

In Confidence

Office of the Minister for Oceans and Fisheries

Chair, Cabinet Māori Crown Relations: Te Arawhiti Committee

Maori Fisheries Act Review – proposal to consult on a draft Amendment Bill [Paper 8 of 8]

Proposal

- 1 I am seeking Cabinet's agreement on proposed changes to the Maori Fisheries Act 2004 (the Maori Fisheries Act) and to undertake a targeted exposure draft consultation with affected Māori organisations and other directly affected parties. The proposals will empower iwi to have a greater degree of rangatiratanga over the fisheries settlement entities.

Relation to Government priorities

- 2 The Labour Party's 2020 Manifesto commits to working with Māori in the fisheries sector. Progressing the Maori Fisheries Act Review will ensure the Maori Fisheries Act is responsive to the aspirations of Māori, will deliver on iwi and Māori expectations, and improve delivery of settlement benefits to all Māori.

Executive Summary

- 3 The vision, objectives, and principles for the Oceans and Fisheries portfolio proposed in Paper 1 are applicable to all papers in this package.
- 4 A mandatory independent review of the Maori Fisheries Act was finalised in 2015. It recommended significant changes to the governance structures of the entities and simplified processes for trading assets. The recommendations were influenced by the independent reviewer's view that iwi should be closer to the entities and have a greater degree of rangatiratanga over their assets.
- 5 Te Ohu Kaimoana supported steps to address the findings and recommendations of the review and presented a final report (Māori Fisheries Report) to the Minister of Fisheries in 2016. The report contained 25 resolutions voted for by Mandated Iwi Organisations¹ and four additional legislative changes developed by Te Ohu Kaimoana in consultation with iwi. Of these proposals, 18 require legislative change.
- 6 In accordance with the review process defined in the Act, Te Ohu Kaimoana has requested I promote the necessary legislative changes to give effect to the proposals. I intend to carry this process forward on behalf of iwi to strengthen their role in the governance of their fisheries settlement assets and entities. Proposals that do not require legislative change are for relevant entities to implement and many of these have already been progressed.
- 7 I am satisfied that the majority of the proposals are consistent with the purposes of the Maori Fisheries Act and other Crown obligations, and that they would not likely impede the performance and delivery of settlement asset benefits to Māori. I therefore intend to promote these changes, subject to considering any comments arising from consultation.
- 8 There are three resolutions where iwi have diverging views or the Ministry for Primary Industries (MPI) considers the proposed changes go beyond the scope of the review or are inconsistent

¹ In relation to an iwi, means an organisation recognised by Te Ohu Kaimoana as the representative organisation of that iwi under the Maori Fisheries Act.

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with other enactments. I intend to consult on two of these resolutions and defer the remaining resolution for a future review.

- 9 Te Ohu Kaimoana has undertaken a substantial engagement process with Māori to develop the resolutions and proposed legislative changes. However, as the proposals will significantly change the governance structures of the fisheries settlement entities, it is necessary for the Crown as a Treaty partner to ensure it is satisfied that affected Māori organisations² and other directly affected parties have had the opportunity to provide their views. The Crown will work closely with Te Ohu Kaimoana to design a targeted consultation plan, and Te Ohu Kaimoana will attend and support the Crown at consultation hui.
- 10 I seek Cabinet agreement to instruct the Parliamentary Counsel Office to prepare an exposure draft of the Bill for release and consultation with affected Māori organisations and other affected parties.

Background

Maori Fisheries Act

- 11 In 1992, the Crown and Māori agreed to a full and final settlement of any claims by Māori to fisheries under the 1992 Fisheries Deed of Settlement (the Settlement).
- 12 The Maori Fisheries Act sets out a framework for the allocation and transfer of fisheries settlement assets to iwi (including commercial fishing quota and cash), institutional agreements, and a governance framework for managing the assets for current and future generations of Māori.
- 13 Four governance entities were established to manage settlement assets on behalf of all iwi and Māori:

| | |
|--|--|
| Te Ohu Kaimoana | Allocates and transfers the assets received under the Maori Fisheries Act to iwi and advances the interests of Māori through the development of fisheries. |
| Aotearoa Fisheries Limited (Moana New Zealand) | Manages the centrally held commercial fisheries settlement assets of Māori. |
| Te Pūtea Whakatupu Trust | Promotes Māori education, training and research, with emphasis on urban Māori - funded from allocated trust income. |
| Te Wai Māori Trust | Advances Māori freshwater fishing interests - funded from allocated trust income. |

Statutory review of the governance entities

- 14 The Maori Fisheries Act requires an independent review of the entities to be carried out no later than the 11th year following the commencement of the Act, and every five years following the completion of the previous review.³ The Maori Fisheries Act Review (the Review) assessed whether the governance arrangements of the entities need to be changed to improve the benefits to Māori. This Review was funded by Te Ohu Kaimoana and carried out by an independent reviewer in 2014 and 2015.

² Mandated Iwi Organisations, Recognised Iwi Organisations, Representative Māori Organisations, and the four settlement entities.

³ Resolution 11 seeks to implement a future review requirement to take place no sooner than 10 years from the time the current proposed changes take effect.

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- 15 The independent Review was finalised in March 2015. It recommended significant changes to the governance structures of the entities and simplified processes for trading assets. The recommendations were influenced by the independent reviewer's view that iwi should be closer to the entities and have a greater degree of rangatiratanga over their assets.
- 16 In accordance with the Act, Te Ohu Kaimoana undertook extensive iwi engagement. They established two Iwi Working Groups to develop a set of proposals from the Review, consulted widely with iwi on the proposed changes, and held two Special General Meetings and two additional Te Ohu Kaimoana Hui-a-Tau / Annual General Iwi Meetings to pass resolutions on the recommendations.

The Māori Fisheries Report

- 17 In 2016, Te Ohu Kaimoana on behalf of Māori, presented a final report to the then Minister of Fisheries detailing the process undertaken to date and presenting a total of 25 resolutions as voted for by Mandated Iwi Organisations and four additional legislative changes developed by Te Ohu Kaimoana in consultation with iwi. Legislative change is required for 18 of these resolutions and these have not yet been actioned.
- 18 The resolutions presented in the report propose a significant restructure of the current governance framework and require major legislative changes relating to:
 - 18.1 mandated Iwi Organisations taking more direct control of Te Ohu Kaimoana governance
 - 18.2 mandated Iwi Organisations Asset Holding Companies taking direct governance control of Aotearoa Fisheries Limited
 - 18.3 an increase in the maximum number of directors from three to five for both Te Pūtea Whakatupu Trust and Te Wai Māori Trust
 - 18.4 a simplification of the process for trading settlement quota assets within the pool of fisheries settlement commercial entities, while retaining statutory barriers to the sale of settlement assets outside that pool.
- 19 The proposed changes are intended to move iwi towards a greater degree of rangatiratanga, improve the ability of the entities to deliver benefits to all Māori, reduce costs and improve efficiency.
- 20 In 2018 MPI provided an earlier Cabinet paper to the Minister of Fisheries, which did not progress beyond Ministerial consultation. I intend to progress the Maori Fisheries Act Review as a level 5 priority in the 2021 legislative programme.

Analysis of the proposed legislative changes for each resolution

- 21 MPI assessed each resolution that would require legislative change against the following four criteria:
 - 21.1 ensuring the purposes of the Maori Fisheries Act are met⁴
 - 21.2 ensuring the purposes of Te Ohu Kaimoana are met⁵
 - 21.3 ensuring consistency with other enactments or rule of law
 - 21.4 is in scope and consistent with the limitations of the Review.⁶

⁴ To implement agreements made in the Settlement and provide for the development of collective and individual iwi interests in fisheries, fishing, and fisheries related activities in a manner that is ultimately for the benefit of all Māori.

⁵ Advances iwi interests in the development of fishing, fisheries, and fisheries related activities to: benefit iwi and Māori generally, further agreements made in the Settlement, and contribute to achieving an enduring Settlement of the claims and grievances referred to in the Settlement.

⁶ Maori Fisheries Act, section 124.

I N C O N F I D E N C E

- 22 I am satisfied that most of the proposed changes are consistent with the assessment criteria (a summary table of analysis is presented in Appendix 1). I intend to promote the following resolutions and additional changes:

| Resolutions |
|--|
| 1. Te Ohu Kaimoana governance framework restructured. |
| 2. Iwi to hold all Aotearoa Fisheries Limited income and voting shares. |
| 3. Equal distribution of Te Ohu Kaimoana's surplus funds to iwi. |
| 4. The ability to implement a compulsory levy model for Te Ohu Kaimoana that can be triggered in future if required. |
| 6. The current Aotearoa Fisheries Limited legislative dividend requirement removed to allow shareholders to set it annually. |
| 7. Major transactions for Aotearoa Fisheries Limited to require a 75 percent iwi majority voting threshold. |
| 8. Increase Te Pūtea Whakatapu Trust maximum director limit from three to five, with a majority quorum. |
| 9. Increase Te Wai Māori Trust maximum director limit from three to five, with a majority quorum. |
| 10. Simpler trading processes developed for iwi wishing to sell quota assets within the Māori pool. |
| 11. A further review of settlement assets. |
| 12. Enable Te Ohu Kaimoana to allocate distributions to any entity that has charitable status and is nominated by the Mandated Iwi Organisation. |
| 13. Te Ohu Kaimoana redeemable preference shares in Aotearoa Fisheries Limited be converted into ordinary shares and require these to be distributed to iwi. |
| Additional proposals from Te Ohu Kaimoana |
| 15. Clarify electoral provisions in Mandated Iwi Organisations constitutions. |
| 16. Simplify recognition process of Post Settlement Governance Entities as new Mandated Iwi Organisations. |
| 17. Remove current restrictions on directors of Asset Holding Companies. |
| 18. Clarify the definition of Freshwater Fisheries in the Act. |

- 23 The following three resolutions are either subject to diverging iwi views or do not meet all the assessment criteria.

Resolution 3: Equal distribution of Te Ohu Kaimoana's surplus funds to iwi

- 24 Iwi have diverging views on resolution 3, with 28 iwi supporting the resolution and 23 opposed. Under this proposal, if Te Ohu Kaimoana determines it has surplus funds, it must distribute the surplus funds equally among iwi regardless of population size or level of fisheries interest. This would differ from the current population-based distribution mechanisms defined in the Maori Fisheries Act but would not change any provisions relating to any other settlement assets or allocations.
- 25 This resolution was raised from the floor during the second meeting between iwi and Te Ohu Kaimoana and was voted upon immediately after it was raised. It was developed following a resolution passed at the first meeting, and required the Iwi Working Group to review Te Ohu Kaimoana's costs and funding models. An operational review directed by iwi determined that

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Te Ohu Kaimoana did not have any surplus funds, and Te Ohu Kaimoana considers it unlikely for there to be a significant surplus in the future.

26

s9(2)(g)(i)

Resolution 5: Aotearoa Fisheries Limited and Sealord assets subject to first right of refusal

27 Resolution 5 would bind Aotearoa Fisheries Limited and Sealord Group Limited to a right of first refusal to iwi. This would allow iwi to be offered the opportunity to buy, at a price set by the vendor, any of the companies' assets prior to them being offered to other parties.

28 Aotearoa Fisheries Limited and Nippon Suisan Kaisha Limited (a Japanese company) each own fifty percent of the shares in Kura Limited. Kura Limited in turn owns one hundred percent of the shares in Sealord Group Limited. While Aotearoa Fisheries Limited is a company that has specific requirements under the Maori Fisheries Act (over and above requirements in the Companies Act 1993), Kura Limited and Sealord Group Limited are not subject to the Maori Fisheries Act's requirements.

29 Although iwi unanimously supported resolution 5, I do not intend on promoting the resolution in the current form, as:

29.1

s9(2)(h)

29.2

s9(2)(g)(i)

30 Instead, I intend to consult on an alternative proposal developed by Te Ohu Kaimoana that would require Aotearoa Fisheries Limited to develop s9(2)(f)(iv)

Neither Kura Limited or Sealord Group Limited would be obligated to act on the proposals.

31

s9(2)(g)(i)

s9(2)(g)(i)

Resolution 14: Implementation of the 'Straw Tangata' model

32 The 'Straw Tangata' model is an aspirational idea that would redesign the governance arrangements into a simpler model, consisting of two main central entities as opposed to four. The idea was developed by the first Iwi Working Group and would require significant changes,

s9(2)(h)

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including disestablishment of Te Pūtea Whakatupu Trust and Te Wai Māori Trust by combining them under Te Ohu Kaimoana, to establish a pan iwi body.

- 33 I am not progressing resolution 14 at this time, as it goes beyond the scope of the Review as stated under section 124 of the Act: if the independent reviewer finds the entities continue to fulfil their purpose under the Act then they must not be wound up under this Review. A future review may find the entities are no longer fit for purpose, at which point this aspirational model could be considered.
- 34 Combining the entities into a single body would be a major structural change with significant implications for broader governance-related resolutions, and consideration for how Māori would receive benefits of their settlement assets. I do not intend to promote the proposed changes needed to implement this resolution at this time.

s9(2)(g)(i)

35

s9(2)(g)(i)

36

s9(2)(g)(i)

37

s9(2)(g)(i)

Next steps

- 38 I propose to carry out consultation with affected Māori organisations and other directly affected parties via an exposure draft of the Bill. This approach will make it more likely that the Bill captures the intent of the resolutions voted for by Mandated Iwi Organisations before final decisions are made.
- 39 Te Ohu Kaimoana is in conversation with Mandated Iwi Organisations on the next steps to progress the Maori Fisheries Act Review. During this process, no major concerns have arisen so far to suggest the proposals in this paper should not proceed.
- 40 An exposure draft approach would mitigate risks of re-litigating the resolutions and duplicating the broader discussions that have already occurred between Te Ohu Kaimoana and Māori. I will instruct my officials to continue working closely with Te Arawhiti and Te Ohu Kaimoana to develop a consultation process that will ensure the views of affected Māori organisations and other directly affected parties are considered. Te Ohu Kaimoana will attend and support the Crown at consultation hui.
- 41 I acknowledge that there may be broader interest in the proposed changes and I anticipate the Select Committee stage will provide an opportunity for wider views to be considered on the Bill. This view is consistent with the advice provided by Te Ohu Kaimoana and Te Arawhiti.
- 42 Following consultation and consideration of all submissions received, I anticipate seeking Cabinet approval to introduce the Bill to the House in February 2022. If the proposed policy approach for any of the resolutions is substantially modified as a consequence of consultation, I will seek Cabinet approval for the revised policy. Further legal advice may also need to be sought depending on the outcome of consultation.

Consultation

- 43 The review process and development of the resolutions undertaken by iwi, involved close and frequent support from Te Ohu Kaimoana. To aid the criteria assessment of the proposals, officials sought advice from the Office of Treaty Settlements and engaged closely with Te Ohu Kaimoana, Te Arawhiti, the Ministry of Justice, Inland Revenue Department, the Department of Internal Affairs and Te Puni Kōkiri on the development of this Cabinet paper. The Parliamentary Counsel Office and Department of the Prime Minister and Cabinet has been informed.
- 44 Inland Revenue officials note that the proposed changes to the governance structures raise tax implications. ^{s9(2)(f)(iv)} [REDACTED] recommend that decisions to facilitate the restructure from a tax perspective are a matter for the Minister of Revenue in consultation with the Minister of Finance.

Financial Implications

- 45 Legislative change will result in some administrative resourcing cost to the government, although these can be met within existing baselines.

Te Tiriti o Waitangi / Treaty of Waitangi

- 46 The proposals are consistent with the te Tiriti o Waitangi / Treaty of Waitangi and will move iwi towards a greater degree of rangatiratanga, improve the ability of the entities to deliver benefits to all Māori, reduce costs and improve efficiency. As the proposals will significantly change the governance structure of the fisheries settlement entities, it is necessary for the Crown as Treaty partners, to ensure it is satisfied that affected Māori organisations and other directly affected parties have had the opportunity to provide their views. Progressing these changes should strengthen the Māori Crown relationship.

Human Rights

- 47 There are no inconsistencies between this paper and the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993.

Legislative Implications

- 48 The proposals will be effected by the Māori Fisheries Amendment Bill. The Parliamentary Counsel Office will prepare an exposure draft Bill for consultation. If the proposed policy approach for any of the resolutions is substantially modified following consultation, I will seek Cabinet approval for the revised policy.

Regulatory Impact Statement

- 49 MPI has reviewed the Regulatory Impact Statement document "Māori Fisheries Amendment Bill" and has confirmed that this meets the Quality Assurance criteria. It is likely to support the delivery of Regulatory Impact Analysis to support subsequent decisions and implementation of the Amendment Bill.

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Publicity


- 50 I intend to announce the policy decisions in this paper within the next two months. After this, I intend to proactively release this paper, its attachments and the accompanying briefing, on MPI's website.
- 51 Proactive release would be subject to consideration of any redactions that would be justified if the information had been requested under the Official Information Act 1982.
- 52 I propose to proactively release the exposure draft of the proposed legislative changes to the Maori Fisheries Act for consultation with affected Māori organisations and other directly affected parties.

Recommendations

I recommend that the Committee:

1. **Note** an independent statutory review of Te Ohu Kaimoana Trustee Limited, Aotearoa Fisheries Limited, Te Pūtea Whakatupu Trustee Limited and Te Wai Māori Trustee Limited (the settlement entities) has been undertaken in accordance with the Maori Fisheries Act 2004 (The Maori Fisheries Act).
2. **Note** Te Ohu Kaimoana, the statutory entity responsible for allocating Settlement assets, has requested I promote the necessary legislative changes to the Maori Fisheries Act, to fulfil the intent of fourteen resolutions developed and voted for by Mandated Iwi Organisations.
3. **Note** Te Ohu Kaimoana has requested I promote four additional legislative changes to the Maori Fisheries Act, developed by Te Ohu Kaimoana and consulted on with iwi.
4. **Note** I intend to promote 16 of the 18 policy proposals, except for:
 - 4.1 resolution 5, which would bind Aotearoa Fisheries Limited and Sealord Group Limited to an iwi right of first refusal on the sale of assets. This will be promoted as a modified version,
 - 4.2 resolution 14, which would implement the Straw Tangata model. This will be excluded and could be considered at the next review.
5. **Note** if Cabinet agrees, and subject to developing a satisfactory consultation process with Te Ohu Kaimoana, I will consult via an exposure draft of the Māori Fisheries Amendment Bill to ensure the proposals capture the intended policy intent.
6. **Agree** to the following policy proposals subject to consultation:
 - 6.1 Te Ohu Kaimoana Trustee Limited
 - 6.1.1 replace the electoral college system Te Kawai Taumata for appointing Te Ohu Kaimoana directors, with a new electoral system enabling iwi to directly appoint and remove Te Ohu Kaimoana directors on a one vote per iwi basis in accordance with provisions in Te Ohu Kaimoana Trustee Limited's constitution.
 - 6.1.2 distribute Te Ohu Kaimoana's surplus funds equally among iwi regardless of iwi size or level of fisheries asset interests
 - 6.1.3 remove director restrictions and update director requirements to align governance arrangements between the settlement entities
 - 6.1.4 require the implementation of a compulsory levy system for Te Ohu Kaimoana, that can be activated if it is required to ensure Te Ohu Kaimoana can continue performing its duties and functions
 - 6.1.5 enable Te Ohu Kaimoana to distribute funds directly to any entity that has charitable status and is nominated by the Mandated Iwi Organisation.

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- 6.1.6 allow Te Ohu Kaimoana's redeemable preference shares to be converted into ordinary Aotearoa Fisheries Limited shares and require these to be distributed back to iwi.
- 6.2 Aotearoa Fisheries Limited
 - 6.2.1 remove Te Ohu Kaimoana's control and responsibility for Aotearoa Fisheries Limited's business activities by converting Te Ohu Kaimoana's voting shares (100 percent) and income shares (20 percent) to ordinary shares, and distributing them to the Mandated Iwi Organisations through their respective Asset Holding Companies
 - 6.2.2 update the appointment process for Aotearoa Fisheries Limited directors with a new process enabling Asset Holding Companies to elect and remove Aotearoa Fisheries Limited directors based on shareholdings and in accordance with the Aotearoa Fisheries Limited constitution
 - 6.2.3 update the governance arrangements of Aotearoa Fisheries Limited to align it more closely as a standard company in accordance with the Companies Act 1993
 - 6.2.4 remove director restrictions and update director requirements to align governance arrangements between the settlement entities
 - 6.2.5 s9(2)(f)(iv) 
 - 6.2.6 remove the requirement for Aotearoa Fisheries Limited to pay a minimum of 40 percent of its annual net profit after tax as a dividend to its shareholders and allow Aotearoa Fisheries Limited shareholders the ability to agree on an annual dividend level. If no agreement is achieved a default setting of 40 percent of Aotearoa Fisheries Limited's net profit after tax will apply
 - 6.2.7 following the restructure of Te Ohu Kaimoana redistributing governance control of Aotearoa Fisheries Limited to iwi, require a minimum 75 percent majority iwi voting threshold to be set for approving major changes to business activities in Aotearoa Fisheries Limited.
- 6.3 Te Pūtea Whakatupu Trustee Limited
 - 6.3.1 increase the maximum number of Te Pūtea Whakatupu directors from three to five, with a majority quorum
 - 6.3.2 remove director restrictions and update director requirements to align governance arrangements between the settlement entities.
- 6.4 Te Wai Māori Trustee Limited
 - 6.4.1 increase the maximums number of Te Wai Māori directors from three to five, with a majority quorum
 - 6.4.2 remove director restrictions and update director requirements to align governance arrangements between the settlement entities.
- 6.5 Trading processes
 - 6.5.1 remove the current process and restrictions in the Maori Fisheries Act for selling assets, and replace it with simplified approaches where iwi can choose to either notify all iwi of their intention to sell, or can simply sell their assets to a willing buyer within the Māori pool (willing seller; willing buyer model).
- 6.6 Monitoring
 - 6.6.1 implement a new process for a future review of the settlement governance entities, to take place no later than 10 years from the time the current proposed changes take effect.

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6.7 Additional changes

6.7.1 clarify the electoral provision 'Kaupapa 1' to state that iwi must have the opportunity to elect all directors, trustees and office holders of Mandated Iwi Organisations

6.7.2 remove current restraints to enable existing Asset Holding Companies to transfer funds directly to new Mandated Iwi Organisations that are recognised by Te Ohu Kaimoana, and remove the 15 months' time limit associated with this process

6.7.3 remove the restrictions on Asset Holding Company directors being appointed as Mandated Iwi Organisations directors

6.7.4 clarify the definition of Freshwater Fisheries in the Act to enable exploration and advancement of freshwater activities on behalf of all Māori.

7. **Invite** the Minister for Oceans and Fisheries to issue instructions to the Parliamentary Counsel Office to prepare an exposure draft of the Māori Fisheries Amendment Bill to amend the Maori Fisheries Act to give effect to the policy proposals recommendations 6.1 – 6.7.4 and any associated minor / technical amendments.
8. **Agree** to delegate authority to the Minister of Revenue to make decisions on the tax technical implications of the review, consistent with the policy intent of this paper and in consultation with the Minister of Finance.
9. **Note** that in my capacity as the Attorney-General, I will consider whether to approve the release of an exposure draft of the Māori Fisheries Amendment Bill for consultation with affected Māori organisations and other directly affected parties. The content of the draft will be legally privileged.
10. **Note** that, if following consultation on the exposure draft of the Māori Fisheries Amendment Bill, I decide to substantially change the proposed policy approach for any of the resolutions, I will report back to Cabinet.
11. **Note** that following consultation and consideration of submissions received, I will submit the Māori Fisheries Amendment Bill to Cabinet: Legislation Committee

Authorised for lodgement

Hon David Parker
Minister for Oceans and Fisheries

Appendix 1: Summary of resolutions and additional proposals requiring legislative change

| Resolution | Criteria | | | | Iwi support | Discussion | Minister for Oceans and Fisheries recommends |
|---|-------------------------------|--------------------------------------|-----------------------------------|-------------------------------------|----------------------------------|--|--|
| | Meets the purposes of the Act | Meets the purpose of Te Ohu Kaimoana | Consistent with other legislation | Within Review scope and limitations | | | |
| 1. Te Ohu Kaimoana governance restructured. | Yes | Yes | Yes | Yes | Unanimous | <p>Proposed changes</p> <ul style="list-style-type: none"> The electoral-college system Te Kawai Taumata for appointing Te Ohu Kaimoana directors is removed, and Iwi directly appoint the board of Te Ohu Kaimoana directors on a one vote per iwi basis. <p>s9(2)(g)(i)</p> | Support |
| 2. Iwi to hold all Aotearoa Fisheries Limited (AFL) voting and income shares. | Yes | Yes | Yes | Yes | Unanimous | <p>Proposed changes</p> <ul style="list-style-type: none"> Te Ohu Kaimoana's AFL voting shares (100%) and income shares (20%) to be distributed to the Asset Holding Companies (AHC) of the Mandated Iwi Organisation (MIO). <p>s9(2)(g)(i)</p> | Support |
| 3. Te Ohu Kaimoana surplus funds distributed equally amongst iwi. | Yes | Yes | Yes | Yes | Passed by small majority (28-23) | <p>Proposed changes</p> <ul style="list-style-type: none"> Any surplus funds to be distributed equally among iwi regardless of iwi size or level of fisheries asset interests. <p>s9(2)(g)(i)</p> | Support |
| 4. Implement a compulsory levy model for Te Ohu Kaimoana that can be triggered in the future if required. | Yes | Yes | Yes | Yes | Passed by majority (50-1) | <p>Proposed changes</p> <ul style="list-style-type: none"> Enable an annual levy for Te Ohu Kaimoana to be implemented should it require it to continue performing its duties and functions. <p>s9(2)(g)(i)</p> | Support |

| Resolution | Criteria | | | | Iwi support | Discussion | Minister for Oceans and Fisheries recommends |
|--|-------------------------------|--------------------------------------|-----------------------------------|-------------------------------------|---------------------------|--|---|
| | Meets the purposes of the Act | Meets the purpose of Te Ohu Kaimoana | Consistent with other legislation | Within Review scope and limitations | | | |
| 5. Aotearoa Fisheries Limited and Sealord assets subject to first right of refusal | No | Yes | No | Yes | Unanimous | <p>Proposed changes</p> <ul style="list-style-type: none"> Implementation of a right of first refusal allowing iwi the opportunity to buy AFL or Sealord Group Ltd assets prior to them being offered to other parties. <p>s9(2)(h)</p> <p>[Redacted]</p> <p>s9(2)(g)(i)</p> <p>[Redacted]</p> | Do not support resolution in current form, support exploration of Te Ohu Kaimoana's proposed alternative approach |
| 6. Current AFL legislative dividend requirement removed, to allow shareholders to set it annually. | Yes | Yes | Yes | Yes | Passed by majority (49-2) | <p>Proposed changes</p> <ul style="list-style-type: none"> AFL currently distributes 40% of its annual net profit after tax as dividends to its shareholders, The change will enable shareholders to set the annual dividend level at an agreed level, and The current 40% dividend policy will continue in effect until the Act is amended and would only be changed following amendment should shareholders approve it. <p>s9(2)(g)(i)</p> <p>[Redacted]</p> | Support |
| 7. Major transactions for AFL require a 75% iwi majority voting threshold. | Yes | Yes | Yes | Yes | Unanimous | <p>Proposed changes</p> <ul style="list-style-type: none"> Following the shifts in Te Ohu Kaimoana's structure from the above resolutions, it will no longer be responsible for approving major transactions for AFL (s35(1)(c) of the Act), therefore it is proposed a majority iwi voting threshold be set up for major changes to business activities in AFL. <p>s9(2)(g)(i)</p> <p>[Redacted]</p> | Support |
| 8. Te Pūtea Whakatupu Trust directors increase from 3 to 5 with a majority quorum. | Yes | Yes | Yes | Yes | Unanimous | <p>s9(2)(g)(i)</p> <p>[Redacted]</p> | Support |

| Resolution | Criteria | | | | Iwi support | Discussion | Minister for Oceans and Fisheries recommends |
|--|-------------------------------|--------------------------------------|-----------------------------------|-------------------------------------|---------------------------|--|--|
| | Meets the purposes of the Act | Meets the purpose of Te Ohu Kaimoana | Consistent with other legislation | Within Review scope and limitations | | | |
| 9. Te Wai Māori Trust directors increase from 3 to 5 with a majority quorum. | Yes | Yes | Yes | Yes | Unanimous | s9(2)(g)(i) [Redacted] | Support |
| 10. Simpler trading processes developed for iwi wishing to sell quota assets within the Māori pool. | Yes | Yes | Yes | Yes | Unanimous | Proposed changes <ul style="list-style-type: none"> Current transparency provisions of asset sales within the Māori pool will be removed and replaced with a “willing buyer, willing seller” model. This means iwi can sell their settlement assets to a willing buyer within the Māori pool without notifying members and running a bidding process. s9(2)(g)(i) [Redacted] | Support |
| 11. A further Review of settlement assets. | Yes | Yes | Yes | Yes | Unanimous | Proposed changes <ul style="list-style-type: none"> Section 114(3)(ii) of the Act states a subsequent review can take place not sooner than five years after the completion of the current review, if at least 75% of MIOs agree a review should be conducted, and Implement a future review requirement to take place no sooner than ten years from the time the current proposed changes take effect. s9(2)(g)(i) [Redacted] | Support |
| 12. Enable Te Ohu Kaimoana to allocate distributions to any entity that has charitable status and is nominated by the MIO. | Yes | Yes | Yes | Yes | Passed by majority (50-1) | s9(2)(g)(i) [Redacted] | Support |
| 13. Te Ohu Kaimoana's redeemable preference shares in AFL be converted into ordinary shares | Yes | Yes | Yes | Yes | Unanimous | Proposed changes <ul style="list-style-type: none"> Convert Te Ohu Kaimoana's redeemable preference shares in AFL into ordinary income shares to be distributed back to iwi, and Redeemable preference shares were created to financially safeguard Te Ohu Kaimoana during its establishment, however with the implementation of the proposed levy system (resolution 4), they will no longer be required. s9(2)(g)(i) [Redacted] | Support |

| Resolution | Criteria | | | | Iwi support | Discussion | Minister for Oceans and Fisheries recommends |
|--|-------------------------------|--------------------------------------|-----------------------------------|-------------------------------------|------------------------------------|---|--|
| | Meets the purposes of the Act | Meets the purpose of Te Ohu Kaimoana | Consistent with other legislation | Within Review scope and limitations | | | |
| 14. Implementation of the 'Straw Tangata' model. | Yes | Yes | Yes | No | Unanimous | <p>Proposed changes</p> <ul style="list-style-type: none"> Incorporation of Te Pūtea Whakatupu, Te Wai Māori and Te Ohu Kaimoana into a single pan iwi body called "TrustCo". <p>s9(2)(g)(i)</p> | Do not support |
| Additional proposals from Te Ohu Kaimoana (15 – 18) | | | | | | | |
| 15. Clarify electoral provisions in MIO constitutions. | Yes | Yes | Yes | Yes | Te Ohu Kaimoana consulted with iwi | <p>Proposed changes</p> <ul style="list-style-type: none"> Te Ohu Kaimoana seek legislative change to clarify the electoral provisions of MIO (set out as Kaupapa 1) under Schedule 7 of the Act, and Specifically, Te Ohu Kaimoana seek to change 'Kaupapa 1' to clearly define an electorate approach for appointing directors and, trustees and office holders of MIOs. <p>s9(2)(g)(i)</p> | Support |
| 16. Simplify recognition process of PSGE as new MIO. | Yes | Yes | Yes | Yes | | <p>Proposed changes</p> <ul style="list-style-type: none"> Many iwi have PSGE's replace their MIOs in respect to fisheries settlement assets (refer resolution 12), and Remove current restraints to enable AHC to directly transfer funds to new MIO and remove a 15-month time limit which is often not met due to delays in negotiations and / or process. <p>s9(2)(g)(i)</p> | Support |
| 17. Removal of current restrictions on directors of AHC. | Yes | Yes | Yes | Yes | | <p>Proposed changes</p> <ul style="list-style-type: none"> Te Ohu Kaimoana propose the current restrictions on MIO directors from being appointed as directors of respective AHCs be removed. <p>s9(2)(g)(i)</p> | Support |
| 18. Clarify the definition of Freshwater Fisheries in the Act. | Yes | Yes | Yes | Yes | | <p>Issues, risks and mitigations</p> <ul style="list-style-type: none"> The current definition of Freshwater Fisheries in the Act excludes "any sports fishery or unwanted aquatic life or activities conducted under the Freshwater Farming Regulations 1983" restricts Te Wai Māori from advancing freshwater activities on behalf of all Māori e.g. raising tuna (eels) in farming ponds, and Proposed changes do not override the regulatory requirements in the Biosecurity Act 1993, Conservation Act 1987, or the Fisheries Act 1996. | Support |