

4 February 2005

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To All Iwi
Mandated Iwi Organisations
Recognised Iwi Organisations

Tena koutou

PANUI No.1:
APRIL 2005 ACE ROUND

PART 1: GENERAL

1.1 INTRODUCTION

At its meeting on 21 December 2004 the Board of Directors of Te Ohu Kai Moana Trustee Ltd (“Te Ohu”) decided, in terms of s.152 of the Maori Fisheries Act 2004 (“the MFA”), to conduct an ACE round, to be called the “April 2005 ACE round”, to make available to Iwi ACE generated from settlement quota for the fishing years commencing on 1 February and 1 April 2005.

Following the 21 December meeting a panui entitled *April 2005 ACE Round Proposals for Comment* was issued on 22 December 2004 outlining Te Ohu’s proposals for conducting the April 2005 ACE round. The panui invited comments on the proposals from recognised Iwi, mandated Iwi organisations (“MIOs”) and recognised Iwi organisations (“RIOs”). Any comments were to reach Te Ohu by noon on 18 January 2005.

All comments received supported the ACE round proposals. Accordingly, at its meeting on 26 January 2005 the Te Ohu Board confirmed the April 2005 ACE round approach and methodology. Full details are set out in this panui.

As there are no MIOs in existence for the April 2005 ACE round, all subsequent references in this panui are to RIOs.

1.2 LEGISLATIVE AUTHORITY

Authority for Te Ohu to conduct ACE rounds is contained in section 152 of the MFA. In accordance with that section this panui sets out –

- the terms and conditions for the April 2005 ACE round;
- the charges to be levied; and
- how the expected net revenue from those charges will be used.

1.3 “WITHOUT PREJUDICE”

The April 2005 ACE round methodology is required to reflect as closely as possible the bases for allocation of settlement quota to Iwi. As several important factors in relation to the allocation of settlement quota have yet to be settled, however, including in particular coastline agreements between Iwi, the distribution of ACE among Iwi in the ACE round will be on a “**without prejudice**” basis as in previous years.

This means that participation in the April 2005 ACE round, including any agreements made by Iwi and any decisions made by Te Ohu, will not prejudice the position of either Te Ohu or any Iwi ACE recipient in any future ACE round or in the final allocation of settlement quota, income shares or other assets.

The “without prejudice” nature of the April 2005 ACE round is expressly confirmed in the Deed of Waiver and Indemnity that is required to be executed by Iwi organisations as a condition of participating in the ACE round. The Deed of Waiver and Indemnity also confirms that any ACE distributed during the April 2005 ACE round shall not bind, operate as a precedent, or create an expectation in relation to any future dealing between Te Ohu and Iwi, including the future availability of ACE or the future allocation and transfer of quota shares by or from Te Ohu.

PART 2: REQUIREMENTS FOR THE ACE ROUND

2.1 PARTICIPATION IN ACE ROUND

To participate in the April 2005 ACE round all Iwi will need to meet the following prerequisite requirements –

- be recognised as an Iwi under the Act;
- have a RIO able to conduct ACE round activities on behalf of the Iwi.

All RIOs will be required to –

- complete and provide to Te Ohu a Deed of Waiver and Indemnity appointing one or more Management Area representatives to represent the Iwi’s interests in the ACE round and to receive the Iwi’s ACE share under the round – **by 28 February 2005**;
- arrange for the appointed Management Area representative(s) to complete and provide to Te Ohu a Deed of Indemnity accepting the representational appointment and the duties and liabilities associated with the appointment – **by 28 February 2005**;
- have paid, or have in place payment arrangements, for all previous ACE round charges imposed by the Treaty of Waitangi Fisheries Commission, Te Ohu’s predecessor organisation;
- provide to Te Ohu evidence of the progress made since 1 October 2004 in meeting the constitutional, representational, structural and mandate requirements of the MFA in preparation for recognition as a MIO – **by 28 February 2005**, and
- execute and return to Te Ohu an ACE Sale Agreement .

Any Iwi which does not meet all these requirements by the due dates risks exclusion from the April 2005 ACE round.

2.2 PROGRESS OF RIOS

Te Ohu also expects that as part of making progress towards MIO status, each RIO will be representative and act for the benefit of all its members, irrespective of where their members reside.

Te Ohu will consider this over-riding responsibility (and other matters) when considering whether RIO are making progress toward receiving allocation and transfer.

2.3 ANNUAL REPORTS

RIOs are also reminded that their 2004 or 2005 year annual report should report on the ACE provided through this ACE round.

PART 3: FISHERIES INFORMATION

3.1 FISHING YEARS AND FISHING SEASONS

Except for the Te Waihora eel fishery, for which a 1 February/31 January fishing year applies, all stocks included in the April 2005 ACE round operate under a 1 April/31 March fishing year. Scallop fishing in each of the three scallop fisheries covered, however, is further constrained to an open season declared by the Minister by Gazette notice.

ACE distributed by Te Ohu under the April 2005 ACE round will all expire at the end of the relevant fishing year, on 31 January 2006 or 31 March 2006.

3.2 SPECIES, TACCs and MANAGEMENT

New QMS stocks: No new stocks are scheduled to enter the QMS on 1 February or 1 April 2005.

Existing QMS stocks: No final Ministerial decisions on 2005/06 year TACC levels and management requirements have yet been made. Any decisions announced will be notified in a later panui and included in final ACE round calculations.

No management or TACC changes are expected from 2004/05 year levels for –

- Scallops;
- Spiny rock lobster (except CRA3 – see below);
- Packhorse rock lobster;
- Crabs;
- Horse mussel;
- Sea cucumber;
- Surf clams; or
- Southern blue whiting stocks SBW6A (Auckland Islands) or SBW6R (Pukaki Rise).

CRA3: It is likely the commercial catch limit for the CRA3 stock will be reduced from 327mt to 190mt for the 2005/06 year, equating to a 41.9% reduction from the current TACC. Depending on the Minister's decision, that reduction will be achieved either by "shelving" of ACE or by a TACC reduction.

Whichever course is taken, the effect for the April 2005 ACE will be to reduce the quantity of CRA3 ACE available for distribution from 32.700mt to 18.999mt.

Southern blue whiting: Sustainability levels of both the SBW6B (Bounty) and SBW 6I (Campbell) stocks are being reviewed for the 2005/06 year. It is possible the Minister may reduce the TACC for either or both fisheries, affecting the ACE quantities available under the April 2005 ACE round. Iwi and representatives will be advised by panui as further information is received.

3.3 ACE QUANTITIES AVAILABLE

Except as noted below in 3.2 above, or as noted below, Appendix 1 details the provisional ACE quantities expected to be available under the April 2005 ACE round. Updated information will be provided when it becomes available.

SBW1 and FMA10 stocks: Te Ohu currently holds 1.6mt of ACE for fishstock *SBW1*, covering FMAs 1-5 and 7-10 combined, plus ACE for several *FMA10 only* stocks for species included in the April 2005 ACE round. This ACE has been excluded from the April 2005 ACE round because Te Ohu is not satisfied that there is a commercially viable total allowable commercial catch for these stocks. Instead, the ACE will be made available by open market sale via the [ACEtrader](#) website.

TAC ACE: All freshwater eel and scallop fisheries are included in the Second Schedule to the Fisheries Act 1996. Appendix 1 of this panui shows the base Te Ohu ACE position for Second Schedule stocks. If the Minister grants, during the 2005/06 fishing year, any in-season TAC ACE increases for Second Schedule stocks included in the April 2005 ACE round, Te Ohu will –

- (a) Where there has previously been agreement under the April 2005 ACE round by Iwi with rohe in the relevant management area, offer its share of such TAC ACE to those Iwi on a proportionate basis (and at the price established for the ACE round); or
- (b) Where there has been no agreement between Iwi on respective shares under the April 2005 ACE round, sell its TAC ACE on the open market via the [ACEtrader](#) website.

3.4 CLASSIFICATIONS

All stocks included in the April 2005 ACE round will maintain their previous classifications, namely –

<u>Inshore</u>	Spiny rock lobster; Packhorse rock lobster; Scallop; Giant spider crab; Horse mussel; Sea cucumber; Surf clams.
<u>Deepwater</u>	Red crab; King crab.
<u>FMA6 only</u>	Southern blue whiting (SBW6A, 6B, 6I and 6R); Crabs (CHC6, GSC6A, GSC6B, KIC6); Horse mussel (HOR6); Sea cucumber (SCC6).
<u>Freshwater</u>	Te Waihora eel (ANG13).

PART 4: ACE ROUND DETAILS

4.1 MANAGEMENT AREA & MANAGEMENT AREA REPRESENTATIVE

Where a fish stock has a Quota Management Area (QMA) that is larger than the area of the applicable Fisheries Management Area (FMA) the coastline component of that ACE for that particular fish stock is apportioned between the corresponding FMAs according to the coastline measure of each FMA and this will be the Management Area.

This above definition applies to all fish stocks except for Spiny Rock Lobster (CRA), Freshwater Eel (ANG) Sea cucumber (SCC) and Scallop (SCA) as defined in Schedule 1 to the Fisheries Act 1996 in which case the QMA's for those fish stocks will be the Management Area.

All Management Area representatives must reach agreement over how the ACE within the Management Area is to be divided. By using the above definition of a Management Area the Management Area representatives will need to reach agreement with fewer parties. For example packhorse rock lobster (PHC) has a QMA that encompasses the whole EEZ and would require all Management Area representatives to agree over how the ACE is to be divided; by applying the above definition reaching agreement should be easier.

4.2 IWI AGREEMENT

Management Area representatives for Iwi are reminded that six different Management Area boundaries will apply in the April 2005 ACE round, namely -

- (a) CRA management areas for spiny and packhorse rock lobster ACE;
- (b) SCA1 management area for Northland scallop ACE;
- (c) SCACS management area for Coromandel scallop ACE;
- (d) SCA4 management area for Chatham Islands scallop ACE;
- (e) ANG13 management area for Te Waihora eel ACE; and
- (f) Standard FMAs for the remaining stocks.

In each of these Management Areas, Management Area representatives for the Iwi with interests in those areas will be required to reach agreement regarding the distribution of ACE among those Iwi.

4.3 METHODOLOGY

The April 2005 ACE round will be conducted on a similar basis as the April 2004 ACE round, but adjusted as necessary to accord with the requirements of the MFA. As no coastline agreements have been registered, all available ACE will be allotted to the Management Areas for the various species. It then will be the responsibility of the appointed Management Area representatives to agree the respective shares of that ACE for the Iwi they represent.

The following provisions also will apply –

- *Chatham zone*;
- *Harbour ACE*;
- *Inshore ACE*: To be allotted to Management Areas 100% by coastline measure;
- *Deepwater ACE*: To be allotted to Management Areas 25% by coastline measure, 75% by Iwi affiliations derived from the 2001 census;
- *FMA6 only ACE*: To be allotted to Management Areas 100% by Iwi affiliations derived from the 2001 census;

- *Residual FMA4 ACE*: To be allotted to Management Areas 100% by Iwi affiliations derived from the 2001 census;
- *Freshwater ACE*: To be allotted 100% to ANG13 Management Area.

4.4 COASTLINE MEASUREMENTS

Coastline measurements for the Management Area will be applied by Te Ohu in calculating the ACE to be allotted to each Management Area under section 4.3 above. Those coastline measurements will include the measures of the offshore islands Great Barrier, Motiti and Stewart in the relevant Areas.

PART 5: LEVIES AND CHARGES

5.1 CROWN COST RECOVERY LEVIES

New Crown cost recovery levy Orders will take effect from 1 April 2005. Those levy rates have yet to be approved by the Minister but provisional numbers are available. These are included in Appendix 1 to assist representatives in their discussions.

It must be stressed that the Appendix 1 rates are provisional. The final levy rates will be provided in a later panui and those final rates applied in the final April 2005 ACE round calculations. Funds derived under the April 2005 ACE round will be applied against Crown levy invoices.

5.2 SeaFIC COMMODITY LEVIES

A two-tier commodity levy system is operated by the NZ Seafood Industry Council Ltd ("SeaFIC"). The first tier levy funds the operations of SeaFIC, the second tier levy is available for use on a stock-specific basis by particular sectors of the commercial industry. Both levy tiers are payable by Te Ohu as quota owner. Funds derived under the April 2005 ACE round will be applied against SeaFIC levy invoices.

The 2004/05 year SeaFIC commodity levy rates are shown in Appendix 1.

5.3 STAKEHOLDER ORGANISATION LEVIES

Te Ohu, as a quota owner on behalf of Maori, is a shareholder or member of a number of stakeholder organisations established to promote self-management of the relevant fisheries. Many of these organisations impose levies on quota owners to generate finance to fund their activities. Any stakeholder organisation levies incurred by Te Ohu as quota owner, such as those imposed by the Hoki Fishery Management Co Ltd on SBW quota owners, will be recovered from Iwi in April 2005 ACE round charges and applied in settlement of the relevant stakeholder organisation invoice.

2004/05 year stakeholder organisation levy rates are included in Appendix 1.

5.4 TE OHU CHARGES

From its establishment on 29 November 2004, until the end of the allocation transition, Te Ohu has three sources of revenue – the sales of ACE to Iwi, interest received on financial investments and the ability to call on some of the transitional funding of \$18 Million per s137(1)(e) of the MFA. This latter sum is to provide money to meet the shortfall between the revenue received from sales of ACE, interest income and the expenditure requirements of Te Ohu and is to be spread over the five year transition period. As allocation and transfer of settlement assets occur, there will be progressively less ACE available for sale (though also a reduction in government and other levies). Te Ohu's Budget has now been set for the period until 30 September 2005. After taking account of

the ACE sales in the October 2004 round and a call from reserves of \$2.5 Million, the sum of \$2.1 million is to be recovered from Iwi under the April 2005 ACE round.

After payment of direct charges as noted in sections 5.1 to 5.3 above, the balance of the \$2.1 million will be applied against operating costs of Te Ohu including those associated with the allocation and transfer of assets to Iwi, the processes involved in assisting and assessing Iwi readiness to receive assets, the activities involved in growing the financial value of Maori Fisheries assets, the work done to protect and enhance the value of Maori fisheries, the efforts to increase Iwi and Maori ability to manage fisheries assets and the performing of further functions required by the MFA.

Until Ministerial decisions on fishstock TACCs are known for the 2005/06 fishing years included in the April 2005 ACE round, Te Ohu charges by stock cannot be finalised. Final ACE chargeout rates will be notified in a later panui

PART 6: ACE DISTRIBUTION PROCESS

6.1 DELIVERY OF ACE TO IWI

The delivery system will be similar to that which applied for the April 2004 ACE round. Please note that any delays in completing the various actions required by Iwi will necessarily delay the distribution of ACE to Iwi by Te Ohu.

The delivery system steps are as follows:-

STEP 1:- Iwi to Establish Management Area Representation – By 28 February 2005

RIOs must

- (a) Provide written evidence to Te Ohu of the Iwi's progress since 1 October 2004 towards meeting the requirements for recognition as an MIO under s.14 of the Act.
- (b) Select their Management Area representative and identify the same to Te Ohu. The Management Area representative selected can represent one Iwi or a group of Iwi.
- (c) Execute the Deed of Waiver and Indemnity attached to this panui as Appendix 2 and forward the original Deed to Te Ohu.

The purpose of the Deed is to confirm, among other things, that the RIO does represent the Iwi, that the Management Area representative has been duly appointed by the RIO and that the ACE distributed to the RIO will satisfy Iwi claims for the April 2005 ACE round. It also provides an indemnity to Te Ohu in relation to any challenges that may be made against Te Ohu in the ACE round that involve breaches of the terms and conditions of the ACE round by the RIO or Management Area representative or any other claims concerning the conduct or representative capacity of the RIO or Management Area representative in the ACE round.

READ THE DEED CAREFULLY BEFORE SIGNING AS IT CONTAINS PROMISES WHICH WILL BE ENFORCEABLE AGAINST YOU, INCLUDING WAIVERS AND INDEMNITIES FOR THE BENEFIT OF TE OHU.

RIOs must

- (a) be legal entities capable of giving the indemnities and waivers required;
and
- (b) have the mandate of their Iwi to deal with ACE on the Iwi's behalf.

Management Area representative(s) appointed by Iwi must

- (a) signify in writing to Te Ohu that they accept the responsibility of acting as a Management Area representative(s) for the Iwi concerned; and
- (b) execute the Deed of Indemnity attached to this panui as Appendix 3 and forward the original Deed to Te Ohu.

The purpose of the Deed of Indemnity is to confirm which Iwi are represented by the Management Area representative(s) and to indemnify Te Ohu against any claims to the contrary. **AGAIN, AS IT CONTAINS PROMISES WHICH WILL BE ENFORCEABLE AGAINST YOU, THIS DEED SHOULD BE CAREFULLY READ BEFORE SIGNING.**

STEP 2: Agreement on Iwi shares of available ACE – by 18 March 2005

Where there is more than one Management Area representative in a Management Area the representatives are required to agree, on behalf of the Iwi they represent, the proportion of ACE to be distributed to each Iwi. They must then advise Te Ohu in writing of the agreed shares.

If for any reason agreement between Management Area representatives cannot be reached, representatives must notify Te Ohu in writing of the extent and nature of the dispute and the parties involved. The processes detailed in Part 7 below will then be instituted. **Dispute notifications should reach Te Ohu no later than 18 March 2005.**

STEP 3: Offers to Distribute ACE

In Management Areas where agreement on Iwi shares of available ACE has been reached and other requirements of the April 2005 ACE round have been complied with, Te Ohu will offer Management Area representatives ACE at the prices set by Te Ohu in respect of the ACE volumes allocated to each management area. The offers will reflect agreements reached and will take the form of ACE Sale Agreements and invoices.

Each Management Area representative will be required to execute an ACE Sale Agreement with Te Ohu. Included in that Agreement is an undertaking that the relevant General and particular Conditions set out in Schedule A to the ACE Sale Agreement will be contained in any subsequent agreements for the sale or transfer of the ACE concerned.

6.2 PAYMENT FOR ACE

Representatives will be required to pay the full sum invoiced for the ACE offered, within 10 working days of invoicing.

6.3 OUTSTANDING DEBTS

No ACE will be distributed to any Management Area representative under the April 2005 ACE round if an earlier debt remains unpaid, unless agreed arrangements are already in place for discharging the debt and those arrangements are being adhered to.

6.4 ACE TRANSFERS

ACE will be transferred only to Management Area representatives. All transfers will be handled electronically.

No ACE will be transferred by Te Ohu to any recipient unless –

- An ACE Sale Agreement has been executed and forwarded to Te Ohu; and
- Te Ohu's invoice has been paid and the payment cleared by Te Ohu's bank.

PART 7: PARTICIPATION AND DECISION-MAKING

7.1 Te Ohu's 22 December 2004 Panui confirmed that the April 2005 ACE round was being conducted in accordance with section 152 of the MFA. In particular, the Panui noted that in the event of a "dispute" it would be dealt with by Te Ohu in accordance with section 152(2) to (4) of that Act. A copy of section 152 was also attached to the Panui.

Section 152 gives Te Ohu the discretion to determine how ACE should be dealt with when three separate situations arise, namely:

- (i) where there is no MIO or RIO for an Iwi; or
- (ii) where Te Ohu considers that a RIO has not demonstrated reasonable progress towards meeting the MIO criteria in section 14; and
- (iii) where the MIOs and RIOs within a Management Area do not reach agreement on the division of ACE between them.

7.2 If one of these three situations arises, under the MFA Te Ohu has the discretion under section 152(2) to:

- a) sell the ACE to AFL (or its sub company) at market rates, or
- b) sell the ACE on the open market, or
- c) determine the amount of ACE to be offered to each iwi where the RIOs in the management area cannot agree on the division of ACE to be offered to them.

In cases (a) and (b) Te Ohu must hold the net proceeds of the sale, after deducting its reasonable costs and expenses, on trust for the relevant Iwi.

7.3 No MIO or RIO

Schedule 3 of the MFA sets out who are Iwi for fisheries purposes. Schedule 4 of the MFA sets out the RIOs for the majority of these Iwi. However, there are certain Iwi listed in Schedule 3 of the MFA who do not have a RIO listed in Schedule 4 and have not otherwise had a RIO recognised by Te Ohu. For the April 2005 ACE round two Iwi – Te Aupouri and Te Atiawa Poneke – are affected.

For those Iwi who do not have a RIO Te Ohu may either sell the ACE to AFL (or its nominated sub company) at commercial rates or sell the ACE on the open market. Te Ohu must hold the net proceeds of the sale, after deducting its reasonable costs and expenses, on trust for the Iwi. These funds will be held until there is a RIO or MIO for those respective Iwi at which time the funds will be transferred to the RIO or the MIO.

7.4 No progress towards meeting allocation criteria

If Te Ohu considers that a RIO is unable to demonstrate reasonable progress towards meeting the allocation criteria set out in section 14 of the MFA, Te Ohu may either sell the ACE to AFL (or its nominated sub company) at commercial rates or sell the ACE on the open market.

It is therefore important that all RIOs make progress towards meeting the criteria expected of MIOs under the MFA, including acting for the benefit of all Iwi members. The Te Ohu team will be working with RIOs to help them comply with the MFA requirements. The progress made by RIOs will be individually assessed by Te Ohu having regard to each RIO's constitutional documents and the processes in place for moving towards recognition as a MIO.

If Te Ohu sells the ACE either to AFL or on the open market in the event that a RIO is not making reasonable progress towards MIO status, Te Ohu must hold the net proceeds of the sale, after deducting its reasonable costs and expenses, on trust for the Iwi. These funds will be held in trust until Te Ohu considers that the RIO has made reasonable progress towards meeting the criteria under the MFA, at which time the funds will be transferred to the RIO or MIO. In the event the RIO fails to make any reasonable progress Te Ohu will hold the funds on trust for the Iwi until a MIO for that Iwi has been approved.

7.5 No agreement among group of Iwi

Te Ohu hopes that all RIOs within a Management Area will be able to agree on the division of ACE to be offered to them. Because there are some Iwi who do not have a RIO those Iwi will not be able to appoint a Management Area representative and therefore those Iwi will not be able to reach agreement with other Iwi who are in the same Management Area. There may also be other reasons why Iwi within a Management Area are unable to reach agreement. If this occurs then Te Ohu will have to exercise its discretion under section 152(2).

Where Management Area representatives cannot reach agreement on their relative shares they must:-

- (a) notify Te Ohu of the nature and extent of the disagreement (or at least their version of it); and
- (b) provide Te Ohu with any relevant information on the views of the parties for consideration by Te Ohu in terms of this Part of this panui.

Te Ohu may determine the amount of ACE to be offered to each of Iwi in dispute. Alternatively, Te Ohu may decide to sell the ACE either to AFL (or its nominated sub company) at commercial rates or on the open market. In the event that Te Ohu determines to sell the ACE it will hold the net proceeds of the sale, after deducting its reasonable costs and expenses, on trust for the Iwi.

These funds will be held on trust until agreement can be reached between the relevant RIOs on how the funds should be distributed among the Iwi **provided however** that if the RIOs cannot reach an

agreement on how to divide the funds within 12 months of Te Ohu holding the net funds from the sale of the ACE on trust, Te Ohu will settle the matter by determining the relative Iwi shares of the funds on trust.

7.6 PROGRESS TOWARDS MIO RECOGNITION

Te Ohu emphasises again that reasonable progress by RIOs towards meeting the s.14 requirements for recognition of an MIO is an important condition of the ACE round. Lack of progress may result in the Iwi being excluded from participating in the April 2005 ACE round.

PART 8: GENERAL

8.1 QUERIES

At this stage no decision has been made on whether Te Ohu staff will handle all matters relating to the April 2005 ACE round themselves or whether a consultant will be engaged to assist. In the meantime, any queries are to be directed to one of the following Te Ohu staff:-

Michele Wallace	email address: michele.wallace@teohu.maori.nz
Alan Riwaka	email address alan.riwaka@teohu.maori.nz
Tom Norris	email address: tom.norris@teohu.maori.nz

Telephone:	(04) 931 9500
Facsimile:	(04) 931 9518

Kia ora

TE Norris
for CHIEF EXECUTIVE OFFICER

Appendix 1

Te Ohu Kai Moana
April 2004 ACE Distribution Round
Preliminary Management Area Quantities and Prices

(Information used: 1 October 2004 Govt, SeaFIC and Stakeholder Levies)

Note: All prices are GST exclusive

Species	Fishstock	Estimated ACE Available 2005/06 mt	Provisional Crown Levy Rates \$/mt pa	SeaFIC Levies (1/10/04) \$/mt pa	Stakeholder Levies (1/10/04)	TOKMTL Budget Contrib'n. \$/mt	2005/06 ACE Sale Charge to Iwi \$/mt	2004/05 ACE Sale Charge to Iwi \$/mt
Inshore								
Rock lobster - Spiny	CRA1	12.193	906.48	179.823	-			5513.48
	CRA2	23.608	818.40	380.963	-			6096.87
	CRA3	18.999	822.00	187.729	-			5359.41
	CRA4	57.700	865.20	197.092	-			6458.85
	CRA5	35.000	956.52	307.011	-			6602.94
	CRA6	36.000	553.32	237.821	-			3803.53
	CRA7	9.489	859.92	270.099	-			3753.29
	CRA8	60.337	970.56	338.684	-			5961.48
	CRA9	4.701	714.72	190.719	-			6315.94
Rock Lobster - Packhorse	PHC1	4.030	536.04	29.232	-			2280.18
Scallop - Northland	SCA1	8.000	-	80.935	-			1206.28
- Chatham Is	SCA4	4.600	313.08	2.164	-			1044.25
- Coromandel	SCACS	4.400	-	60.668	-			1424.37
Giant spider crab	GSC1	0.200	-	-	-			37.39
	GSC3	2.800	85.68	0.698	-			244.93
	GSC5	3.800	63.12	0.288	-			199.81
Horse Mussel	HOR1	0.800	-	-	-			2.67
	HOR2	0.400	-	-	-			3.34
	HOR3	0.400	-	-	-			3.34
	HOR4	0.200	-	-	-			3.34
	HOR5	0.200	-	-	-			3.34
	HOR7	3.200	-	-	-			6.01

	HOR8	0.200	-	-	-	3.34
	HOR9	0.200	-	-	-	3.34
Sea cucumber	SCC1A	0.400	-	-	-	8.68
	SCC1B	0.400	-	-	-	8.68
	SCC2A	0.400	-	-	-	6.68
	SCC2B	1.000	-	-	-	10.02
	SCC3	0.400	-	5.250	-	8.68
	SCC4	0.400	-	0.302	-	6.68
	SCC5A	0.400	-	3.142	-	12.02
	SCC5B	0.400	-	3.142	-	6.68
	SCC7A	1.000	-	0.081	-	13.36
	SCC7B	1.000	-	0.081	-	13.36
	SCC7D	0.400	-	0.081	-	6.68
	SCC8	0.400	-	-	-	6.68
	SCC9	0.400	-	-	-	6.68
Surf clam - Filled Venus shell	BYA1	0.200	-	-	-	15.36
	BYA2	0.200	-	-	-	15.36
	BYA3	0.200	-	-	-	15.36
	BYA4	0.200	-	-	-	15.36
	BYA5	0.200	-	-	-	15.36
	BYA7	1.800	133.32	2.053	-	15.36
	BYA8	0.200	-	-	-	15.36
	BYA9	0.200	-	-	-	15.36
Surf Clam - Ringed Dosinia	DAN1	1.400	-	-	-	17.36
	DAN2	3.600	66.72	-	-	150.68
	DAN3	0.800	-	-	-	17.36
	DAN4	0.200	-	-	-	15.36
	DAN5	0.200	-	-	-	15.36
	DAN7	3.000	80.04	0.851	-	187.34
	DAN8	6.600	72.72	-	-	90.08
	DAN9	6.600	72.72	-	-	90.08
Surf Clam - Silky Dosinia	DSU1	0.200	-	-	-	15.36
	DSU2	0.200	-	-	-	15.36
	DSU3	0.200	-	-	-	15.36

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	DSU4	0.200	-	-	-		15.36
	DSU5	0.200	-	-	-		15.36
	DSU7	0.200	-	0.932	-		15.36
	DSU8	0.200	-	-	-		15.36
	DSU9	0.200	-	-	-		15.36
Surf Clam - Trough shell	MDI1	0.200	-	-	-		12.69
	MDI2	0.200	-	-	-		12.69
	MDI3	0.200	-	-	-		12.69
	MDI4	0.200	-	-	-		12.69
	MDI5	2.800	-	-	-		25.38
	MDI7	5.200	46.20	0.982	-		134.35
	MDI8	5.400	44.40	-	-		114.30
	MDI9	5.400	44.40	-	-		114.30
Surf Clam - Large trough shell	MMI1	0.400	-	-	-		12.69
	MMI2	0.600	-	-	-		12.69
	MMI3	8.800	27.24	-	-		22.70
	MMI4	0.200	-	-	-		12.69
	MMI5	0.200	-	-	-		12.69
	MMI7	12.200	19.68	1.920	-		81.43
	MMI8	5.000	-	-	-		22.70
	MMI9	5.000	-	-	-		22.70
Surf Clam - Deepwater tuatua	PDO1	0.200	-	-	-		12.69
	PDO2	1.000	-	-	-		12.69
	PDO3	21.600	11.16	-	-		64.27
	PDO4	0.200	-	-	-		12.69
	PDO5	0.200	-	-	-		12.69
	PDO7	10.000	24.00	0.722	-		42.07
	PDO8	0.200	-	-	-		12.69
	PDO9	0.200	-	-	-		12.69
Surf Clam - Triangle shell	SAE1	1.800	-	-	-		22.70
	SAE2	0.200	-	-	-		12.69
	SAE3	52.800	13.68	-	-		52.62
	SAE4	0.200	-	-	-		12.69

	SAE5	0.600	-	-	-	12.69
	SAE7	22.400	10.68	0.331	-	63.55
	SAE8	1.600	-	-	-	22.70
	SAE9	1.600	-	-	-	22.70
	<u>Inshore Total</u>	492.457				
	-					
	<u>Deepwater</u>					
	Red Crab					
	CHC1	2.000	120.00	-	-	74.79
	CHC2	2.000	120.00	-	-	74.79
	CHC3	0.800	-	-	-	38.73
	CHC4	0.800	-	-	-	38.73
	CHC5	0.800	-	-	-	22.04
	CHC7	0.800	-	-	-	22.04
	CHC8	0.800	-	-	-	22.04
	CHC9	0.800	-	-	-	22.04
	King Crab					
	KIC1	2.000	120.00	-	-	41.40
	KIC2	2.000	120.00	-	-	74.79
	KIC3	2.000	120.00	-	-	74.79
	KIC4	2.000	120.00	-	-	74.79
	KIC5	2.000	120.00	-	-	74.79
	KIC7	2.000	120.00	-	-	41.40
	KIC8	2.000	120.00	-	-	24.71
	KIC9	2.000	120.00	-	-	24.71
	-					
	-					
	<u>Deepwater Total</u>	24.800				
	-					
	<u>Deepwater FMA6 only</u>					
	Red Crab					
	CHC6	0.800	-	-	-	23.37
	Giant spider Crab					
	GSC6A	29.600	64.92	0.07	-	206.83
	GSC6B	47.400	65.88	0.07	-	174.73
	Horse Mussel					
	HOR6	0.200	-	-	-	5.34
	King Crab					
	KIC6	2.000	120.00	0.59	-	73.45
	Southern blue whiting					
	SBW6A	328.000	10.92	0.43	1.18	45.87
	SBW6B	700.000	1.08	0.91	1.18	32.98
	SBW6I	5000.000	57.24	1.81	5.10	40.77

	SBW6R	1100.000	13.80	0.23	1.18	39.09
Sea Cucumber	SCC6	0.000	-	-	-	0.00
<u>Deepwater FMA6 only Total</u>		7208.000		-		
<u>Freshwater</u>						
<u>Te Waihora eel</u>	ANG13	24.386	68.88	18.01		460.86
<u>Freshwater Total</u>		24.386				
-						

APPENDIX 2

DEED OF WAIVER AND INDEMNITY

DATED the _____ day of _____ 2005

BY: (insert name) (1)*, the recognised iwi organisation for (insert Iwi) (2)*(the "RIO")

RECITALS:

- A. Te Ohu Kai Moana Trustee Limited ("Te Ohu") is a statutory body established pursuant to the Maori Fisheries Act 2004 (the "Act").
- B. Te Ohu holds quota shares against which it has registered settlement quota interests ("settlement quota").
- C. Under the Act Te Ohu is required to offer the annual catch entitlement derived from the settlement quota (the "ACE") to the recognised iwi organisation ("RIO") or mandated iwi organisation ("MIO") of each Iwi.
- D. Te Ohu is empowered to set the terms and conditions for offering the ACE.
- E. The terms and conditions set by Te Ohu for offering the ACE for the fishing years commencing on 1 February 2005 and 1 April 2005 were specified in a Panui from Te Ohu, dated 4 February 2005 (the "Panui").
- F. As a condition of participating in the distribution of the ACE for the fishing years commencing on 1 February 2005 and 1 April 2005 (the "ACE Round") Te Ohu requires the RIO to agree to the terms and conditions recorded in this Deed.

IT IS AGREED:

- 1. The RIO agrees and acknowledges that:
 - (a) the ACE is being made available on the terms and conditions set out in the Panui;
 - (b) the RIO shall comply with, and be bound by, the terms and conditions set out in the Panui;
 - (c) the ACE received by or on behalf of the RIO as a result of the ACE Round shall not bind, compromise, advantage, disadvantage, create an expectation or operate as a precedent for either Te Ohu, the RIO, the iwi and/or any MIO subsequently established to represent the Iwi in relation to any future dealing between Te Ohu and the RIO, the Iwi and/or any MIO subsequently established to represent the Iwi, including the future availability of ACE or the future allocation and transfer of quota shares by or from Te Ohu; and
 - (d) the ACE received by or on behalf of the RIO as a result of the ACE Round shall be **WITHOUT PREJUDICE** to the entitlement of the RIO, the iwi and/or any MIO subsequently established to represent the Iwi to any future ACE or the future allocation and transfer of settlement quota by Te Ohu.
- 2. The RIO further agrees and acknowledges that any claim or entitlement that it or the Iwi and/or any MIO subsequently established to represent the Iwi may have in respect of the ACE Round is fully satisfied by the receipt of the ACE that Te Ohu offers to the RIO under

the ACE Round and the RIO hereby unconditionally waives any further claim or right against Te Ohu in relation to the ACE Round.

3. In consideration of Te Ohu's offer to sell ACE to the RIO in the ACE Round, the RIO hereby guarantees to Te Ohu that:
 - (a) it represents all members of the Iwi specified in **Schedule 1** of this Deed (the "Iwi");
 - (b) it has duly appointed the MA Representative to act as its agent () in respect of any ACE that Te Ohu offers to sell to the RIO in respect of the ACE Round;
 - (c) the Management Area Representative identified in **Schedule 2** (the "MA Representative") shall comply with the terms and conditions set out in the Panui; and
 - (d) the MA Representative shall act on behalf of the RIO only in respect of the management areas referred to in **Schedule 3**.

 4. In consideration of Te Ohu's offer to sell ACE to the RIO in the ACE Round, the RIO hereby agrees to indemnify and hold harmless Te Ohu and its representatives against any and all liabilities, losses, costs, damages, cross-claims or proceedings (whether monetary or otherwise and whether based in equity or law) incurred by or commenced against Te Ohu in relation to or arising from:
 - (a) any breach of this Deed or the terms and conditions specified in the Panui by the RIO or any subsequent purchaser or transferee of the ACE under any subsequent sale or transfer agreement;
 - (b) Te Ohu transferring the ACE to the RIO or its MA Representative that are caused, commenced or contributed to by the RIO or its MA Representative and/or their beneficiaries, members, successors or assignees and/or any beneficiary or member of the Iwi and/or any MIO subsequently established to represent the Iwi;
 - (c) any claim by any person (or body) that that person (or body) is the duly authorised representative of the RIO all or any of the Iwi; and
 - (d) the subsequent use or distribution of the ACE or any proceeds or benefits derived from the ACE.

 5. The RIO shall co-operate in good faith with Te Ohu in respect of the ACE Round. Without limiting the generality of this obligation, the RIO shall if requested provide to Te Ohu evidence of the matters guaranteed in clause 2 of this Deed.
- [*Note: numbers in brackets and bold type in this Deed correspond with numbers in the explanation sheet attached. When completing the deed you should refer to the explanation sheet in order to avoid the need to have deeds corrected or re-executed.]*

SCHEDULE 1
(The Iwi which the RIO represents)

(2)

SCHEDULE 2
(Full name of the person or organisation acting as the Management Area Representative)

(3)

SCHEDULE 3
(Relevant Management Area(s))

(4)

EXECUTED AS A DEED on the date referred to above.

The common seal of)
(5))
)
)
was hereunto affixed in)
the presence of:)

EXPLANATION SHEET

[NB: This is not part of the Deed. It is an explanation of how to complete the Deed]

- (1) Insert the full name of the RIO that is signing this deed.**

- (2) Insert the names of ALL Iwi the RIO represents in respect of the MAs referred to in Schedule 3.**

- (3) Insert the full name of the person or organisation acting as the MA Representative.**

Note: We expect that this will be a legal entity (such as a company, incorporated society, charitable trust or Maori Trust Board) rather than an individual. The principal reason for this is that individuals who act as MA Representative and enter into these deeds will be personally liable for the performance of the promises in the deed.

- (4) Insert the relevant Management Areas.**

- (5) As with (1) above, insert the full name of the RIO.**

Note: The RIO entering into this deed should sign under seal following the procedures set out in either the organisation's rules or, if applicable, the Act under which the organisation is created. Organisations such as partnerships may not use a seal in which case the usual partnership rules for entering into deeds will apply.

DEED OF INDEMNITY

DATED the day of 2005

BY: **(1)***

(“the Management Area (MA) Representative”)

WHEREAS

- A. Te Ohu Kai Moana Trustee Limited (“Te Ohu”) is a statutory body established pursuant to the Maori Fisheries Act 2004 (the “Act”).
- B. Te Ohu holds quota shares against which it has registered settlement quota interests (“settlement quota”).
- C. Under the Act Te Ohu is required to offer the annual catch entitlement derived from the settlement quota (the “ACE”) to the recognised iwi organisation (“RIO”) or mandated iwi organisation (“MIO”) of each Iwi.
- D. Te Ohu has invited RIOs and MIOs to participate in a distribution of ACE for the fishing years commencing on 1 February 2005 and 1 April 2005 (“the ACE Round”) on the terms and conditions specified in a panui from Te Ohu, dated 4 February 2005 (“the Panui”).
- E. The Recognised Iwi Organisation(s) referred to in **Part A of Schedule 1** (“the RIO(s)”) have territory within the management areas specified in **Schedule 2** (“the MAs”).
- F. The Iwi referred to in **Part B of Schedule 1** (the “Iwi”) are represented by the RIO(s).
- G. The RIO(s) have appointed the MA Representative to act as the agent of the RIO(s) in connection with the ACE Round as it applies to the MAs and, if required, to receive ACE that the RIO(s) may be offered under the ACE Round.
- H. As a condition of Te Ohu dealing with the MA Representative as agent for the RIO(s) in the ACE Round, Te Ohu requires the MA Representative to agree to the terms and conditions recorded in this Deed.

IT IS AGREED:

- 1. The MA Representative agrees and acknowledges that:
 - (a) ACE is being made available on the terms and conditions set out in the Panui;
 - (b) the MA Representative shall comply with, and be bound by, the terms and conditions set out in the Panui;
 - (c) the MA Representative will procure the compliance of the RIO(s) with the terms and conditions set out in the Panui;
 - (d) the ACE received by or on behalf of the RIO(s) as a result of the ACE Round shall not bind, compromise, advantage, disadvantage, create an expectation or operate as a precedent for either Te Ohu, the RIO(s), the iwi and/or any MIOs subsequently established to represent the Iwi in relation to any future dealing between Te Ohu and the RIO(s), the Iwi and/or any MIO subsequently established to represent the Iwi,

including the future availability of ACE or the future allocation and transfer of quota shares by or from Te Ohu; and

- (e) the ACE received or accepted by the MA Representative by or on behalf of the RIO(s) as a result of the ACE Round shall be **WITHOUT PREJUDICE** to the entitlement of the RIO(s), the Iwi and/or any MIO subsequently established to represent the Iwi to any future ACE or to allocation and transfer of quota shares by Te Ohu.

2. In consideration of the RIO(s) being invited to participate in the ACE Round through the MA Representative, the MA Representative hereby warrants to Te Ohu that:

- (a) The Iwi have territory within the MA;
- (b) The RIO(s) have been duly appointed to represent the Iwi in relation to the ACE Round; and
- (c) The RIO(s) have duly appointed the MA Representative to act as its/their agent for the ACE Round and, if required, to receive ACE that the Iwi may be offered by Te Ohu under the ACE Round.

3. In further consideration of the RIO(s) being invited to participate in the ACE Round, the MA Representative hereby agrees to indemnify and hold harmless Te Ohu and its representatives against any and all liabilities, losses, costs, damages, cross-claims or proceedings (whether monetary or otherwise and whether based in equity or law) incurred by or commenced against Te Ohu in relation to or arising from:

- (a) any breach of this Deed or the terms and conditions specified in the Panui by the MA Representative or its employees, agents, successors or assigns;
- (b) any claim by any person that the Iwi do not have territory within the MAs;
- (c) any claim by any person that the RIO(s) have not been duly appointed or do not properly represent their respective Iwi;
- (d) any defect or alleged defect in the appointment of the MA Representative as agent for the RIO(s) (or any of them); and
- (e) the subsequent use or distribution of either the ACE or any proceeds or benefits derived from the ACE.

4. If requested, the MA Representative shall provide Te Ohu with satisfactory evidence of its appointment as agent for the RIO(s).

*[*Note: numbers in brackets and bold type in this Deed correspond with numbers in the explanation sheet attached. When completing the deed you should refer to the explanation sheet. This will help avoid the need to have deeds corrected or re-executed.]*

SCHEDULE 1

PART A

(All Iwi the Management Area Representative has been appointed to represent)

(2)

PART B

(Names of the RIO(s) which represent the Iwi Referred to in Part A)

(3)

SCHEDULE 2

(Relevant Management Areas(s))

(4)

SCHEDULE 3

(Name, address and QRN number of person/organisation to whom the ACE is to be transferred)

(5)

EXECUTED AS A DEED on the date referred to above.

The common seal of)
(6))
)
)
was hereunto affixed in)
the presence of:)

EXPLANATION SHEET

[NB: This is not part of the deed. It is an explanation of how to complete the deed]

- (1) **Insert the full name of the person or organisation that will be acting as the MA Representative.**

Note: We expect that this will be a legal entity (such as a company, incorporated society, charitable trust or Maori Trust Board) rather than an individual. The principal reason for this is that individuals who act as MA Representative(s) and enter into these deeds will be personally liable for the performance of the promises in the deed.

- (2) **Insert the names of ALL Iwi the MA Representative has been appointed to represent in respect of the MA(s) referred to in Schedule 2.**

- (3) **Insert the names of the RIO(s) (i.e. Trust Boards or Runanga etc) which represent the Iwi referred to in Part A of Schedule 1.**

- (4) **Insert the relevant MA(s).**

- (5) **Insert name, address and QRN number of person/organisation to whom the ACE transfer documents are to be made out. These will be the details for the MA Representative.**

- (6) **As with (1) above, insert the full name of the person or organisation acting as the MA Representative.**

Note: If the MA Representative entering into this deed is legal entity, it should sign under seal following the procedures set out in either the organisation's rules or, if applicable, the Act under which the organisation is created. Organisations such as partnerships may not use a seal in which case the usual partnership rules for entering into deeds will apply. If the MA Representative entering into the deed is an individual then he or she should just sign their own name and this should be witnessed. Again, the witness should also write down their occupation and their address.