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Tena Koe Stan

**Provision for input and participation of Tangata Whenua in fisheries management –
relationship between Ministry of Fisheries (MFish) and mid north iwi**

- 1 Thank you for your letters of 12 April 2006 and 26 May 2006, the latter received shortly before my departure overseas on Ngapuhi business.

Summary and overview

- 2 At the outset I want to clearly say that Ngapuhi is anxious to put behind us all communications over the past months on how and where we work with MFish on fisheries management, and to get on with the actual work of input and participation by Ngapuhi into fisheries management within our rohe.

- 3 There is much old ground covered in your letter with only two points needing clarification:

- 3.1 You state that “(MFish’s) understanding of our agreement is that the Hokianga Accord is not an Iwi Regional Forum; it is a joint iwi/recreational body” and therefore will not qualify for funding (paragraph 14 of your letter); and

- 3.2 You ask “whether iwi (presumably Ngapuhi, Ngati Wai and Ngati Whatua) are interested in developing a planned approach to the management of their fisheries?” (Paragraph 17 of your letter).

- 4 ***Hokianga Accord - an iwi Regional Forum***

- 4.1 As previously advised (my letter to you of 4 April 2006) the Hokianga Accord was the name given to the relationship that had developed between Maori and non-Maori non-commercial fishing interests in mid Tai Tokerau all sharing the common intention of improving our coastal fisheries so that iwi and hapu can continue feeding their whanau and to that end improving the fisheries in our rohe.

- 4.2 Since the introduction by MFish of the iwi Regional Forum model to provide for input and participation of tangata whenua into fisheries management, we have modified the form of the Hokianga Accord to conform to your model as demonstrated in the diagram on page 79 of the Whitoria Marae Hui report you will by now have received.

- 4.3 Although the name Hokianga Accord has been carried through, it is undeniable that the forum comprising iwi of mid Te Tai Tokerau, namely, Ngapuhi, Ngati Wai and Ngati Whatua, clearly complies with the MFish model for an iwi regional forum for this region, and as such qualifies for Cabinet approved funding.

- 4.4 It is my strong view that provision for Ngapuhi's input and participation is not about MFish dictating a process, but rather providing both the means and opportunity to do so. I am pleased to note that you also share this view (paragraph 5 of your 26 May 2006 letter). If Ngapuhi considers that this can best be provided through the iwi regional forum we have put together then MFish should not be seeking to impose a structure that fits a consideration of all fisheries issues.

5 ***Ngapuhi's interest in planned fisheries management?***

- 5.1 This question suggests a misunderstanding of the principles of tikanga Maori including manaakitanga and kaitiakitanga and the inter relationship of those principles.
- 5.2 Any thought or possibility of Ngapuhi, or for that matter any other iwi or whanau/hapu, not being able to feed our whanau and manaaki our manuhiri with kai moana is unthinkable.
- 5.3 My communications to you, both written and spoken, over the past 12 months or so are directed at requesting MFish discharge the Minister's obligations to provide for Ngapuhi's input and participation into fisheries management.

6 ***Proposed charitable trust***

- 6.1 I confirm, as also demonstrated in the diagram on page 79 of the Whitiara Marae Hui report, that the proposed charitable trust will be an entity entirely separate from and not involved in the business of the Hokianga Accord, our iwi Regional Forum.
- 7 I will address these, and related points you make in more detail shortly, but before doing so I want to spell out our respective purposes and intentions in the matter of fisheries management so that we are both clear on the roles each of our respective organisations are required to play.

Fisheries Act 1996 (the Act) – purpose

- 8 Section 8(1) contains the purpose of the Act, namely, to provide for the *utilisation* of fisheries resources while ensuring *sustainability*.
- 9 Section 8(2) defines *ensuring sustainability* as *maintaining the potential of fisheries resources to meet the reasonably foreseeable needs of future generations, and avoiding, remedying or mitigating any adverse effects of fishing*.
- The term *utilisation* is defined as *conserving, using, enhancing and developing fisheries resources to enable people to provide for their social, economic and cultural wellbeing*.
- 10 Parliament has entrusted the Minister of Fisheries (the Minister) and, to enable the Minister's functions and obligations to be carried out, the Ministry of Fisheries (MFish) - you and your colleagues - with the responsibility on behalf of the people of New Zealand to ensure that such purpose is given effect.

- 11 The Act contains a considerable number of processes, procedures, obligations and rules to that end.

Ngapuhi's and my purpose

- 12 The Act, and regulations (amongst others) give statutory recognition to the role Maori have had for hundreds of years as kaitiaki of Aotearoa's fisheries and marine environment.
- 13 For example, section 12 of the Act which requires the Minister to *provide for the input and participation of tangata whenua having –*
- (i) *a non-commercial in the stock concern; or*
 - (ii) *an interest in the effects of fishing on the aquatic environment in the area concerned -*
- and having particular regard to kaitiakitanga.*
- 14 Your colleagues will have heard first hand at the Whitiara Marae, Te Tii, hui held on 6 and 7 April 2006 of difficulties our people now have in catching fish to feed their whanau. I am both resolved and determined to concentrate my efforts in improving fisheries in our rohe so that Ngapuhi descendants do not spend valuable time and resources journeying from inland places to the sea only to return empty handed. Ngapuhi people also need to be able to manaaki our manuhiri.
- 15 As Chairman, Te Runanga A Iwi O Ngapuhi, my purpose is to serve both my people and the fisheries and aquatic environment within our rohe.

Hokianga Accord – the mid north Iwi Regional Forum

- 16 I refer to my letters to you of 4 and 5 April 2006 where I made it clear that we, namely, the iwi of mid Te Tai Tokerau, already have developed an iwi forum which complies with the MFish regional iwi forum model to enable the Minister to *provide for the input and participation of tangata whenua*
- 17 You will have noted from the Hokianga Accord report in respect of the Te Tii hui held on 6 and 7 April 2006 (pages 16 and 17) a record of the statements of your colleagues confirming MFish's intention to support the Hokianga Accord as an iwi forum both financially and as a vehicle to discuss all fisheries management issues.
- 18 I am delighted that the hapu of Te Roroa, Te Uri O Hau and the iwi of Ngati Wai and Ngati Whatua have so far all indicated their willingness to join with Ngapuhi as hapu/iwi of the mid north. If however, they chose not to do so that does not discharge the Minister's obligation to provide for the input and participation by Ngapuhi.
- 19 As I have previously stated (para 30 of my letter to you of 4 April 2006) Ngapuhi, as the iwi having an interest in the effects of fishing on the aquatic environment in its area of influence, is entitled to have MFish provide for Ngapuhi's input and

participation without condition whether on the availability or otherwise of funding arrangements, or the ability of other iwi/hapu to participate.

- 20 You and your colleagues will appreciate that Maori protocol dictates that only Kaumatua of any given marae can extend invitations to a hui held on that marae. All invitations to hui held to date at both Whakamaharatanga and Te Tii have by agreement with the Kaumatua of those marae been extended by me. Manuhiri (guests) invited include iwi members from other hapu, MFish representatives, and non-Maori representatives (from various recreational fishing and conservation groups) alike. Speaking rights are as previously agreed to by the host marae.
- 21 The extension of invitations to non-Maori representatives does not and cannot disqualify our iwi forum from being an iwi regional forum.
- 22 I am pleased that all hui held to date have enabled iwi/hapu of the mid north to develop relationships and work not just with MFish on fisheries management issues, but also with our non-Maori guests who have much to offer Maori, and I believe all New Zealanders on fisheries management.

Proposed charitable trust

- 23 Concerning the proposed charitable trust, I confirm, as also demonstrated in the diagram on page 79 of the Whitiara Marae Hui report, that the proposed charitable trust will be an entity entirely separate from and not involved in the business of our iwi Regional Forum.
- 24 It is the intention that the proposed charitable trust, once incorporated, provide funding, research and education in fisheries management and conservation work to bodies engaged in that work including “the Hokianga Accord” so long as the criteria for grants by the proposed charitable trust are satisfied by prospective recipients of grants.

Input and participation - substance not form

- 25 At the Whakamaharatanga hui held in August 2005 participants were on the one hand surprised to learn that MFish was in *laissez-faire* mode on fisheries management, but on the other hand pleased that you wanted to hear from the relevant iwi forums on the outcomes iwi and hapu want for fisheries management.
- 26 However, since the first hui at Te Tii in April 2005, subsequent hui at Whakamaharatanga, then again at Te Tii, and in my communications (both spoken or written) with MFish it appears to me that MFish has a preoccupation with *how and where* (form) MFish (for the Minister) wants to provide for Ngapuhi’s input and participation into fisheries management rather than actually *providing for* (substance) Ngapuhi’s input and participation. In other words MFish is pursuing a path of form over substance.
- 27 This approach on your part is both delaying and preventing provision by the Minister of input and participation into fisheries management by Ngapuhi in our rohe and is of increasing concern to us. As I said earlier it is my strong view that the provision for

Ngapuhi's input and participation is not about MFish dictating a process, but providing both the means and opportunity to do so.

- 28 We have been doing our best to engage with you on ways in which we can improve our fisheries to the extent that as Ngapuhi's Chairman I now find myself asking what more Ngapuhi have to do to communicate to you that we want fisheries management measures discussed, agreed and introduced in our rohe without further delay for the benefit not only of our people, but all New Zealanders.

Funding for the work of the "The Hokianga Accord"

- 29 You would have received feedback from your MFish colleagues following the latest Te Tii hui held on 6 and 7 April 2006 that they considered that the Hokianga Accord, as the "Mid Te Tai Tokerau iwi Regional Forum" met MFish's guidelines for an iwi regional forum.
- 30 I was therefore disappointed to learn from your letter of 26 May 2006 that the funding previously approved for hui was being arbitrarily withdrawn (paragraph 14 of your letter) when there had been no change since in the format of our iwi regional forum.
- 31 I believe that you had and still have no grounds for your withdrawal of that funding and I request that this funding be reinstated.

Your Whangarei meeting proposal of iwi leaders

- 32 To advance the development of a working relationship between iwi and MFish you intend inviting mid north iwi leaders to meet you at MFish's Whangarei office:
- 32.1 to resolve how (we) all *wish to participate* in fisheries processes;
- 32.2 to ascertain (presumably for you) *whether iwi are interested in developing a planned approach to the management of their fisheries*, the resources that could be provided by MFish for that approach, a work programme to develop a MOU that meets Crown guidelines to enable resources to be allocated;
- 33 You say that until this meeting has taken place *you do not consider it useful for (MFish) staff to continue to attend meeting of the Hokianga Accord on a regular basis. To do so confuses the obligations of the Ministry to tangata whenua and, as I have previously indicated to you limits the ability of the Ministry to work with iwi in areas where the Government has provided specific resourcing to recognise and provide for rights and interests of tangata whenua that arise from the fisheries Deed of Settlement* (paragraphs 15 to 18 (both inclusive)).
- 34 As stated at the outset, one of your stated reasons for your invitation to a meeting in Whangarei for you (I presume) to ascertain whether we are *interested in developing a planned approach to the management of their fisheries* suggests a misunderstanding of the principles of tikanga Maori including manaakitanga and kaitiakitanga and other inter relationships of those principles.

- 35 In response to that question, the iwi and hapu members of our iwi Regional Forum have, since the first hui held at Te Tii, communicated to you and your colleagues, both at hui and in written communications, that iwi and hapu want meaningful input and participation on fisheries management that introduces measures which improve our fisheries. We do not want communications limited to how we all *wish to participate* in fisheries management. The Act specifies what the Minister has to do. All we ask is that you make that happen.
- 36 As I said in my letter to you of 4 April 2006, not once since 1996 when the Fisheries Act was introduced has the Minister (by and through MFish) provided for Ngapuhi's input and participation into fisheries management.
- 37 I will be attending the meeting in your Whangarei office, 30th June 2006, to discuss whatever matters you consider relevant towards the provision of input and participation by Ngapuhi into fisheries management, and thank you for the invitation. In doing so I repeat my request that MFish must no longer prevent or delay the provision of Ngapuhi's input and participation into fisheries management as required of the Minister by the Act.

Memorandum of Understanding (MOU)

- 38 MFish have requested that Ngapuhi enter into a MOU with MFish which will detail the way in which Ngapuhi and MFish will interact in the discharge by the Minister of the Minister's obligations to provide for input and participation.
- 39 A draft copy of that MOU was provided to Ngapuhi at the August 2005 hui. I understand that this was based on a proposed MOU between MFish and Tainui discussions in respect of which began some five years ago with the MOU still not having been completed.
- 40 For my part, I cannot allow such delay to happen in completing the MOU with Ngapuhi and other iwi of mid Te Tai Tokerau who choose to be part of our iwi regional forum.
- 41 Furthermore, the completion of the MOU by MFish must not prevent or delay the provision of Ngapuhi's input and participation into fisheries management.

July hui at Naumai Marae, Dargaville on Thursday 20 and Friday 21 July 2006

- 42 Again, I extend a cordial invitation to you and your colleagues to attend the next Hokianga Accord, (mid north iwi regional forum), hui to be held at Naumai Marae, Dargaville on Thursday 20 and Friday 21 July 2006 within the takiwa of Ngati Whatua. We have included questions and timeslots on the agenda that can only be addressed by MFish.
- 43 I further request that in light of clarifications contained in this letter that MFish assist in meeting the costs of that hui as well as committing to ongoing costs of our iwi regional forum for the mid Te Tai Tokerau.

I look forward to hearing from you.

Mauri ora

Raniera (Sonny) Tau
Chairman
Te Runanga A Iwi O Ngapuhi.