

TE OHU KAIMOANA



2015 REVIEW OF THE MĀORI FISHERIES SETTLEMENT STRUCTURES

What is the 2015 Review about?

The Māori Fisheries Act 2004 includes provision for an independent review of the structures that were agreed under the allocation model. It is also referred to as the 11-year Review or the 2015 Review.

Who undertook the review?

The 2015 Review was undertaken by Wellington barrister Tim Castle, who was appointed by a Committee of Representatives. The CoR was itself appointed by iwi organisations through an Electoral College (Te Kawai Taumata) under the Act. Te Kawai Taumata appoints directors to Te Ohu Kai Moana Trustee Limited.

What is under review?

The four entities under review are:

- **Te Ohu Kai Moana Trustee Limited**, the corporate trustee of Te Ohu Kai Moana Trust, which holds the assets of the Māori Fisheries Settlement between Māori and the Crown on behalf of Māori until they are distributed to Mandated Iwi Organisations as prescribed by the Act;
- **Aotearoa Fisheries Limited**, the commercial entity of the Settlement structures,
- The corporate trustee of **Te Pūtea Whakatupu Trust**, which was established to promote Māori education initiatives, training and research,
- The corporate trustee of **Te Wai Māori Trust**, which supports iwi initiatives in the protection and enhancement of freshwater fisheries initiatives through funding research, development and education initiatives, and
- **Te Kawai Taumata**, which appoints directors to Te Ohu Kai Moana Trustee Limited on behalf of 57 iwi organisations.

What is the scope of the 2015 Review?

The Review was to explore the effect of the governance arrangements under the Act as they relate to the performance of the entities in achieving their duties and functions, their abilities to deliver benefits to the beneficiaries and contribute to achieving the purposes of the Act. The Review was also to look at the effect of the restrictions on the disposal of settlement assets as they relate to the ability of Mandated Iwi Organisations (and their asset-holding companies and subsidiaries of the asset-holding companies) to deliver benefits to the members of their iwi; and Aotearoa Fisheries Limited to deliver benefits to its income shareholders.

What does the 2015 Review recommend?

The major recommendations in the 2015 Review are:

- All income shares in Aotearoa Fisheries Limited owned by Te Ohu Kai Moana Trustee Limited are to be divided up between Mandated Iwi Organisations (MIOs),
- All voting shares in Aotearoa Fisheries Limited held by Te Ohu Kai Moana Trustee Limited are to be divided up between the MIOs,
- Te Ohu Kai Moana Trustee Limited is wound up, and its assets distributed to MIOs,
- Iwi can decide whether they wish to establish a “TOKM-type” entity to provide the services (fisheries management advisory) like those that are currently provided by Te Ohu but these would need to be paid for by iwi, perhaps through an annual levy,
- Pūtea Whakatupu and Wai Māori are stand-alone entities with their own appointment processes and admin, and
- Increase in the number of directors on Pūtea Whakatupu

How are the voting and income shares in AFL split?

AFL ownership is structured through a mix of voting and income shares. Te Ohu Kaimoana holds all of the voting shares on behalf of Māori and 20 percent of the income shares. The remaining 80 percent of the income shares are spread over all iwi organisations. AFL owns and operates fishing and aquaculture enterprises including Moana Pacific Fisheries, Pacific Marine Farms, Prepared Foods, and the 50 percent shareholding in Sealord Group Limited with Japanese seafood company Nippon Suisan Kaisha, Limited.

What is the role of the Committee of Representatives and what does it do now?

Under the Act, the CoR has three tasks:

- Agree a terms of reference for the 2015 Review,
- Appoint a Reviewer, and
- Distribute the 2015 Review to Mandated Iwi Organisations and Recognised Iwi Organisations.

These tasks have now been completed and the Committee has discharged its obligations under the Act.

What happens now that the 2015 Review is published?

Te Ohu Kaimoana is expected to provide within 40 working days to iwi organisations the actions it intends to take as a result of the Review’s recommendations. It is also required to convene a Special General Meeting within 60 working days of the 2015 Review being published. At that SGM, Mandated Iwi Organisations will have the opportunity to discuss the recommendations and vote on them. The recommendations require the support of more than 75 percent of iwi to go forward.

What is the purpose of the hui to be held with iwi before the SGM?

To facilitate iwi understanding of the recommendations, Te Ohu Kaimoana will hold up to 10 hui nationwide. These will begin as soon as practicable. The hui will assist Te Ohu Kaimoana in formulating its response to the 2015 Review within the 40 working day timeframe as required by the Act.

When will the SGM be held?

The SGM will require being held before 8 June 2015. Further details will be made available in due course.

What does Te Ohu Kaimoana currently do?

Te Ohu Kaimoana has a number of functions. It is tasked with allocating the Māori Fisheries Settlement to Mandated Iwi Organisations, and that work is almost complete with all but two iwi having received their share of the Settlement. Te Ohu Kaimoana has distributed Māori Fisheries Settlement Assets to iwi worth almost \$550 million over the last 10 years.

It was noted in the development of the method of allocation of the Fisheries Settlement that few iwi can earn enough from their share to be able to employ their own specialists in fisheries management. Those few cannot have a national coverage. In part, Te Ohu's role was to provide those specialist fisheries management advisory services on behalf of iwi.

Te Ohu maintains a role in appointing directors to AFL, although the Review recommends that this responsibility could lie directly with the 57 iwi organisations.

Since 2002, Te Ohu Kaimoana has provided an elite fisheries scholarship for Māori to spend a year in Japan working at global fishing company Nippon Suisan Kaisha, Limited (Nissui), which has a 50 percent shareholding in Sealord Group with AFL.

Does the Review mean that Te Ohu Kaimoana will no longer exist?

That is one of the recommendations. It will be up to iwi to decide whether the services provided by Te Ohu Kaimoana are necessary and important to ensure its continued operation. The recommendations in the 2015 Review require more than 75 percent of iwi support in order to go ahead.

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