

AUGUST 2002



TREATY OF WAITANGI  
FISHERIES COMMISSION

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# Ahu Whakamua

THE TREATY OF WAITANGI FISHERIES SETTLEMENT

# WHAT IT MEANS for YOU

**Summarising the Report for Agreement**

on the Allocation of Assets and Distribution of Benefits of the Treaty of Waitangi Fisheries Settlement



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“ Iwi will be responsible for ensuring benefits from the Fisheries Settlement are delivered to their members ”

# Introduction

The Treaty of Waitangi  
fisheries settlement  
concerns each  
and every one of  
US AS MAORI

**The Treaty of Waitangi Fisheries Settlement (Fisheries Settlement) concerns each and every one of us as Maori.**

This publication explains how assets from the Fisheries Settlement are to go to Iwi and how the benefits from those assets are to be distributed to you.

This is a summary of the more detailed *Ahu Whakamua – Report for Agreement* document released by the Treaty of Waitangi Fisheries Commission (Commission) and is intended to give only an overview of the Commission’s proposals for allocation that are fully outlined in that document.

The Commission believes these proposals are the best method for allocation of the Fisheries Settlement.

The proposals will see significant fisheries assets allocated to your Iwi and the creation of a company that will singularly hold the largest amount of fisheries assets in New Zealand. This company – Aotearoa Fisheries Limited (AFL) – will be wholly Maori owned and able to compete domestically and internationally in the competitive seafood industry.

Through this booklet, and *Ahu Whakamua – Report for Agreement*, the Commission seeks your support for implementing these proposals. You can signal your support by contacting us directly or through your Iwi. You can also signal your support through our interactive website at [www.tokm.co.nz](http://www.tokm.co.nz)

For full information on the Commission’s proposed method of allocation of the Fisheries Settlement to Iwi, please consult the Commission’s report *Ahu Whakamua – Report for Agreement*.

A copy of *Ahu Whakamua – Report for Agreement* and any additional information can be obtained from the Commission.

## **The Treaty of Waitangi Fisheries Commission**

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PO Box 3277

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Thorndon, Wellington

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**PHONE:** 04 499 5199

---

**FAX:** 04 499 5190

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**EMAIL:** [allocation@tokm.co.nz](mailto:allocation@tokm.co.nz)

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**WEB:** [www.tokm.co.nz](http://www.tokm.co.nz)

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\$20 million will be put aside to provide an annual fund for all Maori, particularly those who cannot find their Iwi or do not associate with their Iwi



### How did the Fisheries Settlement come about?

The Fisheries Settlement resulted from Maori challenges to the Government's attempts in 1986 to establish the Quota Management System (QMS) to manage and conserve Aotearoa's commercial fisheries.

The initial concept of the QMS did not take into account Maori fishing rights secured and guaranteed under the Treaty of Waitangi and was in direct conflict with the evidence being presented at the time to the Waitangi Tribunal by Muriwhenua and Ngai Tahu Iwi.

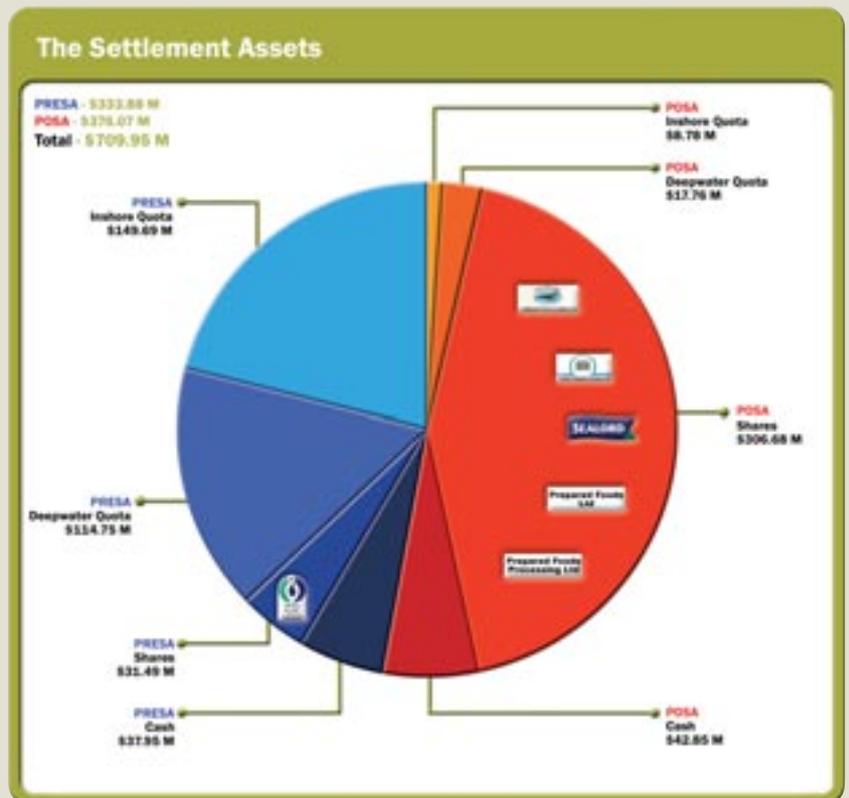
In 1989, the Crown and Maori – through representatives of four Maori groups (Ngai Tahu, Muriwhenua, Tainui and the New Zealand Maori Council) – reached an interim agreement that allowed for the QMS to be fully implemented.

That agreement allowed for Maori to receive 10% of all fishstocks introduced into the QMS. It also provided for \$10 million cash. These assets are generally referred to as Pre-Settlement Assets or PRESA.

In 1992, with the impending sale of Sealord Products Limited in Nelson, the Crown and Maori agreed to a final settlement – "The Sealord Deal". That final agreement allowed for Maori to receive 20% of any new fishery introduced into the QMS and \$150 million cash, which enabled the purchase of a 50% share in Sealord Products Limited in Nelson. These assets are generally referred to as Post-Settlement Assets or POSA.

The Fisheries Settlement with the Crown was a pan-tribal settlement to be delivered through tribal mechanisms. As a result of the Settlement, Maori fully and finally settled all further claims to marine and freshwater commercial fisheries under the Treaty of Waitangi.

Ownership of the Fisheries Settlement is currently vested with the Commission. It is the job of the Commission to propose a method for these assets or the benefits derived from them to be returned to Iwi, ultimately for the benefit of all Maori.



Once it has reached a satisfactory level of agreement among Iwi and reported to the Minister of Fisheries, the Commission is empowered to allocate the PRESA assets to Iwi. In relation to POSA assets, some of which will be allocated to Iwi and others retained centrally with benefits distributed, an allocation method will be implemented through a new Maori Fisheries Act, which has been proposed by the Commission.

### How much is the Fisheries Settlement worth?

Since receipt of the assets from the interim Settlement in 1989 and the final Fisheries Settlement in 1992, the Commission has grown the assets at a rate of 8.8% per year compounding and they are now worth over \$700 million.

For many Iwi, especially those who have yet to settle land claims, the Fisheries Settlement will represent the first significant set of assets they will receive through the Treaty of Waitangi claims settlement process with the Crown.



### **To what extent today are Maori involved in New Zealand's fishing industry?**

In the 10 years since the final settlement with the Crown, the Commission has grown Maori's involvement within the industry. From owning almost none of New Zealand's commercial fishing industry, today Maori own or control about one third (33%) of the industry.

This is achieved through owning quota, which will be allocated under proposals in this booklet, and through significant investment in fishing companies. Those companies are:

- Sealord Group,
- Moana Pacific Fisheries,
- Prepared Foods,
- Chatham Processing, and
- Pacific Marine Farms

All of these companies are active in the fishing industry. Under the proposals in this booklet, these investments will be centralised under the umbrella of Aotearoa Fisheries Limited with benefit streams flowing to Iwi and ultimately all Maori.

### **How can I benefit from the Fisheries Settlement?**

The Fisheries Settlement is ultimately for the benefit of all Maori.

You can benefit through your Iwi or you can benefit through a \$20 million fund (called the Putea Trust) that will be put aside for Maori, particularly those who cannot find their Iwi or do not associate with their Iwi. All Maori will have the opportunity to apply to the Putea Trust for assistance from this fund.

Of the assets Iwi receive, some may use the fisheries quota and cash to grow their own fishing enterprises, and provide employment and business opportunities. Some may want to use the funds for other growth opportunities. Others may provide scholarships or grants.

There are a number of ways that you can benefit from the Fisheries Settlement through your Iwi – but you need to register with them. Iwi registers will play an important role in ensuring Iwi members can have access to benefits from the Fisheries Settlement, and enabling Iwi members to participate in elections. Iwi membership is determined through whakapapa and cannot be withheld from you.

Even if you don't live in the rohe of your Iwi, you can still participate in choosing the people who will look after this Settlement because those registered with their Iwi will be able to participate in regular elections. The Commission has also established important representation and structural requirements for Iwi organisations that will assist in ensuring ongoing accountability to Iwi members.

Registers will also help Iwi keep their members informed about what they're doing with the assets, how they intend to provide for their members and the election process.

But they can't do that without knowing who you are and where you live. Your participation is required.

Remember, a putea will be available for Maori who cannot find their Iwi or who choose not to associate with their Iwi. The Putea Trust will be a discretionary charitable trust with the power to distribute income to all Maori for a wide range of purposes relating both directly and indirectly to fishing and fisheries.

If you want help to find your Iwi, the Commission has set up the Iwi Helpline. All you need to do is call 0800 11 97 22 to receive information and assistance.

*it is the job of the commission to propose a method for these assets or the benefits derived from them to be handed to iwi, ultimately for the benefit of all maori.*



### What will my Iwi receive?

From 1 October 2003, your Iwi may be eligible to receive fishing quota and cash when it meets certain requirements. It will also receive income shares in Aotearoa Fisheries Limited. These income shares will entitle your Iwi to a percentage of the profits from this company that must be paid out as dividends.

The size of the Fisheries Settlement your Iwi will receive will be determined by two principal things:

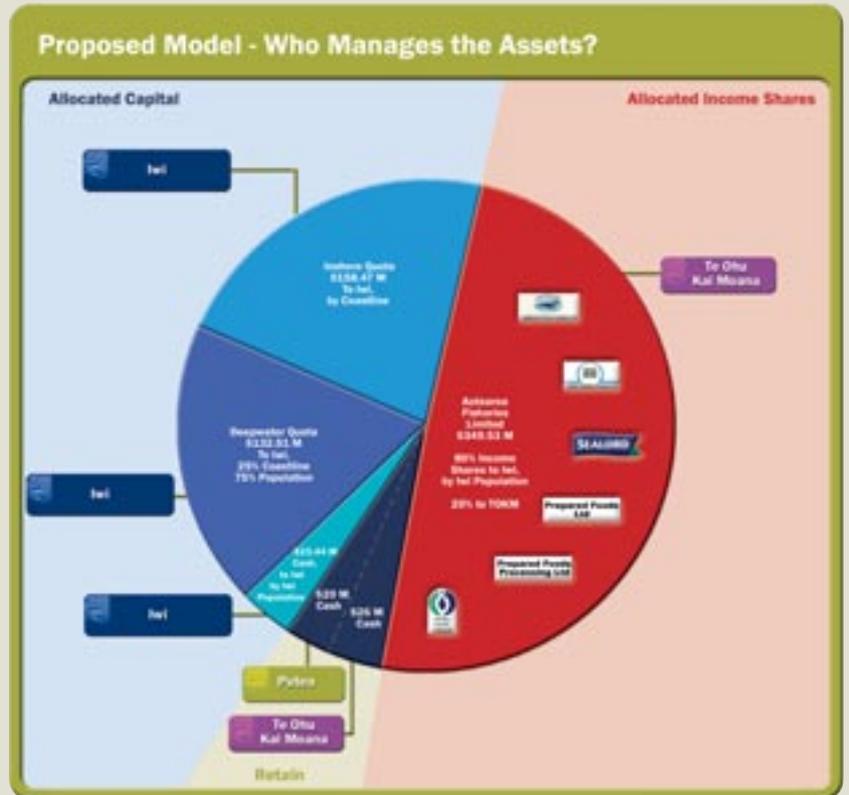
- The size of your Iwi's population as determined by the 2001 Census, and
- The length of your Iwi's coastline.

Fishing quota will be allocated to Iwi on a coastline basis for inshore fisheries and on a mixed population and coastline basis for deepwater fisheries. The Commission is also allocating cash to Iwi on a population basis. That is, the size of your Iwi's population will determine your Iwi's share of the available cash. Certain other cash will, with the agreement of your Iwi, be set aside for the Putea Trust and other development initiatives for all Maori.

The income shares in Aotearoa Fisheries Limited will also be allocated to Iwi on the basis of population.

### Here's how *Ahu Whakamua* works:

- All Inshore Quota is to be allocated to Iwi through a coastline formula. Inshore Quota is defined as fishstocks caught at depths down to 300 metres;
- All Deepwater Quota is to be allocated to Iwi through a 75 % Iwi population: 25% Iwi Coastline formula. Deepwater Quota is defined as those fishstocks caught at depths greater than 300 metres;
- Shares in Moana Pacific Fisheries Limited will be exchanged for fair market value with cash from POSA. This cash will then be among the cash that is either being allocated using a 100% Iwi population formula or being used for other fisheries purposes;
- Of the PRESA cash held by the Commission, approximately \$20.7 million is to be allocated to Iwi using a population formula. The balance will, with the agreement of your Iwi, be distributed in the following ways:



- \$20 million is set aside in a Putea Trust,
  - \$2.8 million will provide for a minimum allocation of \$1 million from the Settlement to each Iwi;
  - \$10 million for a fisheries development fund, the purposes of which will include research for customary, marine, aquaculture and freshwater fisheries; and
  - \$16 million to fund transition programmes.
- All shares (including Moana Pacific Fisheries Limited) and the remaining POSA cash will be held in a company – Aotearoa Fisheries Limited. The company will issue income shares – 80% of these will go to Iwi and 20% held in an organisation called Te Ohu Kai Moana. The number of shares going to individual Iwi will be based on the Iwi population in the 2001 Census. The company will be required to pay a dividend of 40% Net Profit After Tax to owners of those income shares.



Fishing quota will be allocated to Iwi on a coastline basis for inshore fisheries and on a mixed population and coastline basis for deepwater fisheries



- Chatham Islands Iwi will be allocated quota on the basis of a separate fishery for a 200 mile zone around the Chathams and all Inshore Quota in that zone is allocated to the Chathams. All Deepwater Quota within this zone is allocated 50% to the Chathams and 50% on a population basis.
- Commercial Freshwater Fisheries were also settled through the Fisheries Settlement. This has been recognised by the Commission in several ways:
  - For those freshwater species introduced into the Quota Management System (expected only to be eels as this point) the quota received will be allocated to Iwi within the Quota Management Areas based on each Iwi receiving Maori's share of what has been historically caught in its rohe by commercial fishers;
  - A contestable fisheries development fund to assist with the restoration of freshwater fisheries, among other things;
  - A freshwater fisheries working group to work with Iwi and hapu involved in initiatives on freshwater fisheries;
  - Greater weighting to "population" in the allocation formula.
- Representative Iwi organisations must have agreement on coastlines and meet minimum constitutional and structural requirements before they are eligible to receive their share of allocated assets and distributed benefits from the Fisheries Settlement. (The Commission's constitutional and structural requirements can be found in *He Tohu Arahi – a guide to representation on Iwi organisations*, which can be obtained from the Commission.)

PRESA \$232.88 M		ASSETS	WHAT	WHO TO	FORMULA
	Inshore Quota \$148.69 Million		Allocate Capital	Iwi	Coastline
	Deepwater Quota \$123.79 Million		Allocate Capital	Iwi	25% Coastline 75% Population
	Shares \$21.49 Million		Transfer for POFA cash becomes part of Aotearoa Fisheries Limited Add to PRESA cash		
	Cash \$37.91 Million		Allocate some	Iwi	Iwi Population
			Hold some for Putea and Transition	TOKM, Other, Putea Trust	
POFA \$226.81 M		ASSETS	WHAT	WHO TO	FORMULA
	Inshore Quota \$9.79 Million		Allocate Capital	Iwi	Coastline
	Deepwater Quota \$127.76 Million		Allocate Capital	Iwi	25% Coastline 75% Population
	Shares \$106.69 Million		Part of Aotearoa Fisheries Limited Allocate Income Shares	Iwi TOKM	Iwi Population
	Cash \$142.85 Million		Purchase PRESA shares, remainder in Aotearoa Fisheries Limited Allocate Income Shares	Iwi TOKM	Iwi Population
Common Features PRESA, POFA					
	Chatham Islands		Special fishery zone; all inshore and deepwater fisheries in this zone	Chatham Island Iwi Chatham Island Iwi Iwi	Inshore by Coastline Deepwater 50% Coastline 50% Population Agreement between Iwi at its discretion
	Freshwater Fisheries		Species into QMS Research funds from Fisheries Development Fund for restoration and development Working Group to coordinate action	Iwi	By application By consultation
	Putea		Putea to develop Maori human capital	All Maori	By application
	Minimum Settlement		Allocation of \$1 Million assets through quota, cash and income shares	Six Iwi	Top up allocation from PRESA cash; from initial \$125M from Crown

Conditions applying to Iwi before they can receive either PRESA or POFA			
Right of First Refusal	Mechanism to retain Treaty assets within Maori	To Oho Kai Moana and Iwi	Iwi quota and income shares not used to and offered only to To Oho Kai Moana and Iwi
Constitutions	Participation possible for all members	Iwi	
Structures	Separation of governance from management	Iwi	
Coastline Agreements	Agreement with neighbouring Iwi	Iwi	Agreed distance or shares of fishery



### What is meant by “Coastline” and “Population”?

The Commission will use the agreed **coastline** of an Iwi to determine that Iwi’s share of the inshore fisheries quota. For example, if the coastline of your Iwi is 25% of a particular Quota Management Area (QMA) in New Zealand’s Quota Management System (QMS), then your Iwi receives 25% of the inshore fishstock quota held by the Commission in that particular area.

The **population** formula is determined by the number of people who affiliate to a particular Iwi. For example, if your Iwi makes up 5% of the total Iwi affiliate population, your Iwi will receive 5% of the asset distributed on the basis of population. That includes cash, part of the deepwater quota and income shares in Aotearoa Fisheries Limited.

Population is calculated through the 2001 Census, which took into account the fact that some Maori affiliate to more than one Iwi.

### How will the Treaty of Waitangi Fisheries Commission look in the future under these proposals?

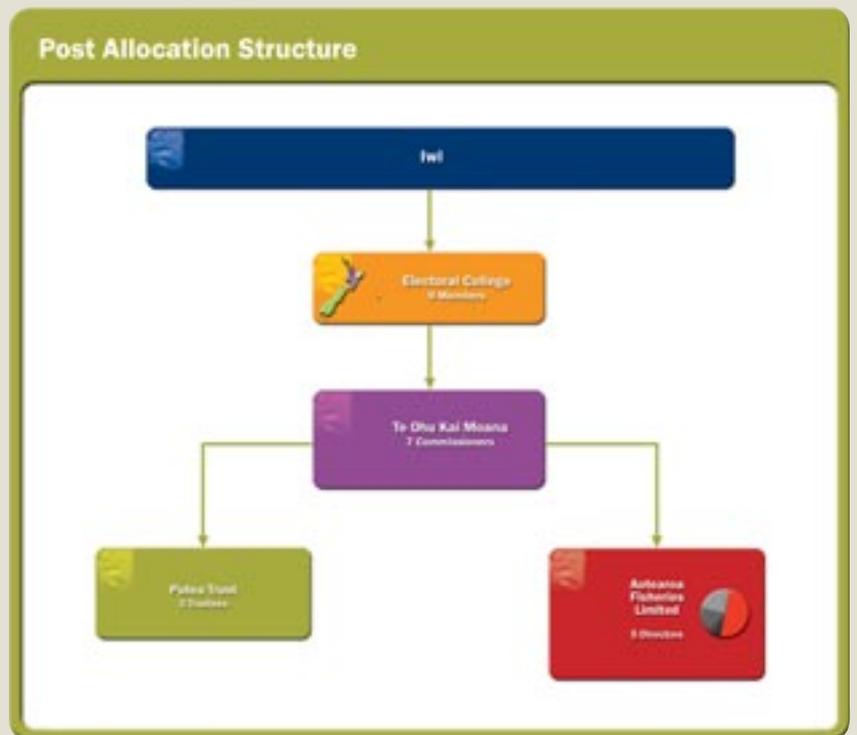
The Commission as it is known today will no longer exist. A number of new organisations will be created. They are:

- An “Electoral College”,
- Te Ohu Kai Moana,
- Aotearoa Fisheries Limited, and
- The Putea Trust.

The Electoral College will contain nine Maori people who will have the sole function of appointing the Commissioners to Te Ohu Kai Moana.

Te Ohu Kai Moana will have seven commissioners, whose function will be to appoint directors to AFL and trustees to the Putea Trust, among other obligations.

Aotearoa Fisheries Limited (AFL) will be a commercial operation, aimed at providing a vehicle for Maori to increase their presence and influence within New Zealand’s fishing industry and to provide a platform for Maori fishing interests to grow on a global basis.

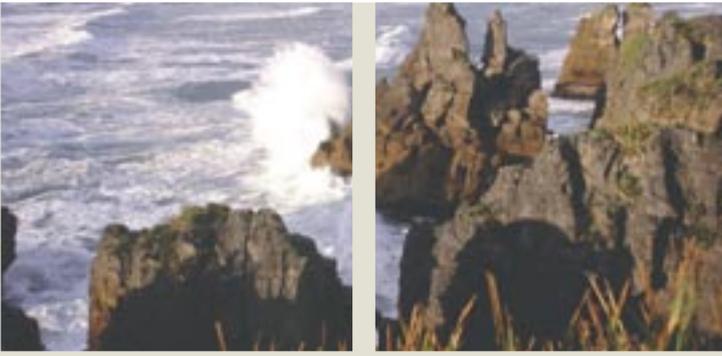


The Putea Trust will have three trustees, whose job will be to assess all applications for assistance. The Putea Trust will give assistance to Maori particularly those who do not know their Iwi, have not yet identified their Iwi or do not wish to associate with their Iwi.

### The Electoral College

The nine-member Electoral College will be divided into eight regional groups and each group will appoint one member to the Electoral College. Iwi organisations within each group will work together to appoint their member to the Electoral College. (Nga Puhi in Northland has the sole right to choose one member of the Electoral College because of the large number of Maori who affiliate to that Iwi as determined by the 2001 Census.)

One member of the Electoral College will be appointed by a group comprising recognised representative Maori organisations, such as the urban Maori authorities.



AFL will be the largest holder of fisheries assets in New Zealand – owned by Maori through Te Ohu Kai Moana



### What will be the role of Te Ohu Kai Moana?

Te Ohu Kai Moana will replace the present Treaty of Waitangi Fisheries Commission and will have a range of functions.

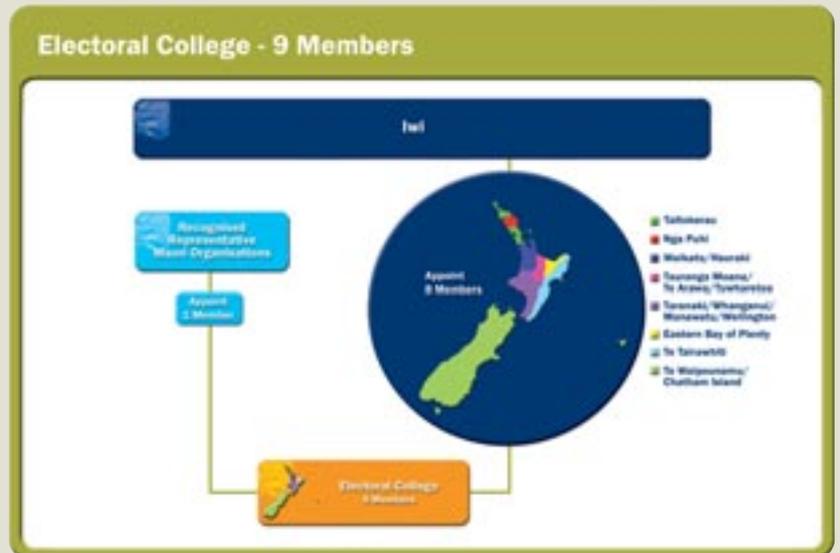
Te Ohu Kai Moana will

- Participate in commercial fisheries management;
- Assist with the implementation of customary fisheries management;
- Foster, promote and fund research and development in relation to Maori development, particularly in fisheries;
- Develop fisheries and fishing-related policy for Maori;
- Receive and allocate quota for new fish species brought into the QMS, as agreed through the 1992 Sealord Deal;
- Manage assets on behalf of Iwi, either on a transitional basis until representation requirements are satisfied or with the agreement of any Iwi which does not want to manage its own assets. (Where an Iwi does not meet the current representation requirements Te Ohu Kai Moana would hold those assets until the Iwi satisfies the representation requirements);
- Act in a governance capacity for Aotearoa Fisheries Limited and the Putea Trust, and
- Facilitate, develop and fund the education, skills and experience of Maori relevant to the business or activity of fishing

Te Ohu Kai Moana Commissioners will be bound by their duties to further the interests of all Maori in fisheries and fishing. Te Ohu Kai Moana Commissioners will appoint the five directors of AFL and the three trustees of the Putea Trust.

### What is Aotearoa Fisheries Limited?

Aotearoa Fisheries Limited (AFL) will be a commercial operation, aimed at providing a vehicle for Maori to increase their presence and influence within



New Zealand's fishing industry and to provide a platform for Maori fishing interests to grow on a global basis. As well as the objective of managing and growing the investments, AFL will pay dividends to Iwi from the annual profits.

AFL will be the largest holder of fisheries assets in New Zealand – owned by Maori through Te Ohu Kai Moana. The company will have two types of shares: *voting shares* and *income shares*.

Te Ohu Kai Moana will hold all of the *voting shares* and will have the usual full shareholder powers. It will not be able to dispose of these shares.

Eighty percent (80%) of the *income shares* will be allocated to Iwi on the basis of the 2001 Census population figures. The remaining 20% will be held by Te Ohu Kai Moana. *Income shares* in AFL will entitle Iwi to a share of the annual dividends from the company.

### What is the Putea Trust?

The Putea Trust will be a discretionary charitable trust with power to distribute income to any Maori or Maori organisation for the purposes of increasing the range of skilled and qualified Maori able to participate in all levels of the industry. It will have an endowment of \$20 million.

The Putea Trust will have three trustees, who will be appointed by Te Ohu Kai Moana Commissioners.



### Why is this the best way of allocating the Fisheries Settlement?

The proposals in this booklet have come about through extensive consultation with Iwi and interested Maori parties. These proposals are

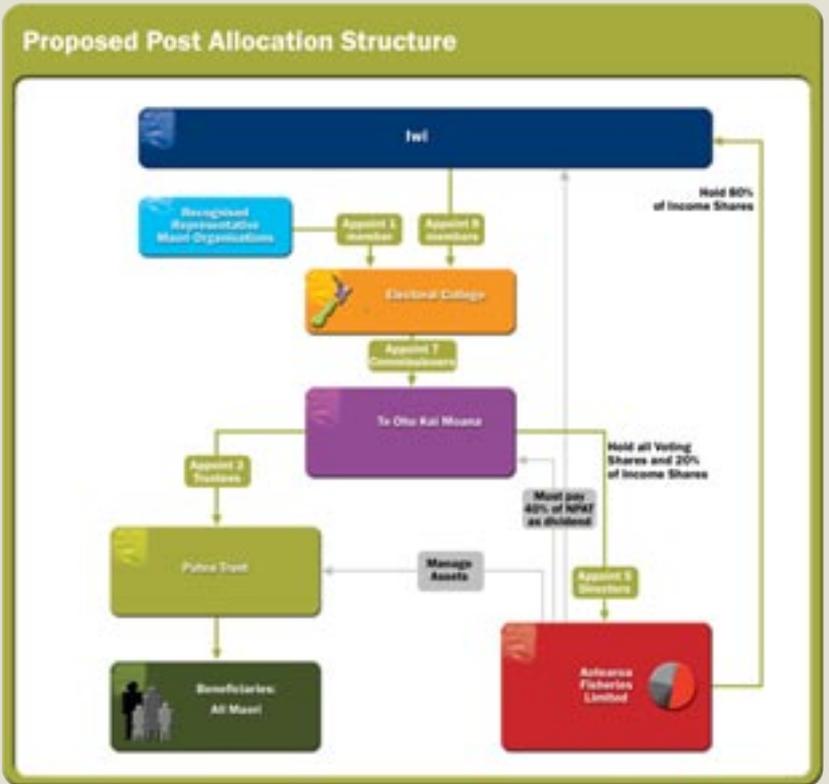
- Consistent with the legal obligations of the Commission;
- Feasible, and can be implemented at reasonably low cost;
- Cohesive and enhance political and industry influence;
- Aimed at strengthening Iwi rangatiratanga by allocating all quota to Iwi;
- A positive basis for integrated fisheries management as all Inshore fisheries will rest with Iwi, enhancing their ability to coordinate commercial and customary fishing;
- Protection for ultimately ensuring benefits for all Maori, including urban Maori, and the retention of an asset base over time, without negating Iwi rangatiratanga, and
- Likely to enhance economic benefits, as a result of more capital leverage and improved economies of scale where these are significant.

### What happens now?

The Commission will seek agreement from Iwi and interested parties about these proposals. The next year will be a developmental year as the new Maori Fisheries legislation goes through the Parliamentary process and the Commission develops and seeks agreement for the Trust Deeds for Te Ohu Kai Moana, Aotearoa Fisheries Limited, the Electoral College and the Putea Trust.

The Commission will also work with your Iwi to assist them in their roles as quota owners. Iwi will have a role to play as they work to refine their own constitutions, set up appropriate structures, obtain coastline agreements and institute registers of Iwi members to help provide for them.

It is intended that, subject to meeting all legal and other requirements and there being no further litigation, allocation of assets will begin from 1 October 2003.



### What do I have to do now?

This booklet is to inform you of how the Commission proposes to allocate the Fisheries Settlement.

You can signal your support by contacting –

- Your Iwi,
- The Commission, or
- Visiting our interactive website at [www.tokm.co.nz](http://www.tokm.co.nz)

### The Treaty of Waitangi Fisheries Commission

PO Box 3277

Thorndon, Wellington

PHONE: 04 499 5199

FAX: 04 499 5190

EMAIL: [allocation@tokm.co.nz](mailto:allocation@tokm.co.nz)

WEB: [www.tokm.co.nz](http://www.tokm.co.nz)





Treaty of Waitangi Fisheries Commission

Level 4, Hitachi House

48 Mulgrave St

Thorndon

P O Box 3277

Thorndon, Wellington

New Zealand

**TELEPHONE:** 64-4-499 5199

**FACSIMILE:** 64-4-499 5190

**WEBSITE:** [www.tokm.co.nz](http://www.tokm.co.nz)

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