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APPENDIX 1



TE WAI MAORI TRUSTEE LIMITED SELF ASSESSMENT SUBMISSION

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SUBMISSION

1. The purpose of this submission is to provide a self - assessment of performance to the auditors on Te Wai Maori Trustee Limited's (Wai Maori's) progress against its objectives. The assessment of performance is specific to section 108 and section 111 subsection (2) and Wai Maori's strategic and annual plans.

ESTABLISHMENT OF TE WAI MAORI TRUST

2. Te Wai Maori Trust and its corporate trustee Te Wai Maori Trustee Limited were established pursuant to the Maori Fisheries Act 2004 under sections 92 and 93 respectively on 2 March 2005.

PURPOSE OF TE WAI MAORI TRUST

3. Section 94 of the Maori Fisheries Act states that:

"The purpose of Te Wai Maori Trust is to hold and manage the trust funds on trust for and on behalf of the beneficiaries under the Deed of Settlement, in order to advance Maori interests in freshwater fisheries, but not in a manner that could adversely affect the charitable status (if any) of the Trust."

DISTRIBUTIONS OF TRUST INCOME

4. Section 98 states:

(1) The directors of Te Wai Maori Trustee Limited may make distributions to Maori, mandated iwi organisations, and other Maori organisations for the purpose of Te Wai Maori Trust, subject to any conditions provided for by the trusts deed.

(2) Before making a distribution, the directors must take into account the extent to which –

- a. a proposal will assist in co-ordinating and consolidating the activities of the recipients with the activities of agencies involved in freshwater fisheries and habitat management; and*
- b. a proposal provides a model that is able to be applied by the groups referred to in subsection (1); and*
- c. the activities proposed to be undertaken with the distribution are being undertaken by other mandated iwi organisations or agencies; and*
- d. the functions of Te Wai Maori Trustee Limited are being undertaken by other agencies.*

FUNDING THE TRUST

5. Section 103 (1), (2), & (3) requires Te Ohu Kaimoana to capitalise Wai Maori with a payment of \$10 million no later than 31 October 2009. After this payment Te Ohu Kaimoana must continue to pay not less than \$1m per annum until Wai Maori has received the total capital sum of \$20 million. The trust can not expend or distribute any of this capital.

6. In the meantime Te Ohu Kaimoana funds (up to the date in which the initial \$10 million is transferred to Wai Maori) the activities of the trust in accordance with its approved annual plans. Section 137 (1) (e) (iii) provides for up to \$2m to fund these activities.

AUDIT

7. Section 105 (1)(d) of the Maori Fisheries Act 2004 (MFA) states that Te Wai Maori Trustee Limited must arrange for an audit of Te Wai Maori Trustee Limited. This audit must commence before the end of the 2007/2008 financial year.
8. To enable Te Wai Maori Trustee Limited to carry out the purpose of Te Wai Maori Trust, under section 96 (1) (d), the trust deed provides for the directors to commission an audit of Te Wai Maori Trustee Limited under section 105. Section 107 provides the criteria for the appointment of a person to conduct the audit.
9. At the 30 April 2008 board meeting, directors approved the procedure and process of this audit and understood that it was their responsibility that no later than 40 working days after receiving an audit report Wai Maori must:
 - prepare a response plan specifying the actions it intends to take to address the findings and recommendation of the audit report, and
 - provide Te Ohu Kaimoana with a copy of the response plan.
10. In addition to responding to the audit report, Wai Maori must include in the next annual report a description of the progress it has made in addressing the matters specified in the response plan.
11. Section 108 states:

An audit conducted under section 105 or section 106 must consider and report, in relation to the entity being audited, on -:

 - a. *its objectives established by the board of directors; and*
 - b. *the extent that those objectives are consistent with the effective implementation of its duties and functions under the MFA; and*
 - c. *progress made by the board of directors towards achieving the objectives; and*
 - d. *the policies and strategies established by the board of directors to achieve the objectives and perform the duties and functions of the board and its directors; and*
 - e. *the effectiveness of the policies and strategies referred to above; and*
 - f. *the quality and timeliness of the reporting documents prepared to meet the reporting obligations under the MFA or another enactment.*
12. Section 111(2) states:

In the case of Te Wai Maori Trustee Limited, an audit must consider and report on the contribution that Te Wai Maori Trustee Limited has made in advancing the interests of Maori in freshwater fisheries.

THE OBJECTIVES OF WAI MAORI

GENERAL SCOPE OF AUDIT (SECTION 108): An audit conducted under section 105 or section 106 must consider and report, in relation to the entity being audited, on –

A. THE OBJECTIVES ESTABLISHED BY THE BOARD OF DIRECTORS OF THE ENTITY

13. On 2 March 2005, Wai Maori took on dual roles of developing a realistic work programme while also establishing themselves as a trust. The first Wai Maori annual plan for the 2005 – 2006 financial year, determined that they would focus on collating information on Maori and iwi interests in freshwater fisheries and developing an understanding of the freshwater environment.
14. An environmental scan was commissioned that provided the impetus to develop a strategic plan before the commencement of the next financial year. This consisted of regional consultation hui with iwi and Maori to seek views on the future direction of Wai Maori. During the hui, Wai Maori recognised iwi and Maori's desire to reassert their mana over their freshwater fisheries and to exercise effective kaitiakitanga over species of significance.
15. The strategic plan was implemented in 2006 – 2007 and contained four high level strategic objectives in pursuit of the purpose to advance Maori interests in freshwater fisheries.
16. These objectives are:

Habitat Protection and Native Species Enhancement

17. This objective is focussed on promoting the protection and enhancement of freshwater fisheries habitat in lakes, rivers, and other water bodies, particularly those that have traditionally supported iwi and whose shores have been the location of their marae. This functional area also focuses on the development of strategies to advance Maori customary and commercial interest in key native species.

Strategic Objectives	Outputs to be achieved by September 2008
Iwi freshwater management plans	A working template for iwi to write their own rohe-specific freshwater management plans developed.
Habitat sustainability	A freshwater fisheries national strategy developed
Advance iwi role in managing and controlling habitats	Generic information on key habitat improvement strategies developed.
Improve customary take	Work actively to increase Maori customary take
Eel, koura and freshwater habitat research	Report annually to iwi and Maori on the status of research funded.

Research and Education

18. This area focuses on gathering and disseminating a range of information to iwi and Maori on freshwater fisheries-related issues. This includes undertaking or funding research and education related to Maori interests in freshwater fishing.

Strategic Objectives	Outputs to be achieved by September 2008
Wai Maori acts as a repository for existing research reports	Research reports on habitat issues and freshwater species collated
Ensure that intellectual property and customary practices held by iwi are protected	Protocols to protect knowledge at the appropriate levels developed

Clarify statutes and regulations affecting Maori activity in freshwater fisheries	Information on the legislation and compliance regimes available
Enhance relationships with major research organisations	Formal and informal links with NIWA and Cawthron are strengthened
Freshwater fisheries and management training established	Training programmes in conjunction with iwi piloted and reviewed

Strategic Relationships

19. This area focuses on the development of key communication strategies with iwi to enhance knowledge sharing. This area also focuses on the development of strategic relationships with agencies that have responsibility for freshwater fisheries and key funding organisations.

Strategic Objectives	Outputs achieved by September 2008
Establish effective Wai Maori communications strategies to enhance inter-iwi knowledge sharing and collaboration	Use a range of communication methods including annual regional hui with iwi representatives and user-friendly information on key freshwater fisheries issues for iwi and stakeholders
Develop positive working relationships between Wai Maori and key project-funding organisations	Funding processes for freshwater projects refined
Facilitate effective relationships between iwi and agencies so that iwi have a greater role in decision making on management of freshwater habitats	Memorandum of Understanding (MoUs) process developed to manage freshwater habitats
Create relationships with other stakeholders to manage freshwater fisheries	Arrive at agreements with stakeholders

Governance and Management

20. Focused on ensuring that directors are aware of their fiduciary duties as described in the trust deed and constitution. This functional area will also focus on the development and implementation of an internal system for the efficient operation of Wai Maori and to ensure a smooth transition once the capitalisation of the Trust's fund occurs.

Strategic Objectives	Outputs to be achieved by September 2008
Directors have a comprehensive understanding of their fiduciary duties	Annual board assessment operating successfully
Implement an internal system to meet the efficient running of Wai Maori	Robust management information systems implemented

21. The objectives within the 2006-2007 and 2007-2008 annual plans aligned with these high level strategic objectives.

THE DUTIES AND FUNCTIONS OF WAI MAORI

B. THE EXTENT TO WHICH THOSE OBJECTIVES ARE CONSISTENT WITH THE EFFECTIVE IMPLEMENTATION OF THE DUTIES AND FUNCTIONS OF THE ENTITY UNDER THIS ACT OR ANY OTHER ENACTMENT

22. Section 95 states:

In achieving the purpose of Te Wai Maori Trust, Te Wai Maori Trustee Limited must –

- a. manage the trust funds; and*
- b. distribute the annual trust income for activities that include –*
 - i. undertaking or funding research, development, and education related to Maori interests in freshwater fishing; and*
 - ii. promoting the protection and enhancement of freshwater fisheries habitat in lakes, rivers, and other water bodies, particularly those that have traditionally supported iwi and whose shores have been the location of their marae; and*
 - iii. promoting the establishment of freshwater fisheries; and*
 - iv. using its resources to bring direct or indirect benefit to Maori in respect of their freshwater fishing interests.*

Habitat Protection and Native Species Enhancement

23. Habitat protection and native species enhancement is a key strategic objective for Wai Maori. This objective aligns with function (ii) of Wai Maori which is to promote the protection and enhancement of freshwater fisheries habitat in lakes, rivers, and other water bodies, particularly those that have traditionally supported iwi and whose shores have been the location of their marae.

24. To achieve this strategic objective, the focus is the development of plans and strategies for the protection and enhancement of freshwater fisheries habitats and to advance Maori customary, non-commercial customary and commercial interests in native species.

Research and Education

25. The work completed in this strategic objective aligns with function (i) of Wai Maori. It focuses on gathering and disseminating a range of information to iwi and Maori on freshwater fisheries related issues by granting annual research and development grants for freshwater, freshwater fisheries and the freshwater environment; and contributing to training in freshwater management for iwi and Maori.

Strategic Relationships

26. The purpose of this strategic objective is to develop and implement an effective communication strategy for Wai Maori and create strategic relationships with agencies and key funding organisations that have responsibility for freshwater fisheries.

27. Aligned with function (iv), Wai Maori uses its resources to bring direct and indirect benefit to Maori by working with a range of organisations and iwi groups to advance Maori interests in freshwater fisheries.

Governance and Management

28. This objective is to ensure that directors are aware of their fiduciary duties as described in the Wai Maori trust deed and constitution. The intent of this objective is the development and implementation of an internal system for the efficient operation of the trust and to ensure a smooth transition once the capitalisation of the Trust's fund occurs.

Additional Comments

29. Although Wai Maori has not been involved in promoting the establishment of freshwater fisheries to date (function iii) any projects to establish freshwater fisheries in the future, would be completed under the first strategic objective – habitat protection and enhancement.

PROGRESS AGAINST OBJECTIVES

C. THE PROGRESS MADE BY THE BOARD OF DIRECTORS TOWARDS ACHIEVING THE OBJECTIVES

30. Detailed in the following tables are the achievements of Wai Maori within each strategic objective established by the Wai Maori board.

Habitat Protection and Native Species Enhancement

Strategic objective and Output to be achieved by Sept 2008	Comment
Iwi freshwater management plans – A working template for iwi to write their own rohe-specific freshwater management plans developed.	Partially achieved. A guide has been prepared to provide advice to iwi and hapu about how they might prepare and implement iwi management plans that effectively promote freshwater interests and thereby contribute to the protection and enhancement of freshwater fisheries. A working template has not yet been developed.
Habitat sustainability – A freshwater fisheries national strategy developed	Partially achieved. This strategy described the concept of habitat sustainability, identifies the threats to freshwater fish habitat and proposes actions to address those threats. It was developed to help iwi prioritise their efforts in seeking to protect and enhance freshwater fisheries. Completed. In 2007 - 2008 this objective was expanded to include freshwater. A discussion paper was completed and distributed to iwi and Maori that discussed the significance of freshwater to iwi and Maori and describe the present state of freshwater management in New Zealand. The paper also identifies key strategic areas for iwi and Maori for their own discussions on freshwater.
Advance iwi role in managing and controlling habitats – Generic information on key habitat improvement strategies developed.	Not completed.
Improve customary take – Work actively to increase Maori customary take	Not completed.
Eel, koura and freshwater habitat research – Report annually to iwi and Maori on the status of research funded.	Achieved. In 2006 - 2007 five projects were funded that will directly benefit whanau, hapu and iwi. The projects funded were: <i>Ngapuhi Fisheries Limited</i> - The development of a comprehensive tuna management framework for Te Tai Tokerau. The research aims to empower Ngapuhi to better manage, protect and enhance their eel fishery. <i>Lake Whakaki Trust</i> – Examination of the ecosystems that make up the food resources for the fish and bird population of the Whakaki Lake Wetlands. <i>Te Ururangi Whanau Ahu Whenua Trust</i> - Focussed on researching the feasibility of establishing a tuna farm at Pungarehu Marae. The research will begin to prioritise for

	<p>whanau and hapu what will be the benefits of the establishment of a farm and will contribute to building capacity and capability for beneficiaries.</p> <p><i>Poukawa Lake Trust</i> - contribute further to the knowledge base of whanau and hapu that already manage the Lake. Trustees want further research to ensure long term sustainability of the lake for the eel stocks.</p> <p><i>Te Aitanga a Mahaki</i> - Contributes to a wider project on the restoration of the mauri to Waipaoa River.</p>
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Additional Comments

31. The eel, koura and freshwater habitat research was assessed against a series of criteria. These criteria were developed after discussion with the Foundation for Research, Science and Technology. The primary outcomes of the research were to:

- promote the protection and enhancement of freshwater fisheries;
- promote the protection and enhancement of the freshwater fisheries environment; and
- promote the establishment of freshwater fisheries.

32. The criteria for research proposals were:

- Benefits to Maori with freshwater interests

The research needed to advance Maori interests in freshwater fisheries including customary (commercial and non commercial) interests. The research will directly benefit whanau, hapu and iwi with aspirations in the freshwater environment.

The research proposal also requires support from one or more Mandated Iwi Organisation (MIO). The support from the MIO could be demonstrated by:

- providing financial assistance; or
 - the production of a letter of support if the research is completed by Hapu or whanau members; or
 - the sighting of an official agreement between the MIO and researcher that outlines the relationship.
- Research quality

The research builds on or continues previous research and/or may contribute to a wider research programme involving other agencies/researchers. The research does not duplicate past, current or proposed research by other providers.
- Transferability and applicability

The outcome of the research will be applicable for whanau, hapu and iwi in other rohe and can contribute to a broadening of Maori knowledge on freshwater fisheries restoration, protection, management and/or development.
- Contribution to research and knowledge

The research strengthens the breadth, depth and geographic distribution of knowledge on freshwater fisheries amongst iwi and Maori. The research builds on work in progress and can stimulate further interest and involvement beyond the scope of initial research.

33. Each criterion was assessed on a percentage basis with higher weighting given to priority criteria. A cumulative score for the proposed research was calculated for each of the assessment criteria.

Criterion	Weighting
Benefit to Maori	40%
Research quality	30%
Transferability and applicability	20%
Contribution to research and knowledge	10%

34. Based on this weighting system the Wai Maori board determined how the trust fund would be distributed.
35. In 2007 – 2008 the eel, koura and freshwater habitat research was moved into the more appropriate strategic focus area, research and education to align with the purpose of access to research and information and function (i) of undertaking or funding research.
36. While the freshwater iwi management paper and the habitat sustainability strategy were completed to the highest standard they still need to consider a Maori perspective on freshwater issues. In particular the habitat sustainability strategy requires the identification of priorities in freshwater fisheries for iwi and Maori.
37. In 2007 – 2008 the focus was on the completion of the freshwater discussion document as freshwater wananga participants provided the mandate for Wai Maori to develop a guiding document that scopes iwi and Maori future in freshwater.

Research and Education

Strategic Objectives and output to be achieved by September 2008	Comment
Wai Maori acts as a repository for existing research reports – Research reports on habitat issues and freshwater species collated	Achieved. The database has been created and is based on the Wai Maori website. Currently, it is waiting to be populated by completed freshwater research projects.
Ensure that intellectual property and customary practices held by iwi are protected – Protocols to protect knowledge at the appropriate levels developed	Achieved When this output was agreed in 2006 Wai Maori was concerned that iwi working with CRI's could relinquish their intellectual property/customary knowledge to CRI's. Anecdotal evidence collated by directors and staff since that time have confirmed that most iwi that work with external providers now have a clause within their contract that discusses IP usage.

Clarify statutes and regulations affecting Maori activity in freshwater fisheries - Information on the legislation and compliance regimes available	Achieved. This guide provides an overview of the wide range of acts and regulations that are relevant to the management of freshwater.
Enhance relationships with major research organisations – Formal and informal links with NIWA and Cawthron are strengthened	Achieved. Wai Maori has established relationships with NIWA in particular in relation to freshwater and eels.
Freshwater fisheries and management training established – Training programmes in conjunction with iwi piloted and reviewed	Achieved. Wai Maori collaborated with the Seafood Industry Training Organisation (SITO) to provide freshwater fisheries training with accredited training providers that specialise in customary fishing to undertake the delivery and assessment of this training. In 2006 – 2007, there were 33 graduates. Wai Maori Chair attended the graduation on 17 May 2008 at Motakotako Marae. In 2007 – 2008, the arrangement with SITO will continue and Wai Maori will provide freshwater fisheries training.
Eel, koura and freshwater habitat research – Report annually to iwi and Maori on the status of research funded.	Achieved. In 2007/2008 six projects have been funded. These include: <i>Te Runanga o Ngaiterangi</i> - The focus of this research is to examine the impact of rapid urbanisation on freshwater fisheries in Tauranga Moana <i>Te Runanga o Ngati Manawa</i> - The aim of this project is for Ngati Manawa to develop and manage their freshwater fisheries <i>Te Roopu Taiao o Utakura</i> - The purpose of the project is to gather information on the freshwater fishery in the Utakura River. The research will document the oral history of the river as well as the current state of the fishery and the aspirations of the Utakura community. <i>Waimariri o Whatitiri Marae Trust</i> - The focus of this research is the monitoring of surface and ground water which is under pressure by the increased use of bores along the Waipo River. <i>Waikato Raupatu Lands Trust</i> – The research aims to investigate both the toxicological and social impacts of blue-green algal blooms on the traditional harvest of puhī eels through the concentration of toxins observed in sample eels. <i>Synexe Consulting</i> - This research will enable Ngati Hori ki Kohupatiki to participate as kaitiaki of the Karamu Stream. Ngati Hori has indicated that their cultural values are dependent on the restoration of minimal flow levels.

Additional Comment*Freshwater Wananga*

38. Although not specific to any particular strategic goal within the strategic plan, an output included in the annual plan for 2007 – 2008 was the hosting of a freshwater wananga by Wai Maori.
39. The purpose of this wananga was an opportunity for iwi to discuss the state of the freshwater environment and freshwater fisheries for Maori and iwi. Discussions included; habitat restoration, power generation, irrigation, legislation relating to freshwater, and the significance of the freshwater resource for Maori and iwi.
40. As a result of the freshwater wananga, participants provided the mandate for Wai Maori to develop a guiding document that scopes iwi and Maori future in freshwater. Please find attached the paper '*Discussion on Freshwater – A Wai Maori Perspective*'

Eel, koura and freshwater habitat restoration

41. Similar to the 2006 – 2007, the proposals received for freshwater research were assessed against three criterions in 2007-2008. While only 3 criterion were used in this funding year, the board determined transferability and applicability and contribution to research and knowledge focussed on similar aspects therefore these two criterion were combined. In 2007 – 2008 research proposals were assessed against the following criteria:
- Benefit to Maori with freshwater interests; and
 - Research quality; and
 - Contribution to research and knowledge.
42. Each criterion was assessed on a percentage basis with higher weighting given to priority criteria. A cumulative score for the proposed research was calculated for each of the assessment criteria.

Criterion	Weighting
Benefit to Maori	60%
Research quality	30%
Contribution to research and knowledge	10%

43. Based on this weighting system the Wai Maori board determined how the trust fund would be distributed.

Strategic Relationships

Strategic Objectives and output to be achieved by September 2008	Comments
<p>Establish effective Wai Maori communications strategies to enhance inter-iwi knowledge sharing and collaboration –</p> <p>Use a range of communication methods including annual regional hui with iwi representatives and user-friendly information on key freshwater fisheries issues for iwi and stakeholders</p>	<p>Achieved. Wai Maori has established and maintained relationships with relevant agencies and has attended a number of fora relating to freshwater including; NIWA, Freshwater Fisheries Forum, the Ministry of Fisheries (MFish), and MFish's eel working group meetings.</p> <p>To ensure the effective and efficient dissemination of information, an independent Wai Maori website was developed and can be accessed at www.waimaori.maori.nz.</p>
<p>Develop positive working relationships between Wai Maori and key project-funding organisations –</p> <p>Funding processes for freshwater projects refined</p>	<p>Achieved. Refer to commentary above.</p>
<p>Facilitate effective relationships between iwi and agencies so that iwi have a greater role in decision making on management of freshwater habitats –</p> <p>Memorandum of Understanding (MoUs) process developed to manage freshwater habitats</p>	<p>Partially Achieved. As stated previously Wai Maori has created a number of relationships with iwi and agencies in relation to managing freshwater fisheries and freshwater habitats. Further work is required with both groups to determine whether the trust has a role in formalising relationships between the two groups.</p>
<p>Create relationships with other stakeholders to manage freshwater fisheries –</p> <p>Arrive at agreements with stakeholders</p>	<p>Partially Achieved. Please refer to comment above.</p>

Governance and Management

Strategic Objectives and output to be achieved by September 2008	Comments
<p>Directors have a comprehensive understanding of their fiduciary duties –</p> <p>Annual board assessment operating successfully</p>	<p>Achieved. Directors are fully aware of their fiduciary duties to the Trust.</p> <p>Wai Maori uses the annual planning, the annual reporting processes and feedback from its shareholder Te Ohu Kaimoana, to gauge its effectiveness.</p>
<p>Implement an internal system to meet the efficient running of Wai Maori -</p> <p>Robust management information systems implemented</p>	<p>Achieved. Wai Maori have in place a range of management systems to ensure the trust can operate effectively by using the management services of Te Ohu Kaimoana. These include:</p> <p>Executive management access;</p>

	Legal services; Admin services; HR services; Investment advice; and Financial services.
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POLICIES OF WAI MAORI

D. THE POLICIES AND STRATEGIES ESTABLISHED BY THE BOARD OF DIRECTORS TO ACHIEVE THE OBJECTIVES AND PERFORM THE DUTIES AND FUNCTIONS OF THE BOARD AND ITS DIRECTORS**E. THE EFFECTIVENESS OF THE POLICIES AND STRATEGIES REFERRED TO IN PARAGRAPH (D)**

Policy and/or decision making process			Comment
	Yes	No	
Travel and expenses policy	√		Effective. Policy developed in 2005 and approved by Wai Maori board in 2005.
Training and development policy	√		Effective. Key training and development identified by directors. and undertaken in 2008.
Investment policy	√		A SIPO has been developed and approved by Wai Maori. The Trust will continue to work closely with the Te Ohu Kaimoana and Breaker Bay Investments
Distribution policy – research and development		√	A process was developed to distribute trust funds for freshwater research. Refer to 108(c) above regarding performance and effectiveness
Sponsorship		√	A process has been developed for sponsorship. A policy is still to be designed
Documentation Management	√		Wai Maori has a centralised filing system within Te Ohu Kaimoana.

Te Ohu Kaimoana Trustee Limited responsibilities

44. Te Ohu Kai Moana is responsible for the following functions:

- a. Appointment of Directors
- b. Remuneration of Directors
- c. Appointment of Alternate Directors
- d. Approval of Annual Plans
- e. Approval of the six month and annual reports
- f. Managing Human Resources and office services that support the Trust.

Te Wai Maori has no employees. Managerial and support services are provided by Te Ohu Kaimoana.

REPORTING**F. THE QUALITY AND TIMELINESS OF THE REPORTING DOCUMENTS PREPARED TO MEET THE REPORTING OBLIGATIONS UNDER THIS ACT OR ANOTHER ENACTMENT**

Documents	Comments
Annual plans	Annual Plans as required by section 97 are provided to Te Ohu Kaimoana annually for approval.
Six monthly reports	Wai Maori provide six month reports to the board of Te Ohu Kaimoana on progress against activities and budget.
Annual audits	Completed through the Te Ohu Kaimoana Financial Division on behalf of Wai Maori at the end of each financial year
Annual reports	Reports are provided to Te Ohu Kaimoana within 4 months following the end of the previous financial year.
Monthly financial reports	Monthly financial reports are provided to Te Ohu Kaimoana against monthly and year to date budgets. These documents are provided to the Wai Maori board.
Annual General Meeting (AGM)	Wai Maori report to the board of Te Ohu Kaimoana and at the Te Ohu Kaimoana Hui A Tau every year.

RESPONSE TO SECTION 111 SUB SECTION (2)**SECTION 111****(2) IN THE CASE OF WAI MAORI TRUSTEE LIMITED, AN AUDIT MUST CONSIDER AND REPORT ON THE CONTRIBUTION THAT TE WAI MAORI TRUSTEE LIMITED HAS MADE IN ADVANCING THE INTERESTS OF MAORI IN FRESHWATER FISHERIES**

45. Te Wai Maori has been established for three years. Very early in its establishment, directors acknowledged:

- that there was limited information on freshwater fisheries, the habitat and the environment and;
- that iwi with strong freshwater fisheries interests in particular Te Arawa and Tuwharetoa had already made significant contribution to the protection of freshwater fisheries rights.

46. To address these two areas Wai Maori commissioned an environmental scan in 2006. This document provided an overview of the freshwater environment including; species protection, water quality, habitat degradation, freshwater and the freshwater fisheries management regime.

47. After the environmental scan was completed Wai Maori agreed that regional hui with all iwi and Maori that had strong interests in freshwater fisheries must be conducted to acknowledge the efforts of iwi and seek their feedback on the direction of Wai Maori. Those hui refined the range of activities that directors believe would be the best way forward to advance Maori interest in freshwater. These interests were defined as strategic objectives within the inaugural strategic plan and further defined in a range of activities in the subsequent annual plans for 2006 – 2007 and 2007 – 2008.

48. While not specific strategic objectives, the activities within each can be summarised as information and research and action research. These are discussed in more detail below.

Information and Research

49. Information research is about providing information on a range of plans, strategies and papers to inform iwi and Maori on the current issues in freshwater. For instance, the regime that manages both the freshwater environment and freshwater fisheries is complex. The initial attempt to provide clarity on the freshwater framework resulted in highlighting the complexity of the various regulations. It was difficult to delineate the roles and responsibilities of the various agencies. The final paper used species (eel, koura, and inanga) to describe the myriad of statutes and regulations governing freshwater fish and the freshwater environment.

50. In addition, information on the protection and enhancement of freshwater habitats was not readily available and there was a real need to provide good information to iwi and Maori on these issues. Consequently, Wai Maori developed a habitat strategy. This strategy provides a working definition on habitat sustainability and identifies threats to native species and habitat. To demonstrate possible options for managing or mitigating adverse effects, the paper provides possible solutions relating to koura, eel, and inanga.

51. A guide to the preparation of freshwater management plans has also been prepared. The guide provides advice to iwi and Maori about how they might prepare and implement iwi management plans that effectively promote freshwater

interests and thereby contribute to the protection and enhancement of freshwater fisheries.

52. Included in this was the development of a discussion paper on freshwater. This document serves as an over-arching discussion on freshwater by providing a historical and contemporary context for water ownership, use and management in New Zealand. There exists a plethora of issues that effect iwi and Maori interests in freshwater and this document attempts to provide options for iwi and Maori in their own discussions in freshwater.

Action Research

53. Action research was focussed on research and the implementation of training development of a range of plans, strategies and papers. The intention is that this would assist iwi and Maori to make informed decisions relating to the management of their freshwater species and freshwater fisheries.
54. This is demonstrated strongly in the distribution of trust funds for freshwater research. To date, approximately \$450,000 has been committed in two years for research and development. The purpose of the research is to assist iwi and Maori to achieve their freshwater aspirations and further advance Maori interests in freshwater. The investment ranges from wetland protection to the sustainability of eel stocks. The outcome of the research will be applicable for whanau, hapu and iwi and will contribute to a broadening of Maori knowledge on freshwater fisheries restoration, protection, management and/or development.
55. Wai Maori has an Memorandum of Understanding (MoU) with the Seafood Industry Training Organisation (SITO). The MoU is a collaboration in freshwater education, training and research. SITO provides accredited freshwater management training, specific to eels, to iwi and Maori. This culminates in a National Certificate in Seafood Maori (Customary Fishing Management). A key component of this qualification is for the candidates to put together a customary fisheries management plan that requires endorsement from the local hapu or iwi.
56. When developed the communication strategy identified in strategic objective III – Strategic Relationships – will ensure that all information including research and development, plans, reports and training opportunities will be readily available and communicated in an effective and efficient manner to iwi and Maori. Currently this information can be sourced on the website www.waimaori.maori.nz that hosts these papers and also includes a database that will hold all the freshwater research commissioned once completed.

TE WAI MAORI TRUSTEE LIMITED

Auditors comments 2008

1. Te Wai Maori Trust and its corporate trustee Te Wai Maori Trustee Limited (Te Wai) were established pursuant to the Maori Fisheries Act 2004 (the Act) under sections 92 and 93 respectively, on 2 March 2005.
2. Before commencing our audit in terms of sections 108 and 111 (2) of the Act we invited Te Wai to provide a self assessment (the assessment) as to its performance to date and more particularly the progress it has made in fulfilling its functions and duties under its strategic and annual plans. That assessment is attached as **(Appendix C)** and the comments in this report should be read in the context of that document.
3. No useful purpose would be served by repeating all the information contained therein but suffice to draw attention to the main purpose of Te Wai which is defined in section 94 of the Act;

“The purpose of Te Wai Maori Trust is to hold and manage the trust funds on trust for and on behalf of the beneficiaries under the Deed of Settlement, in order to advance Maori interests in freshwater fisheries, but not in a manner that could adversely affect the charitable status (if any) of the Trust.”
4. In accordance with its defined purpose the directors of Te Wai decided to focus on collating information on Maori and iwi interests in freshwater fisheries and developing an understanding of the freshwater environment. Thereafter, it implemented a strategic plan in 2006/07 which contained four high level strategic objectives. These objectives are:
 - a) Habitat Protection and Native Species Enhancement

This objective is focussed on promoting the protection and enhancement of freshwater fisheries habitat in lakes, rivers, and other water bodies, particularly those that have traditionally supported iwi and whose shores have been the location of their marae. This functional area also focuses on the development of strategies to advance Maori customary and commercial interest in key native species.

b) Research and Education

This area focuses on gathering and disseminating a range of information to iwi and Maori on freshwater fisheries-related issues. This includes undertaking or funding research and education related to Maori interests in freshwater fishing.

c) Strategic Relationships

This area focuses on the development of key communication strategies with iwi to enhance knowledge sharing. This area also focuses on the development of strategic relationships with agencies that have responsibility for freshwater fisheries and key funding organisations.

d) Governance and Management

Focused on ensuring that directors are aware of their fiduciary duties as described in the trust deed and constitution. This functional area will also focus on the development and implementation of an internal system for the efficient operation of Wai Maori and to ensure a smooth transition once the capitalisation of the Trust's fund occurs.

5. It is noted that these four high level objectives are an amalgam of 16 sub-objectives. Those 16 strategic sub-objectives and the outputs to be achieved by September 2008 are recorded at pages 5 and 6 of the assessment.
6. The current directors of Te Wai are Morrie Love (Chair), Prue Kapua and Ngahiwi Tomoana. We met with the Chair and TOKM staff on 12 August 2008. The Act specifically enjoins Te Wai to "...manage the trust funds...in order to advance Maori interests in freshwater fisheries..." That phrase is repeated on several occasions in the assessment. We note that prior to establishing a strategic plan Te Wai undertook regional consultation hui with iwi and Maori to seek views on its future direction. It recognised the desire of iwi and Maori to reassert their mana over their freshwater fisheries and to exercise kaitiakitanga over species of significance. Initially it seemed to us that the four high level strategic objectives did not accord with the expressed wishes of iwi and Maori since there appeared to be no clear definition of the term "Maori interests in freshwater fisheries". Prima facie the reassertion of mana and the effective exercise of kaitiakitanga appeared to be the primary Maori interest in freshwater fisheries. We were concerned at the lack of definition since, by circuitous reasoning, it would be impossible to fund something which was devoid of definition.

7. We sought the views of Te Wai and set out below an amalgamated and edited version of the response;
- 7a) *"We are still trying to determine what those interests are. While the purpose of the Act is to advance Māori interests in freshwater fisheries it became clear when we started to develop the strategic plan that amongst other things Māori were interested in the habitat, the issue of water quality, fish stocks and other matters. For example one group said they wanted to look after their river and they sought our advice as to how they could do that. On other occasions the eel fishery was a topic of discussion and obviously this was important to a number of groups.*
- 7b) *We are still trying to work out what we can do, but clearly we must do more research and try and work out what iwi expect of us. The Trust is still in the process of trying to work out how we can actually come to grips with the concept of tino rangatiratanga over waterways for example. We have already had one consultation hui with iwi groups around the country, but its probably time to go back again and find out where we fit in to the iwi scheme of things. We know for example that eels are a very important taonga for Māori, but we need to talk again with those who will be managing this particular taonga in the future because the management of that taonga raises issues like waterways, habitat and other matters. We are in an early phase at the moment and we are hoping, as we go through to the next strategic planning phase that we will be in a better position to offer more effective services to Māori. We only have one million dollars to utilise in operational costs and a range of other things but that is not much compared to the larger amounts other agencies can inject to the whole area of freshwater fisheries.*
- 7c) *As to what is meant by "Māori interests" you have to keep in mind that the interests of Māori in freshwater fisheries might vary from iwi to iwi and to some extent it might be a question of degree. In respect of the Whanganui River for example Māori are concerned that the right flows are maintained at key times. If there is insufficient flow because too much water is being diverted through the Rangipo scheme then you don't get recruitment at the mouth and that creates problems. With some iwi it's important they are able to put eel on the table on special occasions because this is so intertwined with their mana. On the East Coast for example, the Lake Whakaki Trust have done a huge amount of work developing the ecosystems that make up the food resources for the fish and bird population of the wetlands.*

7d) All these examples show that a lot of separate but intertwined components make up an interest in freshwater fisheries. The interests are difficult to define and often vary from iwi to iwi”

8. We are persuaded by the views recorded above. On reflection Te Wai finds itself in the position analogous to a person who is asked to describe a circular staircase without using one's hands. A definition under such circumstances is extraordinarily difficult even though the person to whom the question is directed has a very clear understanding as to what a circular staircase looks like. We accept that those involved in Te Wai know, for the moment, a Maori interest when they see one.
9. Although the term “Maori interests” is not defined with the precision we would have expected, nonetheless we are satisfied that the four high level strategic objectives adopted in 2006/07 are consistent with the effective implementation of the duties and functions of Te Wai under the Act (section 108(b)). Our expectation is that further research and consultation with iwi will ultimately result in an acceptable definition. The limited funding currently available will, problematically, remain at the same level following capitalisation in October 2009. That will necessarily result in Te Wai undertaking greater scrutiny of funding proposals, a task which is easier to resolve if all applicants and Te Wai have an agreed understanding of the ground rules.
10. As noted earlier the assessment lists the objectives/sub-objectives and the outputs to be achieved by September 2008. These, and comments thereon are listed at pages 9-15 inclusive. A self imposed “scorecard” ranging from “achieved” to “not completed” is attached to each sub objective. It should be noted that the sub-objectives at pages 9-15 have been further reduced to a series of “tasks” to be achieved by September 2008 numbering approximately 34 in total. Looked at in a broad sense it appears that of the several sub-objectives 11 have been achieved, 4 have been partially achieved, 2 not completed and 1 completed.
11. Our independent inquiries satisfy us that that scorecard is a fair and accurate assessment of the status of each objective/sub-objective during the audit review period and, accordingly, that Te Wai has properly responded to its obligations under section 108(c) of the Act.

12. We are required pursuant to sections 108(d) and (e) of the Act to report on the policies and strategies established by the board of directors to achieve the obligations and perform the duties and functions of the board and its directors and to comment on the effectiveness of those policies and strategies. There are six policies and strategies;
 - a) Travel and expenses policy;
 - b) Training and development policy;
 - c) Investment policy;
 - d) Distribution policy/research and development;
 - e) Sponsorship;
 - f) Documentation management.
13. Comment on the effectiveness of these policies and strategies is recorded at page 16 of the assessment. We accept that all six are appropriate and that four have been effective. We have been informed that work has been initiated on the distribution policy and the sponsorship strategy, but to date progress on these matters can only be regarded as ineffective.
14. We are required to report on the quality and timeliness of the reporting documents prepared to meet the reporting obligations under the Act or any other enactment. The assessment records the relevant documents at page 16 and comments in respect of each document. We have perused strategic and annual plans and annual reports to the AGM. Those documents are comprehensive in terms of quality information and presentation, and reflect credit on those responsible. We have no reason to disagree with the comments on page 16 of the assessment.
15. Finally, pursuant to section 111(2) of the Act, we are required to report on the contribution that Te Wai Maori Trustee Limited has made in advancing the interests of Maori in freshwater fisheries. We draw your attention to Te Wai's response at pages 18 and 19 of the assessment. We agree with the general thrust of that response. When considering the contribution of Te Wai to date, we have born in mind that as an entity, it is very young in terms of its history, experience, research capacity and management skills. Under these circumstances it is not surprising that it has experienced some initial difficulty in sorting out its kaupapa and priorities. We note also that Te Wai, like Te Putea, has experienced quorum problems which resulted in meetings being cancelled on occasions. We understand that the Trust deed was altered to allow for the approval of an alternate director, and that an

appointment was made in the recent past. Obviously the inability of the board to meet in a timely fashion is in itself an impediment to progress.

16. We acknowledge that a wide ranging and complex number of elements make up the concept of freshwater fisheries. Any newcomer to this arena is confronted with the need to dismantle and disseminate the limited information on freshwater fisheries which in turn involves complex issues about research, habitat, funding, eco management, inter-agency relationships, identification and characteristics of significant species and a plethora of other features all of which must be examined against a complex set of enactments, regulations and rules. Add to that, in the case of Te Wai, the need to come to grips with the term “Maori interests” and to apply the result in some meaningful way, then clearly the task is a difficult one to achieve in a brief three year period. That it has succeeded to the extent recorded earlier in this report is admirable. We note also that Te Wai is well aware that it has a limited putea with which to fund projects and recognises the need to leverage its funds and encourage the involvement of larger funders in projects which will impact on Maoridom.
17. It is now starting to see itself in a facilitative role of raising Maori capacity. We are advised that in the first year of its existence Te Wai supported the Seafood Industry Training Organisation to upskill 60 Maori in kaitiakitanga and freshwater management planning. These are regarded as high level skills taught by a recognised organisation and therefore should enable Te Wai to better leverage its current funds with a larger and better funded organisation. It is anticipated that a further 70 trainees will take part in a similar project during the forthcoming year.
18. It could be argued that on one level the training thus described should more properly be the responsibility of Te Putea Whakatupu which suggests that in future closer collaboration between Te Wai and Te Putea may have advantages for both entities.
19. In summary, we are satisfied Te Wai has made an admirable first step contribution towards advancing the interests of Maori in freshwater fisheries. Attached is **(Appendix H)** which is a summary of initiatives funded by Te Wai in 2007 – 2008.
20. We record our thanks to the authors of the self-assessment submission; it was helpful, detailed and candid in its self-imposed scorecard.

Recommendations

21. We recommend that:

1. Te Ohu Kaimoana ensures that it fulfils its oversight role in respect of Te Wai;
2. 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;
3. 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;
4. 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.



TE WAI MAORI TRUSTEE LIMITED SUBMISSION

Prepared for Don Hunn and Ken Mason
August 2012

FINAL

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FINAL

PART A: INTRODUCTION

1. Introduction

Section 105 of the Maori Fisheries Act 2004 (MFA) requires Te Wai Maori Trustee Limited (Wai Maori), along with Te Ohu Kai Moana Trustee Limited (Te Ohu Kaimoana), Te Putea Whakatupu Trustee Limited (Te Whakatupu) and Aotearoa Fisheries Limited (AFL) to each arrange an independent performance audit not later than four years after the commencement of the Maori Fisheries Act (MFA).

Subsequent audits must be conducted not later than four years after each preceding audit, unless 75% of the mandated iwi organisations and representative Maori organisations, at a general meeting convened by Te Ohu Kaimoana, vote not to conduct an audit of 1 or more of the relevant entities.

The first four year audit for the four entities was completed in September 2008. The second four year audit must therefore be completed by the end of September 2012.

Each entity is required to arrange its own audit including the appointment of an independent and suitably qualified auditor. Each entity pays the costs of its respective audit.

Sections 107-113 of the MFA set out the process and scope of the audits. In simple terms the audit requirements are designed to assess the performance and effectiveness of each entity over each 4 year period.

The four entities have agreed to appoint the same auditors as conducted the first audit in 2008, namely: Don Hunn and Ken Mason.

2. Background to Four Year Audit

The audits are designed to assess the performance of each entity in accordance with the requirements set out in ss 108 to 111 of the MFA.

Section 108 requires the audits to consider and report on:

- the objectives established by the board
- the consistency of those objectives with the implementation of the duties and functions of the entity
- the progress made towards achieving the objectives
- the policies and strategies established to achieve the objectives and perform the duties and functions
- the effectiveness of the policies and strategies
- the quality and timeliness of the reporting documentation

In addition to the generic issues there are specific issues, (ss 109 to 111) pertinent to each entity, that the audits are required to consider and report on.

The audit of Wai Maori must consider and report on its contribution to advancing the interests of Maori in freshwater fisheries.

This submission deals with the performance of Wai Maori against the general matters set out above, and its progress in advancing the interests of Maori in freshwater fisheries.

Purpose, duties and functions

Te Wai Maori Trust and its corporate trustee Te Wai Maori Trustee Limited were established pursuant to the Maori Fisheries Act 2004 under sections 92 and 93 respectively on 2 March 2005.

Section 94 of the Maori Fisheries Act states that:

The purpose of Te Wai Maori Trust is to hold and manage the trust funds on trust for and on behalf of the beneficiaries under the Deed of Settlement, in order to advance Maori interests in freshwater fisheries, but not in a manner that could adversely affect the charitable status (if any) of the Trust.

Distributions of trust income

Section 98 states:

- (1) *The directors of Te Wai Maori Trustee Limited may make distributions to Maori, mandated iwi organisations, and other Maori organisations for the purpose of Te Wai Maori Trust, subject to any conditions provided for by the trusts deed.*
- (2) *Before making a distribution, the directors must take into account the extent to which –*
 - a. *a proposal will assist in co-ordinating and consolidating the activities of the recipients with the activities of agencies involved in freshwater fisheries and habitat management; and*
 - b. *a proposal provides a model that is able to be applied by the groups referred to in subsection (1); and*
 - c. *the activities proposed to be undertaken with the distribution are being undertaken by other mandated iwi organisations or agencies; and*
 - d. *the functions of Te Wai Maori Trustee Limited are being undertaken by other agencies.*

Funding the trust

Section 103 (1), (2), & (3) requires Te Ohu Kaimoana to capitalise Wai Maori with a payment of \$10 million no later than 31 October 2009. After this payment Te Ohu Kaimoana must continue to pay not less than \$1m per annum until Wai

Maori has received the total capital sum of \$20 million. The trust can not expend or distribute any of this capital.

In 2009 - 2010, Wai Maori received \$10 million from Te Ohu Kaimoana as part of the capitalisation of the trust provided for through the Maori Fisheries Act. The remainder of the fund is being transferred to Wai Maori progressively at the rate of \$1 million per year until the full \$20M is paid. Ongoing annual funding is limited to the income generated by the capital of the Trust.

2008 audit conclusions and responses

Attached to this paper as Appendix 1 are the recommendations made by the auditors to Wai Maori following the last audit, along with Wai Maori's responses.

PART B – OPERATING ENVIRONMENT 2008 – 2012

1 Introduction

During the audit period - in response to the policy climate across a range of forums - freshwater management, allocation, and rights have become the primary focus for Wai Maori. This section identifies elements of the policy and political environment that have had a bearing on Wai Maori's work.

2 Government review and reforms of freshwater management

In the early 2000s, as a result of its concerns that the state of freshwater in many parts of the country was in crisis, the government initiated a package of reforms through the Sustainable Water Programme of Action. Following the 2008 election the new government initiated its own "New Start for Freshwater" programme. As part of this process, it supported the formation of the Land and Water Forum (LWF), and developed a National Policy Statement on Freshwater in 2011. The NPS focussed on improving the management of freshwater in water quality, quantity, integrated management, and tangata whenua roles and interests were identified and reflected, including decision making.

LWF is a multi-stakeholder body which was initially established to recommend potential reform of New Zealand's freshwater management, and to identify shared outcomes and goals, along with options to achieve them. The use of this type of forum aimed to take a less confrontational, more collaborative approach to major policy issues, and through this achieve greater agreement on policy, more extensive involvement in implementation and more effective results. Alongside these initiatives, the government has had a programme in place since 2008 to review and amend the Resource Management Act. Ultimately, the recommendations of LWF is expected to assist the government to develop its own proposals for change as they affect the management of water by sounding out the issues and coming up with potential solutions that can be openly discussed.

LWF's first report was released in September 2010 and its second in April 2012. It is currently engaged on a third report that takes its proposals further.

The first report set out an analysis of the problems facing the management of water, and proposed a number of solutions including:

- setting limits for water quality and quantity, within a standards framework for New Zealand
- developing more efficient and effective means of allocating water permits and allowing them to be transferred.

LWF noted that New Zealand had "been able to rely on the principle of first-in-first-served" for allocating water while there was plenty of water for all, but that is no

longer the case in many catchments, and will soon not be the case in more”.¹ Approaches suggested by LWF included the idea of setting thresholds – e.g. as a proportion of the water available for productive use. When that threshold is reached, a more effective allocation scheme would then be employed.

Following the release of this first report, the Government invited LWF to come up with more detailed recommendations on the framework for setting and managing objectives and limits for freshwater quantity and quality, on how they should be decided on, and what tools, methods and strategies should be used to achieve them.

The allocation of rights to water - for example who has the right to allocate rights and who has the right to benefit from them - raises more fundamental questions about the “ownership” of water. The allocation of tradeable rights to water – a possibility foreshadowed by LWF’s comments noted earlier - can be regarded as tantamount to the privatisation of water, and Maori argue that the Crown does not have the right to privatise something it does not own.

In its first report, LWF commented that iwi participated fully in their discussions. However they also noted that the discussion of iwi rights and interests in water was outside the scope of the Forum’s brief, that such discussion should more properly take place directly between the Crown and Maori and that discussions between iwi and the Crown on this matter were proceeding. The Iwi Leaders’ Group on freshwater, supported by an Iwi Advisers’ Group, has been involved in discussing these matters directly with the Crown. It is our understanding that the Iwi Leaders Group has always made it clear to the Crown that it does not represent all iwi and that wider engagement with iwi is necessary, with each iwi free to make its own decisions. Thus while the discussions could clarify matters for all iwi, they would not prevent individual iwi from continuing to finalise their own Treaty settlements with the Crown, including settlements that relate to freshwater.

The Government and Ministers responsible for freshwater reform had hoped that these processes would be further along than where they currently are.

This whole agenda of policy development is a key element that Wai Māori has weighed up in clarifying its own strategy on how best to influence government policy to advance the interests of Māori Freshwater fisheries.

3 Treaty settlements

Individual iwi are continuing to take the Treaty settlement route to get their rights and interests recognised, with Waikato-Tainui, Te Arawa lakes, Te Ika Whenua (*the hapu over the Rangitaiki, Wheao, and Whirinaki Rivers and their tributaries*), Ngati Pahauwera and Whanganui as examples of completed settlements, or settlements in progress.

¹ The Land and Water Forum, (September 2010): *Report of the Land and Water Forum: A Fresh Start for Fresh Water*, pxi

Looking across settlements that have been completed, it becomes evident that there is no consistent approach to the elements contained in individual settlements as they relate to water. In some cases, such as the Waikato-Tainui Settlement, provision has been made for co-governance arrangements supported by extensive funding from the Crown. In other cases, provision is made for a lesser form of participation by iwi, and little or no funding support from the Crown.

Where settlements that relate to lakes (rather than rivers) involve the return of the ownership of lake beds to claimants, the Crown retains rights to the water above the bed.

This variation in approach to the settlement of claims to water points to a lack of any consistent overarching policy in relation to the settlement of Maori (or Treaty) claims to water. In addition its focus on models for governance, management and/or participation continues to avoid the more fundamental question about the nature and extent of Maori rights and interests in water – including their relationship to the concept of ownership.

4 Sale of State Owned Assets

The government's recent decision to sell shares in State Owned Enterprises, including energy companies involved in generating hydro-electricity has sparked the concern of the public and Maori about a loss to New Zealand of strategic assets, and the privatisation by the Crown of rights to water that it does not own.

These concerns prompted the New Zealand Māori Council to lodge its claim for urgency earlier this year to the Waitangi Tribunal over Freshwater and Geothermal resources.

The approach taken by the New Zealand Maori Council supports the position of Wai Maori that there are unresolved and untested legal questions that need to be answered in freshwater. This links to the challenges Wai Maori have faced with determining its own strategy in advancing Maori interests in freshwater fisheries, the details of which are explained in Part D.

This initiative has drawn criticism from the Iwi Leaders Group who considered that the more appropriate approach to settling these matters was through ongoing dialogue with the Crown – such as the process it was already engaged in. In each case, questions have been raised about the mandate of each of these groups to take the different approaches they are advancing. Nevertheless the case has attracted considerable media attention, with the Tribunal now calling for the government to halt the sales process until it has completed its report.

5 Significant freshwater species

Eel (tuna) are regarded as Taonga to Maori. The eel fishery therefore remains an important one for Maori from both customary non-commercial and commercial

perspectives. Freshwater species such as long and short finned eels, as well as various whitebait fish are under serious stress, particularly as a result of the loss of habitat.

Eels, especially long finned eels have been the subject of much attention of late, highlighted by the media raising the issue that suggested that long finned eels were being fished for gourmet pet food in the USA. The reality is that eel offal (skin, heads, bones) – left over from processing higher quality eel meat for export - was sold from processors to a pet food company, rather than being left as waste.

There are also competing views about the extent to which long finned eels are under threat. Some claim that long finned eels are under threat, and therefore there should be a blanket moratorium on harvesting in order to protect them, while commercial eel fishers say that numbers are good, the catch per unit effort is increasing but market conditions are depressed meaning there is less effort to catch eels over the last 5 years. Some iwi have taken the position of setting aside their Annual Catch Entitlement (ACE) in order to protect the eel fishery.

Eels have increasingly been put under pressure from a number of issues which have affected populations including land based farming and development including significant drainage of wetlands, habitat loss, water quality issues, eel passage issues from hydro dams to driveway culverts. There are also a number of issues affecting commercial fishers, of which iwi have a 20% interest, such as markets fluctuating, fishers are getting old, and the eel industry isn't very attractive for the new generations coming through.

Over and above this, there is a lack of quality information for both commercial and customary fishers, especially in terms of actual stock assessments across the country. One initiative Wai Maori was asked to support was the establishment of a National Eel Association (NEA) to bring together both non-commercial and commercial eel interests together to advocate for the protection of the eel fishery and its habitat. More detail about this initiative is in part D of the submission.

6 Internal Environment

During the period since the last review, staffing resources available to Wai Maori reduced with the resignation of a key staff member to travel overseas. New staffing resources have recently been allocated to support Wai Maori. In addition there have been changes to the Board as the terms of directors have ended and with the passing of Ta Archie Taiaroa.

PART C: OBJECTIVES ESTABLISHED BY THE BOARD**1 Introduction**

During this audit period, recognising two key factors – limitations in funding and the changes in the external environment set out above, Wai Maori has made a significant shift in its focus from funding iwi and hapu based projects, to a more strategic focus on clarification of iwi rights and interests in freshwater – as a means to protect the habitat for freshwater fisheries.

At the time of the last audit, the strategic focus areas for Wai Maori's work were:

1. Habitat protection and native species enhancement
2. Research and education
3. Strategic relationships
4. Governance and management of Wai Maori.

Following the 2004 – 2008 Audit, Wai Maori held ten consultation hui with iwi and Maori. These hui responded to the audit team's recommendation that Wai Maori reassess its strategic objectives following further consultation with iwi, Maori and other interested parties to achieve a more precise and acceptable definition of the term "Maori interests in freshwater fisheries". Throughout that process, trustees met with a range of iwi and individuals with strong freshwater interests. When the question was directly asked to hui participants about what they considered the term "Maori interest" meant, the conversation centred on their aspirations to achieve a holistic approach to management and enhancement of freshwater fisheries and the freshwater environment. Therefore Wai Maori concluded that Māori interests in freshwater fisheries ultimately mean "protecting habitat to ensure quality water and abundant species".

Consequently, in its 2009 – 2010 Annual Plan, Wai Maori consolidated the first three of its earlier focus areas into one: "Habitat protection and enhancement". The main focus was intended to be on the restoration and health of freshwater fisheries habitats – which is essentially about the management of freshwater.

At the same time, Wai Maori was fully aware of the policy reviews of water management that were being carried out by the government – initiated by the Sustainable Water Programme of Action in 2003 and culminating in the LWF process (see part B).

As a result of this ongoing policy work– especially the LWF process, Wai Maori considered that while much of the analysis and ideas put forward could lead to improvements in the way water is managed, more fundamental questions about the nature of Maori rights and interests in water were not being addressed. In addition, the "iwi by iwi" approach to settlement negotiations as they related to water (in the absence of any general policy underpinning them) also avoided a coherent answer to these questions. Recognising the Iwi Leaders' Group were involved in discussions with the government on these matters, Wai Maori's focus moved to identifying opportunities to clarify these rights interests in a more fundamental way. This was

considered complementary to the efforts of all others, including the Iwi Leaders Group.

Another factor that contributed to Wai Maori's change in direction relates to its funding base. As noted earlier, in 2009 - 2010, Wai Maori received \$10 million from Te Ohu Kaimoana as part of the capitalisation of the trust provided for through the Maori Fisheries Act. The remainder of the fund was to be transferred to Wai Maori over the following ten years, at the rate of \$1 million per year. Annual funding would be limited to the income generated by the capital of the Trust. Wai Maori considered that providing ongoing funding to individual iwi and hapu projects was unsustainable, and pointed to the need for a more strategic approach that would gain the greatest benefit for Maori overall.

Wai Maori's Annual Plan for 2010 – 2011 more clearly signalled its intention to pursue these questions through its major strategic focus on "Iwi Maori interests and rights in freshwater" and supported by an objective on "Freshwater Fisheries development and advocacy".

These "focus areas" have now been incorporated into a new strategic plan for 2012 – 2015, finalised in early 2012. Four strategic priorities are incorporated and outlined in more detail below.

2 Strategic Priorities – 2012 - 2015

Iwi and hapu interests and rights in freshwater

The key aspect of this strategic priority is the completion of a legal strategy to clarify iwi ownership and tenure in relation to water. A key question to be addressed is "what Maori rights and interests persist and what, if any, have been extinguished?"

In the 2011 – 2012 financial year the focus has been on identifying the most effective avenue for addressing this question.

Freshwater fisheries development and advocacy

The strategic priority for this area of work is to consider the outcome of the legal strategy work and to continue to build the capacity and capability of iwi and hapu to develop and manage their freshwater fisheries. Alongside this, Wai Maori intends to increase information to iwi in relation to the impacts from Treaty settlements.

In the 2011 – 2012 year, Wai Maori has identified the need to:

- influence government freshwater policy development
- review and revise criteria for a contestable fund to promote Maori interests in freshwater fisheries development.
- help foster an effective voice for iwi on government and industry policy as it affects freshwater fisheries and their habitats.

Strategic Relationships

This priority recognises that Wai Maori operates within a complex policy and political environment and that to achieve our desired outcomes it is important to establish and maintain positive relationships with iwi and hapu, as well as the iwi leaders forum that is leading discussions with the government on freshwater. Positive relationships with Ministers, government officials and relevant industry parties are also an important way to achieve positive outcomes for iwi. This approach echoes much of what is happening in our operating environment, where industry, government and iwi are endeavouring to organise themselves to work in a more collaborative way.

The directors who collectively operate as trustees of Te Wai Māori understand the importance of maintaining strong relationships with a range of iwi that have significant freshwater interests within their rohe and Maori organisations, as well as individuals who have knowledge and experience to engage in these issues. Such relationships are extremely important and integral as Wai Maori looks to progress its standpoint through legal action. It has taken Wai Maori considerable time to reach this point, and what its role would be to support Māori in freshwater fisheries issues. However, it believes this approach will garner the most success.

While no specific action has been identified in the 2011 – 2012 annual plan, this priority signals that the processes that Wai Maori follows in its work should foster this more collaborative approach.

Governance and management

This priority covers our reporting obligations to Te Ohu Kaimoana as well as our responsibilities to manage our funds prudently.

In Part D, we set out an assessment of our performance, with a brief overview of the first year following the last audit, and a more substantial discussion against the above four strategic priorities.

PART D – PERFORMANCE ASSESSMENT

Introduction

This section outlines the achievements and challenges faced by Wai Maori as it changed its focus from the funding of iwi and hapu based projects to a strategy that seeks first to clarify Maori rights and interests in freshwater as a means of advancing Maori interests in freshwater fisheries.

Early part of audit period

Information papers

As noted in Part C, Wai Maori's primary goal following the last audit was to revisit the strategic direction and seek input on a possible definition of the term 'Maori interests in freshwater fisheries'.

However alongside this work, Wai Maori continued its work to provide information to iwi on freshwater fisheries. Key information projects involved the commissioning of two important pieces of work.

The first was *Customary and Commercial Opportunities for Freshwater Aquaculture*, a report on the opportunities for iwi and Maori in freshwater aquaculture. It was to identify barriers and opportunities to iwi aquaculture development, and indeed what interest they had in freshwater aquaculture, if any. This work was set to achieve the objective of developing a strategy on freshwater aquaculture for iwi and Māori. This report was made available to iwi Maori via the Wai Maori website.

The other report was an *Information Paper for iwi and Maori on the management and allocation of fresh water in New Zealand*. Wai Maori recognises that iwi and Maori engage on the management of water on a range of levels, demonstrating the complex nature of the fresh water environment in New Zealand. There is no one 'source' of information that describes how water is captured, used, managed and allocated in New Zealand or describes the relationship of iwi and Maori to this resource. This work was commissioned to achieve the objective of developing a model for iwi and Maori on the management of freshwater. There have been difficulties in finalising the paper. A number of drafts were completed and debated. No consensus was able to be reached on its final form. Efforts to finalise the paper were been overtaken by other events.

Completion of funded projects

Wai Maori continued to provide funding for the freshwater fisheries training programme through the Seafood industry training organisation, and developed a relationship agreement with them also. 186 participants were enrolled in the freshwater fisheries training for the 2008-09 year.

Funding was also allocated to enable research projects initiated in 2007-2008 (reported on in the last 4 year audit) to be completed. These projects were:

- *Te Runanga o Ngaiterangi* - The focus of this research was to examine the impact of rapid urbanisation on freshwater fisheries in Tauranga Moana

- *Te Runanga o Ngati Manawa* - The aim of this project was for Ngati Manawa to develop and manage their freshwater fisheries
- *Te Roopu Taiao o Utakura* - The purpose of the project was to gather information on the freshwater fishery in the Utakura River. The research aimed to document the oral history of the river as well as the current state of the fishery and the aspirations of the Utakura community.
- *Waimariri o Whatitiri Marae Trust* - The focus of this research was the monitoring of surface and ground water which is under pressure by the increased use of bores along the Waipo River.
- *Waikato Raupatu Lands Trust* – The research aimed to investigate both the toxicological and social impacts of blue-green algal blooms on the traditional harvest of puhi eels through the concentration of toxins observed in sample eels.
- *Synexe Consulting* - This research was intended to enable Ngati Hori ki Kohupatiki to participate as kaitiaki of the Karamu Stream. Ngati Hori has indicated that their cultural values are dependent on the restoration of minimal flow levels.

All projects except the Waikato Raupatu Lands Trust were completed; reports were published and made public on the Wai Maori website. Wai Maori and the Waikato Raupatu Lands trust could not agree on aspects of intellectual property of that project. The reports created the initial evidence base for Wai Māori, and helped to understand the issues that iwi Maori were facing in relation to protecting their freshwater habitat.

The implications of amending their strategic approach meant that Wai Māori were unable to continue to invest in further freshwater research after the completion of these projects. At the conclusion of the consultation round, it became evident that Wai Maori would adopt a more considered approach for the protection of habitats for the following financial year. Consequently, the research funding round for 2009-2010 was linked to the freshwater aquaculture report in the development of long term aquaculture strategies.

From 2010 to 2012

The remainder of this assessment is made against the four strategic priorities identified in the 2011 – 2015 Strategic Plan.

1 Maori rights and interests

This priority has been the central focus of Wai Maori's efforts. Following our consultation round with iwi and clarification of our focus on freshwater fisheries habitats - and freshwater in particular, Wai Maori considered how we might best advance Maori interests – including property rights interests in freshwater.

Wai Maori was concerned for the need to identify the most appropriate avenue to clarify these matters. They were aware that iwi leaders were in discussion with the government, and considered that other avenues to clarify Maori rights and interests in water would complement that work: for instance by exploring legal avenues, another means to strengthen the position of iwi generally might be found.

Wai Maori also considered that given its part in delivering a settlement intended to benefit all Maori, its more specific purpose of advancing Maori rights and interests in freshwater fisheries, and its access to certain funding, it was in a good position to take this route. Through board meetings and additional sessions with experts, Wai Maori canvassed a number of options including pursuit through the High Court (leading to the Supreme Court), the Waitangi Tribunal, and discussions of pursuit through the Maori Land Court.

Approaches

Supreme Court

Initial discussions considered the pursuit of a case through the High Court that would ultimately lead to the Supreme Court. This considered following on from the case Central Water Trust versus Ngai Tahu Properties Limited regarding who had priority to extract water from the Waimakariri River for irrigation. The Central Plains Water Trust appealed on the grounds that because they had applied first, they therefore had priority. While this case provided an opportunity to test the extent of Maori rights and interests in the allocation of water, it was settled by the parties before any action could be taken.

Waitangi Tribunal

Lengthy discussion was held around the option of Wai Maori pursuing a claim under urgency through the Waitangi Tribunal asserting that the Crown has failed in its obligations to protect freshwater fisheries habitat. This failure has had a detrimental effect on the water quality in many waterways and the indigenous freshwater fisheries populations. It was recognised however that Waitangi Tribunal claims do take some time and that there are already reports available in relation to water including; Kaituna River, Mohaka River, and the Whanganui River. Nevertheless fundamental questions about the overall nature and extent of Maori rights require further exploration.

Maori Land Court

This strategy considered seeking recognition of customary rights through the Maori Land Court (MLC) and is analogous with the action of Te Tau Ihu with regard to aquaculture that eventually led to the Foreshore and Seabed Act 2004.

This approach is intended to determine what legal rights can be asserted to protect the relationship held over freshwater and inland waterways. As rivers are land covered by water, the MLC would have jurisdiction to investigate if the land was deemed to be Maori customary land. This would provide a strong test case that iwi and hapu could assert legal rights over freshwater resources, in particular, inland waterways.

However, following the assessment of these options, the legal strategy has yet to land on a clear direction, particularly as the nature of the issues around freshwater management has changed in response to initiatives taken by others (see part B) and

the New Zealand Māori Council claim (below). Given more recent events Wai Maori is now seeking further advice on how to complement these initiatives to obtain positive outcomes for iwi.

The New Zealand Maori Council claim

Earlier this year, the New Zealand Maori Council signalled its intention to seek an urgent hearing in the Waitangi Tribunal pending the sale of shares in State Owned Assets.

The hearings took place in July, and Te Wai Māori has supported tangata whenua claimants to participate in the hearings, which covered claims to freshwater and geothermal resources.

There have been concerns expressed by some iwi that by taking a litigation route, an outcome similar to the foreshore and seabed case would be a likely prospect. In that case, following the findings of the Court of Appeal in the Ngati Apa case – in which comment was made that the Crown cannot assume that it owns the foreshore and seabed, - the government moved swiftly to change the law to prevent those claims from proceeding and to ensure that the Crown had clear ownership of the foreshore and seabed.

As highlighted in Part B, the legal approach has drawn criticism from the Iwi Leaders Group, and raises questions about who has the mandate to deal with these matters. It also raises questions about what approach iwi support, and if iwi support these approaches at all. When Wai Maori suggested at the Te Ohu Kaimoana Hui a Tau in 2012 that we were considering the option of court action, and were also supportive of the action being taken by the New Zealand Maori Council, there was some dissention amongst iwi representatives who attended.

2 Freshwater Fisheries development and advocacy

While Wai Maori has made submissions and released media statements on key government initiatives such as the National Policy Statement on Freshwater, and the LWF report, activity in this area has been relatively limited with the primary focus having been clarification of Wai Maori's legal strategy.

One key initiative that Wai Māori was asked to support involved the proposal for the establishment of the NEA (see Part B). As discussed earlier, the impetus for the establishment of a national organisation that included both customary and commercial interests in the eel fishery arose from the National Eel Workshop held at Whakatane in May 2010. The purpose of the workshop was to gain an understanding of the issues around the sustainable management of eels. The workshop goals were to:

- Research - Identify past and current eel research and identify future research needs for iwi Maori.

- Eel Farming - Gain an understanding of the barriers to the customary and commercial farming of eels and develop an action plan that would support the creation of customary and commercial eel farms.
- Establish a national eel farming entity.

At that hui, it was agreed that greater co-operation between the various stakeholders in the eel fishery was necessary if significant progress in improving the sustainable management and beneficial use of the eel fishery was to be made.

Te Runanga o Ngati Awa (Ngati Awa) and Te Whare Wananga o Awanuiarangi (Awanuiarangi) have driven this initiative with support from the Ministry of Science and Innovation (formerly the Foundation for Research, Science and Technology) with a contribution from Te Wai Māori.

The most significant outcome of the Whakatane hui was the establishment of a working party to assist with the establishment of a national eel association that would have the support of stakeholders. The core purpose of the working group was to design and establish the NEA with a mandated representation structure and a draft strategy and establish relationships with a range of interest groups. Wai Maori and Te Ohu Kaimoana supported the working group by providing a staff member to be part of the working group, which included consultation hui with iwi about the potential NEA.

Following the consultation with iwi, Wai Māori was asked to support this concept and co-ordinate the customary representatives of this new body. However Wai Maori was not convinced that the establishment of a new body is the most effective way to promote cooperation between the sectors.

The process of clarifying Wai Maori's response has been drawn out due to a staff member leaving to go overseas, and the change in board members. However we are now making progress on this matter. Te Wai Māori recently held a hui for a small number of iwi eelers, to get an understanding of the issues each region face in harvesting eels, and find solutions to overcome issues for iwi and hapu. It was agreed that Te Wai Māori directors will consider supporting the development of a pilot project, involving collaboration between both commercial and customary sectors. The pilot would help to determine not only what priorities need to be addressed, but also the roles, responsibilities and future relationship of the parties concerned.

3 Strategic relationships

As highlighted above (part C) this priority recognises that Wai Maori operates within a complex policy and political environment. To achieve the desired outcome it is important to establish and maintain positive relationships with iwi and hapu, the Iwi Leaders Forum, Ministers, government officials and relevant industry parties. This approach echoes much of what is happening in our operating environment, where industry, government and iwi are endeavouring to organise themselves to work in a more collaborative way.

The NEA initiative, and recent hui with iwi eelers highlights the importance of building cooperation amongst the sectors with an interest in eels and the protection of their habitat.

As noted earlier, while no specific action has been identified in the 2011 – 2012 annual plan, this priority signals that the processes that Wai Maori follows in its work should foster this more collaborative approach.

4 Governance

The Wai Maori Board is supported by staff from Te Ohu Kaimoana to complete the executive functions, the Wai Maori work programme, and provide administrative support.

All statutory and reporting requirements are reported to the board of Te Ohu Kaimoana. Wai Maori is also presented an opportunity at the Te Ohu Kaimoana Hui a Tau to provide iwi with an update on work they have been involved in over the year. Annual plans and annual reporting information is provided in Appendices 3 and 4.

Since the last audit, changes to the board have been frequent. The most significant impact was that of the passing of Ta Archie Taiaroa in 2010, who left a big gap in his absence. Ngahiwi Tomoana's term also ended during the period, and Dr Maria Bargh stood down as an alternate director on the board, and was not replaced for some time. Ken Mair, who was recently elected on to the Te Ohu Kaimoana board, was then made a director of the Wai Maori board, and elected as the Chair in early 2012. Peter Douglas was also made the alternate director at this time.

5 Looking into the future

The greatest challenge facing Wai Maori and iwi generally is to bring together the various initiatives being taken by iwi leaders, the NZMC and ourselves to develop a more coordinated and comprehensive strategy for addressing Maori rights and interests in freshwater. Such a strategy should consist of complementary sets of work that clarify the problem and identify solutions. As part of this process, the roles and responsibilities of each of the parties would need to be clarified and agreed.

In this respect Wai Maori is moving to make progress with individual initiatives, such as on going work with iwi and other parties to protect and enhance freshwater eels. We are also moving to review our criteria for funding projects, bearing in mind the need for our resources to contribute to a wider strategy in respect of freshwater fisheries and their key habitat –freshwater.

APPENDICES

Appendix 1: 2008 Audit Conclusions and Responses

Recommendations	Response
1. That Te Ohu Kaimoana ensures that it fulfils its oversight role in respect of Te Wai	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'. To be completed by 31 January 2009.
2. 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	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. To be completed by 30 April 2009.
3. 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.	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. To be completed by 10 March 2009.
4. 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.	A written response will be provided and tabled at the next Wai Maori board meeting on 10 March 2009. To be completed by 10 March 2009.

Appendix 2: 2008 - 2012 List of Directors

Current Directors

Ken Mair – Chair

Te Atihaunui-a-Paparangi

Morrie Love

Te Atiawa

Morrie has a Bachelor of Engineering (Agricultural). He has been involved in Maori resource management for many years. He has managed the Maori Secretariat (Maruwhenua) in the Ministry for the Environment and served as the Director of the Waitangi Tribunal. He is currently Managing Director of Raukura Consultants based in Wellington.

Prue Kapua

Te Arawa

Prue Kapua is a Principal in her legal firm Tamatekapua Law based in Auckland and specialising in resource management, Treaty of Waitangi issues, race relations, human rights and medico legal litigation. She worked for the Deputy Prime Ministers office from 1988 - 1989 and was the Chief Investigation Officer for the Race Relations Office from 1983 -1988. She has served as a member of the Environmental Risk Management Authority and is on the board for the Allan Wilson Centre for Molecular Ecology and Evolution.

Peter Douglas – Alternate Director

Ngati Maniapoto

Peter has extensive senior management experience in both the public and private sector. He was the principal Maori adviser at the Ministry of Social Development, a Senior Manager in business banking at Westpac and an adviser in the Prime Minister's Department and Cabinet during the time of the 1992 Maori fisheries settlement.

He holds a Bachelors degree in social science from Waikato University and a Masters degree in Public Administration from Harvard University. He has also contributed to and led a number of hapū and Maori organisations. He has been the chairman of Ruapuha Uekaha Hapū Trust since 1997 and lectured in business studies at Te Wānanga o Raukawa (1996-2000).

Previous Directors

Ngahiwi Tomoana

Ngati Kahungunu

Ngahiwi Tomoana has served as Chairman of Ngati Kahungunu Iwi Incorporated for ten years. He has taken a lead in promoting Maori aquaculture for the wider Maori community and his iwi, and last year organised the first Maori Fisheries Conference in Napier. He has worked for the protection and enhancement of eel habitats both locally and nationally.

Dr Maria Bargh – Alternate Director

Te Arawa, Ngati Awa

Maria is a lecturer in Maori Studies at Victoria University of Wellington. She is editor of *Resistance: an Indigenous Response to Neoliberalism* and has a PhD in Political Science and International Relations from the Australian National University. After completing her PhD she worked for Te Whare Wananga o Awanuiarangi in Whakatane. She currently serves on the Huia Publishers Advisory Board, and previously served on the Board of the Development Resource Centre. Her current research, on indigenous corporations involved in the energy sector in Aotearoa and Canada, is funded by a Marsden Fast Start Grant.

Appendix 3

Annual Plans (2008/09; 2009/10; 2010/11; 2011/12)

TE WAI MAORI TRUSTEE LIMITED
ANNUAL PLAN 2008
1 OCTOBER 2008 – 30 SEPTEMBER 2009

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SECTION 1 -**CHAIR'S FOREWORD**

Freshwater in Aotearoa is very topical as the Government's programme of action now manifests itself in a set of proposed National Policies and National Standards. There has been a significant movement through Treaty settlements in relation to the Waikato River, the Te Arawa Lakes and some others however there is little to set out a consistent position for Maori generally on the very important fresh water resource. Wai Maori will address these issues in 2009.

As most people know 2009 is a watershed year for Maori Fisheries and in particular for Te Wai Maori and freshwater fisheries. The shift to having a putea which will rise to \$20 million to be invested from the 31 October 2009 will have to be met by some changes in management and ensuring that Wai Maori is able to live within its means. A major challenge in the current economic times will be how to provide the sustainable income from the investment while maintaining the original capital. Funds management has never been more difficult than it is today. This challenge should not detract from the other objectives of Wai Maori to advance Maori interests in freshwater fisheries.

The management of freshwater resources has been a challenge for the Government, Regional Councils and Iwi Authorities with slow progress on national policies and standards, along with revisions of regional policies and plans on water bodies. What is clear is that the priority given to indigenous freshwater fisheries in these proposed instruments is quite low except in the most general terms. The protection and enhancement of freshwater fisheries habitat in lakes, rivers and other water bodies has a long way to go for every iwi rohe, however this work should be the subject of long term planning by all iwi. Wai Maori has a leading role in this work and will provide leadership in ideas and direction in the coming year. A model will be developed to help iwi in their involvement in the production of policies, plans and standards for water bodies.

Wai Maori will focus on getting better recognition of the freshwater fishery particularly in those water bodies which have traditionally been used by whanau, hapu and iwi to supply tuna, piharau/lamprey, inanga/whitebait and other freshwater species. The New Zealand eel fishery as a commercial wild-harvest fishery will have to look seriously at eel aquaculture as the way forward. To be able to make this shift will require careful policy changes and the establishment of an industry that is sustainable within itself but also would contribute to the enhancement of the customary eel fishery in our rivers and lakes.

Morrie Love

Chair

SECTION 2 -

PURPOSE OF THE PLAN

The annual plan 2008 – 2009 describes the objectives for Te Wai Maori Trustee Limited for the next 12 months. The plan was approved by the board of Te Ohu Kaimoana Trustee Limited (Te Ohu Kaimoana) and is prepared in accordance with section 6 of the trust deed.

Vision

That iwi and Maori control their freshwater fisheries

Te Wai Maori Trust Statements

Te Wai Maori Trust

Te Wai Maori Trust ("The Trust") and its sole corporate trustee Te Wai Maori Trustee Limited ("Wai Maori") were established pursuant to the Maori Fisheries Act 2004 (MFA). The key legislative requirements for the Trust and Wai Maori are set out below.

In pursuit of our vision, Wai Maori will conduct itself in accordance to the purpose and functions of the Trust and Wai Maori and described by the MFA 2004.

Purpose of Te Wai Maori Trust

Section 94 of the MFA states that:

*"The **purpose of Te Wai Maori Trust** is to hold and manage the trust funds on trust for and on behalf of the beneficiaries under the Deed of Settlement, in order **to advance Maori interests in freshwater fisheries**, but not in a manner that could adversely affect the charitable status (if any) of the Trust."* (emphasis added).

Wai Maori considers that the interests to advance Maori interests in freshwater fisheries relates to the customary, non-customary, and commercial interests. Iwi and Maori do not consider these mutually exclusive and Wai Maori does not consider interests as competing rather than complimentary.

Functions of Te Wai Maori Trustee Limited (Wai Maori)

Section 95 of the MFA sets out the functions of Te Wai Maori Trustee Limited:

"In achieving the purpose of Te Wai Maori Trust, Te Wai Maori Trustee Limited must—

(a) manage the trust funds; and

FINAL

(b) distribute the annual trust income for activities that include—

- (i) undertaking or funding research, development, and education related to Maori interests in freshwater fishing; and*
- (ii) promoting the protection and enhancement of freshwater fisheries habitat in lakes, rivers, and other water bodies, particularly those that have traditionally supported iwi and whose shores have been the location of their marae; and*
- (iii) promoting the establishment of freshwater fisheries; and*
- (iv) using its resources to bring direct or indirect benefit to Maori in respect of their freshwater fishing interests.”*

Funding

The MFA provides for the following funds to be paid to Wai Maori by Te Ohu Kai Moana Trustee Limited:

Wai Maori will receive up to \$2 million over the first 5 years of operation to:

- i. undertake the responsibilities of the MFA 2004*
- ii. cover the operational costs of Wai Maori including Directors fees accommodation, travel and staff costs*
- iii. develop an Annual Plan that is approved by Te Ohu Kai Moana Trustee Limited*
- iv. Provide annual reports to Te Ohu Kai Moana Trustee Limited*

Sections 103 and 137 of the MFA provide various provisions for Te Ohu Kai Moana Trustee Limited to pay Wai Maori their settlement money at capitalisation. In summary:

- Te Ohu Kaimoana must pay \$10 million to Wai Maori no later than 31 October 2009. After this payment;
- Te Ohu Kaimoana must pay not less than \$1 million per year until Wai Maori has received the total sum of \$20 million.

SECTION 3 -

PRESENT SITUATION FOR WAI MAORI

Wai Maori was established in 2005 and we undertook to develop a work programme that aimed to advance Maori interests in freshwater fisheries. A challenging task for any new board.

Over the past three years the board of Wai Maori has worked to understand the freshwater fisheries and freshwater environment as well as ascertain what are iwi and Maori aspirations for their freshwater environment. Within this period we have also funded two years of freshwater research that has provided the opportunity for smaller groups such as whanau, hapu, and iwi / Maori organisations that do not have access to larger pools of funding to undertake research within their rohe. These pockets of research have allowed us to align with iwi and Maori who have strong connections and comprehensive knowledge of freshwater fisheries.

We know iwi and Maori have a holistic view of their freshwater environment. From the species to the quality of the water that supports them to the habitat that surrounds them. Restoring the ecological and spiritual integrity of degraded waterways is an important principle. This includes replenishing water quantity, improving water quality, and habitat restoration.

- i. *Habitat sustainability.* There are whanau and hapu groups that continue to protect and enhance their freshwater, freshwater species, and the adjoining land. Wai Maori is aware that there is a strong desire that iwi and hapu reassert their mana over their freshwater fisheries recognising that restoring habitats is the foundation upon which fisheries can develop. These groups participate in central and local government processes to ensure the sustainability of their waterways.

Whanau and hapu also undertake a range of freshwater research to achieve their freshwater aspirations. This research is an effective mechanism to advance Maori interests in freshwater. The research contributes to broadening Maori knowledge on freshwater fisheries restoration, protection, management and/or development.

- ii. *Eels.* Both the long-fin and short-fin eels are of great cultural significance for iwi and Maori and an important food source. Iwi and Maori are concerned with the sustainability of the stock and the impact of such structures as hydro dams in eel migration.

Hydro dams (and other large structures such as regional council operated flood control schemes) pose an insurmountable barrier for upstream migration meaning that good habitat cannot be reached by young eels. Downstream migration (eel escapement) is impeded by hydro dams and other large structures meaning that mature eels cannot breed; and mature eels are killed in turbines in an attempt to migrate. Eel habitat (such as wetlands) continues to be lost or damaged from drainage works and similar activities.

- iii. *Management.* Central government agencies – the Ministry of Fisheries, Department of Conservation, Ministry for the Environment, Biosecurity NZ and local governments - are responsible for the Acts and regulations relating to freshwater fish and freshwater environment management. However, the

relationships between the various acts and regulations is not always clear having evolved over time in response to particular events and political pressures.

A further frustration is working with regional councils under the provisions that provide for Maori participation in the Resource Management Act 1991 (RMA). When regional and territorial authorities prepare or change plans required under the RMA, they must notify the relevant iwi authorities. Section 33 is a tool under the RMA that allows for delegated authority however to date, no Maori group has been delegated this responsibility.

The net result of these changes is that many iwi / Maori have to engage with a number of central and local government agencies just for the management of their freshwater environment. This is a time consuming and in some cases, frustrating experience. Wai Maori considers that it has an integral role to play in the current situation for iwi / Maori.

Because of its unique situation Wai Maori is able to support iwi / Maori by providing a national body that will advocate effective policy reform and development in freshwater and freshwater fisheries.

Over the past two years there has been a common theme for a majority of freshwater research and development proposals to focus on the protection and enhancement of eels as a taonga species. Therefore, Wai Maori will focus its funding more specifically into freshwater aquaculture with an emphasis on, but not exclusive to, eel aquaculture. We will continue to support whanau and hapu that manage their own freshwater and freshwater fisheries through the provision of subsidised training.

This annual plan is the opportunity for Wai Maori to re-define its strategic direction as it heads towards capitalisation and the necessary structures required to move beyond 31 October 2009.

SECTION 4 -**GOALS AND OBJECTIVES 2008 - 2009**

Wai Maori is dedicated to advancing Maori interests in freshwater fisheries. Over the next 12 months the following work streams will be advanced.

Strategic focus area 1 – Leadership

Iwi and Maori have strong links to their freshwater and freshwater fisheries. From the species to the quality of the water that supports them to the habitat that surrounds them. This places iwi and Maori in a sometimes difficult position of responding to central and local government proposals or policy reform. A model will be developed for iwi and Maori to help iwi in their involvement in the production of policies, plans and standards for water bodies and ultimately, the management of fresh water. This will be compared to alternative models of management as well as other indigenous models for the management of fresh water.

Aquaculture can be used as a mechanism for not only commercial purposes but also for customary interests through stock enhancement from aquaculture facilities. This strategic area will focus on; the development of a strategy that incorporates iwi and Maori's customary and commercial interests in aquaculture, the potential harvest of glass eels, and the provision of funds to seek research and development into freshwater aquaculture with a specific emphasis but not exclusive to eel aquaculture.

Strategic Objective	Objective	Performance Measure
Habitat Sustainability and Native Species Enhancement	<i>Leadership</i> Development of a model for iwi and Maori on the management of freshwater	Model for the management of fresh water developed
	<i>Freshwater Aquaculture</i> Develop strategy on freshwater aquaculture for iwi and Maori that incorporates their customary and commercial interests	Freshwater aquaculture strategy developed

Strategic focus area 2: Research and Education*Freshwater Aquaculture*

In the past two years Wai Maori has provided research funding into a range of diverse small freshwater research projects. In our third year of funding, Wai Maori will focus on strategic investment into freshwater aquaculture with a specific emphasis, but not exclusive to, eel aquaculture.

Education and Training

Within this objective, Wai Maori will continue to focus on lifting the capability of Maori who manage their own freshwater and freshwater fisheries through the provision of subsidised training and develop strategic relationships with like minded organisations that also fund freshwater research and development to create larger pools of funds for iwi / Maori.

Strategic Objective	Objective	Performance Measure
Research and Education	<i>Research</i> Invest in freshwater aquaculture projects	Investment in freshwater aquaculture projects complete
	<i>Education and Training</i> Freshwater training programme	50 trainees with recognised national certificates have been supported
	Establish good working relationships between Wai Maori and key funders	Relationship agreements developed with SITO

Strategic focus area 3: Governance and Management of Wai Maori

Wai Maori will receive its capital funds no later than 31 October 2009. Over the next 12 months the board will continue to focus on preparing the Trust for capitalisation, redefining its strategic direction and considering its management structure to support its future.

Directors have a comprehensive understanding of their fiduciary duties		
Strategic Objective	Objective	Performance Measure
	Directors are provided with opportunities to enhance director's skills as required	Training completed by directors.
	Succession planning	Succession plan
Implement an internal system to meet the efficient running of Te Wai Maori Trust		
Strategic Objective	Objective	Performance Measure
	To ensure a smooth transition to capitalisation in October 2009 including finalisation of SIPO, and funding allocations for 2010, future management structures and capability requirements of the Trust	All policies approved by 30 September 2009.
Meet all statutory requirements including reporting and policy development		
Strategic Objective	Objective	Performance Measure
	To comply with statutory reporting requirements and audit processes	Reports completed and submitted in accordance with statutory requirements

Strategic Focus Areas	\$
Advocacy and Policy	
Freshwater Project	50,000
Strategic position paper	30,000
Research and Education	
<i>Freshwater Aquaculture (Contestable Funds)</i>	
Research and Development	130,000
<i>Education and Training</i>	
Freshwater training	60,000
Strategic relationships	20,000
Governance and Management	
Board and Management costs	220,000
SUB - TOTAL	\$510,000
Freshwater Research – committed costs	
2006 – 2007: committed funds	127,750
2007 – 2008: committed funds	73,337
TOTAL	711,087

TE WAI MAORI TRUSTEE LIMITED

ANNUAL PLAN 2009

1 OCTOBER 2009 – 30 SEPTEMBER 2010

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CHAIR'S FOREWORD

Te Wai Maori Trust has been in state of transition this year with the gradual movement from being funded from our transition funding (available from 2005 – 2009) to the income earned from the Settlement as outlined in the Maori Fisheries Act 2004. The fund will be established in accordance with the Maori Fisheries Act 2004 with initial capital of \$10 M being invested as a portfolio by the Directors. This transition funding will continue till September 2010 to cover Wai Maori's operations when the income from the investments will become available as the only income for Wai Maori.

Wai Maori has been revising its overall strategy and following an audit of Te Wai Maori Trustee Limited against its objectives and provisions as set out in the Maori Fisheries Act 2004. The Auditors put forward a challenge that we should go back to iwi to define more clearly what "Maori interests in freshwater fisheries" really means. This has proved more elusive than we first thought.

Freshwater management, allocation, and rights remain high on the agenda for Wai Maori. The Government has moved slowly to develop policies around water quality degradation particularly as a result of the expansion of dairy farming in the South Island. The allocation of water and the policy of granting resource consents based on the practice of "first come, first served". The clarification of what Maori rights to water may have been maintained under the Treaty of Waitangi or were retained under the English common law doctrine of aboriginal title, or arrangement that have been negotiated by iwi with the Government as part of their Treaty of Waitangi settlements has proved to be a challenging exercise.

The development of aquaculture of short-finned eels remains a significant prospect for iwi. Many iwi are interested in developments in this activity however the challenges remain to sort out the science surrounding how to do this activity in a sustainable way without adversely affecting the wild stock and better to look at being able to enhance the wild stock particularly of the indigenous long-finned eel. Wai Maori is looking at what role it could play in this activity.

Morrie Love

Chair

Te Wai Maori Trustee Limited

STRATEGIC PLAN: 2009 - 2014

Introduction

In 2006, Te Wai Maori Trustee Limited (Wai Maori) undertook a consultation with iwi and Maori on the strategic direction of Wai Maori that resulted in the inaugural strategic plan. These hui provided an opportunity for iwi and Maori to give their views on what aspects of freshwater fisheries should take strategic priority. As a result Wai Maori identified that iwi and Maori had realised that their present role in freshwater fisheries customary, non-commercial customary or commercial was not consistent with their traditional values and tikanga.

The task of Wai Maori, in collaboration with iwi and Maori was to enable iwi and hapu to reassert their mana over their freshwater fisheries and to exercise effective kaitiakitanga over one of their most precious taonga. This would be achieved through three strategic focus areas:

- i. Habitat protection and native species enhancement
- ii. Research and education
- iii. Strategic relationships

This year we embarked on a similar process with two objectives in mind. The primary goal was to visit our strategic direction and review whether this aligned with what is happening in the freshwater environment. The second objective was to seek input on a possible definition of the term 'Maori interests in freshwater fisheries'.

Te Wai Maori Trust

Te Wai Maori Trust ("The Trust") and its sole corporate trustee Te Wai Maori Trustee Limited ("Wai Maori") were established pursuant to the Maori Fisheries Act 2004 (MFA).² The key legislative requirements for the Trust and Wai Maori are set out below.

Purpose of Te Wai Maori Trust

Section 94 of the MFA states that:

"The **purpose of Te Wai Maori Trust** is to hold and manage the trust funds on trust for and on behalf of the beneficiaries under the Deed of Settlement, in order **to advance Maori interests in freshwater fisheries**, but not in a manner that could adversely affect the charitable status (if any) of the Trust." (emphasis added).

Functions of Te Wai Maori Trustee Limited

² Refer ss 92 and 93 of the MFA respectively.

FINAL

Section 95 of the MFA sets out the functions of Te Wai Maori Trustee Limited:

“In achieving the purpose of Te Wai Maori Trust, Te Wai Maori Trustee Limited must—

- (a) manage the trust funds; and
- (b) distribute the annual trust income for activities that include—
 - (i) undertaking or funding research, development, and education related to Maori interests in freshwater fishing; and
 - (ii) promoting the protection and enhancement of freshwater fisheries habitat in lakes, rivers, and other water bodies, particularly those that have traditionally supported iwi and whose shores have been the location of their marae; and
 - (iii) promoting the establishment of freshwater fisheries; and
 - (iv) using its resources to bring direct or indirect benefit to Maori in respect of their freshwater fishing interests.”

Freshwater fisheries are defined in the MFA³ as:

“any fishery in freshwater in New Zealand, excluding any sports fishery or unwanted aquatic life or activities conducted under the Freshwater Fish Farming Regulations 1983.”

Funding

This year is the end of our five year transition period. From 2005 – 2009 Wai Maori received 2 million to undertake the activities and meet the functions as defined in the MFA.

In October 2009 there was a \$10 million capitalisation of Wai Maori⁴ with a further \$10 million being distributed to Wai Maori over the following 10 years.⁵ Ongoing funding will be limited to the income generated by the \$20 million received.

Distributions (provision of funds)

Section 98 of the MFA states that:

The directors of Te Wai Maori Trustee Limited may make distributions to Maori, mandated iwi organisations, and other Maori organisations for the purpose of Te Wai Maori Trust, subject to any conditions provided for by the trust deed.

Before making a distribution, the directors must take into account the extent to which-

³ Refer section 91 of the MFA.

⁴ Refer section (1) (b) of the MFA.

⁵ Refer section 103 (3) of the MFA.

- i. a proposal will assist in coordinating and consolidating the activities of the recipients with the activities of agencies involved in freshwater fisheries and habitat management; and
- ii. a proposal provides a model that is able to be applied by the groups referred to above (Maori, mandated iwi organisations, and other Maori organisations); and
- iii. the activities proposed to be undertaken with the distributions are being undertaken by other mandated Iwi organisations or agencies; and
- iv. the functions of Te Wai Maori Trustee Limited are being undertaken by other agencies.

Wai Maori Statement

Vision

Our vision has not changed. We maintain that iwi and hapu have long realised that their present role in freshwater fisheries either customary, non-commercial customary or commercial is not consistent with their traditional values and tikanga.

Our vision:

iwi / Maori control their Freshwater Fisheries

It continues to be our task in collaboration with iwi and Maori is to achieve this vision and reassert their mana over their freshwater resource.

Strategic Direction

Ten hui were held with a range of iwi and Maori that have strong freshwater interests. Valuable input was received on the role of Wai Maori within the complex freshwater environment and possible roles and responsibility going forward. Below are the main outcomes from these hui.

These outcomes aggregate into the broader strategic goal of achieving a holistic approach to management and enhancement of freshwater fisheries and the freshwater environment. The hui crystallised our thinking that rather than continue with a diverse range of strategic goals, moving forward we need to be more focussed and we need to weave together these distinctive activities to be more effective.

Capability Development

One of the main themes discussed was the availability of information, templates and tools that iwi and Māori can access and use. Many groups have frequent engagement with their local councils and access to tools to increase their own knowledge and capability in these engagements would be beneficial. Capability development also relates to the desire by many hui participants to access good scientific information and training opportunities. The availability of generic templates can be utilised by groups to enhance their kaitiakitanga.

Tuna

The protection and sustainable management of tuna was a consistent theme during the hui. Tuna is of great cultural significance for iwi and Māori and an important food source and there is concern with the sustainability of the stock and the impact of such structures as hydro dams in eel migration. The quality of the water also has a detrimental impact on the health of freshwater species.

Relationships

The ability to establish and maintain good relationships with iwi, central and local government, and other groups with freshwater interests has become increasingly important. Some noted that Wai Māori could establish strategic relationships to progress kaupapa or projects of importance to iwi and Māori.

Research

It was noted that Wai Māori has made significant investment in freshwater research and the continued investment should be more focussed. To date, Wai Māori has adopted a broad approach to investment and it may be timely to be more strategic about the future investments made. One suggestion was to identify research gaps and use the existing fund to access bigger putea for the benefit for iwi and Māori.

Aquaculture

Although identified as an area of potential focus for Wai Māori going forward, there was little conversation from participants as the importance of focussing in this area commercially. While aquaculture is a key target for some iwi, many discussed freshwater aquaculture as a mechanism to enhance their customary interests only.

Freshwater Management

Some participants expressed concern about the lack of engagement by central government in the current reforms to the way water is managed in New Zealand. While these reforms are significant, many voiced concern that they were not involved in the discussions. It was also noted that for iwi to be effective in the sustainable management of their fisheries, they needed to be involved at the decision making level.

Maori Interests in freshwater fisheries

In September 2008 an audit was completed of the Te Ohu Group to assess the performance and effectiveness of each entity over the period October 2004 to September 2008. Wai Maori provided a self assessment as to our performance and the progress made in fulfilling our functions and duties.

One of the recommendations for Wai Maori was that as soon as is reasonably practicable Te Wai undertakes further consultation with iwi and Maori and (if necessary) other interests 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.

The analogy was used of describing a circular staircase without using your hands. A definition under such circumstances is difficult even though the person to whom the question is directed has a very clear understanding as to what a circular staircase looks like.

The term freshwater fisheries is not restricted to freshwater species but that it also encompasses the habitat, surrounding land, water column, water quality and quantity. This aligns with Wai Maori belief that a holistic approach is appropriate in regards to this term.

What was apparent from our korero is Maori interests are diverse. They include a range of priorities that vary between each group. For instance tuna can effectively demonstrate the range of Maori interests. The protection and sustainable management of tuna was a consistent theme during the hui. Iwi had different priorities and interests in relation to tuna from supporting a moratorium, aquaculture for customary purposes to sustainable management of the wild stocks. The korero centred on the health of tuna but also addressed the broader issues of the impact of land use, change in habitat, management of the species and water quality.

Strategic Focus Area

Habitat Protection and Enhancement

We have consolidated our three previous strategic focus areas into one - the protection and enhancement of freshwater fisheries. Our focus will be on the restoration of the health of freshwater habitats. Maori have been fishing for 1000 years and will continue for another 1000 years and we believe this clarity of focus will ensure that this can happen.

Habitat protection is at the nexus of a full range of priorities and initiatives. To be sustainable, a fish's habitat must contain all the physical, chemical, and biological features needed to enable the fish to complete its life cycle. Habitat sustainability requires the maintenance of habitat features within a range that reflects the fish's natural tolerances. These include; water quality, water body and structure and flow, and vegetation and cover. The composition of the fish community can be a good indicator of habitat sustainability as

fish populations for instance; eel populations are a good indicator of the health of a freshwater habitat.

These concerns are not exclusive to iwi and Maori but are concerns held by commercial fishers and the public alike. Recently a moratorium on the harvest of long fin eels was proposed due to the concern for this species. The proposal also identifies that anthropogenic effects such as loss or degraded habitat and the pollution of waterways from farm runoff are detrimental to the eel fishery.

Supplementary to this is the culmination of four years of investment by Wai Maori in freshwater research by iwi and Maori groups. The outcomes sought from the previous work programmes were to support iwi and Maori in their own aspirations for freshwater and freshwater fisheries that ultimately indicated that the focus of sustainability should not be on the fishery itself but the broader issues of habitat protection, water quality degradation and effects of land use.

ANNUAL PLAN 2009

2009 - 2010

PURPOSE OF THE PLAN

The annual plan 2009 – 2010 describes the objectives for Te Wai Maori Trustee Limited for the next 12 months. The plan was approved by the board of Te Ohu Kaimoana Trustee Limited (Te Ohu Kaimoana) and is prepared in accordance with section 6 of the trust deed.

PRESENT SITUATION FOR WAI MAORI

Underpinning any discussion on interests for iwi and Maori in freshwater is the relationship with the freshwater environment. Maori regulated fresh water and freshwater fisheries through kaitiaki and tohunga, whanau and hapu as vital resources for pa and kainga. For Maori certain things are believed to have or could be imbued with a mauri, or life essence. Water or water bodies were believed to have a mauri of its own. Water with a healthy mauri will sustain healthy ecosystems and support cultural uses.

Mahinga kai was pertinent to the survival of iwi. They depended upon the knowledge of mahinga kai and participation in gathering from mahinga kai was important for maintaining traditional practices. It was also important that water quantity and quality was maintained as they impacted on these cultural values and traditional knowledge and practices.

Over the past four years the board of Wai Maori has worked to understand the freshwater fisheries and freshwater environment as well as ascertain what are iwi and Maori aspirations for their freshwater environment. Within this period we have supported iwi and Maori to undertake a range of freshwater research to achieve their freshwater aspirations. This research is an effective mechanism to advance Maori interests in freshwater and allows us to align with iwi and Maori who have strong connections and comprehensive knowledge of freshwater fisheries. The research contributes to broadening Maori knowledge on freshwater fisheries restoration, protection, management and development.

As previously stated Maori and iwi interests and priorities are varied and are of no less important to each group. For instance, water management is a topical issue and the reforms will have implications for iwi and Maori participation in environmental management. Freshwater is managed by regional councils who are responsible for the water bodies within their boundaries however the water rights and water management debate has gained momentum with the introduction of the Sustainable Water Programme of Action (SWPoA) in 2003. Many Maori expect that they will be involved in environmental management processes relating to water and one of the main issues for them is the incorporation of cultural values into water management.

To enable effective management of freshwater and freshwater fisheries, there should be a focus on lifting the capability of Maori and iwi. Wai Maori has provided this through subsidised training and development of strategic relationships. Relationships are integral for iwi and Maori as they strive to protect, enhance and develop their freshwater environment. The development of key relationship between Maori and iwi groups, central and local government, and other organisations with freshwater interests is important to enhance knowledge sharing for iwi and Maori to achieve their freshwater aspirations.

Habitat protection and sustainability is at the centre of these. Wai Maori is aware that there is a strong desire that iwi and hapu reassert their mana over their freshwater fisheries recognising that restoring habitats is the foundation upon which fisheries can develop. There are iwi and Maori groups that continue to protect and enhance their freshwater, freshwater species and adjoining land. Freshwater fisheries species, such as eel, are of great cultural significance for iwi and Maori and an important food source and there is concern with the sustainability of the stock and the impact of such structures as hydro dams in eel migration. The quality of the water also has a detrimental impact on the health of freshwater species.

From the species to the quality of the water that supports them to the habitat that surrounds them we know that iwi and Maori have a holistic view of their freshwater environment. Restoring the ecological and spiritual integrity of degraded waterways is an important principle. This includes replenishing water quantity, improving water quality, and habitat restoration.

Funding

This year is the end of our five year transition period. From 2005 – 2009 Wai Maori received 2 million to undertake the activities and meet the functions as defined in the Maori Fisheries Act 2004.

In October 2009 there was a \$10 million capitalisation of Wai Maori with a further \$10 million being distributed to Wai Maori over the following 10 years. Ongoing funding will be limited to the income generated by the \$20 million received.

In 2009 – 2010 Wai Maori will be funded from the remainder of the transition funding. This means that the income generated from the capital fund will not be utilised until the 2010 – 2011 financial year.

GOALS AND OBJECTIVES

Wai Maori is dedicated to advancing Maori interests in freshwater fisheries. Over the next 12 months the following work streams will be advanced.

Strategic Objective – Habitat Protection and Enhancement

This area will focus on promoting freshwater fisheries habitat protection and enhancement in lakes, rivers, and other water bodies. Particular emphasis will be on those areas that have traditionally supported iwi and where their marae have been located on the shores. We will focus on developing strategies and on policy advocacy to advance iwi and Maori interests in species they have identified as important.

Objective	Performance Measure
<p>Habitat Sustainability</p> <ul style="list-style-type: none"> Focus on the restoration of habitats Promote the protection and enhancement of freshwater fisheries <p>Research</p> <ul style="list-style-type: none"> Investment in quality research that contributes to the protection of freshwater habitats. This will include a comprehensive analysis of the recent investment in research. <p>Collaboration</p> <ul style="list-style-type: none"> Working with iwi and Maori with freshwater interests Strategic relationships with like-minded organisations 	

Please note that performance measures have not yet been determined.

Strategic Objective – Governance and Management

This area will focus on ensuring that directors are aware of their fiduciary duties as described in the trust deed and constitution.

Objective	Performance Measure
Directors have a comprehensive understanding of their fiduciary duties	Directors are provided with opportunities to enhance director's skills as required
Objective	Performance Measure
Investment portfolio managed within the policies and objectives set out in the SIPO	Successful management of investment portfolio
SIPO will be reviewed	Review of SIPO completed
Objective	Performance Measure
Meet all statutory requirements including reporting and policy development	To comply with statutory reporting requirements and audit processes

BUDGET 2009 - 2010

Strategic Focus Areas	\$
Habitat Protection and Native Species Enhancement	267,000
Governance and Management	159,000
Freshwater Research Projects	120,000
	546,000

TE WAI MAORI TRUSTEE LIMITED

ANNUAL PLAN 2010

1 OCTOBER 2010 – 30 SEPTEMBER 2011

CHAIR'S FOREWORD

Te Wai Maori Trust has recently had a strong focus on the ownership, use and management of freshwater in Aotearoa. The Government has supported the Land and Water Forum, a broad grouping of stakeholders including representatives of the iwi leader's forum, to provide advice on a 'A New Start for Freshwater'. The Forum is also in a broad consultation process on its first report 'A Fresh Start for Freshwater'.

Wai Maori found that much of the report provides a useful start for the revision of freshwater policies and legislation. The report however draws few conclusions but does identify the key issues and options. One issue the report does not address, that Wai Maori considers it should, is the claim for ownership of freshwater by iwi Maori. The report notes that freshwater is the source of life and food and for iwi it is also central to their identity. It also noted that there are disputes about who should be involved in the management of water, and particularly the role of iwi in water management. The report notes that "For iwi, the contemporary discussion of freshwater evokes legacies of loss and exclusion and the denial of rights and responsibilities. The discussion of iwi rights and interests in water proceeds between iwi and the Crown outside our Forum and was no on our table."

Wai Maori will look to represent the interest of iwi with respect to the habitat for indigenous freshwater fish such as tuna/eel, kokopu and inanga along with many others. Wai Maori will continue to make information available to Iwi Maori involved in freshwater and to continue to have input both into the Land and Water Forum and the engagement of iwi and the Crown.

Freshwater will remain a central issue for Aotearoa/New Zealand however issues such as the way scarce freshwater resources are allocated to users such as irrigators, power generators, industries, municipalities and the competing issues of maintaining the flows and rivers and streams and the level of lakes remain difficult to resolve. The Trust looks forward to another busy year.

Morrie Love

Chair

Te Wai Maori Trustee Limited

TE WAI MAORI TRUST

The purpose of Te Wai Maori Trust is to advance Maori interests in freshwater fisheries. The term freshwater fisheries is not restricted to freshwater species but encompasses the habitat, surrounding land, water column, water quality and quantity. Over the past four years the board of Wai Maori has worked to understand the freshwater fisheries and freshwater environment as well as ascertain iwi and Maori aspirations for their freshwater environment. Within this period freshwater research projects have been funded that has provided the opportunity for smaller groups such as hapu and iwi - that do not have access to larger pools of funding - to undertake research within their rohe. Investment in these research projects have allowed us to align with iwi and Maori who have strong connections and comprehensive knowledge of freshwater fisheries and have interests across the commercial, non-commercial and customary areas. Iwi and Maori do not consider these mutually exclusive and Wai Maori consider they are complimentary rather than competing.

Recently, Wai Maori sought feedback on the definition of the term 'Maori interests'. While numerous views were on priority and interests of iwi and Maori were heard, ultimately the interest was the protection of the habitat to ensure quality water and abundant species. This demonstrated that the Maori interest is diverse and includes a range of priorities that vary between each iwi Maori group. It is clear from these hui that our vision remains the same, that:

Iwi Maori control their Freshwater Fisheries

It continues to be our task in collaboration with iwi and Maori is to achieve this vision and reassert their strong relationship with the fresh water resource. We maintain that iwi Maori continue to have an enduring relationship with their freshwater resource. Freshwater is the vital ingredient in the life supporting capacity for indigenous freshwater fisheries. From the species to the quality of the water that supports them to the habitat that surrounds them, degradation has had a detrimental effect on freshwater and freshwater fisheries.

Focus Areas 2010 – 2011

This year we will continue in our pursuit in clarifying iwi Maori interests and rights in freshwater. There have been a myriad of conversations and numerous publications regarding the governance, management, use and allocation of water however none have sufficiently discussed the iwi Maori interest in freshwater. To support this, the development of strategic relationships and the communication of our message to iwi, Maori and the wider community are just as important. Wai Maori is also an effective vehicle to advocate effective policy reform and development in freshwater and freshwater fisheries for iwi Maori.

FINAL

FOCUS AREASIwi Maori Interests and Rights in Fresh Water

This is a continuation of last years work programme of pursuing iwi Maori interests and rights in freshwater. This is the active pursuit of our vision that iwi Maori maintain control of their freshwater fisheries in collaboration with iwi Maori to reassert their mana over their freshwater resource.

<i>Objective</i>	<i>Deliverable</i>	<i>Completed</i>
Pursue iwi Maori interests in freshwater	Strategy completed Freshwater paper completed	Completed by 28 February 2011 Draft completed by 31 March 2011 Completed by 30 May 2011

Freshwater Fisheries Development and Advocacy

Many iwi Maori have to engage with a number of central and local government agencies just for the management of their freshwater environment and freshwater species. Wai Maori considers that it has an integral role to play because of its unique situation Wai Maori is able to support iwi Maori by being the national body that will advocate effective policy reform and development in freshwater and freshwater fisheries.

<i>Objective</i>	<i>Deliverable</i>	<i>Completed</i>
Respond to policy reform policy and relevant Bills as they relate to freshwater and freshwater fisheries	Develop submissions in collaboration with iwi Maori	On-going
Templates to provide iwi with information in their pursuit of individual freshwater issues	Templates are completed and made available on website	Completed by 31 July 2011

Strategic Relationships

This focus area relates to the development of relationships and alliances to strengthen the iwi Maori Rights and Interests project in particular. It is important in order to progress this kaupapa that support and alliances with a range of groups such as; Iwi leaders, iwi Maori that have been dealing with freshwater issues and other key Maori and Maori groups are established.

<i>Objective</i>	<i>Deliverable</i>	<i>Completed</i>
Strategic relationships with like minded organisations	Media Strategy completed	28 February 2011
Regular updates on freshwater and freshwater fisheries issues	Regular updates to iwi Maori on website on a fortnightly basis	On-going

Governance and Management

This functional area will focus on ensuring that directors are aware of their fiduciary duties as described in the trust deed and constitution. This functional area will also focus on progress of the investment portfolio and the investment of the annual \$1 million that Wai Maori receives every year for the next ten years.

<i>Objective</i>	<i>Deliverable</i>	<i>Completed</i>
Directors provided opportunities to enhance directors skill	Training completed by directors	Completed by 31 June 2011
Monitor the investment portfolio of Wai Maori's capital fund		On-going
Meet all statutory requirements including reporting and policy development	Completion of half yearly reports and annual reports Reports completed in a timely manner	On-going

TE WAI MAORI TRUST: 2010 – 2011

		Budget
		2011
Cash at Bank		\$ 366,000
Drawdown from Joint Investment Portfolio		\$ 536,000
Total		\$ 902,000
Iwi Maori Rights and Interests		
Travel and Accommodation	\$ 46,000	
Professional Services	\$ 539,000	
Information Services	\$ 13,000	
Administration	\$ 11,000	
		\$ 609,000
Policy Advocacy		
Travel and Accommodation	\$ 9,000	
Administration	\$ 2,000	
		\$ 11,000
Strategic Relationships		
Professional Services	\$ 10,000	
Travel and Accommodation	\$ 34,500	
Communication and Information Services	\$ 42,000	
		\$ 86,500
Governance & Management		
Professional Services	\$ 61,400	
Te Ohu Kaimoana Costs	\$ 105,131	
Reporting	\$ 13,500	
Administration	\$ 15,000	
		\$ 195,031
Total Expenditure		\$ 901,531

Te Wai Māori Trustee Limited

1. Te Wai Māori Trust and its corporate trustee Te Wai Māori Trustee Limited (Wai Māori) were established pursuant to the Māori Fisheries Act 2004 (the Act) under sections 92 and 93 respectively. The main purpose of Te Wai is set out in section 94 of the Act:

The purpose of Te Wai Māori Trust is to hold and manage the trust funds on trust for and on behalf of the beneficiaries under the Deed of Settlement, in order to advance Māori interests in freshwater fisheries, but not in a manner that could adversely affect the charitable status (if any) of the Trust.

Background

2. The audit period from 2008 – 2012 has been one of frustration and characterised by a lack of significant progress by Wai Māori. To understand the reasons for this it is necessary to note comments made by us in our 2008 audit report. We noted that Wai Māori had made an admirable first step contribution towards advancing the interests of Māori freshwater fisheries. We then commented:

When considering the contribution of Te Wai to date, we have born in mind that as an entity, it is very young in terms of history, experience, research capacity and management skills. Under these circumstances it is not surprising that it has experienced some initial difficulty in sorting out its kaupapa and priorities. We note also that Te Wai, like Te Putea, has experienced quorum problems which resulted in meetings being cancelled on occasions. We understand that the Trust deed was altered to allow for the approval of an alternate director, and that an appointment was made in the recent past. Obviously the inability of the board to meet in a timely fashion is in itself an impediment to progress.

We acknowledge that a wide ranging and complex number of elements make up the concept of freshwater fisheries. Any newcomer to this arena is confronted with the need to dismantle and disseminate the limited information on freshwater fisheries which in turn involves complex issues about research, habitat, funding eco management, inter-agency relationships, identification and characteristics of significant species and a plethora of other features all of which must be examined against a complex set of enactments, regulations and rules. Add to that, in the case of Te Wai, the need to come to grips with the “Māori interests” and to apply the result in some meaningful way, then clearly the task is a difficult one to achieve in a brief three year period.

3. It is against that background that we now turn to consider events during the past 4 years. We invited Wai Māori to self-assess its activities for the period and that submission is attached as an appendix. We highlight the salient features of that submission:

- *During the audit period – in response to the policy climate across a range of forums – freshwater management, allocation, and rights have become the primary focus for Wai Māori.*

In the early 2000's as a result of its concerns that the state of freshwater in many parts of the country was in crisis, the government initiated a package of reforms through the Sustainable Water Programme of Action. Following the 2008 election the new government initiated its own “New Start for Freshwater” programme. As part of this process, it supported the formation of the Land and Water Forum (LWF), and developed a National Policy Statement on Freshwater in 2011. The NPS focussed on improving the management of freshwater in water quality, quantity, integrated

management, and tangata whenua roles and interests were identified and reflected, including decision making.

LWF is a multi-stakeholder body which was initially established to recommend potential reform of New Zealand's freshwater management, and to identify shared outcomes and goals, along with options to achieve them.

Ultimately, the recommendations of LWF is expected to assist the government to develop its own proposals for change as they affect the management of water by sounding out the issues and coming up with potential solutions that can be openly discussed.

LWF's first report was released in September 2010 and its second in April 2012. It has now recently released a third report that takes its proposals further.

In its September 2010 report LWF noted that New Zealand had "been able to rely on the principle of first-in-first-served" for allocating while there was plenty of water for all, but that is no longer the case in many catchments and will soon not be the case in more.

- The allocation of rights to water – for example who has the right to allocate rights and who has the right to benefit from them – raises more fundamental questions about the "ownership" of water. The allocation of tradable rights to water – a possibility foreshadowed by LWF's comments noted earlier – can be regarded as tantamount to the privatisation of water, and Māori argue that the Crown does not have the right to privatise something it does not own.

In its first report, LWF commented that Iwi participated fully in their discussions. However they also noted that the discussion of Iwi rights and interests in water was outside the scope of the Forum's brief, that such discussion should more properly take place directly between the Crown and Māori and that discussion between Iwi and the Crown on this matter were proceeding.

The whole agenda of policy development is a key element that Wai Māori has weighed up in clarifying its own strategy on how best to influence government policy to advance the interests of Māori Freshwater fisheries.
- The government's recent decision to sell shares in State Owned Enterprises, including energy companies involved in generating hydro-electricity has sparked the concern of the public and Māori about a loss to New Zealand of strategic assets, and the privatisation by the Crown of rights to water that it does not own.

The approach taken by the New Zealand Māori Council supports the position of Wai Māori that there are unresolved and untested legal questions that need to be answered in freshwater. This links to the challenges Wai Māori have faced with determining its own strategy in advancing Māori interests in freshwater fisheries.
- During the period since the last review, staffing resources available to Wai Māori reduced with the resignation of a key staff member to travel overseas. New staffing resources have recently been allocated to support Wai Māori. In addition there have been changes to the Board as the terms of directors have ended and with the passing of Ta Archie Taiaroa.
- During this audit period, recognising two key factors – limitations in funding and the changes in external environment set out above, Wai Māori has made a significant shift in its focus from funding Iwi and hapu based projects, to a more strategic focus on clarification of Iwi rights and interests in freshwater – as a means to protect the habitat for freshwater fisheries.

Following the 2004 – 2008 Audit, Wai Māori held ten consultation hui with Iwi and Māori. These hui responded to the audit team's recommendation that Wai Māori reassesses its strategic objectives following further consultation with Iwi, Māori and other interested parties to achieve a more precise and acceptable definition of the term "Māori interests in freshwater fisheries".

Wai Māori concluded that Māori interests in freshwater fisheries ultimately means “protecting habitat to ensure quality water and abundant species”.

Consequently, in its 2009 – 2010 Annual Plan, Wai Māori consolidated the first three of its earlier focus areas into one: “Habitat protection and enhancement”. The main focus was intended to be on the restoration and health of freshwater fisheries habitats – which is essentially about the management of freshwater.

At the same time, Wai Māori was fully aware of the policy reviews of water management that were being carried out by the government – initiated by the Sustainable Water Programme of Action in 2003 and culminating in LWF process.

Wai Māori’s annual plan for 2010 – 2011 signalled its intention to concentrate its major strategic focus on “Iwi Māori interests and rights in freshwater” and supported by an objective on “freshwater fisheries development and advocacy”.

A New Strategic Plan

4. A new strategic plan for 2012 – 2015 was finalised in early 2012 and incorporates four strategic priorities:
 - ***Iwi and hapu interests and rights in freshwater*** - the key aspect of this strategic priority is the completion of a legal strategy to clarify its ownership and tenure in relation to water. A key question to be addressed is “what Māori rights and interests persist and what, if any have been extinguished?”
In the 2011 – 2012 financial year the focus has been on identifying the most effective avenue for addressing the question
 - ***Freshwater fisheries development and advocacy*** - the strategic priority for this area of work is to consider the outcome of the legal strategy work and to continue to build the capacity and capability of Iwi and hapu to develop and manage their freshwater fisheries. Alongside this, Wai Māori intends to increase information to iwi in relation to impacts from Treaty settlements.
 - ***Strategic relationships***
 - ***Governance and management***
5. It will be apparent from the above that since the 2008 audit Wai Māori has changed its focus from the funding of iwi and hapū based projects to a strategy that seeks first to clarify Māori rights and interests in freshwater as a means of advancing Māori interests in freshwater fisheries. It is to the credit of Wai Māori that it funded 6 research projects (5 of which were completed) and funded a freshwater training programme between 2008 – 2010. It also provided information to iwi on the opportunities for iwi and Māori in freshwater aquaculture and participated in an eeling workshop and hui associated with the eeling industry. Thereafter its central focus has been on Māori rights and interests in freshwater.

Wai Māori comment

Following our consultation round with iwi and clarification of our focus on freshwater fisheries habitats – freshwater in particular, Wai Māori considered how we might best advance Māori interests – including property rights interests in freshwater.

Wai Māori was concerned for the need to identify the most appropriate avenue to clarify these matters. They were aware that iwi leaders were in discussion with the government, and considered that other avenues to clarify Māori rights and interests in water would complement that work, for instance by exploring avenues and other means to strengthen the position of iwi generally.

Wai Māori also considered that given its part in delivering a settlement intended to benefit all Māori, its more specific purpose of advancing Māori rights and interests in freshwater fisheries, and its access to certain funding, it was in a good position to take this route. Through board meetings and additional sessions with experts, Wai Māori canvassed a number of options including proceedings through the High Court (leading to the Supreme Court), the Waitangi Tribunal, and discussions of proceedings through the Māori Land Court.

It is now apparent that the prospect of seeking judicial intervention, at any level, has been overtaken by widely publicised events beyond the control of Wai Māori. The ultimate fate of proceedings filed by the New Zealand Māori Council has yet to be determined.

Audit comment

6. We acknowledge the difficulties faced by Wai Māori – these are recorded earlier in this report and that it has been active in a modest way in funding projects, attending workshops and providing information to iwi. But it seems to us that until fairly recently little significant progress has been made in looking at the broad picture “to advance the interests of Māori in freshwater fisheries”. In our view significant time and effort was spent on considering what form of legal intervention might best be utilised to resolve the issue of Māori interests and rights in freshwater. That is an admirable concern and we do not doubt the enthusiasm and goodwill of those who formed that view. The lessons of history suggest however, that judicial intervention, at whatever level, would probably be an expensive and protracted exercise and one which should not be undertaken by a trust with limited funding and without a clear iwi mandate to proceed as proposed.

7. A prominent iwi leader has expressed a similar sentiment:

Te Wai Māori, I did have high hopes for this Trust and in my view it could have been the focal point for us to use to address the issues of our freshwater fish and fisheries. A good example would have been the “tuna” and in particular the Long-finned eel. With the amount of research, information and concerns being aired it could of/should have had a role in collating and co-ordinating all of that. An iconic freshwater fish species, a taonga species across the motu and one that is hardly seen now on our tables at hui or tangi. Perhaps the focus should be directed at the “fish” rather than the politics.

The Future

Wai Māori comment

The greatest challenge facing Wai Māori and iwi generally is to bring together the various initiatives being taken by iwi leaders, the New Zealand Māori Council and ourselves to develop a more co-ordinated and comprehensive strategy for addressing Māori rights and interests in freshwater. Such a strategy should consist of complementary sets of work that clarify the problem and identify solutions. As part of this process, the roles and responsibilities of each of the parties would need to be clarified and agreed.

In this respect Wai Māori is moving to make progress with individual initiatives, such as ongoing work with iwi and other parties to protect and enhance freshwater eels. We are also moving to review our criteria for funding projects, bearing in mind the need for our resources to contribute to a wider strategy in respect of freshwater fisheries and their key habitat freshwater.

Audit comment

8. In our view Wai Māori needs to keep to its “core business”. We are encouraged by the Wai Māori Annual Plan for 2012 that outlined the strategic direction of Wai Māori to 2015. In this regard a memorandum from Peter Douglas, chief executive of Te Ohu Kaimoana, noted:

Two issues that are relevant to freshwater fisheries have gained prominence this year, and will form the basis of Wai Māori’s work programme. The first, related to the impending sale of State Owned Energy Companies and the recent Waitangi Tribunal report on the National Freshwater and Geothermal Resources claim - has served as a reminder that there remain unanswered questions about the extent of Māori proprietary rights in freshwater and how those interests might be recognised. In the midst of debate amongst Māori and the public generally about how such interests might be recognised, there is a need for some clear and critical thinking about the issues in order to move to a set of solutions that is practical and sustainable.

It is unclear at this stage what the Government’s final response to the Waitangi Tribunal’s recommendations will be. Legal action has been taken by the claimants. Wai Māori has made it clear over the last two years that it is interested in exploring what legal avenues are available to clarify Māori rights in freshwater and provide a means to negotiate for a greater say by iwi in the management of freshwater than is possible under the current management arrangements, along with a share of the economic benefits that arise from the use of water. The legal case has the potential to provide impetus for greater recognition of Māori rights (and hence a greater number of options for iwi to have access to in their individual negotiations with the Crown), and Wai Māori will consider its role in supporting that action as it evolves over time.

Wai Māori intends to promote discussion about the issues and options through dissemination of information and analysis of proposals for freshwater management, and recognition of Māori rights. This work has begun with commentary on the claim, and endeavours to do so regularly. This work will also form the basis of advice that Wai Māori will provide to iwi and government on proposals for freshwater management and reform as it affects freshwater fisheries. We envisage that given the nature of government policy processes and reform, this work will span multiple years.

The second issue concerns debate about the sustainability of freshwater fisheries – particularly the long fin eel fishery. There are clearly divergent views about the status of the eel fishery with some arguing it

is in good shape – and others arguing it is under threat and that commercial fishing should be stopped. Wai Māori has commenced work in this area by holding a workshop with Māori eel fishers to identify what needs to be done to ensure the eel fishery is well managed. The hui confirmed that there is scope for the customary non-commercial and commercial sectors to work together to ensure that the fishery is protected (for example by joining forces to advocate on behalf of the fishery in consent processes). They agreed that a pilot project involving joint work between the sectors would be a good way to build a working relationship. Wai Māori will move to implement this proposal during 2012 – 2013, and envisage that this will create on-going work beyond this year.

Finally, Wai Māori is aware that there are many iwi and hapū who are interested in carrying out their own programmes to manage and protect their freshwater fisheries. We are also aware that in the last few years, iwi are beginning to work collectively to manage their common interests in fisheries and are exploring how they might collaborate to implement freshwater fisheries programmes. Wai Māori has re-established our contestable fund to enable these groups to obtain funding, and develop capacity, capability and expertise to iwi. The criteria focus on advancing Māori interests in freshwater and the benefits to Māori, partnerships and collaboration, and innovation. The results and models will be available to all iwi and hapū. Another criterion of the fund is how applicants will make the projects or results useable for other iwi or hapū in other rohe. We envisage projects will commence at the beginning of 2013, and will also create on-going work spanning multiple years.

Comment

9. We have no criticism of the strategic plan and annual plans prepared by Wai Māori. The objectives, policies and strategies established by the board of directors are soundly based and are consistent with its duties and functions under the Act.
10. Regrettably however, progress made by Wai Māori towards achieving the objectives is less than we would have expected. We note that the recent advent of new personnel on to the board has created a fresh impetus and we are confident that the new direction outlined in the memorandum from Peter Douglas (above) will result in an improved performance over time.
11. It is our expectation that Te Ohu Kaimoana will maintain a firm supervisory role over Wai Māori. In that event we can be assured that Wai Māori will comply with its statutory obligation to advance Māori interests in freshwater fisheries. The memorandum presented by Peter Douglas is a template which should enable this to happen.

Te Wai Māori Trust

Response to 2012 Audit

January 2013

The purpose of this paper is to respond to the conclusions reached by Ken Mason and Don Hunn who conducted the 2012 Audit of Wai Māori.

The relevant conclusions from paragraphs 8 – 11 of their report are copied below:

8. *In our view Wai Māori needs to keep to its “core business”. We are encouraged by the Wai Māori Annual Plan for 2012 that outlined the strategic direction of Wai Māori to 2015. In this regard a memorandum from Peter Douglas, chief executive of Te Ohu Kaimoana, noted:*

Two issues that are relevant to freshwater fisheries have gained prominence this year, and will form the basis of Wai Māori’s work programme. The first, related to the impending sale of State Owned Energy Companies and the recent Waitangi Tribunal report on the National Freshwater and Geothermal Resources claim - has served as a reminder that there remain unanswered questions about the extent of Māori proprietary rights in freshwater and how those interests might be recognised. In the midst of debate amongst Māori and the public generally about how such interests might be recognised, there is a need for some clear and critical thinking about the issues in order to move to a set of solutions that is practical and sustainable.

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Wai Māori intends to promote discussion about the issues and options through dissemination of information and analysis of proposals for freshwater management, and recognition of Māori rights. This work has begun with commentary on the claim, and endeavours to do so regularly. This work will also form the basis of advice that Wai Māori will provide to iwi and government on proposals for freshwater management and reform as it affects freshwater fisheries. We envisage that given the nature of government policy processes and reform, this work will span multiple years.

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From the land flows the water that feeds our people

commercial sectors to work together to ensure that the fishery is protected (for example by joining forces to advocate on behalf of the fishery in consent processes). They agreed that a pilot project involving joint work between the sectors would be a good way to build a working relationship. Wai Māori will move to implement this proposal during 2012 — 2013, and envisage that this will create on-going work beyond this year.

Finally, Wai Māori is aware that there are many iwi and hapū who are interested in carrying out their own programmes to manage and protect their freshwater fisheries. We are also aware that in the last few years, iwi are beginning to work collectively to manage their common interests in fisheries and are exploring how they might collaborate to implement freshwater fisheries programmes. Wai Māori has re-established our contestable fund to enable these groups to obtain funding, and develop capacity, capability and expertise to iwi. The criteria focus on advancing Māori interests in freshwater and the benefits to Māori, partnerships and collaboration, and innovation. The results and models will be available to all iwi and hapū. Another criterion of the fund is how applicants will make the projects or results useable for other iwi or hapū in other rohe. We envisage projects will commence at the beginning of 2013, and will also create on-going work spanning multiple years.

9. We have no criticism of the strategic plan and annual plans prepared by Wai Māori. The objectives, policies and strategies established by the board of directors are soundly based and are consistent with its duties and functions under the Act.
10. Regrettably however, progress made by Wai Māori towards achieving the objectives is less than we would have expected. We note that the recent advent of new personnel on to the board has created a fresh impetus and we are confident that the new direction outlined in the memorandum from Peter Douglas (above) will result in an improved performance over time.
11. It is our expectation that Te Ohu Kaimoana will maintain a firm supervisory role over Wai Māori. In that event we can be assured that Wai Māori will comply with its statutory obligation to advance Māori interests in freshwater fisheries. The memorandum presented by Peter Douglas is a template which should enable this to happen.

Te Wai Māori Trust welcomes the auditor's positive comments towards the Te Wai Māori Annual plan 2012-2013 and Strategic Plan 2012-2015. We also acknowledge the comments made about keeping to our core business of advancing Māori interests in freshwater fisheries.

Te Wai Māori has taken a considerable amount of time to decide on an approach that would benefit all Māori, and define what the core business of the trust is. In the first four year period since the trust was established, Te Wai Māori focused on supporting iwi and hapū through funding research projects, and supporting capacity and capability through freshwater training programs. However this was not seen to be a strategic use of the funds, and only benefited those iwi and hapū that received the funding and training rather than all Māori. In the second four year period, Te Wai Māori changed its approach following consultation, and investigated a strategy to clarify Māori rights to freshwater, while also trying to influence government policy through various channels. The focus of this strategy reflected concern about the management of freshwater as habitat for freshwater fisheries and thus clarification of Māori rights was seen as an integral part of gaining greater Māori control of freshwater management. As noted by Te Wai Māori and the auditor's comments, this proved a long process for many reasons, and thus little progress was achieved in this time.

A wide range and complex number of elements make up freshwater fisheries. The current Te Wai Māori Strategic Plan 2012-2015, and Annual Plan 2012-2013 try to bring together all of the previous elements in an attempt to advance Māori interests in freshwater fisheries across a variety of fronts. The memorandum referred to by the auditors in paragraph 8 - 11 of the audit report sets out the short and medium term priorities for Te Wai Māori. Wai Māori welcomes the positive comments about this approach.

As stated, there are two priority areas that Te Wai Māori will focus on, rights and interests in freshwater and freshwater fisheries development. Te Wai Māori has made good progress with many of the activities it has set out in the 2012-2013 annual plan, including:

- independent advice papers that commented on the Waitangi Tribunal's report on the freshwater claim were commissioned
- work on a joint pilot project to bring customary and commercial eel interests together is well underway
- proposals for funding from the Wai Ora fund have been received and successful applicants will be notified shortly.

We note the auditors' comment in paragraph 6 of their report regarding the expenses and protracted nature of judicial intervention and that such action *"should not be undertaken by a trust with limited funding and without a clear iwi mandate to proceed as proposed"*. We acknowledge the concerns expressed here and note that any move to support such action requires the approval of both the Te Wai Māori Board and the Te Ohu Kaimoana Board. The issue of mandate is a complex one and in our view, it is not always possible to gain a 100% mandate to carry out a proposed course of action.

Subsequent to the its approval of Te Wai Māori's initial annual plan and following a request from the New Zealand Maori Council, the Wai Māori Board proposed to the Te Ohu Kaimoana Board that they support an amendment to Te Wai Māori's annual plan and budget to enable support to be provided to support the claimants who sought the High Court's intervention in the transfer of Mighty River Power and its establishment as a Mixed Ownership Model. The Te Ohu Kaimoana Board (elected by iwi based on an electoral college structure) agreed to an amendment to the plan to enable Te Wai Maori to provide support to the case. Both Boards acknowledged that there would be some prospect of an appeal no matter what the outcome of the action, but made it clear that any further funding proposals would be considered on their merits. In considering the proposal, both Boards were also aware that support for this action amongst iwi is mixed but in the end, a judgement needed to be made in the interests of advancing Maori interests in freshwater, and thus freshwater fisheries.

Te Wai Māori will continue to work closely with Te Ohu Kaimoana to ensure that the use of our resources, along with governance-to-governance planning, aligns with the Te Ohu Kaimoana strategic plan.

APPENDIX 2

WAI ORA FUND

Wai Ora Fund Guide for Applications 2014-15

Purpose

Te Wai Māori Trust is aware that many iwi and hapu are interested in carrying out their own projects and programmes to manage and protect their freshwater fisheries. We are also aware that in the last few years, hapu and iwi have begun to work collectively to manage their common interests in fisheries and are exploring how they might collaborate to implement freshwater fisheries programmes. Te Wai Māori has established a contestable fund, Wai Ora for 2014-15. The purpose of the fund is to enable Māori to obtain funding, and develop expertise to promote and advance Māori interests in freshwater fisheries through development, research and education.

Eligibility Criteria

The Māori Fisheries Act 2004 specifies that Te Wai Māori can distribute funds to the following groups:

- i. Māori ;
- ii. Mandated iwi organisations; or
- iii. Other Māori organisations

Projects will be assessed for their strategic value in achieving the purposes of the Fund. Strategic value means the likely ability of projects to act as catalysts that enhance and extend the uptake of good freshwater fisheries practice. This year, preference will be given to practical projects rather than planning or desktop based projects.

Assessment Criteria (and weighting %)

1. Advancing Māori interests in Freshwater Fisheries (40%): through the enhancement or protection of freshwater species, habitat, water quality and surrounding land. This means applications need to:
 - a. clearly explain the project and project methodology;
 - b. show how it contributes to the Te Wai Māori purpose of advancing Māori interests in Freshwater Fisheries;
 - c. describe the significance of the problem or opportunity, and how the funding/project will assist.
2. Benefits to Māori (30%): The application needs to demonstrate how it will contribute to the environmental, social, economic and cultural well-being of Māori and the wider community, both in the short and long term. Preference will be given to projects that can show how the project's potential benefits will extend wider than the applicants, and act as a catalyst that enhance and extend the uptake of good freshwater fisheries management practices. The outcomes or methodology of the project, need to be applicable for whanau, hapu and iwi in other rohe to use, and the application needs to show how it will provide for this.
3. Capability (15%): The application or project plan needs to demonstrate how applicants will deliver the project, show who is involved in the project team, how it will deliver on the project,

identify any risks associated with the project and the likely impact (high, medium, low) and how they will be mitigated or overcome.

4. Innovation (10%): Does the project have the potential to develop a new approach or can it create new and improved products, processes and services to solving freshwater fisheries problems.
5. Partnerships/collaboration (5%): Preference will also be given to applications that promote or support collaboration or partnerships. i.e the project will support an initiative of an iwi or hapu fish plan, or, where 2 or more iwi or hapu work together on shared outcomes.

Funding

Shared funding is preferred (i.e iwi/hapu/local or regional council/other funding agents provide funding to project). Applicants are encouraged to apply for single year funding, with a maximum of \$70,000 from the Wai ora fund for the entire project. Applicants need to provide a minimum 20% contribution to the overall project, whether it be cash or in-kind. As an example, if you seek \$70,000 Wai ora funding for your project, at least \$17,500 (cash or in-kind) would need to be contributed by the applicant.

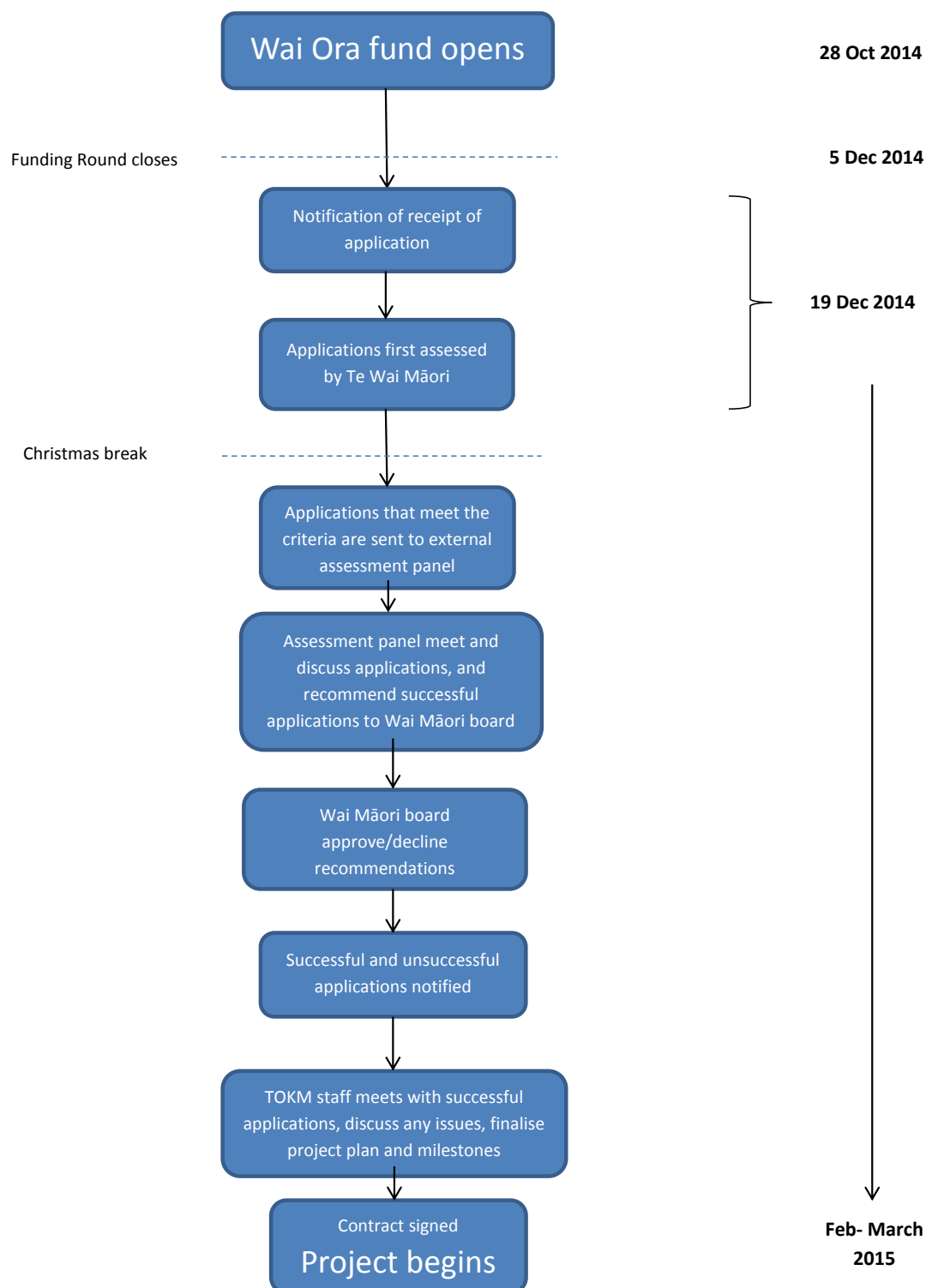
Funding will be provided to projects that:

- undertake research, development and education to advance Māori interests in freshwater fisheries
- promote the establishment, protection and enhancement of freshwater fisheries and habitat
- bring direct and indirect benefits to Māori in respect of their freshwater fisheries
- contribute at least 20% of the total projects costs, whether it be cash or in-kind.

Funding will not be provided for:

- purchasing capital items and assets
- purchase and improvement of buildings
- costs relating to motor vehicles
- costs relating to normal business operating expenses and business establishment
- retrospective costs (i.e costs incurred before the funding is awarded)
- Intellectual property royalties
- Activities that ultimately lead to a commercial venture

Wai Ora fund process map and key dates



An example of process for assessment of other proposals

Te Wai Māori has received and considered various funding proposals that don't necessarily fit within the timeframes or criteria of the Wai ora funding round. Below is a recent example of the process taken by Te Wai Māori to assess an iwi proposal to carry out glass eel aquaculture.

Iwi based glass eel aquaculture proposal

- Proposal was put forward for consideration at a board meeting. The project manager was present for discussion and to talk to the proposal. Wai Māori spent a lot of time discussing afterwards and assessing the role they can play in funding the proposal.
- The Chair met with the Project manager to discuss the need for due diligence by all parties involved in the project, including the iwi. Wai Māori identified the need for external advice to address its concerns on specific aspects of the proposal, particularly a scientific, economic and legal analysis. Wai Māori also sought to meet with others involved in the project.
- Wai Māori commissioned a scientific opinion on the proposal, a legal opinion on Wai Māori's ability to fund such a proposal, and an expert opinion on the economics of the proposal.
- A working party of staff and directors was established to meet and visit the various interests in the proposal, and better understand their relationship, roles and responsibilities. Following the visit, the working party continued to question the feasibility of the project, and Wai Māori's ability to fund it.
- As a result, the due diligence suggested that Wai Māori would not be able to fund any part of the proposal, even if it only focussed on certain aspects of the research. Amongst other things, because the activity would ultimately be carried out under the Freshwater Fish Farming Regulations and is not included in the definition of "freshwater fishery" (see 91 of the MFA). It is therefore excluded from activities that fall within Wai Māori's purpose
- Directors agreed that a face to face meeting between Wai Māori, the iwi applicant and other potential investors should be held to discuss the due diligence we applied to the proposal.
- At that meeting, Wai Māori explained the advice we had received. Wai Māori highlighted that it will try to support them in their aspirations on broader questions about the management of eels, the role of the Wai ora fund as a source of funding for iwi freshwater aspirations and monitoring, and to facilitate discussions between the groups and the experts we had engaged in our due diligence process.

Appendix 3

Process of Te Wai Maori Director Appointments

Figure 1

