

Before the Environmental Protection Authority

under: the Exclusive Economic Zone and Continental Shelf
(Environmental Effects) Act 2012

in the matter of: an application for marine consent under the Exclusive
Economic Zone and Continental Shelf (Environmental
Effects) Act 2012

between: **Chatham Rock Phosphate**
Applicant

and: **Te Ohu Kai Moana Trustee Ltd**
Submitter

Opening Statement of **Kirstin Woods** on behalf of **Te Ohu Kai Moana Trustee Ltd**

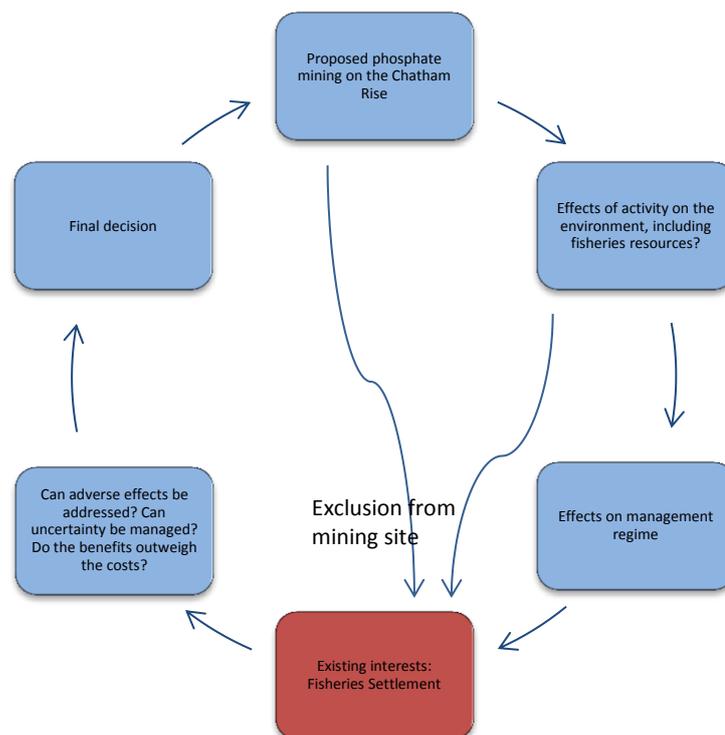
Dated: 25 September 2014

1. I am making this opening representation on behalf of Te Ohu Kai Moana Trustee Ltd (“Te Ohu Kaimoana”). Te Ohu Kaimoana has responsibilities under the Maori Fisheries Act 2004 to advance the individual and collective interests of iwi in fisheries in order to ensure that the Fisheries Settlement endures. We are concerned that the proposed mining of phosphate on the Chatham Rise will adversely affect these interests which are existing interests by virtue of sections 4 (d) and (e) of the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 (EEZ Act).

Relationship to other submitters

2. Te Ohu Kaimoana works across industry and iwi to help ensure that iwi continue to benefit economically, socially and culturally from the use of their fisheries settlement assets. We are a member of the Deepwater Group, which is providing submissions and evidence as part of this process. Their submissions and evidence are therefore also made on our behalf.
3. We support other iwi submitters such as Ngai Tahu, Moriori, Ngati Mutunga and Ngati Kahungunu and wish to ensure that the flow of economic and cultural benefits that they receive is not adversely affected by the mining proposal.

Figure 1: Key questions arising from the mining proposal



4. In simple terms, I have sketched out the key elements of the decision making process to highlight where we and other submitters are providing information. Our submission focusses on the nature and scope of the Fisheries Settlement, and we draw on the evidence of the Deepwater Group and Ngai Tahu to more fully understand the connection between the effects of the mining proposal on the environment, fisheries and the fisheries management regime in order to understand how Fisheries Settlement interests might be affected. The submissions of individual iwi, including Ngai Tahu, Moriori, Ngati Mutunga and Ngati Kahungunu, provide a more in depth korero about their individual interests.

Nature and scope of Fisheries Settlement interests

5. I wish to provide a brief outline of the key points in Te Ohu's submission and evidence. These include an outline of the nature and scope of the Fisheries Settlement interests – so as to create an additional lens through which the effects of the activity might be assessed.
6. The quota management system (QMS) was introduced in October 1986. In response, Maori sought an injunction against the introduction of further fish stocks into the QMS until their fisheries claims had been resolved.
7. The underlying fishing rights claimed by Maori were confirmed by the courts to contain commercial and non-commercial elements exercised within a Maori cultural framework.
8. The Crown and Maori agreed on a full and final settlement of Maori fisheries claims in September 1992. Maori agreed to settle their fisheries claims in return for commercial fishing assets, as well as rights to manage non-commercial customary fishing. The commercial assets consist of shares of each fish stock in the quota management system, shares in Aotearoa Fisheries Ltd (which owns 50% of Sealord) and cash. This agreement was reflected in the Deed of Settlement and the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992.
9. The settlement is for the benefit of all Maori. The commercial component is delivered through the Maori tribal framework at the level of iwi. There are fifty seven iwi who have interests in commercial settlement assets. Economic and cultural benefits flow to iwi through their shares and in Aotearoa Fisheries Ltd (and associated dividends) as well as the income they receive through their settlement quota.

10. The Settlement is “full and final”. Iwi expect that its overall value will endure and grow, based on sustainably managed fisheries. The income iwi receive through the Fisheries Settlement forms an important component of their economic base and ability in turn to deliver benefits to their members.
11. Iwi have a broader interest in the management of fisheries and their environment – viewed through a cultural lens. While Maori accepted as part of the Settlement that the quota management system is an appropriate system for managing fisheries, that did not mean they chose to ignore their own matauranga and tikanga. Concepts such as kaitiakitanga are integral to our discussions about management of fisheries and their environment, including deepwater fisheries. For example, the setting aside of the Benthic Protection Area is consistent with this concept – being part of a regime to protect the environment while enabling iwi and the wider industry to continue to benefit from fishing.

The mining application

12. The commercial interests that iwi have in stocks fished on the Chatham Rise are based on their settlement shares in those stocks, and the profit generated by Sealord in which iwi have a 50% stake. These commercial interests are substantial. For example for the majority of stocks fished on the Chatham Rise, iwi hold around 10% of the quota shares. Industry sources show the export value of these stocks in 2013 was \$130 million. We would estimate that the value derived from iwi settlement quota would be around \$13 million. This does not take into account Sealord’s contribution which also adds to the benefits received by iwi. Sealord will be providing evidence to you on this aspect.
13. In assessing the effects of the proposal it is also important to be aware that Chatham Island iwi hold settlement quota in valuable stocks such as paua and rocklobster. They also hold rights in respect of customary non-commercial fishing for these stocks. Maori owned company Aotearoa Fisheries Ltd also holds quota shares in these stocks. Any adverse consequences of the mining activity on these stocks will also affect the value of the Fisheries Settlement.
14. Finally I wish to add that in many cases, iwi have also purchased quota in addition to their settlement allocations. Where this quota involves stocks affected by the mining proposal, the effects on those iwi will be greater still. Where relevant, iwi will touch on this matter in their own submissions.

Concluding remarks

15. Iwi agreed to enter into a full and final settlement of their historical fisheries claims in return for the benefits that are generated by the Fisheries Settlement. This Settlement is based on the premise that these benefits will endure, based on sustainably managed fisheries. We are concerned that the benefits alleged to accrue from the proposed mining activity do not warrant the likely adverse effects and risks it will create to Fisheries Settlement interests or the fishing industry generally and we consider the application should be declined.

16. We ask that the Decision Making Committee heed our concerns as you assess the information put before you.