



Cabinet Māori Crown Relations - Te Arawhiti Committee

Minute of Decision

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Improving the allocation and Transfer Process Provided in the Māori Commercial Aquaculture Claims Settlement Act 2004

Portfolio Fisheries

On 5 May 2020, the Cabinet Māori Crown Relations - Te Arawhiti Committee:

General

- 1 **noted** that the Maori Commercial Aquaculture Claims Settlement Act 2004 (the Settlement Act) provides for the full and final settlement of all Māori claims to commercial aquaculture since September 1992;
- 2 **noted** that while the fundamental provisions of the Settlement Act are sound and performing well, there is an opportunity to improve the allocation and transfer process of the Settlement Act;
- 3 **noted** that in November 2019, the Cabinet Economic Development Committee agreed to the release of a discussion document *Proposal to Improve the Allocation and Transfer Process Provided in the Maori Commercial Aquaculture Claims Settlement Act 2004* and invited the Minister of Fisheries to report back with final policy proposals in early April 2020 [DEV-19-MIN-0308];

Amendments to the Settlement Act

- 4 **agreed** to amend the Settlement Act to improve the allocation and transfer process of aquaculture settlement assets to iwi, by providing Te Ohu Kaimoana with a limited discretionary power to make determinations on aquaculture settlement allocation entitlements;
- 5 **agreed** that the limited discretionary power may only be used after a period of at least 24 months from when the first settlement assets for the region have been transferred to Te Ohu Kaimoana;
- 6 **agreed** that the limited discretionary power may only be used where Te Ohu Kaimoana is satisfied that it is unable to make a determination on aquaculture settlement allocation entitlements because:
 - 6.1 iwi are either unable or unwilling to reach an agreement allowing full allocation of settlement assets; or
 - 6.2 it has not been able to recognise iwi aquaculture organisations for one or more iwi;

- 7 **agreed** that the limited discretionary power may only be used where Te Ohu Kaimoana is satisfied that the dispute resolution process provided in the Settlement Act has not been used in the situation or, if it has been used, it has been unable to resolve the issue;
- 8 **agreed** that the limited discretionary power may be used when two or more iwi in a region can come to an agreement on a partial allocation up to their collective maximum entitlement;
- 9 **agreed** that, prior to using the limited discretionary power, Te Ohu Kaimoana must be satisfied that any partial allocation is unlikely to be disputed by the two or more iwi who agree on the partial allocation;

Notification of Intention to Use Discretionary Power

- 10 **agreed** that Te Ohu Kaimoana must notify all relevant iwi of its intention to use the limited discretionary power to make a partial allocation of settlement assets;
- 11 **agreed** that Te Ohu Kaimoana must give all relevant iwi 30 working days to lodge an objection through the dispute resolution process before any final decision is made to use the discretionary power;
- 12 **agreed** that:
- 12.1 those relevant iwi should advise Te Ohu Kaimoana in writing that they do not intend to invoke the dispute resolution process;
 - 12.2 if nothing in writing has been received within at least 30 days after the notification, then it is presumed that there is no objection;
- 13 **agreed** 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;

Legislative Drafting

- 14 **invited** the Minister of Fisheries to issue drafting instructions to the Parliamentary Counsel Office to give effect to the decisions in paragraphs 4 to 13 above;
- 15 **authorised** the Minister of Fisheries to make any minor and technical policy decisions that may arise during the drafting of the Maori Commercial Aquaculture Claims Settlement Amendment Bill;
- 16 **noted** that the Maori Commercial Aquaculture Claims Settlement Amendment Bill holds a category 4 priority on the 2020 Legislation Programme (to be referred to a select committee in 2020);
- 17 **noted** that the Maori Commercial Aquaculture Claims Settlement Amendment Bill should be passed no later than mid 2021;

Exposure Draft

- 18 **agreed** that a draft of the Maori Commercial Aquaculture Claims Settlement Amendment Bill be released to Te Ohu Kaimoana prior to finalisation of the Bill for introduction;

- 19 **noted** that the Minister of Fisheries is required to seek approval from the Attorney-General to release the exposure draft of the Maori Commercial Aquaculture Claims Settlement Amendment Bill.

Rachel Clarke
Committee Secretary

Present:

Rt Hon Winston Peters
Hon Kelvin Davis (Chair)
Hon Grant Robertson
Hon Andrew Little
Hon Carmel Sepuloni
Hon David Parker
Hon Nanaia Mahuta
Hon Stuart Nash
Hon Peeni Henare
Hon Willie Jackson
Hon Eugenie Sage

Officials present from:

Office of the Prime Minister
Ministry of Social Development
Te Puni Kōkiri
Officials Committee for MCR

Proactive Release