

Report

Hokianga Accord

Naumai Marae Hui

A hui to provide for the input and participation of tangata whenua having a non-commercial interest in fisheries, an interest in the effects of fishing on the aquatic environment and having particular regard to kaitiakitanga.

20 – 21 July 2006



“We are merging as one people from today onwards,”

Hugh Nathan, Ngati Whatua kaumatua.

Hokianga Accord
PO Box 263
Kaikohe
contact@HokiangaAccord.co.nz
09 4010084
www.HokiangaAccord.co.nz

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Executive Summary

This document is the record of the Hokianga Accord hui held at Naumai Marae, Ruawai, Ngati Whatua, 20th and 21st July 2006.

The Hokianga Accord is the mid north iwi Forum encompassing the interests of iwi and hapu of Te Taitokerau. The Forum is intended to assist the Minister of Fisheries fulfil, in part, the Crown's ongoing statutory obligation to provide for the input and participation of tangata whenua having a non-commercial interest in fisheries, an interest in the effects of fishing on the aquatic environment and having particular regard to kaitiakitanga. (1996 Fisheries Act, Section 12 (1) (b))

Many Ngapuhi and Ngati Whatua iwi representatives were present at this hui as were representatives from Te Roroa, Te Uri o Hau, Ngati Manuhiri and Waikato. Also participating in this hui were numerous non-Maori fishing representatives and individuals from around the northern region.

Discussion was primarily focussed on marine protection issues, fisheries management and the relationship between tangata whenua and the Crown. Both the Department of Conservation and Ministry of Fisheries gave presentations to the hui.

DoC explained their Marine Protected Areas Policy and Implementation Plan and the soon to be released 'Protection Standards and Classification' public discussion document. There was general agreement amongst hui participants that Maori customary management tools should be included in DoC's vision for future management of the marine environment.

MFish gave an overview of Maori customary management tools, Fisheries Plans and the Shared Fisheries Policy project. A public discussion document on Shared Fisheries is due out in August. The hui agreed it was important for Maori and non-Maori fishing representatives to work together on this issue, to ensure the best outcome is achieved for all non-commercial fishers.

Frustration was evident throughout the hui in regards to the on-again/off-again nature of the Ministry's relationship with the Hokianga Accord. This was compounded when it became apparent the Ministry was not paying a hui fee to the Naumai Marae committee. Discussions are continuing with MFish on this matter.

The Principles of the Treaty of Waitangi Deletion Bill was a constant source of concern and was raised many times during the hui. There were serious consequences for all non-commercial fishers if this Bill was passed. The principle of kaitiakitanga and the opportunity for local communities to work together to achieve marine protection, and active local management for coastal regions, would be lost if this Bill is enacted, in its present form.

Most memorable was the comment from a Ngati Whatua kaumatua, Hugh Nathan. "Fix it", the depletion of our fisheries, was his simple but poignant message.

This report was commissioned by the Hokianga Accord and was written by Trish Rea. The source material for this report was the video taken during the course of the hui. Several DVD's of parts of the hui have also been produced and distributed.

Acknowledgements

Thanks to Sonny Tau, Scott Macindoe and Bruce Galloway for their time so generously given to review the draft report prior to its completion and publication. The Ministry of Fisheries are also acknowledged for their support in funding the production and printing of this document.

Background

It was a privilege to be at Naumai Marae as manuhiri (guests) of Ngati Whatua for the seventh hui of the Hokianga Accord. Previous hui had included representatives of all the mid-north iwi.

Board members of Te Runanga A Iwi O Ngapuhi, Paul Haddon, Joe Bristowe and Judah Heihei were present, led by their chairman Raniera (Sonny) Tau.

Ngati Whatua's chairperson, Naida Glavish was also there to lead her people, particularly the people of Kaipara, through this important occasion.

Representatives from Ngati Wai were at previous hui and on this occasion Ngati Manuhiri attended to have their input into the proceedings.

It was particularly significant to have several representatives of the newly formed Te Roroa Trust Board, led by interim chairman Alex Nathan.

It was special to have Te Uri O Hau at the hui as it was recognised they had many ongoing issues with the Crown that was taxing their resources. Their input into the hui gave an insight into their struggles to be recognised as an entity in their own right.

Tom Moana of Nga Hapu O Te Uru, Waikato once again made the journey north to share his experience with those gathered at Ngati Whatua's Naumai Marae, Ruawai.

As the mid-north iwi Forum had been to several Ngapuhi marae it was timely to move into Ngati Whatua's rohe. Previous hui had been held at Whitiara, Bay of Islands, Whakamaharatanga in the Hokianga and two Working Group hui had been held in Auckland.

Introduction

The gathering of Maori and non-Maori at the waharoa (gateway onto the marae) of Naumai Marae on a cold July morning heralded a hui of significance. Numbers swelled to over one hundred during the course of the day. Many of those attending for the first time heard about issues that had not been discussed in the Kaipara before, although previous Accord hui had talked about ways to address the problems with overfishing in the Kaipara Harbour.

After a warm whakatau (welcome) chairman of the hui Raniera (Sonny) Tau greeted the teams from the Ministry of Fisheries and the Department of Conservation. The hui was reminded that the teams were at the hui as representatives of the Government and not presenting their personal viewpoints.

Jonathan Peacey led the Ministry team of four. As National Manager of Fisheries Operations he had come to the hui to discuss the implementation of the Marine Protected Areas strategy, Fisheries Plans and give an update on the Shared Fisheries Policy project.

Also attending from MFish was Stephanie Hill, a Fisheries Analyst based in Auckland, and two Pou Hononga, George Riley and Graeme Morrell. Jonathan acknowledged the work of Terry Lynch prior to the hui. Terry Lynch had been to previous hui but could not attend this occasion as he was in hospital.

Based in MFish's Wellington Head Office, Jonathan advised he worked closely with Mark Edwards, the policy manager and Stan Crothers, the Deputy Chief Executive of the Ministry of Fisheries.

Chris Jenkins, John Gardiner, Alan Fleming, Vince Kerr and Simon Banks were present on behalf of the Department of Conservation (DoC). Chris Jenkins is DoC's Northland Conservator. John is their area manager, Alan and Vince both work for the Department, Vince as an advisor to DoC. Simon is based in Wellington and is part of the Marine Conservation Unit.

The hui appreciated the time Peter King had made to be at this and other hui. As Mayor of the Kaipara District Council it was important he understood the issues in regards to fisheries management, marine protection and the impact Government policies were having on the people.

Amateur fishers were again well represented by the President, Vice President and members of the New Zealand Big Game Fishing Council, the option4 team and good numbers of fishing representatives from around Northland.

Sonny explained Ngapuhi's involvement in the Hokianga Accord. Ngapuhi had come to the conclusion that they were not capable of responding to all the different fisheries issues on their own. They appreciated the need to talk with other tribal groups and recreational fishing representatives.

While Ngapuhi held considerable commercial fishing interests they had a responsibility to address non-commercial interests as well. 99.99% of the time Ngapuhi fish to feed their babies they are categorised as 'recreational' fishers.

It made sense to get together with other recreational fishers and discuss common issues of concern, to achieve the best outcome. The Crown has ongoing obligations to Maori concerning fisheries and, for that purpose, MFish had intended that the Hokianga Accord be a Regional Iwi Forum. The Pakeha (non-Maori) people were at the Accord hui as manuhiri, welcome guests.

The essence of the Tiriti o Waitangi was to bring people together, not separate them. The Hokianga Accord had overcome many challenges to establish itself as the Ministry continued its strategy of keeping Maori and Pakeha in separate forums.

As mentioned, the Hokianga Accord was the mid-north regional iwi Forum. In addition to the iwi forums MFish had established regional recreational fishing forums. Later in the hui Wiremu Wiremu described the Accord as the Forum with the "helicopter view" of all the issues. The Ministry has a responsibility to the Hokianga Accord as the mid north iwi Forum.

Sonny explained the Hokianga Accord accepted that issues specific to iwi needed to be dealt with at iwi level. The responsibilities the Crown has to Te Uri o Hau and Te Roroa are separate to those of Ngapuhi, Ngati Whatua and Ngati Wai. Ngati Whatua had already confirmed their full support of the Hokianga Accord. Ngati Wai would continue to work through the daunting list of tasks they are already engaged with. Te Uri o Hau and Te Roroa were encouraged to maintain its interest in the Hokianga Accord.

As with previous hui, the Ministry of Fisheries had sent a letter to Sonny, Naida and others, the night before the hui (Appendix One). The letter from Stan Crothers presented the Ministry's view of the joint leaders meeting held in Whangarei on June 30th. The Ministry's recollection of the meeting seemed to be at odds with tangata whenua's view of the meeting.

Representatives of Ngapuhi, Ngati Whatua, Ngati Wai, Te Roroa and Te Uri o Hau attended the June meeting. Sonny had not had time to discuss the content of the Ministry's letter with any of those representatives and, as Chairman of the Hokianga Accord, intended addressing the issues raised following the hui. The Hokianga Accord would respond to the correspondence in due course.

Sonny concluded the introductions by acknowledging the name of the whare hosting the hui, Kotahitanga. *"We recognise what kotahitanga means, that is the coming together of all the different voices."*

In keeping with the principles of te tika, te pono me te tuwhera, being righteous, truthful and transparent, the hui was recorded on video by Brett Oliver and Phil van

Loghem. The Maori Television film crew recorded some of the events that occurred on the first day of the hui.

Apologies

Don Glass, Terry Lynch (MFish), Guff and Mei Rawiri, Grant Dixon (NZ Fishing News editor), and Keith Ingram (NZRFC President) all sent their apologies.

As did the following: Larry and Barbara Baldock, Bruce Bell, Grant Blair, Damian Clayton, Peter Ellery, Jason Foord, John Forrest, Tony Fox, Bev Gailey, Angeline Greensill, Lorraine Hill, Tom Hunsdale, John Jefferson, Peter Jessup, Barry Kearney, Evan MacKay, Geoff Rowling, Pio Terei, Paul Thompson, Graeme Trotman, Peter Vahry, Jane West and Peter Williams.

A special tribute was given for Max Hetherington, secretary of the NZ Recreational Fishing Council, who had passed away earlier in the week. The huge commitment by Max to the advocacy of recreational fishing rights over many years was greatly appreciated.

Maori Customary Tools

Graeme Morrell, Pou Hononga, Ministry of Fisheries

Graeme Morrell gave the hui an overview of the customary management tools available to Maori, where they are currently located and any pending applications. As of 2005 the Ministry had appointed between 190 and 205 kaitiaki, the bulk of these being in the South Island. MFish were working hard with tangata whenua in the North Island to increase their numbers. These kaitiaki were part of the process to provide tangata whenua with the opportunity to have input and participation into local fisheries management.

The rohe moana gazetted in the Bay of Islands, by Nga Hapu o Taiamai Ki Te Marangai, was the first under the Kaimoana Regulations¹. Ngati Rehia established this area in 1999, in conjunction with the Ministry. The area extends from the northern Bay of Islands area, up to Takou Bay and out to the 200 nautical mile limit. There are currently 14 kaitiaki in Judah Heihei's team.

Graeme explained that kaitiaki needed to identify the areas within their rohe where they wanted to implement customary tools such as mataitai, taiapure or section 186A temporary closures.

The gazetting of the rohe moana is the first stage in the process. MFish expect that if there was going to be any objections from other iwi or hapu, to the area nominated as rohe moana, then these objections were usually raised at the gazettal stage. The Ministry has an obligation to facilitate and work through the objections with the various iwi/hapu to resolve any outstanding issues.

¹ Fisheries (Kaimoana Customary Fishing) Regulations 1998.

The MFish Spatial Allocations team become involved once tangata whenua have decided where they want to implement customary management tools. This team and the Senior Fisheries Management Area (SFMA) team help tangata whenua decide what tools best suit their objectives, i.e. Mataitai, taiapure or a temporary closure.

The Ministry also have an obligation to help with the consultation aspect within the rohe, to assist tangata whenua to achieve the outcomes they want.

Marangai Taiamai had waited seven years to get any MFish support for their rohe management plan. This delay had meant they had exhausted all their scarce resources. Not only that, many of those involved had become totally disillusioned with the whole implementation process. The Ministry had a responsibility to address this issue.

MFish accept that they were not ready to engage with these kaitiaki and did not provide the support for tangata whenua when they asked for MFish input in the late 1990's².

The Ministry were asked to explain their responsibilities in educating the public about Maori customary management tools. This was pertinent as Marangai Taiamai's aspirations for their rohe was thwarted by objections from the public.

Jonathan Peacey explained that there was a formal process for establishing mataitai. That process was set out in the regulations and the Ministry team followed the process "scrupulously". The process included establishing meetings with other stakeholders and also involved applying a 'prevent' test to determine if the plan will have an undue effect on existing stakeholders that would prevent them from landing their catch entitlement.

Commercial fishing is automatically prohibited from a mataitai. The mataitai management group could approve the reinstatement of commercial fishing, with some restrictions. What the group could not do is only provide approval to nominated fishermen. Fishing methods could be specified, within the plan.

The Spatial Allocations team provide their advice on the management plan, to the Minister. The Minister either approves or disapproves the plan based on that information.

A taiapure exists in the Waikare Inlet but the management group had not finalised a plan. MFish acknowledge they will be initiating dialogue with the group to establish who they are and what their aspirations were for this area in the Bay of Islands. Some of the original applicants are not involved any longer, for a variety of reasons.

MFish were advised it was important for everyone to learn lessons from Marangai Taiamai's experience, as the local fishers and boaties had objected vociferously to the original mataitai plan. Successful implementation of these customary management

² http://option4.co.nz/Fish_Forums/har4066.htm#mara

tools was dependent on public support. Having discussions at Hokianga Accord hui would facilitate greater understanding amongst Pakeha, that Maori have the tools and are keen to work with the public to implement them.

Customary management tools were not a threat but were for the benefit of all non-commercial fishers, irrespective of race.

Graeme explained the different management tools operating around the North Island and offered copies of the area map to the hui. This was the same document that MFish supplied at the April hui and is online at http://option4.co.nz/Fish_Forums/documents/NI_closed_areas_406.pdf

An updated version of this document is also online in the Hokianga Accord reference section, at http://option4.co.nz/Fish_Forums/documents/NI_closed_areas_706.pdf

Question and Answers

The first question related to the rohe moana for Te Uri o Hau. The Ministry had been advised that Environ Holdings had been nominated as the body to negotiate with regarding the rohe. MFish were still waiting to be advised of the names of the kaitiaki before the gazettal notice could be submitted.

There was a lot of concern regarding objections, which were effectively stalling the establishment of customary management tools. Jonathan explained that the grounds for objections were quite specific. The Minister could still approve a management tool even if objections existed, due to the 'prevent' test.

Application of certain criteria meant the Ministry could determine whether commercial interests would still be able to catch their quota within the Quota Management Area (QMA) and recreational fishers had sufficient access to catch their allowance. If these opportunities existed the Minister could approve tangata whenua's application.

Once rohe moana had been established and objections had been worked through, the process was much more straightforward, and plans could be implemented a lot quicker.

The question was raised regarding the 'race for space'. Rohe moana has traditionally been smaller areas than QMAs. The first area tool to be implemented was likely to pass the 'prevent' test (or adverse effect test for marine reserves). As more area tools are implemented within that same QMA a 'race for space' is on.

Tangata whenua who were slow to get their proposals underway would miss out purely on the basis of other areas being nominated as closures or limited take areas. Jonathan admitted this was concerning the Ministry and that "*there are significant discussions going on about that*".

A series of questions was put to the Ministry,

1. Does this process pit the Department of Conservation against Maori who are seeking to get mataitai or taiapure within the same QMA?
2. With every successful marine reserve, is DoC limiting the amount of space left for tangata whenua to implement their area management tools?
3. If we consider how far progressed DoC are in their marine reserve process and compare that with Maori, who are just getting organised in area management, there is a 'race for space'. The Ministry of Fisheries had been slow in implementing the customary legislation and providing tangata whenua with opportunities. DoC now had an unfair 'start' compared with Maori. How would this be addressed fairly?

Jonathan agreed that there is a limited amount of coastline that can be used for different purposes. He also noted the different legislation that is applied to area management, namely, the Fisheries Act 1996 and the Marine Reserves Act 1971.

For further clarification, the Ministry were asked which legislation 'gives way' to the other, if the two interact for the same space. Jonathan advised that this was one of the reasons why the Government had initiated the Oceans Policy project, "*for exactly that reason*".

Following on from this comment, the Ministry were asked when they first became aware of this 'race for space', this conflict of interest in the same coastal area?

Ministry advised there was a "*general realisation*" that there were competing interests for coastal areas but could not specify when MFish was aware the issue specifically existed.

MFish was also asked whether they had advised tangata whenua that unless they got organised quickly they would miss out on implementing their management tools due to others around them establishing their own management areas, customary and marine reserves.

MFish did not get to answer this question but Sonny advised the hui, that in his opinion, the Marine Reserves Act had to give way to Te Tiriti o Waitangi and its promise of 'undisturbed possession of taonga'.

Particular mention was made of the effect of marine reserves on the Ngati Wai people who have more marine reserves in their rohe moana than any other iwi.

Once a mataitai or taiapure had been established, Ministry was asked to explain what further part they played in the management of that area.

Stephanie Hill explained that the management group could determine what they wanted to achieve from the implementation of the customary tool and propose bylaws to meet those objectives. In the case of a mataitai, there is no commercial fishing

initially and any bylaws apply to both recreational and customary fishers. MFish retains its responsibility for compliance.

It was pointed out to the hui that, while the legislation provides for the Minister to be the final decision maker, the reality was that MFish's advice to the Minister was more likely to determine the outcome of the decision than any independent decision made by the Minister. Whilst Ministers come and go, the officials within the Ministry remained and thereby provided continuity of the way MFish manages the fisheries.

Much of the discussion had focussed on the customary management tools. Marine reserves were suggested as an alternative conservation tool, but the hui rejected this, on the grounds that marine reserves do not address:

- Human behaviour that has an adverse impact on the environment
- Overfishing
- Sedimentation and land run-off
- The extra effort of displaced fishers from another closed area competing with local fishers.

It seemed that marine reserves had been given priority by the very nature of the existence of a 10% target of marine protected areas by 2010. If this was so, this meant that Maori do not know how much space they are competing for amongst themselves, for the implementation of customary management tools in their rohe, let alone with DoC.

The Ministry accepted that:

- The existence of a defined target could suggest a form of 'priority' but noted the 10% applies to marine protection and is not restricted to marine reserves; and
- The marine reserves legislation has been in existence longer than the customary regulations and therefore has been used more often.

The hui asked MFish to explain what more they could do to help tangata whenua understand the regulations, the marine protection tools that exist now and how MFish were going to help Maori to implement the marine protection tools, for the benefit of future generations.

MFish agreed they could do more to help tangata whenua. The Ministry:

- Had produced information recently and provided comparisons of the various tools, in these documents
- Was considering the development of a manual to assist tangata whenua, a 'users guide', on how to make applications for customary management tools; and
- Had also initiated a training programme for kaitiaki to educate them on the tools available and how the process works.

Muka Hohneck of Ngati Manuhiri and Ngati Rehua felt encouraged by the existence of the Hokianga Accord as another voice for Maori customary and recreational fishing. MFish was asked where the resources were for tangata whenua to manage the customary areas, as it was a struggle for Maori to participate meaningfully unless they had adequate support for their kaitiaki and management plans.

Ministry was also asked for an update on the application for “concurrence” on DoC’s marine reserve proposal for Aotea (Great Barrier). Given the concerns of tangata whenua, Ngati Rehua, Ngati Wai, Ngati Manuhiri, the island community, plus recreational and commercial fishers.

Jonathan explained the Minister of Conservation had asked the Minister of Fisheries for his concurrence (approval) for the proposed marine reserve. MFish was currently developing advice to give to the Fisheries Minister on whether or not he should agree with the proposed marine reserve.

Ministry Information

The hui was supplied a document outlining the status of applications for eleven mataitai and two taiapure currently being considered. It can be found online at http://option4.co.nz/Marine_Protection/documents/mfstatusofspatialapplicationsjul06.pdf

An overview of the mataitai reserves process and answers to frequently asked questions was provided to the hui. It is also online at http://option4.co.nz/Fisheries_Mgmt/cmimataitai.htm

Also available at the hui was the latest MFish bulletin covering the sustainability round, regulatory round, regulation review process, Shared Fisheries Policy project update, Te Uri o Hau oyster reserve regulations for the Kaipara, northern scallop catch limits and the Maui Dolphin Threat Management Plan. http://option4.co.nz/Your_Rights/documents/MFbulletin706.pdf

Marine Protected Areas Policy

Chris Jenkins, Northland Conservator, Department of Conservation

Chris Jenkins and Simon Banks from DoC’s Wellington Marine Conservation Unit presented the Marine Protected Areas Policy and Implementation Plan (MPAIP). It was still “work in progress” so the information supplied to the hui had not been finalised.

DoC believes their approach to marine protection is more inclusive now than it had been in the past. The concerns regarding the problems with applying customary management tools to coastal areas had been noted. The Department’s new process was trying to address problems of the past, to get people more involved in the

implementation of protected areas. The Northland Regional Council had also expressed a desire to be more involved in the initial stages of the process.

“Our legal mandate, the Department of Conservation, I am not going to hide from it, is marine reserves. That’s legally what we are supposed to get involved in, along with protecting marine mammals. But we’ve got a process that allows us to work with others. We are not against other protection mechanisms, we have to work within our legal mandate.”

It was pointed out to DoC that there is an obvious need for marine protection. New Zealand fisheries have many fish stocks that are way below Maximum Sustainable Yield (MSY), such as the Kaipara flounder and mullet stocks. These were two fisheries where the quota had never constrained commercial fishing effort, thereby having a major effect on non-commercial fishers trying to catch a fish for their families.

If DoC was so concerned about conserving the natural marine resources and the Ministry of Fisheries is charged with managing fish stocks to MSY then DoC and MFish should work together to implement current legislation. Once both Departments had done their jobs properly, as they were legally obliged to do, only then should they be going to the people to discuss marine reserves and the real need for them.

Without answering the question about why DoC and MFish were not actively managing the resource, DoC’s response was,

“This is a process about us (DoC and MFish) working together. The fish stocks question is something the Ministry of Fisheries would probably be best to address. The presentation we are talking about is about our agencies trying to work together to get better protection by a variety of methods. It’s the process we are going to be talking about.”

The hui pointed out to DoC that that the marine reserve process was described as ‘death by a thousand cuts’ over 25 years ago, and that the department should be looking to devise an overall strategy rather than pick one site to implement a marine reserve, then another. It seemed to be a never-ending process with no strategic plan to guide the process.

DoC agreed, at that time, that the strategic approach was a good idea. Nothing had changed in the past 25 years. The same process exists today, which prevents support for other marine protection initiatives.

DoC agreed that an effective strategy would be to identify:

- How a marine area could be classified as being representative of habitats
- What protection mechanisms are available; and
- How these protection mechanisms fit together

DoC believes the MPA strategy addresses those concerns.

MFish chimed in and suggested the Guardians of Fiordland management plan (GOFF) was a good example of all interests working together. Many at the hui doubted that the GOFF management plan had been well mandated and that the 'gifts and gains' benefited all interests in the Fiordland fisheries. Recreational fishers had had their catching rights eroded, while commercial interests maintained their catch entitlement in an agreement reached in 2004. More details about this process are online at http://www.option4.co.nz/Fisheries_Mgmt/fiordland.htm

MPA Policy and Implementation Plan

Simon Banks, Manager Marine Species, Department of Conservation

Simon is a member of DoC's Marine Conservation Unit based in Wellington. The Ministers of Fisheries and Conservation had announced the Marine Protected Areas Policy and Implementation Plan (MPAPIP) in January 2006. It is a joint initiative by both Ministries. Simon presented a PowerPoint presentation that included the following information:

The policy addresses the NZ Biodiversity Strategy objective 3.6, which is, "To effectively conserve marine biodiversity using a range of mechanisms".

The goal is to have 10% of the marine environment protected by 2010, looking towards the longer-term goal of having a comprehensive and representative network of MPA's by 2020.

DoC and MFish were currently working on a process to determine what constituted a marine protected area and the habitat classification system.

The tools for MPA's may include:

- Marine reserves
- Fisheries Act tools including
 - Fishing area and gear restrictions
 - Customary management tools
- Resource Management Act tools
- Marine parks
- Cable protection zones

The aim is to have a nationally consistent basis for planning and establishing new MPA's. The policy development also recognised the Crown's Treaty obligations to provide for effective participation of tangata whenua in the process.

A workshop was held in December 2005 to define the broad biogeographical regions for the inshore areas around the county. The regions and the protection standards would be included in the discussion document released to the public for feedback in

mid-August. Advice would be given to the Ministers after the public consultation process.

Regional forums would be established and tasked with identifying suitable areas as MPA's. Tangata whenua would have the opportunity to participate in these forums. The Ministers will make the ultimate decision on particular areas.

There are currently three forums, the Hauraki Gulf Forum, the South Island west coast Forum and one associated with the Sub Antarctic Islands. The Hauraki Gulf Forum had not officially formed but both departments, to facilitate the formation of the group, had carried out, a lot of work. The South Island group has been underway for around 12 to 18 months. The Sub Antarctic Forum is at the advanced planning stage.

DoC agreed that monitoring and research were important components of this policy. The DoC representatives could not give a definitive answer on whether trials would be conducted to test the 'kina barren' theory. This theory is often touted as a reason why marine reserves are required.

Kina Barrens

It was put to DoC that from a fisher's perspective it would be helpful to test the theory that kina barrens were created by excessive numbers of kina eating the kelp. Also, that the kina numbers were uncontrolled, because fishermen had caught the big fish and crayfish that would normally eat the kina.

If an area was set aside and every kina was killed or removed from that area, over a period of time the kelp should regenerate, if the kina barren theory was correct. If the kelp did not recover then it would be proven that other factors are influencing kelp growth, including land run off and sedimentation.

Marine Parks

Simon explained how multiple-use marine parks had been established in New South Wales, Australia. Within those parks are fully protected no-take zones, areas with gear limitations and general use zones that allow for different types of fishing.

Questions and Answers

The focus of the MPA policy is on habitat protection rather than species protection. This implies there would be fishing opportunities in those areas. DoC was asked how mataitai and taiapure would fit into this policy, as these are area management tools that could provide habitat protection while allowing extraction.

DoC advised the protection standards process currently underway is considering all types of measures including fishing closures and limitations on a case-by-case basis. The process would also look to address the effects if the level of extraction is considered excessive and what sort of management was in place to manage extraction.

Simon confirmed the MPA policy would consider areas that allowed fishing to take place.

When asked specifically about customary management tools Simon continued,

“There is not an answer to say yes. It’s a case-by-case basis. But there is certainly potential that they could form part of the network”.

There was some discussion on the percentage of marine area currently protected.

Kaitiakitanga

The following comments were put to the DoC representatives for their feedback.

In terms of marine protection, marine reserves are the highest form available to New Zealanders, as according to the law, they are no-take forever areas. This could be described as being an “adult” form of marine protection, that is, commence their existence fully mature, in the no-take form.

Kaitiakitanga on the other hand, is a time honoured - over hundreds of years - way of man living as one with and managing the resources in his environment. The Crown has statutory obligations to Maori, to have particular regard for kaitiakitanga in both fisheries management and by providing tangata whenua the opportunity to exercise their customary and management rights.

A mataitai or taiapure is an “infant” when compared to a marine reserve. The tools are not designed to be mature and fully developed at their inception. It may take one, two or more generations of tangata whenua and the community working together to change people’s attitude and how they behave in and around the sea. Once attitude and behaviour had been modified then protection would be enhanced.

It was unreasonable to expect kaitiakitanga to immediately deliver the same results as a no-take forever marine reserve. In the protection standards process marine reserves and customary tools are not comparable. Realistically, it may take 20 or 30 years for a mataitai to fulfil its potential. Education of the community as to the benefits of kaitiakitanga for our fisheries and marine environment is seen as the key to progress being made in widespread implementation of kaitiakitanga.

Tangata whenua have been expected to deliver this process with very little resourcing. In fact, there was a huge mismatch of resourcing. In the case of kaitiakitanga initiatives, too little, too late.

It was an insult to tangata whenua for Crown agencies to say that the obligations, provided through the Treaty settlement that allowed for customary management are ‘potentially’ marine protected areas.

Treaty of Waitangi

Parliament would soon be considering the Principles of the Treaty of Waitangi Deletion Bill to remove all references to the principles of the Treaty from legislation.

Sonny Tau explained,

“If ever there was a Foreshore and Seabed [issue] that Pakeha need to get onto, it is this one. We can see today, even in this discussion, where we will head without that [Treaty of Waitangi] in any of our legislation. That partnership of the Treaty of Waitangi is yours and mine. Not just mine. These forums will mean nothing if those principles are removed from legislation. Our ability to work together will have no hold, no footing.”

DoC's Charter

Those at the hui considered themselves as being conservationists, concerned about the environment. DoC has a narrow charter and is not responsible for fisheries management. According to the legislation, marine reserves are ‘unique areas set apart, in the national interest, for scientific study’³. The Marine Reserves Bill is not an act of Parliament. The current MPA strategy does not seem to fit with the current Marine Reserves Act.

Chris Jenkins, DoC's Northland conservator agreed with the comment about DoC's current mandate. Chris suggested the Government's intention with the MPA strategy was to have all the agencies with different mandates working together *“to make progress, to achieve what is laid out in the Biodiversity Strategy”*. The Department considered the process was designed to be inclusive of all stakeholders.

Vince Kerr, a marine consultant to DoC, encouraged the Accord to continue the discussion on mataitai and more importantly to develop mataitai so these could be used as examples for the Government and the public. Then there would a range of protection tools that, in time, would be achieving their goals and the people would be celebrating their success.

“These issues are understood at the highest levels. There are people within the Department that are supporting these other concepts of protection, because we know in the Department of Conservation there are things to be gained through traditional management. We will be there on the sideline, because we don't have the direct responsibility, but in Northland we will be there supporting whenever we can.”

Confiscation of Treaty Rights

DoC is required, under the legislation, to give effect to the principles of the Treaty of Waitangi, including kaitiakitanga. The setting aside of areas in no-take forever marine reserves took away those Treaty rights, including the practice of kaitiakitanga.

³ Marine Reserves Act 1971

The imbalance of resources meant DoC had access to all the information it requires, uses taxpayers money to fund its activities and yet the public have very little understanding of kaitiakitanga and therefore struggle to support the concept.

The public has had little opportunity to have meaningful input into the alternatives to marine reserves, as they are largely ignorant of the alternatives that are provided for in legislation.

The alternative to marine reserves is the time-honoured practice of kaitiakitanga allowing communities to work together for a common goal, more fish in the water and abundance for generations.

DoC accepted their Treaty obligations to tangata whenua, which they take very seriously. DoC is “supportive” of tangata whenua-led initiatives that would protect the marine environment.

DoC and MFish were encouraged to talk directly with tangata whenua as soon as they had developed their draft protection standards document, to work through the use of customary management tools to protect coastal areas. The Departments were keen to work with other stakeholders in this process, as well.

DoC was asked if the Hokianga Accord could be used as the regional Forum that DoC would consult with in the north in regards to implementing the MPA plan.

Chris’ response was,

“The detail of the regional forums still need to be sorted out. But the Forum will need to involve all of the various parties, regional councils, commercial fishers and all of the other players. So the question to you [the Accord] is, are you comfortable with that?”

Sonny’s response was, “*haere mai, haere mai*”.

Another issue raised by Chris was the mandate of the Hokianga Accord and that if the Forum went to a wider base, would that cause more issues when dealing with the other stakeholders? DoC would be looking for some sort of Forum but that detail had not been finalised.

Land Management Issues

The issue of poor land management was raised and DoC was asked if the MPA policy would address issues such as replanting around rivers to provide sediment traps, stopping the drainage of swamps which are the natural filtration systems and stopping the inflow of mud directly onto shellfish beds.

DoC advised they do not have the authority to stop every land development but they do get involved in advocating for the environment, at times through the Environment

Court. Sometimes their stance had made them unpopular when opposing a District Plan or consent application.

DoC was strongly advised to work with Maori on this issue. Tangata whenua had a lot of collective, historical knowledge that could help DoC and MFish to achieve marine protection.

Displacement of Fishing Effort

Government agencies were fooling themselves if they thought tangata whenua would stop sustenance fishing within areas classified as marine reserves, if they were not consulted in an appropriate manner.

Even with the implementation of Marine Protected Areas people would still go fishing. The MPA strategy does not address people's attitude or behaviour. A no-fishing or limited fishing zone would simply result in shifting fishing effort from one area to another.

With less area available to fish in, more people will concentrate their fishing area within a smaller zone, thus depleting that smaller area. This is not an outcome most people want.

Australia had paid millions of dollars to buy out commercial licences to establish marine protection for areas such as the Great Barrier Reef. DoC was asked if compensation was being considered within the overall MPA strategy.

Chris Jenkins could not answer this question as he advised he is not part of the development team but did comment,

“That is really a Ministerial decision. That’s a core political decision. The Biodiversity Strategy and the MPA Strategy are Ministerial decisions. You are talking about decisions Ministers of Government make”.

Fisheries Plans

Jonathan Peacey, National MFish Manager, Fisheries Operations

The hui was given a brief update of what progress the Ministry of Fisheries had made in regards to both Ministry-led Fisheries Plans and stakeholder-led Fisheries Plans. At the last hui Jonathan presented an overview of MFish's process. Details are online, in the last hui report, http://www.option4.co.nz/Fish_Forums/har4066.htm

Fisheries Plans are expected to provide a more integrated approach to MFish management, allowing research, compliance and management to be thought of in an overall manner rather than as separate aspects. This would allow the Ministry to demonstrate they are spending money on specific activities to achieve specific objectives for fisheries.

“Once a Fisheries Plans is approved, it will be a formal agreement between parties to manage the fishery in a particular way. And it’s approved under section 11A⁴, by the Minister, it will actually bind the Ministry to provide services and advise the Minister in a certain way. The idea is to give greater certainty. They also provide a formal opportunity for stakeholders to have input at the earliest development, consistent with what we are looking to through the iwi regional forums. Much earlier, rather than you providing your views on proposals that we have already come up.”

Proof of Concept Plans

Over the past year the Ministry had been working on three ‘proof of concept’ Fisheries Plans, for Southern Blue Whiting, Foveaux Strait oysters and Coromandel scallop fisheries. MFish staff had been working with stakeholders since November 2005 to develop these plans; Stephanie Hill has been part of that process and offered a comment:

“The level of engagement has varied and that’s for good reasons. People are very busy. There has been a different level of interest in participating. That’s fine and we accept that.”

MFish has been using these plans to refine the Fisheries Plans process. The fisheries chosen were “relatively discreet” with a limited number of stakeholders, were quite different so various approaches had been used for each process.

Three draft Fisheries Plans had now been developed and needed further refinement. The drafts had been given to stakeholders for comment. MFish wanted to learn from their process, what had worked and what had not worked so well. While limited, the development of the plans had provided MFish with some ideas on how to improve the process for other fisheries. There had been some benefits of working closer with stakeholders and tangata whenua on these plans.

The Ministry was working towards developing Fisheries Plans for all fisheries. Status quo plans will describe, in one document, how each fishery is being currently managed. This would provide a good basis to be used in the future. MFish had not finalised the final format of the plans but it is “work in progress”.

The big challenge for the Ministry was to ensure that customary fisheries issues are appropriately reflected in the plans, along with other fishing interests. MFish envisage the fisheries plans integrating with iwi fisheries plans so there would need to be some coordination with MFish staff.

Stakeholder - led Fisheries Plans

“Section 11A of the Fisheries Act provides for Ministerially approved Fisheries Plans. The Act is not specific about who should prepare a plan. There is quite a bit of flexibility there.”

⁴ Fisheries Act 1996, section 11A.

Up until two years ago the Ministry's approach had been that MFish would prepare stock strategies, very basic plans describing the fishery and how they were managing it. MFish left stakeholders to develop their own plans to add value to the fishery. MFish thought tangata whenua and other stakeholders would develop their own plans.

With the change of Minister and Chief Executive the emphasis had now gone into developing one plan and including tangata whenua and other stakeholders in the process. Jonathan is pleased with the more integrated, inclusive approach to Fisheries Plans, to get more value from the fisheries. Those values included customary, recreational and commercial values.

There are various stakeholder Fisheries Plans in place or underway:

- Rig 7 (SPO7) top of the South Island – plan had been approved
- Challenger scallop Fisheries Plans – top of the South Island, underway
- Marlborough/Kaikoura commercial paua fishery, spatial management
- Cockles within Otago Harbour
- Orange roughy – deepwater stakeholder group working plan
- Surf claims and deepwater clams are being discussed

Coromandel Scallop 'Proof of Concept' Fisheries Plan

Stephanie Hill, Fisheries Analyst, Ministry of Fisheries

'Proof of concept' is a case study of how objective-based fisheries management would work in a fishery.

The Coromandel scallop fishery extends from Cape Rodney in the north to Town Point in the Bay of Plenty. Scallops are found in patches throughout this region and some inshore areas are closed to commercial fishing. It is a fishery that is important to various iwi and hapu groups.

The fishery is accessed by a large number of non-commercial fishers and a small number of commercial fishers. The highest proportion of catch is taken by the commercial sector⁵.

It was suggested that the Coromandel scallop fishery was not a good example from which we could use as a basis for other shared fisheries plans. The mortality level in commercial scallop fisheries is over 30%, due to the type of gear used to drag up scallops. Commercial fishers in the Coromandel area are wasting more than twice the amount of scallops that both customary and recreational fishers take in one season. The mortality rate from recreational type dredges is negligible and diving had an almost zero effect on the scallop population. If MFish wanted to address any problems

⁵ Recent MFish proposals included the option to increase the 2006 commercial take fivefold, from 22 tonnes to 118 tonnes. Ministry is also considering whether to increase the customary and recreational allowance from 7.5 t to 40 t although no increase in the daily bag limit had been proposed. MFish IPP, 19th June 2006.

in this shared fishery the obvious place to start would be looking at commercial fishing methods.

The Ministry had engaged both commercial and non-commercial fishers in a year-long process for a relatively minor fishery. It was suggested to MFish that there are other more important shared fisheries that should be researched.

MFish pointed out that the ‘proof of concept’ fisheries plans were not chosen on the basis of being a shared fishery. The three plans were chosen because of their different characteristics and were virtually a trial. The Ministry did not expect to develop plans for every fishery.

Jonathan explained further,

“We are doing some work at the moment, but we are likely to be doing plans for inshore finfish in certain areas. Or inshore shellfish.”

Allocation was the underlying factor in fisheries plans and the hui was encouraged to work with MFish and also test the Ministry’s objectives for the fishery against their own.

As always, the challenges faced by non-commercial participants in this process was the lack of resources. Simple issues, such as getting time off work and travelling to meetings were an impediment to meaningful participation.

Of more significance to the non-commercial sector is the issue of having the right personnel involved in the discussions.

MFish did not have funding to provide recreational fishers resources to participate in these processes and had limited funding through the Treaty settlement for customary input.

MFish advised that tangata whenua involvement in the process had included Ngati Manuhiri, Ngati Whatua, Ngati Hei, the Bay of Plenty regional iwi customary Forum Working Group plus two other groups of tangata whenua. The Ministry confirmed these iwi and hapu representatives had attended one multi-stakeholder meeting held at the MFish’s offices. Earlier on in the process, MFish had met with different stakeholder groups individually.

Stephanie explained, *“stakeholders are starting to agree on some goals for managing this fishery”*.

The overall goal for the Coromandel scallop fishery has been defined as to, ‘Manage the mauri and sustainability of the fishery with a cautious, respectful approach’.

MFish had some difficulty in explaining ‘mauri’ so Sonny assisted by explaining that mauri is life force, the essence that permeates everything else.

Enhancement of the fishery is a goal for the future for this fishery.

When asked to name which inshore fisheries are managed at or above the biomass that would produce Maximum Sustainable Yield (MSY), as required by the Fisheries Act, Jonathan's reply was,

"It's the Ministry's view that, within the limits of information, basically we are adhering to the law."

MFish were asked to give some examples of which fisheries had recreational bag limits increased, as the seasonal increases in the scallop fisheries only applied to commercial catch limits. MFish said there had been some, "*but not a lot*", and could not specify where those increases had occurred.

MFish accept they may not get 100% agreement in the Fisheries Plans process, if that occurs it will be left to "elected officials" to decide the outcome.

Shared Fisheries Policy Project

Jonathan Peacey, National MFish Manager, Fisheries Operations

Jonathan gave an outline of the Shared Fisheries Policy project, as Terry Lynch was not available to attend the hui, for personal reasons.

The Ministry had released a document for discussion *Shared Fisheries Policy Development*, in December 2005⁶. MFish had held initial discussions with stakeholders about what the important issues were when considering shared fisheries. Shared fisheries are fisheries where both commercial and non-commercial fishers, customary and recreational, have a significant interest i.e. the fishery is important to them.

These discussions were not part of the formal consultation process, but MFish wanted to know what the concerns were for these (mainly) inshore fisheries. A range of options had been developed, Cabinet approval was being sought and a public discussion document was due to be released in August. The formal consultation process would run from mid-August to mid-December.

Once decisions were made, MFish would publish the consultation document on their website and through "key groups".

MFish's aim was to:

- Distribute the discussion document widely
- Have public discussions in main and regional centres
- Distribute articles in a range of print media

⁶ Shared Fisheries Policy Development, Ministry of Fisheries, 16 December 2005.
http://option4.co.nz/Fisheries_Mgmt/documents/shared-fisheries-policyadvice.pdf

- Display information at relevant public events
- Use the established iwi and recreational regional forums
- Hold meetings with national recreational, industry and environmental groups
- Use the Ministry website to publish information

Once the Ministry had received stakeholder submissions their next objective was to summarise those and distribute the summary by the end of February 2007. MFish would make recommendations to the Minister so that Government decisions on shared fisheries could be made by mid-2007.

Questions and Answers

The following are questions put to the Ministry regarding the Shared Fisheries Policy project. Answers in italics are from Jonathan, unless stated otherwise.

“Is the Ministry still pursuing the idea of proportionalism?”

“Actually, I don’t even know what is in the recommendations. I haven’t been dealing with it so I have been commenting on process. I honestly don’t know what’s in the recommendations.... You will obviously, in fairly short order, see a copy of the paper.”

“Have you (MFish) got a list of meeting dates and venues for this public consultation to take place?”

“We have a list of some of those, such as using the regional iwi and recreational fora (forums). Some of them we have. I don’t know whether the policy group has already scheduled other meetings or not.”

“Did I hear you right when you said there was going to be final advice or a policy paper or recommendations mid-2007?”

“What I have heard is, a summary of submissions will be prepared and distributed by the end of February 2007. And then there will be some analysis going on and recommendations on the policy framework, to allow Government decisions by mid 2007. By February summarise submissions, March/April probably develop up the recommendations for the Minister, Cabinet, whoever, in order to be able to make decisions by mid-year.”

Questions were raised regarding the process following the consultation. Government decisions will determine the outcome and if any change was required,

“Once a decision is made, if it involves legislative change, to progress with that promptly”.

It was pointed out that people on the regional recreational fishing forums were there as individuals and were not mandated to represent any particular position on the Shared Fisheries Policy. Questions were also raised regarding the representation of Ngapuhi interests. Ngapuhi leaders had the mandate of 107,000 people and they

wanted to know if their concerns would be dealt with fairly, compared to individual submissions:

“Anyone, any group, will be allowed to make a submission. It’s not just numbers, but certainly the level of support is taken into account.”

Submissions

Concerns were raised regarding the analysis of submissions. Ministry was asked if they were considering using an independent body to analyse the submissions. option4 raised over 60,000 submissions to the *Soundings* process in 2000 and still held some reservations about how those individual submissions had been taken into account:

“I expect that we will do that, I don’t know whether we have planned to, but I expect we would.”

Secondly, the summary of submissions will be available. If people believe that the Ministry has done an inappropriate job of summarising them then I am sure they will let the Minister and others know. So that’s another level of accountability.”

What constitutes a submission?

“This is not a voting game. 250,000 or 60,000 or 10,000 or 2, voting for option one, two, three, four or five, it doesn’t work that way. In preparing advice to the Minister, a summary of submissions is provided which indicates the nature of the submissions and the issues raised. And there is an indication of the numbers of people and typically, with the ones I have been involved in, we go through identify all the key issues and then we identify which of the submissions has raised that particular issue. So it’s broken down in a couple of different ways.

“So the issue is not, is it one or 60,000, it’s how many people indicated support for that particular view. That’s the issue that’s taken into account.”

After several more comments and a comparison of 60,000 people submitting in favour of the colour blue and 600 for red, Jonathan continued:

“As I indicated before, it’s not a matter of voting. Of simply the number of votes you get for an option or other. We elect decision makers, the Minister, Cabinet, Parliament when it goes to legislation, to make decisions. They don’t always make decisions in line with what the majority of people might want on a particular issue, because they are taking into account a very wide range of issues.

So the answer is, they obviously will take into account that 60,000 wanted [blue] and 600 wanted something else, but that is not a guarantee that they will choose to go blue. They may do something else. They must take that into account, if they don’t, of course their standards i.e. they are elected officials, they are clearly taking that into account when they make those decisions.”

In a democracy any politician that goes against the will of the people would face the consequences when voting time comes. It would be a good idea for Parliament to take the numbers into account when making a decision on the Shared Fisheries Policy.

Iwi Forums

If there were no iwi Forum within a particular area, the Ministry would “*continue to consult with iwi and hapu, as we are able, using whatever means we have available*”.

Is there a regional customary iwi Forum in the mid north, for the iwi of Ngapuhi, Ngati Whatua and Ngati Wai?

Jonathan responded:

“In fact, we don’t have Memoranda of Understanding that would formalise an iwi Forum anywhere yet in the country. We have a number of groups that are developing towards that. And we are working through, with iwi and hapu leaders in the mid north, about the appropriate way for the Ministry, or the best way for the Ministry, to meet its obligations to provide for the input and participation of tangata whenua or even hapu. Now, those discussions are ongoing. Sonny is involved in those, as are others here and we are planning to meet, I think Stan [Crothers, MFish Deputy CEO] has indicated, later this month or early next month.”

When asked about the status of the Hokianga Accord, Jonathan indicated that iwi and hapu from the mid north had indicated their desire to work on their individual relationships with the Ministry.

Without being aware of the second letter from the Ministry (Appendix Two), Sonny responded to these comments, and referred to the hui held in Whangarei on the 30th June, with Ngapuhi, Ngati Whatua, Ngati Wai iwi and the hapu of Te Roroa and Te Uri o Hau and the Ministry:

“Unequivocally, the iwi leaders that were at that hui want to work together. And they also want the Ministry to individually deal with them in their specific plans.

“We want to work as a Forum. They haven’t said this [today], but I know Ngati Whatua, and Ngapuhi, this is our Forum. Te Roroa is here to observe today and they will make their own decision. Te Uri o Hau is observing and they will make their own decision. And Ngati Wai, they are not here at the moment so we can’t speak for them.

“But we have shown a desire to work together on the big issues like this. Jonathan, it’s hardly worth you going to every hapu in Ngapuhi, we got 236. There’s 236 hapu, if you are going to have these hui, you surely will be stretched for resources.”

Sonny explained to the hui that the Shared Fisheries Policy project was an outcome of poor fisheries management over time. The overfishing that had occurred prior to the introduction of the Quota Management System in 1986 and the subsequent failure of the Ministry to limit commercial take to sustainable levels. If commercial catch had been constrained and fisheries rebuilt, as was planned in 1986, this debate would not be necessary now.

The reason why the Shared Fisheries Policy project was so important to Maori and Pakeha alike was because it concerned the fisheries both customary and recreational fishers target, the inshore species. Previous discussion had been about giving each group a proportion of the fishery and capping (limiting) the catch of non-commercial fishers. This was not fair, as commercial overfishing had caused the damage. *“It’s [about] our freedom to continue to catch a fish”*.

Without a permit, fishing to feed the whanau is categorised as ‘recreational’, under the law.

For Maori it was important that iwi and hapu worked together on the big issues such as the Shared Fisheries Policy. Iwi and hapu could work on specific plans with the Ministry if they felt that was best for them.

Wiremu Wiremu received a rousing response after summing up the discussion about the Shared Fisheries Policy and the feeling amongst those at the hui:

“This Hokianga Accord is probably the best ‘helicopter’ view we’ve had for a long time. It’s the most comfortable waka that we have found that has drawn everyone together. Individual hapu can do their thing. I say to you [MFish] please don’t ignore it because its pretty strong. We’ve united together in a strong body and it needs to be tested, and you [MFish] are testing it. In acknowledging all of your submissions [to the Shared Fisheries Policy] please don’t ignore the Hokianga Accord”.

Jonathan acknowledged the summary from Wiremu:

“I agree with the strength of the Accord. There are reasons why we are working through to determine the exact status [of the Accord], but the important thing is that even though we maybe working through that, we are here. Because whatever the status, we think it is important the Ministry is here.”

Kaipara Harbour

The Quota Management System (QMS) was introduced in 1986 to constrain commercial catch and rebuild severely depleted fisheries. Commercial fishers were compensated to fish at lower levels. For the Kaipara, flounder and mullet catch had never been constrained and whole communities of people had suffered the consequences of overfishing within the harbour.

option4 submitted in 2005 to the Ministry of Fisheries' proposals for adjustments to the Total Allowable Commercial Catch (TACC). Arguments were made in favour of reducing commercial take so local people would have reasonable access to these fisheries. Despite the well-founded arguments to reduce take to below existing catch levels, to rebuild these fisheries, MFish decided to maintain the commercial catch rates for these species.

In option4's opinion it is wrong for MFish to allow unconstrained commercial fishing and then set allowances for customary and recreational fishers based on people's reduced access to those fisheries.

Session Conclusion

MFish acknowledged the hospitality of the people of Naumai marae. Jonathan considered the meeting had been constructive and the Ministry had learnt some things from the discussions. MFish hoped their presentations had been informative and helpful to the discussions scheduled for later in the hui. The Ministry still had a lot of work to do and would be considering how the work they will be doing would "better reflect" what they had learnt.

Questions regarding compliance and enforcement for the Kaipara Harbour were best directed to Graeme Morrell and George Riley who were staying for the remainder of the hui. They could pass on specific questions to the District Compliance Manager, for answers. Those questions would also be sent to Jonathan for his input.

Without the benefit of viewing the latest Ministry letter⁷ and before the MFish team left, Sonny reminded them that the Ministry "*should not get the koha mixed up with the hui fee*". The marae committee would be sending the Ministry an invoice for the two day hui, in due course. The koha already given by MFish was accepted and appreciated.

Chris Jenkins of the Department of Conservation welcomed the honesty from hui participants. "*Some of your comments certainly rung true, I can sense the frustration, I can sense what you want to do and I am listening.*"

DoC appreciated the hospitality of the Naumai marae people shown to his team. Alan Fleming and the DoC adviser, Vince Kerr, stayed at the marae for the remainder of the hui and provided some valuable feedback to later discussions.

⁷ Appendix Two

http://option4.co.nz/Fish_Forum/documents/halmf706.pdf

Freshwater Customary Forum

Tom Moana, Nga Hapu O Te Uru, Waikato

In March this year Te Arawa, in conjunction with the MFish Pou Hononga, called a hui for interested iwi members in Rotorua. The kaupapa was wai Maori (freshwater). Around 40 people from around the country attended the first hui and it was hoped that northern iwi would send their representatives to the next hui.

A Working Group had been formed and included representatives of Tamaki Makaurau, Te Arawa, Ngati Awa and Te Ati Awa. The Working Group had met four times since the March hui and had reported their findings back to the main group, with the objective of having good outcomes for all iwi.

Since the initial hui, Sam Tamarapa and Tracey Kingi had joined Graeme Morrell on the Forum. Sam is the MFish Pou Hononga for Taranaki and Tracey is an MFish Extension Officer. Both have iwi affiliations as well as their MFish obligations. In his opinion, the Ministry staff were an asset to the Forum.

Tom expects that the Freshwater Customary Forum will be fully operational within a month. Discussions to date had focussed on the health of the waterways and how to restore them so that the eel (tuna), mullet and other life returned to the rivers and lakes. The Forum also offers assistance to iwi if they are dealing with regional and local councils.

The Forum had tried to be realistic about their goals. They understood they may not achieve their goals in their lifetimes but the Forum participants were keen to get work underway to improve the waterways for their mokopuna.

Tuna (Eel) Management

Once again the hui was reminded of the mismanagement of tuna (eel). The Hokianga Accord was informed at the last hui that those involved in the customary iwi Forum regarded tuna as a 'status fishery'⁸.

Having DoC and MFish responsible for management of the same species, at very stages of their lifecycle, made it difficult for tangata whenua to understand the management regime. It is a source of frustration that DoC control rules relating to whitebait and when it comes to eels, the Ministry of Fisheries are responsible.

Poor land management practices condoned by various local and district councils also added to the dissatisfaction felt by tangata whenua in regards to the waterways.

⁸ Page 42, Hokianga Accord Whitiara Marae Hui report April 2006. http://option4.co.nz/Fish_Forums/har4067.htm

Hectors Dolphins

Tom is one of thirteen people on the Hectors Dolphins Advisory Group. Tom is the North Island iwi representative and Nigel Scott from Te Runanga o Ngai Tahu is the southern iwi representative.

Iwi Customary Forums

Tom Moana, Nga Hapu O Te Uru, Waikato

Nga Hapu O Te Uru customary Forum has had a Memorandum of Understanding (MOU) underway with the Ministry of Fisheries for six years and it still had not been finalised. The Forum was keen to complete this aspect of their development. Tom is co-chair of the Forum and has attended at least three of their meetings. Tom supports the direction of the Hokianga Accord and is keen to maintain close relationships between the Accord and Nga Hapu O Te Uru.

Recreational fishing organisations were encouraged to get involved with Nga Hapu O Te Uru. The possibility existed to duplicate a similar format to the Hokianga Accord, whereby Maori and non-Maori fishing interests would be represented by the same Forum. Currently there were separate forums, the customary iwi Forum and the North Island West Coast regional recreational fishing Forum.

Tom had spoken to Sheryl Hart recently. Sheryl is co-vice President of the NZ Recreational Fishing Council (NZRFC). Their discussion was regarding the release of live kingfish into the Raglan Harbour. Nga Hapu O Te Uru supported that initiative.

Iwi Chairpersons Forum

Sonny Tau, Te Runanga A o Iwi Ngapuhi Chairman

Both Sonny and Tom had attended a hui of all the chairpersons of iwi customary forums. This national hui of iwi Forum chairmen had not been convened since early March. The April hui had received a report from Graeme⁹.

Sonny advised there were forty-one chairpersons at the National iwi chairperson's hui held in Wellington during March 2006. He addressed the hui on Maori non-commercial fisheries issues and received a very positive response to his speech¹⁰.

Kaimoana Regulations

Graeme Morrell, Pou Hononga, Ministry of Fisheries

Once the freshwater customary Forum was formally recognised as a freshwater Forum there would be a review of the Kaimoana Regulations that applied to the North Island¹¹. Graeme advised the review could occur within the next eighteen months.

⁹ Page 42, Hokianga Accord Whitiara Marae Hui report April 2006. http://option4.co.nz/Fish_Forums/har4067.htm

¹⁰ http://option4.co.nz/Fish_Forums/taus306.htm

¹¹ Fisheries (Kaimoana Customary Fishing) Regulations 1998

In the north, the Kaimoana Regulations only apply to the marine environment, so in practice a mataitai could not be applied to a freshwater lake in the North Island. The regulations that apply in the South Island stem from the Fisheries (South Island Customary Fishing) Regulations 1999. These regulations include both marine and freshwater environments.

Kaipara Harbour

Peter King, Kaipara District Council Mayor

Peter enjoyed being back at Naumai marae for a day but had to leave the hui to attend another function. He felt encouraged by the numbers of people at the hui and said it was warming to know there was so much support for local management initiatives.

Peter was part of the Kaipara Harbour Sustainable Fisheries Management Study Group that had tried to instigate more meaningful management of the Harbour, for six years. He felt particularly encouraged by the information DoC and MFish had presented to the hui.

Gratitude for Hospitality

Everyone at the hui, including John Chibnall who also had to depart the hui around the same time, shared Peter's expression of gratitude to the Naumai people for their wonderful hospitality.

John is a life member of the NZ Big Game Fishing Council (NZBGFC) and is also a member of the International Game Fishing Association (IGFA). He is very supportive of the Hokianga Accord initiative of having Maori and non-Maori working together on issues of importance to both groups.

John had actively encouraged other members of the Council to get involved in the Forum, particularly those based in the Bay of Islands and other parts of Northland. As a member of the North East regional recreational fishing Forum, John was keen to have the Accord and recreational Forum working cooperatively.

Regional Recreational Fishing Forums

North Island East Coast - *Richard Baker*

Richard is vice President of the NZ Big Game Fishing Council and has been involved with option4 for a number of years. Unfortunately Richard had missed the last two Hokianga Accord hui due to family commitments but was pleased to share his experience of the recreational Forum with others. The East/central recreational fishing Forum (NIECRF) covers the east coast areas from Pakiri to the Bay of Plenty. Interest in the recreational Forum seems to have dropped away since its inception last year.

Peter Ellery and Kim Walshe were part of the same Forum. Both had attended previous Accord hui and had vast experience in advocating for the interests of non-

commercial fishers. Also part of the group is Anthony Olsen of Ngati Tuwharetoa. Based in Matata, he has been part of the regional Forum from the outset. Louis Davis, a Ngapuhi living in Auckland, had recently resigned from the Forum. The group is keen to have more tangata whenua participating in the Forum.

The Forum had met the previous night and discussed a range of issues, one of which was the Ministry's review of consultation procedures. The group highlighted the need for 'true' consultation not just an exchanging of ideas. The public wanted meaningful input into MFish processes that did not have pre-determined outcomes.

The rights reform process held in 2000, *Soundings*, was raised as an example of a Ministry process designed to reach a particular outcome. An unforeseen outcome of the three options to reform recreational fisheries management was the formation of option4¹²; A group opposed to the MFish proposal but who also produced a fourth option that recognised the value of recreational fishing to the people of New Zealand.

Shared Fisheries Policy

The Shared Fisheries Policy project was also discussed during the meeting. The relationship between the policy process and what rights the public currently had under section 21 of the Fisheries Act 1996 was discussed. Definition of those rights, or interests, is a central component of the Kahawai Legal Challenge.

It is ironic that the Shared Fisheries Policy process will precede the hearing of the Challenge. The High Court hearing had been adjourned and rescheduled for November 6th. The delay was the result of the Minister and MFish's failure to produce their evidence on time, despite having nine months to do so.

Fisheries Management History

The Forum had previously been given two option4 documents by Richard:

- Discussion document for the Minister of Fisheries¹³
- Proportional Allocation document submitted to the Ministry in August 2005¹⁴

The group seemed to be gaining some appreciation of the fisheries history and how the Ministry's mismanagement has had a detrimental effect on people's ability to fish for food.

Joint Forum Meeting

It had been suggested that a joint Forum meeting be convened as soon as the Shared Fisheries Policy is released. Proposed meeting date would be early September. Sonny Tau, Naida Glavish, Tom Moana, Scott Macindoe, Trish Rea and Paul Barnes would

¹² Over 60,000 people submitted on the Ministry's process, 98.5% supported option4's stance.

¹³ Discussion document for meeting with the Minister of Fisheries, option4, December 2004
http://option4.co.nz/Fisheries_Mgmt/fmdd_mnr1204.htm

¹⁴ Proportional Allocation of Fisheries Resources in NZ, option4, August 2005
http://option4.co.nz/Fisheries_Mgmt/proportions.htm

be invited to address the meeting and discuss the implications of the Ministry's proposal. Hokianga Accord supporters were welcome to attend that meeting.

It was hoped the forums would either submit jointly on the Shared Fisheries Policy project or alternatively ask for the same things in their submissions on the policy document. The policy was due to be released mid-August so the early September date would allow for some detailed analysis of the MFish document before the joint Forum meeting.

Hokianga Accord Status

The debate surrounding the status of the Hokianga Accord was being keenly followed. There was interest within the NIECRF in the outcome of the on again/off again status of the Accord.

Forum Agenda

Richard confirmed that MFish draft agendas for their Forum meetings. Members could add any items for discussion. MFish staff kept the minutes of the meetings.

Sonny confirmed the reason why the Hokianga Accord was so adamant about setting its own agenda was that MFish were invited to talk to the Forum on the topics that were of importance to tangata whenua and others participating in the hui.

Capacity and Mandate

The Ministry had appointed the people on the regional recreational forums and the Minister had appointed those on the Recreational Fisheries Ministerial Advisory Council (RFMAC). None of the people on these groups had a mandate to speak on behalf of the public as they had been appointed as individuals.

The capacity of the forums was more of information sharing than any decision-making role. Until mandate was sought, this limitation applied to both the Shared Fisheries Policy project, the Fisheries Plans process and any other process the Ministry wanted to carry out regarding our non-commercial fishing interests.

Aotea (Great Barrier Island) Marine Reserve

The NIECRF had agreed on a statement of position regarding the Aotea (Great Barrier Island) marine reserve. The group had sent an advice paper to the Minister of Fisheries regarding his consideration on whether to give concurrence (agreement) to DoC's proposed marine reserve. The Minister of Conservation had already approved the application¹⁵.

¹⁵ http://option4.co.nz/Marine_Protection/gbilecrff706.htm

Bay of Plenty Mataitai

There was a brief discussion regarding the mataitai proposal for the Bay of Plenty. It was noted that no recreational representatives had been approached by tangata whenua regarding the plan. The recreational Forum would welcome the opportunity to participate in that process.

North Island West Coast - *Stuart Cameron*

Stuart belongs to the Manukau Sport Fishing Club and is also a member of the North Island West Coast regional recreational fishing Forum. Stuart could not see much progress being made until there was reasonable representation in the group and iwi involvement. Ngati Whatua was encouraged to nominate someone to represent their interests in the Forum.

Unlike the North East Forum which originally had around 18 members that dwindled to around 10, the West Coast Forum has around six members with two or three others attending at different times. Trish Rea of option4 had attended twice, mainly to listen and ask questions of the Shared Fisheries Policy team, when they had made presentations to the group.

The Forum had been advised they could not discuss the Aotea marine reserve, as it did not fall within the boundaries of the Forum, which is Auckland west and coastal regions from the Kaipara to Mokau in Taranaki. The Forum members did not accept the 'divide and conquer' rule being applied to matters of mutual concern, such as the Aotea reserve process. A meeting had been scheduled for the following week where the issue would be raised again.

The need to combine forums associated with the west coast snapper stock, Snapper 8 (SNA8) had been discussed. This would involve the Northern, North East, North West and other forums south of Mokau. To date, no significant discussions on SNA8 had been held, as the major decisions had already been made during the Ministry's sustainability round in 2005.

Northern Forum – *Paul Batten*

Paul Batten is a member of the Mangawhai Boating and Fishing Club. He is also part of the NZBGFC executive. Paul had been part of the Northern Forum since its inception last year. The Ministry of Fisheries did struggle to get people involved in the Forum, current membership is around 12. MFish initially budgeted for 14 people in each of the recreational forums.

Des Subritsky of Dargaville and Richard Civil from the Bay of Islands were two tangata whenua representatives on the Forum. Although the same non-mandated capacity applies to the Northern members as it does to the other recreational forums (as mentioned by Richard earlier).

MFish had been asked to supply a list of contacts of people living in the far north so Paul could contact them and ask if they wanted to participate in the Forum. Current membership only extends as far north as Doubtless Bay.

A Forum meeting was scheduled for the following week and no draft agenda had been received from MFish. Paul did not believe the forums were operating in a forthright or timely manner. He assured the Accord the Aotea issue would be discussed and endorsement would be sought from the members to support the North East Forum's letter to the Minister of Fisheries.

The Ministry had been asked to supply a glossary of terms. Many of the Forum members seemed to be struggling with the terminology being used by MFish staff. This would assist with the understanding and the up-skilling of those involved in the discussions.

Records of meetings had improved; MFish staff was now producing minutes as opposed to notes.

Sonny requested details so he could attend the next meeting of the Northern Forum. Paul confirmed the meeting would be in the Bay of Islands the following Thursday but had not received any other details regarding venue or times.

Lorraine Hill attended the last Forum meeting. She suggested contacting the Northland Regional Council's (NRC) environmental officer. That person makes regular visits to schools and could incorporate discussion regarding the Northern Forum within those presentations. Lorraine works for the NRC and is also a member of the national fisheries advisory group (RFMAC).

Paul had requested a name change for the Forum. It is currently known as the regional recreational fishing Forum. "My mum taught me not to play with my food" so 'recreational' did not fit in with his fishing activity. This comment brought a round of agreement from those at the hui.

Questions were raised regarding the two Maori people on the Forum, Des Subritsky and Richard Civil, and whether MFish considered they were consulting with Maori through the Forum. Paul could not speak on behalf of MFish but did mention he had asked at every Forum about having input from customary fishers.

All members on the various recreational fisheries forums had been selected as individuals not as representatives of a particular sector or group. This contrasted with the mandated status of the Maori involved in the Hokianga Accord, i.e. Sonny has Ngapuhi's mandate and Naida has Ngati Whatua's.

Paul insisted that their group should be part of the Hokianga Accord and not duplicating the process. Not everyone in the northern Forum agreed with that approach. After some discussion it was agreed that people should be encouraged to participate in the Hokianga Accord and the 'recreational' Forums.

Use of Resources

Judah Heihei, Ngapuhi Trust Board member and Bay of Islands kaitiaki

Judah pointed out that some kaitiaki are resentful of the money MFish is spending on the various forums. Many kaitiaki considered the resources that had been promised for developing mataitai and other customary management tools had been diverted away from tangata whenua initiatives. The reality for tangata whenua was that many kaitiaki had missed important meetings purely because they could not afford to attend.

Ngati Rehia had struggled to implement the Marangai Taiamai Management Plan in the Bay of Islands. This was particularly frustrating when they knew it would ultimately benefit everyone, both Maori and non-Maori. Judah, Alan Munro and Aro Rihari had given a full report at the April hui¹⁶.

History of Recreational Fishing Representation

Scott Macindoe, option4

Why are we dealing with this chaos?

In the year 2000 fishers had the *Soundings* rights reform process to contend with. The following year recreational fishing representatives were part of the Ministerial Consultative Group (MCG), established after a meeting with the then Minister of Fisheries, Pete Hodgson. The Ministry still did not get the outcome they sought so that process floundered.

A consensus letter signed by the same representatives involved in the MCG was sent to the Minister in December 2002, expressing concern about the lack of momentum to define and protect the public's right to fish¹⁷.

A Reference Group was formed and met with MFish officials in January 2003¹⁸. The national representatives were again confronted with much the same issues. Representatives from the New Zealand Big Game Fishing Council, the New Zealand Recreational Fishing Council and option4 were involved in the discussions throughout the year.

The process culminated in another letter to the Minister in December 2003 explaining reasons why changes to section 21 of the Fisheries Act were rejected and supporting other aspects of the reform package offered by the Ministry¹⁹.

¹⁶ http://www.option4.co.nz/Fish_Forums/har4066.htm#mara

¹⁷ http://www.option4.co.nz/Your_Rights/consensus.htm

¹⁸ http://www.option4.co.nz/Your_Rights/referencegroup.htm

¹⁹ http://www.option4.co.nz/Your_Rights/rglcons1203.htm

The groups involved in those processes did their best to inform the public of the events and agreements made. It was important the public was kept informed and supported the outcomes their representatives were seeking. Unfortunately MFish disbanded the group and things went quiet as an election was looming.

Since then MFish had looked to find solutions at a regional level rather than deal with the national representatives. Both MFish and DoC had taken this regional approach as evidenced through the Ministry's recreational fishing forums, iwi forums and DoC's latest regional Forum concept for marine protection.

The chaos stems from the regional approach with no resources being offered to the public or tangata whenua to record, publicise or implement any local initiatives. The emphasis seems to be on having Maori talk about spatial issues, non-Maori discussing less relevant fisheries issues while the Ministry of Fisheries concentrates its effort on pushing the Shared Fisheries Policy project through. The objective of that project was to limit non-commercial catch and avoid compensation issues for the Crown.

The potential for the Crown's liability to pay compensation arose from the over-allocation of commercial quota during the introduction of the Quota Management System (QMS). The Government created too much quota (property rights) for fisheries in 1986. Quota limits for many of the inshore fisheries were set too high, so high in some cases that commercial fishers have not been able to catch the allocation. Important fisheries such as flounder, mullet, john dory and gurnard had been plundered and not had the opportunity to rebuild to healthy levels.

The allocation issue is paramount for both Maori and non-Maori. Until the issue is resolved it is hard to envisage any other processes succeeding. The Crown had already indicated the constraints to the Shared Fisheries process, the outcome had to be fiscally neutral, it could not cost the Government anything, hence the need to avoid compensation issues. The other limitation is that it must not result in any re-litigation of the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992.

Summary of Session

Tangata whenua and non-Maori need to stand together on the Shared Fisheries Policy issue, as the outcome would influence whether their mokopuna would have fish available to feed their whanau. It would be unthinkable to consider a future without access to kaimoana. Hui participants were encouraged to work together on this foremost issue, the allocation of fisheries.

Once again the issue of dealing directly with the Minister of Fisheries, rather than bureaucrats in MFish, was raised. Parekura Horomia, as Associate Minister of Fisheries and Minister of Maori Affairs was another person to speak with. If a complaint to either of these Ministers failed there was always the opportunity to go through the Ombudsman's Office.

Other possibilities included:

- Dealing with opposition MP's
- Asking questions in Parliament
- Publicly exposing MFish and the Minister through national papers

The Forum needed to decide what it wants and then clearly articulate that to whoever is approached, the Minister of Fisheries, Associate Minister or others. Time for talk is over, it was now time for the Accord to be setting out exactly what it wanted from others and not be stonewalled by MFish.

By law, the Minister had to resource Maori, to provide for tangata whenua's involvement in fisheries management processes. Section 12 of the Fisheries Act was very clear:

- (1) **“Before doing anything....the Minister shall—**
- b. Provide for the input and participation of tangata whenua having—
- (i) A non-commercial interest in the stock concerned; or
 - (ii) An interest in the effects of fishing on the aquatic environment in the area concerned—
- and have particular regard to Kaitiakitanga.**

Encouragement came from someone new to the Hokianga Accord. Their experience during the day had shown that MFish were really uncomfortable with tangata whenua and non-Maori working together on the same issues. The Accord was urged to maintain its progress, not be diverted by other issues such as funding but keep the momentum going for to achieve the collective goal of -

“More fish in the water”
“**Kia maha atu nga ika i roto te wai**”

Relationship Model Between Iwi and the Crown

Tepania Kingi, Ngati Whatua

Tepania had attended several Hokianga Accord hui and given a lot of thought to why the Hokianga Accord and MFish were not achieving a lot together. His conclusion was the problem lay in the relationship between iwi and the Crown. Tepania gave a PowerPoint presentation to explain a relationship model that would be suitable for the Hokianga Accord (Appendix Three).

Tepania explained the relationship model could be applicable to any iwi. Detail was given about the Ngati Whatua/Crown relationship through the use of Memorandum of Understandings, agreements and contracts of service.

Taitokerau (Northern) iwi were encouraged to reconsider how they were dealing with issues. Each iwi would still exercise their tino rangatiratanga (authority) within their

own tribal boundaries. Iwi also had the right to deal with the Government in their own right, as Treaty partners.

There was strength within the Hokianga Accord by having all Taitokerau iwi and non-commercial fishing interests working together to achieve the aims, objectives and interests of all the Accord's participants.

This was an enlightening session that clarified the origins of the Hokianga Accord and that the Accord was inclusive of every iwi and hapu in Taitokerau. Although iwi, hapu and whanau had evolved over time, the whakapapa remained.

Kahawai Legal Challenge

Jeff Romeril, President, New Zealand Big Game Fishing Council

Jeff was President of the NZBGFC that had over 31,000 members in 60 clubs nationwide. Most of those clubs were based in the north of the country. The NZBGFC had been working closely with option4 for a number of years and was committed to assisting the Hokianga Accord to achieve its goal.

The NZBGFC considered its value to the Accord was in its ability to work with fishing clubs in areas where tangata whenua wanted to implement customary management tools. If the clubs could assist Maori to reach the general public then local management initiatives should be more successful in the future. This outcome was of benefit to everyone, both Maori and non-Maori.

The NZBGFC has been advocating against the bulk fishing of kahawai since the early 1990's. After the introduction of the Quota Management System (QMS) in 1986 the pressure went on the kahawai stocks, as they were not included in the QMS.

Purse seiners were targeting whole schools of fish to build up catch history. Commercial fishers knew that when kahawai were finally introduced into the QMS, quota would be allocated on the basis of whoever caught the most fish would gain the most from the quota allocations.

Little regard was given to the depletion of the kahawai stocks or the complaints of non-commercial fishers that the numbers of kahawai available for shore-based or small boat fishermen was unacceptable.

The Minister's 2004 decision to introduce kahawai into the QMS and allocate on the basis of catch history floored the recreational fishing representatives. Essentially he had made a decision that ignored the depleted state of the fishery, failed to acknowledge that non-commercial catch of kahawai had been adversely affected by the bulk harvesting methods used and that non-commercial fishers would have to accept reduced access to a depleted fishery.

Several meetings were held with option4 and the New Zealand Recreational Fishing Council (NZRFC). An injunction against the decision was considered but discounted for a number of reasons. Eventually the NZBGFC and the NZRFC filed a substantive case with the High Court in August 2005.

Stuart Ryan and Hesketh Henry Lawyers had been very supportive over the past two years, with generous rates being applied, as they also see the “public interest” in the case being heard. A QC, Lyn Stevens was also engaged to review the case and offered his services at a very generous rate. In his opinion the case was very well prepared, and agreed it had “public interest” value.

Jeff, Naida, Scott, Steve Naera and several others attended the 2005 and 2006 Ngapuhitanga Festival in Kaikohe. People at the events were very supportive once they understood what the case was about. Te Runanga A Iwi O Ngapuhi had shown its support for the Legal Challenge and Sonny had provided a very powerful affidavit in support of the Statement of Claim.

In December 2005 the High Court established a timetable of events specifying when evidence was required to be filed. The affidavits from the commercial interests involved in the case arrived two months late. Evidence from MFish and Minister of Fisheries did not arrive on time, this forced the adjournment of the June hearing date to November 6th.

Lyn Stevens has subsequently been appointed as a High Court judge so a new QC has been sought. Lyn recommended other QC's and Alan Galbraith had recently agreed to represent non-commercial interests in court. The generosity of both Alan and Lyn Stevens must be acknowledged as the KLC team had, and would, continue to enjoy the services of a QC at heavily discounted rates. The Kahawai Legal Challenge team were grateful for the very generous contributions of all the legal counsel involved in the case.

Maori customary fishing had been raised in the commercial fishers affidavits as an issue for the court. No decision had been made yet as to whether the issue needs to be addressed.

The three main points for the court were:

- Clarification of how section 21 (of the Fisheries Act 1996) in regards to non-commercial fishing interests works;
- The correct process for setting the Total Allowable Catch (TAC) within each Quota Management Area in the absence of good information;
- Whether due consideration was given to the Hauraki Gulf Marine Park Act when the Minister made his kahawai decision.

While the case is about kahawai, the outcome is expected to have a far-reaching effect on all future fisheries management decisions.

Multi-lingual Fisheries Website

Mark Berghan, Ngapuhi and A2Z Translate

Mark is a very keen rock fisherman. He noticed that many of the people fishing in the same areas he was had very poor English, could not identify fish, did not understand the fisheries regulations and some were simply not aware the regulations existed. Mark had approached Trish Rea to discuss how A2Z Translate and option4 could work together to address these issues.

www.fish4nz.co.nz is a joint initiative by option4 and the Hokianga Accord that seeks to increase public awareness. It was also an opportunity to spread the message to a wider community, about what the Hokianga Accord and option4 were doing to improve the future of fisheries for all New Zealanders.

The educational message has being delivered in seven different languages, including English. The other languages are Chinese, Maori, Samoan, Korean, Vietnamese and Japanese. Depending on demand, another two languages could be added to the site.

Effort had gone into providing information on how to stay safe while fishing, how to identify fish and a very simple explanation of the recreational fisheries management framework. Links to the MFish regulations had been provided as the task of translating the rules into multiple languages for many different regions proved to be too complex, even for the experts.

A glossary of common fisheries terms and explanations in the target languages has been provided. Unique to this site is a glossary of common Maori terms with explanations in the other six target languages.

An online fish identification system had been developed which is targeted at people who may not know the correct names of fish. This function is available in all the target languages, has a simple yes/no format and currently covers 23 species.

A press conference had been scheduled for August 15th in Auckland, to advertise the site. It was hoped as people became more familiar with the fisheries issues they would get more involved. There is a keen interest in fishing within the ethnic communities and this was an attempt to reach and educate a wider audience.

There is a separate section online that describes customary management tools, where they can be used and how they are applied. All explanations are aimed at informing people who have little or no understanding of the current management regime.

In response to a question, it was acknowledged that there was no section explaining why Maori had a special relationship with the Crown and have rights that other New Zealanders don't have. The challenge was put to the Hokianga Accord to write a simple message that would be translated and loaded online.

Another suggestion was put to Mark and Trish, to make an approach to the educational department with MFish to discuss how they would support this initiative as it obviously has value for the Ministry.

This was a positive end to the day's hui. Due to the intensity of the day's sessions and the late hour the 'passing of tokotoko' story telling session was cancelled and would be resurrected at the next hui.

Friday 21st July

Around 43 people were present for the beginning of the second day of the hui, although more arrived during the course of the morning. Naida Glavish had to leave to go to work, but she did give everyone an insight into the events leading up to deciding how Naumai marae was chosen for this particular hui.

Naida expressed appreciation to John Retimana for organising the hui. Te Runanga o Ngati Whatua was 100% behind the Hokianga Accord and fully supported Ngapuhi in regards to the Hokianga Accord initiatives. Naida committed to working with Sonny in relation to Iwi/Crown relationship model presented the previous evening by Tepania Kingi. Naida thoroughly enjoyed the hui, she finds them therapeutic and is keen for more. A memorable waitaia by Naida, Sonny Tau, John Retimana, Tepania Kingi and Lucy Te Awhitu followed Naida's korero.

*He Kuaka marangaranga
Kotahi te manu i rere
Tau atu ki te Tahuna
Tau atu tau atu e*

*He tangata ke koutou
He tangata ke matou
I roto i tenei whare
Tatou Tatou e.*

Alternative Management Strategies

Kim Walshe, Ackroyd Walshe Ltd

Kim is a fisheries consultant and ex-MFish regional manager with a particular interest in non-commercial fisheries and policy development. Kim had attended the 'Sharing the Fish' conference in Perth, in March 2006 on behalf of Ngapuhi, the Hokianga Accord, the New Zealand Big Game Fishing Council and option4.

Kim found the Perth conference interesting as the main theme was the allocation of fish stocks. He heard a number of presentations on alternative ways fisheries were being managed in other parts of the world.

As fisheries worldwide were becoming fully fished, or overfished, there was a need to agree on an allocation process to reduce the conflict caused by having competing interests in the fisheries. Conflict has occurred between sectors, within sectors and there seems to be more recognition of tangata whenua or 'first nation' fishers.

In New Zealand allocation has been traditionally achieved by area management, catch allocations and/or a combination of both of these approaches.

New South Wales

In the Australian state of New South Wales havens had been created for use by non-commercial fishers only. Licensing of recreational fishers had provided funds for improvements through a trust. All monitored fisheries had improved, in some cases by 500%. Compensation was paid to selected commercial fishermen to leave the industry. There had been problems with some of these same fishermen returning to commercial fishing and this has caused some conflict. Traditional/customary fishing is not a major issue in NSW but may become an issue in the future. Overall this system seems to have been successful.

Tasmania

Rock lobster (crayfish) in Tasmania has been allocated on a proportional basis whereby recreational fishers had been allocated 10% of the total catch and commercial 90%. As the fishery increases or declines each sector gets their 10/90% share. A lower limit has been specified for the recreational share so that it can never go below that level. If the fishery declined to that level then commercial fishing would cease in order to allow recreational fishing to continue. Unlike in New Zealand, over 80% of recreational fishers surveyed supported the proportional allocation system.

The scallop fishery in Tasmania was closed from 1985 to 2005. During this time there had been some commercial fishing but no recreational harvesting of scallops. Since 2005 there had been different seasons for recreational and commercial fishers and also separate fishing areas, commercial fishers were not permitted inshore. Recreational fishers are allowed to take 40 scallops per day, by hand, as dredges are banned. There seems to be a high level of support for this management regime.

Canada

Halibut is a flatfish that can grow very large. Problems arose in Canada when the recreational catch doubled between 1990 and 2000. Consideration was given to allocating 9% of the total catch to recreational fishers but this caused huge conflict.

In 2003 the Canadian Minister of Fisheries allocated 12% to recreational fishers with the provision that recreational could lease their unused allocation to commercial fishers. This was a lucrative arrangement in 2004-05, as the recreational did not catch their full entitlement. In 2006 recreational fishers caught their full allocation and the issue in 2007 is whether recreational fishers are likely to exceed their allocation. The debate now is whether recreational fishers needed to purchase extra quota, which meant a license fee to fund that. They could reduce bag limits or have fishing seasons or limited areas. Kim would be watching developments in this fishery with interest.

Alaska

When allocations of fisheries resources were first made in Alaska no account was made for 'first nation' or traditional fishers. Similar to New Zealand, the courts overruled the initial decision. Indigenous people have now been allocated 7.5% of the available quota. This was allocated to a village rather than a group. The benefit accrued to the whole community as opposed to a particular group.

Fisheries managers were concerned about the social issues associated with giving away quota as they recognised the importance of fishing to thousands of little fishing villages that had depended on fishing to survive, over hundreds of years.

The outcome is communities fully supporting themselves, facilitating training and management regimes for young people to enter into commercial fishing and buying up quota so the asset remains within the community rather than sold to corporate interests, as had happened in New Zealand.

Kim pointed out that overseas management regimes seem to be more concerned about the social issues associated with allocating fisheries resources than the managers in New Zealand. In New Zealand the system is driven by economics. The social impacts of New Zealand's management policies do not seem to influence their decisions. The most graphic example of this is was when many part-time fishermen were denied any opportunity to continue commercial fishing in 1983, prior to the introduction of the Quota Management System. Many of those fishermen were Northland based Maori. The impacts of that decision are still being felt today around Northland and other small coastal communities.

Challenges for Catch Allocation

The Ministry of Fisheries is currently reviewing the way allocation of fisheries is made. People need to consider the following points when deciding how they could get the best outcome:

- The basis for allocation and whether it was based on recent or historical catch
- Fixed or variable allocation between sectors
- Monitoring of non-commercial catch
- Management of non-commercial catch within the 'allocation'
- Who pays for monitoring and management

Other Issues

'Recreational' fishing was again raised as being a misnomer. Recognition needed to be given to the sustenance, food gathering aspects of what is classified by the authorities as 'recreational' fishing. Maori and non-Maori at this and other Accord hui objected to being classified as 'recreational' fishers.

Licensing was raised as a regime that had not worked well for Aboriginal people in Australia. Kim noted that licenses are issued on a twelve-month basis in Canada and could be removed at the Minister's discretion. This contrasted with people's attitude to fishing in New Zealand; where it is a way of life for many people, it is a freedom. The common law right to fish stems from the Magna Carta. People want abundant fisheries and not lose access rights.

Summary

Allocation is the major issue confronting fisheries managers. Historically New Zealand's management regime has been based on allocating catch rights rather than designating areas where different sectors can fish.

The problem with proportional allocation is that if the fishery declines and one sector takes 90% of the available fish and they have caused the decline, then 90% of the cuts to catch should be attributed to that sector. Under the current regime there is no incentive to actively manage each sector's share to conserve fish.

There are some examples overseas of active management of non-commercial catch that could be applied here. However, the system would need to be fair to get the support of fishers to ensure its success.

Feedback Session

Unique to New Zealand's fisheries management regime is that Maori now own more than 50% of the commercial fishing rights. Ngapuhi and Ngati Whatua had expressed their desire that, despite their commercial interests, they have a responsibility to ensure people have access to fish for food. Tikanga prevents Maori from taking too much fish if sustainability is at risk.

Kim noted that with the advent of the fisheries settlement and the goal of "more fish in the water", we now have a commercial rights holder that has indicated it would try and balance social and commercial factors. This would make the next ten years of fisheries management interesting.

It was pointed out that people should consider their responsibilities to fisheries. Without fish in the water a 'right' was meaningless. Maori had tikanga, non-Maori needed to encourage people to fish in a more responsible manner.

The contrast between the overseas case studies presented and the actual situation in New Zealand was that the examples given were of fisheries that were at optimum, or

at the very least, at acceptable biomass levels. Most of the important inshore shared fisheries in New Zealand were well below what the law required (Bmsy) and what was considered acceptable, below a biomass level that would sustain maximum sustainable yield, Bmsy.

If fisheries are being managed to rebuild depleted stocks it tended to occur over a longer period of time than what non-commercial fishers find acceptable. Snapper 8, the west coast snapper fishery had been below Bmsy for more than 20 years and rebuilding very slowly. At the current rate of rebuild it wont be at Bmsy till after 2020.

The current regime does not support people's desire to leave fish in the water for conservation purposes. If people don't catch fish now non-commercially it is allocated to the fishing industry. The people need a planning right, as per option4's third principle²⁰, to conserve fish for future generations.

With management so focussed on economics it was difficult to understand how the purpose and environmental principles of the Fisheries Act were being met. The value of the Kahawai Legal Challenge is that it will force the Ministry to give consideration to aspects other than managing for purely economic outcomes, if the courts rule in the non-commercial fishers favour.

Active management by the Ministry is lacking. Rahui is one approach that recognises seasonal management and Maori envisage MFish's approach to be very narrow.

Kim did not note any programmes where incentives or more catching rights had been offered to commercial fishers in exchange for 'best practice'. This could include reducing fishing related mortality through improved fishing techniques or using more environmentally friendly fishing gear. The conference speakers were limited to a ten-minute presentation and a background paper. More information and background papers were available online at <http://fishallocation.com.au/>

California Experience

Jerry Garrett, NZBGFC Delegate, Bay of Islands

Jerry is the Zone One delegate to the New Zealand Big Game Fishing Council, based in Russel, Bay of Islands. He is a member of the BOI Swordfish Club. Jerry is American and has been in New Zealand since 1997. While based in California he represented the national coalition for marine conservation, in the Pacific region, for 25 years. This was his second Hokianga Accord hui and he appreciated the manner in which people participated and shared their experiences.

Jerry was active in banning gill nets off the Californian coast. This was achieved through challenging fisheries management practices and political pressure. Their

²⁰ http://www.option4.co.nz/Marine_Protection/hgfao4903.htm

group was successful in achieving a complete gill net ban in some areas and severely limiting use in other areas. Jerry explained the influence of having wealthy people supporting a cause should not be underestimated. As does one-off publicity stunts.

His experience of licensing in the States was that 80% of the license revenue goes to fund research of mainly commercial species. It was a limited licensing system where extra payment was required to fish each different species.

The Guardians of the Sea Charitable Trust

Bruce Galloway, Kensington Swan

At the last Hokianga Accord hui it was agreed that a charitable trust would be established to receive funds to support conservation interests to enhance our fisheries and the marine environment. The Guardians of the Sea Trust Charitable Trust would be an entity entirely separate from the Hokianga Accord Iwi Regional Forum, but could support the work of the Forum, as well as other entities with similar objectives.

A draft trust deed had been completed and submitted to the Inland Revenue Department for approval for exemption from income tax on donations received. It is hoped to have the trust deed signed and the charitable trust incorporated before the next hui.

Review of Hui Reports

Scott Macindoe, option4

Those who had not read the report from the Whitiara April hui were offered a hard copy. The Accord is maintaining a report distribution list as MFish was paying for its production and copying. MFish had paid for the first two Forum reports but had not paid for the April production. Discussions were continuing with MFish regarding the overdue payment. (MFish has subsequently paid the overdue amount.)

The reports were a good record of the process followed by the Hokianga Accord. There was very good information contained in the reports and people were encouraged to make use of it. They were evidence of the Forum's principle of "te tika, te pono me te tuwhera", being righteous, truthful and transparent.

The last hui report was accepted as a true and accurate record of the Whitiara hui held from the 6th to 7th April 2006²¹.

Two weeks after the hui at Te Tii, the 'short line-out', Working Group, got together in Auckland to focus their efforts on a multitude of tasks. Correspondence with the Minister and Ministry were top of the list of subjects to cover.

²¹ http://option4.co.nz/Fish_Forums/har406.htm

Other topics included:

- Input and participation of tangata whenua into fisheries management processes
- Guardians of the Sea charitable trust
- Forum budget and bank account
- Kahawai Legal Challenge
- Aotea (Great Barrier) marine reserve
- Kaitiakitanga project
- Marine protected areas – Accord view
- Shared Fisheries Policy project
- Public awareness

Sonny gave a brief report on his correspondence, on behalf of Ngapuhi, with the Minister of Maori Affairs. Parekura Horomia is also Associate Minister of Fisheries so he has an important role in the future regarding fisheries issues.

A team had been working on the Kaitiakitanga project. Jeff Romeril was appointed project team leader, Judah Heihei, Matu Clendon, Robert Willoughby, Bill Wii, Bruce Galloway, Tepania Kingi and Trish Rea were part of the team. Others were also offered the opportunity to critique and provide feedback on work already completed. Jeff would distribute draft documents to those involved in the project.

The hui was given a brief overview of the hui report using the website as a reminder. Despite Sonny's pleadings, the pictures online confirmed he did attend the Auckland hui, for both days. Those who had not read the Working Group report could read it online at http://option4.co.nz/Fish_Forums/har200406.htm.

Sonny gave a summary of the meeting held in Whangarei on 30th June with Ministry officials. Sonny Tau, Paul Haddon, Judah Heihei (Ngapuhi), Hally Toia (representative Ngati Whatua), Alex Nathan, Stephen Naera (Te Roroa) and various members of Te Uri o Hau attended the meeting with Stan Crothers, Jonathan Peacey and Tame Teniti of MFish. Stan had written a letter to these tribal representatives after the meeting, which presented a different view of the day's proceedings compared to what these people recall (Appendix One).

Sonny reported that he and Laly Haddon were the only iwi chairs present. The Ministry outlined how they would like to work with iwi in the north to advance their individual needs. In their introduction there was no mention of iwi forums. Those in attendance listened to what the Ministry had to say.

Sonny asked MFish the question. What is the status of the Hokianga Accord as an iwi forum? There was no clear answer forthcoming from Ministry officials, except to say that they are not committed to ongoing forum discussions as they think that forums are only one tool for dealing with fisheries matters. They would reconsider their

commitment to forums in general after considering the value that each tool brings to the better management of our fish.

Sonny then reinforced that Ngapuhi would deal with the wider fisheries issues through the Hokianga Accord and had got confirmation from Ngati Whatua that they too desired that approach. This was supported by Hally Toia of Ngati Whatua.

MFish were further told that Ngapuhi would deal with them on an individual basis around Ngapuhi specific issues. Sonny also stressed that MFish must not get their responsibilities to Te Uri O Hau and Te Roroa under their individual agreements, confused with their responsibilities to Ngapuhi, Ngati Whatua and Ngati Wai under the Maori Fisheries Settlement Act 1992. It seemed that MFish were using the Te Roroa and Te Uri O Hau situations as a wedge between iwi, whanau and hapu of the north.

Alex Nathan on behalf of Te Roroa stated categorically the MFish must deal with them under the protocols set out in their deed of settlement. No more, no less.

Sonny then produced the Naumai Hui agenda, which he gave to Stan Crothers (MFish Deputy CEO) who said that the Ministry would attend that hui. There was no mention of the Hokianga Accord not being an iwi forum or that MFish would renege on paying their portion of the hui costs.

Despite the time constraints, a couple of items of importance were added to the agenda to provide a brief overview of other issues of significance for participants to the Accord.

MFish Management Proposals

Trish Rea, option4

Trish gave a brief summary of the proposals put forward by the Ministry for the management of various species. MFish had supplied a summary in their latest bulletin supplied to the hui²².

Of particular interest to tangata whenua was the proposal to apply the current South Island eel (tuna) management regime to the North Island. The Ministry were proposing to apply the commercial maximum size limit of 4kg to the North Island. The current concern for South Islanders was the lack of abundance of eel in some of their rivers. This issue had been raised with Tom Moana as he was part of the iwi customary freshwater Forum. Tangata whenua were encouraged to participate in this consultation process. Submissions were due to be sent to MFish by August 25th.

A joint initiative by MFish and the New Zealand Recreational Fishing Council has resulted in a second review of the amateur fishing regulations. Proposals for 2006

²² http://option4.co.nz/Your_Rights/documents/MFbulletin706.pdf

included the definition of ‘take’ when applied to fish caught and released back into the water.

Of concern was the proposal to introduce a minimum legal size (MLS) for gurnard. This measure would only apply to the recreational sector. The long-term benefits of releasing any small fish was appreciated but would be meaningless in this instance as the measure would not apply to commercial fishers.

Without a recognised planning right to conserve fish and not have them allocated to the commercial sector, the proposal to introduce an MLS for gurnard, blue cod and trumpeter would merely deny people the ability to take home a fish to feed their whanau. Ministry deadline for submissions on this proposal was September 8th.

Bruce Galloway re-emphasised the statutory obligations the Ministry had to tangata whenua. Section 12 of the Fisheries Act had been discussed the previous evening (refer page 39 of report). There is an ongoing statutory obligation that, before the Minister does anything, he has to provide for the *input and participation of tangata whenua* into sustainability measures. This was more than just ‘consult’. Iwi and hapu were encouraged to follow through to ensure that the Minister’s statutory obligation to them was being carried out, particularly with the Minister’s obligation *to have particular regard to kaitiakitanga*.

Akaroa Marine Reserve Debate

Trish Rea, option4

option4 had supported Ngai Tahu and several runanga in their opposition to a marine reserve in the Akaroa Harbour. Trish used a PowerPoint presentation to deliver the key messages from the Akaroa marine protection process.

Although Akaroa was part of the Christchurch region, the principles involved in the process demanded a substantial response from people in other parts of the country. Opposition was based on legal grounds. There was legislation that supported kaitiakitanga and tangata whenua’s right to exercise guardianship, in preference to a marine reserve.

A submission was compiled and sent to the Department of Conservation in June, in support of tangata whenua and their desire for a taiapure²³. option4 also supported tangata whenua, recreational and commercial fishers in their effort to successfully establish an alternative site as a marine reserve, the Pohatu marine reserve. Both the Pohatu marine reserve and Akaroa Harbour Taiapure had the support of the majority of the community. Active management of their harbour was preferable over the lock-it-up mentality associated with a no-take forever marine reserve.

It was unfortunate that two groups driven by principles of conservation were opposed in this circumstance. DoC is obliged to act on any valid marine reserve application

²³ http://option4.co.nz/Marine_Protection/akasooption4606.htm

that is filed with them. The Department does not seem to give equal regard to their Treaty obligations to tangata whenua and the principles of kaitiakitanga.

Alan Fleming, a ranger with DoC Northland, and Vince Kerr both made valuable contributions to the ensuing discussions. It was noted that customary management and marine reserves are not necessarily on a 'collision' course. The problems were associated with the marine reserve process. They committed to providing feedback from the hui to the Department on these discussions. Vince confirmed he would be making a submission to DoC's head office "*about the importance of including mataitai and other traditional methods within the Marine Protected Areas policy. Nothing frightens me more than the exclusion of those tools from the discussion, at the top level. Our departments don't always get it right but our job is to get in there and try and make the changes where they need to be.*"

DoC was also encouraged to discuss the mismatch of resourcing with head office. The Department had access to a seemingly endless supply of taxpayer funds whereas tangata whenua and local communities were struggling to fund themselves. DoC had spent millions on reserve applications and the science to support those applications. Conversely, there was very little, if anything, being spent on research to support traditional management tools such as mataitai and taiapure.

Consideration also needed to be given to the supporters of marine reserves. Land developers realise the value of having property in the vicinity of a marine reserve and could conceivably support reserve applicants to increase the value of their investment. It was unclear if this applied to the Akaroa application, although Trish acknowledged that from discussions with the locals, she was of the view that there is very little development around that part of the coastline.

Under current legislation the Marine Reserves Act provided for the setting apart of 'unique areas in the national interest for scientific study'²⁴. This is a very narrow charter. The use of kaitiakitanga to increase abundance and protect areas was viewed as a holistic approach for tangata whenua, local coastal communities, the fisheries and the marine environment.

Current Politics

Following this presentation (and others) the Principles of the Treaty of Waitangi Deletion Bill currently before Parliament was discussed, and is seen as a serious threat to tangata whenua and the practice of kaitiakitanga.

Any removal of references to the principles of the Treaty would remove the Crown's obligation *to have particular regard to kaitiakitanga* in fisheries management and marine protection issues.

This is a serious issue to be addressed by both Maori and non-Maori.

²⁴ Marine Reserves Act 1971

Hokianga Accord Work Plan

The priority was to have The Guardians of the Sea Charitable Trust operational as soon as possible.

Also high on the agenda was the need to thoroughly examine a working relationship with MFish, similar to what Tepania Kingi had presented the previous evening (Appendix Three). Bearing in mind the Crown Maori Relationship Instrument referred to in previous correspondence with the Ministry²⁵.

The Accord needs to agree on a strategy for dealing with MFish in the future.

Of more immediate concern was the Accord's response to the last two letters from MFish regarding the Forum's status. The first was Stan Crothers' perspective of the meeting held in Whangarei at the end of June (Appendix One)²⁶.

As of Friday, Sonny had not received the second letter but was aware of its existence (Appendix Two)²⁷.

The Shared Fisheries Policy was an issue that needed to be discussed. On the one hand MFish were advising they would be consulting with iwi forums when the policy is released, and on the other hand they were adamant the Hokianga Accord was not an iwi Forum.

Clarification was required as to their strategy to consult with northern Maori as the public consultation document was due out in mid-August.

Judah and Ngati Rehia needed the support of the Hokianga Accord to progress the implementation of the Marangai Taiamai Management Plan. Judah, Aro Rihari and Alan Munro had given details of the plan at the April hui²⁸.

The Bay of Islands kaitiaki were encouraged to keep the Forum advised of progress and ask for assistance if required.

Sonny mentioned that his repeated calls for another person to take over the leadership role of the Forum remained unanswered. He had numerous commitments and was keen to have someone assume the leadership mantle. Sonny would still be available to the Accord as he acknowledged that 80% of Ngapuhi's assets were tied up in fisheries. No one offered himself or herself as a replacement during this discussion but talks would be ongoing to find a replacement.

²⁵ http://www.option4.co.nz/Fish_Forums/har12052.htm#cmr

²⁶ http://www.option4.co.nz/Fish_Forums/halmf_nwh706.htm

²⁷ http://www.option4.co.nz/Fish_Forums/documents/halmf706.pdf

²⁸ http://www.option4.co.nz/Fish_Forums/har4066.htm

Evaluation

At the end of each Hokianga Accord hui participants are given the opportunity to provide a summary of their experience of the hui.

Without exception, the hospitality shown by the Naumai people was appreciated and acknowledged by all. The kai was magnificent and the people warm.

As a first-timer to a hui it was an “eye-opener” to hear the discussions. Pakeha did not fully understand the frustration Maori felt as they strived to achieve more positive outcomes for the future.

The public were simply not aware of many of the issues that had been raised during the hui. It was up to everyone to promote the positive aspects of Maori and non-Maori working together to achieve “more fish in the water”.

The Ministry’s approach the previous day was seen as “totally predictable” and it was enlightening to listen to all the talk during the hui. The Forum was encouraged to not change its leadership.

When talking with MFish it was a waste of time getting caught up in “point scoring” as it achieved very little.

It was also obvious that the Hokianga Accord could create and follow through with its own vision of what it wanted to achieve rather than fit into Government constructs. Iwi forums, mataitai and taiapure were examples of these. The Kaipara management project was an example of people working to achieve what they wanted.

The hui had been proof that tangata whenua and Pakeha could work together. There was confidence that both groups would stand together over issues of mutual interest.

Maori were encouraged that non-Maori at the hui had committed to supporting their initiatives, there was kotahitanga (unity) in concern for the whole environment, not just fisheries issues.

Fisheries management in this country is focussed on economic outcomes and property rights. Historically the fishing industry and Ministry had a very monolithic management approach, united against non-commercial interests. It was encouraging to hear Maori talk of tikanga in regards to fisheries management. The Ministry and industry knew all the ‘tricks’ so it was important to devise innovative responses to address these issues.

A veteran of meetings commended the Hokianga Accord for the work that had been done prior to the hui and for achieving things that were rarely seen in Northland.

It was remarkable how the mood of the hui changed after the officials (DoC and MFish) left the marae. It was heartening to hear the positive discussions during the hui. What was surprising was the number of issues facing Maori.

Tangata whenua had to continue to pursue tino rangatiratanga and kawanatanga instead of the Crown relationship models MFish were intent on. The Forum needed to protect the mana of iwi and not allow the Crown to demote everyone's interests.

A concern was the lack of younger people taking an interest in the hui, more effort needed to go into encouraging them to participate.

Some rural Maori were content to do whatever they thought was acceptable rather than obey MFish rules. It was incumbent on those who knew the 'bigger picture' regarding all the issues to educate others about what the Accord was trying to achieve and why.

Te Roroa had spent 13 years negotiating with the Crown regarding their Treaty settlement. It was interesting to listen to the hui discussions, as it seemed that the Crown's attitude to dealing with tangata whenua had not changed. The Board would be advised that being part of the Hokianga Accord was worthwhile and Te Roroa would report back to the next hui.

The well-researched arguments presented during the hui gave people a lot to think about. Most impressive was the sense of kotahitanga (unity), which was contrary to many people's previous experience. Tangata whenua and Pakeha took heart from that unity of purpose pervading the Forum, it was very powerful.

People were buoyed by the collective knowledge of those involved in the Forum. Abundance of the fisheries was of utmost importance and the Accord was working well towards achieving its goal of "more fish in the water" "kia maha atu nga ika i roto te wai".

Once again the term 'recreational' fishing was raised as an issue. The term needed to be redefined to reflect the social and cultural aspects of fishing for food.

In some respects, MFish's decision about the Hokianga Accord not being the mid-north iwi Forum was helpful as it now meant the issue was out in the open and needed to be resolved. Without a doubt, iwi had the right to determine how they wanted to manage their Forum.

"It's cold outside but you cannot help but feel the warmth of being in amongst friends at this hui". A glorious statement reflecting the mood of the hui.

It was time for the Hokianga Accord to develop its strategy and direction for the future. Now was the time the Forum needed to do something definitive, even if it was a fairly minor step, to enact its stated objective of increasing the abundance of fisheries.

Maori had been conservationists all their lives and it was encouraging to hear the talk of improving the fisheries, protecting the land and sea.

“I have seen the practise of the Treaty at its best, throughout this hui.” Maori were not aware of parts of the Fisheries Act that stipulated the Crown’s responsibility to tangata whenua and were grateful for the input of everyone to this hui.

Of major concern was the private members bill before Parliament that proposed to remove all references to the principles of the Treaty of Waitangi. If that occurred all New Zealanders would be deprived of their rights. This was particularly of concern to everyone who had been to the Hokianga Accord hui hoping for kaitiakitanga and “more fish in the water”.

Ngati Rehia had identified four areas as suitable for mataitai in the northern Bay of Islands. The hui had been a good opportunity to talk with some of the boaties from the Bay area about the plans, as it was obvious that they were a major group to be consulted when they were ready to launch their initiative.

While there was some scepticism about the motives of Pakeha, those had been dispelled by the end of the hui. “I’m just glad we are all getting together as one big whanau,” was a common sentiment expressed during this evaluation session.

Summary

Before Pita Walters would speak on behalf of the hunga kainga (Naumai Marae people) Sonny summarised the major points raised during the evaluation session. He also reminded the hui that the officials were invited to stay for the whole hui but had chosen to leave the previous afternoon.

People also had to consider that many of Ngapuhi’s young people were either working or in training so it was a huge commitment to take two days off during the week to attend a hui. Their absence was not a reflection of them not being interested in the korero.

Conclusion

Maori and Pakeha were congratulated for conducting a very warm, friendly and informative hui. Sonny was reassured of Ngati Whatua's support for him to remain the Chairman of the Forum.

After spending two days at Naumai everyone was now part of the whanau. Maori had taken great heart from what they had seen and heard during the hui. They never realised Pakeha would ever support them in that manner.

Te Uri o Hau were pleased to have participated in the hui and were keen for more. The continued development of the relationships between Maori and Pakeha was important. Any correspondence to Te Uri o Hau Settlement Trust should be sent to the Trust as well as copied to the Environs Board. That would ensure everyone is kept informed about the Hokianga Accord. The sharing of knowledge was important.

Naida and Tepania were acknowledged for their part in the decision to have the Hokianga Accord hui at Naumai marae. It had been a pleasure and an honour to host the hui at the "home of the kumara patch kids".

Scott Macindoe was acknowledged for his passion and commitment to tangata whenua and the Hokianga Accord.

It was accepted there was ignorance about fisheries issues and customary management tools both within Maori and non-Maori communities. More hui of this nature would encourage people to learn more.

The hui was grateful to the kaumatua and kuia of the northern Wairoa, for the powhiri the previous day and guiding the hui to its successful closure.

Pita Walters confirmed all the korero and encouraged everyone to be strong. The Hokianga Accord had the clout and was on the right track.

Hugh Nathan concluded the hui by giving a brief background of the Kaipara. There were four ancestral marae out of 15 around the Kaipara. Naumai were honoured to have everyone at the hui. While there was disappointment with the Ministry's attitude the previous day, the pressure needed to remain on them. The heat would go on the Government at election time and that would give people the opportunity to speak with their votes.

Hugh asked:

"Why do you have to travel so far to get a better life for all the people? We are merging as one people from today onwards. To our Pakeha friends thank you for what you have said, I hope Maori would do the same, help, if there was a request from Pakeha".

Pita closed this most successful hui with a karakia (prayer).

Appendix One – MFish Letter to Ngati Whatua

Ref:12/4/3

19 July 2006

Naida Glavish, Chairman
Allen Pivac, Chief Executive Officer
Ngati Whenua
193 Lower Dent Street
WHNGAREI

Dear Ms Glavish and Mr Pivac

INPUT AND PARTICIPATION OF TANGATA WHENUA IN FISHERIES MANAGEMENT

1. First, let me thank you all for attending the meeting on 30 June 2006, in Whangarei. I found the discussion at the meeting informative and constructive. I hope that meetings between Mid-North leaders and the Ministry can continue over the next few months so that we can develop a sound working relationship and set a firm foundation for meaningful input and participation by your governance entities into fisheries management processes.
2. From the discussions at the meeting it seemed clear that there is a range of views on the best approach to provide for tangata whenua input and participation into Ministry processes. Most of you are currently of the view that the primary relationship should be between individual governance entities and the Ministry. It may be appropriate for your organisation's to work collectively with the Ministry on some issues, but this collective work should not undermine the individual relationships. This is particularly important where the Ministry has already developed protocols with governance entities through the settlement of historical treaty grievances.
3. As we indicated to you, the limitations on the Ministry's resources are likely to restrict our ability to support both intensive individual working relationships between iwi and the Ministry and collective working arrangements. Achieving the right balance between the two approaches – within resource constraints – will be a challenge, and I expect that the right balance may change over time.
4. As we indicated to you, the Ministry is moving towards an objectives-based management approach based on fisheries plans. These fisheries plans will generally be based on groups of fish stocks over relatively larger areas (at least QMAs), and will likely have longer planning terms than are currently used by the Ministry. In this context I consider that the traditional interactions between

tangata whenua and the Ministry, based on consultation over individual management proposals, is unlikely to prove satisfactory for you or the Ministry.

5. In the Ministry's view, a better approach for both parties would be to develop iwi plans that address your customary, recreational and commercial objectives, and for you to work with the Ministry to introduce those iwi objectives into fisheries plans. We think this is best approached by establishing smaller working teams comprising appropriate people from each governance entity and the Ministry to develop and implement a commonly agreed work programme. The work programme could involve collecting information to incorporate into iwi plans, as well as assisting in the development of the plans themselves, if this was considered appropriate. The work teams could then develop the best approach to incorporate the objectives of the iwi plans into fisheries plans.
6. The working teams could also identify areas where it would be more effective for the governance entities to work collectively to input into fisheries management processes, and areas where the relevant governance entity considers an individual relationship with the Ministry would better meet its objectives.
7. We would like to explore further with Mid-North leaders the best approach to provide for your organisation's input and participation into fisheries management. While we consider the work team approach to be useful, we are open to any approach that would provide for effective input and participation into fisheries management, within the constraints of the Ministry's resources.
8. We found the approach taken at the Whangarei meeting to be very useful and would like to maintain the momentum of those discussions. With that in mind, I propose to convene a further meeting of Mid-North leaders within the next month to continue to progress these matters. My staff will contact you all to organise a meeting date and venue that will be suitable to you all. I look forward to meeting you all again and continuing our work together.

Noho ora mai
Naku noa
Na

GT(Stan) Crothers
Deputy Chief Executive

Appendix Two – MFish Letter to Hokianga Accord

Ministry of Fisheries
ASB House
101-103 The Terrace
PO Box 1020
Wellington

Ref: 12/4/3

19 July 2006

Mr Raniera Tau
Te Runanga A Iwi O Ngapuhi
PO Box 263
Kaikohe

Tena koe Sonny

HOKIANGA ACCORD HUI – NAUMAI MARAE

1. I refer to your recent correspondence regarding:
 - a. The provision for the input and participation of tangata whenua into fisheries management; and
 - b. Your invitation for Ministry staff to attend a hui of tangata whenua and recreational fishers at Naumai Marae, on 20 and 21 July 2006.
2. You will have received my letter outlining the Ministry's understanding of the position taken by the majority of Mid-North leaders regarding input and participation by their organisations into fisheries management processes. The majority of leaders indicated that they were currently of the view that the primary relationship should be between individual governance entities and the Ministry rather than through a single Regional Iwi Forum, while not ruling out the possibility of your organisations working together with the Ministry in some areas. While this view poses difficulties for the Ministry in terms of our ability to resource such an approach, I have committed to work with the leaders of the governance entities in the Mid-North to explore where the group feels it would be useful to work together with the Ministry and where each entities objectives could be better achieved by working at an individual level.
3. As a first step to develop a model of input and participation that meets the objectives of tangata whenua, and that can be achieved within the Ministry's resource constraints, I have proposed a further joint meeting of Mid-North leaders within the next month to continue the discussions commenced at our meeting in Whangarei. I hope that Te Runanga A Iwi O Ngapuhi will be able

to attend that meeting and continue your constructive contributions to the debate on the best options for tangata whenua to work together, as well as with the Ministry, to achieve better fisheries management outcomes.

4. In respect of the Hokianga Accord, it is clear that most Mid-North leaders do not consider that this vehicle is as yet their preferred option for input and participation into fisheries management processes. As such it cannot be considered to be a Regional Iwi Forum and it would not be appropriate for the Ministry to fund its operations from resources that Government has allocated to provide for the input and participation by tangata whenua.
5. The Ministry does however recognise the benefits that can be achieved by stakeholders and iwi working together to understand and respect each others perspectives on the value of fisheries to their communities. The Ministry also recognises the work that Ngapuhi and recreational fishers have done on developing common understandings on approaches to fisheries management and options to achieve collective fisheries objectives. The series of hui Ngapuhi has sponsored between tangata whenua and recreational fishers has provided an opportunity for Maori and non-Maori non-commercial fishers to meet together, hear what is happening in fisheries management and discuss and develop common views on issues that affect them both. This can only be beneficial in the long run. While the Ministry does not consider the hui to be held at Naumai Marae to be a meeting of a Regional Iwi Forum, the Ministry is prepared to attend the hui and speak to the matters you have set out in the agenda.
6. Once again I note that there are areas of the proposed agenda where it would not be appropriate for Government officials to be in attendance. I would appreciate it if all the matters you wish the Ministry to speak on could be grouped together to enable us to provide our contribution and then for all Ministry staff to leave the hui. We will have staff available to talk to the items identified on the agenda that require Ministry input (Maori customary tools, MPA policy, Fisheries Plans, Shared Fisheries Project, maximum sustainable yield, and any Ministry update required on regional Iwi forums).
7. I look forward to meeting you again in Whangarei to develop with the other leaders in the Mid-North a model for input and participation that best achieves all the governance entities objectives.

Noho ora mai

GT (Stan) Crothers
Deputy Chief Executive

Appendix Three – Iwi/Crown Relationship Model

A Relationship Model Between Iwi and The Crown that would be suitable for the Hokianga Accord

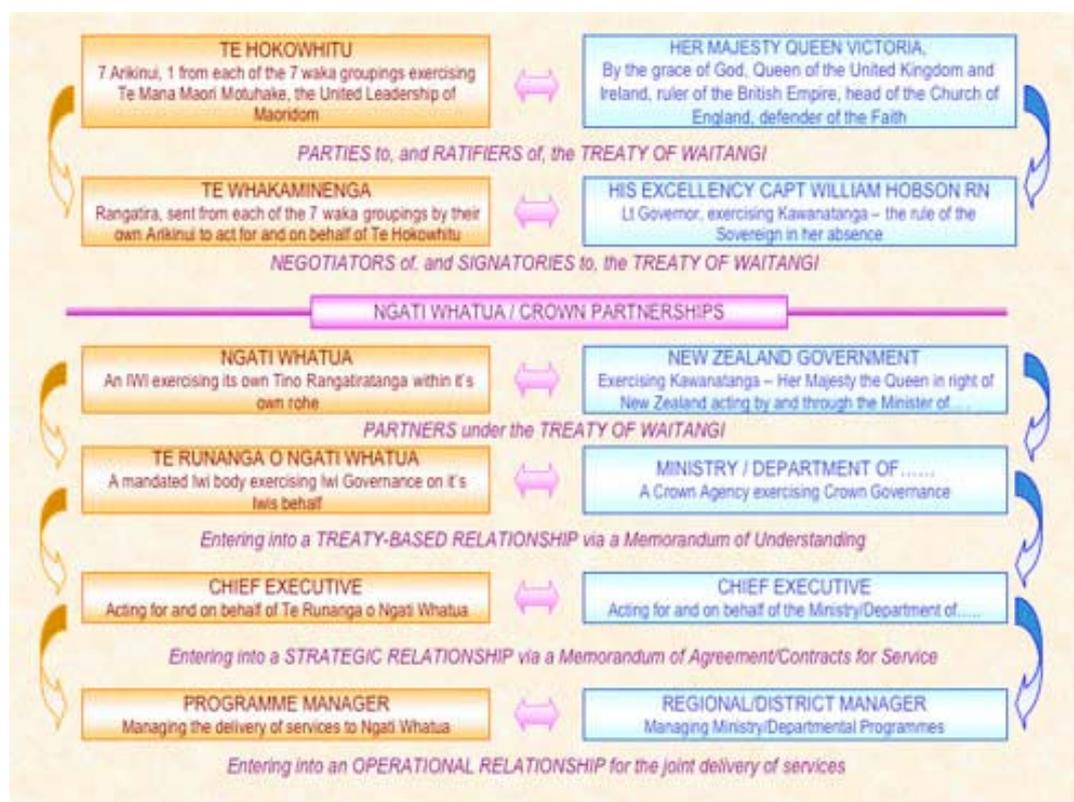
In spiritual, traditional, and historical terms the Hokianga Accord has its origins at the time when the 3 voyaging waka arrived in the Hokianga;

Mamari – the 1st waka to arrive. The soil was cultivated and crops were planted in readiness for the arrival of the people.

Ngatokimatawhaorua – the 2nd waka to arrive bearing our forebears. The settlement of Aotearoa had begun in the Hokianga.

Mahuhu-kj-te-Rangi – the last waka to arrive bearing koiwi (skeletal remains of deceased ancestors). On interment, our tupuna were able to whakapapa to their tupuna in Aotearoa.

Through this waka grouping, the Hokianga Accord is inclusive of every Iwi and hapu in Taitokerau.



A Relationship Model Between Iwi and The Crown



Correspondence with the Ministry of Fisheries

On the status of the Hokianga Accord as an Iwi Regional Forum to partly assist MFish in the provision of input and participation by tangata whenua into fisheries management under section 12 of the Fisheries Act 1996.

Since the hui held at Whitiara Marae in April 2006, there has been an exchange of written communications with the Ministry of Fisheries (MFish) concerning:

- The status of the Hokianga Accord as an Iwi Regional Forum; and
- The statutory requirement of the Minister of Fisheries to provide for the input and participation of tangata whenua into fisheries management as per section 12 (1) (b) of the Fisheries Act 1996, and how MFish sees itself going about that.

A complete history of the correspondence between the Hokianga Accord and MFish is online at <http://www.HokiangaAccord.co.nz>. There is also a record included in the Reference section of this report.

Of concern to the Hokianga Accord is the receipt of letters from MFish immediately before the hui. These have been addressed to the Chairman of the Hokianga Accord, Sonny Tau, and contain substantial detail that require consideration before a response is given.

This occurred before the November 2005 hui at Whakamaharatanga, when MFish comments on the draft Kaupapa Whakahaere were received the night prior to the hui²⁹ and before the April 2006 hui at Te Tii. In an attempt to further the business of the Hokianga Accord to provide meaningful input and participation into fisheries management the Hokianga Accord responded to a letter from MFish on the same day it was received, on April 5th. Those letters were included in the report of the April hui³⁰.

What follows is a record of the exchange of letters between the Hokianga Accord and the Ministry of Fisheries since the April hui:

- MFish letter dated 12th April 2006 clarifying MFish's view of input and participation as per section 12 of the Fisheries Act 1996. (Appendix Four)
- MFish letter dated 26th May 2006 stating the Hokianga Accord is not an Iwi regional Forum and therefore does not qualify for Ministry funding. (Appendix Five)

²⁹ http://www.option4.co.nz/Fish_Forums/har11054.htm

³⁰ http://www.option4.co.nz/Fish_Forums/har406.htm

- The Hokianga Accord's letter of response dated 20th June 2006 informing MFish that MFish has no grounds to withdraw funding and requesting reinstatement. (Appendix Six)
- MFish letter dated 19th July 2006 to Ngati Whatua received the night prior to the Naumai Marae hui, summarising MFish's record of the meeting of iwi and hapu with MFish held in Whangarei to discuss the ways MFish considers providing for tangata whenua's input and participation into fisheries management; (Appendix One)
- MFish letter to Ngapuhi dated 19th July 2006, received by the Chairman, Sonny Tau, on July 21st 2006, after the completion of the hui. MFish explanation that MFish does not consider the Hokianga Accord to be an Iwi Regional Forum of mid Te Taitokerau (mid- north) and will not fund the Hokianga Accord 's activities in interacting with MFish; (Appendix Two)
- Ngapuhi (for the iwi participants of the Hokianga Accord Iwi Regional Forum) letter of response dated 31st August 2006 to MFish refuting that the Hokianga Accord is not the Iwi Regional Forum of mid Te Taitokerau whose members include Ngapuhi, Ngati Whatua and Ngati Wai, as well as the interests of Te Roroa and Te Uri O Hau. And requesting that MFish get on with providing for tangata whenua's input and participation into fisheries management. (Appendix Seven)

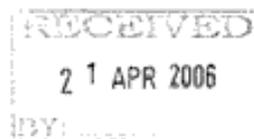
Appendix Four – MFish Letter to Hokianga Accord



MINISTRY OF FISHERIES
Te Tauiaki i nga hini a Tangaroa

COPY

ASB Bank House, 101–103 The Terrace,
PO Box 1020, Wellington, New Zealand.
Phone (04) 470-2600, Fax (04) 470-2601.



Ref: 12/4/3

12 April 2006

Mr Raniera Tau
Te Runanga A Iwi O Ngapuhi
PO Box 263
Kaikohe

Tēnā koe Sonny

ENGAGEMENT BETWEEN THE MINISTRY OF FISHERIES, IWI FORUMS AND THE HOKIANGA ACCORD

I refer to the meeting between the Ministry of Fisheries (the Ministry) and the Hokianga Accord in Auckland in November 2005 and your letters of 4 and 5 April 2006 regarding your views on options for engagement between tangata whenua and the Ministry.

At the meeting in Auckland you requested more detail on the Ministry's interpretation of input and participation. Please find attached a paper setting out our views on this issue.

In your letter of 4 April, you requested information on the governments Crown Maori Relationship Policy and information on the funding provided by government for the establishment of regional forums. The information regarding the governments Crown Maori Relationships Policy originates from the Ministry of Justice and Te Puni Kōkiri. We have informed those agencies of your request for the release of the information under the Official Information Act 1982. They are considering the release of the material. The material you have requested on funding of regional forums is being collated. A decision on the release of this information will be provided to you within 28 working days of the receipt of your letter as required by the Official Information Act 1982.

I undertook to reply to your letter of 4 April 2006 in more detail within 10 working days. I have received your further letter of 5 April 2006. I will be on leave until 26 April 2006. On my return I will reply to the issues you have raised in both letters.

Naku noa, na

G T (Stan) Crothers
Deputy Chief Executive

Encl

Action point from November hui: clarification about aspects of "Input and participation" (section 12 of the Fisheries Act 1996)

Action point: Ministry of Fisheries to provide more information about when the provisions of section 12 apply - in particular providing for input and participation of tangata whenua. The hui asked about the meaning of a "customary non-commercial interest" as mentioned in that section: whether this applied to both 'recreational' and 'customary' non-commercial fishing.

Response: Section 12 of the Fisheries Act 1996 outlines the Minister of Fisheries' obligations before doing anything under specified sections of the Act to provide for the **input and participation** of tangata whenua with a customary non-commercial interest in the stock in question, or an interest in the effects of fishing on the aquatic environment in the area concerned, and have particular regard to Kaitiakitanga.

The Fisheries Act 1996 defines tangata whenua, in relation to a particular area, as the hapu, or iwi, that is Maori and holds mana whenua (customary authority) over that area.

❖ What is a "non-commercial interest"?

"Non-commercial interest" may include:

- An interest that arises because the tangata whenua in question access the resource using the provisions available for customary use (e.g. Regulation 27/27A of the Fisheries (Amateur Fishing) Regulations 1986; the Fisheries (Kaimoana Customary Fishing) Regulations 1998; the Fisheries (South Island Customary Fishing) Regulations 1999; and parts of the Fisheries Act 1996, e.g. section 186);
i.e. 'customary fishing'
- An interest that arises because the tangata whenua in question access the resource using the provisions available for amateur fishers (i.e. the Fisheries (Amateur Fishing) regulations 1986 and the relevant regional amateur fishing regulations);
i.e. 'recreational fishing'
- Any other non-commercial interest (e.g. environmental, stock size/abundance)

❖ When does the Minister have to provide for input and participation under section 12?

- Before doing anything under **sections 11(1), 11(4)**: these sections allow the Minister to set or vary any **sustainability measure** for one or more stocks or areas - 11(1); and to set or vary the catch limit (including the commercial catch limit) or sustainability measure for any stock not within the quota management system - 11(4);
- Before doing anything under **section 11A(1)**: this section sets out that the Minister may approve, amend, or revoke a **fisheries plan**.

- Before doing anything under **sections 13(1), 13(4), 13(7)**: these sections allow the Minister to set a **total allowable catch** for a stock - 13(1); to vary any total allowable catch by increasing or reducing it - 13(4); and, for stocks listed on the Second Schedule to the Fisheries Act 1996, to increase the total allowable catch for the stock within a fishing season - 13(7).
- Before doing anything under **sections 14(1), 14(6), 14B(1)**: these sections outline that the minister may set an **alternative total allowable catch** for a stock (i.e. one not based on the concept of maximum sustainable yield. These provisions apply only in specific circumstances) - 14(1); to provide for an in-season increase to the total allowable catch for any stock listed on the Second Schedule and managed under section 14 - 14(6); and set an alternative total allowable catch to ensure the stock is maintained above a level that ensures its long-term viability, for certain species caught incidental to other stocks - 14B(1).
- Before doing anything under **sections 15(1), 15(2)**: these sections allow the Minister to take measures to **avoid, remedy, or mitigate any adverse effects of fishing on marine mammals or other wildlife** (including steps to ensure that the maximum allowable fishing-related mortality level is not exceeded, if there is an approved population management plan - 15(1), or in the absence of such a plan - 15(2)).

❖ **When else does the Minister have to provide for input and participation?**

Under the Fisheries Act 1996 there is an obligation to provide for the input and participation of tangata whenua, and have particular regard to Kaitiakitanga:

- Before doing anything under the specific sections listed in section 12 of the Act relating to sustainability measures (as outlined above);
- Before recommending the alteration of any quota management area (s 25);
- In the statement of procedure for resolution of disputes under Part VII of the Act (s 116);
- Before giving a notice to temporarily close any area of New Zealand fisheries waters, or temporarily restrict or prohibit the use of any fishing method, in respect of any species of fish, aquatic life, or seaweed (s 186A & 186B).

❖ **How does the Minister provide for input and participation?**

- The Act does not specify how input and participation should be provided. The Minister has discretion to decide how input and participation will occur. The government, after consultation with tangata whenua, has determined that input and participation will be provided for through Regional Iwi Forums, where tangata whenua can develop their own views on the management of their fisheries interest and bring their views on preferred management outcomes for the fishery directly to the Ministry. The Ministry has been funded to provide for input and participation on this basis.

Reference:

1. Fisheries Act 1996 Requirements to consult or to provide for input and participation

Section Number	Section Title	Consultation Required?	Input and Participation Required?
11	Sustainability measures	Yes	Yes
11A	Fisheries plans	Yes	Yes
12	Consultation	Yes	Yes
13	Total allowable catch	Yes	Yes
14	Alternative total allowable catch for stock specified in Third Schedule	Yes	Yes
14A	Alternative total allowable catch for stocks specified by Order in Council	Yes	Yes
14B	Alternative total allowable catch for certain stocks	Yes	Yes
14C	Stock may be declared no longer subject to section 14B	Yes	Yes
15	Fishing-related mortality of marine mammals or other wildlife	Yes	Yes
16	Emergency measures	Yes	
17B	Determination that stock or species be subject to quota management system	Yes	
19(7)	Matters to be included in notice under section 18	Yes	
21(2)	Matters to be taken into account in setting or varying any total allowable commercial catch	Yes	
25(3)	Alteration of quota management areas	Yes	Yes
59(7)	Aggregation limits	Yes	
60(1)	Minister may consent to persons holding quota in excess of aggregation limits	Yes	
67B(3)	Amendments to Schedule 5A	Yes	
74(9)	Minimum holdings of annual catch entitlement	Yes	
75A	Requirement to consult in relation to deemed values	Yes	
77(6)	Over-fishing thresholds	Yes	
82	Apportionment of foreign allowable catch for foreign fishing vessels	Yes	
86(2)	Suspension and revocation of licences	Yes	

97	Special permits	Yes	
116	Content of statement of procedure		Yes
178	Initial consideration of proposal	Yes	
181	Inquiry by tribunal	Yes	
184(1)	Management of taiapure-local fishery	Yes	
186A(7)	Temporary closure of fishing area or restriction on fishing methods	Yes	Yes
186B(6)	Temporary closure of fisheries	Yes	Yes
188	Conversion factors	Yes	
188A(2)	Spat ratio	Yes	
277(1)	Members	Yes	
283(2)	Catch History Review Committee established	Yes	
296P(1)	Procedure for issuing standards and specifications	Yes	
310(1)	Southern scallop enhancement programmes	Yes	

2. Fisheries Act 1996: Section 12 - Consultation

- (1) Before doing anything under any of sections 11(1), 11(4), 11A(1), 13(1), 13(4), 13(7), 14(1), 14(3), 14(6), 14B(1), 15(1), and 15(2) of this Act or recommending the making of an Order in Council under section 13(9) or section 14(8) [or section 14A(1)] of this Act, the Minister shall—
 - (a) Consult with such persons or organisations as the Minister considers are representative of those classes of persons having an interest in the stock or the effects of fishing on the aquatic environment in the area concerned, including Maori, environmental, commercial, and recreational interests; and
 - (b) Provide for the input and participation of tangata whenua having—
 - (i) A non-commercial interest in the stock concerned; or
 - (ii) An interest in the effects of fishing on the aquatic environment in the area concerned—and have particular regard to Kaitiakitanga
- (2) After setting or varying any sustainability measure, [or after approving, amending, or revoking any fisheries plan,] the Minister shall, as soon as practicable, give to the parties consulted in accordance with subsection (1) of this section reasons in writing for his or her decision.
- (3) This section does not apply in respect of emergency measures under section 16 of this Act.

Appendix Five – MFish Letter to Hokianga Accord

26 May 2006

Mr R Tau
Chairman
Te Runanga A Iwi O Ngapuhi
PO Box 263
KAIKOHE

Tena koe Sonny

RELATIONSHIP BETWEEN THE MINISTRY OF FISHERIES, IWI FORUMS AND THE HOKIANGA ACCORD

1. I refer to our recent communications regarding the development of a proposed Iwi Regional Forum in the Mid-North and interactions between the Ministry and the joint iwi/recreational fishers' body, the Hokianga Accord.
2. I think that it would be useful to re-iterate the background to the Ministry's programme to develop Iwi Regional Forums and the benefits that the Ministry considers could arise from the establishment of Forums.
3. Firstly, the Ministry is required to consult widely on a range of activities it undertakes when managing fisheries. This consultation is conducted in a number of ways. However, given the limited resources the Ministry has and the work load involved, the majority of consultation is conducted by writing to bodies that the Minister considers representative of the various groups with an interest in issue being addressed.
4. Secondly, the Ministry is required to provide for the input and participation of tangata whenua (hapu and iwi) with a customary interest in particular fisheries when sustainability measures for those species are being considered, and to have particular regard to kaitiakitanga when making decisions regarding the sustainability of those fisheries.
5. In the Ministry's view, input and participation means more than targeted consultation or discussions with hapu and iwi on the Ministry's proposals. It is providing an opportunity for hapu and iwi to develop their own views on the value of fisheries to them and the benefits that they seek to achieve from fisheries, as well as the opportunity to propose management measures, advocate those measures, and have them fairly considered by decision-makers.
6. In discussions with iwi over a period of time, it was clear that they felt that the Ministry's existing consultation procedures were unlikely to provide

meaningful input and participation for hapu and iwi. The Ministry shared this view and sought a better way to provide for input and participation.

7. In consultation with iwi over through the Ministry's Treaty Strategy project, the Ministry considered that a possible option was to establish Iwi Regional Forums. It was considered that Forums could enable iwi with common interests, in particular fish stocks, to meet together and establish common views on the outcomes they sought from a particular fishery, either across the stocks range or within each iwi takiwä. They would then be able to develop a planned approach to consider how best to balance the interests of each iwi's customary, recreational and commercial aspirations. They could also reach agreement on management measures, using a range of tools, to achieve the desired outcome.
8. Iwi indicated that to achieve that level of input and participation, they would require resources to enable them to develop their own planning proposals, as well as to respond to Ministry's proposals. They would also require opportunities to meet regularly with the Ministry to discuss each other proposals and develop agreed management measures that recognised and provided for iwi values.
9. The Ministry was successful in gaining some targeted funding to advance the concept of Iwi Regional Forums. In particular, resourcing was provided to the Ministry for extension officers to provide the policy and management support to enable Iwi Regional Forums to develop a planned approach to managing their fisheries and to advocate iwi management proposals into the Ministry's sustainability/fisheries management processes. Resourcing was also provided to enable the Ministry to meet with the iwi members of Forums on a regular basis to discuss and, where possible, agree on how to incorporate the management measures proposed by iwi into Ministry sustainability programmes so as to recognise and provide for the customary interest of tangata whenua.
10. You have indicated to Ministry staff and me a number of times that Ngapuhi and other iwi in the Mid North wish to develop a relationship between iwi and the Ministry through a Iwi Regional Forum to provide for the input and participation of tangata whenua into fisheries management processes. You have also indicated the need to formalise this relationship through a Memorandum of Understanding [MOU]. In our discussions you have indicated that the signatories to any MOU should be the Ministry and representatives of tangata whenua.
11. You have also confirmed that you have a sound working relationship with recreational fishers and your wish to continue to work together and develop areas of common interest. The proposal put to the Ministry was that the Hokianga Accord would be the body through which iwi and recreational fishers worked together to co-ordinate their common interests. I understand

that at your meeting with the Ministry in Auckland last year it was proposed to establish a charitable trust for this purpose. We understand that in your proposals, the Ministry would not have a role within the Hokianga Accord. I confirmed to you that the Ministry agrees with this approach.

12. I have received your request for the Ministry's participation at a meeting of the Hokianga Accord in July. I note that the pānui indicates that the Hokianga Accord is the Mid North Iwi Forum. I have also received your letter of 15 May 2006 notifying me that you are finalising statements of income and expenditure for the Hokianga Accord and budget proposals for the next financial year.
13. Your letter also indicates that you will be seeking budget funding from the Ministry for the operation of the Hokianga Accord. There appears to be continuing confusion between us on this matter.
14. I need to be quite clear that the Ministry's understanding of our agreement is that the Hokianga Accord is not an Iwi Regional Forum; it is a joint Iwi/recreational body. As such it is not a body that the Ministry has resources to fund. Consequently, the Ministry will not meet costs associated with this body.
15. I consider that to advance the development of a working relationship between iwi and the Ministry it is essential for us to meet with iwi leaders to resolve how you all wish to participate in fisheries processes.
16. I intend to invite all Mid North Iwi leaders, and the leaders of the governance entities for the organisations that have completed historical treaty settlements, to a meeting in the Ministry's Whangarei office to resolve this issue. Ministry staff are preparing pānui for this meeting and you can expect to receive one in the near future.
17. I propose that this meeting cover the need for an Iwi Regional Forum in the Middle North; the form the Forum would take; whether iwi are interested in developing a planned approach to the management of their fisheries; the resources that could be provided by the Ministry for this approach; as well as a work programme to develop a MOU that meets Crown guidelines to enable resources to be allocated.
18. Until this meeting between iwi leaders and the Ministry has occurred, and all iwi have identified how they wish to interact with the Ministry in the Mid-North, I do not consider it useful for Ministry staff to continue to attend meetings 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 the rights and interests of tangata whenua that arise from the Fisheries Deed of Settlement.

19. I look forward to meeting with you and the other iwi leaders in the North in the near future.

Noho ora mai

GT(Stan) Crothers
Deputy Chief Executive

Appendix Six – Hokianga Accord Letter to MFish

20th JUNE 2006

Stan Crothers
Deputy CEO
Ministry Of Fisheries
PO Box 1020
WELLINGTON

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 Whitiara 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 Whitiora 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.

Appendix Seven – Ngapuhi Letter to MFish

31 August 2006

Mr G T (Stan) Crothers
United Deputy Chief Executive
Ministry of Fisheries
PO Box 1020
Wellington

Fax: (04) 470-2601

Tena Koe Stan

(1) Provision for input and participation of tangata whenua in fisheries management –relationship between Ministry of Fisheries (MFish) and mid-north iwi; (2) Hokianga Accord Hui – Naumai Marae

1. Thank you for your two letters each dated 19 July 2006.

Introduction

2. Both letters address related subjects and I therefore propose responding to both in this letter.
3. For differentiation between your two letters I will refer to them as:
 - 3.1 *your input and participation letter* which followed the meeting of representatives from Ngapuhi, Ngati Whatua, Ngati Wai, Te Roroa and Te Uri O Hau with you and your colleagues on 30 June 2006 in Whangarei and my email to you dated 2nd July 2006.

I received my copy of this letter on the 19th July, on the eve of the Hokianga Accord hui at Naumai marae.

- 3.2 *your Hokianga Accord hui letter* which was in response to my letter to you of 20 June 2006.

Whilst this letter is also dated 19th July I did not receive it until after I had returned home from the Hokianga Accord hui at Naumai marae.

Your untimely response to me on such important matters to Ngapuhi maintains the pattern of MFish leaving it until the last minute to respond to previous communications with accompanying embarrassment to my colleagues and your staff.

4. Before addressing the points raised by you in your letters I refer to what appears to me as a misunderstanding on MFish's part concerning MFish representatives having departed Naumai without having made arrangements to pay MFish's share of the fee payable to Naumai Marae for hosting the 20 and 21 July 2006 hui.
5. My letter to you of 20 June 2006 clarified for you in the plainest language that the Hokianga Accord:
 - 5.1 is an Iwi Regional Forum of mid Te Tai Tokerau comprising Ngapuhi, Ngati Whatua, and Ngati Wai;
 - 5.2 qualifies with MFish's model, as explained by your colleagues at previous hui, for an Iwi Regional Forum as one of the ways to assist with the Minister's provision of input and participation by tangata whenua into fisheries management;
 - 5.3 was sanctioned by the previous Minister of Fisheries, Hon. David Benson-Pope in a letter to me dated 12th August 2005; andtherefore qualified for the funding previously agreed by MFish for Hokianga Accord hui.
6. At the 30 June 2006 meeting in Whangarei after I had spoken to you regarding the Hokianga Accord, you raised no objection to MFish continuing this funding, and I left the meeting with the clear understanding that MFish would honour its previous agreement and commitment to pay its share of the hosting of our mid-north iwi forum hui.
7. The tikanga (principle) of manaaki (hospitality) embraces generosity, courtesy and respect by the hosting marae, and the departure by your colleagues from the hui without making arrangements for payment of MFish's share of the cost of hosting the hui was embarrassing not only for the people of Naumai Marae, but also to me as Chairman of the hui, and to iwi representatives from Ngati Whatua and Ngati Wai who also attended the hui.
8. I am aware that MFish happily pays the cost of pakeha Regional Recreational Forums, including dinner and travel expenses and therefore cannot understand the difficulty MFish appears to have with its commitment to the Hokianga Accord Iwi Regional Forum. By comparison, the meeting of the pakeha Regional Recreation Forum I attended at the Copthorne Hotel, Waitangi on Monday 7th August 2006, would have cost taxpayers over \$2000 for 16 people spending 5 hours together. No measurable results. At the last Maori forum hui at Naumai Marae, the Hokianga Accord assembled over 110 people on the first day alone with MFish taking the premium time space for 6 hours and only hoping to get away with paying a miserly \$200. Where is the equity

there? I warned Jonathon Percy before he left the hui about not getting koha mixed up with fees.

9. MFish's share of the hui fee has been paid on your behalf to the Naumai Marae Committee, to enable them to pay for costs incurred feeding the masses. Please let me have your cheque for \$1,500.00 payable to Te Runanga a iwi o Ngapuhi so that I can reimburse those who generously made contributions on MFish's behalf.

Minister's provision of input and participation

Hokianga Accord – an Iwi Regional Forum

10. As already mentioned, in my letter to you of 20 June 2006 I took care in explaining how the Hokianga Accord, is a forum comprising the iwi of mid Te Tai Tokerau, clearly complies with the MFish model for an Iwi Regional Forum for this region, and as such qualifies for Cabinet approved funding.
11. Your statement, therefore in your Hokianga Accord hui letter that it is clear that most mid-north leaders do not consider that this vehicle is as yet their preferred option for input and participation ... and as such cannot be considered to be an Iwi Regional Forum ... is both of surprise and disappointment to me.
12. I do not recall, and my record of the 30 June 2006 meeting in Whangarei does not disclose any statement by me, Naida Glavish of Ngati Whatua, or Laly Haddon of Ngati Wai having said that they do not regard the Hokianga Accord as an Iwi Regional Forum as one of the ways for the Minister to provide for the input and participation by tangata whenua of mid Te Tai Tokerau into bigger picture fisheries management issues for that region as explained below. As a matter of fact I was the only iwi leader at that hui, all others were either representatives or employees of different iwi/hapu organisations.
13. Indeed in my email to you of 2 July 2006, principally for the purpose of thanking you for hosting that meeting, I referred to Ngapuhi and Ngati Whatua developing together and assisting Ngati Wai with input into fisheries management where so desired by Ngati Wai whilst recognising your specific responsibilities to Te Uri O Hau and Te Roroa for you to deal with according to the protocols you have agreed with those hapu.
14. As I also explained to you in my letter of 20 June 2006 the extension of invitations to non-Maori representatives does not and cannot disqualify the Hokianga Accord Iwi Regional Forum from being an Iwi Regional Forum. Non-Maori representatives (from various recreational fishing and conservation groups) attend the hui as manuhiri (guests) having speaking rights only as agreed to by the host marae.

15. We are getting mixed messages from you as to how and where you propose the provision of input and participation by the Minister into fisheries management by tangata whenua.
16. We initially suggested that the Minister make provision for input and participation by individual iwi. Because of constraints on MFish resources, you (MFish) then suggested the Iwi Regional Forum model. As explained by you the Hokianga Accord Iwi Regional Forum fits that model and we put the Hokianga Accord forward to you, in part, to assist the Minister in making such provision.
17. You now say as a reason for MFish not considering the Hokianga Accord as an Iwi Regional Forum that most Mid-North (iwi) leaders do not see the Hokianga Accord as yet their preferred option for input and participation (paragraph 4 of your Hokianga Accord letter), and that the majority of iwi leaders are currently of the view that the primary relationship should be between individual governance entities and (MFish) rather than through a single Iwi Regional Forum while not ruling out the possibility of (iwi) working together with (MFish) in some areas (paragraph 2 of your input and participation letter).
18. In summary, our preferred option is for the provision of input and participation by individual iwi. However, as mentioned above, you would not arrange for the Minister to provide for input and participation that way. Having acceded to your request by putting forward the Hokianga Accord to assist the Minister in making such provision, in part, by the collective approach you now revert to input and participation by individual iwi by saying that is what iwi want.
19. This change of approach by MFish is holding up and delaying the provision of input and participation by us and is unacceptable to us. Please therefore let me have MFish's unequivocal statement that the Hokianga Accord is recognised by MFish as an Iwi Regional Forum as one of the ways of enabling the Minister to carry out his statutory obligation to provide for input into fisheries management.

Individual iwi/hapu v collective iwi/hapu

20. The Crown is our Treaty partner. The Minister's statutory obligation to provide for the input and participation of tangata whenua into fisheries management is an example of the Crown's on going obligation to Maori to develop policies to help recognise the use and management practices of Maori in their exercise of non-commercial fishing rights as provided in the 1992 Deed of Settlement and the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992.

21. In this context, and in further response to your previous requests at hui and in your letter for our feedback on our objectives in fisheries management input, I reiterate that Ngapuhi's desire is to have sufficient fish stocks in the water so our whanau can feed their families.
22. To that end, in relation to the bigger picture fisheries management issues such as:
- 22.1 how best to raise stock levels of traditional fish species of cultural and social importance to tangata whenua and so provide kai for us; and
- 22.2 those relating to customary fishing and customary tools,
23. Ngapuhi sees a role for a collective approach with MFish through the Hokianga Accord Iwi Regional Forum as one way of the Minister making provision for the input and participation of tangata whenua into fisheries management. So too, as I am informed does Ngati Whatua.
24. In this respect we appear to be in agreement on the approach you refer to in paragraph 2 of your input and participation letter, namely, *it may be appropriate .. to work collectively with (MFish) on some issues, but this...should not undermine the individual relationships ...where (MFish) has already developed protocols with governance entities.....*
25. However where MFish has a proposal for a sustainability measure in relation to a particular fish stock in which individual iwi have a particular non-commercial interest, then as I have stated in previous correspondence to you and to your colleagues at hui, individual iwi will wish the Minister to provide for the input and participation of individual iwi.
- As also previously advised, I see that taking place on a case by case basis.
26. I make these observations in the context of the purpose of the Fisheries Act, which as pointed out in my letter of 20 June 2006, is to:
- 26.1 provide for the utilisation - conserving, using, enhancing and developing fisheries resources to enable people to provide for their social, economic and cultural well-being,
- 26.2 while ensuring sustainability - maintaining the potential of fisheries resources to meet the reasonably foreseeable needs of future generations.
27. In this regard, it was made clear by expert speakers [and MFish representatives] who addressed the Naumai hui, that MFish in its management of our fisheries resources has [in recent times] emphasised the economic well-being component arguably of some, to the social and cultural detriment of many.
28. This imbalance is one of the bigger picture fisheries management issues I wish to see addressed with MFish through the Hokianga Accord Iwi Regional Forum.

Objectives based management

29. Your input and participation letter advises that MFish is moving towards an objectives-based management approach based on fisheries plans, and that the [traditional interactions] between tangata whenua and MFish based on [consultation] over individual management proposals is unlikely to prove satisfactory for iwi/hapu and MFish.
30. More particularly you refer to:
 - 30.1 the approach based on fisheries plans which will be based on groups of fish stock over relatively larger areas (at least QMAs) with the likelihood of longer planning terms;
 - 30.2 the development of iwi plans that address customary, recreational and commercial objectives, and for these objectives to be introduced into fisheries plans;
 - 30.3 smaller working teams with representatives from iwi/hapu and MFish.
31. Our initial reaction is that we see some merit in this suggestion, particularly if we are involved in the design of the necessary structures with the intention of avoiding the re-occurrence of issues relating to how and where the Minister provides for input and participation. We would be interested to explore the details of this with you further.

Sustainability rounds v fishery plans

32. As you are aware, the requirement for the Minister to provide for input and participation, for which the Minister must take appropriate measures, make adequate preparation, and arrange and supply the necessary resources, is different process from and a standard higher than consultation.
33. I have assumed that your reference in paragraph 4 of your input and participation letter to consultation over individual management proposals is a reference to sustainability rounds of individual fish stocks, often on an annual basis.

Your stated preference is now for longer term planning to be achieved through fisheries plans on groups of stocks over larger areas (at least QMAs).

34. However, as I see it, your new proposal for iwi plans, fisheries plans and working teams will take some time to implement and will be one mechanism for the provision of input and participation into future fisheries management decisions. For example, I am aware of fisheries plans having been a focus of MFish for some time but with few such plans in place at present.

35. Notwithstanding MFish's desire to adopt this new approach, the requirement for the Minister to provide for input and participation remains for sustainability decisions this year, next year and subsequent years. Moreover, the requirement for the Minister to provide for input and participation for fisheries plans does not remove that requirement in respect of other sustainability decisions in the meantime.
36. My present concerns with the iwi plans/fisheries plans approach are:
- 36.1 the introduction by MFish of another process will further delay and prevent the provision by the Minister of input and participation into fisheries management to raise the levels of fish stocks of traditional social and cultural importance to iwi/hapu so that we can feed ourselves;
- 36.2 the time, resources and cost to both MFish and iwi/hapu in developing fisheries plans is likely to be at the expense of ignoring the immediate task of rebuilding fish stocks for Maori and non Maori alike.
37. As pointed out in my letter to you of 20 June 2006, we are frustrated at the time it is taking MFish to decide how and where (form) MFish (for the Minister) is going to provide for Ngapuhi's input and participation into fisheries management rather than actually providing for (substance) such input and participation. To achieve our objective of sufficient traditional fish stocks in the water so our whanau can feed their families, iwi and hapu desire more action and less words from MFish in the provision of input and participation by tangata whenua into fisheries management.
38. While MFish continues to run this way and that way on how and where it will make such provision, no provision is made by the Minister, and our people struggle to catch their kai.

Whangarei Meeting

39. It is important that this meeting be held urgently to advance the commencement of the provision by the Minister of input and participation by iwi of mid Te Tai Tokerau into fisheries management.

Please provide me with a range of dates which suit you for that meeting.

40. I look forward to hearing from you.

Mauri ora

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

Appendix Eight - Glossary

September 2006

A

Aotearoa	New Zealand
Aroha	Sympathy, love
Awhi/awhina	Care, support, help

B

Bmsy	Biomass level, stock level that can produce the maximum sustainable yield.
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D

DoC	Department of Conservation
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H

Hapu	A collective of immediate families
Hongi	Press nose
Hui	Gathering, meeting
Hunga kainga	Home people, people of the marae

I

IPP	MFish Initial Position Paper, proposal document
Ika	Fish
Iwi	A collective of hapu, tribe

K

Kai	Food
Kaimoana	Seafood
Kaitiaki	Guardian, custodian
Kaitiakitanga	Guardianship
Karakia	Prayer
Kaumatua	Elder, elders
Kaupapa	Agenda, cause
Kaupapa Whakahaere	Modus operandi or how the Hokianga Accord will operate
Kawanatanga	Government
Kia maha atu nga ika i roto i te wai	“More fish in the water.”
Koha	Customary gift, donation
Korero	Speak, talk
Kotahitanga	Solidarity, united, togetherness

M

MFish, Ministry	Ministry of Fisheries
Mahi	Work, job
Mana	The spiritual power and authority that can be applied to people, their words and acts.
Manaaki	To bestow a blessing. The presence of visitors was equivalent to the bestowal of a blessing upon the hosts. On the part of the hosts, they bestowed a blessing upon the guests by giving them the best of their provisions in the <i>Hakari</i> (banquet) and hospitality provided. This was a reciprocal relationship, which could be extended by the exchange of gifts. (Kaitiakitanga paper, Maori Marsden, 1992, p20.)
Manaakitanga	Behaviour that acknowledges the mana of others as having equal or greater importance than ones own, through the expression of aroha, hospitality, generosity and mutual respect. (Prof. Whatarangi Winiata)
Manuhiri	Visitors, guests
Maoritanga	Maori culture
Marae	Ancestral meeting ground
Mātaitai	Reserve
Mauri	Life force
Mihi	Greeting
MFish	Ministry of Fisheries
MLS	MFish minimum legal size of fish, shellfish
Moana	Sea, ocean
Moko/mokopuna	Grandchild, grandchildren, descendants
Motu	Island
MOU	Memorandum of Understanding, Kaupapa Whakahaere

N

NIWA	National Institute of Water and Atmospheric Research
Non-commercial fisher	Maori customary or recreational fishing person
NZBGFC	New Zealand Big Game Fishing Council
NZRFC	New Zealand Recreational Fishing Council

P

Pakeha	Non-Maori person
Panui	Message
Pou Hononga	MFish customary relationship manager
Powhiri	Welcome ceremony

Q

QMA	Quota Management Area
QMS	Quota Management System, NZ's fisheries management system

R

Rahui	Temporary closure of no fixed timeframe
Rangatiratanga	Sovereignty, autonomy, freedom, leadership
Reo	Voice, language
Ringa wera	Kitchen hand(s)
Rohe	Geographical area
Rohe moana	Geographical area along the foreshore and seabed
Runanga	Leadership council

S

'Short line-out'	Working group of the Hokianga Accord
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T

TAC, TACC	Total Allowable Catch, Total Allowable Commercial Catch
Taiapure	Customary management area of the sea
Take	Agenda
Takiwa	Geographic region
Tamariki	Children
Tangata	One person also used as many people on occasion
Tangata whenua	People of the land - in NZ means Maori
Taonga	Treasure, prized possession
Tauwi	Non-Maori
Tautoko	Support
Te mura o te ahi	The heat of the battle
Te Reo	The Maori language
Te Tai Tokerau	Geographic area from Rodney district to the Cape
“Te tika, te pono me te tuwhera”	Being righteous, truthful and transparent
Te Tiriti O Waitangi	The Maori version of the Treaty of Waitangi
Tika	Correct, right
Tikanga	Principles, way of doing things
Tikanga Maori	Maori principles, way of doing things
Tipuna/tupuna	Ancestor
Tino rangatiratanga	Authority
Toheroa	Shellfish
TOKM	Te Ohu Kai Moana, the Treaty of Waitangi Fisheries Commission
Tuangi	Cockle
Tuatua	Shellfish
Tuna	Eel

W

Waharoa	Gateway onto the marae
Waiata	Sing, song

Wai Maori	Freshwater
Wairua	Spirit
Whakapapa	Genealogical lines of descent, chronology of the unfolding of an event.
Whakaro	Thinking or thoughts
Whakatau	Welcome
Whakawhanaungatanga, whanaungatanga	Relationships
Whanau	Extended family
Whare	House
Wharekai	Dining hall
Wharenui	Meeting house
Whenua	Land

Appendix Nine – Hui Agenda

Hokianga Accord Hui 20th – 21st July 2006

DAY ONE

- 10.00am **Whakatau (Powhiri -Welcome)**
- 10.30am **Kapu Ti**
- 10.45am Whakawhanaungatanga (introductions), apologies and messages from people unable to attend. Introduction to Agenda
- 11.45am Maori Customary tools available to Maori-Where are they currently located and applications in pipeline. How public awareness is being advocated and how many Mataitai/Taiapure are facing challenges being implemented? – MFish. T Teneti/G Morrell/George Riley.
- 12.00pm Question and answer session to above
- 12.30pm **Lunch**
- 1.15pm Implementation of the MPA Policy and Implementation plan is currently focused on the protection standard and classification – MFish and DoC representatives to outline the “protection standards and classification” public consultation document and the process envisaged for public consultation – question and answer session
- 1.45pm Questions and answers on these processes.
- 2.00pm MFish update on progress with “proof of concept” Ministry led multi stakeholder Fisheries Plans and proposed timeframes for future Fisheries Plans – Jodi Mantle or Arthur Hore, MFish.
- 2.30pm Outline of Stakeholder led Fisheries Plans, their legislative framework and Ministry support available for their development – Kim Drummond, MFish.
- Questions and answers on Fisheries Plans.
- 3.00pm **Kupa Ti – Team photo**
- 3.15pm Update on Shared Fisheries project – outline of public consultation process being provided for – Robin Connor or Lindie Nelson, MFish.
- 3.45pm Maximum Sustainable Yield. MFish to explain, with diagrams of the yield curve, what maximum sustainable yield is and how it is applied in our fisheries management system.
- 4.10pm Final Questions and answers for officials from hui participants. MFish and DoC officials may leave the hui to travel home or are welcome to stay.
- 4.30pm Report on the Fresh Water Customary Forum – Tom Moana/G Morrell

- 4.45pm Report on Nga Hapu O Te Uru Customary Forum in Waikato – Tom Moana Co-chair.
- 5.00pm Update on Regional Customary Forums – Graeme Morrell/Tom Teneti/George Riley – MFish.
- 5.15pm Update on Regional Recreational Forums – Richard Baker/Paul Batten.
- 5.30pm Ngati Whatua and the Kaipara – a tangata whenua perspective of future fisheries management for their rohe.
- 6.00pm ***Dinner***
- 7.00pm Ngati Wai presentation on their way of doing things.
- 7.30pm Te Uri O Hau – their understanding of MFish Treaty Settlement obligations regards fisheries
- 8.00pm Te Roroa - their understanding of MFish Treaty Settlement obligations regards fisheries.
- 8.15pm Update on Kahawai Legal Challenge – Jeff Romeril.
- 8.30pm ***Kapu Ti***
- 9.00pm Presentation on multilingual information fishing site - www.fish4nz.co.nz
- 9.15pm NZRFC Conference report – Keith Ingram, President NZRFC.
- 9.30pm Passing of tokotoko – Story telling, fishy stories by individuals. Rules explained on the day.
- 10.00pm ***Karakia-moe (sleep time)***

DAY TWO

- 6.00am ***Karakia***
- 7.00am ***Parakuihi (Breakfast)***
- 8.00am Alternative management strategies – an international perspective attained through attendance at Sharing the Fish Conference in Perth March 2006 – Kim Walshe, Ackroyd Walshe.
- 8.30am Review of reports from the last Whakamaharatanga hui & the “short line-out” hui in Auckland – questions and answer session.
- 8.45am Discussion on recommendations for structure of “Guardians of the Sea” Charitable Trust – Bruce Galloway.
- 9.00am Establish Work Plan for Hokianga Accord and prioritise.
- 10.15am Evaluation of Hui
- 12.00pm Evaluation of Hui. Wrap up hui.
- 1.00pm ***LUNCH – Poroporoaki (farewell)***

Appendix Ten – References

A record of formal Hokianga Accord correspondence.

- 23/06/05 Letter sent to MFish Chief Executive, John Glaister, a personal invitation to attend the Hokianga Accord hui at Whakamaharatanga Marae, Hokianga.
http://option4.co.nz/Fish_Forums/hal_jg605.htm
- 30/6/05 Letter sent to MFish regarding the Forum's structure and resourcing.
http://option4.co.nz/Fish_Forums/halha605.htm
- 8/11/05 MFish feedback on Forum's draft Kaupapa Whakahaere.
http://option4.co.nz/Fish_Forums/hamoumf.htm
- 17/3/06 MFish response to proposed relationship structure presented to MFish in December 2005. http://option4.co.nz/Fish_Forums/halmf306.htm
- 4/04/06 Hokianga Accord Working Group's response to MFish concerns about the Forum's structure, status and funding.
http://option4.co.nz/Fish_Forums/halha406.htm
- 5/04/06 MFish letter detailing a list of concerns about the Forum and wanting an assurance the following day's hui would be "*conducted in a professional manner*".
http://option4.co.nz/Fish_Forums/halmf406.htm
- 5/04/06 Accord Working Group's immediate response to the concerns raised by MFish on the eve of the Whitiara Marae hui.
http://option4.co.nz/Fish_Forums/halha5406.htm
- 12/4/06 MFish clarification of their interpretation of input and participation as per section 12 of the Fisheries Act 1996. (Appendix Four)
- 26/5/06 MFish letter stating the Hokianga Accord is not an Iwi regional Forum and therefore does not qualify for Ministry funding. (Appendix Five)
http://option4.co.nz/Fish_Forums/halmf506.htm
- 20/6/06 Hokianga Accord's letter advising MFish they have no grounds to withdraw funding and request reinstatement. (Appendix Six)
http://option4.co.nz/Fish_Forums/halha606.htm

- 19/7/06 MFish letter to Ngati Whatua summarising their view of the meeting held in Whangarei to discuss tangata whenua's input and participation into fisheries management. Received the night prior to the Naumai Marae hui (Appendix One)
http://option4.co.nz/Fish_Forums/halmf_nwh706.htm
- 19/7/06 MFish letter explaining they do not consider the Hokianga Accord to be a regional iwi Forum and will not fund its operations. Received by the Forum Chairman on July 21st, after the completion of the hui. (Appendix Two)
http://option4.co.nz/Fish_Forums/documents/halmf706.pdf
- 31/8/06 Ngapuhi respond to MFish stating categorically that the Hokianga Accord is the mid north Iwi Forum which includes Ngapuhi, Ngati Whatua and Ngati Wai, as well as the interests of Te Roroa and Te Uri O Hau. (Appendix Seven)
http://option4.co.nz/Fish_Forums/halha806.htm