

Delivering the Māori Commercial Aquaculture Settlement

Engagement with Iwi



Overview

- To inform iwi of issue = New space settlement obligation is difficult to deliver under proposed regime
- To discuss options with iwi to best deliver new space under the new legislation
- To identify iwi values and aspiration in relation to aquaculture
- Engagement Process:
 - Ministers and Iwi Leaders met to discuss issue and need for engagement
 - Technical Group appointed
 - Worked collaboratively to develop proposals to improve the settlement
 - Engagement with mandated iwi organisations and iwi aquaculture organisations
 - Seek feedback on proposals
 - Report back to Ministers and Iwi Leaders

Maori Commercial Aquaculture Claims Settlement Act 2004

The Settlement Act:

Provides for the full and final settlement of contemporary Māori claims to commercial aquaculture space in the coastal marine area

Provides for the allocation and management of aquaculture settlement assets

Pre-commencement space

Space created between 21 September 1992 and 31 December 2004

Provides space and/or a financial equivalent to settle claims

Obligation is being discharged through regional agreements (financial equivalent)

New space

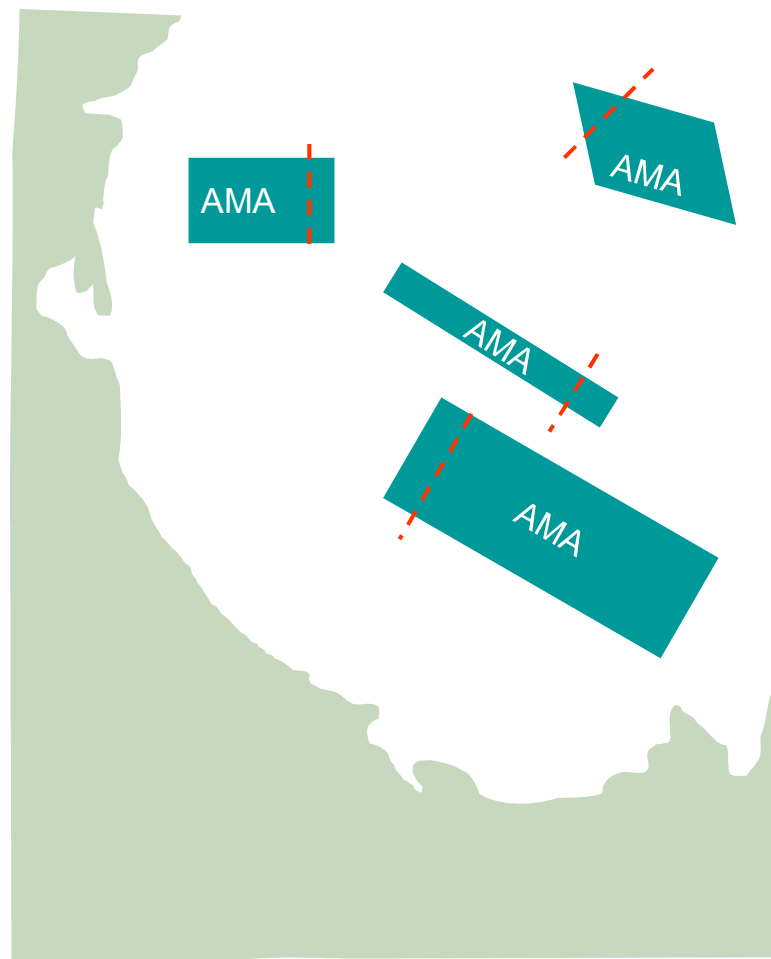
Space created from 1 January 2005

Provide iwi with authorisations for 20% of aquaculture space within Aquaculture Management Areas (AMAs)

Obligation triggered when AMAs established

Delivery of new space under current regime

- Authorisations granted for 20% of representative space once AMAs established
- Authorisations = the right to apply for coastal permits
- No AMAs were established under the current aquaculture regime
- No new space created
- No settlement obligation has arisen



The Aquaculture Reforms

There are three key aims of aquaculture reform:

- Reduce costs, delays and uncertainty
- Promote investment in aquaculture development
- Enable integrated decision-making

Cabinet has made decisions in relation to:

- Planning and consenting
- Undue adverse effects on fishing (UAE) test
- Existing farms and applications
- Māori commercial aquaculture settlement
- Government leadership

Impacts of the Aquaculture Reforms

- Removes the requirement to establish AMAs before aquaculture activities can take place
- Difficult to deliver the new space settlement obligation
- A new delivery mechanism is required

Cabinet agreed that the Crown is financially responsible for the settlement

These discussions are about how to deliver the new space obligation and will not affect the pre-commencement settlement

What is in the Aquaculture Legislation Amendment Bill?

- Must ensure that its settlement obligations are maintained and can be delivered under the new aquaculture law
- Bill introduced 9 November 2010. Provisions included to provide for settlement obligation pending completion of engagement with iwi

The Crown is responsible for meeting its obligations to deliver the settlement to Maori.

The Crown's obligations must be complied with by way of either:

(a) ensuring that 20% of new space in the coastal marine areas is transferred to the trustee for the purposes of aquaculture activities; or

(b) agreeing to an equivalent by way of a regional agreement.

Why are we meeting with iwi?

- Crown engagement with iwi to find a suitable delivery mechanisms
- Provide information about the reforms and impacts
- Discussion on two primary delivery pathways:
 - Regional Agreements
 - In absence of Regional Agreements

Regional Agreements

Deliverable	Space		Cash			Anything else		
Timing of delivery	1-off up front	Periodic, eg 5 yearly	As the space is created	1-off up front	Periodic, eg 5 yearly	As the space is created	1-off up front	Periodic, eg 5 yearly
Mode of delivery	Equivalent space elsewhere	Authorisations in zones				Combination of cash and space	Assistance with JVs	Other deliverables

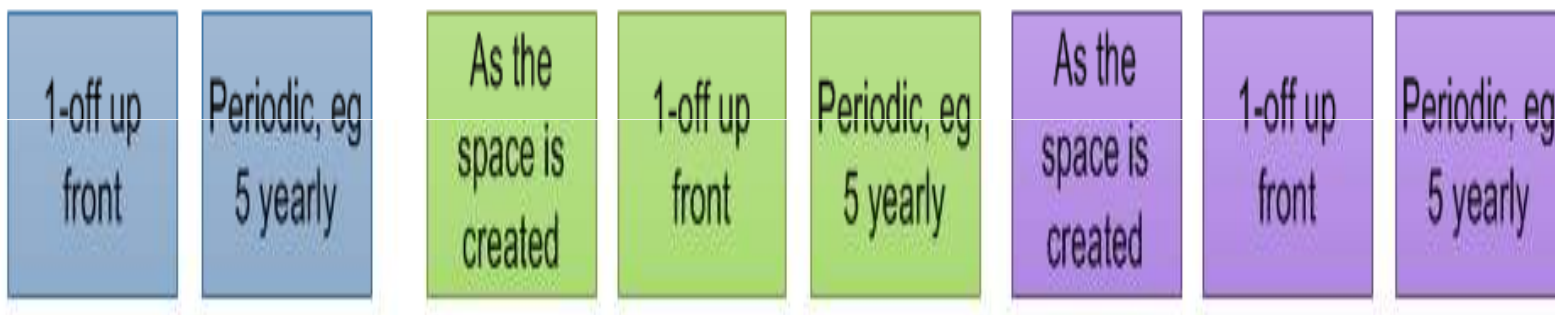
Regional Agreements

Space

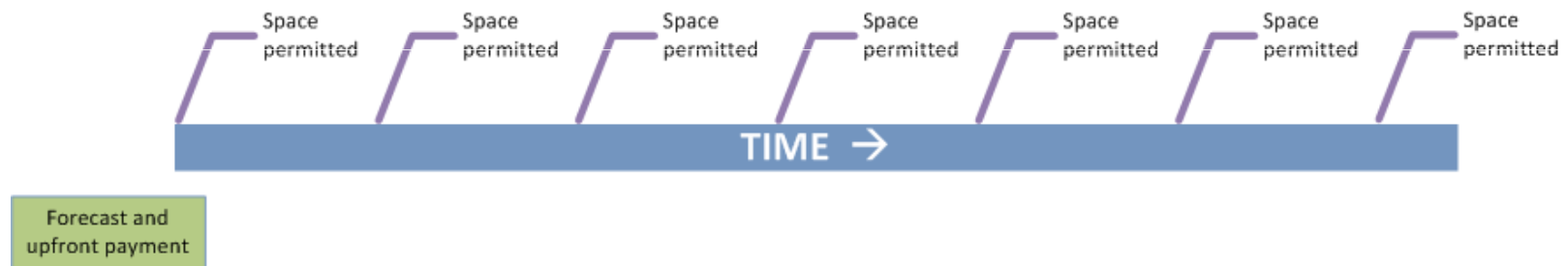
Cash

Anything
else

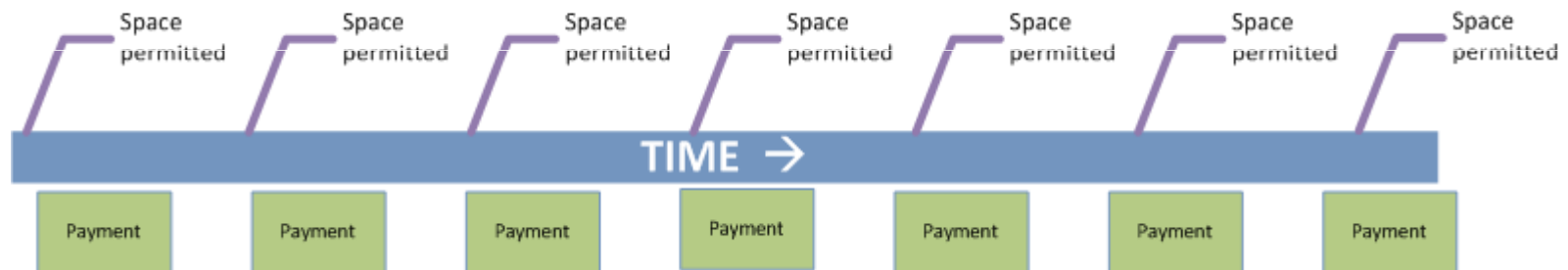
Timing of delivery



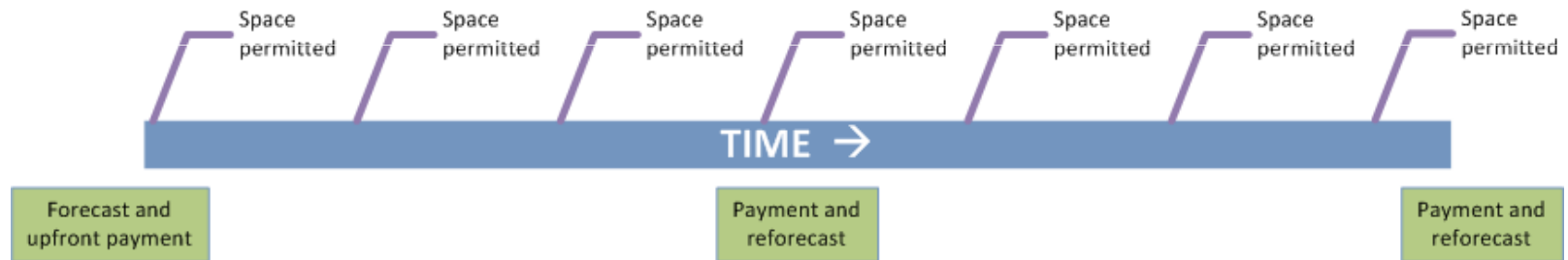
Timing of delivery – one off upfront



Timing of delivery – as space is created



Timing of delivery – periodic



Mode of delivery

Equivalent
space
elsewhere

Authoris-
ations in
zones

Combination
of cash and
space

Assistance
with JVs

Other
deliverables

In absence of regional agreements – 20% of actual space created

Deliverable

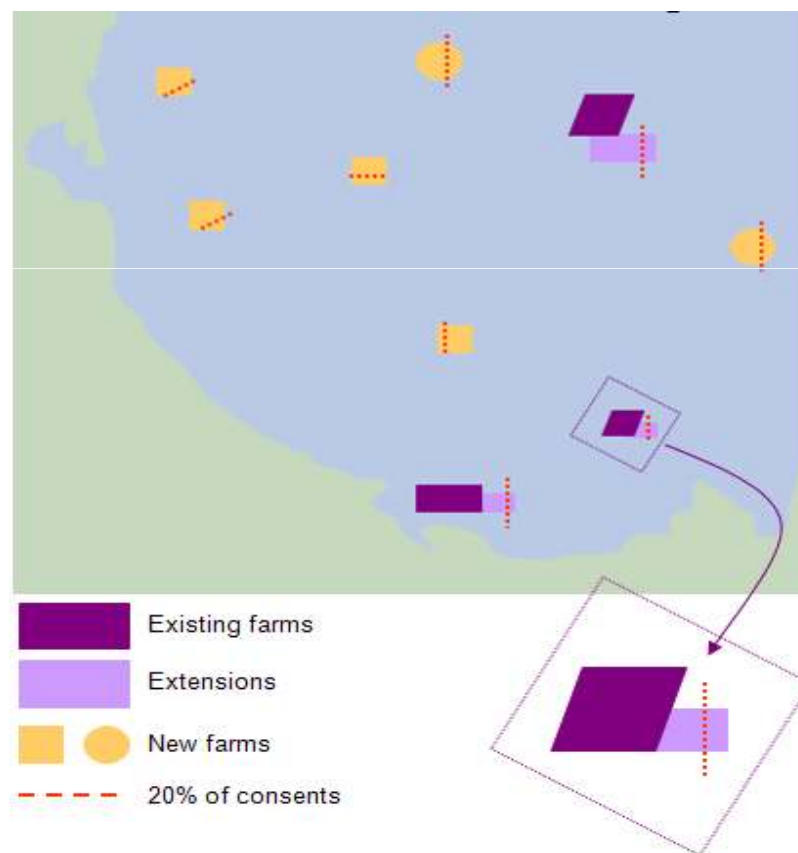
Space

Mode of delivery

20% of actual
marine farms /
zones

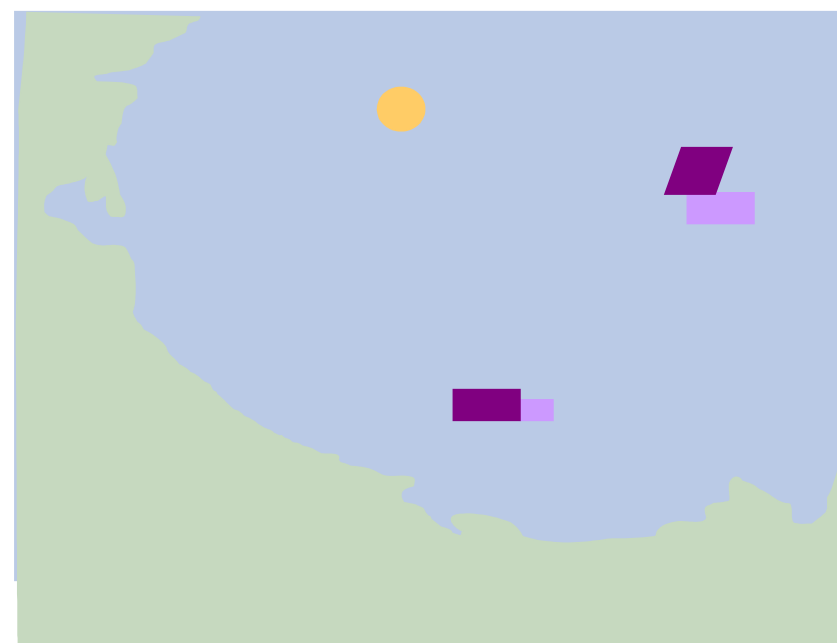
Timing of delivery




As the space is
created



In absence of regional agreements – Equivalent space

Deliverable	Space
Mode of delivery	Equivalent space elsewhere
Timing of delivery	Periodic, eg 5 yearly, retrospective



-  Existing farms
-  New aquaculture Activities
-  Equivalent space

Crown preference

Cash settlement

- Paid up front through regional agreements
- Timely delivery
- Allows flexibility and choice
- Provides opportunity for iwi
- Avoids risks and negative impacts

Iwi preference?

- Space
- Based on preliminary discussions
- Flexibility offered by regional agreements

Next steps

- Seek feedback on proposals
- Report back to Ministers and Iwi Leaders Group

- What are your views?
- Provide written response to Ministry of Fisheries (18 February 2011 close)

- Note that submissions on the Bill must be made directly to the Primary Production Committee .

QUESTIONS AND ANSWERS / FEEDBACK



Cash or Space

Pros	Cons
Space	
<ul style="list-style-type: none"> •The deliverable envisaged in the Settlement Act •Provides direct access to space 	<ul style="list-style-type: none"> •As for the status quo, significant additional investment is required to actually start up and operate a marine farm •Delivery costs may be out of proportion to the value of the asset delivered •There are additional cons for the different delivery modes
Cash	
<ul style="list-style-type: none"> • Flexible – allows iwi to engage in aquaculture (or invest elsewhere) in the manner in which they feel most likely to be successful • Can be delivered in a timely manner 	<ul style="list-style-type: none"> • Space not delivered directly; it may not be possible to get appropriate space for an acceptable price

Timing of delivery

Pros	Cons
<i>As space is created</i>	
<ul style="list-style-type: none"> The settlement would be delivered based on actual space created 	<ul style="list-style-type: none"> Settlement would be intermittent and may take significant time to build to a useful level
<i>One-off up front</i>	
<ul style="list-style-type: none"> Consolidated settlement assets provided ahead of time Allows earlier access to settlement assets, while space is more likely to be available Iwi could plan for their engagement in aquaculture on the basis of a known quantum 	<ul style="list-style-type: none"> The settlement would be based on projections rather than actual space created
<i>Periodic</i>	
<ul style="list-style-type: none"> The settlement would be delivered based on actual space created If forecasted, allows earlier access to settlement assets projected for the period, while the space is more likely to be available Would allow for small increments to be aggregated and delivered as a parcel 	<ul style="list-style-type: none"> Settlement would be intermittent and may take significant time to build to a useful level If retrospective, may be provided too late to access desirable space

Mode of delivery

Pros	Cons
<i>Equivalent space elsewhere</i>	
<ul style="list-style-type: none"> • Allows for space to be aggregated rather than delivered in small, scattered parcels • No shared boundary with other marine farmers • In some circumstances could be the most expedient way to ensure access to space 	<ul style="list-style-type: none"> • May prove difficult to deliver – the Crown cannot guarantee space; and less direct than if iwi obtained cash and applied for space themselves • Equivalent space may not be available unless it is set aside early • Likely to be technically and administratively complex to deliver
<i>Authorisations in zones</i>	
<ul style="list-style-type: none"> • Similar to the delivery mechanism as set out in the Settlement Act • Can be delivered in conjunction with other modes of delivery • Likely to deliver space of 'economic size' • Zones could be used in 'high demand' situations; this mechanism would mean iwi would have access to desirable space 	<ul style="list-style-type: none"> • Zones unlikely to be established on the same basis of AMAs, e.g. may not have had detailed research or Undue Adverse Effects test completed – additional expense required to convert to permit

20% of space created

Pros	Cons
<i>As space is created</i>	
<ul style="list-style-type: none"> •The settlement would be delivered based on actual space created 	<ul style="list-style-type: none"> •Delivery cost may be out of proportion to the value of the asset delivered •Settlement would be intermittent and may take significant time to build to a useful level

20% of actual marine farms

Pros	Cons
<ul style="list-style-type: none">•Direct delivery of space	<ul style="list-style-type: none">•Delivery cost may be out of proportion to the value of the asset delivered•The settlement would deliver small, scattered parcels, which may be difficult to manage comprehensively as an asset (see figure 1, below)•Space selected and permitted by others may not be suitable in terms of location or type of marine farming•It may be difficult for private applicants and iwi to agree on the representative 20% that will be handed over•Risk of disputes in relation to shared boundary•This approach may act as a disincentive to investment in aquaculture and reduce growth overall as well as the settlement increment

Equivalent space

Pros	Cons
<p>Periodic</p> <ul style="list-style-type: none"> The settlement would be delivered based on actual space created Would allow for small increments to be aggregated and delivered as a parcel 	<ul style="list-style-type: none"> Settlement would be intermittent and may take significant time to build to a useful level
<p>Equivalent space elsewhere</p> <ul style="list-style-type: none"> Allows for space to be aggregated rather than delivered in small, scattered parcels No shared boundary with other marine farmers 	<ul style="list-style-type: none"> May prove difficult to deliver; could result in delivery of cash instead