Te Matau a Maui Maori Fisheries Conference

By Sonny Tau

27th to 28th February 2006

Tena Koutou

Grateful for this opportunity to address our most important conference today. What a task it is to follow Manuka as he traverses the cosmos to find a balance for us as we face up to the reality of having interests in all three categories of fisheries in Aotearoa and finally realising that all is not what it seems. My presentation today is centred on the law and how it is being ignored to the detriment of Maori.

Purpose of the Fisheries Act 1996

Section 8

(1) The purpose of this Act is to provide for the utilisation of fisheries resources while ensuring sustainability.

(2) In this Act – "Ensuring sustainability" means:

> (a) maintaining the potential of fisheries resources to meet the reasonable foreseeable needs of future generations, and
>
> (b) avoiding, remedying, or mitigating any adverse effect of fishing on the aquatic environment.

Utilisation means conserving, using, enhancing, and developing fisheries resources to enable people to provide for their social, economic and cultural wellbeing.

I argue that this is not the case in many fisheries in this country. That overfishing in many of the commercial only fisheries has led to major problems - orange roughy. When this kind of mismanagement occurs in shared fisheries the repercussions are felt by the entire community.

Future generations fishing interests

Maori have substantial interests in all three categories of fishing. Commercial, customary and most of all recreational.

Commercial:

Maori commercial fishing interests have been addressed through the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992. Unlike pakeha, Maori are strapped in to their commercial fishing interests. The level of that activity will continue to fluctuate with the availability of fish stocks. Not surprisingly, when Ngapuhi are quizzed about the priority

placed on each category of our fishing interests, by and large commercial inevitably comes last. One typical comment is, *"we want kai on our tables before any Chinese, Japanese or anyone else. Certainly before exporting for crayfish bait to Australia."*

Customary Interests:
The true figures of the customary harvest are unknown as there is no legal requirement to report these figures, so allowances made for this category of fishing is based purely on speculation and guess work. Our customary fisheries interests are taken care of under the Customary Fisheries Regulations 1998 and what is known as regulation 27, which is basically the issuing of permits. Let us not get our customary fishing rights confused with fishing to feed our whanau. Remember that when we go fishing for a kai, that is categorised as recreational fishing.

The customary tools we have available to us are already under severe attack from industry. Mataitai-the God send for looking after local Tauranga ika, are subject to a ***"race for space"*** with DoC pouring millions of dollars into securing ***"no take forever marine reserves"*** at the expense of hapu having opportunity to deliver Kaitiakitanga. Some of these reserves are over our best traditional fishing grounds.

Even worse, those hapu who do get their act together and apply for mataitai come up against a wall of ignorance. The public have not been kept informed and draw all sorts of conclusions about the intent of Maori to manage important traditional fisheries. There is more – we now realise the threat of legal action hangs over the roll out of mataitai – not from the public but from commercial fishing interests, including Maori. Again, we find ourselves getting kicked around – this political football must stop NOW.

Industry have created in their minds a powerful right to quota which they will defend with whatever they have at their disposal. This usually ends up in court. Our own AFL is using arguments with Government that could undermine these rights. I wonder if they have spoken to other iwi about these debates, they have certainly not sought feedback from Ngapuhi on the matter of customary rights. All iwi chairs hooked into our chairs network would have read the letter sent to the Minister aided by a senior employee of AFL. We own that company, why are we not informed? On that subject I will wait for our iwi chairs hui later in the week to make some suggestions of how to address that.

Recreational:
I am uncomfortable with the word recreational, as my mother taught me never to play with my food, which is what the word connotates. However, as stated before, 99.99% of the time Maori go fishing to feed our whanau, we are categorised as recreational fishers. So it is only natural that we spend a lot of our time and energy ensuring this area of our non-commercial fishing interests are protected and indeed enhanced.

The Ministry of Fisheries has acknowledged this point in the Shared Fisheries Policy Development report to the Minister dated 16 December 2005.

> *"**Much, if not most, of their [Maori] day to day non-commercial fishing is carried out under the amateur, rather than customary, fishing regulations. In this context, improvements in the management of recreational fisheries can contribute to Maori interests in fishing."***

So despite Te Tiriti O Waitangi and our article two and three rights, we are no different to the general public when fishing to feed the whanau. I believe we don't want to be any different to the general public in this sense, however, over the last fourteen years we have been so single mindedly focussed on finding balance in an allocation model that not much energy and nowhere near enough resources have been spent looking at this particular area of our fisheries interests.

Conflict of interests

Ministry are quick to highlight the conflict that exists between commercial and recreational fishers. While this does exist in some fisheries, the true conflict for Maori is in:

a. the mismanagement of our fisheries by the Ministry

b. the mis-allocation of those fisheries resourses between each sector

and

c. the interpretations of the Fisheries Act.

Until these problems are addressed the needs of our future generations will not be met, as per the purpose of the Fisheries Act. Ngapuhi, being the largest iwi in the country and growing, want to ensure our tamariki have kaimoana on their tables to feed our mokopuna and especially to manaaki our Manuhiri. As we all know, kaimoana is one of the highest mana enhancing mechanism known to the Maori psyche.

Section 21 of the Fisheries Act is an important piece of legislation for Maori. I do not have the full section inserted here but I concentrate on sections one and two:

Section 21:
Matters to be taken into account in setting or varying any total allowable commercial catch:
(1)In setting or varying any total allowable commercial catch the Minister shall have regard to the total allowable catch for that stock and shall allow for—

(a)The following non-commercial fishing interests in that stock, namely-

(i)Maori customary non-commercial fishing interests; and

(ii)Recreational interests; and

(b)All other mortality to that stock caused by fishing.

Therefore the conflict is with the Ministry of Fisheries and the Minister. Hence the need to challenge their mismanagement of our shared fisheries. Te Runanga A Iwi O Ngapuhi have resolved to support the Kahawai Legal Challenge and have filed an affidavit in

support of the Statement of Claim. It is very important Maori are seen to be supportive of this case as it challenges the powers of unilateral decision making, as well as clarifying once and for all the preference issue currently being hotly debated.

The key objectives of the Court proceedings are to:

1. Ensure that "more fish are left in the sea", so there is a return to better fish catch rates; and
2. Clarify the Minister of Fisheries' decision-making powers for amateur and recreational fish species.

The Law

The Fisheries Act 1996 Section 12 reads as follows

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.

The Minister is further directed in Section 21 to ***"allow for"*** non-commercial fishing interests. We know ***"shall allow for"*** means he must allow for our interests. What is not obvious is what our non-commercial fishing interests are. Well, at the very least, those non-commercial interests in important shared fisheries must surely be healthy fish stocks – first and foremost.

Clearly the law directs that fisheries be managed at or above Bmsy (Section 13). We are not happy with inappropriate long drawn out rebuild time frames. ***For example***, the fisheries management decisions made last year in Snapper 8 would suggest Ministry are comfortable with 30 or 40 year rebuild time frames. Snapper 8 was ***"fished down"*** by commercial interests in the 70's and 80's using methods that were simply devastating to the stocks. When the QMS was introduced in 1986 the biomass was estimated to be as low as 4% of virgin stock size. 20 years later the stock has rebuilt to about 12% - we are told Bmsy is about 25% - we are only halfway back to what the law states is the target stock level. Then I read Aotearoa Fisheries Ltd reporting in their interim report *"strong anecdotal evidence from fisherman and fishing operators who believe the fishery has recovered and is now producing strongly* ***at acceptable levels****."*

Acceptable to who? Certainly not the old fellow standing on the beach trying to catch a fish for his mokopuna.

The proportional reduction in the Snapper 8 management decision effectively transfers the cost of historical overfishing by the commercial sector over to non-commercial interests. This is not fair, nor will it help to build the all important public confidence and support in the QMS if it is to truly be a ***"worlds best practice fisheries management regime,"*** it is being touted to be on the world stage.

Remember, we Maori are strapped in to the commercial interest. Unlike many of the pakeha players who have benefited hugely and then sold out, it is Maori who bear the brunt of rebuilding and manging our fisheries into the future.

Recreational fishing representatives

I am grateful for the effort recreational fishing representatives have made to advocate for our non-commercial fishing interests. I have to admit that my understanding of these very complex issues was pretty limited. We have now had the benefit of 5 hui and a similar number of presentations to our Runanga Board or takiwa meetings. I continue to be surprised at the depth of understanding and engagement they have achieved on such limited resourses. option4, New Zealand Big Game Fishing Council and the New Zealand Recreational Fishing Council really do have a great deal to offer Maori.

In particular, option4. These people have accumulated a remarkable record of the fisheries management processes over the past 6 years. Their submissions are produced by a team whose unflagging commitment is tough to keep up with. They offer this matauranga to anyone who wishes to understand these complex matters. They are Tohunga in this field.

I am grateful to Ngahiwi for allowing Scott Macindoe to follow me with his presentation as he has much to offer. Scott will hopefully flesh out a few points that I may have not covered adequately.

I want to close by leaving you with a summary of points I have raised in the body of my korero as points for us to ponder as we seek to better understand and provide Kaitiakitanga ki nga tamariki a Tangaroa.

1. The law is clear; **Section 8**(1)-The purpose of this Act is to provide for the utilisation of fisheries resources while ensuring sustainability. *In many fisheries this is not the case. SNA8, GMU1*.

2. **Section 12(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.

Have Ministry provided for real input and participation to any iwi in Aotearoa? I don't think so.

3. Section 13, clearly the law directs that fisheries be managed at or above Bmsy. SNA8, GMU1

4. Maori have substantial interests in all three categories of fishing. Commercial, customary and most of all recreational. *There is no debate here!*

5. Maori commercial fishing interests have been addressed through the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992. *Unlike pakeha, Maori are strapped in to their commercial fishing interests.*

6. 99.99% of the time Maori go fishing to feed the whanau, they are categorised as recreational fishers. *Let us protect this most important aspect of our fishing interests.*

Conclusion

There is an ancient saying of our Tupuna when referring to the creation or the pathway to knowledge: ***" na te kore ki te Po, na te po ki te Ao, na te Ao ki te Ao marama."*** *From nothingness to darkness, from darkness to light, from light to enlightenment.* I hope I have taken you on a journey not dissimilar to that espoused by our Tupuna when seeking out truth, knowledge then enlightenment. May we understand our fiduciary obligation to our people in delivering timely and accurate information for their digestion. With the right information and good process they will continue to follow and support us as their leaders.

Mauri Ora

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