

TE OHU
KAIMOANA



TE OHU KAI MOANA TRUSTEE LIMITED | AOTEAROA FISHERIES LIMITED | TE WAI MAORI TRUSTEE LIMITED | TE PUTEA WHAKATUPU TRUSTEE LIMITED

Response To Four Year Audit : Volume 3

December 2008

TE PUTEA  WHAKATUPU

 TE WAI MĀORI

 AOTEAROA
fisheries limited

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Preface

This document has been prepared by Te Ohu Kaimoana, on behalf of the Te Ohu Group¹.

Independent appointed auditors recently completed an audit (performance in nature rather than financial) of Te Ohu Kai Moana Trustee Limited (Te Ohu Kaimoana), and Aotearoa Fisheries Limited (AFL), and Te Wai Maori Trustee Limited (Wai Maori), and Te Putea Whakatupu (Te Whakatupu).

This document presents the responses to the audit findings from each of the organisations audited. It is Volume III of a set of three documents to be distributed to members and alternate members of Te Kawai Taumata, all mandated iwi organisations, and to all representative Maori organisations.

Former State Services Commissioner Don Hunn and retired Judge Ken Mason were the appointed by the respective Boards as the auditors. Both are experienced auditors and between them have an expansive knowledge and experience that assured the Boards that the audits would be robust audits and above reproach.

The structure of this report is as follows:

- **SECTION 1** Te Ohu Kaimoana’s response and plan of action to the findings and recommendations in the Te Ohu Kaimoana Audit Report.
- **SECTION 2** AFL’s letter of response to the AFL Audit Report and specifically refers to the PricewaterhouseCoopers report commissioned by the independent auditors to assist inform the audit of AFL.
- **SECTION 3** the plan of action Wai Maori will implement to address each recommendation of the Wai Maori Audit Report.
- **SECTION 4** the plan of action Te Whakatupu will implement to address each recommendation of the Te Whakatupu Audit Report.
- **SECTION 5** provides a short commentary from Te Ohu Kaimoana to the responses from AFL, Wai Maori, and Te Whakatupu.

¹ Te Ohu Kaimoana Trustee Ltd and every subsidiary, trust, or other entity over which it has effective control, including Aotearoa Fisheries Limited and its subcompanies

Introduction

- (1)** Section 105 of the Maori Fisheries Act 2004 (the Act) requires that no later than 4 years after the commencement of the Act (25 September 2004) an audit be commenced of Te Ohu Kaimoana, AFL, Wai Maori, and Te Whakatupu. As mentioned in the preface the audit is performance in nature rather than financial and is referred to as the 'Four Year Audit'. The general scope and requirements of the audits are set out in Sections 105 – 113 (inclusive) and referred to throughout Volumes I and II.
- (2)** Don Hunn and Ken Mason were appointed as independent auditors by the boards of Te Ohu Kaimoana Board, AFL, Wai Maori, and Te Whakatupu.
- (3)** The audits were concluded in November 2008. The auditors presented the findings and recommendations from each audit at the Te Ohu Kaimoana board meeting, 26 November 2008 board meeting. The Chair and Chief Executive of AFL, the Chair of Wai Maori and the Chair Te Whakatupu attended the presentation.
- (4)** Each organisation has responded in a slightly different manner primarily determined by the findings and recommendations contained within its respective Audit Report.
- (5)** The Audit Report for Te Ohu Kai Moana Trustee Limited (Te Ohu Kaimoana) contains 12 Findings and 6 Recommendations.
- (6)** The Audit Report for AFL contains 1 Recommendation.
- (7)** The Audit Report for Wai Maori contains 4 Recommendations.
- (8)** The Audit Report for Te Whakatupu contains 7 Recommendations.

PART 1 : Te Ohu Kai Moana Trustee Limited Response

The following findings (12 in total) have been extracted from Volume I.

Audit Findings

- (A)** Overall Te Ohu Kaimoana has fulfilled the requirements of the Act and has made considerable progress in the first four years of its existence;
- (B)** In terms of the general audit requirements of Section 108 of the Act, Te Ohu Kaimoana has developed objectives, policies and strategies which have enabled it to discharge its obligations and in large measure fulfil the purposes for which it was established. Its reporting on these objectives and the progress made in meeting them has been both transparent and timely;
- (C)** In terms of the specific audit requirements of Section 109, Te Ohu Kaimoana has made significant progress with both of them. Te Ohu Kaimoana's principal achievement in the four year period, 2004 to 2008, has been the mandating of 48 of the 57 iwi and the transfer to them of 75% (\$425million) of the assets assigned to Maori under the 1992 Deed of Settlement with the Crown;
- (D)** As the main beneficiaries under the Act, all recognised and mandated iwi organisations were given the opportunity to express a view on Te Ohu Kaimoana's performance. The fact that no submission has been received would indicate satisfaction that, generally speaking, the task has been carried out in keeping with their expectations;
- (E)** Interviews with the representatives of five iwi have shown that while there have been reservations about some aspects of the distribution process, in the main there has been appreciation of, and approbation for, the work done by Te Ohu Kaimoana staff in assisting them – this applies particularly to the smaller iwi;
- (F)** In the light of the situation it faced in 2004 and the clear indication given in the Act, Te Ohu Kaimoana has rightfully seen its first priority throughout the four year period of this audit, as being the transfer of the Treaty assets to the mandated iwi organisations. While much has been achieved, considerable work remains to be completed. 9 iwi have yet to be mandated and receive their off-shore assets, while only 8 iwi have had their coastline entitlements transferred to them;
- (G)** As the transfer of assets had to be given primacy, time and resources have prevented Te Ohu Kaimoana from addressing its second major strategic objective – the protection of Maori fisheries assets – as fully as it might have wished or intended. This objective will assume greater prominence in the next four year period and will require adjustments to Te Ohu Kaimoana's role, the manner in which it conducts its business and its capability (and, possibly, its size and structure – there being some feeling among iwi, especially the larger, better resourced and more experienced ones, that attention should be paid to assessing the continued relevance of Te Ohu Kaimoana and the costs of administration);
- (H)** The third and fourth of Te Ohu Kaimoana's four areas of strategic focus are largely process-oriented. The changes in emphasis that will ensue over the next four years may lead to greater concentration on substantive matters for which more measurable results would be appropriate to demonstrate continued high performance;

- (I) Particularly among the smaller iwi there appears to be a need for greater assistance in managing their fisheries assets – bearing in mind the compliance auditors' warning that advice on tax and commercial matters should not be sourced from any of the four organisations set up under the Act (although they could have a role in assisting iwi in identifying where that advice might come from);
- (J) There is also a feeling among iwi that Te Ohu Kaimoana needs to be more active in protecting Maori property rights under the Deed of Settlement and in advocating the Maori position to the Crown (as the Annual Reports claim that Te Ohu Kaimoana spends considerable time and effort on these issues, this may be a matter of communication and visibility rather than lack of attention). The question also arises in this context whether there should be specific recognition in the legislation of the need for some formal procedure to enable both parties to the Deed of Settlement to meet, say on an annual basis, to discuss implementation or entitlement issues which may emerge;
- (K) While Te Ohu Kaimoana claims to have fulfilled its obligations in respect of Te Wai and Te Putea, it is our impression that Te Ohu Kaimoana's supervisory role as delineated in the Act has not been as direct as was intended. Its relationship with AFL, however, appears to have been conducted in accordance with the Act and to the general satisfaction of both parties;
- (L) It is apparent from the way in which the Maori Fisheries Act was drafted that all four organisations set up under the Act, are intended to be the four components of a single goal, namely to provide a full and final settlement (and future management) of Maori commercial fishing rights. It seems to us that to maximise the impact of the Act's provisions there could be greater alignment of the strategies of the four organisations, especially of the three non-commercial ones (since AFL's responsibilities under the Companies Act will require it to act independently on some matters). In re-examining its role, Te Ohu Kaimoana could consider how its coordinating function under the Act might best be undertaken in future.

Audit Recommendations

The following recommendations are extracted from the Te Ohu Kaimoana Audit Report:

- 1) In accordance with Section 32 (c) of the Maori Fisheries Act 2004, and in light of the number of issues which have arisen and are likely to arise in future in implementing the legislation and the Deed of Settlement, Te Ohu Kaimoana seek to discuss with the Minister responsible for Treaty Settlements a proposal to establish a joint body representing the Crown and Maori to meet at least annually in order to discuss and settle implementation and entitlement issues;

There is also a feeling among iwi that Te Ohu Kaimoana needs to be more active in protecting Maori property rights under the Deed of Settlement and in advocating the Maori position to the Crown (as the Annual Reports claim that Te Ohu Kaimoana spends considerable time and effort on these issues, this may be a matter of communication and visibility rather than lack of attention). The question also arises in this context whether there should be specific recognition in the legislation of the need for some formal procedure to enable both parties to the Deed of Settlement to meet, say on an annual basis, to discuss implementation or entitlement issues which may emerge;

- 2) Te Ohu Kaimoana consult with iwi to ensure their support for the 2012 Strategic Outcomes stated in the current Strategic Plan (or on any adjustment to these outcomes which may emerge from the Board's current strategic planning exercise). As part of this consultation and in accordance with Strategic Outcome 3 ("iwi have (by 2012) collectively determined how the entities within the Te Ohu Kai Moana Group will provide maximum value"), the Board discuss possible changes to its role and objectives to reflect the priorities of Maori over the next four year review period;
- 3) In light of Te Ohu Kaimoana's commitments to enable all iwi to have a mandated iwi organisation by 2010 and individual iwi to have full ownership of their fisheries settlement assets by 2012, the Board may wish to consider what adjustments to current processes may be needed to achieve them. If it becomes apparent that

neither commitment can be fully met, the Board will want to be in a position to be able to explain to both iwi and its Crown partner why that was so;

- 4) Te Ohu Kaimoana might reconsider its policy settings in the following areas:
 - (a) Distribution of coastline assets. While progress has been made with the appointment of a special representative, more progress might be possible with a more diverse approach in some instances;
 - (b) Protection of Treaty assets. In addition to recommendation 1 above, Te Ohu Kaimoana might review its advocacy function to ensure it was more results focussed.
 - (c) Assistance to iwi. Te Ohu Kaimoana might undertake a review of its obligation to assist iwi to protect, manage and enhance their fisheries assets and determine whether there are gaps in the current processes which should be filled.
- 5) Now that the first phase of establishment has been completed successfully, the Board may want to consider replacing its two current areas of strategic focus concerned with the processes of managing change and governance (while maintaining the current standards of achievement in these areas) to one or more objectives which have the same high strategic priority but are more focussed on measurable results which will advance the ability of iwi to manage their assets and derive the maximum advantage from their property rights under the Deed of Settlement;
- 6) If the Board accepts the points made in this report that it has not taken as active an oversight role in respect of Wai Maori and Te Whakatupu as was envisaged in the Act, it may wish to reconsider the current arrangements set up for this purpose. Moreover once the Board has confirmed and approved the priorities determined by those two subsidiary bodies it may want to ensure there is greater alignment between the objectives of all three organisations.

Te Ohu Kaimoana Response

Summary Response

- (1)** Te Ohu Kaimoana acknowledges that the audit findings and recommendations are considered, reasonable and fair. Most of the findings are matters that we had identified prior to the completion of the audit and had started to address or put measures in place in our work programme for 2008/09.
- (2)** We are pleased with that the audit has found that we have fulfilled the requirements of the Act and made 'considerable progress' mandating iwi organisations and transferring settlement assets. There are few if any established organisations with a similar role to that of the Te Ohu Group, therefore few if any proven models to follow and as such our systems, processes and strategies have had to be especially developed internally without the benefit of proven examples and models. And because of the history the Group has been cautious in its dealings with iwi not to impose or move into iwi business. One or two of the findings may be the result of an over cautious approach on our behalf – not enough support for some iwi following the mandating of an iwi organisation. However whatever the reason we accept we could have done a better job supporting those iwi who required further assistance. A key priority for Te Ohu Kaimoana has been and continues to be, our commitment to work with and assist individual iwi and to ensure the protection and continued growth of the collective fisheries settlement assets. We know we didn't always get it right but we always sought to provide optimal advice and service.
- (3)** Te Ohu Kaimoana agrees that it could have provided a more robust capability development programme to mandated iwi organisation. It did provide capability and capacity support but primarily through the staff working with during the mandating process when requested. As mentioned previously our caution not to step to far from 'what we had authority to do' may in hindsight be an error. However, iwi and Te Ohu Kaimoana are probably at a point in our relationship that was not present four years ago. But we acknowledge that the approach falls short of what was required by some iwi and we have commenced work to provide the assistance some of the smaller iwi have requested.
- (4)** Prior to the audit the Board directed Te Ohu Kaimoana senior management to improve its communication and the timeliness of that communication with iwi. In addition the Board has completed several strategic sessions and requested senior management to complete an analysis of the gathered material so that Te Ohu Kaimoana can commence discussions with key parties during the first 3-4 months of 2009. It is Te Ohu Kaimoana's expectation that one outcome of these discussions will be agreement on future relationships and expectations of communication and involvement of key parties in the future.
- (5)** Te Ohu Kaimoana's 2008/09 annual plan identifies that there is a work programme in place that will assist to address the recommendations in the audit report.
- (6)** The audit also revealed the need for Te Ohu Kaimoana to take a stronger leadership role with the wider Te Ohu Group to ensure there are common strategic goals and improved alignment so resources were more efficiently utilised. The audit also recommended that Te Ohu Kaimoana strengthen its oversight role in respect of Wai Maori and Te Whakatupu.
- (7)** Te Ohu Kaimoana has increased its interaction (at the Chair and CE level) across the Te Ohu

Specific Comment

- (3)** Areas that the audit found wanting includes some iwi not receiving the assistance that they required after they became a mandated iwi organisation and the need to improve our communication with iwi with regard to specific issues - the protection of the settlement assets and future direction and role (particularly that of Te Ohu Kaimoana) for example.

Group to ensure not just better alignment but that each organisation works individually and where appropriate as a collective, to ensure the long term sustainability of the fisheries settlement assets and to ensure iwi/Maori are positioned as the future leaders of the fishing industry, without undermining the non commercial or cultural iwi domains.

- (9) With respect to the oversight of Wai Maori and Te Whakatupu the Board is aware - primarily due to the difficulty of both Trusts to form the quorum necessary to hold board meetings - that there was a need to strengthen its oversight of the Trusts. Te Ohu Kaimoana amended the Constitutions of both Trusts to enable alternate directors to be appointed and allowed each Trust to nominate alternate directors for consideration by Te Ohu Kaimoana Board. We are mindful that Te Whakatupu has yet to complete this process. Te Ohu Kaimoana assumed that through the sharing of resource (Te Ohu Kaimoana staff manage the Trust's work programmes, we share resources, and Te Ohu Kaimoana has appointed a member of its board to the board of Wai Maori and another to the board of Te Whakatupu) that the synergy of goals and outcomes would develop naturally. Unfortunately although we consider the relationship and communication between Te Ohu Kaimoana and each of the trusts to be healthy the degree of synergy we expected has not occurred. We are in active discussions with the Chairs of both Trusts to better align our organisations and move towards similar goals and outcomes.
- (10) The audit also recommended that areas of strategic focus are focussed on measurable results and specifically to advance the ability of iwi to manage their assets and allow them to derive maximum advantage.

(11) The current strategic focus areas were also recognised as being time bound and expected that three of the four likely to be replaced before 2010. The strategic focus areas will be amended following discussion with iwi/Maori about future roles and responsibilities.

(12) Recommendation 1 proposes a joint Te Ohu Kaimoana/iwi body be established and that that group establish a formal relationship with a specific Minister of the Crown. Te Ohu Kaimoana considers that this recommendation must be approached with a degree of caution and would not progress this matter without discussion with iwi. The recommendation does have merit but it has potential to create tension that arises naturally when dealing with 'iwi' and 'government established Maori organisations' - specifically around respective roles, leadership, and relationships with the Crown.

(13) We know that iwi and iwi agenda's do not 'contain' 'issues' or operate within 'boundaries' as determined by government or other parties. So although this recommendation relates specifically to the fisheries settlement from an iwi perspective it may not be as straight forward as it appears on paper. It is essential that Te Ohu Kaimoana discuss and tease out with iwi whether (a) they see the logic in the proposal and if so (b) the factors that iwi wish to consider and discuss. For example the benefits and weaknesses from their perspective pertaining to fisheries settlement matters, the wider iwi fisheries/fishing related matters, and the non related matters that may be affected (treaty claims for example).

(14) During mid 2008 Te Ohu Kaimoana was in regular communication with a range of key iwi representatives and when necessary able to bring them together quickly to discuss and address some of the potential threats to the

fisheries settlement. As a result we (and others) have recognised the value of utilising a current national based resource which is now governed by a board appointed by iwi. And we have experienced some of the matters mentioned in the previous paragraph. Therefore how or whether we could or should utilise Te Ohu Kaimoana in the future will form part of future discussions between Te Ohu Kaimoana and key external groups in the immediate future

- (15) It is prudent at this point that our response mention the future discussions referred to and the strategic planning sessions that Te Ohu Kaimoana undertook in 2008. This work and the future discussions will enable us collectively to address the recommendations in the audit report as we determine the future roles and direction.

Strategic Direction Discussions – Phase 1

- (16) Te Ohu Kaimoana has completed what it considers to be phase 1 of its strategic discussions. It was essential that Te Ohu Kaimoana (with a degree of external involvement) develop a reasonably sound and informed platform before it commenced any discussion with mandated iwi organisations, representative Maori organisations, and Te Kawai Taumata. If it held discussions beforehand there was a risk that the discussion could become too broad and nebulous or alternatively be very operational and detailed and possibility miss opportunities to strategically position iwi/Maori in the future.

- (17) During the course of the discussions Te Ohu Kaimoana has among other things, discussed what value we (used in its broadest sense) might add/should/could add, the tools required to achieve this, how and who we influence, what we must do to drive change and lead change and where (local, national, South Pacific region, internationally, indigenous). While we were

discussing the role of Te Ohu Kaimoana we did not presume what our future role was nor that of others as the Board determined early in its discussions that such decisions could only be reached through discussion with the key external parties this report is distributed too (and any other party that the collective may wish to include).

- (18) The Board has tentatively agreed where iwi/Maori should be positioned in 2029, and the key strategic relationships and alliances required to best ensure the very best long term sustainable outcome of the fisheries settlement assets.
- (19) As noted previously in this report the Board accepts that decisions in respect to the fisheries settlement and the future of Te Ohu Kaimoana can only be made with the beneficiaries of the fisheries settlement (primarily via mandated iwi organisations and representative Maori organisations). It is also very clear that it can not determine what iwi might want or make decisions on behalf of iwi but it would be remiss not to consider the most advantageous position and influence of iwi/Maori to ensure the long term sustainability of the fisheries settlement assets.
- (20) The ideal result of the discussions with mandated iwi organisations, representative Maori organisations and Te Kawai Taumata members and the Te Ohu Group would be agreement in principle to a shared vision and goals that will enable the collective to contribute to common goals, establish the strategic position(s) required to protect and enhance the settlement assets, and a more efficient use of resource.
- (21) We expect that the findings and the recommendations of the audit report will both inform discussions where applicable and will also be addressed by the conclusion of those discussions.

SECTION 1 : Te Ohu Kai Moana Trustee Limited Response – *Plan of Action*

1	RECOMMENDATION	In accordance with Section 32 (c) of the Maori Fisheries Act 2004, and in light of the number of issues which have arisen and are likely to arise in future in implementing the legislation and the Deed of Settlement, TOKM seek to discuss with the Minister responsible for Treaty Settlements a proposal to establish a joint body representing the Crown and Maori to meet at least annually in order to discuss and settle implementation and entitlement issues
	ACTION TO ADDRESS RECOMMENDATION	<p>We agree that this recommendation has merit as a means to assist address issues of implementation and entitlement issues that arise from the legislation and the Deed of Settlement.</p> <p>While Te Ohu Kaimoana understands the intent of this recommendation this is a matter that requires discussion with key parties before a decision can be made as to whether or not we pursue this recommendation. Refer to text for further detail.</p>
	OUTPUT & COMPLETION DATE	BY END OF MARCH 09 TE OHU KAIMOANA WILL HAVE COMPLETED ITS INITIAL DISCUSSIONS WITH THE KEY PARTIES AND BE BETTER INFORMED WHO IT AND/OR IWI WILL FORM KEY RELATIONSHIPS WITH.
2	RECOMMENDATION	TOKM consult with iwi to ensure their support for the 2012 Strategic Outcomes stated in the current Strategic Plan (or on any adjustment to these outcomes which may emerge from the Board's current strategic planning exercise). As part of this consultation and in accordance with Strategic Outcome 3 ("iwi have (by 2012) collectively determined how the entities within the Te Ohu Group will provide maximum value"), the Board discuss possible changes to its role and objectives to reflect the priorities of Maori over the next four year review period
	ACTION TO ADDRESS RECOMMENDATION	<p>Te Ohu Kaimoana has been preparing for the changes that will occur following the transfer of majority of the fisheries settlement assets and the capitalisation of Wai Maori and Te Whakatapu trusts.</p> <p>During 2008 Te Ohu Kaimoana Board and management discussed the possible role and responsibilities it and the wider Te Ohu Group might have in the future and how this aligned with the responsibilities of MIO and AHC's. Some external parties have had a degree of involvement in these discussions.</p> <p>Te Ohu Kaimoana intends to expand these discussions to include the key parties referred to earlier during the first three months of 2009.</p> <p>It is our expectation that results from those discussions will see the collective agree to a strategic direction and goals that will enable the optimal result required to protect, grow, and enhance the fisheries settlement assets.</p>
	OUTPUT & COMPLETION DATE	<p>CONSULTATION WITH IWI REGARDING THE STRATEGIC DIRECTION COMPLETED BY END OF MARCH 09</p> <p>BY JULY 09 TE OHU KAIMOANA WILL CIRCULATE FOR IWI FEEDBACK THE DRAFT STRATEGIC PLAN WHICH SHOULD DEMONSTRATE A JOINT APPROACH TO THE FUTURE DIRECTION AND ROLES.</p>

3	RECOMMENDATION	In light of TOKM's commitments to enable all iwi to have a mandated iwi organisation by 2010 and individual iwi to have full ownership of their fisheries settlement assets by 2012, the Board may wish to consider what adjustments to current processes may be needed to achieve them. If it becomes apparent that neither commitment can be fully met, the Board will want to be in a position to be able to explain to both iwi and its Crown partner why that was so
	ACTION TO ADDRESS RECOMMENDATION	The auditors have correctly identified that it is possible that some iwi may not have a mandate iwi organisation by 2010. Te Ohu Kaimoana can and has provided as much assistance as possible but cannot compel iwi to follow the process – there are also some matters that are the business of iwi and outside of our ability to influence. Our annual work programme for 08/09 recognises this matter is an issue and has identified work that will test/attempt to address this issues to ensure these iwi do not impede the ability of neighbouring iwi to gain agreements and receive their assets. In 2009 we will work with the iwi involved to develop plans appropriate and pertinent to each situation that selects from the full range of options available including providing assistance, reduced access to ACE, and continuing discussions with neighbouring iwi regarding lodging coastline claims so as to minimise any delay in transfer of settlement assets.
	ACTION TO ADDRESS RECOMMENDATION	BY MID MAY 09 INDIVIDUAL RIO WILL HAVE A MIO PROGRESSION PLAN IN PLACE SPECIFIC TO ITS SITUATION OR TE OHU WILL HAVE A WRITTEN EXPLANATION AS TO WHY THERE IS NO PLAN. BY JULY TE OHU KAIMOANA WILL HAVE AGREED PLANS AND PROCESSES IN PLACE TO IDENTIFY WHAT OPTIONS HAVE/ARE/WILL TO BE IMPLEMENTED TO ENSURE NEIGHBOURING IWI ARE NOT IMPEDED FROM RECEIVING THEIR ASSETS.
4	RECOMMENDATION	TOKM might reconsider its policy settings in the following areas: (a) Distribution of coastline assets. While progress has been made with the appointment of a special representative, more progress might be possible with a more diverse approach in some instances; (b) Protection of Treaty assets. In addition to recommendation 1 above, TOKM might review its advocacy function to ensure it was more results focussed. (c) Assistance to iwi. TOKM might undertake a review of its obligation to assist iwi to protect, manage and enhance their fisheries assets and determine whether there are gaps in the current processes which should be filled.
	ACTION	Te Ohu Kaimoana routinely assesses how it can improve its policy and processes to improve its delivery. The auditors have correctly identified that despite our best attempts there are still areas that require improvement. In respect to the three areas identified - (a) we agree that despite the excellent work of the special representative we must employ a range of options to hasten the distribution of the coastline assets. Accordingly rather than just have staff from the asset allocation and transfer team providing the analysis work to asset discussions, those staff will also progressively work directly with iwi to increase the numbers of regions under active discussion at the same time so as to provide the results required. (b) & (c) Te Ohu Kaimoana have reviewed how it can best fulfil its obligations and responsibilities to rigorously protect and enhance the fisheries settlement including improving our communication with iwi and better defining the activities we undertake to ensure they are results focussed. As noted above holding discussions with key parties in early 2009 will determine how the collective best achieves this. This will obviously include iwi expectation of both individual and collective involvement, assigned resource, expected outputs and outcomes from respective groups.
	COMPLETION DATE	BY JULY 09 THE DRAFT STRATEGIC PLAN CIRCULATED TO IWI FOR COMMENT WILL DEMONSTRATE THAT WE HAVE TAKEN ACCOUNT OF THE DISCUSSIONS

5	RECOMMENDATION	Now that the first phase of establishment has been completed successfully, the Board may want to consider replacing its two current areas of strategic focus concerned with the processes of managing change and governance (while maintaining the current standards of achievement in these areas) to one or more objectives which have the same high strategic priority but are more focussed on measurable results which will advance the ability of iwi to manage their assets and derive the maximum advantage from their property rights under the Deed of Settlement;
	ACTION TO ADDRESS RECOMMENDATION	Strategic focus areas 3 & 4 were intended as short-term focus areas that would not be required once the majority of fisheries settlement assets are transferred and Wai Maori and Te Whakatapu capitalised. We expect upcoming discussions to provide direction to inform future priority areas and areas of focus.
	ACTION TO ADDRESS RECOMMENDATION	BY 31 MARCH 09 IT SHOULD BE AGREED WITH IWI WHAT THE FUTURE PRIORITY AREAS AND AREAS OF FOCUS WILL BE BEYOND 2009. THE RELEASE OF THE DRAFT STRATEGIC PLAN WILL PROVIDE WRITTEN EVIDENCE THAT TE OHU KAIMOANA HAS TAKEN ACCOUNT OF THE CONSULTATION OF KEY PARTIES.
6	RECOMMENDATION	If the Board accepts the points made in this report that it has not taken as active an oversight role in respect of Te Wai and Te Putea as was envisaged in the Act, it may wish to reconsider the current arrangements set up for this purpose. Moreover once the Board has confirmed and approved the priorities determined by those two subsidiary bodies it may want to ensure there is greater alignment between the objectives of all three organisations.
	ACTION	The Board concurs with this recommendation and have held preliminary discussions with the Chairs of Wai Maori and Te Whakatapu and will continue to work with both Trusts to ensure we provide greater oversight of each Trust. Te Ohu Kaimoana recognises the importance of ensuring the three Trusts are willingly contributing to attain the strategic goals and direction that enable the owners of the fisheries settlement to advance, grow and protect those assets.
	COMPLETION DATE	BY MARCH EACH TRUST WILL HAVE AN ALTERNATE DIRECTOR APPOINTED BY THE BOARD OF TE OHU KAIMOANA AND FORMAL ACCOUNTABILITY PROTOCOLS AGREED. BY END OF JULY THE DRAFT STRATEGIC PLAN WILL IDENTIFY THE ROLE AND CONTRIBUTION OF EACH ENTITY OF THE TE OHU GROUP TO ATTAIN THE STRATEGIC GOALS

PART 2 : Aotearoa Fisheries Limited Response – Letter of Response



22 December 2008

Peter Douglas
Chief Executive Officer
Te Ohu Kaimoana Trustee Limited
PO Box 3277
Wellington

Dear Peter,

RE: Statutory Audit of Aotearoa Fisheries Limited

In accordance with the provisions of the Maori Fisheries Act Limited, Aotearoa Fisheries Limited (AFL) is required to respond within 40 working days of receiving the section 110 statutory audit report. Specifically AFL is required to prepare a plan specifying the actions that AFL intends to take to address the findings and recommendations of the audit report.

We have reviewed the draft report issued by Messer's Hunn and Mason, including the detailed work performed by PricewaterhouseCoopers (PwC) included in their report dated 18 December 2008.

While Messer's Hunn and Mason find it unnecessary to make any recommendations on matters arising during the audit, we do however wish to comment on the PwC report.

Overall we believe the PwC report to fairly reflect the financial performance of AFL, however we want to reiterate the point raised in their report that deals with the rate of return on capital invested. PwC state that although AFL profit improvement has been significant, AFL is not yet generating profit at a level that provides a rate of return on capital at the required level.

We believe PwC is correct to compare quota, which accounts for approximately 85% of the book value of AFL's non current assets (excluding its shareholding in Sealord), to farming land. Quota has many similar attributes of land farming assets. As PwC state, both quota and farming land includes valuable property rights that provides access to or enables production of an end product. Generally ownership of quota and land farming assets provides relatively stable but low cash returns to the holder and can be regarded as relatively low risk investments. For AFL the return varies species to species but even for some of the higher value species, market estimates of the return received from leasing out the Annual Catch Entitlement associated with the quota can be as low as 3%-4%. Despite this, the value of quota has generally increased over time. We therefore concur with the PwC conclusion that inherent in the ownership model, quota holders, like owners of farming land, are willing to forego some operating cash returns in return for lower risk and expectation of future capital gains on the value of the quota.

PwC point out there is difficulty in reaching a market value for AFL's quota holdings in total, given that market prices reflect the sales of smaller parcels. Estimates of current market values received from quota brokers suggest that AFL's quota holdings could have a market value in excess of \$90m more than their book value. If AFL was to sell quota it would be able to realise this capital gain and reflect it in its profitability and therefore shareholder return. AFL has not recently sold any large parcels of the quota it holds. As a result the market value increase in quota has been unrealised and is not recognised in the financial performance of AFL. It is impossible to know the value of unrealised gains on assets contained in the balance sheets of the agribusinesses used as a benchmark in the report, but this unrealised gain and lower risk does go some way to explaining the perceived difference in financial performances.

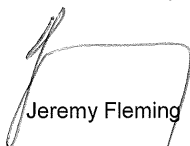
We note PwC's finding that AFL's performance is comparable to Sanford and view this comparison as the most useful in terms of benchmarking AFL's performance to the market. While we accept PwC's comparison of AFL's performance with a number of agribusinesses we note that none of the businesses selected are major investors in the underlying natural resources on which they are dependent. For this reason we do not believe that the comparisons are directly relevant.

We also reiterate the point that the review period is relatively short and has coincided with historically the highest values for the New Zealand dollar since the New Zealand dollar was floated. In addition high fuel costs, which increase the price paid to fishers for their catch and the cost of freight, have also been experienced during the review period. In the coming year it is expected that both of these factors will be lower.

The 2009 budget for the AFL shows an improvement in the profitability of the AFL operating divisions. Although some of this improvement is the result of the acquisition of Ocean Ranch referred to in the report and the effect of restructuring carried out in the year ended 30 September 2008, the fall in the value of the New Zealand dollar also plays its part. A key sensitivity in the financial results for this year will however be the extent to which the world recession has on the business.

If you wish to discuss any of the above or other aspects of the report in more detail, please do not hesitate to contact me.

Yours Sincerely,



Jeremy Fleming
Chief Executive Officer

PART 3 : Te Wai Maori Trustee Limited Response – *Plan of Action*

1	RECOMMENDATION	That Te Ohu Kaimoana ensures that it fulfils its oversight role in respect of Te Wai
	ACTION	A letter will be sent to Te Ohu Kaimoana requesting further clarification of the meaning of the phrase 'fulfils its oversight role in respect of Te Wai'.
	COMPLETION DATE	31 JAN 2009
2	RECOMMENDATION	That as soon as is reasonably practicable Te Wai undertakes further consultation with iwi and Maori and (if necessary) other interested parties with a view to achieving a more precise and acceptable definition of the term 'Maori interests in freshwater fisheries' and that if necessary it undertakes a reassessment of its strategic objectives.
	COMMENT	Agree with comments from auditors regarding the complexity of the freshwater environment. Auditors also stated that their expectation is that further research and consultation with iwi will ultimately result in an acceptable definition.
	ACTION	Develop new strategic plan that defines the term 'Maori interests in freshwater fisheries'. This will likely involve a reassessment of the strategic objectives. Freshwater iwi workshop and strategic planning session for board members will be held in early 2009.
	COMPLETION DATE	30 APRIL 2009
3	RECOMMENDATION	That a written response be provided as soon as practicable to those items marked 'partially achieved' and 'not completed' on pages 9 and 14 of the assessment. That response will include comment as to why objectives and/or sub-objectives have been partially achieved or not completed and will comment on strategies, and, where appropriate, timeframes for completion or achievement.
	ACTION	Written response will be provided on those items marked 'partially achieved' and 'not completed'. Response will also include, where appropriate, timeframes for completion or achievement. This written response will be tabled at the next Wai Maori board meeting on 10 March 2009.
	COMPLETION DATE	10 MARCH 2009
4	RECOMMENDATION	That a written response be provided, as soon as practicable, regarding the current and future status of the distribution policy and sponsorship policy referred to in page 16 of the assessment.
	ACTION	A written response will be provided and tabled at the next Wai Maori board meeting on 10 March 2009.
	COMPLETION DATE	10 MARCH 2009

PART 4 : Te Putea Whakatupu Limited Response – *Plan of Action*

1	RECOMMENDATION	That an alternate director be appointed to Te Putea without delay.
	RESPONSE	Recommendations for an alternate director for Te Putea will be tabled at the January board meeting.
	COMPLETION DATE	31 JAN 2009
2	RECOMMENDATION	That Te Ohu Kaimoana ensures that it fulfils its oversight role in respect of Te Putea.
	RESPONSE	A letter will be sent to Te Ohu requesting further clarification of the meaning of the phrase "...fulfils its oversight role in respect of Te Putea" in the audit report.
	COMPLETION DATE	31 JAN 2009
3	RECOMMENDATION	That the research project currently being undertaken by Te Putea's fulltime manager be completed expeditiously.
	RESPONSE	The research project has been completed and a copy will be obtained for Te Putea's files.
	COMPLETION DATE	31 JAN 2009
4	RECOMMENDATION	That Te Putea, at the earliest reasonable opportunity, reassess its strategic objectives, policies and outcomes, that reassess-ment to include a funding strategy following capitalisation in 2009.
	RESPONSE	A process for reviewing the strategic direction and objectives of Te Putea will be tabled at the January board meeting.
	COMPLETION DATE	31 JAN 2009
5	RECOMMENDATION	That, before funding is approved, Te Putea takes all reasonable steps to satisfy itself that it is a funder of last resort and that outcomes are achievable and consistent with its objectives (note: several iwi have scholarships and funds which have not been accessed by iwi members).
	RESPONSE	Extracts from the fund policy for the Maori Education & Leadership Fund which show that Te Putea is "a funder of last resort" will be compiled and given to Te Ohu.
	COMPLETION DATE	31 JAN 2009
6	RECOMMENDATION	That a written response be provided, as soon as practicable, to those items in the assessment marked "partially achieved", "not completed" and "to be completed by September 2008". That response will include comment as to why objectives and/or sub-objectives have been partially achieved or not completed and will comment on strategies and, where appropriate, timeframes for completion or achievement.
	RESPONSE	A written response to recommendation 6 will be tabled at the next Board meeting.
	COMPLETION DATE	31 JAN 2009
7	RECOMMENDATION	That a written response be provided, as soon as practicable, regarding the current and future status of the sponsorship policy referred to in page 18 of the assessment
	RESPONSE	David Gray will draft a written response to recommendation 7.
	COMPLETION DATE	31 JAN 2009

PART 5 : Te Ohu Comment

(22) The Act requires Te Ohu Kaimoana to prepare any further plan in the case of AFL, Wai Maori, and Te Whakatupu to address the findings and recommendations of the Audit Report.

(23) We believe that each organisation has adequately set out how it will address the recommendations in its audit report

(24) 24. In the case of AFL's response to the PricewaterhouseCoopers report we agree with AFL's reasoning and therefore response

(25) With regard to Wai Maori and Te Whakatupu we believe that Te Ohu Kaimoana's response plan makes clear that we have already begun to put in

place mechanisms that will improve our oversight role and more importantly assist both Trusts to achieve. For example we have tentatively set a time for the Chairs to meet to agree a more efficient use of resources including areas of common interests that we might work jointly.

(26) With respect to the appointment of an alternate director to Te Whakatupu – Te Ohu Kaimoana will ensure an appointment is made by end of February 2009.

(27) Te Ohu Kaimoana will report on progress of each organisation to address the audit recommendations in the Te Ohu Kai Moana Six Month Performance Report (release April/May).

