf.

Royal Forest and Bird Society

The Royal Forest and Bird Protection Society of New Zealand was originally formed in 1923 to protect New Zealand's native forests and birds however its role has been extended in recent years to include protection of all native species and wild places – on land and in New Zealand's ocean, lakes and rivers.

Royal Forest and Bird publishes the Best Fish Guide which provides its view on the most sustainable seafood options for consumers and actively seeks to create consumer-led change within the seafood industry.

Forest and Bird promotes policy positions on Maui and Hector's Dolphins, Seabirds and Sea Lions, Marine Protected Areas and Seabed mining.

The society claims over 70,000 supporters grouped into 50 geographical branches throughout New Zealand.

The organisation generated income of \$8.5 million for 2016 and expended \$7.6 million on its various activities. The organisation is funded from a range of sources including membership fees, bequests, donations, grants and sponsorships, appeals and investments.

Royal Forest and Bird is recognised as a member of the International Union for Conservation of Nature which has evolved into the world's largest environmental network. Iwi are not represented at this forum.

Legasea

Legasea is a New Zealand describes itself as a recreational fishing advocacy group committed to ensuring there is enough fish in the water for future generations. Legasea is a wholly owned subsidiary of the New Zealand Sport Fishing Council (NZSFC) and was established in 2012 to ensure the wider recreational fishing community has access to information about the social cultural, economic and environmental issues impacting fisheries.

Legasea states its work is focused on rebuilding abundant inshore fisheries through advocacy, education and research, including:

- Ensuring information on NZ's fisheries is accessible to the public
- Representing recreational fishing interests to the wider sector

- Informing and educating New Zealanders about issues affecting NZ's fisheries and marine environment
- Educating recreational fishers about best practice fishing and how to minimise their impact on the marine environment
- Engaging with local communities through various activities
- Funding research on relevant topics
- Producing evidence-based submissions on fisheries management and marine protection policies and proposals through the NZSFC fisheries management team.³⁸

Legasea actively works to undermine the credibility of the New Zealand Fishing Industry and Quota Management System which the 1992 Treaty of Waitangi Fisheries Settlement is based upon. The organisation also publicly attacks the credibility and integrity of the Ministry for Primary Industries to manage New Zealand's fisheries.

Legasea's operating costs are funded through commercial partners, sponsors and in-kind private donors. It lists its platinum partners as ITM Building Supplies, Hunting and Fishing New Zealand, Salt Fly Fish (privately guided saltwater fly charters), Rod and Reel Fishing Specialists, Sage Fly Fish and Patagonia.³⁹ The organisation also receives donations from members which it applies towards the promotion of 'abundant fisheries'.

New Zealand Sport Fishing Council

The New Zealand Sport Fishing Council (NZSFC) is a National Sports Organisation with over 32,000 affiliated members from 57 clubs nationwide and a growing number of contributing supporters to LegaSea.⁴⁰

The NZSFC claims to be the oldest incorporated organisation representing recreational fishers and "fills a variety of needs and supports the million or so New Zealanders that fish."⁴¹

NZSFC views its key role as to act as an advocate for responsible and sustainable management of New Zealand's marine environment to ensure future generations are able to enjoy the unique resource our country has.

The Council conducts education programs and commissions and funds fisheries research projects, and participates in fisheries management. The organisation is funded through a modest membership subscription. The organisation is highly organised and active in conjunction with Legasea in providing submissions and independent policy positions regarding New Zealand fisheries management.

Summary

While having no formal authority within the wider fisheries sector Environmental Non-Government Organisations are increasingly active in the promotion of their own specific policy perspectives and goals regarding marine protection and management.

ENGO's have no formal power but rely on public concern about issues to exert pressure on public and private decision makers. As noted by WWF New Zealand, "The more people on who behalf we speak, the more influential we are in persuading governments, businesses and communities around the world to reduce their impact on our planet's natural environment."⁴²

³⁸ <https://www.legasea.co.nz/about/>

³⁹ <https://www.legasea.co.nz/>

⁴⁰ NZ Sport Fishing Council submission on the review of Rock Lobster sustainability measures for 1 April 2015.

⁴¹ <http://www.nzsportfishing.co.nz/>

⁴² www.wwf.org.nz/about_us/how_we_raise_funds/

As such ENGO's self-create their 'mandate' from public interest in key issues which they themselves promote.

Many of these organisations have an international perspective and can bring significant resources to bear on issues which they deem to be important.

When viewed in this context it is apparent that New Zealand fisheries decision-makers – including Iwi decision-makers - have the potential to be strongly influenced by ENGO policies.

The recent Kermadec Ocean Sanctuary proposal to extinguish commercial rights in the FMA10 area (including Maori rights) was actively promoted and supported by domestic and international ENGO's including Forest and Bird, WWF, the Pew Charitable Trusts and Greenpeace.

This position of itself does not suggest that ENGO's are anti-Maori – however it is clear that if left unchecked, NGO activities can negatively impact on Iwi commercial rights to fisheries while at the same time appealing to Iwi and New Zealand citizen's environmental concerns.

Environmental Non-Government Organisations need to be recognised as a significant influencer on public and political thinking regarding fisheries and marine management. Their future influence on Government and Iwi fisheries decision-makers should not be under-estimated.

The Politics of Fisheries Rights

The 1992 Fisheries Settlement was a political act undertaken between the Crown and Maori after long struggle by Maori to secure Crown recognition of Iwi rights to fisheries.

Today Iwi commercial and customary interests operate within the framework established by the Deed of Settlement and Treaty of Waitangi (Fisheries Claims) Settlement Act 1992, Fisheries Act 1996 and the Maori Fisheries Act 2004.

Politics sets the framework within which all fisheries interests – Maori and non-Maori alike – operate. Maori have a unique level of protection from this political dimension in the form of the 1992 Deed of Settlement – however this protection is only effective if it is clearly understood and Maori maintain the will and capacity to protect their rights.

Despite the agreements of the past the Crown has proven itself time and again to be an unreliable Treaty partner. Recent policy initiatives in regard to the Kermadec Ocean Sanctuary and Future of Our Fisheries proposals demonstrate that the Crown often chooses to ignore its obligations under the Deed of Settlement and is prepared to trespass on Maori rights to fisheries without Maori consent.

In the generation since the fisheries settlement ongoing and sustained political collaboration among all Iwi is critical to protect our fisheries settlement rights.

While Iwi often think and act with a local and regional perspective, the Crown continually develops fisheries, marine and environmental policy at a national level all of which have the potential to impact upon Maori rights guaranteed under the Deed of Settlement.

The following section considers the political environment and structures which shapes the laws governing how fisheries is managed in Aotearoa.

Parliament and Political Parties

The main functions of Parliament are to provide the Government from its elected membership, make and amend law, examine and approve Government taxes and spending and hold the Government to account for its actions.

Parliament is comprised politicians elected from the general public. Politicians may belong to political parties which promote ideologically driven policies and views they hope will appeal to voters and secure them votes at NZ's triennial general elections.

Every breach of the Treaty of Waitangi since 1840 has been mandated by law passed by Parliament.

In the modern era politics is increasingly influenced by environmental considerations. All major political parties have environmental policies which will affect their perspective of fisheries rights within Aotearoa.

The main political parties represented in Parliament at this time include the National Party, New Zealand First, the Labour Party, the Green Party, ACT Party, the Maori Party and United Future. The National Party presently holds the mandate to form the government with support from the Maori Party, the ACT Party and United Future. The next general election is due in 2017.

Although political parties often have individual Maori members these members are generally subject to the 'party line' – meaning that they are often required to present the political party's view of an issue as opposed to their own personal perspective.

Political parties and Government are often subject to lobbying by groups to influence their perspective and policy positions.

The competitive nature of politics and continual vying for control means there is often little consensus regarding how important issues are managed. Unfortunately, political responses to perceived issues of public concern are often reactionary in nature.

At the present time, fisheries are highly politicised due to negative public perception of commercial fisheries practices and increasing demands from the recreational sector for a greater share of fisheries resources.

Despite historic agreements such as the Fisheries Deed of Settlement Parliament retains the ability to change the law to the detriment of Iwi Maori fisheries rights. The process of developing the law and its supporting regulatory policy components is managed by Government and its various Government agencies.

Government Agencies

Government agencies are organisations which are tasked with advising Government Ministers on the best way administer and manage various governmental functions. Government agencies can often have responsibility for administering multiple pieces of legislation at the same time.

The relationship between the different pieces of legislation creates complexity and can create tension regarding the priority of different outcomes which Governments seek to achieve.

Government agencies are supposed to work collectively to achieve Government policy outcomes. However, because each Government agency is required to give priority to its own legislative purpose and Ministerial directives this can sometimes lead to competition between agencies tasked with administering different laws.

This can lead to the undermining of other related legislation and contribute to detrimental outcomes for various groups including Maori.

The quality of policy developed by Government agencies and its impact on Maori is dependent on the quality of their engagement with Maori on key issues of importance but also to a large degree on the quality of engagement with other government agencies which have interests in an area and their technical knowledge of the subject matter.

The Ministry for Primary Industries

Prior to 2012 New Zealand's fisheries was managed by a dedicated Government Department called the Ministry of Fisheries which was responsible to the Minister of Fisheries.

The Ministry of Fisheries was dis-established in 2012 and restructured into the much larger Minister for Primary Industries – of which fisheries is but one part. This 'Super-Ministry' is responsible for 41 separate piece of legislation including the Fisheries Act 1996, Maori Fisheries Act 2004, Maori Commercial Aquaculture Claims Settlement Act 2004 and Treaty of Waitangi (Fisheries Claims) Settlement Act 1992.

In addition to fisheries MPI's responsibilities include overseeing the systems managing all primary industries in Aotearoa including agriculture, forestry, biosecurity, food and aquaculture.

MPI has over 2,200 staff and is led by the Director-General who reports directly to the Minister for Primary Industries. MPI is organised into 6 functional areas including Operations, Policy and Trade, regulation and assurance, sectoral Partnerships and programmes, office of the Director-General and Corporate.

MPI is responsible for managing the Quota Management System and annually reviews the Total Allowable Commercial Catch (TACC) for fish stocks and sets limits so that enough fish remain for breeding.

All key legislative and regulatory policy affecting Maori saltwater and freshwater fisheries interests are developed and managed by MPI except whitebait and freshwater 'sports fish' which are managed by the Department of Conservation.

Ministry for the Environment

The Ministry for the Environment (MFE) is the Government's principal advisor on the New Zealand environment and international environmental matters. MFE is primarily responsible for developing environmental management policy which is then implemented by other organisations.

Its stated purpose is that Aotearoa is the most liveable place in the world and seeks to support Aotearoa's "economic, social and cultural prosperity without compromising our environment for the future."⁴³

The Minister for the Environment has responsibility for 11 important pieces of legislation which can impact upon Maori fisheries rights including the Resource Management Act 1991, Climate Change Response Act 2002, Aquaculture Reform (Repeals and Transitional Provisions) Act 2004, and Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012.

MFE is organised into the key areas of Operations, Strategy, Monitoring and Reporting, and Natural Resources Policy.

MFE leads Government policy development on matters concerning Environmental Management Systems, Air Quality, Atmosphere and Climate, Freshwater, Urban Environmental Planning, Land Use and Marine Environment Use.

In 2016 MFE promulgated the Kermadec Ocean Sanctuary Bill which cut across Maori fishing rights by seeking to extinguish all fishing in the FMA10 area in contravention of the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992.

Department of Conservation

The Department of Conservation (DoC) advises the Minister for Conservation on conserving New Zealand's natural and historic heritage.

DoC is organised into 6 business groups reporting to the Director-General including Partnerships Group, Operations Group, Strategy and Innovation Group, Science and Policy Group, Corporate Services Group, and Kahui Kaupapa Atawhai.

DoC has direct responsibility and functions in over 40 separate piece of legislation including the Hauraki Gulf Marine Park Act 2000, Marine Reserves Act 1971, Marine and Coastal Area (Takutai Moana) Act 2011, and Fisheries Act 1996.

The Department of Conservation is responsible for representing New Zealand at a number of international forums dealing with conservation matters such as the IUCN.

⁴³ www.mfe.govt.nz/about-us/about-ministry

Te Puni Koriri

Te Puni Koriri (TPK) – the Ministry for Maori Development – is the Crown’s primary advisor on Maori affairs which provides strategic advice and guidance to the Minister for Maori Development. It is responsible for over 70 separate pieces of legislation.

TPK is a policy Ministry which seeks to develop well informed and strategic advice to address the needs and aspirations of Maori. TPK’s priorities are focused on Crown-Iwi, Hapu and Maori Relations, State Sector Effectiveness, Cultural Wealth, Skills and Learning and Economic Wealth.

While TPK has no direct responsibility for fisheries related matters it has a role in advising other Government agencies on the impact of their policy proposals on Maori rights and communities.

Ministry of Foreign Affairs and Trade

The Ministry of Foreign Affairs and Trade (MFAT) represents the New Zealand Government in formal communications with other countries and their governments.

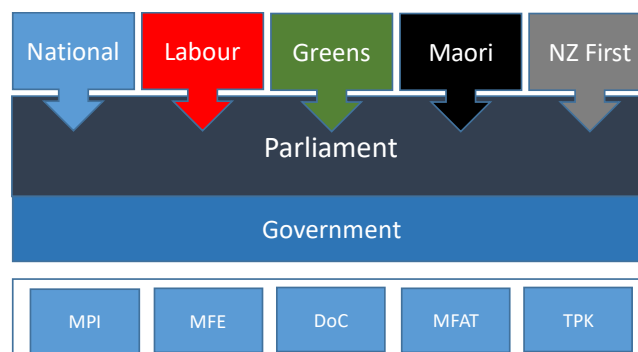
MFAT monitors and interprets changes in international political, diplomatic and trade situations. Based on this information it provides the Government with advice, and then acts to promote and protect New Zealand’s interests.⁴⁴

MFAT has approximately 1400 staff located in 50 countries around the world. The Ministry (along with other agencies) represents New Zealand at international forums which are responsible for creating and implementing international rules and frameworks to support the environment and support economic growth.

MFAT plays an active role in negotiations to improve the conservation and sustainable use of the world’s oceans and fisheries.⁴⁵ The Ministry represents New Zealand in global discussions and negotiations to seek the successful implementation of international agreements on ocean governance and fisheries management such as the United Nations Convention on the Law of the Sea.

MFAT also represents New Zealand in negotiations towards a new treaty for the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction.

These international agreements and treaties have the potential to affect how the New Zealand Government interprets and manages its domestic responsibilities.



⁴⁴ www.govt.nz/organisations/ministry-of-foreign-affairs-and-trade

⁴⁵ www.mfat.govt.nz/en/environment/

Iwi Chairs Forum

Since Te Ohu Kaimoana's establishment Iwi have formed an informal structure to enable greater information sharing between Iwi and engagement with the Crown on a range of national issues.

In 2005 the first Iwi Chairs Forum was convened at Takahanga Marae in Kaikōura. Since that time the Forum has been meeting regularly to discuss and enable Māori aspirations in the spheres of cultural, social, economic, environmental and political development.

The Forum is a platform for sharing knowledge and information between the tangata whenua of Aotearoa, with hui four times a year hosted at different marae throughout the country. The primary focus is for participants to educate one another about what they are doing, how they are doing it and how they can best support one another.

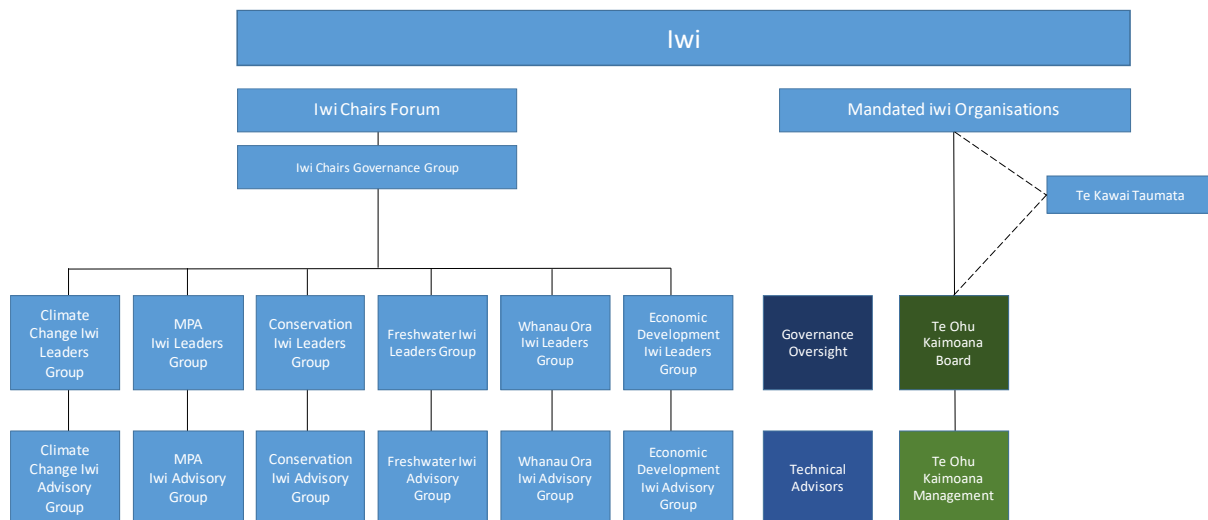
The Forum regularly invites Crown representatives, Members of Parliament and stakeholder and community groups to present at hui on projects and issues that concern iwi.

All iwi chairpersons have an open invitation to participate in, and contribute to, this group.

Increasingly the Crown is identifying the Iwi Chairs Forum as an appropriate forum to engage and debate national political policy matters with Iwi leadership.

The Iwi Chairs forum lacks a permanent secretariat and is dependent on securing funding from either the Crown or individual Iwi members to support its technical advisors.

The existence of two national Maori bodies therefore provides the Crown with opportunity to select who it will choose to deal with in relation to fisheries matters.



Close and coordinated action is therefore required between the Te Ohu Kaimoana Board and Iwi Chairs in order to ensure a balanced and unified Maori position is presented to the Crown on fisheries related matters.

Summary

Iwi fisheries remains subject to a complex and powerful political system which has the legal power to alter or extinguish Iwi rights if the right political conditions present themselves.

When political agendas are backed by sufficient public sentiment Government's may feel empowered to act in ways at odds with Maori interests. Governments can exert significant dedicated resources to achieve their political outcomes quickly.

Government Ministers are advised by various Government agencies which are responsible for specific legislative areas. These agencies work to advance the policy goals of their own Minister and can compete with other government agencies for prestige and influence within Government.

Governments are keenly attuned to public sentiment and will implement policies which they believe will win them favour with the voting public in order to maintain their mandate to govern.

While history demonstrates that Maori expect the rights guaranteed under political settlements to be enduring and secure, history also demonstrates that the security of Maori rights is a fragile thing.

The recent proposed Kermadec Oceans Sanctuary Bill demonstrates the willingness of Government Ministers and their officials to implement policies without consultation with their Treaty Partner in areas which can negatively affect existing Maori rights.

This pattern of behaviour can be expected to continue unless it is clearly understood and actively challenged.

This necessarily raises the question of who the appropriate body is to engage with the Crown on national fisheries-related matters and challenge it's agenda when required. Mandated Iwi Organisations are the Crown's Treaty partner within the context of the Maori Fisheries Act 2004.

However, the evolving National Iwi Chairs Forum which has developed in the Post-Treaty Settlement environment increasingly being sought out by the Crown as the more appropriate body through which to manage the Treaty relationship over the myriad of Crown-driven policy issues including marine-related issues which impact on fisheries matters.

Alignment between MIO's and the Iwi Chairs Forum, and ascertaining the most important Maori leadership to speak on fisheries matters is critically important for Maori fisheries rights to be maintained.

Strengths, Weaknesses, Opportunities, Threats and Key Issues

An analysis of the Maori fisheries sector highlights the following strengths, weaknesses, opportunities and threats facing Maori within the wider fishing industry.

<p>Strengths</p> <ul style="list-style-type: none"> • The Treaty of Waitangi and Deed of Settlement guarantees Maori rights to fisheries. • Iwi are organised and resourced through Te Ohu Kaimoana to defend their settlement rights • Mandated Iwi Organisation structures are well established and possess resources and capability in their own right. • The New Zealand Quota Management System is successful (but not well understood). • Iwi are represented in every fishery. • Shared Iwi tikanga values and world view form a strong basis for wider collaboration. • Iwi increasingly establishing cooperative vehicles (ICP and PNF). • Fish is a good healthy product with limited environmental impact for food production compared to other methods (eg land-based agriculture). • Iwi intergenerational focus aligned to long term commercial investment and customary practice. • Iwi Endorsement of Te Ohu Kaimoana as a central secretariat and technical advisory group for all Iwi. 	<p>Weaknesses</p> <ul style="list-style-type: none"> • Maori collective commercial and political interests are fragmented and competitive resulting in a lack of maximised national influence. • General lack of Maori expertise in the fisheries sector and associated Quota Management System • Lack of significant Maori representation on Stakeholder Representation Entities • Iwi fishing businesses face increasing regulatory challenges and producing are presently not highly performing • Large number of MIO and AHC's creates cost duplication and constraints on human/financial capital • Maori fisheries commercial and customary disconnect • Little investment in fisheries research and development • Increasing negative Public and Maori perception of Industry behaviour • Weak Maori value chain presence.
<p>Threats</p> <ul style="list-style-type: none"> • Lack of Iwi support for Te Ohu Kaimoana to remain a strong and unified Maori organisation to defend Maori fisheries rights • Fragmented Iwi Government relationships allow Government to adopt divide and conquer tactics in the development of marine, fisheries and environmental policy • Strong domestic recreational lobby and international ENGO influence on government to detriment of Maori perspectives • Poor public perception of commercial fisheries driving low political confidence in fisheries • Appropriation of Maori values by non-Maori fisheries companies for marketing purposes • Lack on policy certainty resulting in declining ACE values 	<p>Opportunities</p> <ul style="list-style-type: none"> • Reasserting the Deed of Settlement and Quota Management System as central to NZ fisheries • Building Understanding and Constructive relationship with Government • Better Scientific Relationship, • Mobilising Iwi to defend the full range of their traditional fisheries rights • Greater Maori fisheries and marine environment leadership domestically and internationally • Treaty-based marine and fisheries policy development • Reciprocity between TOKM/Moana/Iwi (relationships and goodwill and iwi owned), • Greater political, commercial and customary collaboration • Improved collective value chain participation and investment

Key Issues

1. Maori influence within the wider fisheries sector (commercial and political) is not strong, coordinated or collective

Much has been made of the size and influence of the Maori economy and of the particular influence of Maori in the commercial fisheries sector. While collective commercial potential exists, it is not being maximised to its fullest potential thereby denying Maori more opportunity within the overall sector.

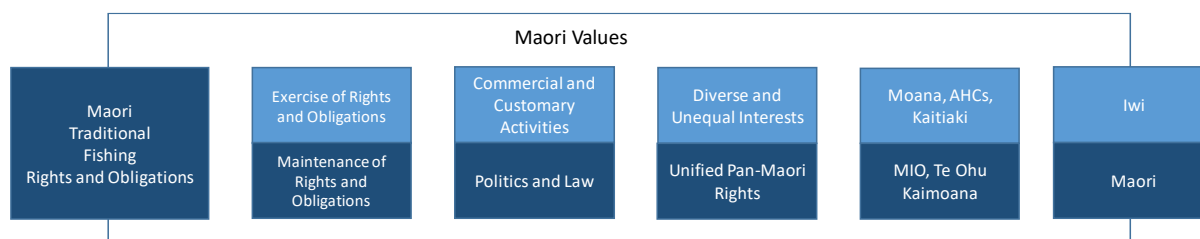
Maori commercial seafood companies continue to compete with one another to sell their products to predominantly the same customers. While this is irrational and inefficient, decisions on company strategy including competition or collaboration ultimately remain the purview of Iwi and Maori fishing company leaders and will only change if these leaders see more benefit in collaboration than competition.

2. Individual Iwi commercial focus has developed without the concurrent strengthening of ongoing collective rights protection and advocacy placing Maori in a reactive position in respect of national and international fisheries issues;

The fragmentation which has occurred within Maori fisheries since settlement has occurred at both the commercial and political level.

Since 2005 Te Ohu Kaimoana focused the majority of its effort on distribution of Iwi assets in accordance with its mandate under the Maori Fisheries Act 2004.

As Iwi received control of their assets their attention naturally turned to the exercise of those rights and enjoying the benefits derived from quota ownership and customary management systems. Underlying the Iwi exercise of rights was an assumption that the Crown would respect Maori fisheries rights gained through the 1992 Deed of Settlement which has resulted in a level of unintended complacency. This assumption has proved to be incorrect.



6. The exercise of fisheries rights can influence the political maintenance of rights.

Most Iwi are passive quota owners who are not deeply engaged in the active fishing industry or well represented in the key decision-making structures within the wider fishing sector. This places most Iwi at a distance from the actual business of fishing.

Some modern commercial fishing practices are perceived as being harmful to the environment or exploitative of fisheries resources. Negative perceptions of industry practice can shift public confidence in the fishing sector and ultimately undermine political support for underlying commercial and customary fisheries rights.

Alternatively, positive commercial and customary practices which provide demonstrable benefit to society can serve to strengthen societies support for underlying rights themselves.



3. Iwi risk confusing the exercise of local or regional rights with national Maori collective rights

Since the fisheries settlement was negotiated in 1992, many individual Iwi have since settled their own land based Treaty claims which have returned a measure of rangatiratanga and often increased local profile and influence.

Many individual Iwi actively engage in the political lobbying process to seek to protect and advance their individual and localised interests as part of the process of maintaining and assert individual mana.

However, unless Iwi fisheries rights interests are understood within their proper national Maori context, local and individual issues can create unintended negative national precedent for Iwi everywhere. It is therefore important that Iwi understand that a delineation exists between the maintenance of collective Maori rights and the exercise of individual Iwi rights.

Individual Iwi commercial rights and customary rights rest on a basis of a common collective Maori right acknowledged under the 1992 Deed of Settlement. The right to access traditional fisheries is the same for all Iwi regardless of size however as a result of the allocation process each individual Iwi's share of commercial and customary fisheries interests is different.



4. Different Iwi place different values on fisheries rights – potentially undermining the interests of other Iwi groups

Iwi with smaller economic fisheries interests may place a greater emphasis on their customary fisheries rights or potentially leading to internal conflict within Iwi regarding the perception of commercial fisheries.

For example, the recent Kermadec Ocean Sanctuary proposal was supported by Ngati Kuri who have minor commercial fisheries interests in the FMA10 area. Despite this being an example of Ngati Kuri exercising its own rangatiratanga by choosing to forego its commercial interests in this area, the Crown used this as an excuse to justify the extinguishment of all Iwi rights in the area.

5. Limited shared knowledge and active participation between Maori commercial companies

Despite sharing common values, Iwi commercial structures can encourage competition rather than collaboration. This can also be influenced by the tendency of Iwi to seek options which promote their own mana over other tribal groups.

Maori Fisheries Strategy

The Crown's recognition of Maori rights to fisheries in Aotearoa are the result of hard-won negotiations and legal cases undertaken by Maori leaders in the late 1980s and early 1990s. This was necessitated due the Crown's intention to ignore Maori fishing rights in the development of modern fisheries policy and legislation.

Since the 1992 fisheries settlement and subsequent 2004 asset allocation process Mandated Iwi Organisations and the Iwi they serve have engaged with economic development and set about regaining a measure of tino rangatiratanga over their own destiny.

Iwi have focused effort on the exercise of their fisheries rights while assuming the Crown would always respect those same settlement rights.

This assumption is not well founded but has given rise to a level of complacency regarding Maori fisheries rights.

When the fragility of Maori fisheries rights is fully understood, it becomes clear that the Maori fisheries strategy is not concerned with fishing but with the maintenance and advancement of collective Maori fishing rights as guaranteed under the Deed of Settlement.

Vision

The vision for the Maori fisheries strategy is:

"The ongoing Treaty Partnership between Iwi and the Crown is given effect to develop fisheries-related legislation, policies and arrangements recognising and respecting the rangatiratanga of Iwi over their traditional fisheries."

Strategy

To achieve this vision the following high level strategies need to be executed:

5. The roles of the competing Maori political and commercial structures are aligned to reduce duplication and support the protection and advancement of the full range of collective Maori traditional fisheries rights including;
 - a. Clarifying the relationship between and respective roles of Mandated Iwi Organisations and the Iwi Chairs Forum to establish a unified Maori political voice with the Crown;
 - b. Individual Iwi-owned and Maori collectively-owned fishing companies developing commercial strategies based on Iwi-driven principles which improve industry behaviour and promote the protection and advancement of the full range of collective Maori traditional fisheries rights.
 - c. Te Ohu Kaimoana and Te Wai Maori Trust reorganising into an agent of Mandated Iwi Organisations to act as an influencer and advocate for the protection and advancement of Maori collective fisheries rights based on strong knowledge, integrity and relationships.
6. Re-establishing Maori and Government understanding of the rights granted under the Deed of Settlement to establish a Treaty-based approach to developing future fisheries-related policy with the Crown;

7. Mandated Iwi Organisations collectively identifying, developing and promoting fisheries leadership to advocate protect and advance the full range of collective Maori traditional fisheries rights with the best support possible.
8. Mandated Iwi Organisations working collectively to develop national and regional fisheries policy which protects and advances the full range of Maori traditional fisheries rights guaranteed under the Deed of Settlement.

3-Year Maori Fisheries Strategy Implementation

Strategy	Year 1	Year 2	Year 3
Align competing Maori political and commercial structures to promote unified Maori voice for fisheries			
Re-establish Maori and Government understanding of the rights granted under the Deed of Settlement			
Identify, develop and promote collective Maori fisheries leadership			
Develop national and regional fisheries policy			

Organisational Roles

The current way of operating has not delivered Maori leadership of the fishing industry as was realistically possible following the 1992 Settlement. Neither has the current fragmented way of operating resulted in securing Maori rights to fisheries as promised under the Deed of Settlement.⁴⁶

Yet Maori fisheries continue to operate in a fragmented and uncoordinated fashion which deliver sub-optimal outcomes.

If Iwi and Maori leadership aspires to greater security of their fishing rights it must move beyond the rhetoric of collaboration and cooperation to actually implement real strategies which improve the overall position and power of Maori and iwi within the fisheries sector.

Under the proposed vision the different components of the Maori fisheries sector would need to work effectively in a model focused on collaboration, specialisation and elimination of as much duplication as possible:

1. Mandated Iwi Organisations

- Key voice of the Iwi Treaty Partner for fisheries purposes

⁴⁶ This is demonstrated by current promotion of policies such as the *Kermadec Ocean Sanctuary Bill*, *Future of Our Fisheries and Marine Protected Areas* which seek to roll back Maori access to marine resources for fisheries purposes.

- Inter-generational protection and growth of traditional fishing rights (customary and commercial)
- Administration of customary fisheries operations for the Iwi
- Represent and accountable to iwi stakeholder base
- Understand and cooperatively advocate for Pan-Maori fishing rights contained in the Deed of Settlement in a manner consistent with specific Iwi values

2. Iwi Asset Holding Companies

- Inter-generational protection and growth of quota assets and exercise Iwi fishing rights in a manner consistent with Iwi values
- Act as a responsible shareholder of AFL
- Exercise pan-Maori fishing rights in a manner consistent with Maori values
- Act as investor in Collective Maori Operating Entities, nurture establishment and then govern and monitor performance (alongside establishing / larger AHCs)
- Act as a connector across various Collective Maori Operating Entities and encourage brand alignment, connection and leverage where appropriate

3. Aotearoa Fisheries Ltd and Collective Maori Operating Entities

- Specialist operating vehicles with own management and governance
- Exercise collective Maori fishing rights in a manner consistent with the protection of collective Maori principles
- Work collectively to develop and provide best in class Koura, Paua, Deepwater, Inshore and other processing services for Iwi partners.
- Work with Asset Holding Companies to develop future commercial fisheries interests.

4. Te Ohu Kaimoana

- Increase the capacity of Maori to influence fisheries management through increasing knowledge, expertise and connectivity across the participants in Maori fishing industry
- Advocate and influence the Maori fisheries management position nationally and internationally
- Support MIOs to undertake their Customary Fisheries Management responsibilities and support Asset Holding Company's, Collective Maori Operating Entities and Moana New Zealand Ltd to undertake their Commercial Fisheries Management responsibilities

5. Te Wai Maori Trust

- Increase the capacity of Maori to influence freshwater fisheries management through increasing knowledge, expertise and connectivity across the participants in Maori fishing industry
- Advocate and influence the Maori fisheries management position nationally and internationally
- Support MIOs to undertake their Customary Freshwater Fisheries Management responsibilities

6. Te Putea Whakatupu Trust

- Increase the capacity of Maori to participate in the fisheries industry

Te Ohu Kaimoana

The purpose of Te Ohu Kaimoana within this strategy is clear. As set out in section 32 of the Maori Fisheries Act 2004, the purpose of Te Ohu Kaimoana is “to advance the interests of iwi individually and collectively, primarily in the development of fisheries, fishing and fisheries-related activities, in order to –

- a) Defend rights of all Iwi and Maori in accordance with Maori values and the Deed of Settlement
- b) Ultimately benefit the members of iwi and Maori generally; and
- c) Further the agreements made in the Deed of Settlement; and
- d) Assist the Crown to discharge its obligations under the Deed of Settlement and the Treaty of Waitangi; and
- e) Contribute to the achievement of an enduring settlement of the claims and grievances referred to in the Deed of Settlement.”⁴⁷

To achieve this Te Ohu Kaimoana must work with Mandated Iwi Organisations to re-elevate the Deed of Settlement as a foundation of fisheries policy development in New Zealand.

Te Ohu Kaimoana operates as an agent for all Iwi and is a necessary coordinating body for all Iwi to protect their rights guaranteed under the 1992 Fisheries Deed of Settlement. In doing this it also assists the Crown in achieving an enduring settlement of fisheries claims.

Te Ohu Kaimoana and Te Wai Maori Trust must work with and on behalf of all Mandated Iwi Organisations to ensure that traditional Iwi rights to fisheries are protected, enhanced and advanced. This requires developing or securing the best expertise in Treaty jurisprudence, fisheries policy and management and communication and relationship management, lobbying and advocacy.

In accordance with this strategy, Iwi Asset Holding Companies and Aotearoa Fisheries Companies retain responsibility for all commercial activity including fisheries development (eg Surf Clams) and investment. Research and development activity is also more appropriately the role of Iwi Asset Holding Companies and Aotearoa Fisheries Ltd. Existing Te Ohu Kaimoana involvement in such activities will cease.

When this occurs, Aotearoa Fisheries Ltd will need to consider how it positions itself as a partner or service provider to Iwi wishing to collectively develop future fisheries. This may be challenging under its present operating model which sometimes requires it to act in competition with the iwi it was designed to serve.

Close relationships will be required between MIO and Te Ohu Kaimoana and AHC’s and AFL to ensure that Maori commercial fisheries operations are fully aware of political and policy developments and political operations is fully informed of developments within the commercial sector.

Te Ohu Kaimoana Core Strategies

1. Develop and grow Iwi fisheries management knowledge and advocacy platform through being up to date with all world-leading research, understanding best practices internationally and range of options of operational tools to implement and their impacts
 - Position with the capability to seriously exert influence and position NZ as best practice. NZ led the world with its QMS but required level of research, rigour and

⁴⁷ Section 32, the Maori Fisheries Act, 2004.

long-term thinking required for NZ Fisheries Management to continue to lead the world is missing.

- Form connections with a network of world-leading experts and share knowledge and utilise these experts to help influence positions
 - Review existing management regimes for each key species group and develop “best practice” TOKM models and practices
2. Empower collectivised Maori influence of the Commercial Fisheries Framework at both local and national level
 - Develop a model for a collective Maori approach to commercial fisheries management that integrates Maori decision-making and influence in each species management group by fishing area. This includes a framework for each AHC, Collective Maori Operating Entity and AFL who own quota or operate in a fishing area to collaborate to appoint representatives to CSOs and to influence decision-making in best long-term interests of Maori
 - Provide the central hub of expertise and technical support to the Maori representatives elected to each CSO so that Maori are positioned to take pivotal leadership roles in CSOs. Furthermore many of the strategic issues are the same across different fishing areas.
 - Review and enhance the Commercial Fisheries Framework. As confidence and trust is built it will provide the foundation to review the Commercial Fisheries Framework and consider how it can be enhanced to be more effective and efficient
 3. Empower MIO led Customary Fisheries Framework that grows the mana of Iwi and their Marae and result in closer working relationships between kaitiaki and MIOs.
 - Review and report on how currently operating across the country, whether led and controlled by MIO and what systems are in place
 - Finalise an on-line reporting system that MIOs can utilise to improve reporting
 - Assist to set up formal pataka systems with Collective Maori Operating Entities and AFL that is equitable
 4. Develop Te Ohu Kaimoana to become a powerful influencer and advocate on the national and international stages based off strong knowledge, integrity (sustainable) and networks
 - Stay ahead of the game in understanding international trends both from a customer and NGO perspective. More and more this is what drives our NZ political decision-making policies. TOKM needs to stay ahead of the government and be ready.
 - Build strong relationships with Iwi fisheries experts, internationally respected experts, NGOs and best practice industry bodies
 - Build strong relationships nationally with Minister responsible and senior bureaucrats, key industry figures and influence bodies
 5. Positively influence AFL and major AHCs to take a collective approach to maximising value out of their respective quota holdings:
 - Cement positive progress with koura and PNF consolidation. The majority of Iwi are participating now alongside AFL, once this consolidation is cemented the next step is positioning and brand in China.
 - Advocate for the continued progression and development of Iwi deepwater collective and paua projects
 - Consider how best to deliver collectivised inshore wetfish solutions. They may be best focused around high value species and collectivised on a regional basis (eg Upper North Island centred around snapper, Chathams centred around Blue Cod)

3-Year Implementation

Strategy	Year 1	Year 2	Year 3
Develop and grow fisheries management knowledge and advocacy platform through being up to date with all world-leading research, understanding best practices internationally and range of options of operational tools to implement and their impacts			
Empower collectivised Maori influence of the Commercial Fisheries Framework at both local and national level			
Be a powerful influence and advocate on the national and international stages based off strong knowledge, integrity (sustainable) and networks			
Positively influence AFL and major AHCs to take a collective approach to maximising value out of their respective quota holdings			

Funding of Te Ohu Kaimoana

Mandated Iwi Organisations have recognised the need for rights protection through mandating the retention of a restructured Te Ohu Kaimoana to work on priorities agreed by Iwi to protect and enhance the settlement including undertaking advocacy and policy advice for Iwi.

Yet a question remains as to the extent which Iwi truly believe their rights are under threat and what extent they believe they can protect themselves, and to what extent they believe cooperation is necessary through Te Ohu Kaimoana.

Arriving at common agreement for the correct level of funding for Te Ohu Kaimoana is an important decision. Iwi require assurance that Te Ohu Kaimoana provides value for money for funds which they themselves could use to advance their individual interests.

1. Over investment in Te Ohu Kaimoana is perceived as resulting in negative outcomes for Iwi in the form of lost economic opportunity by being unable to use their share of the

collectively held funds. This creates resentment towards the organisation if Iwi do not perceive it delivering value.

2. Under investing in Te Ohu Kaimoana will result in an ineffectual organisation unable to adequately advise Mandated Iwi Organisations sufficiently to protect the rights guaranteed under the Deed of Settlement. This will inevitably lead to a weakening of the key foundation of collective Maori fisheries rights upon which all Iwi depend.

When considering the core purpose of a restructured Te Ohu Kaimoana it is clear that the long term protection and advancement of Maori fisheries rights must take priority

weighing up these considerations it is clear that a long-term view of rights protection is necessarily required. and a conservative approach to reducing funding to Te Ohu Kaimoana is recommended at this time.

Conclusion

The past 23 years of Maori advancement within the wider fisheries space demonstrates consistent dedication to the promotion of rangatiratanga at the Iwi level which was (somewhat ironically) initially achieved through national Pan-Maori collective settlement.

The Fisheries Settlement was a key turning point in modern Maori history which clearly articulated and gave meaningful legal expression to Maori rights to fisheries resources in New Zealand. Despite this these rights remain constantly at risk by virtue of attitudinal change within society which becomes reflected in political policy.

Maintaining and defending these rights therefore requires a combination of political, policy, legal and communication strategies combined with promotion of best practice commercial and customary strategies.

While much emphasis has been given to the economic benefits which flowed from the settlement, an equally important element of the settlement was the requirement to establish Iwi-based legal structures to receive and manage those economic assets.

This has accelerated the modern establishment of legally recognised tribal governing structures capable of engaging with the Crown as Treaty Partner. Iwi are now more structured and better resourced to deal with the Crown in a more organised fashion both individually and collectively.

The greater recognition for the need to consider issues at a nation level is contributing towards the establishment of national Maori representative entities such as the National Iwi Chairs Forum which have the potential to wield significantly greater influence than presently.

When this is combined with the Crown's recognition of its duty to develop policies to help recognise use and management practices and provide protection for and scope for exercise of rangatiratanga in respect of traditional fisheries. It is the recognition and fulfilment of this duty which most materially contributes to an enduring settlement and sadly one which .

A key benefit for Maori which is often overlooked was the establishment of a national Pan-Maori entity which could act to protect the interests of all Iwi without reliance on funding from the Crown. The Maori Fisheries Commission, which then became the Treaty of Waitangi Fisheries Commission, which in turn became Te Ohu Kaimoana Trustee Ltd.

As Iwi experience of the fisheries sector as evolved since the inception of the settlement Te Ohu Kaimoana also faces change. As its primary role and function moves from allocation to protection and advocacy a new set of skills, experience and relationships will be required to become more connected with and responsive to Iwi, perhaps in a way it has never been before.

Unfortunately, it appears that a key lesson which Maori have not learnt from our collective experience is that the Crown will breach the Treaty of Waitangi if it is not opposed. The protection, maintenance and development of our perpetual rights requires ongoing unity to stand against the proven behaviour of a Crown which breaches its solemn agreements.



Te Ara Taupuhpuhi
Three-year Strategic Plan

Ka Ora ki Tai Ka Hua ki Uta – A Bountiful Ocean will Sustain Us

Contents

Introduction	2
Strategies	2
Te Ohu Kaimoana Three-year Strategic Plan	4
Why do we exist?	4
What do we do?	4
How do we behave?	5
Our Aspirational Goal	6
Our Ambition to 2020	6
What are the most important activities over the next three years?	6
Timeline for action	9
Te Ohu Kaimoana Success Indicators	11
Organisational Model	12
Financial Projections and Assumptions	13

Introduction

This three-year plan, Te Ara Taupuhipuhi – the Path of Mutual Dependence, sets out the Te Ohu Kaimoana strategy and estimated funding requirements for the period 2018-2020. This plan has been developed within the context of the June 2015 Iwi resolutions to retain a restructured Te Ohu Kaimoana to work on priorities agreed by Iwi to enhance the settlement and the August 2016 Iwi resolution that Te Ohu Kaimoana undertake a review of its operational structure and activities to confirm the funds available for retention and distribution.

As a first step in establishing this strategic plan Te Ohu Kaimoana released the Māori Fisheries Strategy in March 2017 to help clarify its strategic role in Māori fisheries. The Draft Māori Fisheries Strategy proposed a vision for Māori fisheries as follows:

The on-going Treaty Partnership between Iwi and the Crown is given effect through development of fisheries-related legislation, policies and arrangements that recognise and respect the rangatiratanga of Iwi over their traditional fisheries.¹

The key finding of the strategy is that Māori fisheries rights are under threat because of fragmentation which has occurred post-fisheries settlement allocation combined with changing societal attitudes towards fishing and the environment. Although guaranteed by the Treaty of Waitangi and 1992 Deed of Settlement, Māori fisheries rights are envied and exist within an ever-changing political and social environment that can weaken or extinguish those rights.

Wider society can seek to diminish Māori fisheries rights without consent if they are not actively protected by appropriate political, legal and commercial strategies. Current examples include the Kermadec Ocean Sanctuary proposal and its allied impending no take Marine Protected Areas legislation.

Aspects of the Future of our Fisheries policy could also have the same or greater effect if not carefully worked through. In an environment of increasingly polarising positions between industry and the environmental lobby on what constitutes “sustainability”, a sensible voice capable of providing coordination and leadership is required. Te Ohu Kaimoana believes Māori are that voice.

Strategies

Approximately 60 Iwi and Māori-controlled organisations lead the Māori fisheries sector, yet do not work closely together politically, legally or commercially. This increases the risk and decreases the effectiveness of attempts to protect and advance Māori fishing rights across all their dimensions.

¹ Note – this draft strategy is presently subject to change as a result of Iwi feedback.

The Māori Fisheries Strategy advocates creating the structural relationships needed to protect Māori collective fisheries rights, developing strong kaupapa Māori based fisheries leadership and ensuring the technical capability exists to develop policy consistent with Māori values through the following:

1. Collectively **Reassert** the Deed of Settlement as the basis of the Māori-Crown relationship in fisheries;
2. **Aligning** competing Māori political and commercial structures on fisheries management and related marine policy and implementation;
3. Developing fisheries leadership capable of **balancing** Māori and iwi perspectives; and
4. **Proactively** developing national and regional fisheries policy based on Māori principles.

The Māori Fisheries Strategy highlights that a differentiation exists between the maintenance of fishing rights (a political activity to maintain access to fisheries and ability to exercise fisheries rights) and the subsequent exercise of all Māori traditional fishing rights (the activity of commercial and non-commercial fishing).

Asset Holding Companies (AHCs), Collective Māori Operating Entities and Moana New Zealand Ltd are responsible for exercising Māori commercial fishing rights in a manner consistent with the protection of collective Māori principles. Iwi, hapū, kaitiaki and authorised fishers are responsible for exercising Māori non-commercial fishing rights in a manner consistent with the protection of collective Māori principles through local practices.

Mandated Iwi Organisations (MIOs), Te Ohu Kaimoana and Te Wai Māori are responsible for protecting and advancing collective Māori fisheries rights so that their exercise can be undertaken in a balanced manner determined regionally by iwi.

The Māori Fisheries Strategy recognises the role of Te Ohu Kaimoana is to:

- Influence and advocate for Māori fisheries and kaitiakitanga-based marine management regionally, nationally and internationally as agreed with iwi through the application of best in class research and analysis;
- Increase the capacity of Māori to influence fisheries management through increasing knowledge, expertise and connectivity across the participants in the Māori fishing industry; and
- Support MIOs to assist kaitiaki to undertake customary fisheries management responsibilities, and support AHCs, collective Māori operating entities and Moana NZ to undertake their commercial fisheries management responsibilities.

The following plan details how Te Ohu Kaimoana will contribute towards fulfilling the vision of the Māori Fisheries Strategy for the period 1 October 2017 to 30 September 2020. This is a period of rebuilding for the organisation where investment in a new generation of Māori fisheries leadership will be required to deliver on our identified outcomes.

In addition to delivering on the immediate priorities of that long-term strategy, Te Ohu Kaimoana will also advance iwi interests in aquaculture through both assisting iwi and the Crown to reach agreement on the manner and form of settlement of the Crown’s regional aquaculture obligations, as well as contributing to sector and government policy on aquaculture to empower iwi aquaculture interests.

Te Ara Taupuhpuhi – Te Ohu Kaimoana Three-year Strategic Plan

Why do we exist?

Iwi have resolved that Te Ohu Kaimoana should continue to exist to serve their needs. Section 32 of the Māori Fisheries Act 2004, states the “purpose of Te Ohu Kai Moana is to advance the interests of iwi individually and collectively, primarily in the development of fisheries, fishing, and fisheries-related activities, in order to —

- a) ultimately benefit the members of iwi and Māori generally; and
- b) further the agreements made in the Deed of Settlement; and
- c) assist the Crown to discharge its obligations under the Deed of Settlement and the Treaty of Waitangi; and
- d) contribute to the achievement of an enduring settlement of the claims and grievances referred to in the Deed of Settlement.”

What do we do?

Te Ohu Kaimoana works to assist and empower MIOs individually and collectively to manage and protect the full range of Māori seafood rights – both commercial and non-commercial – as guaranteed in the 1992 Deed of Settlement. Te Ohu Kaimoana also assists the Crown to achieve a durable fisheries settlement by jointly developing policy that when implemented takes fisheries and marine management forward in a manner consistent with the Deed of Settlement.

It does this through developing fisheries policy advice and working in conjunction with MIOs, AHCs, customary kaitiaki and stakeholders about fisheries related matters. It assists iwi and the Crown to reach agreement on the manner and form of settlement of the Crown’s regional aquaculture obligations.

To this extent, Te Ohu Kaimoana acts as the mandated agent for MIOs on national marine, fisheries and aquaculture related matters (see figure 1).

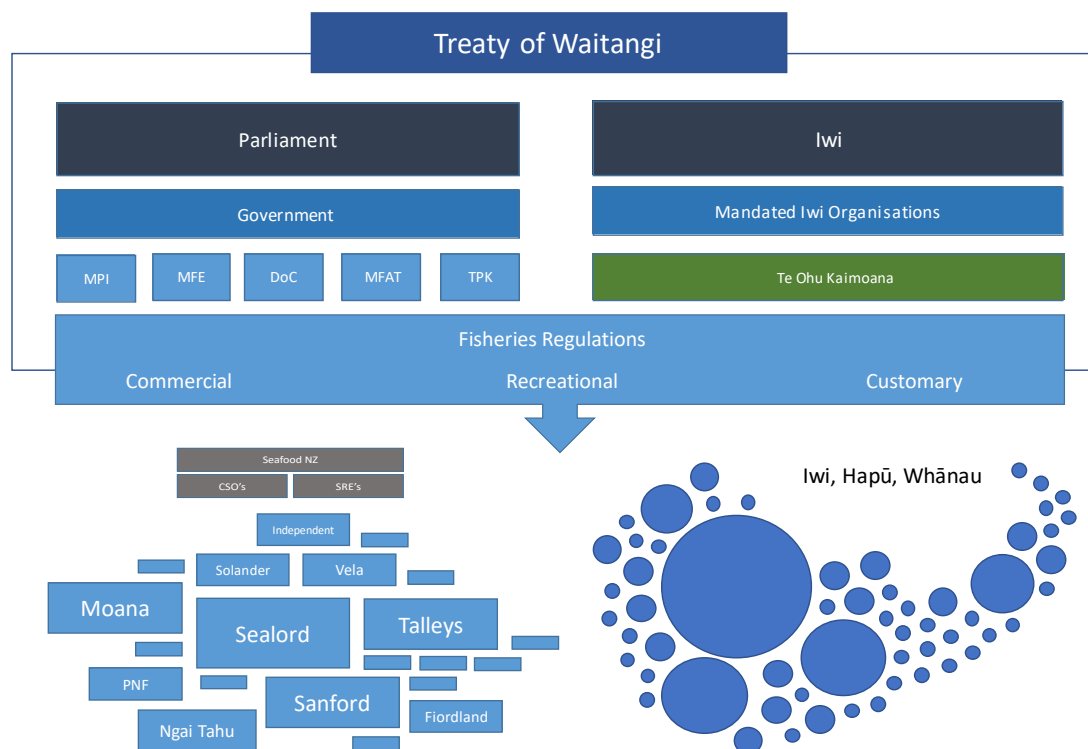


Figure 1- Treaty-based Fisheries Policy Framework

How do we behave?

Te Ohu Kaimoana is a product of the 1992 Deed of Settlement and an agent of Mandated Iwi Organisations. It therefore works in a manner agreed with MIOs collectively. Te Ohu Kaimoana is a Māori organisation which must negotiate a careful balance that best blends our values of:

- Ngākau Tapatahi (Integrity)
- Rangatiratanga (Leadership)

- Whanaungatanga (Relationships)

Our Aspirational Goal

Mandated Iwi Organisations collectively lead the development of Aotearoa's marine and environmental policy affecting fisheries management through Te Ohu Kaimoana as their mandated agent.

Our Ambition to 2020

Te Ohu Kaimoana provides value adding service to Iwi as a trusted advisor for both Iwi and the Crown in all matters touching upon the 1992 Fisheries Deed of Settlement.

We aim to be an organisation recognised for:

- proactive kaupapa Māori-based policy development;
- acknowledged Māori cross-sector fisheries advice (customary and commercial);
- robust, honest and respected relationships;
- connected, respectful and consultative approach;
- value adding Māori-Crown fisheries policy advice; and
- Iwi-endorsed 'Voice for Tangaroa'.

What are the most important activities over the next three years?

1. Maintain and grow positive relationships with Iwi and key stakeholders;

- Establish more effective and efficient two-way communications channels for maintaining contact with MIOs/IAOs and AHCs;
- Identify and develop appropriate value-add services for MIOs/IAOs and AHCs;
- Build strong relationships nationally with relevant Ministers and senior bureaucrats, councils, key industry figures and influence bodies;
- Be accountable for efficient and transparent use of funds;

- e. Clarify the relationship between the roles of MIOs and the Iwi Charis Forum to establish a unified Māori political voice on fisheries, aquaculture and marine matters with the Crown based in the Deed of Settlement; and
- f. Establish and operate a forum for Treaty partners to develop the formulation of any changes to and review the performance of all marine legislation consistent with the Deed of Settlement and in accordance with a protocol that sets out key matters.

2. Reorganise Te Ohu Kaimoana capacity for the future.

- a. Reorganise Te Ohu Kaimoana as an agent of MIOs to act as an influencer and advocate for the protection and advancement of Māori collective fisheries rights based on strong knowledge, integrity and relationships;
- b. Provide a central hub of expertise and technical support to Māori representatives elected to industry bodies so that Māori are positioned to take pivotal leadership roles in CSOs and SREs or, where agreed by iwi, undertake those roles directly on behalf of iwi;
- c. Develop the capability to exert influence nationally and internationally to ensure that New Zealand fisheries management practice support the Deed of Settlement;
- d. Build strong relationships nationally with relevant Ministers and senior bureaucrats, councils, key industry figures and influence bodies;
- e. Build strong relationships with iwi fisheries experts, internationally respected experts, NGOs and best practice industry bodies; and
- f. Keep abreast of international trends in marine management being adopted by governments and regional bodies as well as those being advocated for from customer and NGO perspectives.

3. Develop and respond to initiatives to protect and enhance Māori fisheries rights

- a. Continue MPI engagement on Future of Our Fisheries policy and introduction of the Integrated Electronic Monitoring and Reporting System (IEMRS);
- b. Review and report on how the Customary Fisheries Framework is operating across the country, and what systems for management are in place and what agreed enhancements could provide for better expression of those rights in a manner consistent with the Deed of Settlement;
- c. Finalise an on-line reporting system that MIOs can support kaitiaki to use to improve reporting for customary catch;

- d. Assist to set up regional pataka systems where requested in accordance with consistent principles and standards;
- e. Develop a model for a collective Māori approach to commercial fisheries management that integrates Māori decision-making and influence in each species management group by fishing area; and²
- f. Continue to participate in conjunction with MIOs, AHCs and Moana NZ in the development of national and regional policy on MPAs and all precedent setting initiatives that would reduce access for fishing or aquaculture to protect settlement interests.

4. Complete statutory duties

- a. Continue to manage ongoing statutory functions including governing the Te Ohu Kaimoana Group;
- b. Facilitate allocation of currently-held aquaculture and remaining fisheries assets;
- c. Work with MPI to progress and complete legislative changes to the Māori Fisheries Act 2004 arising from the 2015 Statutory Review; gain agreement to and recommend other legislative changes that assist allocation of settlement assets; and
- d. Complete all statutory reporting requirements.

² This will include a framework for each AHC, collective Māori entity and AFL who own quota or operate in a fishing area to collaborate to appoint representatives to CSOs and to influence decision-making in the best long-term interests of Māori

Timeline for action

Goal/Action	FY17/18	FY18/19	FY19/20
Re-establish positive relationships			
Establish communication channels with MIOs/AHCs			
Establish a unified Māori political voice			
Establish and operate a Marine Natural Resource forum for Treaty partners			
Identify and develop value-add services for MIOs/AHCs			
Build strong relationships nationally with others			
Complete statutory duties			
Complete fisheries allocation			
Complete aquaculture allocations			
Work with MPI/Parliament to progress Māori Fisheries Act amendments			
Complete statutory reporting requirements			

Initiatives to protect and enhance Māori fisheries rights			
Engage with MPI on FooF and IEMRS			
Review and report on the Customary Fisheries framework and propose improvements.			
Finalise an on-line catch reporting system for customary catch			
Assist set up of pataka systems where requested by Iwi			
Develop a model for a collective Māori approach to commercial fisheries management			
Review and enhance the commercial fisheries framework			
Protect Settlement interests in all significant spatial policy developments that could restrict access for fisheries or aquaculture			
Reorganise Te Ohu Kaimoana			
Reorganise Te Ohu Kaimoana as an agent of MIOs			
Provide central hub of expertise and support to Māori reps on industry bodies or act as iwi agents			
Develop the capability to influence fisheries management nationally and internationally			
Build strong relationships with iwi fisheries experts and others			

Keep abreast of international trends being adopted by governments and advocated by customers and NGOs			
Establish/develop			
Maintain/become “business as usual”			

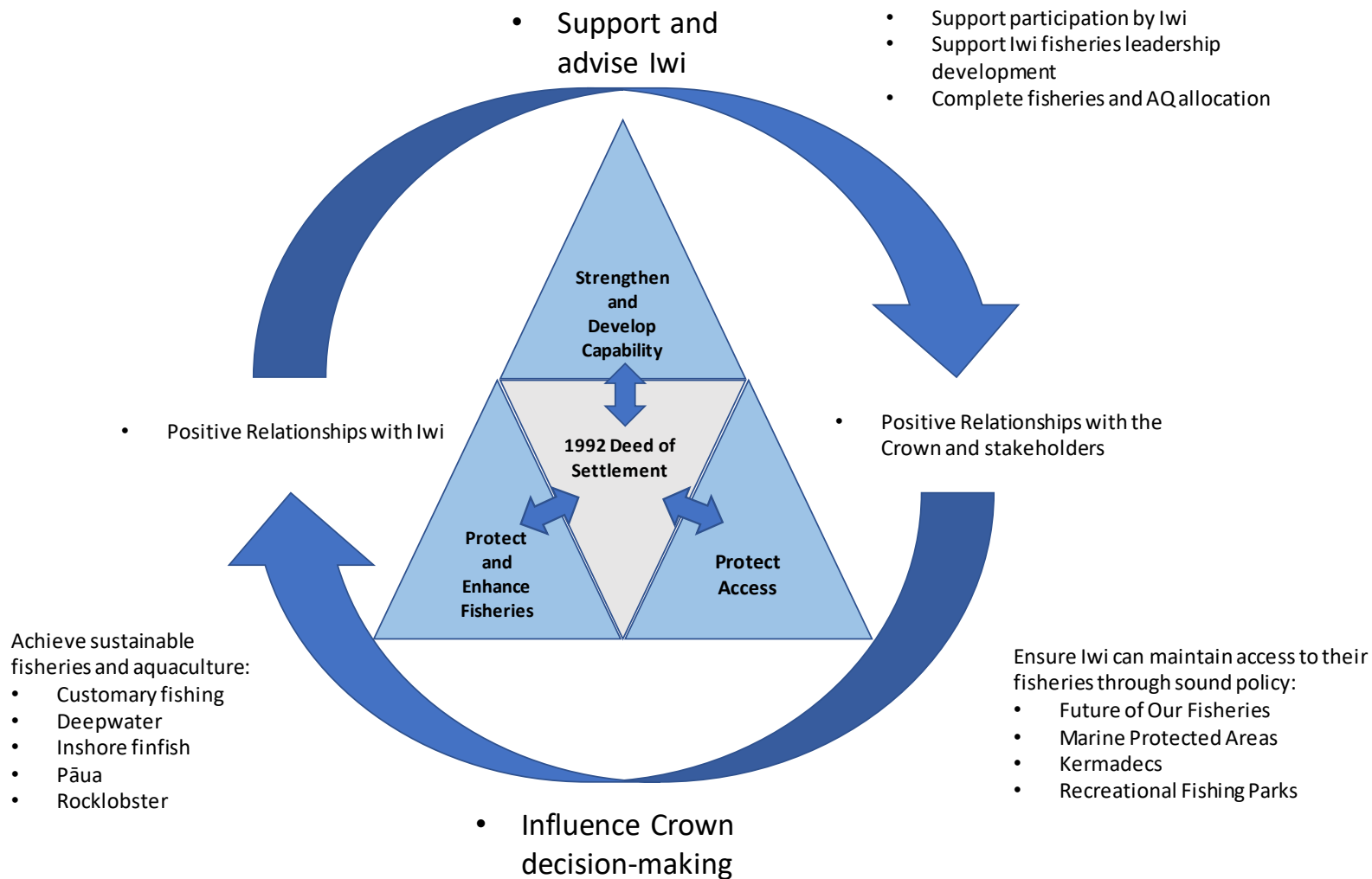
Te Ohu Kaimoana Success Indicators

Mandated Iwi Organisation Satisfaction – Mandated Iwi Organisations are satisfied that Te Ohu Kaimoana provides a valuable and necessary service and delivers services in a way which meets their needs. Te Ohu Kaimoana will establish an annual client satisfaction review as part of the Annual General Meeting process.

Protect Quality and Nature of Rights – Iwi rights guaranteed under the Deed of Settlement are protected through the co-development of Marine and Fisheries policy and legislative mechanisms through proactive and constructive Government engagement.

Financial Performance and Maintenance of Value – Te Ohu Kaimoana services are delivered within the Board-mandated spending rule of a maximum of 4% of total investment portfolio returns (\$79m capital) to maintain and grow the real value of Iwi funds held in trust in the event of future distributions. Unbudgeted projects requiring capital expenditure above \$1m per project must be approved by a Special General Meeting of Mandated Iwi Organisations.

Organisational Model



Financial Projections and Assumptions

The following table sets out the projected income and expenses to achieve the Te Ohu Kaimoana Three-year strategy.

Income	FY15/16 Actual	FY16/17 Forecast	FY17/18 Budget	FY18/19 Budget	FY19/20 Budget
Earnings from Investments	\$3,076,000	\$3,132,000	\$3,334,000	\$3,574,000	\$3,832,000
ACE Sales	\$673,000	\$611,000	\$470,000	\$235,000	\$-
Takutai Funding	\$478,000	\$530,000	\$470,000	\$400,000	\$350,000
Moana New Zealand (AFL) Dividend	\$-	\$1,647,000	\$1,700,000	\$-	\$-
Other Income	\$757,000	\$833,000	\$680,000	\$370,000	\$360,000
Total Income	\$4,984,000	\$6,753,000	\$6,654,000	\$4,579,000	\$4,542,000
Operating Expenditure			FY17/18 Budget	FY18/19 Budget	FY19/20 Budget
Staffing Costs	\$2,216,000	\$2,063,000	\$1,882,000	\$1,940,000	\$1,998,000
Directors Remuneration/Insurance	\$425,000	\$381,000	\$335,000	\$346,000	\$356,000
Consultancy	\$867,000	\$600,000	\$860,000	\$450,000	\$300,000
Legal Costs	\$368,000	\$214,000	\$700,000	\$250,000	\$200,000
Infrastructure, Overhead and Other Costs	\$1,246,000	\$1,122,000	\$870,000	\$870,000	\$870,000
Quota Related Fees/Levies	\$326,000	\$367,000	\$350,000	\$175,000	\$-
Total Operating Expenditure	\$5,448,000	\$4,747,000	\$4,997,000	\$4,031,000	\$3,724,000

Key Assumptions

Income

- Earnings from Investments limited to 4% spending rule of income generated from an opening Capital base of \$79m. It is conservatively assumed the Capital base will increase in size by 0.5% plus CPI. **Note** - minimum targeted investment returns are set at 4.5% plus inflation (forecast 1.8% for September 2017 Quarter) for a total minimum return of 6.3%. Surplus funds achieved over minimum return are reinvested to maintain and grow the value of the fund over time;
- Crown contribution to Takutai funding reduces from \$470k to \$350k as aquaculture activities reduce;
- Moana NZ Ltd dividend income reduces when shares transfer to Iwi following amendments to Māori Fisheries Act 2004;
- ACE income reduces from \$470k (FY17/18) to \$0 (FY19/20) assuming return of quota assets to Te Whanau a Apanui and Ngati Tama;
- Other income includes conference income (based on current year actuals), subsidiary cost recoveries and Māori Authority Tax Credits; and
- No third-party funds have been anticipated as part of this budget at this stage but this has been identified as an area for development.

Expenses

- FY17/18 salaries and wages at \$1.8m (FY16/17 forecast \$2.06m) increasing by 3% year on year;
- Director fees reduced as per Sept 2016 Board resolution;
- Infrastructure, Overhead and Other Costs includes travel and accommodation, reporting and communication, scholarships and koha, national and regional hui and administration.
- Consultancy assumption includes transitional costs resulting from organisational restructure, strategic communications, assistance with fisheries protection, reducing over out years as a result of increased internal capacity; and
- Legal expense assumption includes possible litigation on Future of Our Fisheries, SNA7 and other matters;

WHAKAPAPA

Māori descend from Tangaroa and have a reciprocal relationship with our tupuna

HAUHAKE

Māori have a right and obligation to cultivate Tangaroa, including his bounty, for the betterment of Tangaroa (as a means of managing stocks) and support Tangaroa's circle of life

TE HĀO
TANGAROA
KIA ORA
AITĀUA

TIAKI

Māori have an obligation to care for Tangaroa, his breath, rhythm and bounty, for the betterment of Tangaroa and for the betterment of humanity as his descendants

KAI

Māori have a right to enjoy their whakapapa relationship with Tangaroa through the wise and sustainable use of the benefits Tangaroa provides to us