Coversheet: Improving the allocation and transfer process provided in the Maori Commercial Aquaculture Claims Settlement Act 2004

Advising agencies	*MPI*
Decision sought	*Agree to amend the Maori Commercial Aquaculture Claims Settlement Act 2004 (Settlement Act) to provide Te Ohu Kaimoana with a limited discretionary power to enable it to allocate and transfer aquaculture settlement assets in specified circumstances.*
Proposing Ministers	*Minister of Fisheries*

Summary: Problem and Proposed Approach

Problem Definition

What problem or opportunity does this proposal seek to address? Why is Government intervention required?

Currently, iwi in the Northland and Bay of Plenty regions are facing indefinite delays in receiving their aquaculture settlement assets from Te Ohu Kaimoana. This is due to the inability to reach unanimous agreement between all iwi in those regions about how the aquaculture settlement assets should be allocated amongst them. This is unlikely to be resolved under current legislation and there is a risk that similar situations will arise in future regional settlement processes. Government intervention is required to ensure iwi can access their aquaculture settlement assets and that the government is delivering on its settlement obligations.

Proposed Approach

How will Government intervention work to bring about the desired change? How is this the best option?

By amending the Maori Commercial Aquaculture Claims Settlement Act 2004 (Settlement Act) to provide Te Ohu Kaimoana with a limited discretionary power to allocate and transfer aquaculture settlement assets in specified circumstances, iwi in disputed regions will be able to access their aquaculture settlement assets.

The specified circumstances would be when:

- It has not been possible for all iwi in a region to conclude a formal agreement on allocation of the assets for a particular settlement; or
- The dispute resolution process provided in the Settlement has been unable to

resolve the issue.

This has been identified as the best option as it is the most likely to effectively deliver aquaculture settlement assets into iwi hands, while being consistent with the Treaty of Waitangi and its principles, and enabling equal access to settlements assets for iwi.

Section B: Summary Impacts: Benefits and costs

Who are the main expected beneficiaries and what is the nature of the expected benefit?

Iwi are the main expected beneficiaries of this proposed change, particularly those in the Northland and Bay of Plenty regions, as iwi in those regions are currently experiencing the issue of being unable to access their aquaculture settlement assets.

The immediate benefit to iwi in the Northland and Bay of Plenty regions is unlocking aquaculture settlement assets s 9(2)(b)(ii) . This will enable iwi in those regions to utilise their aquaculture settlement assets to support their aquaculture aspirations.

More broadly, iwi who have aquaculture settlement entitlements will also benefit from this change, should the same issue arise again in future.

Where do the costs fall?

Legislative change will result in some administrative resourcing cost to the government, although these can be met within existing baselines.

Te Ohu Kaimoana advised that legislative change will not result in any additional financial cost for iwi, and will mean several iwi will be in a better financial position as they are able to acquire and use their aquaculture settlement assets as suits their aspirations.

Additionally, legislative change will not result in additional cost to Te Ohu Kaimoana but will mean that the costs expended will be more effective as it will result in solutions that address the needs of iwi arising from delays in receiving their aquaculture settlement assets.

What are the likely risks and unintended impacts, how significant are they and how will they be minimised or mitigated?

The greatest risk arises if there is no change to the status quo. The Crown is currently not effectively delivering on its settlement obligations and the delays in allocating assets mean iwi are not able to access their assets s 9(2)(b)(ii)

The proposed amendments will provide a new discretionary power to Te Ohu Kaimoana under specific circumstances. With discretionary power there is the potential for this to be misused, although this is considered to be highly unlikely as explicit constraints on the exercise of the limited discretionary power are proposed. The legislative amendments have been modelled on similar discretionary powers under the Maori Fisheries Act 2004 which have proven to be successful in the transfer of fisheries settlement assets to iwi.

Identify any significant incompatibility with the Government's 'Expectations for the

design of regulatory systems'.
No significant incompatibility with the Government's 'Expectations for the design of regulatory systems' has been identified. The proposed amendments will provide long term benefits for iwi as they will be able to acquire and use their aquaculture settlement assets as suits their aspirations. It also assists government in delivering on its settlement obligations. It is estimated that proposed amendments will release aquaculture settlement assets s 9(2)(b)(ii) to iwi in the Northland and Bay of Plenty regions. This approach is also expected to benefit iwi in other areas in the future if similar situations arise. The benefits s 9(2)(b)(ii) of the amendments are far greater than any costs incurred which have been assessed as low and within existing baselines.

Section C: Evidence certainty and quality assurance

Agency rating of evidence certainty?
The Ministry for Primary Industries is confident that the evidence base supports the preferred option to amend the Settlement Act to improve the allocation and transfer process of aquaculture settlement assets to iwi.

To be completed by quality assurers:

Quality Assurance Reviewing Agency:
The MPI Regulatory Impact Analysis Panel
Quality Assurance Assessment:
The MPI Regulatory Impact Analysis Panel has reviewed the Regulatory Impact Assessment "*Improving the allocation and transfer process provided in the Maori Commercial Aquaculture Claims Settlement Act 2004*" produced by MPI, and dated 17 March 2020. The review team considers that it **meets** the Quality Assurance criteria.
Reviewer Comments and Recommendations:

Impact Statement: Improving the allocation and transfer process provided in the Maori Commercial Aquaculture Claims Settlement Act 2004

Section 1: General information

Purpose
The Ministry for Primary Industries and Fisheries New Zealand is solely responsible for the analysis and advice set out in this Regulatory Impact Statement, except as otherwise explicitly indicated. This analysis and advice has been produced for the purpose of informing: • In-principle policy decisions to be made by the Minister of Fisheries • Final decisions to proceed with a policy change to be taken by Cabinet Economic Development Committee

Key Limitations or Constraints on Analysis
There were few limitations or constraints on the analysis. The proposal considers how to improve the allocation and transfer process provided in the Maori Commercial Aquaculture Claims Settlement Act 2004 (Settlement Act) to better enable the allocation and transfer of aquaculture settlement assets to iwi. Any broader aquaculture amendments not related to the allocation and transfer of aquaculture settlement assets were not considered. The public consultation process sought feedback on three proposed options, although the analysis would not have been limited if other options were proposed during consultation. One of the three options proposed during consultation was that which was submitted to the Minister in mid-2018 by Te Ohu Kaimoana to amend the Settlement Act.
Responsible Manager (signature and date):
Emma Taylor Director Agriculture Marine and Plant Policy Policy and Trade Ministry for Primary Industries

Section 2: Problem definition and objectives

2.1 What is the context within which action is proposed?

New Zealand's aquaculture industry contributes significantly to regional development and the national economy, generating $600 million in revenue in 2018 and employing 3,000 people, largely based in the regions.

New Zealand's aquaculture industry has built a strong reputation for sustainable, healthy and high-value products. Its goal is to reach $1 billion per annum in sales revenue by 2025.

Kaimoana (seafood) more broadly has long played a key role in the social, economic and cultural well-being of Māori. Māori have a significant presence in the aquaculture industry, which will increase over time as iwi acquire and develop their interests in the industry and realise their aquaculture settlement assets.

The potential scale of iwi involvement in the future of the aquaculture industry is such that the sector as a whole will not reach its full potential until iwi realise their aquaculture settlement assets[1].

The Government's Aquaculture Strategy, released in September 2019, recognises the strong interests of Māori, and has a vision for New Zealand's aquaculture industry to be globally recognised as a world-leader in sustainable and innovative aquaculture management across the value chain.

The strategy commits the Government to work alongside the aquaculture industry to deliver economic growth and jobs for the regions as part of an ambitious goal for it to become a $3 billion industry by 2035. The strategy sets out key outcomes and objectives for a sustainable, inclusive and resilient aquaculture industry. The strategy also recognises the need to partner with Māori and communities to realise meaningful jobs, wellbeing and prosperity.

2.2 What regulatory system, or systems, are already in place?

Marine aquaculture is managed under the Resource Management Act 1991 (the RMA), which promotes the sustainable management of natural resources. Under the RMA:

- Regional councils are responsible for planning and managing aquaculture in their coastal area between high tide and the 12 nautical mile limit[2]
- Any new marine farm must have a resource consent from the regional council[3].

Legislation was changed in 2011 to encourage sustainable aquaculture development and streamline planning and approvals for marine aquaculture. Changes were made to the:

[1] It is difficult to determine what the potential scale of contribution from Māori will be to the industry, but as an indication, in 2010, the Te Tau Ihu iwi, Hauraki and Ngāi Tahu successfully completed their pre-commencement space settlements with the Crown which resulted in a $97 million Deed of Settlement. Since then, several iwi have achieved similar settlements and are working through new space settlements.

[2] The 12 nautical mile limit refers to the Territorial Sea which is an area of water not exceeding 12 nautical miles in width which is measured seaward from the territorial sea baseline (the line from which the seaward limits of New Zealand's maritime zones are measured).

[3] Marine farm refers to the cultivation of marine or freshwater organisms, especially food fish or shellfish such as salmon or oysters, under controlled conditions.

- Resource Management Act 1991
- Aquaculture Reform (Repeals and Transitional Provisions) Act 2004
- Fisheries Act 1996
- Settlement Act.

Prior to this, under the Aquaculture Reform Act, marine farmers could apply to set up new farms only in aquaculture management areas (AMAs) established by councils. AMAs were introduced as a management tool, but were considered to complicate and delay approvals for new aquaculture. The 2011 changes simplified the approval process by removing the need for AMAs.

The Settlement Act, as amended by The Maori Commercial Aquaculture Claims Settlement Amendment Act 2011, provides for the full and final settlement of all Māori commercial aquaculture claims since September 1992. It establishes an obligation on the Crown to provide iwi, through Iwi Aquaculture Organisations[4] (IAOs) with aquaculture settlement assets equivalent in value to 20 per cent of all space created for aquaculture development. The Settlement Act is delivered on a regional basis[5]. Amendments to the Settlement Act in 2011 enabled the new space settlement obligation to be delivered through regional agreements[6] (the reforms did not change how the pre-commencement space obligations were delivered).

The Settlement Act currently delivers aquaculture settlement assets by having the Crown enter into regional settlement agreements with all relevant iwi in a region. The Crown must do so within the following periods:

- within two years after the commencement of the Maori Commercial Aquaculture Settlement Amendment Act 2011 for the following regions:
    - Northland
    - The east coast of the Waikato region
    - Tasman
    - Marlborough
- For all other regions, whichever is the later of the following:
    - Within three years after the commencement of the Maori Commercial Aquaculture Settlement Amendment Act 2011; or
    - Within two years after the receipt of the first resource consent application for

[4] Or mandated iwi organisations or recognised iwi organisations

[5] Allocation is done on a region-by-region basis, and is based around the jurisdictions of Regional Councils and Unitary Authorities as well as by the harbours that have been identified in Schedule 2 of the Settlement Act. Te Ohu Kaimoana, as the corporate trustee, makes its determinations on settlement assets allocation entitlements and its allocation of settlement assets separately on the basis of the region of each regional council and each harbour listed in Schedule 2 of the Settlement Act. Section 44 of the Settlement Act explains the determinations and allocations.

[6] Regional agreements are between the Crown, the Iwi Aquaculture Organisations that represents iwi in a region and Te Ohu Kaimoana as the trustee. Regional agreements can deliver a mix of settlement assets.

the purpose of aquaculture activities after the commencement of the Maori Commercial Aquaculture Settlement Amendment Act 2011.

The aquaculture settlement assets can be in the form of authorisations to develop aquaculture space, its cash equivalent, or a combination of both. Te Ohu Kaimoana, as corporate trustee of the Māori Commercial Aquaculture Settlement Trust, facilitates the Crown and iwi entering into these regional settlement agreements by providing the technical expertise on behalf of iwi in the estimation of the value of each settlement.

Once the Crown and all relevant iwi in the region have agreed and signed a regional settlement agreement, the amount and form of the settlement obligations for the entire region are transferred to Te Ohu Kaimoana and held until the iwi of the region reach agreement on how to allocate the assets amongst them.

Te Ohu Kaimoana facilitates discussions between iwi within a region to reach an agreement on how the assets should be allocated amongst them and then transfers assets in accordance with those agreements. These settlements contribute significantly to the asset base of iwi and facilitates their greater involvement in the aquaculture industry.

The Settlement Act does not contain an allocation methodology to be applied for all settlements. Instead, it requires that all relevant iwi in a region must agree the allocation methodology to be applied to any settlement. Where agreement cannot be reached, there are disputes processes set out in the Settlement Act that can ultimately involve the Māori Land Court, with the Court able to make determinations based on the coastline lengths of iwi.

Allocation requires participation of all iwi through their IAO in the relevant region. Where this cannot occur because one or more iwi of a particular region are not yet represented by an IAO, or an IAO does not participate, the relevant aquaculture settlement assets of any settlement remain held in trust by Te Ohu Kaimoana until these issues are resolved.

The allocation (full or partial) of aquaculture settlement assets can only be made when there is a :

- written agreement among all the relevant IAOs in a region; or
- determination through the dispute resolution process (which includes reference to the Māori Land Court).

All relevant iwi in a region must be represented by an IAO (or mandated iwi organisations or recognised iwi organisations) before they can enter into a written agreement to allocate aquaculture settlement assets, or participate in a dispute resolution process (including through the Māori Land Court). This is to ensure that all iwi have robust governance systems in place, prior to entering into binding agreements on aquaculture settlement assets.

If a dispute occurs regarding the allocation of aquaculture settlement assets and the parties are unable to reach a resolution through a mediation process, any party to the dispute may refer it to the Māori Land Court. The Court may refer the dispute back to the IAOs for them to seek a resolution or make a determination if it finds that the parties have already taken reasonable steps to resolve the dispute.

Changes to existing Government regulation is the preferred approach of the Ministry for Primary Industries as existing legislation is in place that can be modified. The amendments proposed are broadly similar to discretionary powers that exist under sections 135 and 136 of

the Maori Fisheries Act 2004, which enables Te Ohu Kaimoana to allocate and transfer undisputed fisheries settlement assets to mandated iwi organisations. This power has been used successfully to transfer fisheries settlement assets to iwi.

Te Ohu Kaimoana originally presented the proposal for amendments to improve the allocation and transfer of aquaculture settlement assets on behalf of iwi. The proposed amendments were again endorsed by iwi as the preferred approach during public consultation.

Discretionary powers enabling the transfer of fisheries settlements assets has proven to be successful and it is expected that this would be equally successful in the transfer of aquaculture assets.

2.3 What is the policy problem or opportunity?

Te Ohu Kaimoana presented a proposal to the Minister of Fisheries in mid-2018 that identified a need to improve the allocation and transfer process provided in the Settlement Act. Improvements were proposed to address the issue of iwi being unable to access their settlement assets in circumstances where an agreement on allocation between all iwi in a region could not be reached.

At present, the allocation and transfer of aquaculture settlement assets can only occur when there is unanimous agreement between all relevant IAOs in a region, or through the dispute resolution process (which includes reference to the Māori Land Court) provided for in the Settlement Act. If agreement on allocation entitlements cannot be reached by all IAOs in a region, no allocation and transfer can occur.

This requirement is causing frustration between iwi in the Northland and Bay of Plenty regions (and may occur in other regions in the future) as some iwi are either unable or unwilling to participate in regional negotiations, therefore limiting their iwi neighbours from accessing their aquaculture settlement assets.

Currently, in these two regions, it has not been possible to allocate and transfer regional aquaculture settlement assets. The disputes resolution process is unable to address this issue because:

- an iwi in one region is not represented by an IAO (or mandated iwi organisations or recognised iwi organisations) and, is unlikely to be in the near future, and is therefore unable to participate in the dispute resolution process; and
- an iwi in one region is unwilling to participate in the dispute resolution process provided for in the Settlement Act due to their objection to the Settlement Act as an issue of principle.

As a result, all IAOs in the two regions are facing indefinite delays in receiving aquaculture settlement assets. Unlocking aquaculture settlement assets in these areas s 9(2)(b)(ii) enable iwi on those regions to utilise their aquaculture settlement assets to support their aquaculture aspirations.

The issue cannot be resolved through current legislation and similar situations are likely to occur in future regional agreement processes unless improvements are made to the

allocation and transfer process provided in the Settlement Act.

The current dispute resolution process is proving insufficient in addressing the problem as it relies on iwi having the appropriate governance arrangements to participate and an iwi has to be willing to take part in regional negotiations and any dispute resolution process.

The following criteria have been used to assess the options for addressing this problem:

1. Treaty of Waitangi (the Treaty) and its principles – in particular, working in partnership with iwi, ensuring iwi can participate in aquaculture activities and active protection of iwi rights and interests in aquaculture.
    - Does the intervention ensure the Crown is working in partnership with iwi to deliver its settlement obligations?
    - Does the intervention ensure iwi can participate in aquaculture activities?
    - Does the intervention actively protect the rights and interest of iwi in aquaculture?
2. Settlement Act – the intervention provides for the effective allocation and management of aquaculture settlement assets to iwi and aligns with the fundamental provisions of the Act.
    - Is the intervention ensuring the Crown is meeting its obligation to provide iwi, through IAOs, with aquaculture settlement assets equivalent in value to 20 per cent of all space created for aquaculture development?
    - Is the allocation within each region based on a collective agreement amongst the iwi in the region?
    - Does the intervention improve the allocation and transfer of aquaculture settlement assets? If so, to what extent?
3. Cost effectiveness – the intervention is cost effective for the Crown and iwi
    - Will the intervention achieve the objective with minimal costs to the Crown, iwi and industry?
4. Equity – Ensuring every iwi has equal ability to access their aquaculture settlement assets.
    - Will the intervention benefit all iwi?
5. Impact on Māori-Crown relations
    - What impact does the intervention have on Māori-Crown relations?

2.4 Are there any constraints on the scope for decision making?

The scope for decision making is limited to the allocation and transfer process provided in the Settlement Act.

Any broader aquaculture amendments not related to the allocation and transfer of aquaculture settlement assets are not considered as part of this proposal.

Two alternative options considered during public consultation were considered to be unsatisfactory and unhelpful by iwi and Te Ohu Kaimoana.

Maintaining the status quo or providing additional resources towards facilitating regional agreements were not supported by iwi as it would not result in aquaculture settlement assets being delivered into the hands of those IAOs that wish to claim the assets they are entitled to. It was also highlighted that the issue is not that the iwi are yet to reach an agreement on how to allocate assets, it is that the Settlement Act is too rigid and does not sufficiently provide for iwi to reach creative solutions on how to allocate assets amongst themselves.

Iwi in two regions are currently facing indefinite delays in receiving their aquaculture settlement assets from Te Ohu Kaimoana. This is due to the inability to reach unanimous agreement between all iwi in those region about how the aquaculture settlement assets should be allocated amongst them. This is unlikely to be resolved through current legislation and there is a risk that similar situations will arise in future regional settlement processes.

2.5 What do stakeholders think?

Consultation on proposals to improve the allocation and transfer process of aquaculture settlement assets as provided for in the Settlement Act was conducted by the Ministry for Primary Industries / Fisheries New Zealand from 28 November 2019 to 20 February 2020 with the release of a discussion document and targeted meetings held in early December 2019.

The proposed options outlined in the discussion document and discussed at meetings were:

- **Option 1** (status quo) – Maintain the status quo, with no changes to legislation
- **Option 2** – Provide additional resources towards facilitating regional agreements
- **Option 3** – Amend the Settlement Act to provide Te Ohu Kaimoana with a limited discretionary power to allocate and transfer aquaculture settlement assets in circumstances where:
    - It has not been possible for all iwi in a region to conclude a formal agreement on allocation of the assets for a particular settlement; or
    - The dispute resolution process provided for in the Settlement Act (which includes reference to the Māori Land Court) has been unable to resolve the issue.

A total of seven written responses were received on the proposed options, in addition to verbal feedback provided at the targeted meetings. Three targeted meetings were held with IAOs in the Northland and Bay of Plenty regions as well as a national IAO meeting in Auckland.

Five written responses from Te Ohu Kaimoana and representative iwi organisations (Te Whakakitenga o Waikato Incorporated, Te Rūnanga o Ngāi Tahu, Ngātiwai Trust Board and Te Aupōuri Commercial Development Limited) supported amendments to the Settlement Act (Option 3).

Two written responses, from individuals, supported the option to maintain the status quo, with no changes to legislation (Option 1). The responses from individuals did not provide any detailed information or rationale for their position.

Maintaining the status quo (Option 1), along with the option of providing additional resources towards facilitating regional agreements (Option 2), was identified as unsatisfactory by Te Ohu Kaimoana as it would not result in aquaculture settlement assets being delivered into the hands of those IAOs that wish to claim the assets they are entitled to.

Te Ohu Kaimoana noted in its response that Option 2 is unhelpful as the issue is not that the iwi are yet to reach an agreement on how to allocate assets, it is that the Settlement Act is too rigid and does not sufficiently provide for iwi to reach creative solutions on how to allocate assets amongst themselves.

Amending the Settlement Act to provide a limited discretionary power to Te Ohu Kaimoana had wide support from iwi at the targeted meetings as they see that it will:

i. Ensure aquaculture settlement assets are delivered to those IAOs that wish to claim the assets it is agreed they are entitled to within an appropriate timeframe;

ii. Protect the interests of those iwi that choose not to claim the aquaculture settlement assets they are entitled to within that timeframe; and

iii. Assist the Crown to fulfil its settlement obligations.

This option was identified in the written responses as a practical means for resolving current and future issues and would ensure regional settlement assets are transferred to iwi in a timely manner.

Te Whakakitenga o Waikato Incorporated while supporting the intent of the proposed amendments, considered that the issues stem from broader systemic issues with Crown process. It was noted that while the changes address a small part of the issue, it is integral that Crown policy does not undermine existing settlements or prejudice future options for mana whenua.

All iwi responses noted that the option to provide a limited discretionary power to Te Ohu Kaimoana (Option 3) aligns most closely with the proposal submitted by Te Ohu Kaimoana in June 2018 and is the preferred option. The support for the amendment was conditional on the intent of the proposed amendments submitted by Te Ohu Kaimoana being adopted.

The Ministry of Primary Industries will continue to work closely Te Ohu Kaimoana as the amendments progress through the process.

Section 3: Options identification

3.1 What options are available to address the problem?

Option 1: Status quo

What this option covers

Under Option 1, there would be no legislative change required. The allocation of aquaculture settlement assets would continue to require unanimous agreement between all the relevant iwi in a region or a determination to be made through the dispute resolution process provided for in the Settlement Act.

How it would work

There would be no changes to the current processes outlined in the background section of this document. This option would continue to have:

- the Crown enter into regional agreements with the relevant iwi in a region to provide aquaculture settlement assets equivalent to 20 per cent of the value of all marine aquaculture space, either in the form of authorisations to develop aquaculture space, its cash equivalent, or a combination of both;
- the relevant regional aquaculture settlement assets be transferred to Te Ohu Kaimoana and held until all the iwi of the region reach agreement on how to allocate the assets;
- Te Ohu Kaimoana facilitate the allocation entitlement process between iwi in a region to reach an agreement on how the assets should be allocated amongst them and then transfers assets in accordance with those agreements;
- All of the relevant iwi in a region to be represented by an IAO (or mandated iwi organisations or recognised iwi organisations) before they can enter into a written agreement to allocate aquaculture settlement assets, or participate in a dispute resolution process including through the Māori Land Court.

Initial assessment of option 1 against the criteria

Consistent with the Treaty and its principles

We consider that continuing with the status quo would have little effect on addressing the current allocation and transfer issues that are occurring in some regions. Iwi may consider that the Crown is not acting consistently with the Treaty and its principles as it has not yet fulfilled its obligations until aquaculture settlement assets have been transferred to all eligible iwi within a region.

Aligns with the fundamental provisions of the Settlement Act

As no changes would have been made, this approach would most likely remain consistent with the purpose and provisions of the Settlement Act to provide for the allocation and management of aquaculture settlement assets to iwi, particularly for those IAOs who are able to conclude a regional agreement.

Cost effectiveness

Costs under this option would be neutral.

Current costs for Te Ohu Kaimoana to facilitate regional agreements are met through an annual funding agreement with MPI, which would be unchanged. However, there is a significant opportunity cost with respect to undeveloped aquaculture settlement assets that would continue to remain held in trust by Te Ohu Kaimoana on behalf of those iwi that should receive aquaculture settlement.

Equity

Under the status quo approach it is likely that not all iwi would benefit as not all iwi would have equal ability to access their aquaculture settlement assets. Several iwi in two regions would still be unable to realise their aquaculture settlement assets due to being inhibited by the position of another iwi neighbour who is either unwilling or unable to participate in regional negotiations. The same would likely apply to other iwi in future settlement processes if this issue continues.

Impact on Māori-Crown relations

Impact on iwi

This approach is likely to have an undesirable effect on inter-iwi relationships as relationships may deteriorate from one iwi inadvertently limiting other iwi from accessing their aquaculture settlement assets.

Impact on government

This approach may also have detrimental effects on the Māori-Crown relationship, as iwi may consider that the Crown has a responsibility to ensure that legislation can enable the allocation and transfer of aquaculture settlement assets.

Transitional requirements

No transition is required for this option.

Option 2: Providing additional resources towards facilitating regional agreements

What this option covers

Under Option 2, there would be no legislative change required. The Government and Te Ohu Kaimoana would commit more resources towards facilitating agreements between all iwi in disputed regions to determine the allocation of aquaculture settlement assets.

How it would work

This option would work exactly like option 1, with the exception that Te Ohu Kaimoana would have more resources to facilitate the process between disputing iwi within a region to reach an agreement on how the assets should be allocated amongst them.

This would include, but is not limited to, more staff resourcing and strengthening mediation services. Increased resourcing would see Te Ohu Kaimoana provide a dedicated resource to each individual IAO to work through their position in a dispute and come to an agreement that is mutually beneficial for all involved.

As with option 1, the governance requirements would remain unchanged so that all of the

relevant iwi in a region must be represented by an IAO (or mandated iwi organisations or recognised iwi organisations) before they can enter into a written agreement to allocate aquaculture settlement assets, or participate in a dispute resolution process including through the Māori Land Court.

This approach would focus on trying to facilitate successful agreement by all relevant IAOs in a region and where possible work with those iwi who do not have the required governance arrangements in place to understand why that is the case and whether there is scope for them to change their position.

The success of this option to address the current issues outlined earlier is heavily reliant on the willingness of all iwi in a region to participate in regional negotiations and for all iwi to have the required governance arrangements in place (or at least be willing to establish them). It would not be able to address circumstances where an iwi in a region does not have the required governance arrangements and is therefore unable to participate in regional negotiations.

Initial assessment of option 2 against the criteria

Consistent with the Treaty and its principles

We consider this approach to be consistent with the Treaty and its principles as it is focussed on working in partnership with relevant IAOs in a region to get regional agreement to deliver aquaculture settlement assets. This option would look to ensure that iwi can participate in aquaculture activities while protecting the rights and interests of iwi in aquaculture more broadly. However, it is unlikely to do so in cases where an iwi in a region does not have the required governance arrangements.

Aligns with the fundamental provisions of the Settlement Act

It is likely this approach would remain consistent with the purpose and provisions of the Settlement Act in instances where iwi in a region can reach agreement on the allocation of aquaculture settlement assets. However, it would not address the issue if iwi do not have the required governance arrangements in place and refuse to establish them.

Cost effectiveness

Cost for government

Whilst this option does not require the additional resources needed for legislative change, it would require additional resources for Te Ohu Kaimoana towards facilitating agreements between all IAOs in disputed regions to determine allocation of aquaculture settlement assets. Once implemented, this option would cost more compared to the status quo.

Te Ohu Kaimoana's work in undertaking its duties under the Settlement Act is currently resourced through an ongoing funding agreement between Te Ohu Kaimoana and MPI. Te Ohu Kaimoana submits an annual plan to MPI that outlines the estimated budget resources required for the year ahead to undertake pieces of work and carry out its duties.

The Government would need to identify additional funding to support the implementation of this option.

If these facilitation resources are successful in concluding regional agreements then this

option would be cost effective. Alternatively, if these facilitation resources are unsuccessful than this option would not be cost effective.

Cost for iwi

Iwi would not bear any financial cost as a result of this option.

Equity

Should the additional facilitation resourcing prove successful in achieving regional agreements then it is likely most (if not all) iwi would benefit as all iwi would have equal ability to access their aquaculture settlement assets. This approach would achieve greater equity compared to the status quo approach.

Impact on Māori-Crown relations

Impact on iwi

This approach would have positive effects on inter-iwi relationships as the additional facilitation resourcing would work with all IAOs to come to an agreement that would provide mutual benefits for all involved.

It is likely to have the opposite effect on inter-iwi relationships if IAOs are still unable to come to an agreement on how to allocate aquaculture settlement assets amongst them.

Impact on government

This approach would further strengthen the Māori-Crown relationship, as it would improve the delivery of the Crown's aquaculture settlement obligations and support iwi aquaculture aspirations, as well as further support the growth of the aquaculture industry. It is also likely that this approach would have detrimental effects on the Māori-Crown relationship if iwi are still unable to access their aquaculture settlement assets due to the issues they are currently facing.

Transitional requirements

A six month transition period is proposed to align with the timing of when Te Ohu Kaimoana is expected to submit its next annual plan to MPI in fulfilment of the funding agreement that exists between them.

It is likely that some transitional support may be required for this option, particularly as arrangements would need to be made around determining the level of additional resourcing required and how those resources would be implemented to support facilitating regional agreements.

We also consider that while implementation can occur reasonably quickly, the facilitation process itself could take a substantial amount of time to conclude a regional agreement or could be completely unsuccessful.

Option 3: Providing a new discretionary power

What this option covers

Under Option 3, the Settlement Act could be amended to provide Te Ohu Kaimoana with a

limited discretionary power to allocate and transfer aquaculture settlement assets in circumstances where:

- It has not been possible for all iwi in a region to conclude a formal agreement on allocation of the assets for a particular settlement; or
- The dispute resolution process provided for in the Settlement Act has been unable to resolve the issue through the Māori Land Court.

How it would work

This option proposes to amend the Settlement Act to provide Te Ohu Kaimoana with a limited discretionary power to allocate and transfer aquaculture settlement assets in the defined circumstances above.

This option would retain the core elements of the status quo option such as:

- The Crown would enter into regional agreements with the relevant iwi to provide aquaculture settlement assets equivalent to 20 per cent of the value of all marine aquaculture space, either in the form of authorisations to develop aquaculture space, its cash equivalent, or a combination of both.
- Once a regional agreement has been executed, the relevant regional aquaculture settlement assets are transferred to Te Ohu Kaimoana and held until all the relevant iwi in the region reach agreement on how to allocate the assets.
- Te Ohu Kaimoana would continue to facilitate the process between relevant iwi in a region to reach an agreement on how the assets should be allocated amongst them and then transfer assets in accordance with those agreements.
- All of the relevant iwi in a region must be represented by an IAO (or mandated iwi organisations or recognised iwi organisations) before they can enter into a written agreement to allocate aquaculture settlement assets, or participate in a dispute resolution process including through the Māori Land Court.

The intention of this approach is to create a mechanism whereby Te Ohu Kaimoana can allocate and transfer aquaculture settlement assets in circumstances where:

- It has not been possible for all IAOs in a region to conclude a formal agreement on allocation of the assets for a particular settlement; or
- The dispute resolution process provided for in the Settlement Act has been unable to resolve the issue through the Māori Land Court).

This would enable Te Ohu Kaimoana to allocate and transfer aquaculture settlement assets when two or more IAOs agree on a partial allocation (up to their collective maximum entitlement), without requiring all IAOs in a region to agree. Any disputed assets would still be held by Te Ohu Kaimoana until the relevant IAOs reach a resolution.

Te Ohu Kaimoana would not be able to use its limited discretionary power until at least 24 months after receiving regional aquaculture settlement assets from the Crown. We consider

this would provide sufficient time for all IAOs in a region to negotiate and agree an allocation methodology that is acceptable to all of them (if that is possible)[7].

When making a partial allocation Te Ohu Kaimoana would have to notify relevant iwi of its decision. At this time all iwi would have an opportunity (30 working days) to lodge an objection, and should they do so the objection would be referred to the dispute resolution process.

To ensure the approach is practical and effective, this option would also require additional amendments to be made to the Settlement Act:

- amending the current requirement that assets must be transferred to iwi as soon as they are allocated, even where an IAO might not want to receive their assets, whether that is due to 'in principle' objections to the Settlement Act or other reasons;
- amending to enable where there has only been a partial allocation, Te Ohu Kaimoana only needs to work with those iwi who have not had all their entitlements transferred to them; and
- amending to ensure any relevant iwi in the affected region can use the dispute resolution process to challenge any use of the limited discretionary power by Te Ohu Kaimoana.

A broadly similar discretionary power exists under sections 135 and 136 of the Maori Fisheries Act 2004, which enables Te Ohu Kaimoana to allocate and transfer undisputed fisheries settlement assets to mandated iwi organisations. This power has been used successfully to transfer fisheries settlement assets to iwi.

Constraints on the exercise of the limited discretionary power

There are four explicit constraints on the exercise of the limited discretionary power:

1. For settlement assets derived from the Crown's new space or pre-commencement (non-harbour) settlement obligations, Te Ohu Kaimoana may only allocate the proportion of assets in a region that relates to the length of coastline of the relevant iwi and is unlikely to be disputed. The balance would be held in trust until a final agreement or other resolution is concluded. In practice, Te Ohu Kaimoana would need to be satisfied that agreement exists on partial allocation of settlement assets up to their collective maximum entitlement between a number of the relevant iwi and that the interests of iwi who are not part of that agreement are protected by having their assets remain held in trust by Te Ohu Kaimoana;
2. For settlement assets derived from the Crown's pre-commencement settlement obligations relating to a harbour listed in Schedule 2 of the Settlement Act, Te Ohu Kaimoana may only allocate settlement assets to those iwi whose territory abuts that harbour. Further, Te Ohu Kaimoana may only allocate the proportion of assets in a harbour that relates to the proportion of the harbour claimed by that iwi that is unlikely to be disputed with the balance in trust until a final agreement or other resolution is concluded;

[7] In other regions, 24 months has been a sufficient amount of time for regions to come to an agreement so that Te Ohu Kaimoana could allocate and transfer aquaculture settlement assets to iwi.

3. Where the settlement assets are in a form other than cash, (i.e. an authorisation conferring an exclusive right to apply for a coastal permit and/or an existing coastal permit), any IAO that receives those assets may not alienate them and must transfer them (in whole or in part) to another IAO if necessary in order to comply with any final agreement or determination in relation to allocation; and

4. Affected IAOs would be given notice of Te Ohu Kaimoana's intention to exercise the discretion and would have a period of 30 working days, before that decision is implemented, in which any IAO that is dissatisfied with the exercise of the discretion would be entitled to have that exercise referred to dispute resolution and, ultimately, to determination by the Māori Land Court.

Initial assessment of option 3 against the criteria

Consistent with the Treaty and its principles

We consider this approach to be consistent with the Treaty and its principles as it provides scope for both iwi and the Crown to act in good faith and partnership to achieve the intended purpose of the Settlement Act. It also provides active protection for all IAOs in a disputed region as it is flexible enough to ensure all IAOs in a region are able to utilise their aquaculture settlement assets to the fullest extent practicable, while actively protecting minority rights should some IAOs choose not to realise their assets for whatever reason.

Aligns with the fundamental provisions of the Settlement Act

We consider that providing a limited discretionary power would remain consistent with the purpose and provisions of the Settlement Act to provide for the allocation and management of aquaculture settlement assets to iwi. The new power would address the issues some regions are currently facing and ensure the government is delivering on its obligations established under the Settlement Act.

Cost effectiveness

Cost for government

It is likely this option would have resourcing costs attached to it as it would require legislative change. We consider this option to be just as cost effective as option 2 as the resourcing required to progress legislative change could be met within existing baselines.

Cost for iwi

Iwi would not bear any financial cost as a result of this option. However, as this option looks to improve the allocation and transfer process, more iwi would be in a better financial position as they are able to acquire and develop their aquaculture settlement assets.

Equity

This option allows for greater equity compared to options 1 and 2 as it ensures every iwi has equal ability to access their aquaculture settlement assets. This option is flexible enough to allow those IAO who are able to agree on an allocation to realise their aquaculture settlement assets, while protecting the rights and interests of those iwi who are unable or unwilling to participate in a regional agreement.

Impact on Māori-Crown relations

Impact on iwi

This approach is likely to have positive effects on inter-iwi relationships. Iwi who agree to an allocation (full or partial) are able to realise their aquaculture settlement assets and those who remain unwilling or unable to participate can maintain their position without inadvertently limiting their iwi neighbours from benefitting from their aquaculture settlement assets. Likewise any disputed assets are protected in a trust until a resolution can be determined.

Impact on government

This approach would strengthen the Māori-Crown relationship, as it would improve the delivery of the Crown's aquaculture settlement obligations and support iwi aquaculture aspirations, as well as further support the growth of the aquaculture industry.

Transitional requirements

As this option would require legislative change it may take time to implement. MPI would need to work with Te Ohu Kaimoana in the interim to communicate the impacts of any legislative change and what it might mean for those likely to be impacted.

Following public consultation it was confirmed that there is broad support from iwi for amendments to be made to the Settlement Act to improve the process for timely allocation and transfer of aquaculture settlement assets.

3.2 What criteria, in addition to monetary costs and benefits, have been used to assess the likely impacts of the options under consideration?

Five criteria (Treaty of Waitangi (the Treaty) and its principles, Settlement Act, Cost effectiveness, Equity and Impact on Māori-Crown relations) were used to assess impacts.

3.3 What other options have been ruled out of scope, or not considered, and why?

Another legislative option that was considered was changing the criteria for all IAOs in a region to have unanimous agreement about how the aquaculture settlement assets should be allocated amongst them. The option proposed to amend the Settlement Act to allow Te Ohu Kaimoana to implement agreements between the majority (rather than all) of the IAOs of a region in certain circumstances. However, such a mechanism would make it difficult to adequately protect minority rights for those who may be unwilling or unable to participate in any agreement with others at the present time.

Section 4: Impact Analysis

Marginal impact: How does each of the options identified at section 3.1 compare with the counterfactual, under each of the criteria set out in section 3.2?

	No action: status quo (option 1)	Option 2: provide additional resources towards facilitating regional agreements	Option 3: Providing a new discretionary power
Treaty of Waitangi (the Treaty) and its principles	0 Consistent with Treaty and its principles but unlikely to resolve the problem.	0 Consistent with Treaty and its principles as partnership focused but unlikely to assist iwi with no governance arrangements.	++ Consistent with Treaty and its principles. Allows iwi and Crown to act in good faith and partnership, provides active protection for all iwi through its flexibility, and is based on discretionary powers successfully utilised to promote the timely transfer of fisheries settlement assets
Aligns with the fundamental provisions of the Settlement Act	0 Remains consistent as no change	0 Aligns with purpose and provisions of the Settlement Act to the extent that governance arrangements are in place.	++ Aligns with provisions as government can deliver on its obligations, assets can be transferred in a timely manner and the rights of iwi who don't want to participate are protected
Cost effective	0 Cost neutral as no change	- Would require additional resources for Te Ohu Kaimoana towards facilitating agreements and additional funding would need to be identified.	++ Iwi will be in a better financial position to acquire and use their assets and resourcing costs can be met within existing government baselines
Equity	0 Unequal access and benefit	+ Would achieve greater equity if additional facilitation resourcing proved successful.	++ Provides for greater equity as it ensures every iwi has equal ability to access their assets, it provides flexibility and protects minority rights
Impact on Māori-Crown	0	0	+

	No action: status quo (option 1)	Option 2: provide additional resources towards facilitating regional agreements	Option 3: Providing a new discretionary power
relations	Detrimental to relations as no change	It could strengthen or be detrimental depending on the outcome of facilitation.	Opportunity to strengthen relationships and reshape the settlement process in a way that does not force iwi into positions of conflict with one another
Overall assessment	**0** Unsatisfactory to iwi and unlikely to achieve objective	**0** Unsatisfactory to iwi and unlikely to achieve objective	**++** Strongly supported by iwi and achieves objective

Key:

++	much better than doing nothing/the status quo
+	better than doing nothing/the status quo
0	about the same as doing nothing/the status quo
-	worse than doing nothing/the status quo
- -	much worse than doing nothing/the status quo

Section 5: Conclusions

5.1 What option, or combination of options, is likely best to address the problem, meet the policy objectives and deliver the highest net benefits?

Amending the Settlement Act to provide a limited discretionary power to Te Ohu Kaimoana is the preferred option to improve the process for the allocation and transfer of aquaculture settlement assets.

The amendments will provide Te Ohu Kaimoana with a limited discretionary power to allocate and transfer aquaculture settlement assets in specified circumstances as follows:

- It has not been possible for all iwi in a region to conclude a formal agreement on allocation of the assets for a particular settlement; or
- The dispute resolution process provided in the Settlement have been unable to resolve the issue.

Amending the Settlement Act is the preferred option of the Ministry for Primary Industries as it:

i. Is consistent with the Treaty of Waitangi and its principles as it provides scope for both iwi and the Crown to act in good faith and partnership, provides active protection for all iwi through its flexibility, and is based on discretionary powers similar to the Maori Fisheries Act 2004 which have been successfully utilised to promote the timely transfer of fisheries settlement assets;

ii. Aligns with the fundamental provisions of the Settlement Act as government can deliver on its obligations and will ensure that regional aquaculture settlement assets are transferred to iwi in a timely manner while also protecting the rights of iwi who don't want to participate in the same timeframe;

iii. Provides a cost effective solution for both iwi and government as iwi will be in a better financial position to acquire and use their assets s 9(2)(b)(ii) and resourcing costs for legislative amendments by government can be met within existing baselines;

iv. Provides for greater equity as it ensures every iwi has equal ability to access their aquaculture settlement assets, it provides flexibility and protects minority rights; and

v. Offers an opportunity to strengthen Māori-Crown relationships and reshape the settlement process in a way that does not force iwi into positions of conflict with one another.

Amending the Settlement Act to provide a limited discretionary power to Te Ohu Kaimoana had wide support from iwi as they see that it will:

i. Ensure aquaculture settlement assets are delivered to those IAOs that wish to claim the assets it is agreed they are entitled to within an appropriate timeframe;

ii. Protect the interests of those iwi that choose not to claim the aquaculture settlement assets they are entitled to within that timeframe; and

iii. Assist the Crown to fulfil its settlement obligations.

This preferred option received wide support from iwi and will provide benefits in excess of s 9(2)(b)(iii) by unlocking aquaculture settlement assets and enabling iwi to realise their aquaculture aspirations. It is proposed that the limited discretionary power can be used immediately on enactment of the amended Settlement Act for iwi currently facing allocation issues in the Northland and Bay of Plenty regions.

5.2 Summary table of costs and benefits of the preferred approach

Affected parties *(identify)*	**Comment**: *nature of cost or benefit (eg ongoing, one-off), evidence and assumption (eg compliance rates), risks*	**Impact** *$m present value, for monetised impacts; high, medium or low for non-monetised impacts*	**Evidence certainty** *(High, medium or low)*
Additional costs of proposed approach, compared to taking no action			
Iwi	Iwi would not bear any financial cost as a result of the proposed approach	Low	High
Te Ohu Kaimoana	Legislative change will not result in additional cost to Te Ohu Kaimoana but will mean that the costs expended will be more effective.	Low	High
Ministry for Primary Industries	Resources are required to progress this one off legislative change which could be met within existing baselines	Low	High
Total Monetised Cost		$0	High
Non-monetised costs		Low	High
Expected benefits of proposed approach, compared to taking no action			
Iwi	The immediate benefit to iwi in the Northland and Bay of Plenty regions is unlocking valuable aquaculture settlement assets. Provides active protection for all iwi through its flexibility. Provides for greater equity as it ensures every iwi has equal ability to access their aquaculture settlement assets.	s 9(2)(b)(ii)	High

Te Ohu Kaimoana	Provides a cost effective way for regional aquaculture settlement assets to be transferred to iwi in a timely manner.	High	High
Ministry for Primary Industries	Provides for Government to deliver on its obligations. Helps Government deliver its aquaculture strategy to deliver economic growth and jobs for the regions and achieve the goal for it to become a $3 billion industry by 2035.	High	High
Total Monetised Benefit		s 9(2)(b)(ii) s 9(2)(b)(ii)	High
Non-monetised benefits	Aquaculture settlement assets are transferred to iwi in a timely and cost effective manner, delivery of the aquaculture strategy is progressed and Government can meet its obligations.	High	High

5.3 What other impacts is this approach likely to have?

The amendments proposed are intended to unlock iwi aquaculture assets which are expected to provide opportunities to realise meaningful jobs, wellbeing and prosperity. The scope of these benefits are difficult to quantify.

Estimates of potential benefits can be seen from previous examples including:

- In 2006 Eastern Sea Farms was granted a license for a 3,800-hectare marine farm to be established six kilometres off the coast of Ōpōtiki. It was estimated by the Ōpōtiki District Council that aquaculture could create more than 900 full-time jobs; and add more than $34 million a year to the district's economy.

- In 2010, the Te Tau Ihu iwi, Hauraki and Ngāi Tahu successfully completed their pre-commencement space settlements with the Crown which resulted in a $97 million Deed of Settlement.

The only potential risk identified to the proposal is the misuse of discretionary powers. This is considered highly unlikely given similar discretionary powers have been successful in the transfer of fisheries settlement assets to iwi.

Proposed explicit constraints on the exercise of the limited discretionary power include:

Circumstances in which the limited discretionary power can be used

The limited discretionary power can be used:

- Where it is clear that there is an inability for all iwi (through their Iwi Aquaculture Organisations and any Recognised Iwi Organisation of a relevant iwi that does not have an Iwi Aquaculture Organisation) in a region to reach unanimous agreement between them about how the aquaculture settlement assets should be allocated amongst them; or

- Where Te Ohu Kaimoana is satisfied that it is unable to make a determination on aquaculture settlement allocation entitlements because it has not been able to recognise iwi aquaculture organisations for one or more iwi; and

- Where Te Ohu Kaimoana is satisfied that the dispute resolution process provided in the Settlement Act (which includes reference to the Māori Land Court) has not been used in the situation or if it has been used it has been unable to resolve the issue.

- After a period of at least 24 months from when the first settlement assets for the region has been transferred to Te Ohu Kaimoana to allow a sufficient amount of time for regions to come to an agreement so that Te Ohu Kaimoana could allocate and transfer aquaculture settlement assets to iwi.

Using the limited discretionary power to partially allocate assets to iwi

- When making a partial allocation, Te Ohu Kaimoana would need to ensure that two or more IAOs (or any Recognised Iwi Organisation of a relevant iwi that does not have an Iwi Aquaculture Organisation) can formally agree on the partial allocation of settlement assets up to their collective maximum entitlement. Te Ohu Kaimoana would also need to be satisfied that the partial allocation is unlikely to be disputed and

would continue to hold in trust those assets not subject to the agreement.

Te Ohu Kaimoana must be required to notify iwi of its intent to exercise the limited discretionary power

- Te Ohu Kaimoana be required to notify relevant iwi of its decision to exercise the limited discretionary power. At this time all relevant iwi would have an opportunity (30 working days before the decision is implemented) to lodge an objection, and should they do so, the objection would be referred to the dispute resolution process provided in the Settlement Act. If those relevant iwi choose not to object, they should advise Te Ohu Kaimoana in writing. If nothing in writing has been received within at least 30 after the notification, then it is presumed that there is no objection.

The above constraints should mitigate any risk of misuse of discretionary powers.

5.4 Is the preferred option compatible with the Government's 'Expectations for the design of regulatory systems'?

No significant incompatibility with the Government's 'Expectations for the design of regulatory systems' has been identified.

The proposed amendments will provide long term benefits for iwi as they will be able to acquire and use their aquaculture settlement assets as suits their aspirations. It also assists government in delivering on its settlement obligations.

It is estimated that proposed amendments will release aquaculture settlement assets s 9(2)(b)(ii) to iwi in the Northland and Bay of Plenty regions. This approach is also expected to benefit iwi in other areas in the future if similar situations arise. The benefits s 9(2)(b)(ii) of the amendments are far greater than any costs incurred which have been assessed as low and within existing baselines.

Section 6: Implementation and operation

6.1 How will the new arrangements work in practice?

The preferred option will be delivered through amendments to the Settlement Act.

There is broad support from iwi for amendments to be made to the Settlement Act to improve the process for timely allocation and transfer of aquaculture settlement assets. The Ministry for Primary Industries has been working closely with Te Ohu Kaimoana and iwi to identify and implement the best solution to resolve the allocation and transfer issues.

The Ministry for Primary Industries and Te Ohu Kaimoana will be responsible for the implementation and ongoing operation of these arrangements. MPI is continuing to work with Te Ohu Kaimoana throughout the legislative process to ensure the intent of the changes are maintained and good communication is occurring about the process and timelines.

Proposed arrangements will come into effect as soon as practical subject to Cabinet approval.

6.2 What are the implementation risks?

Implementation timelines are subject to Government processes and timelines. The Ministry for Primary Industries and Te Ohu Kaimoana continue to work closely together and maintain regular communication.

Final outcomes and decisions will be publically communicated by the Ministry for Primary Industries and Te Ohu Kaimoana.

There is an existing annual reporting process between Te Ohu Kaimoana and the Ministry for Primary Industries which will be used to monitor and report on the implementation of the new arrangements. Te Ohu Kaimoana will be required to develop and maintain policy on when and how the new discretion would be exercised. It will also be required to notify the relevant iwi and the government each time the new discretionary power is used. This is in addition to the regular reports on the activities it undertakes in servicing the Māori Commercial Aquaculture Settlement Trust.

Section 7: Monitoring, evaluation and review

7.1 How will the impact of the new arrangements be monitored?

Te Ohu Kaimoana will be required to develop and maintain policy on when and how the new discretion would be exercised. It will also be required to notify the relevant iwi and the government each time the new discretionary power is used.

These requirements would be effected through the annual reporting process that Te Ohu Kaimoana employs, both with MPI and directly with iwi.

Consistent with the funding agreement that exists between Te Ohu Kaimoana and the Ministry for Primary Industries, Te Ohu Kaimoana provides the Ministry for Primary Industries with regular reports on the activities it undertakes in servicing the Māori Commercial Aquaculture Settlement Trust. Te Ohu Kaimoana will effect these requirements through its annual reporting process with the Ministry for Primary Industries and directly with iwi.

7.2 When and how will the new arrangements be reviewed?

The new arrangement will be reviewed annually through the existing reporting mechanism that exists through the funding agreement between Te Ohu Kaimoana and the Ministry for Primary Industries.

Iwi who have concerns with the use of the discretionary power will have 30 days from the initial notification to use the dispute process to raise their concerns with the use of the power.