



Māori Fisheries Amendment Bill – Select Committee Response

Presentation for iwi 30 March 2023

Agenda

1. Overview of the Select Committee process
2. Summary of our response to the Select Committee
3. Issues we wish to raise with Iwi
4. Open floor for questions and issue discussion
5. Time line and next steps

Overview of the Select Committee process

- On 20 December 2022 the MFA Bill was introduced.
- On 7 and 8 March 2023 the MFA Bill had its first reading, and it was then referred to the Māori Affairs Select Committee for detailed Review.
- The Select committee has asked for submissions from the public on the MFA Bill. These are due by 13 April 2023.
- The Māori Affairs Select Committee is due to report back to Parliament by 9 September 2023.

Overview of our draft response to Select Committee

- There are three parts to our submission:
 1. History of amendments (which details from the statutory review in 2015 through to now).
 2. We then provide Comments on the proposed amendments and whether they reflect the resolutions of Iwi.
 3. We then comment on other proposed changes in the Bill that do not reflect Iwi resolutions.
- On a whole, the MFA Bill reflects the resolutions of Iwi. We have some suggested amendments to the Bill to fine tune the operational implementation of the Bill to better reflect Iwi resolutions, and these can be found in the schedule to our response.

Resolutions that required legislative change

1	Te Ohu Kaimoana governance appointment framework restructured
2	Iwi to hold all Aotearoa Fisheries Limited income and voting shares
3	Equal distribution of Te Ohu Kaimoana's funds deemed surplus (other than surplus levy funding) to iwi (not implemented)
4	The ability to implement a compulsory levy model for Te Ohu Kaimoana that can be triggered in future if required.
5	Aotearoa Fisheries Limited and Sealord assets subject to first right of refusal. Alternative proposal suggested
6	The current Aotearoa Fisheries Limited legislative dividend requirement changed 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 Whakatupu Trustee Limited directors limit from three to five, with a majority quorum.
9	Increase Te Wai Māori Trustee Limited 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 governance entities.
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 Maori Fisheries Act.

Issues we want to highlight to Iwi – Issue 1

Resolution: Increase of Directors on Te Wai Māori and Te Pūtea Whakatupu from 3 to 5, with a quorum majority

- The Act provides that there must be 3 directors with a quorum of 3 for each. There had been issues with an inability for decisions to be made if Directors were unavailable.
- The intent behind this resolution being passed by iwi reflects the desire to have more than 3 decision makers
- The effect of the majority quorum means if only 3 directors are available, the quorum will be 2. This will be less decision makers

Issues we want to highlight to Iwi – Issue 2

Issue: Removal of restrictions on the appointment of directors to Te Pūtea Whakatupu and Te Wai Māori.

- As part of the resolution to increase directors on the Trusts, the MFA Bill removes section 89 and 102.
- Sections 89 and 102 currently require:
 - that only one Te Ohu director can be a director of either Te Pūtea Whakatupu or Te Wai Māori;
 - nobody may be a director of both Te Pūtea Whakatupu or Te Wai Māori;
 - no director of AFL or its subcompanies can be a director of either Te Pūtea Whakatupu or Te Wai Māori
- All appointments to Te Pūtea Whakatupu and Te Wai Māori will be made by Te Ohu Kaimoana, and the only way for Iwi to influence appointment is through their appointment of Te Ohu's directors
- **Are you comfortable with the removal of the restrictions on the eligibility to be a director of Te Pūtea Whakatupu and Te Wai Māori?**

Issues we want to highlight to Iwi – Issue 3

Resolution: Further review of governance entities to occur not before seven years but no later than 10 years from the time the current proposed changes take, on special resolution of Iwi

- If no special resolution occurs, no review occurs.
- We now know it can take 8 years to complete a review, given the time it has taken to progress the last review
- **Are you still comfortable with this amendment?**

Issues we want to highlight to Iwi – Issue 4

Issue: Function added for MIOs to be able to sell settlement quota to the Crown

- Section 167 amends the definition of “third party” as it relates to this section. Currently under the MFA ‘third parties’ cannot acquire quota.
- This proposed amendment would mean the Crown has the potential to acquire settlement quota through exercising its rights under options, mortgages, other security interests, and guarantees
- The Crown must:
 - only on-sell settlement quota to another MIO or entity in the AFL group
 - sell within 12 months of receiving the settlement quota.
- **Are you comfortable with this amendment? It does not reflect an Iwi resolution**

Open floor for questions and any other issues

Next steps

- Looking for feedback, particularly on the 3 points discussed above by 5 April
- All submissions need to be in by 13 April.
- If you need help with completing your own submission, get in touch. We are happy to help within our capacity.